



**Nations in Transit 2004
SERBIA AND MONTENEGRO**

With an addendum on Kosovo*

* In *Nations in Transit 2004*, Freedom House introduces separate ratings for Serbia, Montenegro, and Kosovo in order to provide a clearer picture of processes and conditions in the three different territories. Doing so does not indicate a position on the part of Freedom House regarding the territorial integrity of the State Union of Serbia and Montenegro; neither does it indicate a position on Kosovo's future status. Owing to the new ratings, for which there is no basis of comparison with previous years, the ratings tables in the following pages provide historical ratings data for Yugoslavia along with the new numbers for Serbia, Montenegro, and Kosovo respectively.

SERBIA AND MONTENEGRO*

Serbia	2004
Electoral Process	3.50
Civil Society	2.75
Independent Media	3.50
Governance	4.00
Constitutional, Legislative, & Judicial Framework	4.25
Corruption	5.00

Montenegro	2004
Electoral Process	3.50
Civil Society	2.75
Independent Media	3.25
Governance	4.00
Constitutional, Legislative, & Judicial Framework	4.25
Corruption	5.25

Yugoslavia	1997	1998	1999	2001	2002	2003
Electoral Process	n/a	5.00	5.50	4.75	3.75	3.75
Civil Society	n/a	5.00	5.25	4.00	3.00	2.75
Independent Media	n/a	4.50	5.75	4.50	3.50	3.25
Governance	n/a	5.00	5.50	5.25	4.25	4.25
Constitutional, Legislative, & Judicial Framework	n/a	5.00	5.75	5.50	4.25	4.25
Corruption	n/a	.na	6.25	6.25	5.25	5.00

EXECUTIVE SUMMARY

Serbia and Montenegro were parts of the Socialist Federal Republic of Yugoslavia (SFRY), a multinational federation comprising 6 republics and approximately 40 ethnic communities. The SFRY broke apart in 1991, and Serbia and Montenegro came to form the new Federal Republic of Yugoslavia (FRY) in 1992. During the 1990s, Serbia was under the authoritarian rule of Slobodan Milosevic, who has been indicted for numerous war crimes and explicit denials of human rights both within and outside Serbia. Montenegro under the leadership of Milo Djukanovic parted with the Milosevic regime in 1998 and started to direct its own course toward economic liberalization and the establishment of democracy.

In December 2000, a united opposition consisting of 18 parties and known as the Democratic Opposition of Serbia (DOS) defeated Milosevic in parliamentary elections and removed him from office. The first post-Milosevic government was inaugurated in January 2001 and

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NOTE: Nations in Transit ratings are based on a scale of 1 to 7, with 1 representing the highest level and 7 representing the lowest level of democratic development. The 2004 ratings reflect the period January 1 through December 31, 2003. The ratings reflect the consensus of Freedom House, its academic advisors, and the author of this report. The opinions expressed in this report are those of the author.

quickly initiated reforms aimed at building democratic and market institutions. Although much has been accomplished in the three years since Milosevic's ouster, significant challenges remain. These include firmly establishing and consolidating the rule of law, a free and independent media, a vibrant civil society, good governance, and an open market economy.

The year 2003 was marked by several notable developments indicating the continued weakness of democratic institutions and practices in Serbia and Montenegro. At the national level, the FRY formally ceased to exist on February 4 and the State Union of Serbia and Montenegro was established in its place. A new Constitutional Charter replaced the Yugoslav Constitutions and established a framework for a confederal rather than a federal structure that is designed to reduce substantially the prerogatives of the joint state. The State Union's primary objective is to provide for the free movement of goods, capital, and people. However, the Constitutional Charter contains weaknesses that will make the realization of these goals, and the establishment of good governance and more efficient decision making overall, difficult to realize.

At the state level, Serbia and Montenegro faced a variety of challenges in 2003 as well. First, the murder on March 12 of Serbia's prime minister, Zoran Djindjic, allegedly by the Zemun gang (an organized crime group created by members of the Milosevic-era secret service), received global attention and highlighted the extent to which corruption pervades the region's post-Communist states and challenges the establishment of stable democratic governments. In the aftermath of Djindjic's assassination—which the population unanimously condemned—the government of Serbia demonstrated a renewed will to fight crime and corruption and managed to dismember the Zemun gang in less than a month. However, these actions failed to fulfill their principal goal of removing corruption from the state's police structures (where the assassination is thought to have been plotted) and eradicating the mafia as a whole. In both Serbia and Montenegro, official corruption continues to run high.

Second, in the wake of the Djindjic assassination, civic freedoms and liberties, including freedom of the press, were constrained during a state of emergency that lasted more than a month. The successor government of Zoran Zivkovic, which was voted in on March 19, vowed to continue the DOS's pro-democracy policies. However, by year's end it had made only modest progress in key reform areas. By mid-November, the Zivkovic government had lost much of its legitimacy and was foundering.

Third, the strong showing of the Serbian Radical Party (SRS)—a Milosevic ally during the 1990s—in early parliamentary elections on December 28 demonstrated the continued appeal of extreme nationalism among sizable sectors of the population. In the final outcome, the SRS received more than 27 percent of the vote. Although the party failed to muster enough votes to form a government—thereby dispelling fears of a reversal in Serbia's post-Milosevic development—its strong showing indicated to observers both inside and outside Serbia that much work remains to be done to consolidate the institutions and practices of democracy.

In Montenegro, the situation was not altogether different in 2003, with allegations of high-level wrongdoing marking the year. In December 2002, a Moldovan woman, brought into the country via the sex trade, publicly accused several high-ranking government officials of sexual harassment. In the months that followed, domestic civil society groups—with the help and support of the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe—pushed for Montenegrin courts to pursue the case. They did so despite

resistance from prosecutors who claimed that the allegations were without foundation. Overall, the so-called trafficking affair reinforced concerns about the status of democratic reforms in this former Yugoslav republic as well.

Nevertheless, 2003 was not without bright spots. In June, the union-level Council of Ministers unilaterally abolished visa requirements for travelers from over 40 countries, with Croatia notably among them. The move was seen as a significant sign of thawing in relations between Serbia and Croatia. In October, the so-called Belgrade-Pristina dialogue was convened by the international community, gathering heads of Kosovo and Serbia and Montenegro institutions to address problems including: transport and communication, energy, missing persons, and return. In addition, the government of Serbia set up the state's first court for war crimes, while a county court concluded the latest war crimes case (the Podujevo case), in which a member of a special police unit was sentenced to 20 years in prison for crimes that included killing 14 Albanians in 1999. Finally, Serbia and Montenegro were jointly admitted into the Council of Europe on April 3.

Electoral Process. In early parliamentary elections in Serbia, which took place on December 28, 2003, the SRS garnered the greatest number of votes (27.7 percent). Although the victory was not substantial enough to bring about a return to power of the Far Right, the strong showing of this pro-Milosevic party indicated that democratic and pro-market forces are still weak. By year's end, a new government was not yet in place. In November 2003, in a third attempt since September 2002, the Serbian electorate once again failed to elect a president. The primary obstacle to a successful presidential election—a legal mandate that voter turnout must exceed 50 percent for the election to be considered valid—unfortunately remained in place. Owing to the same voter turnout requirement, Montenegro also had held two unsuccessful rounds of voting, first in 2002 and again in 2003. However, the Montenegrin Parliament finally voted in 2003 to abandon the requirement, and voters elected Filip Vujanovic as president on May 11.

Serbia and Montenegro each receive a 3.50 for electoral process, owing to the clear presence of some consolidation in democratic policies and practices, yet continued to exhibit weaknesses in its electoral processes. In Serbia, some of these impediments to greater democratic practice include legislation that has prevented the election of a new president since 2002, ambiguities in legislation regarding control over parliamentary mandates (the party versus the deputy), and the influence of organized crime on political groups. Montenegro faces similar difficulties, though it did eliminate in 2003 the 50 percent turnout requirement for presidential elections.

Civil Society. The government of Serbia failed in 2003 to adopt much-anticipated legislation defining the status of nongovernmental organizations (NGOs) and other civil society groups. During the year, two of the most politically active groups in Serbia, G17 Plus and Otpor, transformed themselves into political parties. They did so out of dissatisfaction with the pace of democratic reforms occurring at the governmental level and a desire to press for their own pro-reform policies and agendas. A similar trend was noted in Montenegro, where the nongovernmental Group for Changes began a noticeable shift into the political sphere to express its dissatisfaction with both the government and the opposition. The Group for Changes is widely expected to become a political party prior to the next general elections. Although civil society groups in Serbia appeared to have less influence over policy making in 2003, they maintained a strong presence in the public life of the state through frequent references or appearances in the media. In contrast, the role played by civil society groups in

Montenegro in pressing for investigations into the so-called trafficking affair provided evidence in 2003 of the growing influence of NGOs in the political and civic life of the state.

Serbia and Montenegro both receive a rating of 2.75 for civil society. In Serbia, civil society groups enjoy considerable freedoms and already have played an important part in the country's democratic development. Yet the government has been slow to approve legislation that limits the possibilities for political interference in their registration and activities. In addition, the sustainability of NGOs is threatened by the absence of sufficient domestic funding resources and incentives (such as tax-deductible contributions) for greater private sector giving. In Montenegro, civil society typically has been less vibrant and politically visible than in Serbia. Yet the sector's growing strength was demonstrated in 2003 during the trafficking affair. In addition, Montenegro's Law on NGOs establishes favorable conditions for their work.

Independent Media. The Parliament of Serbia adopted a new Law on Media in April 2003 that provides protections for the independence and freedom of the media. A month earlier, the government had substantially constrained media freedom following the assassination of Prime Minister Djindjic and the introduction of a state of emergency that put into effect temporary limits on reporting. During this period, a number of daily and weekly newspapers were shut down and several television broadcasters were fined, all for challenging the state of emergency. Plans to restructure Radio Television Serbia failed owing to a lack of viable options for financing the public broadcaster. Similarly, the Broadcasting Council, a body tasked with issuing broadcasting licenses, nearly collapsed because of disputes over the selection of its members. Overall, media freedoms improved in Montenegro in 2003, with three new laws regulating the media taking effect during the year. A scandal erupted, though, when opposition members of Parliament claimed that the government had pressured TV Montenegro to terminate live broadcasts of parliamentary sessions. However, the decision to end the broadcasts was made by the governing council of TV Montenegro, an independent body over which the government has no legal control.

Serbia receives a rating of 3.50 for independent media. Serbia has a vibrant media sector and a variety of legal provisions—including the 2003 Law on Media—to protect freedom of speech. However, various constraints (political, economic, and other) still restrain the media's overall independence and development. The media's treatment during the 2003 state of emergency was not a positive step. Montenegro's rating is slightly better at 3.25, owing to the absence of serious constraints on the media in 2003. Like Serbia, Montenegro has a range of laws providing protections for the media, both in policy and in practice, though some economic and political factors do inhibit the development of a more flourishing media sector.

Governance. The FRY formally ceased to exist on February 4, 2003. In its place was established the State Union of Serbia and Montenegro, which, under a new Constitutional Charter, is made up of a confederal governmental structure that substantially reduces the formal powers of the state. Although the Constitutional Charter was intended to improve the governability of the former Yugoslavia, new obstacles to good governance quickly appeared, with Serbia and Montenegro both usurping decision-making powers from the confederal structure.

Following the assassination of Prime Minister Zoran Djindjic on March 12, 2003, a new government was voted in on March 19. Led by Zoran Zivkovic, the new government moved

quickly to intensify the fight against organized crime and corruption and to bring to justice those thought responsible for Djindjic's murder. However, the opposition, not satisfied with the new government's performance, put pressure on the government during the months that followed to call early parliamentary elections. The opposition's efforts brought the work of the Parliament to a standstill in October. The government collapsed in mid-November, and early parliamentary elections were called for December.

In Montenegro, the government encountered obstacles to organizing the 2003 census. The opposition Socialist National Party, fearing that the government might fix the census results to show a decline in the number of ethnic Serbs in Montenegro, announced that it would boycott the census. The Montenegrin Parliament, for its part, worked without interruption, despite an opposition boycott during the second half of the year.

Serbia and Montenegro both receive a 4.00 for governance. The Belgrade Agreement on Principles and the new Constitutional Charter have failed to refurbish the legitimacy of the common state and to improve the functioning of the union's joint institutions. In addition, state-level governments in Serbia and Montenegro lack sufficient degrees of stability, transparency, decentralization, and civil service reform needed to ensure good governance.

Constitutional, Legislative, and Judicial Framework. In 2003, the government and Parliament of Serbia refused to abide by a Constitutional Court ruling to reinstate deputies from the Democratic Party of Serbia who had been ousted from the legislature in 2002. The judiciary was further weakened when the government increased the role of the Parliament in appointing judges and the authority of the justice minister in removing them. Neither Serbia nor Montenegro carried out constitutional reforms in 2003 that were mandated under the new Constitutional Charter. Constitutional reform in Serbia stalled owing to a lack of consensus on difficult issues such as relations with Kosovo and regionalization of the country. In Montenegro, constitutional reforms proved impossible to pass following the opposition's boycott of the Parliament and the subsequent absence of an absolute majority to approve the changes.

