



Office for Democratic Institutions and Human Rights

**REPUBLIC OF MONTENEGRO
SERBIA AND MONTENEGRO**

**REFERENDUM
21 May 2006**

**OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT
7-9 March 2006**



Warsaw
14 March 2006

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I. INTRODUCTION

Following an invitation to observe the referendum on the future state-status of the Republic of Montenegro (Serbia and Montenegro), on 7-9 March 2006, the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Needs Assessment Mission to analyze the pre-referendum environment and provide recommendations for a possible OSCE/ODIHR involvement.

The Needs Assessment Mission (NAM) was conducted by Mr. Gerald Mitchell, Head of the OSCE/ODIHR Election Department and Mr. Konrad Olszewski, OSCE/ODIHR Election Advisor. They were joined by Mr. Andrew Bruce, European Commission, DG External Relations Election Desk.

The NAM conducted meetings in Podgorica with representatives of the governmental authorities, political parties, civil society and media (see annex for list of meetings).

The OSCE/ODIHR is grateful to the Montenegrin authorities for their co-operation during the NAM. The OSCE/ODIHR would also like to thank the OSCE Mission in Serbia and Montenegro (Office in Podgorica) for its support during the visit.

II. EXECUTIVE SUMMARY

On 21 May 2006, a referendum on the future state-status will take place in the Republic of Montenegro (Serbia and Montenegro). The independence of Montenegro has been promoted by the ruling Party of Democratic Socialists and its main coalition partner, the Social Democratic Party. The views opposing the independence are mainly presented by the Socialist Peoples' Party, the Peoples Party, the Democratic Serb Party and the Peoples Socialist Party.

The conditions for conducting the referendum were subject to recent negotiations between the government and the opposition. The negotiations were held under the auspices of a European Union (EU) Special Envoy, Ambassador Miroslav Lajcak, who was appointed by Mr. Javier Solana, the EU High Representative for the Common Foreign and Security Policy.

Overall, the political landscape in Montenegro continues to be characterized by a polarization and lack of confidence between the pro-independence and pro-union groupings. While the opposition parties complain that the government of Montenegro is able to maintain power only due to systematic interference in elections and abuse of state resources, the ruling parties reject such criticism and accuse the opposition of continuing to pursue outdated Milosevic-era policies. Previous OSCE/ODIHR election observation missions to Montenegro have concluded that the respective elections were overall conducted in line with OSCE commitments.

One of the most contentious issues is the qualified majority needed for a positive decision on the independence of the Republic. While the opposition had demanded that independence could be determined only if supported by a majority of the total electorate, the governing coalition had argued that a simple majority of valid votes cast would be sufficient, and in line with international practice. As a consensus could not be reached between these two positions, the EU Special Envoy recommended that for a positive decision, a qualified majority of 55 per cent of valid votes cast be agreed. This was accepted after some reluctance by both sides to the referendum question.

As an indication of a lack of confidence between the two sides on the referendum question, the political parties in Montenegro agreed that the referendum administration would be led by an international figure, from amongst nominees presented by the EU Special Envoy. Several interlocutors expressed an interest in continued support by the EU in the conduct of the referendum.

A special referendum law that resulted from the EU-led negotiations provides a basis for a level playing field for the conduct of the referendum campaign, including: equal access to the media; equal representation in the referendum administration bodies; and regulation of campaign finance.

All interlocutors expressed a real interest in the presence of an OSCE/ODIHR observation mission, including state authorities, political parties and civil society representatives. Given that the presence of OSCE observers may enhance confidence in the conduct of the referendum process, the NAM recommends the deployment of an OSCE/ODIHR observation mission to observe the forthcoming referendum. The referendum observation mission should be deployed prior to the end of March. In addition to a core team of experts, the mission should comprise 20 long-term observers to be deployed throughout Montenegro in early April. The OSCE/ODIHR should request 200 short-term observers for referendum day observation, to cover a total of approximately 1,100 polling stations.

III. FINDINGS

A. POLITICAL CONTEXT

Since 1992, when citizens of the Republic of Montenegro voted in a referendum¹ in favour of remaining in the federation with the Republic of Serbia, the concept of an independent Montenegro has been gaining popular support. In the last few years, it has become the priority issue dominating the political agenda.

The Republic of Montenegro is comprised of a diverse population of some 670,000 citizens, out of which approximately 40 per cent are Montenegrins, 30 per cent Serbs, 14 per cent Bosniak and Muslims, 7 per cent Albanians, 1 per cent Croats and 1 per cent Roma². While support for the independence option is generally considered to be slightly less than half of the

¹ The referendum was called with 7 days notice and would appear to have precluded any meaningful debate.

² According to the 2003 census.

electorate, the other half appears to either support the State Union with Serbia or remains undecided.

