

**Official Gazette of Serbia and Montenegro
No. 1 of 4 February 2003**

Pursuant to the Proceeding points for the Restructuring of Relations between Serbia and Montenegro, the Federal Assembly, at the sessions of the Chamber of Citizens and the Chamber of Republics held on 4 February 2003, has passed the following

DECISION

on

**PROMULGATING THE CONSTITUTIONAL CHARTER OF THE STATE
COMMUNITY OF
SERBIA AND MONTENEGRO**

The Constitutional Charter of the State Community of Serbia and Montenegro, adopted by the National Assembly of Serbia on 27 January 2003, the Assembly of Montenegro on 29 January 2003 and the Chamber of Citizens and the Chamber of Republics of the Federal Assembly on 4 February 2003 is hereby promulgated.

Federal Assembly

AC No. 432
4 February 2003

Srdja Bozovic
President
Chamber of Republics

Dragoljub Micunovic
President
Chamber of Citizens

Proceeding from the equality of the two member states, the state of Montenegro and the state of Serbia, the latter of which comprises the Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija which, pursuant to the United Nations Security Council Resolution 1244, is currently under an international administration, and on the basis of the Proceeding Points for the Restructuring of Relations between Serbia and Montenegro of 14 March 2002,

the National Assembly of the Republic of Serbia, the Assembly of the Republic of Montenegro and the Federal Assembly have adopted

THE CONSTITUTIONAL CHARTER OF THE STATE COMMUNITY OF SERBIA AND MONTENEGRO

I

The Name

Article 1

The name of the State Community shall be Serbia and Montenegro.

Principle of Equality

Article 2

Serbia and Montenegro shall be based on the equality of the two member states, the state of Serbia and the state of Montenegro.

Goals

Article 3

The goals of Serbia and Montenegro shall be:

- respect for the human rights of all persons within its jurisdiction,
- preservation and promotion of human dignity, equality and the rule of law,
- integration in European structures, the European Union in particular,
- harmonisation of its legislation and practices with European and international standards
- introduction of market economy based on free enterprise, competition and social justice, and

- establishment and ensurance of unhindered operation of the common market on its territory through co-ordination and harmonisation of the economic systems of the member states, in line with the principles and standards of the European Union.

Symbols

Article 4

Serbia and Montenegro shall have a flag, an anthem and a coat-of-arms as specified by the laws of Serbia and Montenegro.

The Territory

Article 5

The territory of Serbia and Montenegro shall consist of the territories of the member states of Serbia and Montenegro.

The border of Serbia and Montenegro shall be inviolable.

The boundary between the member states shall be unchangeable, except by mutual consent.

Seat of Institutions

Article 6

The administrative centre of Serbia and Montenegro shall be in Belgrade.

The seat of the Parliament of Serbia and Montenegro and the Council of Ministers shall be in Belgrade and the seat of the Court of Serbia and Montenegro in Podgorica.

Citizenship

Article 7

A citizen of a member state shall also be a citizen of Serbia and Montenegro.

A citizen of a member state shall have the same rights and duties in the other Member State as its own citizens, except for the electoral right.

II

The Charter of Human and Minority Rights and Civil Liberties

Article 8

A Charter of Human and Minority Rights and Civil Liberties, forming an integral part of the Constitutional Charter, shall be adopted under the procedure and in the manner set forth for the adoption of the Constitutional Charter.

Exercise of Human and Minority Rights and Civil Liberties

Article 9

The member states shall regulate, ensure and protect human and minority rights and civil liberties on their territories.

The achieved level of human and minority rights, individual and collective, and of civil liberties may not be reduced.

Serbia and Montenegro shall monitor the implementation of human and minority rights and civil liberties and shall ensure their protection if such protection is not ensured in the member states.

Direct Implementation of International Treaties

Article 10

Provisions of international treaties on human and minority rights and civil liberties applicable on the territory of Serbia and Montenegro shall apply directly.

III

Principles of Market Economy

Article 11

Economic relations in Serbia and Montenegro shall be based on market economy that rests on free enterprise, competition, liberal trade policies and the protection of property.