Serbia and Montenegro both receive a 4.25 in the category of constitutional, legislative, and judicial framework. Both states maintain systems of checks and balances that ensure adequate levels of independence among the various branches of government. They also have made commitments to pursue much-needed judicial reforms. However, both Serbia and Montenegro failed in 2003 to adopt important constitutional changes. Their pace of judicial reform has also been slow; their judiciaries remain subject to some levels of political influence; and weaknesses in the protection of human rights according to international standards still exist.

Corruption. The murder of Prime Minister Djindjic in 2003 showed how deeply organized crime has penetrated state institutions in Serbia and Montenegro. Although the police successfully dismembered the Zemun gang, which has been accused of plotting and carrying out the assassination, the levels of corruption in the government, public administration, and judiciary in both Serbia and Montenegro remained high, and the political will to tackle corruption stayed somewhat weak. For example, although two government officials in Serbia admitted tax evasion, the public prosecutor failed to launch an investigation into charges that they were involved in money laundering and guilty of conflict of interest. In Montenegro, prosecutors did not give serious consideration to the trafficking affair involving a woman from Moldova; politicians implicated in the issue tried to quiet the case. Attention was given

to the trafficking affair only after civil society groups focused on the case and the OSCE and the Council of Europe got involved. Also in 2003, Italian magistrates accused Montenegrin prime minister Djukanovic of involvement in cigarette smuggling into the European Union.

Serbia receives a corruption rating of 5.00. The circumstances surrounding the murder of Zoran Djindjic in 2003 witnessed the extent to which corruption continues to be a pervasive problem in Serbia. Although the Zivkovic government moved quickly to crack down on the organized crime group believed to be behind the Djindjic murder, the overall political will to fight corruption in Serbia remains weak and the mechanisms to combat it insufficient. Montenegro receives a rating of 5.25 in this category. The government's response to the trafficking affair and the allegations against Prime Minister Djukanovic in 2003 were representative of its general unwillingness to tackle organized crime and corruption, particularly within public administration.

Outlook for 2004. The strong showing of the SRS in parliamentary elections on December 28, 2003, confirmed that the ultranationalist forces of the Milosevic regime still carry weight in Serbia. The next government, supported by the same forces that brought down Milosevic in 2000, will have the task of reinvigorating and reestablishing the legitimacy of democratic reform processes. The new government will face several challenges in 2004: restructuring the Serbian economy (especially the public sector); cooperating with the International Criminal Tribunal for the Former Yugoslavia at The Hague; negotiating the future status of Kosovo; tackling corruption in the government; and improving governance in the State Union. The Montenegrin government faces these last two challenges as well. In addition, the government of Serbia will be forced to address the need to bring to justice via judicial processes that meet international standards those responsible for Milosevic-era crimes. Since all these issues have the ability to undermine the stability of governments, their resolution will demand both strong political will and solid political skills.

MAIN REPORT

I. Electoral Process

During the 1990s, the electoral system in Serbia underwent constant reform. What began in 1990 as a purely majoritarian system was changed in 1992 into a system based on proportional representation. From 1992 to 2000, the number of electoral districts was altered each time an election took place. The last revision came shortly after Milosevic's downfall on October 10, 2000, when Serbia was designed as a single electoral unit.

During the 1990s, the Socialist Party of Serbia (SPS), headed by Slobodan Milosevic, and the Serbian Radical Party (SRS), headed by Vojislav Seselj, dominated the party scene in Serbia. Together, the two parties enjoyed the electoral support of more than 2 million voters. (The total electorate in Serbia during the 1990s ranged from 6.7 million to 7.2 million.) Opposition forces during the same period garnered between 1.4 million and 1.7 million votes during elections but consistently failed to present a serious threat to the Milosevic regime owing to fragmentation and disorganization, among other reasons. However, during parliamentary elections in September 2000, a coalition of 18 parties known as the Democratic Opposition of Serbia (DOS) garnered a total of 2.4 million votes and successfully ousted Milosevic from office. The DOS victory ushered in a new era in which basic political rights and civil liberties are generally respected and democratic reforms are a genuine priority.

The DOS coalition survived largely intact until 2003, when Prime Minister Zoran Djindjic was assassinated and a new government, led by Zoran Zivkovic, was formed. The new government pledged its support for continued democratic reforms—including an intensified anticorruption effort. Yet support for the Zivkovic government quickly waned, and early parliamentary elections were called for December 28.

In voting that the Organization for Security and Cooperation in Europe (OSCE) considered “well administered” and “presented voters with a genuine choice,” the SRS received 27.7 percent of the vote and secured 82 parliamentary mandates. The SRS was followed by Vojislav Kostunica’s Democratic Party of Serbia (a former DOS coalition member) with 53 mandates, Boris Tadic’s Democratic Party with 37 mandates, Miroljub Labus’s G17 Plus with 34 mandates, Vuk Draskovic and Velimir Ilic’s Serbian Renewal Movement–New Serbia coalition with 22 mandates, and, finally, Slobodan Milosevic’s SPS with 22 mandates.

The fact that the SRS—whose leader, Vojislav Seselj, is being tried in The Hague for war crimes—topped the polls in the 2003 parliamentary elections gave cause for concern. Although the SRS was unlikely to form a new government, some observers suggested that the party’s victory could lead to a relapse in authoritarianism in Serbia. The SRS’s win indeed highlighted a weakening of cooperation and cohesion—and therefore effectiveness—among the pro-reform parties. However, overall public support for the pro-democracy forces that ousted Milosevic remains strong and should bode well for the future.

As the table shows, support for the DOS peaked in December 2000 at 2.4 million voters but fell slightly to 2 million in the 2003 parliamentary elections. In contrast, the popularity of the SRS and the SPS appears to have reached its height in September 2000 with 2.08 million voters; in December 2003, that number fell to 1.4 million. Overall, the democratic forces in Serbia commanded a parliamentary majority of 58.8 percent following the December 2003 parliamentary elections. Yet at year’s end, a rift among the democratic parties threatened their ability to put together a viable coalition government.

Electoral Support for DOS and Old Regime Parties (Votes, in Millions)

Political Group	September 2000 (Parliamentary Elections)	September 2000 (Presidential Elections)	December 2000 (Parliamentary Elections)	September 2002 (Presidential Elections)	December 2003 (Parliamentary Elections)
DOS	2.0	2.4	2.4	2.11	2.0
Old Regime	1.9	2.08	1.2	1.1	1.4
SPO	0.28	0.14	0.14	0.15	0.3
Voter Turnout	4.86 (75 percent)	4.9 (75 percent)	3.74 (58 percent)	3.55 (55 percent)	3.8 (59 percent)

Serbia’s parliamentary elections of 2000 and 2003 were held according to the Law on Elections, adopted on October 10, 2000. The most contentious aspect of the legislation is its provision regarding control over parliamentary mandates. The law mandates neither open nor closed electoral lists. Instead, once a party knows how many seats it has gained in the Parliament, it has the right to select any candidate to fill a mandate. This provision of the law allows parties not only to select candidates without respect to their order on the party list, but also to remove deputies from the Parliament and replace them with new ones at will. The

2000 Law on Elections also sets a 5 percent threshold for parties and coalitions to gain representation in the Parliament; there are no exemptions to the threshold for ethnic minority parties.

Many observers have expressed doubts that free and fair elections can be held under the current Law on Elections. To remedy the situation, CeSID (an NGO advocating for free elections) has drafted an electoral law that proposes a closed list system, lowers the threshold to 2 percent (still with no exemptions for ethnic minorities), ensures that electoral lists consist of at least 30 percent of the minority gender, and permits citizens who do not belong to political parties to put up electoral lists consisting of independent candidates. CeSID's proposed law calls for mandates to be distributed to candidates according to their ranking on party lists but retains the provision allowing parties to take mandates away from deputies if they leave or are dismissed from their party. As of December 31, 2003, the Parliament had not taken up CeSID's draft law for consideration. Finally, despite concerns about the inadequacies of the existing electoral system, the OSCE mission to Belgrade considered the 2003 parliamentary elections free and fair and, from a technical standpoint, the most successful in Serbia to date.

Voter turnout for the 2003 parliamentary elections was 59 percent. As the table indicates, only six electoral lists, consisting of 12 parties, gained representation in the Parliament. Thirteen other electoral lists, which included ethnic minority parties, failed to clear the 5 percent threshold set by Serbia's Law on Elections.

Parliamentary Election Results, Republic of Serbia, December 28, 2003

Party	# of Votes	Seats in Parliament
Serbian Radical Party (SRS)	1,056,256	82
Democratic Party of Serbia (DSS)	678,031	53
Democratic Party (DS)	481,249	37
G17 Plus	438,422	34
Serbian Renewal Movement-New Serbia	293,082	22
Socialist Party of Serbia (SPS)	291,341	22
TOTAL	3,238,381	250

Source: Republican Electoral Commission, as presented in the OSCE/ODIHR Election Observation Mission Final Report

Serbia has failed three times since 2002 to elect a president, twice in 2002 and once in 2003. The primary obstacle to choosing a new president is the over 50 percent turnout requirement mandated by the 1992 Law on Presidential Elections. In the October 2002 presidential election, voter turnout in the second round fell below 50 percent and the election was declared invalid. In response, the Serbian Parliament amended the law. By shifting the threshold requirement from the second to the first round of voting, the Parliament ensured that if less than 50 percent of registered voters turn out on election day, no candidates can move on to a second-round runoff. The presidential election was repeated in December 2002 under the amended law, but turnout, at 45.16 percent, was once again insufficient. Although Vojislav Kostunica defeated Vojislav Seselj with a clear majority of the votes (59.3 percent

and 37.1 percent, respectively), the election was declared invalid owing to the unmet threshold requirement.

When the mandate of President Milan Milutinovic expired in January 2003, Serbia thus found itself without an elected president. Under these circumstances, the 1990 Serbian Constitution requires that the head of the Parliament fill the presidential post. As such, parliamentary chairwoman Natasa Micic, a member of the Civic Alliance of Serbia (GSS), a small party in the DOS coalition, assumed the office of the president. Rather than call immediately for new elections, though, Micic issued a decree postponing a new vote for eight months.

According to the OSCE, the legal provisions for electing a president in Serbia allow “for an endless cycle of repeat elections” and should be reformed. In particular, it has noted that the turnout requirement of 50 percent is “impractical [and] counterproductive to the concept of participatory democracy.” When Serbia attempted on November 16, 2003—the third time since late 2002—to elect a new president, the OSCE concluded that the failed elections “may have further undermined public confidence in the democratic reforms in Serbia since 2000.”

When the Parliament failed to rescind the 50 percent turnout requirement prior to the November 2003 voting, two popular candidates, Vojislav Kostunica and Miroljub Labus, boycotted the election. Both candidates then called for early parliamentary elections, stating that they had no intention of participating in the vote as long as the turnout requirement remained in the law. The DOS coalition supported the candidacy of Dragoljub Micunovic, a 72-year-old man who headed the Democratic Party in the early 1990s. His only opponent was Tomislav Nikolic, deputy head of the SRS. In a shocking outcome, Nikolic defeated Micunovic with 1.16 million votes (46 percent); Micunovic received 894,000 votes (35 percent). However, the election was a failure because voter turnout dipped below 40 percent.

As in Serbia, a 50 percent voter turnout requirement prevented Montenegro twice, first in 2002 and again in 2003, from electing a new president. In voting in December 2002, turnout reached only 46 percent; in February 2003, it was only 47.2 percent. In response to these events, the Montenegrin Assembly voted in late February 2003 to amend Montenegro’s Law on Presidential Elections and scrap the turnout requirement entirely. Under the amended law, the candidate receiving the greatest number of votes wins. In voting on May 11, 2003, Filip Vujanovic of the Democratic Party of Socialists (DPS) decisively defeated Miodrag Zivkovic of the Liberal Alliance of Montenegro (LSCG).

The last two parliamentary elections in Montenegro—in 2001 and in 2002—occurred before the sitting government’s mandate expired. The OSCE deemed the October 2002 elections free and fair. Voter turnout was 75 percent. The threshold for securing mandates was 3 percent.

A coalition of the DPS and the Social-Democratic Party (SDP), led by President Milo Djukanovic, secured 47.9 percent of the vote and 39 seats. A coalition of the Socialist People’s Party (SNP), the Serbian People’s Party (SNS), and the People’s Party (NS) took 38.4 percent and 30 seats. The LSCG and the Albanian Coalition (consisting of the Democratic Union of Albanians, the Democratic Movement for Montenegro, and Democratic Prosperity) were the only other parties to win seats, with 5.7 percent of the vote (4 seats) and 2.4 percent (2 seats), respectively. Djukanovic stepped down as president to take the post of prime minister and to form a new government led by the DPS-SDP coalition.

II. Civil Society

During the 1990s, the government of Slobodan Milosevic systematically repressed the work of civil society, accusing most nongovernmental organizations (NGOs) of treachery, espionage, terrorism, and antistate activity. Politically oriented groups were subject to the regime's worst tactics yet remained largely undeterred. In October 2000 in particular, NGOs, together with the DOS coalition, actively participated in the electoral campaign to overthrow Milosevic. The number of NGOs has grown consistently over the last decade, with 24,000 groups registered as of 2003.