The independence of Montenegro has been the key platform of the ruling Party of Democratic Socialists (DPS) led by the Prime Minister Milo Djukanovic and its main coalition partner the Social Democratic Party (SDP) of the Speaker of Parliament Ranko Krivokapic. The views opposing independence are mainly presented by the Socialist Peoples' Party (SNP) of Mr. Predrag Bulatovic, the Peoples Party (NS), the Democratic Serb Party (DSS) and the Peoples Socialist Party (NSS). While one of the two Albanian parties represented in the Parliament has declared official support for independence, the second is uncommitted, although it appears to be leaning towards the pro-independence position with some conditions.

The political landscape in the Republic of Montenegro continues to be characterized by a polarization between the pro-independence and pro-union groupings, which often results in heated accusations and expressions of mutual suspicion. Most of the opposition parties met by the NAM complained that during recent years, the government of Montenegro had been able to maintain power only due to systematic interference in elections and abuse of state resources. The opposition parties also allege that pressure is being placed by the authorities on state employees, unemployed, pensioners and national minorities to deliver the vote in favour of independence. The governing parties reject such accusations and state that there is no evidence to support such claims. The governing parties characterize the opposition parties as rooted in the outdated and distorted policies of the Milosevic-era.

Since the deterioration of relations with the Milosevic regime in the late nineties, the joint federal institutions have become less functional, and the authorities of Montenegro have achieved substantial *de facto* independence from Serbia, including a separate economy and currency. While the governing coalition demanded that the issue of the future status of the Republic is finally resolved in a popular referendum, the opposition parties have refused to discuss referendum conditions, and threatened a boycott in the event that the authorities had unilaterally called for a referendum.

In an attempt to break this deadlock, in 2002 the EU negotiated the so-called Belgrade Agreement on the creation of a State Union between Serbia and Montenegro which *inter alia* included a three-year moratorium on conducting an independence referendum in Montenegro. Following the expiry of the moratorium, in December 2005, Mr. Javier Solana, the European Union's High Representative for the Common Foreign and Security Policy, appointed a Special Envoy, Ambassador Miroslav Lajcak (Slovakia), to assist the authorities and the opposition in finding a consensus on the conditions for the conduct of a referendum.

The negotiations undertaken by Ambassador Lajcak in January-February 2006 resulted in an agreement on the referendum conditions. One of the most contentious issues was the size of the majority required for a positive decision on independence. The authorities demanded that the majority of 50 per cent plus one vote, of those voters who voted, would be sufficient, in line with international practice, and consistent with the opinion published by the Council of Europe's Venice Commission³. However, the opposition argued that the change of state-status should be decided by not less than 50 per cent of the total electorate.

³ [http://venice.coe.int/docs/2005/CDL-AD\(2005\)041-e.asp](http://venice.coe.int/docs/2005/CDL-AD(2005)041-e.asp)

As a consensus on the majority requirement could not be reached, the EU Special Envoy proposed the majority of 55 per cent of valid votes cast to be required to achieve Montenegrin independence. Both sides have reluctantly accepted such a framework. However, the authorities have warned that in the event of an outcome with more than 50 per cent support for independence, but less than 55 per cent required for achieving independence, the results of the referendum may be considered ambiguous. In fact, many of the interlocutors that the NAM met with pointed to the fact that the referendum conditions had to be essentially imposed by the EU Special Envoy, reflecting a division on the issue of independence and an inability to reach consensus.

B. LEGAL FRAMEWORK

The forthcoming referendum will be regulated by a legislative framework comprising *inter alia* the Constitution, the new special law on referendum on the future state-status, as well as the regular referendum law of 2001 (applicable in the areas not covered by the special law), the law on election of councilors and representatives (amended in 2002), and the law on voter registers (2000).

The special law was adopted by Parliament on 1 March following extensive consultations between the opposition and government experts, held under the auspices of the EU Special Envoy. On 2 March, the referendum was officially called for 21 May, with a single question to be put to the electorate: “Do you want the Republic of Montenegro to be an independent state with a full international and legal personality.”

The new law includes a number of provisions aimed at creating a level playing field for both sides of the referendum question. It provides for equal representation in the referendum administration bodies, includes provisions prohibiting the authorities from interference in the referendum process, regulates campaign finance, and ensures equal access to the public media. The new law makes provision for all parties participating in the campaign to receive funds from the state budget.

C. REFERENDUM ADMINISTRATION

The referendum on the future state-status of the Republic of Montenegro will be conducted by a three-tiered referendum administration – the Republic Referendum Commission, 21 Municipal Referendum Commissions and around 1,100 Polling Boards. The seats on referendum administration bodies will be equally distributed among political parties advocating in favour of independence or for preservation of the State Union with Serbia.

As agreed during the recent negotiations, the Republic Referendum Commission will be headed by an international figure, to be appointed by the Montenegrin Parliament from among candidates proposed by the EU Special Envoy. Several interlocutors also expressed an interest in continued support by the EU in the conduct of the referendum.

The international Head of the Republic Referendum Commission will have voting rights only in the event of a tie vote within the commission. At the time of the NAM, the Parliament had not yet appointed the Head of the referendum administration.