Serbia and Montenegro shall co-ordinate and harmonise the economic systems of the member states.

Common Market

Article 12

Serbia and Montenegro shall have a common market.

The member states shall be responsible for an unhindered operation of the common market.

Freedom of Movement

Article 13

The movement of people, goods, services and capital shall be free in Serbia and Montenegro.

The prevention of the free flow of people, goods, services and capital between the state of Serbia and the state of Montenegro shall be prohibited.

IV

International Personality

Article 14

Serbia and Montenegro shall be a single subject of international law and a member of international, global and regional organisations, the membership of which is contingent on international personality.

The member states may become members of the international, global and regional, organisations, the membership of which is not contingent on international personality.

Establishment and Maintenance of International Relations

Article 15

Serbia and Montenegro shall establish international relations with other states and with international organisations and conclude international treaties and agreements.

The member states may maintain international relations, conclude international agreements and establish missions in other states, unless this is not contrary to the competencies of Serbia and Montenegro and the interests of the other Member State.

Supremacy of International Law

Article 16

Ratified international agreements and the generally accepted rules of international law shall have precedence over the law of Serbia and Montenegro and over the law of the member states.

V

Establishment of the Competencies of the State Community of Serbia and Montenegro

Article 17

The competencies of Serbia and Montenegro shall be those entrusted by the present Constitutional Charter.

The member states may jointly entrust to Serbia and Montenegro additional affairs from their competencies.

Financing of the Competencies of the State Community of Serbia and Montenegro

Article 18

The member states shall provide funds for the carrying out of the entrusted competencies and additional affairs of Serbia and Montenegro.

VI

1. THE PARLIAMENT OF SERBIA AND MONTENEGRO

Competencies

Article 19

The Parliament of Serbia and Montenegro shall decide on the Constitutional Charter as a supreme legal act of Serbia and Montenegro in the manner set forth by the Constitutional Charter and pass laws and other acts on:

- institutions established in accordance with the Constitutional Charter and their operation;

- implementation of international law and conventions which define the obligation of co-operation of Serbia and Montenegro and international courts;
- beginning and ending of a state of war, with prior consent of the Assemblies of the member states;
- military and defence matters;
- membership of Serbia and Montenegro, as an international legal subject, in international organisations, and the rights and obligations stemming from that membership, with prior consent of relevant bodies of the member states;
- identification of borders of Serbia and Montenegro, with prior consent of the Assembly of a member state on whose territory the border extends;
- issues related to the standardisation, intellectual property, measurements, precious metals and statistics;
- policies of immigration and asylum, visa system and integrated border management in accordance with the standards of the European Union;
- ratification of international treaties and agreements of Serbia and Montenegro;
- annual revenue and expenditure necessary for funding the activities transferred to Serbia and Montenegro at the proposal of relevant bodies of the member states and the Council of Ministers;
- prevention and removal of obstacles to a free flow of goods, services, persons and capital within Serbia and Montenegro;
- election of the President and the Council of Ministers of Serbia and Montenegro;
- the flag, anthem and the coat-of-arms of Serbia and Montenegro.

The Parliament of Serbia and Montenegro shall also carry out the affairs from the competencies of Serbia and Montenegro as set forth in the Constitutional Charter.

The Parliament of Serbia and Montenegro shall adopt its rules of procedure.

Composition and Election

Article 20

The Parliament of Serbia and Montenegro shall be unicameral consisting of 126 members, of whom 91 shall come from Serbia and 35 from Montenegro.

Members of Parliament of Serbia and Montenegro shall be elected from each member state in accordance with European and democratic standards under the laws of the member states. In the first two years after the promulgation of the Constitutional Charter, Members of Parliament shall be directly elected, in proportion to the

representation in the National Assembly of Serbia and the Assembly of Montenegro.

In the first elections, Members of Parliament shall be elected from among the Deputies in the National Assembly of Serbia, the National Assembly of Montenegro and the Federal Assembly. If a member state holds parliamentary elections in that same period, the composition of its delegation to the Parliament of Serbia and Montenegro shall be proportionally adjusted to the election results.