Throughout 2003, the civil society sector in Serbia (both domestic and foreign groups) remained regulated by the same legislation that governed its activities during the 1980s and 1990s. Among the main weaknesses of current legislation are provisions that open the registration process to political influence by indirectly giving power to the executive administration to accept or reject applications from NGOs. Such provisions were particularly abused during the Milosevic period to prevent the registration of groups deemed a threat to the regime. In 2002, the Belgrade-based Center for the Development of the Nonprofit Sector drafted a Law on Associations and presented it to the Ministry of Justice and the Ministry of Local Self-Government and Public Administration. To date, however, the government has failed to forward the draft to the Parliament for consideration.

The Serbian civil society sector reached the peak of its vibrancy during the September 2000 electoral campaign. Most NGOs assisted actively and substantially in helping the opposition to defeat the Milosevic regime. Three of the most active and well-known groups during this period were G17 Plus (an economic think tank), Otpor (a movement of students and young people), and CeSID (an NGO focused on election monitoring). G17 Plus prepared an economic reform program that was adopted during the 2000 campaign by the opposition DOS coalition and later by the first post-Milosevic government. Otpor and CeSID effectively encouraged younger people to take part in the elections and later to defend the DOS electoral victory.

During the Milosevic era, the civil society sector became an outpost for politicians, scholars, and other individuals opposed to the regime. When Milosevic fell from power, the DOS government then turned quite naturally to the NGO sector for input on formulating new economic policies, reforming the system of public administration, and working on other policy priorities. Many groups participated actively in this process. The Center for the Development of the Nonprofit Sector drafted a new Law on Associations. The Center for Liberal-Democratic Studies participated in preparing the Law on Privatization, the Anticorruption Act, and the Antimonopoly Act. The PALGO center drafted legislation on local self-government. And the Center for Advanced Legal Studies took part in drafting the Lustration Act, the Law on Free Access to Information, and other legislation. The new government welcomed the contribution of the civil society sector in 2001 and 2002, with many groups making a tangible impact on reform processes. In 2003, the direct influence of NGOs and think tanks on the government appeared to diminish as the political consensus among those who ousted Milosevic began to break down. However, NGO representatives continued to make appearances in the media and to comment actively in support of government policies.

Civil society as a whole is diverse in Serbia, with groups engaged in a wide range of activities such as social welfare, culture and art, ecology, and human rights. The most visible and active NGOs are those engaged in public policy, with some observers describing them as

“waiting-rooms for political office.” Since late 2002, for example, some of Serbia’s most active NGOs have shifted into the political arena. G17 Plus transformed itself into a political party in December 2002, and Otpor did the same in November 2003. The shift is partly a reflection of the groups’ dissatisfaction with the pace and scope of reforms undertaken by the DOS government since 2000. The change can be attributed even more so to the political ambitions of the groups’ top leaders and members.

The sustainability of civil society groups in Serbia is threatened by a variety of factors. First, while the government budget provides support for a range of civil society activities, including NGOs, the bulk of those funds (17 million euros in 2003) goes to the Serbian Academy of Science, religious communities, and sports organizations. Most groups rely almost solely on the assistance of foreign donors to support their activities. Second, tax laws in Serbia are not sufficiently conducive to the growth and sustainability of NGOs. Lacking, for example, are appropriate tax incentives for corporate and private giving.

In November 2003, the publication *Politika* reported that 35.6 percent of respondents to a recent public opinion poll had a negative attitude toward NGOs in Serbia, 44.5 percent maintained a neutral opinion, and only 19.9 percent expressed a positive attitude. According to the report, a sizable portion of respondents believed that Serbian NGOs do not address the real needs of society, but rather “work to promote the interests of foreign governments or multinational corporations.”

Throughout 2002 and 2003, the government of Serbia seemed to be at odds with trade unions. When the Milosevic regime fell in 2000, new bodies were established to facilitate dialogue on important social issues. Since then, though, these bodies have been largely inoperative and lacking in real authority. In 2002, for example, the government tasked the new Socioeconomic Council with harmonizing the interests of the government and trade unions. However, the trade unions have consistently expressed their dissatisfaction with the response to their demands by the government’s representatives in the council. In protest of these conditions, union representatives walked out of the council in October 2003; the body has not met since.

Trade unions are weak in Serbia. The two most powerful unions—Nezavisnost (300,000 members) and the Alliance of Independent Trade Unions (600,000 members)—are consistently more at odds with each other than united in representing the demands of their members. This, in turn, has sapped workers’ energy and diminished their willingness to engage in trade union activities. In 2003, the Alliance of Independent Trade Unions demanded the resignation of the government and called for early elections. However, demonstrations organized by the group attracted only between 5,000 and 10,000 people—far too few to exert pressure on the government.

The trade unions representing Serbia’s large public enterprises tend to be more effective in fighting for their rights, and in 2003 they claimed some success. When the government attempted in July to break up Elektrodistibucija Srbije - a public company that produces and distributes electricity and employs approximately 55,000 people - the union representing workers in this sector resisted the government’s attempt and successfully blocked the planned restructuring.

Montenegro’s 1999 Law on NGOs establishes rather favorable conditions for NGO activities. The process for forming and registering an NGO is simple, and unlike in Serbia, where

groups must apply for tax-free status each year, in Montenegro NGOs are automatically tax-exempt. In 2003, the number of registered NGOs in Montenegro was 2,220. Of these, no more than 300 are considered active. The most powerful and active NGOs are those that monitor elections and engage in economic and public policy analysis.

The growing strength of Montenegro’s civil society sector was demonstrated in 2003 during the so-called trafficking affair. In December 2002, a woman from Moldova accused several senior government officials of sexual abuse. Although the officials attempted to cover up the case, a group of NGOs led by the organization Safe House demanded action and successfully attracted international attention to the problem.

As in Serbia, in Montenegro many NGOs engaged in public policy activities are shifting more and more into traditional forms of political activity. For example, the organization Group for Changes, which is composed of distinguished intellectuals coming from various academic fields, actively participates in public debates on key issues related to Montenegro’s post-Communist transition. Created in the same manner and under similar circumstances as G17 Plus in Serbia, Group for Changes has clear political ambitions and attracts individuals who are dissatisfied with both the government and the opposition. Many observers expect Group for Changes to transform itself into a political party and become one of the major contenders in the next general elections.

Montenegro’s 2003 census recorded a dramatic change in the ethnic structure of Montenegro, notably in the proportion of ethnic Montenegrins and ethnic Serbs (see table). The 1991 census indicated a 61 percent/9 percent ratio of Montenegrins to Serbs, while the 2003 census revealed a surprising new ratio of 40 percent/30 percent. Put in slightly different terms, between 1991 and 2003, some 20 percent of Montenegrins revised their ethnic identity and declared themselves Serbs. Some observers have suggested that individuals changed their ethnic identification as a sign of protest against the Djukanovic government’s pro-independence policies, but this remains speculation absent a legitimate public referendum on the issue.

Official Results of the 2003 and 1991 Censuses

Ethnic Community	2003	Percentage	1991 (Previous Census)	Percentage
Montenegrins	273,366	40.6	380,467	61.9
Serbs	201,892	30.0	57,453	9.3
Bosniak/Muslims	91,986	13.7	89,614	14.6
Albanians	47,682	7.0	40,415	6.6
Croats	7,062	1.1	6,244	1.0
Others	46,625	3.2	40,842	6.6
Total	672,656	100.0	615,035	100.0

Source: Montenegrin Bureau of Statistics

The dominant cleavage in Montenegro is religious, not ethnic. However, this fissure does not run between two different religions, but rather within its two variants of Christian Orthodoxy. Approximately 70 percent of Montenegrin citizens are Christian Orthodox, some are Serbian Orthodox, and others are Montenegrin Orthodox. Until the early 1990s, when the Montenegrin Orthodox Church registered as an NGO, the Serbian Orthodox Church was the dominant religious institution in Montenegro. Since then, the Montenegrin Orthodox Church has struggled to regain recognition as an independent church—a status it enjoyed prior to the founding of the Kingdom of Serbs, Croats, and Slovenians in 1918 and something the Serbian

Orthodox Church now opposes. The rift between the two churches was exacerbated in 2003, when the Serbian Orthodox Church purchased a military base from the army of Serbia and Montenegro at a deeply discounted price. The Montenegrin Orthodox Church viewed the acquisition as a continuation of the Serbian Orthodox Church's policy of remaining the most dominant orthodox group in Montenegro.

III. Independent Media

A new Law on Media adopted on April 22, 2003, introduced new protections for freedom of speech and the media in Serbia. The only restrictions allowed are on broadcasts or publications that call for the violent destruction of the state's constitutional order, endanger the territorial integrity of the country, propagate war or hate speech, or advocate any type of social discrimination. The new law meets international standards for the protection of media freedom, but it has not eliminated all conditions and opportunities for political pressure to be exerted on the media. Although the government of Serbia announced in 2002 that it would prepare a Law on Free Access to Information, it had not forwarded draft legislation to the Parliament by the end of 2003. Without this law, government officials have the right to ban access to public information at will and thus constrain media freedoms.

During the Milosevic era, the government tolerated the existence of free and independent media but made sure that the most influential media outlets were under its control. For example, TV Pink was created during the 1990s by Zeljko Mitrovic, a member of the JUL political party headed by Mr. Milosevic's wife. BK TV was set up by Bogoljub Karic, a family friend of the Milosevics'. By the end of decade, TV Pink had become the most watched broadcaster in the country, whereas BK TV's popularity matched that of the state-run broadcaster, Radio Television Serbia (RTS). RTS and TV Pink carried overtly pro-Milosevic propaganda, whereas BK TV found subtler ways to do the same thing.

When the Milosevic regime was brought down in October 2000, the owners of TV Pink and BK TV adapted their programming to the new political realities in the country. BK TV owner Bogoljub Karic stated at the time that his policy was always to be close to the government in power. Both TV Pink and BK TV freely adapted to the DOS government's line in order to redeem themselves for their practices under Milosevic. Other TV broadcasters were less willing to change their ways.

The DOS coalition that came to power in 2001 promised to give RTS greater independence by transforming it into a public service company that can set its own editorial policies. Since then, however, RTS has remained dependent on government funding and has been unable to complete the restructuring. In 2001, the government rescinded a television tax that was collected along with one's electricity bill and promised to find alternative methods of financing RTS. To date, though, those new sources of funding have not been realized and RTS continues to be funded out of the government's budget reserves. Some observers argue that a lack of independent financing has kept RTS from airing programming that is critical of the government. Others suggest that elements remain of the culture of self-censorship that was prominent under Milosevic.

Print media tend to enjoy more independence than broadcast media in Serbia. However, in 2003 print outlets were subject to increased pressure during the state of emergency that was declared between March 12 and April 22, 2003, following the Djindjic assassination. Prior to the murder, some weeklies and dailies were extremely critical of the Djindjic government.

Although no publication went so far as to call for the prime minister's murder, some in the government accused the media of depicting him in such a bad light that it somehow justified the killing. With this in mind, the government immediately cracked down on the media. In particular, the state of emergency decree banned any public debate or challenges to the state of emergency itself. This provision was strengthened by a second decree, introduced by Acting President of Serbia Natasa Micic, that established a fine of 500,000 dinars (8,000 euros) for any media outlet that publicly questioned the state of emergency. During this period, some papers were shut while others were fined for violating the state of emergency. The weekly paper *Identitet* was temporarily banned when the government discovered that it was financed with money from the Zemun gang.

During the state of emergency, the government also organized weekly meetings with the editors of Serbia's most influential print and electronic media. These meetings were presided over by Vladimir Popovic Beba, head of the government's Bureau for Information, and Branislav Lecic, minister of culture and media, who instructed the editors on how they should conduct themselves during the state of emergency. Some editors claimed that the government's guidelines exceeded the state of emergency provisions, while other accused the government of using the state of emergency to impose stricter controls on the media in general. When the situation in the country finally calmed down, the editorial meetings ended. The state of emergency was lifted on April 22.

Even before the state of emergency was lifted, the media sector found itself in further conflict with the government over appointments to the Broadcasting Council, a nine-member body charged with distributing national broadcasting frequencies. Approved by the Parliament in July 2002, the Law on Broadcasting provides for the establishment of a council with representatives from both government and civil society—a first in Serbia. As of July 2003, though, the first council had not been formed.

During the state of emergency, the government urged the Parliament to choose the council's members. Controversy arose over the selection of three members—two for failing to submit their résumés for public scrutiny 30 days prior to the appointment and one for claiming to qualify for a slot reserved for a Serb living in Kosovo (the individual did not actually reside in Kosovo). Opposition parties, journalists associations, the OSCE mission to Belgrade, and the European Agency for Reconstruction (EAR) called for the selection process to be repeated. When the government and the Parliament refused—proposing instead a vote of confidence in the three disputed members—two council members stepped down and the EAR decided to withhold 300,000 euros designated for the work of the council. The country's two largest associations of broadcasters and journalists, the Association of Independent Electronic Broadcasters and the Independent Association of Journalists, proposed amendments to the Law on Broadcasting that would alter the selection process for council members, but they were taken off the agenda at the first autumn parliamentary session.