The voter register will comprise some 466,000 voters who are Montenegrin citizens and residents in the Republic for at least 24 months. As in past elections, the opposition expressed

a lack of confidence in the quality of voter registers and accused the authorities of inappropriate issuance of ID cards to “ghost voters”. Such allegations are further fueled by opposition claims that the government should provide full access to the data kept by the Ministry of Interior regarding issuance of ID cards. It should be noted that the election observation missions deployed by the OSCE/ODIHR in the Republic of Montenegro in 2000-2003 assessed that the voter registers were generally of acceptable quality.

D. MEDIA ENVIRONMENT

Montenegro has a quite substantial media market with some 18 TV channels, over 40 radio stations and a variety of print media. Two public and four private television channels have Republic-wide coverage, while most of the private TV stations have local coverage. There are several weekly and daily newspapers offering readers a variety of views. According to many interlocutors met during the NAM, the media environment in Montenegro has developed professionally in recent years, resulting in higher standards of professional journalism and more balanced coverage by most media outlets.

In addition to the Montenegrin media, a number of Serbian media are also available in Montenegro, including the main public TV channel RTS and a few newspapers. Some representatives of the governing coalition expressed concern that the Serbian media are biased in favour of preservation of the State Union and may significantly distort the balance of media coverage through broadcasts into Montenegro during the campaign. However, interlocutors representing the pro-Union position underlined their opinion that the majority of the Montenegrin media support independence.

According to the new legislative framework for conducting the referendum, public service media are obliged to provide equal access and coverage to both sides in the referendum, including free time for campaigning. Private media agreed to sign a Code of Conduct to ensure unbiased reporting on the campaign. A similar Code of Conduct is to be offered to Serbian media available in Montenegro.

In addition to the media monitoring conducted on a daily basis by the Montenegrin Broadcasting Agency, media coverage of the referendum campaign will be also monitored by a special committee established by the Montenegrin Parliament.

E. ELECTION OBSERVERS

The legislative framework provides for unimpeded access of international and domestic observers to observe the preparation and the conduct of the referendum. Indeed, at least three domestic non-partisan observer organizations – the Centre for Elections Monitoring (CEMI) together with the Belgrade-based Centre for Free Elections and Democracy, the Centre for Democratic Transition (CDT) and the Centre for Democracy and Human Rights (CEDEM) are preparing for referendum observation. This will include the conduct of media monitoring activities, the deployment of domestic observers to most polling stations, a parallel vote tabulation and quick count exercise.

All interlocutors expressed a real interest in the presence of an OSCE/ODIHR observation mission, including state authorities, political parties and civil society representatives. Although many pointed to the fact that election-day procedures in Montenegro are not a source of major concern, all interlocutors indicated the need for the entire referendum process to be observed

by international observers and recommended the deployment of an OSCE/ODIHR referendum observation mission.

IV. CONCLUSIONS AND RECOMMENDATIONS

Based on its meetings in Montenegro and a broad interest in the presence of international observers for the referendum, and given the fact that the presence of OSCE/ODIHR observers may enhance confidence in the process, the NAM recommends the establishment of an OSCE/ODIHR referendum observation mission.

The referendum observation mission should be deployed before the end of March. In addition to a core team of experts, the mission should comprise 20 long-term observers to be deployed throughout Montenegro in early April. The mission should be enhanced by some 200 short-term observers for observation on the referendum day.

ANNEX - LIST OF MEETINGS

Parliament

Ranko Krivokapic, Speaker of the Parliament
Damir Davidovic, Adviser for International Relations

Government

Miodrag Vlahovic, Minister of Foreign Affairs

Political Parties

Ivan Brajovic, SDP
Nikola Camaj, DSCG
Goran Danilovic, SNS
Neven Gosovic, SNP
Hamdi Hasan, DUA
Adrijana Nikolic, DSS
Dragan Ostojic, DSS
Zivko Pekovic, NS
Vuksan Simonovic, SNP
Ivan Vujovic, GP (Civic Party)
Veselin Vukcevic, DSS
Miodrag Misko Vukovic, DPS

Civil Society

Marko Canovic, CDT
Nenad Koprivica, CEDEM
Vlatko Otasevic, AMN
Zlatko Vujovic, CEMI

Broadcasting Agency

Abaz-Beli Dzafic, Director
Marina Mugosa, Advisor
Momcilo Stojanovic, Assistant for Monitoring
Jadranka Vojvodic, Deputy Director
Djordje Vujnovic, Advisor

Media

Branislav Calic, RTV CG
Rajko Cerovic, RTVCG
Mihailo Jovovic, Vijesti
Radovan Miljanic, RTVCG
Mladen Milutinovic, Dan
Valentina Scekcic, RTVCG
Slavoljub Scekcic, Vijesti
Rajko Sebek, IN TV
Rade Vojvodic, IN TV
Ranko Vujovic, UNEM