After this initial period, Members of Parliament of Serbia and Montenegro shall be elected in direct elections.

Members of Parliament shall be elected for a four-year term of office.

The Speaker and Deputy Speaker of the Parliament of Serbia and Montenegro

Article 21

The Speaker and Deputy Speaker of the Parliament shall be elected from among its members but should not come from the same Member State.

Non-accumulation of Offices

Article 22

The Speaker of the Parliament of Serbia and Montenegro and the President of Serbia and Montenegro shall not come from the same Member State.

Decision-making

Article 23

The Parliament of Serbia and Montenegro shall take decisions by a majority vote of all Members of Parliament, provided that a decision has been supported by the majority of Members of Parliament from each member state.

Freedom of Speech and Immunity

Article 24

Members of Parliament shall enjoy freedom of speech in the Parliament of Serbia and Montenegro and immunity for words spoken and acts done in the performance of his/her duties as Member of Parliament.

A Member of Parliament may not be called accountable, detained or punished without the approval of the Parliament of Serbia and Montenegro, unless he/she has been caught in the act of committing a crime punishable by an imprisonment of five or more years.

The President of Serbia and Montenegro, members of the Council of Ministers and the judges of the Court of Serbia and Montenegro shall be accorded the same immunities as members of Parliament.

The Right to Table a Bill

Article 25

A bill may be tabled to the Parliament by the Council of Ministers, a Member of Parliament and the Assembly of the Member State.

2. PRESIDENT OF SERBIA AND MONTENEGRO

Competence

Article 26

The President of Serbia and Montenegro shall:

- represent Serbia and Montenegro at home and abroad;
- chair the Council of Ministers and run its activities;
- propose to the Parliament of Serbia and Montenegro the composition of the Council of Ministers and the removal of its members;
- sit on the Supreme Defence Council;
- issue decrees by which the heads of Diplomatic and Consular Missions of Serbia and Montenegro shall be appointed or recalled and receive Letters of Credence and Letters of Recall from Foreign Diplomatic Representatives;
- confer medals and other decorations;
- proclaim the laws passed by the Parliament of Serbia and Montenegro and regulations adopted by the Council of Ministers;
- call elections for the Parliament of Serbia and Montenegro;
- perform other duties as laid down by this Constitutional Charter;

Election

Article 27

The Speaker and Deputy Speaker of the Parliament of Serbia and Montenegro shall propose to the Parliament a candidate for President of Serbia and Montenegro.

If the proposed candidate fails to win a majority of votes required, the Speaker and Deputy Speaker of the Parliament of Serbia and Montenegro shall propose a new candidate within ten days.

If this candidate fails to receive the necessary majority of votes as well, the Parliament of Serbia and Montenegro shall dissolve and elections shall be called.

If the elected President of Serbia and Montenegro comes from the same Member State as the Speaker, the Speaker and Deputy Speaker shall switch their roles.

The President of Serbia and Montenegro shall not come from the same Member State twice in succession.

The procedure for the election and removal of the President of Serbia and Montenegro shall be regulated by law.

Accountability

Article 28

The President of Serbia and Montenegro shall be accountable for his/her work to the Parliament of Serbia and Montenegro.

Term of Office

Article 29

The President of Serbia and Montenegro shall be elected for a term of office of four years.

End of Term of Office

Article 30

The term of office of the President of Serbia and Montenegro shall end early by his resignation, removal or by the dissolution of the Parliament of Serbia and Montenegro.

The term of office of the President of Serbia and Montenegro shall end by resignation when his/her resignation is verified by the Parliament of Serbia and Montenegro.

Removal from Office

Article 31

The Parliament of Serbia and Montenegro may remove the President of Serbia and Montenegro if he/she is found to have been in breach of the Constitutional Charter. The breach of the Constitutional Charter shall be established by the Court of Serbia and Montenegro. The procedure for the establishment of the breach of the Constitutional Charter shall be instituted by the Parliament of Serbia and Montenegro.