The incomplete Broadcasting Council began its work in fall 2003 by releasing guidelines on media coverage of the December parliamentary elections. However, it has been slow to take up its primary area of activity—namely, issuing broadcasting licenses. None of the council members have explained the reasons for the inaction, but Prime Minister Zivkovic did suggest that “the government's wish to install a body such as the Broadcasting Council was perhaps ill-advised.”

The quality of print media in both Serbia and Montenegro has suffered in recent years from the rise in popularity of tabloids. For example, newspapers such as *Balkan*, *Kurir*, *Nacional*, *Center*, and *Glas Javnosti* often run stories with sensationalist titles and even fabricated facts. The leader in this style of journalism is the weekly *Nedeljni Telegraf*, which is alleged to have close ties with the secret service. The paper often runs stories based on exclusive information from the secret service and that aim to tarnish the image of political actors.

Media freedoms in Montenegro are regulated by the Law on Media, the Law on Broadcasting, and the Law on Radio of Montenegro and TV of Montenegro. All three laws were adopted in September 2002. The Law on Media, which took effect in May 2003, forbids censorship, bans monopolies on information, and vouches for media freedoms that are enshrined in international legal instruments. The law guarantees the free distribution of media and permits bans only on media that call for unconstitutional changes of government or the territorial disintegration of the country. In practice, private broadcasters are free to establish their own editorial and programming policies and are not under pressure from the government. State-owned media also enjoy greater autonomy owing to the Law on Radio of Montenegro and TV of Montenegro.

Montenegro's Law on Broadcasting provided for the creation of the Broadcasting Agency, whose major task is to issue broadcast licenses and to regulate programming on TV and radio stations. The Broadcasting Agency's governing council consists of five members who must be experts in the field of telecommunications. The Montenegrin government, the University of Montenegro, the Association of Broadcasters, an NGO focused on human rights, and an NGO dealing with media issues each nominate a member of the council; the Parliament, in turn, formally elects each member. Parliamentary deputies, government officials, other politicians, and employees or shareholders in broadcasting bodies are banned from membership on the council. The first council was constituted in late spring 2003 and began its work in September. By year's end, it had launched its Web site but had not begun to issue broadcast licenses.

During 2003, only one incident indicated direct government influence on the media. In June, the Council of TV Montenegro ended its direct broadcasts of parliamentary sessions, citing high live programming costs as its reason. The opposition, however, claimed that the government pressured the broadcaster to do so in order to lessen the opposition's presence in the public eye. In protest, the opposition left the Parliament and announced that it would return only after the broadcasts resumed.

The government denied the opposition's allegations, saying that the Law on Broadcasting prevents direct government interference over the national broadcaster's programming. According to the government, the decision to terminate televised parliamentary sessions was made by the Council of TV Montenegro, a body made up of 11 independent media experts. During their mandate, these media experts are banned from performing any other public duty and from working for or holding an interest in the public broadcaster. Members of the council are elected by the Montenegrin Parliament but are nominated by various groups, including the University of Montenegro, the Montenegrin Academy of Science, theaters, museums, the Institute for Media, professional journalists associations, and NGOs.

There is little evidence to support the claim that the Council of TV Montenegro was subject to government influence when it ended live broadcasts of parliamentary sessions. Rather, some observers believe that the opposition hoped to undermine the Djukanovic government's

already weakening position, which stemmed from allegations of the prime minister's involvement in cigarette smuggling. That control of the national broadcaster was not really at issue here was confirmed when the opposition rejected five separate offers by the Montenegrin government and parliamentary chairman Ranko Krivokapic to restore the broadcasts. The opposition also remained silent when the OSCE's mission to Belgrade offered to finance the live telecasts with a private broadcaster.

Montenegro has a variety of printed dailies for its more than 600,000 inhabitants. The most popular newspapers are *Pobjeda*, *Vijesti*, and *Dan*. Financed by the the Parliament, *Pobjeda* supports the Djukanovic government. *Dan* backs the opposition SNP. The partisan nature of reporting by these two papers was highlighted in summer 2003, when the story broke regarding the Djukanovic government's alleged involvement in cigarette smuggling. *Dan* ran stories on the issue daily, while *Pobjeda* ignored both the accusations and the public commotion the story aroused. A similar disparity in reporting was noted in the papers' coverage of the trafficking affair. Such openly biased reporting lessens the value of printed media in Montenegro. *Vijesti*, an independent newspaper, appears to be the only daily that takes an impartial approach to covering the news.

IV. Governance

From 1998 to 2003, the Federal Republic of Yugoslavia (FRY) was largely ungovernable. During this period, the Montenegrin government distanced itself from the government in Belgrade and began to move in the direction of independence. Federal institutions were not respected, and federal legislation applied only to Serbia. Montenegro introduced the German mark in 1999 and later the euro as its own currency. By the time the DOS coalition ousted Milosevic in October 2000, the Montenegrin government was functioning under a separate legal, political, and economic framework.

To remedy this situation, the European Union (EU) brokered the so-called Belgrade Agreement on Principles, which called for the establishment of a joint State Union of Serbia and Montenegro. Both sides approved the document on March 14, 2002. The EU pressed for the agreement, desiring a single international partner and fearing that the disintegration of the FRY could lead to instability and fragmentation in Macedonia and Bosnia as well. The EU was also reluctant to address the issue of Kosovo's future status. With the Belgrade Agreement in place, the State Union of Serbia and Montenegro would be able to start negotiations on accession to the EU.

The Belgrade Agreement called for the State Union to ensure unhampered movement of goods, labor, and capital between Serbia and Montenegro via a common customs and trade policy. Monetary and fiscal policy, however, remain the responsibility of the two individual states. The agreement considers the governments of Serbia and Montenegro, not the institutions of the State Union, to be responsible for policy implementation.

On February 4, 2003, the Yugoslav Parliament adopted a Constitutional Charter that established the State Union and was aimed at restoring institutional stability between Serbia and Montenegro. As such, the FRY, created in 1992, formally ceased to exist. The Constitutional Charter calls for the creation of a one-chamber Parliament comprising 126 deputies (91 from Serbia, 35 from Montenegro) who are indirectly elected by delegations that reflect the makeup of each member state's Parliament. In two years, deputies to this joint

assembly will be chosen by direct ballot. Decisions of the Serbia and Montenegro Assembly require a simple majority of each state's delegation.

In 2003, the joint assembly elected Svetozar Marovic, a member of the Montenegrin ruling DPS, as the first president of the State Union. The president heads the Council of Ministers, which consists of the ministers of foreign affairs, defense, human and minority rights, external economic relations, and internal economic relations. Decisions of the council require a majority vote. In case of a tie, the president casts the deciding vote, provided the council is not split evenly along state lines.

Adopted under pressure from the EU and without the strong commitment of Serbia and Montenegro, both the Belgrade Agreement and the Constitutional Charter have failed to refurbish the legitimacy of the common state and to improve the functioning of the union's joint institutions. A particular weakness is the confederal—versus federal—nature of the union's institutional framework. For example, Article 33 of the Constitutional Charter states that “the council of ministers formulates and carries out the policy of [the State Union] in line with the common policy and interests of the members states.” This provision can be construed as having a double meaning: first, that the union's Council of Ministers is autonomous in making decisions; but second, that it cannot make any decision the member states do not support.

In practice, the interests of the member states, rather than the union, prevail. This was demonstrated in 2003, when the Council of Ministers set out to fulfill an EU requirement to adopt a work plan on harmonizing about 8,500 customs tariffs between Serbia and Montenegro. Although the council formally initiated the harmonization effort, it became operative only when representatives of the two member states agreed on the content of the council's action plan. When the Council of Ministers proved unable to establish a joint customs office to oversee the execution of the action plan, the European Commission concluded that the slow progress of harmonization could delay Serbia and Montenegro's accession to the EU.

In addition to the Council of Ministers, the State Union of Serbia and Montenegro has a court made up of eight judges (four from each member states) who are appointed for six-year terms. The court has administrative, constitutional, and first-instance prerogatives, and its rulings are obligatory and without the right to appeal. Article 46 of the Constitutional Charter is explicit in stating that the court settles disputes between the member states and decides whether the Constitutions and laws of the member states agree with the charter and laws adopted by the union-level assembly.

This union-level court also may hear appeals cases from individuals who believe their rights have been violated by a state-level institution in Serbia or Montenegro. If the court finds an appeal valid, it may strike down the decision that violated the individual's rights and abrogate all legal consequences that may stem from it. As such, the court is the only truly joint state institution that has the possibility of direct contact with citizens. However, by the close of 2003, the court had not been set up and judges had not been elected.

In terms of governance at the state level, the year 2003 in Serbia was marked by the assassination of Prime Minister Zoran Djindjic. According to the testimony of Zvezdan Jovanovic, a member of the Zemun organized crime group and the alleged gunman, the government of Serbia was expected to collapse in the wake of Djindjic's slaying. Instead, it

quickly reorganized and launched a police action, dubbed Sabre, to dismember the Zemun gang. The new government was led by Democratic Party vice president Zoran Zivkovic, who assumed the office of prime minister within seven days of the shooting and continued the work of the Djindjic government without interruption.

In time, though, the new premier proved unable to hold the government together. In mid-October, the opposition succeeded in putting a vote of confidence in the government on the parliamentary agenda, and a month later the ruling DOS coalition collapsed when the SDP (with 10 seats in the Parliament) withdrew its support. The acting Serbian president dismissed the Parliament and called early parliamentary elections for December 28.

In general, the work of the government in Serbia lacks sufficient transparency. This is particularly evident with regard to the state budget and the allocation of funds for the military. That is, the Ministry of Defense requests a lump sum for its activities each year and is not obliged to provide a breakdown of expenses.

At the level of local self-government, Serbia adopted legislation in 2002 that complies with the principal guidelines contained in the 1985 European Charter on Local Self-Governance. The new law grants more substantial autonomy (notably fiscal autonomy) to municipalities, defining the prerogatives of municipal bodies as original instead of derived. In addition, constitutional reforms, which should have been undertaken in 2003, are expected to introduce a new framework for regional decentralization. By year's end, though, no action had been taken and a clear plan had not materialized.

On July 9, 2003, the Montenegrin Parliament adopted its own Law on Local Self-Government. The new law gives more substantial autonomy to local structures of power. Among the new provisions is the right of local municipalities to possess property, collect revenues, and decide autonomously how to expend them.

Montenegro stumbled into a governmental crisis in 2003 when the opposition parties left the Parliament in protest over the decision of state-owned TV Montenegro to terminate its live coverage of parliamentary sessions. On July 22, four opposition parties—the SNP, the LSCG, the NS, and the SNS—signed a declaration of joint action and agreed not to participate in the work of the National Assembly until TV Montenegro reversed its decision. (The LSCG additionally demanded that Prime Minister Djukanovic step down.) Although the chairman of the Montenegrin Assembly proposed various arrangements to entice the opposition back to the Parliament, his efforts failed and the boycott remained in place at year's end. Despite the opposition boycott, the Montenegrin Parliament worked almost without interruption because it still possessed a sufficient majority and quorum to pass laws.

The SNP, Montenegro's largest opposition group, also clashed with the government in 2003 over the implementation of the new census. In particular, the 2003 census sparked considerable debate over a question concerning the ethnic origin and language of Montenegrin citizens. The SNP wanted to take advantage of the fact that in the past 10 years, a growing number of Montenegrin citizens have come to regard themselves as ethnic Serbs rather than Montenegrins—an important distinction given that ethnic Serbs in Montenegro overwhelmingly support closer ties with Serbia. The SNP feared that the current government, which advocates independence for Montenegro, might alter the outcome of the census by reducing the number of ethnic Serbs. The SNP therefore recommended that its supporters boycott the census unless the government introduced measures to ensure the fairness of the

process. Despite the threat of a boycott, the government proceeded with the census, which was carried out without difficulty in November.

V. Constitutional, Legislative, and Judicial Framework

According to its 1990 Constitution, which remains in force, Serbia is a parliamentary democracy with a semipresidential system of government. The government stems from and is answerable to the Serbian Parliament. The president, elected by direct ballot, is the supreme commander of the military, has the right to dismiss the Parliament, and represents the country abroad. Judicial power lies with the Supreme Court and the Constitutional Court, with the latter possessing the right to strike down laws and decrees it deems unconstitutional. Under its 1992 Constitution, Montenegro has a nearly identical system of checks and balances.

The Constitutional Charter of the State Union mandates that within six months of its adoption, Serbia and Montenegro must reform their respective Constitutions, bringing them in line with the charter and relevant international conventions. The charter does not require Serbia and Montenegro to change their systems of checks and balances. Although the charter came into force on February 4, 2003, the reforms had not been carried out by the close of the year and the two original Constitutions remained virtually unaltered. Nevertheless, some changes did occur.

The Parliament of Serbia began its constitutional reform process by passing on April 11, 2003, the Law on the Manner and Procedure for Amending the Constitution of Serbia. Although the new law simplified the process of amending the Constitution, it actually contravened the Constitution of Serbia itself. Article 133 of the Constitution calls for a two-step amendment procedure. First, a two-thirds majority of the Parliament must support the amendment. Second, an absolute majority of the voting public must back the amendment in a national referendum, provided that more than 50 percent of the electorate turns out. The new law, however, modified this procedure by providing for approval of a new Constitution under the following conditions: passage in the Parliament with only an absolute majority, followed by an absolute majority of the voting public in a national referendum in which 50 percent of the electorate must participate. The law also called for the adoption of a new Constitution within two months of its promulgation. However, by October the work of the constitutional drafting commission was at a deadlock, with more than one-third of its members refusing to participate in the work. The commission was dismissed along with the Parliament of Serbia in mid-November.

The absence of constitutional reform was notable in Montenegro in 2003 as well. The 1992 Montenegrin Constitution can be amended only with a two-thirds majority vote of the Parliament. However, since the ruling coalition did not enjoy an absolute majority owing to the opposition's boycott, harmonization of the Montenegrin Constitution with the Constitutional Charter could not be addressed. The ruling coalition announced on several occasions that it would begin drafting a new Constitution, but it faltered each time, claiming that it could do so only if the opposition returned to the Parliament.

Resolution to the 2002 parliamentary scandal, in which the ruling coalition ousted 45 deputies from its coalition partner the Democratic Party of Serbia, did not take place in 2003. However, the Constitutional Court did take up the issue and struck down provisions in Serbia's Law on Elections that allowed the DOS leadership to expell the Democratic Party of Serbia from its ruling coalition and, subsequently, the administrative board of the Parliament

to remove the 45 parliamentarians. (The deputies returned to the Parliament in November 2002, but their legal status in the legislature had not been restored). More precisely, the Court declared unconstitutional portions of Article 88 of the 2000 Law on Elections, stating that political parties and coalitions—not members of Parliament themselves—own the mandate. According to the Constitutional Court, parliamentary deputies themselves possess the mandates they received from the citizens of Serbia. As such, deputies may not be ousted if the political parties they represent try to replace them.

Although the Court's decision implied that the administrative board must restore the composition of the Parliament to what it was before the 2002 decision, the DOS parliamentary majority rejected the ruling and even replaced another seven deputies. The coalition apparently feared losing its parliamentary majority and being forced into early parliamentary elections. On November 6, 2003, the Constitutional Court explicitly enjoined the government to restore the Parliament to its 2002 composition, but the government refused, claiming it was preserving the principle of separation of powers, according to which the government does not have the right to interfere in the work of the parliament.

Comprehensive judicial reform began in Serbia in November 2001, when the Parliament adopted a package consisting of five laws. The major aim of these laws was to ensure the independence of judges, an acute problem under the Milosevic-era government. The laws established the High Council of the Judiciary and the Grand Personnel Council, the former being an independent and expert body that nominates judges and court presidents and the latter being tasked with ascertaining the grounds for their removal. The formal appointment and removal of judges and court presidents was reserved for the Parliament of Serbia.

Although the five reform laws were an improvement over the 1991 Law on Courts, the initial enthusiasm for judicial reform in Serbia quickly fizzled out. The laws were amended in July 2002 and again in April 2003, with the aim of watering down the independence of judges by replacing the High Council of the Judiciary and the Grand Personnel Council with a parliamentary board that will be involved in proposing judges and court presidents; the minister of justice assumed responsibility for deciding on the removal of judges.

The Constitutional Court often takes issue with the government and is not afraid to oppose or strike down decisions of the government or Parliament. The Supreme Court, however, has had greater difficulty in its relations with them. During the state of emergency in 2003, for example, Bosko Ristic, a Democratic Party deputy in the Parliament, accused Supreme Court president Laposava Karamarkovic of "not being ready to comply with the policy of the ruling coalition." Ristic publicly stated that the DOS government would not put up with disobedience in judiciary, forcing Ms. Karamarkovic to step down on March 20. Minister of Justice Vladan Batic has interfered with the judiciary functioning by publicly accusing judges of passing "the wrong decision" or imposing "weak punishments."

One of the most recent additions to Serbia's judicial system is a special court devoted to cases of organized crime and war crimes. In July 2002, the Parliament adopted legislation calling for the creation of the new court along with the post of special public prosecutor for organized crime. The first special prosecutor was not appointed until February 2003, and the court itself was not formally set up until after the murder of Prime Minister Djindjic. The new court began hearing the case against Djindjic's alleged murderers on December 22. Altogether, 36 people (most of them members of the Zemun gang and a special operations unit of the Red Berets) were charged with the prime minister's assassination, along with other

crimes and felonies. The awkward start of the trial—some of those indicted allegedly were questioned without the presence of a lawyer—once again pointed to the limitations of the Serbian judiciary.

Serbia's cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) is another area of contention and weakness in Serbia's legal system. Under Milosevic, Serbian forces in Bosnia, Croatia, and Kosovo were responsible for numerous alleged war crimes. In some cases, the Yugoslav army and the Serbian police were directly engaged in committing atrocities. In other instances, volunteers (sometimes with financial and material assistance from the government of Serbia) gave their support to the army of Republika Srpska. Republika Srpska's supreme military commander, Ratko Mladic, and its president, Radovan Karadzic, are wanted by the ICTY for genocide in Bosnia between 1992 and 1995.

Both the Yugoslav and the Serbian judiciaries have been unable to take up in a serious way the war crimes committed by citizens of Serbia. In 2002 and 2003, the judiciary in Serbia attempted to process only a few such cases. Most notable among them was the trial of Sasa Cvjetan, a member of a special police unit who was sentenced to 20 years in prison for crimes that included killing 14 Albanians in 1999. Owing to a number of irregularities in the trial that was opened in September 2002 in the local court of Prokuplje, the case was transferred to a local Belgrade court in March 2003 and remained open at year's end.

The three Constitutions of Yugoslavia, Serbia, and Montenegro all provided guarantees for basic human rights. When the FRY ceased to exist in 2003, its Constitution was replaced by the Constitutional Charter and the Charter on Human and Minority Rights and Civic Freedoms (the so-called Small Charter). The Small Charter attempts to harmonize union-level legislation with the standards of the Council of Europe. However, the union has yet to ratify the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms.

The Small Charter guarantees individuals equal treatment before the law. Only under very limited circumstances outlined in the Constitutional Charter, the Small Charter, and the respective Constitutions of Serbia and Montenegro can these rights be restricted. The Small Charter provides for both the individual and the collective rights of minorities. Minority groups may directly or indirectly participate in the policy process, particularly in areas that affect their culture, their education, and the use of their native language in public institutions.

The Law on Protection of Rights and Freedoms of Ethnic Minorities (also known as the Minority Act), adopted in February 2002 by the Yugoslav Parliament, enshrined in law the rights of ethnic minorities as outlined in the Yugoslav Constitution and international agreements. Article 2 of this law, like no legislation before in Serbia or Montenegro, defined ethnic minorities as "any group of citizens which is representative in number, has strong and long-lasting ties with the FRY, and has some peculiarities such as language, culture, national or ethnic belonging, origin, or confession by which it differs from the majority of citizens and whose members care to jointly maintain their identity, culture, tradition, language, and religion."

The most important institution introduced by the Minority Act is the Federal Council for National Minorities, whose purpose, along with a second tier of national councils, is to represent ethnic minorities before the state administration in the areas of education, language,

and culture. Its role is advisory in nature, with little authority to formulate or pursue policies that are important to minority cultures. By the end of 2003, only 10 national councils had been established: Hungarian, Ruthenian, Romanian, Croatian, Slovakian, Bunjevac, Bulgarian, Ukrainian, Roma, and Bosniac. The Greek, Turkish, Macedonian, and German ethnic communities in Serbia are expected to form their ethnic councils in the near future. The Federal Council for National Minorities cannot be created until all national councils have been established.

In its 2004 human rights report, the Belgrade Center for Human Rights noted that the government of Serbia neither engaged in nor encouraged violations of human rights. However, it did suggest that the government was lax in punishing perpetrators of human rights violations. The report lists some of the most blatant cases of human rights violations in Serbia, including widespread discrimination against the ethnic Roma community. It also highlights problems associated with the judiciary's prosecution of cases involving soldiers and army officers charged with alleged violations of humanitarian law.

The Belgrade Center further noted that "the chronic weakness of the system of protection of human rights in Serbia was only augmented during the state of emergency" declared in March 2003 following the assassination of Zoran Djindjic. Observers pointed to numerous rights violations during this period, including the rights of free movement, assembly, free speech, free media, and privacy. The Decree on Declaring a State of Emergency and the Order on Special Measures During the State of Emergency were specifically seen as violating the new Constitutional Charter, the Charter on Human and Minority Rights and Civic Freedoms, and international human rights standards.

In response to the Djindjic assassination, amendments to the Law on the Organization and Prerogatives of State Organs in Fighting Organized Crime was adopted in 2003 to provide a clearer definition of the problem and to mandate a number of procedures regarding the detention of persons suspected of involvement in such activities. According to the new procedures:

- ¶ Persons with knowledge of organized crime activities can be held in detention for up to 24 hours without a warrant. Under certain circumstances, the person may be detained for up to 30 days without a lawyer.
- ¶ Persons charged with involvement in organized crime can be held for up to 30 days, with the possibility of extension for another 30 days without a lawyer.

These new provisions were seen by many observers as contravening Article 5 of the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, which entitles persons to a trial "within a reasonable time" and calls for courts to make decisions "speedily" regarding a person's detention. The amendments are also silent about the provision of Article 5 providing compensation for victims of improper arrest or detention. The state of emergency was lifted on April 22, and the Parliament of Serbia removed the 30-day detention provisions from the law during the summer.

VI. Corruption

The government of Slobodan Milosevic was arguably the most corrupt in southeastern Europe and the Balkans. Corrupt politicians and criminal gangs created under the auspices of the state secret service thrived under Milosevic's regime, with his cronies benefiting most

from their control over Serbia's system of state monopolies. Organized crime groups served as Milosevic's praetorian guard, ensuring their ability to participate unhampered in illegal business practices while engaging in illegal business operations of their own.

Although the first post-Milosevic government vowed to eradicate corruption in Serbia, accomplishing the goal has proved exceedingly difficult. In particular, the efforts of Prime Minister Djindjic to fight organized crime led to a direct clash between the government and the mafia and ultimately to Djindjic's assassination in March 2003.

Djindjic's murder allegedly was organized by the Zemun gang, led by 30-year-old retired police general Milorad Lukovic Legija. Legija and Djindjic reportedly met for the first time on October 5, 2000, the day of Slobodan Milosevic's downfall. Legija, then commander of the Red Berets, the infamous special operations military-police unit that is alleged to have been involved in war crimes committed in Croatia and Bosnia, promised that his units would refuse to defend Milosevic if the new government allowed his crime gang to continue its criminal activities without retribution.

During the first two years of its mandate, the new DOS government turned a blind eye to the mafia's activities and, as a result, was unable to solve any murder committed prior to or after October 5, 2000. When the government decided to crack down on the mafia, the Parliament appointed Jovan Prijic in February 2003 as a special public prosecutor for organized crime and urged him to bring indictments against a dozen members of the Zemun gang. Djindjic was assassinated on March 12.

Comprising approximately 200 members, the Zemun gang was the largest and best-organized mafia group in Serbia. Its activities included killings and kidnappings as well as the smuggling of drugs, cars, tobacco, and alcoholic beverages. When police investigations into the group revealed deep penetration of the Serbian underground into the police and judicial structures of the country, the government moved to clean up state structures, starting with the Red Berets. Top members of the Zemun gang also belonged to this elite military-police unit.

Although two senior judicial officials were arrested for helping members of the mafia get out of prison before charges were pressed against them, the Zemun gang was entirely dismembered by the end of April 2003. In a police action dubbed "Sabre," the Serbian police detained over 11,000 people. The special prosecutor then indicted 44 people (Slobodan Milosevic among them) on charges related to the Djindjic assassination and other crimes. Among those indicted were Slobodan Milosevic, for ordering the killing of former president of Serbia Ivan Stambolic in August 2000; Rade Bulatovic, Kostunica's former adviser for security matters; and Aco Tomic, an army general and Kostunica protégé. At year's end, the police were still searching for Legija, the gang's kingpin.

Despite the success of Sabre, the effort was limited in scope and pointed to unevenness in the fight against corruption in Serbia. Sabre, for its part, was directed only at members of the Zemun gang, not organized crime as a whole. Likewise, the murder of Prime Minister Djindjic revealed the limited ability of Serbia's new political leaders to deal with the remnants of the Milosevic regime. Rather than carry out an immediate and wide-ranging purge of Milosevic's supporters, the new government had relied for its survival on the police, the secret service, and other structures tainted by the past and connected to organized crime. Indeed, the DOS coalition—which came to power in 2000 promising to eradicate corruption

in the government, the state administration, the public sector, and the judiciary—not only failed to deliver its promise, but became corrupted itself.