Performance of Functions after the End of Term of Office

Article 32

The President of Serbia and Montenegro whose term of office has ended due to the dissolution of the Parliament of Serbia and Montenegro shall continue in office until such time as new President is elected.

If the President of Serbia and Montenegro resigns or has been removed, his/her duties shall be temporarily taken up by the Deputy Speaker of the Parliament of Serbia and Montenegro pending the election of a new president.

3. THE COUNCIL OF MINISTERS

Competence

Article 33

The Council of Ministers shall:

- make and implement the policy of Serbia and Montenegro in line with a common policy and interests of the member states;
- co-ordinate the work of Ministries;
- propose to the Parliament of Serbia and Montenegro laws and other acts falling within the competencies of Ministries;
- appoint and dismiss heads of diplomatic and consular missions of Serbia and Montenegro and other officials in accordance with the law;
- adopt by-laws, decisions and other general acts required for the implementation of laws of Serbia and Montenegro;
- discharge other executive functions under the Constitutional Charter.

Representation of Serbia and Montenegro

Article 34

In the missions of Serbia and Montenegro to international organisations, the United Nations, Organization for Security and Co-operation in Europe, European Union and the Council of Europe, the member states shall be presented on a parity basis and through rotation.

A model for the representation of the member states in international financial institutions shall be defined by the Council of Ministers, with the consent of relevant institutions in the member states.

The representation of the member states in the diplomatic and consular missions of Serbia and Montenegro shall be decided by the Council of Ministers, with the consent of relevant institutions of the member states.

Election

Article 35

The President of Serbia and Montenegro shall propose to the Parliament of Serbia and Montenegro candidates for Ministers sitting on the Council of Ministers and candidates for the posts of Deputy Foreign Ministers and Deputy Defence Minister.

Two candidates for Ministers shall come from the same Member State as the President of Serbia and Montenegro, while three of them shall come from the other member states.

Candidates for Foreign and Defence Ministers shall be selected from different member states, as well as their Deputies.

The Parliament shall vote for a list of candidates for the Council of Ministers.

If the list does not receive the required majority of votes, the President may propose lists of candidates on two more occasions;

If even then the list of candidates does not receive the required majority of votes, the Parliament of Serbia and Montenegro shall be dissolved and elections called within 60 days from the date on which initial candidates' list was proposed.

The procedure for the election and end of the term of office of the Council of Ministers shall be regulated by law.

Decision-making

Article 36

The Council of Ministers shall take decisions by a majority of votes.

In the event of an equal number of votes, the casting vote is the President's vote, provided that at least one Minister from the other Member State votes in favour of the decision.

Accountability

Article 37

The Council of Ministers shall be accountable for its work to the Parliament of Serbia and Montenegro.

Term of Office

Article 38

Ministers shall be elected for a four-year term of office.

End of Term of Office

Article 39

The terms of office of Ministers and their Deputies may end early by resignation, a vote of no confidence, removal or by the dissolution of the Parliament of Serbia and Montenegro.

The Ministers and Deputy Ministers whose term of office has ended shall continue in office pending the election of new Ministers and their deputies.

Ministers

Article 40

The Minister of Foreign Affairs shall carry out and be responsible for the conduct of the foreign policy of Serbia and Montenegro, negotiate international treaties and propose to the Council of Ministers candidates for heads of diplomatic and consular missions of Serbia and Montenegro. The Minister of Foreign Affairs shall co-ordinate the formulation of foreign policy with relevant bodies of the member states

Article 41

The Minister of Defence shall co-ordinate and implement the defined defence policy and shall run the armed forces in accordance with the law and the powers vested in the Supreme Defence Council. The Minister of Defence shall propose to the Supreme Defence Council candidates for appointment and shall appoint, promote and relieve of duty officers in accordance with the law.

The Minister of Defence shall be a civilian.

Article 42

After a period of two years, the Minister of Foreign Affairs and the Minister of Defence shall switch the posts with their respective deputies.

Article 43

The Minister for International Economic Co-operation shall be responsible for negotiating and co-ordinating the implementation of international treaties, including treaty relations with the European Union and the co-ordination of relations with international economic and financial institutions, following consultations with competent Ministers of the member states.

Article 44

The Minister for Internal Economic Co-operation shall be responsible for the co-ordination and harmonisation of the economic systems of the member states for the purpose of the establishment and unhindered operation of the common market, including a free movement of goods, services, people and capital.

Article 45

The Minister for Human and Minority Rights shall monitor the exercise of human and minority rights and co-ordinate with relevant bodies of the member states the efforts to ensure the implementation and respect of international conventions on the protection of human and minority rights.

4. THE COURT OF SERBIA AND MONTENEGRO

Jurisdiction

Article 46

The Court of Serbia and Montenegro shall:

- settle disputes as may arise between institutions of Serbia and Montenegro over matters related to their competencies under the Constitutional Charter;
- settle disputes as may arise between Serbia and Montenegro and one or both member states or between the two member states over matters related to their competencies;
- rule on petitions of citizens if no other recourse has been provided for in the event the institutions of Serbia and Montenegro have violated their rights or freedoms guaranteed by the Constitutional Charter;
- rule on whether the constitutions of the member states are in conformity with the Constitutional Charter;
- rule on whether the laws of Serbia and Montenegro are in conformity with the Constitutional Charter;

- rule on whether the laws of the member states are in conformity with the legislation of Serbia and Montenegro;

- rule on the legality of final administrative acts of the institutions of Serbia and Montenegro;

The Court shall give legal advice and opinions regarding the harmonisation of court practices.

Composition and Election

Article 47

The Court of Serbia and Montenegro shall have an equal number of judges from both member states.

The judges of the Court of Serbia and Montenegro shall be elected by the Parliament of Serbia and Montenegro at the proposal of the Council of Ministers for a period of six years.

The judges shall have a degree in law and at least 15 years of experience in the profession.

A judge may be elected only once.

They shall be independent in their work and shall not be relieved of duty before the expiration of the term of office they have been elected to, except in cases stipulated by law.

The Rulings of the Court

Article 48

Rulings by the Court of Serbia and Montenegro shall be binding and may not be appealed.

The Court shall be authorised to repeal laws, other regulations and enactments of the institutions of Serbia and Montenegro that are contrary to the Constitutional Charter and the laws of Serbia and Montenegro.

The Proceedings of the Court

Article 49

When an assessment is made of the harmonisation of the laws or jurisdictions of the member states with the laws and jurisdiction of Serbia and Montenegro or between the laws and jurisdictions of the member states, the judges of the Constitutional Courts of the member states shall participate and take decisions at the sittings of the Court of Serbia and Montenegro.

When an assessment is made of the harmonisation of the Constitution, laws and jurisdiction of a member state with the Constitutional Charter, laws or jurisdiction of Serbia and Montenegro, judges of the Constitutional Court of that member state shall participate and take decisions at the sittings of the Court of Serbia and Montenegro.

Organisation, Functioning and Method of Ruling

Article 50

The organisation, functioning and method of ruling of the Court of Serbia and Montenegro shall be regulated by law.

VII

Harmonisation of Legal Acts

Article 51

The Constitutional Charter, laws and jurisdiction of Serbia and Montenegro and the Constitutions, laws and jurisdiction of the member states must be harmonised.

Coming into Force

Article 52

The laws and other regulations of the bodies of Serbia and Montenegro shall come into force no sooner than eight days after publication.

Exceptionally, and provided that there exist reasons therefore ascertained in the procedure of its adoption, it may be envisaged that the soonest the laws and other regulations of Serbia and Montenegro may come into force on the date of their publication.

Retroactive Effects

Article 53

The laws and other regulations of the bodies of Serbia and Montenegro shall have no retroactive effect.

Exceptionally, certain provisions may have retroactive effects provided there exist public interests therefore ascertained in the procedure of their adoption.