In June 2003, for example, the group G17 Plus accused Zoran Janjusevic, the prime minister's adviser for security matters, and Nemanja Kolesar, his cabinet chief, of money laundering and tax evasion. G17 Plus released to the public documentation confirming that both officials had received payments of 300,000 euros and 450,000 euros, respectively, from an offshore company based in the Seychelles. After four months of investigating the case, the financial police brought charges against the two officials on tax evasion without determining where the money had come from.

In midsummer, the EU terminated its preferential treatment of sugar exports from Serbia and Montenegro. The privileges, established in 2000, enabled both Serbia and Montenegro to avoid high taxes on its sugar exports to the EU. Although the agreement was limited to exports of sugar produced in Serbia, the EU had no reliable mechanism for confirming the origin of the sugar and came to suspect Serbia and Montenegro of reexporting sugar originating in the EU and other countries. Although the government of Serbia launched an investigation into the sugar affair, it had produced no results by year's end.

In 2002, as a sign of its resoluteness to fight corruption, the government of Serbia set up the Council for the Fight Against Corruption. The council, made up of persons of good standing in the public, was tasked with investigating the largest corruption cases in the country. At its first session, the council advised the government to draft separate laws on the declaration and registration of property owned by public officials, on conflicts of interests, and on the financing of political parties. By the end of 2003, the Parliament had adopted only the Law on Party Financing. In addition, by the close of the year, the government had yet to forward to the Parliament a new Anticorruption Act, which the council and several NGOs had supported.

Two members of the council stepped down in 2003, complaining that the government had given the council a task but had failed to provide the resources to carry out appropriate investigations. The president of the council, Verica Barac, publicly criticized the government several times during the year for verbally supporting the council's work but in practice ignoring it. Ms. Barac claimed, for example, that in investigating several large corruption scandals, the council was not given sufficient access to necessary information. When in October the council urged Prime Minister Zivkovic to tackle corruption in the construction sector, Zivkovic retorted that "construction is not the thing the council should worry about."

The government of Montenegro also appears incapable of fighting corruption—a fact that was testified to by the trafficking affair that first made news in December 2002. A woman from Moldova, brought to Montenegro as part of the sex trade, accused several officials from the government and the judiciary of sexual harassment. When Montenegrin prosecutor-general Zoran Radonjic dropped the case in June 2003 under the pretext that "there were no elements for further investigation," several NGOs and some political parties demanded that the case be reopened. In July, a special team from the OSCE traveled to Podgorica, Montenegro's capital, to investigate the sex-trafficking affair. And in October, the OSCE and the Council of Europe issued a report concluding that the case had been dismissed too quickly and that the prosecutor-general had failed to give the case sufficient consideration.

Among the report's recommendations was a call for the government to dismiss the public officials implicated in the case. In response, the Montenegrin government removed the deputy prosecutor and the prosecutor-general, both of whom are believed to have been involved in the trafficking affair. However, by the end of 2003 the case itself had not been formally reopened.

In Montenegro, most accusations of involvement in organized crime focus on people in the government itself. In June and July 2003, for example, three Italian local magistrates (from Napoli, Bari, and Ancona) launched criminal investigations into cigarette smuggling that implicated Prime Minister Djukanovic. The Napoli magistrate even filed suit against Djukanovic, charging him of ensuring a safe route for tobacco smuggling to Italy and other EU countries. However, the Italian judiciary dismissed the charges against Djukanovic, who enjoys diplomatic immunity. An Italian magistrate also pressed charges against Vukasin Maras, a former minister of the interior and the current deputy minister of defense of Serbia and Montenegro. Maras was accused of weapons trafficking, but the case against him was later dropped.

In 2003, both the Serbian and Montenegrin governments showed no progress in reducing corruption and fighting organized crime. This was attested to in October, when Transparency International published its 2003 Corruption Perceptions Index. According to the index, Serbia and Montenegro are together ranked as 106th out of 133 countries in the study. All the former Yugoslav republics, save Macedonia, are ahead of Serbia and Montenegro on the list.

KOSOVO*

An Addendum to the Report on Serbia and Montenegro

Kosovo	2004
Electoral Process	5.25
Civil Society	4.25
Independent Media	5.50
Governance	6.00
Constitutional, Legislative, & Judicial Framework	6.00
Corruption	6.00

BACKGROUND

The Socialist Federal Republic of Yugoslavia Constitution of 1974 provided Kosovo with dual status as an autonomous territory of Serbia and a constituent part of the federation with largely the same rights as full-fledged republics. Soon after the forceful abolition of Kosovo's autonomy by the Parliament of Serbia in March 1989, an apartheid system was established in which Belgrade extended privileges to Kosovar Serbs but excluded Kosovar Albanians from the public sector and systematically repressed them. In response, on July 2, 1990, Kosovo's Parliament proclaimed the territory's independence. The Democratic League of Kosovo (LDK), a popular movement seeking independence through peaceful means, created a government in exile and established a parallel system of education and health supported by an unofficial 3 percent tax system. The two systems coexisted in relative peace through a status quo that lasted for nearly a decade.

However, as early as 1993, a group of political activists opposing the LDK's pacifist philosophy established the first cells of the insurgent Kosovo Liberation Army (KLA). Serbian military attacks against civilians in February and March 1998 helped the KLA grow from a 300-man insurgency into a 20,000- or 30,000-guerrilla force. Despite efforts by the international community to establish a negotiation process, Belgrade intensified its military campaign in the towns and villages where the KLA had taken shelter.

Alarmed by the execution of more than 40 unarmed civilians in the village of Racak in January 1999, the so-called Contact Group, consisting of the United States, the United Kingdom, Russia, Germany, France, and Italy, organized talks in Rambouillet and arbitrated a deal in which international military forces would safeguard Kosovo's autonomy within Yugoslavia during an interim period, until a permanent solution on the territory's status could be negotiated. When Belgrade rejected the deal and continued its attacks against civilians in Kosovo, NATO launched an air campaign against Serbian forces on March 24, 1999.

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NOTE: Nations in Transit ratings are based on a scale of 1 to 7, with 1 representing the highest level and 7 representing the lowest level of democratic development. The 2004 ratings reflect the period January 1 through December 31, 2003. The ratings reflect the consensus of Freedom House, its academic advisors, and the author of this report. The opinions expressed in this report are those of the author.

However, during NATO's 76-day air campaign, Serbian forces continued their violence against Kosovar Albanians, killing 12,000¹, abducting close to 2,600², and forcing nearly 1 million out of the region.

On June 10, 1999, the UN Security Council approved Resolution 1244, establishing the UN Interim Administration Mission in Kosovo (UNMIK). Headed by the special representative of the secretary-general, UNMIK was tasked with creating substantial autonomy for Kosovo within Yugoslavia until the territory's status could be resolved. Yugoslav armed forces were ordered to withdraw from Kosovo, and a NATO-led peacekeeping coalition known as the Kosovo Force, or KFOR, stepped in.

Before UNMIK's deployment was completed, the Kosovo provisional government, led by former KLA political leader Hashim Thaci, established itself at central and municipal levels and filled a vacuum left by the withdrawing Serbian administration. Through intense international pressure, the KLA was eventually transformed into a civilian emergency organization named the Kosovo Protection Corps (KPC).

During this period, thousands of Kosovar Serbs fled Kosovo, fearing retaliation from returning Kosovar Albanians. Those Serbs who remained in Kosovo were subject to systematic attacks and intimidation, which eventually forced them to leave the territory or to concentrate in Serb-dominated enclaves protected by KFOR. According to the International Red Cross Committee, more than 900 Serbs, Roma, and other minorities are reported to have been killed or gone missing in the period between January 1999 and April 2001.

In early 2000, UNMIK invited all Kosovar political factions to participate in the Joint Interim Administration Structure (JIAS), a quasi-governmental body tasked with administering Kosovo's internal affairs until the election of a Parliament. For its part, the work of UNMIK was divided into four pillars covering civil administration, humanitarian emergency response, institution building and elections, and economic reconstruction and development. The Constitutional Framework for the Provisional Institutions of Self-Government (PISG) provided Kosovo substantial autonomy and delineated the powers to be exercised by UNMIK and Kosovar institutions.

The international community has spent more than US\$1 billion in reconstruction, economic development, and institution building since 1999. As a result, Kosovo today has a government, a banking system, local police, a judiciary, and other institutions found in democratic societies. Nevertheless, tremendous obstacles remain. These include ensuring minority and human rights, the free movement of ethnic Serbs, and the return of displaced persons; resolving residential property issues; tackling high unemployment; privatizing state enterprises; and combating organized crime, corruption, and political violence. In these areas, Kosovo has seen little progress, if any. The international community has postponed resolving the final status issue, yet the need to address this question looms owing to an increasingly unsustainable status quo. Also looming is the difficult task of transferring remaining competencies from UNMIK to Kosovo's own governmental institutions.

¹ Council for Defense of Human Rights and Freedoms, Pristina, Kosovo.

² "Missing Persons in Kosovo," 2nd Edition, International Red Cross Committee.

Electoral Process

Kosovo receives a rating of 5.25 for electoral process. Elections have been generally free and fair but are still administered by the Organization for Security and Cooperation in Europe (OSCE) rather than domestic institutions. The sustainability of such elections once authority is transferred to domestic authorities remains a key area of concern owing to a lack of political will exhibited by UNMIK, the OSCE, and Kosovar institutions to reform the electoral system. In addition, members of Kosovo's Central Assembly lack accountability to their constituencies, and citizens are largely disenchanted with political parties.

The OSCE is responsible for organizing elections in Kosovo. Since 2000, two municipal elections and one election to the Central Assembly have been held. Although the OSCE's involvement provides for fair and advanced electoral processes, the ability of Kosovo's own institutions and leaders to sustain them in the long run is unclear. UNMIK and the OSCE have indicated that decision-making authority over elections to the Central Assembly will not be transferred to domestic institutions until at least 2008.

Elections are currently managed by the OSCE's Department of Elections according to regulations set by the OSCE and UNMIK. These regulations define the electoral system, outline procedures for certifying political parties, and provide a code of conduct for campaign periods, among other provisions. They are approved by the Central Election Commission, a body comprising Kosovars and led by the head of the OSCE's mission in Kosovo. All decisions are made by consensus. However, if consensus cannot be reached, the final decision lies with the OSCE.

In the municipal elections of 2000 and 2002, a proportional voting system governing 30 electoral units was applied. While the mandate of the first elected municipal councils was limited to two years, the councils chosen in 2002 received a four-year mandate. A simple, single-district, proportional electoral system with closed lists was in place for the Central Assembly elections in 2001. Political parties competed for 100 out of a total of 120 seats; the remaining 20 seats were reserved for minority communities (10 for representatives of the Serb community and 10 for other non-Serb minorities). This system of set-aside seats was designed to motivate the participation of the ethnic Serb community, which had boycotted the first municipal elections.

Although the OSCE has indicated that no significant reform of the electoral system will be undertaken before the 2004 Central Assembly elections, a debate was stirred in 2003 over several aspects of Kosovo's electoral system. These included concern about weak accountability of assembly members to their constituencies owing to the proportional voting provision, a lack of geographic representation in the body, and overrepresentation of minorities due to the 20-seat set-aside for minority groups. To address these and other concerns—including complaints by some observers that the OSCE and UNMIK have failed to engage civil society in a transparent discussion on the future of Kosovo's electoral system—the OSCE established the Elections Working Group (EWG) and involved key Kosovar political parties and nongovernmental organizations (NGOs). During the group's deliberations, the LDK argued that the current system of single-district proportional representation did not reflect genuine voter preferences. The party called instead for voting in multiple districts according to a mixed-majoritarian system. Some local and international civil society groups supported the LDK's proposal, adding other recommendations such as increasing the number of assembly seats from 120 to 140 and replacing the closed-list system with an open-list approach. Other EWG members, such as the Democratic Party of Kosovo

(PDK), the Alliance for the Future of Kosovo (AAK) and the Serb Coalition “Return” (KP), preferred maintaining the current system. No decisions on the future of the system had been made by year’s end.

Postwar elections in Kosovo have indicated overwhelming support for the LDK, in spite of the apparent social and political domination of the KLA’s two successor political parties, the PDK and the AAK. In both the 2000 and 2002 municipal elections, for example, the LDK won a majority of votes (see table).

Showing of the Top Three Parties in the 2000 Municipal Elections

Party	No. of Votes	Percent of Votes	No. of Seats
LDK	398,872	58.0	504
PDK	187,821	27.3	267
AAK	53,074	7.7	71

Source: OSCE Mission in Kosovo: Results of voting for 27 out of 30 constituencies.

The 2001 Central Assembly elections produced similar results, though the KP pushed the AAK into fourth place. The LDK enjoyed a victory with 46 percent of the vote but was unable to form a majority government (see table). When the LDK failed to mobilize the support even of minority parties, an all-inclusive coalition cabinet was formed. The cabinet included the three main Albanian parties (LDK, PDK, and AAK), the Serb KP, and the coalition of non-Serb minorities. In exchange for the post of president of Kosovo, the LDK gave up the prime minister’s seat to the PDK. Cabinet posts were divided among the LDK, the PDK, and the AAK; one cabinet slot each was reserved for representatives of the KP and non-Serb minorities.

Results of the 2001 Central Assembly Elections

Party	No. of Votes	Percent of Votes	No. of Seats
LDK	359,851	45.65	47
PDK	202,622	25.70	26
KP (Serb)	89,388	11.34	22 (12 contested, 10 set-aside seats)
AAK	61,688	7.83	8
VATAN (Bosniak)	9,030	1.15	4 (3 set-aside seats)
KDTP (Turkish)	7,879	1.00	3 (2 set-aside seats)
IRDK (Roma)	3,976	0.50	2 (2 set-aside seats)
PDASHK (Ashkali)	3,411	0.43	2 (2 set-aside seats)
LKCK	8,725	1.11	1
PSHDK	7,701	0.98	1
PD	4,504	0.57	1
LPK	4,404	0.56	1
BSDAK (Bosniak)	2,906	0.37	1 (set-aside seat)

PREBK (Egyptian)	2,717	0.34	1 (set-aside seat)
PLK	3,600	0.46	0
BK	2,881	0.37	0
PQLK	2,403	0.30	0
PGJK	2,325	0.29	0
PSDK	1,785	0.23	0
XHEVDET REXHAI	1,330	0.17	0
LATIF KRYEZIU	1,199	0.15	0
XUN ÇETTA	1,210	0.15	0
PRK	643	0.08	0
PNSDH	1066	0.14	0
IQK	631	0.08	0
PLSH	428	0.05	0

Source: OSCE Mission in Kosovo.

Civil Society

Kosovo receives a rating of 4.25 for civil society. Although the number of civil society groups has grown substantially since 1999, the capacity of groups is weak and their work is largely unsustainable absent international donor support. In addition, corruption appears to be a serious problem in higher education. It will be years before the civil society scene in Kosovo stabilizes.

Kosovo has experienced significant growth in the number of NGOs since the end of the conflict. Since June 1999, more than 1,000 NGOs have been registered at the UNMIK Office for the Registration of Nongovernmental Organizations. The procedures for the registration of NGOs are not overly bureaucratic and, according to the U.S. Agency for International Development's 2002 NGO Sustainability Index, there is a "very favorable NGO registration law that allows NGOs to register easily, either with or without public benefit status and the associated benefits."

The civil society sector in Kosovo remains entirely dependent on international aid, and most civil society groups do not have sufficient financial and organizational capacity to sustain their activities in the long term. Indeed, the future of many NGOs is already at stake owing to reductions in international funding. Despite these challenges, the vibrancy of civic life is growing in Kosovo, with more NGO coalitions and pressure groups increasingly advocating their interests on issues such as education reform, the fight against corruption, economic and fiscal policies, election reform, and gender equality.

The majority (90 percent) of Kosovo's population is Muslim, followed by the Christian Orthodox community (7–8 percent) and Catholics (2–3 percent). The Muslim Community of Kosovo functions as an official representative of this religious group. In addition, since 1999 Arab humanitarian organizations have been involved in establishing the Wahhabi sect of Islam within Kosovo. The Catholic community plays a prominent role in humanitarian activities through groups such as the Mother Theresa Society. While the Albanian religious

communities are not generally politically active, the Orthodox Church is. This is a reflection of the links between Serbian nationalism and the church.

Various independent and informal student organizations have grown more active in addressing reform in higher education in general and corruption in the University of Prishtina in particular. The most active group in this regard is For a Different University, which managed to attract public attention and sympathy in 2003. The group's Web site, www.tjeterqysh.com, is often quoted in media articles about corruption within the university. Other organizations have tried to address the problems in the university through clandestine methods. For example, various professors have received anonymous, threatening letters from the group Levizja 2004 demanding their resignation. Many of these anonymous allegations of corruption have been unsubstantiated.

Also playing a role in Kosovo's civil society are the KLA War Veterans Association and the KLA War Invalids Association, as well as the official Independent Union of the Students of the University of Prishtina. Serving more as vigilante networks than as genuine interest groups, these organizations focus mainly on the mobilization of public support in defense of former KLA personalities who have been accused of war crimes and currently are standing trial. The verbal attacks by these associations against their opponents highlight a clear political agenda.

Independent Media

Kosovo's rating for independent media is 5.50. Freedom of speech and editorial independence are weakened through intimidation and pressure by political groups and criminal organizations. Fear from coercion also accounts for the weak development of investigative journalism. Most media outlets, both electronic and print, are not self-sustaining and depend on international donors or moneys from parent companies to survive. Political bias is evident in all forms of media.

Freedom of speech and editorial independence in Kosovo are threatened by intimidation, political pressure, and other threats against journalists. The main sources of these threats are powerful political groups and criminal organizations. Although investigative journalists enjoyed some breakthroughs in 2003 in highlighting the problem of corruption in Kosovo, this field remains underdeveloped and vulnerable.

The legal framework governing the media in Kosovo consists of UNMIK Regulation 2000/37, On the Conduct of the Print Media in Kosovo, its associated code of conduct, and UNMIK Regulation 2000/4, On the Prohibition Against Inciting to National, Racial, Religious, or Ethnic Hatred, Disorder, or Intolerance. This body of regulations has often created tensions between journalists and the Kosovo Temporary Media Commissioner (TMC), which has oversight of and supervisory responsibilities over the media.

Regulation 2000/37 and Regulation 2000/4 were introduced in 2000 owing to concerns about the role of the media in inciting political violence. Although the regulations were introduced in response to a specific incident—the murder of Miroslav Topoljski, an UNMIK interpreter who the Prishtina daily *Dita* alleged had taken part in war crimes against Albanians—local journalists feel the provisions limit their freedom of speech. Journalists also vocally oppose the rulings of the TMC, which has the right to impose financial or moral sanctions for violations of the regulations. However, numerous complaints from individuals received by

the TMC suggests the persistence of a genuine problem involving unsubstantiated allegations by party-aligned media outlets against their political opponents and the resultant political violence.

Kosovo has both public and private media outlets. The television broadcasters reaching national audiences include Kosovo Public TV (RTK) and two private outlets, Koha Vision and RTV 21. Print media in Kosovo are all privately owned.

The television broadcasters in Kosovo are mired in a debate over the distribution of advertising revenues between public and private outlets. Ultimately at issue is the financial sustainability of these broadcasters. Some parties have argued for open competition for advertising dollars between public and private outlets. Others believe that this provides RTK with undue advantages since it already benefits from the collection of a monthly 3.5-euro fee from citizens as well as yearly government funding in the amount of 2 million euros. The issue remained unresolved by the close of 2003.

The majority of Kosovo's print media outlets are unsustainable and depend on foreign donations or infusions of funding from parent companies to keep their doors open. However, two leading newspapers, *Koha Ditore* and *Bota Sot* (the latter being a pro-LDK paper), are exceptions to this rule. The paper *Zeri* also claims to have had success in achieving market-based sustainability. *Kosova Sot* continues to be subsidized by the Interpress company, to which it belongs. Foreign editions of Kosovo-based newspapers that target Kosovar Albanian diaspora communities account for a sizable part of some media outlets' incomes. The average circulation of Kosovo's main newspapers ranges from 5,000 to 15,000 copies in Kosovo and up to 10,000 each in Western Europe for *Koha Ditore*, *Bota Sot*, and *Zeri*.

Newspapers in minority languages are limited mainly to community-based publications. The Turkish paper *Tan* and the Bosniak paper *Alem* both have readerships among their respective communities in Kosovo. Belgrade newspapers in Serbian provide the main source of information for Kosovo's Serb minority, while the main sources of information for non-Serb minorities are RTK, in Bosniak and Turkish, and other Albanian-language media. The majority of newspapers appear in Albanian.

Owing to efforts by the OSCE, there has been a proliferation of broadcast media in minority languages. On Kosovo's 92 radio and 26 television stations, most broadcasts are in Albanian. This is followed, in order, by broadcasts in Serbian, Bosniak, Turkish, and Gorani (the language of an ethnic group living in the Gora region south of Prizren). Several broadcasters provide multilingual programming (see table).

Linguistic Representation of Licensed Broadcasters in Kosovo

Albanian-Language Media		Serbian-Language Media		Bosniak-Language Media		Turkish-Language Media		Gorani-Language Media		Mixed-Language Media	
Radio	Television	Radio	Television	Radio	Television	Radio	Television	Radio	Television	Radio	Television
50	17	20	7	3	None	2	None	1	None	16	2
Total: 67 stations		Total: 27 stations		Total: 3 stations		Total: 2 stations		Total: 1 station		Total: 18 stations	

Source: Kosovo Temporary Media Commissioner, Annual Report 2002.

Internet services in Kosovo are easily accessible. The number of wireless and dial-up providers is growing. Since 2000, Internet cafés have mushroomed in all urban areas of

Kosovo, creating easy access to the Internet for those who have no such service at work or at home. There is no Internet access in rural areas.

Governance

Kosovo's rating for governance is 6.00. Although the administrative capacity of the Kosovo government is improving gradually, the territory's dual system of governance has produced systematic problems in addressing the basic needs of Kosovo's citizens. In addition, despite the positive introduction of the standards for Kosovo and the opening of the official Dialogue with Serbia, significant challenges and obstacles still stand in the way of fulfilling the conditions that will lead to the opening of talks on the resolution of Kosovo's status. Finally, nepotism and political considerations are the most important factors in filling posts for senior civil servants, while the Central Assembly does not have the resources it needs to fulfill its legislative and investigative responsibilities.

At the central level, Kosovo has a dual system of governance, with executive powers divided between UNMIK and the PISG according to Chapter 8 and Chapter 5 of the Constitutional Framework, respectively. The PISG is responsible for education, health, social welfare, agriculture, the environment, and public services and administration. UNMIK is responsible for the justice system, foreign relations (including trade), fiscal policy, the administration and privatization of public utilities, elections, the protection of minority rights and returns, transport, and telecommunications. There is some overlap in executive powers in the areas of privatization, fiscal policy, minority returns, transport, telecommunications, and spatial planning.

The transfer of powers from UNMIK to the PISG, including to municipalities, continued in 2003. However, the process has not been without tension—often resulting in a lack of communication between UNMIK and the PISG. This was true in 2003 with regard to privatization.

In June 2003, the European Union (EU), which is in charge of Kosovo's privatization policies, launched a process for selling off Kosovo's socially owned enterprises (SOEs) and created a special chamber within Kosovo's Supreme Court to address complaints and claims by third parties. The process came to a halt when, at UN headquarters in New York City, Belgrade claimed ownership over the SOEs. When the EU pillar of UNMIK responded to Belgrade by adding a provision to the process for confirming the status of each SOE up for sale, the PISG protested, claiming that all Kosovar SOEs were integrated illegally into the Serbian economy following the abolition of Kosovo's autonomy. The situation resulted in a deadlock, and the PISG withdrew from the board of the Kosovo Trust Agency (KTA), the executive body in charge of implementing privatization. Both sides continue to stand firmly in their positions, although there is wide recognition that public and social property issues will continue to pose a problem until the resolution of Kosovo's status.

In 2002, UNMIK introduced eight standards, or conditions that must be met before talks can begin on the resolution of Kosovo's status. The standards offer a vision for a democratic Kosovo marked by a stable political system and a sustainable market economy. The standards include the creation of functioning democratic institutions in Kosovo; the disciplining of the KPC as a civilian emergency organization; the introduction of conditions for the return of minority displaced persons and their reintegration into Kosovar society through improved freedom of movement and the resolution of residential property disputes; the launching of a

privatization process; a reduction in crime; the creation of a fully independent judiciary; and the initiation of a dialogue with Serbia on practical issues of mutual concern.

When UNMIK first introduced the standards, Kosovar Albanians complained that the plan lacked tangible steps and a clear time frame for the resolution of Kosovo's status. They specifically disapproved of UNMIK's "standards before status" approach and perceived the plan as a means of postponing Kosovo's independence indefinitely. Although Belgrade and Kosovar Serbs, for their part, supported the plan, the Contact Group on November 5, 2003, added a target date of mid-2005 for assessing Kosovo's progress in implementing the standards and, based on the results, for deciding whether or not to open talks on Kosovo's final status.

The addition of the target date has boosted cooperation between UNMIK and the PISG, through the Joint Working Groups on the Implementation of Standards, on designing a road map for achieving the standards. According to some government officials, the last quarter of 2003 marked the most intensive period of cooperation between Kosovars and UNMIK since June 1999. The prospect of accelerating Kosovo's final status talks also motivated Kosovar Albanians to approach the standards process more seriously. On the other side, however, Belgrade and the Kosovar Serbs have boycotted the standards process, arguing that the new approach on standards paves the way for Kosovo's independence.

The EU launched the so-called Dialogue with Serbia in June 2003 at its Thessaloniki Summit. The dialogue involves discussions between Kosovo and Serbia on missing persons, returns of displaced persons, energy, transport, and telecommunications. Initially, Kosovo's coalition government was divided over this issue. While the president of Kosovo and the assembly Speaker (both representing the LDK) took part in the official launching of the dialogue in Vienna in October 2003, the prime minister of Kosovo (representing the PDK) declined to participate in response to pressure from within his party ranks in the Central Assembly. This initial hesitation to endorse the dialogue was overcome with the introduction of clearer provisions in the standards for Kosovo.