VIII

The Armed Forces of Serbia and Montenegro

Article 54

Serbia and Montenegro shall have the Armed Forces under democratic and civilian control.

The Task of the Armed Forces of Serbia and Montenegro

Article 55

The task of the Armed Forces shall be to defend Serbia and Montenegro in accordance with the Constitutional Charter and the principles of international law governing the use of force.

A defence strategy shall be adopted by the Parliament of Serbia and Montenegro in accordance with the law.

The Supreme Defence Council

Article 56

The Supreme Defence Council shall be the Commander-in-Chief of the Armed Forces of Serbia and Montenegro deciding on the use of the armed forces.

The Supreme Defence Council shall comprise the President of Serbia and Montenegro and the Presidents of the member states.

The Supreme Defence Council shall take decisions by consensus.

National Service

Article 57

Recruits shall do their National Service in the territory of the Member State whose nationals they are, with the possibility of doing in the territory of the other Member State if they so choose.

Conscientious Objection

Article 58

Recruits shall be guaranteed the right of conscientious objection.

IX

The Property of Serbia and Montenegro

Article 59

The property of the Federal Republic of Yugoslavia necessary for the operation of the institutions of Serbia and Montenegro shall be the property of Serbia and Montenegro.

The property of the Federal Republic of Yugoslavia abroad shall be the property of Serbia and Montenegro.

The property of the Federal Republic of Yugoslavia in the territory of the member states shall be the property of the member states based on the territorial principle.

Withdrawal from the State Community of Serbia and Montenegro

Article 60

Upon the expiry of a three-year period the member state shall have the right to initiate the procedure for a change of the state status, i.e. for withdrawal from the State Community of Serbia and Montenegro.

A decision to withdraw from the State Community of Serbia and Montenegro shall be made after a referendum has been held. The Law on Referendum shall be passed by a member state, taking into account recognised democratic standards.

If Montenegro withdraws from the State Community of Serbia and Montenegro, the international documents related to the Federal Republic of Yugoslavia, particularly United Nations Security Council Resolution 1244, shall pertain and apply fully to Serbia as its successor.

The Member State that exercises the right of withdrawal shall not inherit the right to international legal personality and all outstanding issues shall be regulated separately between the Successor State and the state that has become independent.

If both member states declare in a referendum that they are in favour of changing the state status, i.e. in favour of independence, all outstanding issues shall be resolved in the succession procedure, as was the case with the former Socialist Federal Republic of Yugoslavia.

X

Adoption of the Constitutional Charter

Article 61

The Constitutional Charter shall be adopted in the National Assembly of the Republic of Serbia and the Assembly of the Republic of Montenegro as an identical text and shall come into force once adopted and proclaimed in the same text in the Federal Assembly.

Amendments to the Constitutional Charter

Article 62

Amendments to the Constitutional Charter shall be made according to the procedure and in the manner in which the Constitutional Charter is adopted.

XI

Transfer of Rights and Obligations

Article 63

Once the Constitutional Charter comes into force, all the rights and obligations of the Federal Republic of Yugoslavia shall be transferred to Serbia and Montenegro in accordance with the Constitutional Charter.

Implementation of the Laws of the Federal Republic of Yugoslavia

Article 64

The laws of the Federal Republic of Yugoslavia regarding the affairs of Serbia and Montenegro shall be applied as the laws of Serbia and Montenegro.

The laws of the Federal Republic of Yugoslavia, except for the laws that the Assembly of a member state decides not to be applicable, shall be applied as the laws of the member states pending the adoption of new regulations by the member states.

Harmonisation with the Constitutional Charter

Article 65

The member states shall amend their Constitutions or adopt new constitutions in order to harmonise them with the Constitutional Charter within six months of the adoption of the Constitutional Charter.

Transfer of Competencies

Article 66

The competencies of military courts, prosecutors and public attorneys shall be transferred to the bodies of the member states in accordance with the law.

XII

The Law on the Implementation of the Constitutional Charter

Article 67

The Law on the Implementation of the Constitutional Charter shall be adopted in the same manner and concurrently with the Constitutional Charter.