The dialogue, which is seen as a confidence-building measure between Prishtina and Belgrade, is expected to address some basic issues that stand between the two sides and to open the lines of communication before the beginning of the final status process. The first meetings of the dialogue's expert working groups are expected in early 2004. However, substantial improvements in relations between Prishtina and Belgrade will be difficult to achieve and could prove unattainable. First, although the most senior officials from Kosovo and Serbia participated in the dialogue's Vienna launch, they did not actually meet with one another. Second, the level of animosity between Kosovo and Serbia is palpable both at the grassroots level and at the highest levels of government.

Owing to the absence of a working majority in the Central Assembly, Kosovo has an all-inclusive coalition government, with rival parties participating in the same cabinet (the LDK, the PDK, the AAK, the PK, and the "other minorities" caucus). The coalition is based on a limited role for the prime minister, with cabinet members responsible to their political parties rather than the head of government. The pursuit of party agendas has prevented the development of cohesive governmental policies. Although joint governance has proved to be a positive exercise in providing interparty dialogue and easing relations among political rivals, disagreements over major policy initiatives persist.

The capacity of ministers and other political appointees to perform their jobs has shown some improvement, yet nepotism and political considerations continue to be the main criteria for the appointment of senior civil servants, at both central and municipal levels. Likewise, public administrations in both the PISG and at the municipal government level are highly politicized and lack the capacity to accomplish their objectives. There are reports, for example, that only one-third of the legislation passed by the Kosovo Central Assembly and UNMIK is being implemented. The Council of Europe has presented a strategy for boosting the number of municipalities from 30 to 180 units; however, the lack of administrative capacity and financial resources, among other factors, will make this reform plan difficult to implement.

The Central Assembly does not have the resources to fulfill its legislative and investigative responsibilities. In addition, violations of the rules of procedure have often stalled the assembly's work, and frequent initiatives beyond the competencies of the PISG have led to numerous interventions from UNMIK. Several such interventions were made at the request of the KP caucus with regard to violations of the rights and interests of the Serb community. The Non-Serb Communities Caucus has also used the special procedure on the protection of the rights and interests of minority communities. As such, minority groups can raise objections to policies or laws, and their concerns are then referred to a special panel for consideration. At the same time, though, the work of the assembly has shown some improvement, including holding several public hearings and making important contributions to the process of amending legislation presented by the prime minister and cabinet.

The inclusion of the PISG in the returns process for displaced persons has had positive effects in terms of the acceptance of returnees by local Albanian communities, as well as Serb perceptions of the PISG. According to the Serbian Red Cross and the United Nations High Commissioner for Human Rights, around 234,000 minority displaced persons from Kosovo are settled in Serbia and Montenegro. An estimated 160,000 to 170,000 are Serbs, and the rest are Roma, Ashkali, Egyptians, and Bosniaks. Currently, an estimated 85,000 Serbs remain in Kosovo, with the highest concentration in the northernmost part of the territory. Out of 32 million euros allocated for returns, 7 million euros were granted by the Kosovo government.

While at the central level the role of the PISG and the Albanian political parties is aimed at creating a positive political climate, the key players in the returns process are the municipal authorities and local communities. Although there is still resistance toward returns on the part of local communities, especially in areas that suffered the highest human and materiel costs during the 1998–1999 conflict, the involvement of municipal authorities in the process has shown improvement both in budgetary spending and in their engagement in the community and returns committees (two bodies tasked with devising concrete projects that will improve the quality of life for minorities).

Despite these positive trends, the scale of returns is below the intended rate. There are several reasons for this, including the highly unstable security situation, the persistence of problems associated with the return of residential properties, a lack of access to objective information in Serbia about the situation in Kosovo, and insufficient cooperation until recently from the Serbian government. In addition, Kosovo's unclear status has affected the return of Kosovar Serbs.

Finally, the continued existence of parallel, Belgrade-sponsored institutions in Serb-dominated areas of Kosovo has had a negative impact on governance and on the integration of Serbs into Kosovar society. UNMIK, in particular, has tolerated these institutions, in spite of recognition by the UN that these structures undermine the efforts of elected municipal authorities to improve intercommunal relations. Parallel health and education structures were created in the immediate aftermath of the 1998–1999 conflict to respond to the limited freedom of movement of Kosovo’s Serb communities. Parallel administrative and judicial organs function in Serbia, with each Kosovo municipal court and municipal administration being covered by a respective town in Serbia. Kosovo Serb employees in the public sector receive salaries from both the Kosovo government and the government of Serbia. Finally, parallel security structures function in north Mitrovica, where so-called Bridge Watchers are believed to use criminal methods to maintain control over the region.

Constitutional, Legislative, and Judicial Framework

Kosovo’s rating in this category is 6.00. Although the PISG’s Constitutional Framework provides for legislative, executive, and judicial institutions and powers—and they exist in practice—UNMIK still remains the final authority on constitutional and legal matters. International judges and prosecutors are appointed by UNMIK owing to ongoing concerns about bias and the lack of impartiality among local judges and prosecutors, particularly with respect to war crimes trials. Witness protection is weak, as is the safeguarding of human rights, especially of Kosovar Serbs. Despite some signs of improvement, for example, the freedom of movement of Kosovar Serbs remains limited and access to jobs, health care, and education is impeded.

Kosovo is governed by a complex set of international, national, and subnational legislation. On June 10, 1999, the UN Security Council approved Resolution 1244, which established UNMIK and effectively suspended the Federal Republic of Yugoslavia’s sovereignty in Kosovo. Resolution 1244 gives UNMIK both legislative and executive powers. To prevent the creation of a legal vacuum following the collapse of the Serbian administration in Kosovo, UNMIK also established a legal system based on Kosovo and Yugoslav laws passed before March 28, 1989, nondiscrimination laws approved after 1989, UNMIK regulations, and international human rights conventions.

On May 15, 2001, UNMIK promulgated the Constitutional Framework for the PISG, which gave the Central Assembly of Kosovo legislative powers and created the Supreme Court of Kosovo, a body vested with powers to rule on the constitutionality of legislation. However, the Kosovo secretary-general (SRSG) remains the final ruling authority on constitutional and legal matters and is the main evaluator of the PISG’s performance. UNMIK enjoys legal immunity and is responsible only to the UN.

Kosovo’s Constitutional Framework provides effective mechanisms for the protection of minority rights and interests, with the SRSG as the main guarantor of these rights. In cases in which a minority community believes that legislation passed by the assembly violates its rights, the group can also file a complaint with UNMIK. To date, the SRSG has returned a number of laws to the assembly with recommendations for amendments that address the rights in question of the minority community. If the assembly fails to comply with the recommendation, the SRSG may promulgate the law with its own provisions that ensure the protection of the rights and interests of the minority community. For example, in 2003 former SRSG Michael Steiner amended and promulgated the Law on Higher Education following

the refusal of the assembly to recognize the University in Slavic Languages of Northern Kosovo.

The protection of religious freedoms is another delicate issue, with recent debates on the rights and freedoms of certain Islamic sects highlighting the tension between building a secular, democratic society and showing tolerance toward public displays of religious traditions and symbols. The issue was first raised in 2003 when a group of PISG officials refused to accept an interpreter on a trip to Germany because she was covered according to the Muslim tradition. The officials were supported by their respective ministries on the grounds that dressing according to religious strictures threatens the secular nature of public institutions. Although no judicial action was initiated in this case, the issue of religious freedoms versus the secularity of public institutions will eventually have to be taken up by the courts.

Owing to concerns about a lack of impartiality within the judiciary, particularly with respect to cases of war crimes and crimes involving minorities, Kosovo has UNMIK-appointed international judges and prosecutors in addition to local judges and prosecutors. Although the system is not perfect, particularly regarding cases of extended and illegal pretrial detentions of war crimes suspects, Kosovo's justice system would not be able to function impartially without the presence of these international judges and prosecutors. The year 2003 was marked by the opening of the first war crimes trial involving three former KLA members, the arrest of five former KLA members on the suspicion of war crimes, and the legal proclamation of the Albanian National Army (ANA) as a terrorist organization. Two former KLA strongholds, the War Veterans Association and the War Invalids Association, have attracted attention with demonstrations against these arrests, but owing to their failure to mobilize the general public's support, the effects of these protests faded away rather quickly. Witness protection also remains a key obstacle to fair and effective judicial processes in Kosovo. Threats, intimidation, and even murder of witnesses is not uncommon.

While the year 2003 saw a decrease overall in criminal activity in Kosovo, a campaign between May and September to kill ethnic Serbs drew wide attention. The murder of the ethnic Serb Stolic family in Obiliq, near Prishtina, and the killing of two Serb children swimming in a river just outside the Serb enclave of Gorazdevac have shaken the sense of security among Kosovar Serbs. These events have also undermined achievements such as the promulgation of new criminal and criminal procedures codes that provide better mechanisms for the prosecution of serious crimes and for witness protection. As with the majority of other brutal crimes against Serbs since June 1999, both murders were committed during high-level international visits—the former during the visit of Javier Solana, the EU's high foreign policy and security representative, and the latter on the first working day of SRSJ Harri Holkeri. Although the investigation of these assassinations continued at the close of the year, their timing and brutality indicate that they were politically motivated.

The freedom of movement of Serbs in Kosovo has improved somewhat, and in response, KFOR has started the withdrawal of its guards from Orthodox churches and Serbian enclaves. Nevertheless, substantial regional variations and severe limitations remain, particularly affecting access for Serbs to health care, jobs, markets, and education. To further increase freedom of movement, UNMIK has offered Kosovo license plates to Serbs. Belgrade has opposed the campaign, encouraging Serbs to continue using Serbian license plates.

Corruption

Kosovo receives a 6.00 for corruption, owing to the pervasiveness of the problem and its negative impact on Kosovo's overall democratic development. Despite better efforts in 2003 to address the problem and some recent successes in exposing and dealing with corruption practices, anticorruption initiatives as a whole have produced limited positive effects to date. Corruption appears to be greatest within public utilities, customs, public procurement, and local government. Allegations of corruption within UNMIK and the PISG are also growing.

Democratic institution building and economic development in Kosovo are negatively impacted by pervasive corruption. Factors contributing to the problem include the legacy of a state-controlled economy, the long-standing acceptance of corruption by citizens and political leaders alike, and the lack of proper mechanisms to hold public officials accountable. Sizable flows in international funding with urgent spending priorities also contribute to the prevalence of corruptive practices in Kosovo. Four areas appear to be most affected: public utilities, customs, public procurement, and local government. The health and pharmaceutical sectors are influenced as well.

Although a number of steps were taken in 2003 to improve the institutional mechanisms for fighting corruption, the record of UNMIK and the PISG in this arena has been mixed. In 2003, the Central Assembly of Kosovo approved three key laws aimed at improving transparency and accountability: the Law on Management of Public Finances and Responsibilities, the Law on Access to Official Documents, and the Law on Public Procurement.

Also in 2003, the Investigative Task Force (ITF) was formed, comprising the UN Office of Internal Oversight Services, the European Anti-Fraud Office, and UNMIK's Financial Investigation Unit. This agency has been given powers to investigate both Kosovar and international public officials suspected of wrongdoing. By year's end, UNMIK had announced that the ITF was investigating reports of corruption within the Kosovo Trust Agency, which is responsible for privatization and the administration of public utilities, and launching probes into other bodies within UNMIK and the PISG. The code of conduct of civil service was approved in 2002.

UNMIK's anticorruption initiatives have produced mixed results and have highlighted shortcomings that can be attributed to a lack of coordination and transparency among different UNMIK agencies, as well as weak political will within the PISG. For example, the results of several audits of public companies, including Post-Telecomm and the Kosovo Energy Corporation, were never revealed to the public and have not been followed up with concrete actions. The Office of the Auditor-General, responsible for financial control and oversight of the PISG, is provided for in the Constitutional Framework in 2001 but had not been established as of the close of 2003. In addition, the absence of a whistle-blower charter prevents protection of individuals who publicly expose corrupt practices. Corrupt practices within municipal administrations are the most difficult to investigate. These include, among others, the falsifying of cadastre documents and illegal appropriations of municipal land in Prishtina, irregularities in awarding government and municipal contracts, and the selling of sensitive business and property information by municipal officials.

Despite these problems and limitations, some important breakthroughs have been made in dealing with corruption. Five customs officials were arrested between 2002 and 2003 for involvement in the smuggling of fuel. Some 200 police officers have been dismissed for

corrupt practices such as falsifying documents or abuse of their official position. An international official working for the EU has been sentenced to four years in prison in Germany for stealing 4.5 million euros from the public energy corporation. Connections of political figures with organized crime are frequently reported, although there is insufficient political will to take action. Furthermore, the role of the media in reporting corruptive practices was on the rise in 2003, with some reports leading directly to the suspension or arrest of corrupt officials. In addition, several arrests of municipal officials were made owing to citizen cooperation.