



INTERNATIONAL REFERENDUM OBSERVATION MISSION

Referendum on State-Status, Republic of Montenegro (Serbia and Montenegro) 21 May 2006

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Podgorica, 22 May 2006 – Following invitations to observe the 21 May 2006 referendum on state-status, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Referendum Observation Mission (ROM) in the Republic of Montenegro (Serbia and Montenegro) on 28 March 2006. For observation of referendum day, the OSCE/ODIHR ROM joined efforts with the observers of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the Congress of Local and Regional Authorities of the Council of Europe (CLRAE) and the European Parliament (EP) to form an International Referendum Observation Mission (IROM).

Professor Nevzat Yalçintaş (Turkey), member of the Parliament of Turkey, Head of the OSCE PA delegation, was appointed by the OSCE Chairman-in-Office as the Special Coordinator of the OSCE's Short-Term Observation Mission. Mr Jean-Charles Gardetto (Monaco), Member of the Parliament of Monaco, led the Delegation of the PACE. Mr. Jelko Kacin (Slovenia), Member of the European Parliament, led the Delegation of the European Parliament (EP). Mr. Keith Whitmore (United Kingdom) led the delegation of CLRAE. Mr Jørgen Grunnet (Denmark) heads the OSCE/ODIHR ROM.

The IROM assessed compliance of the referendum process with OSCE commitments, Council of Europe commitments, other international standards for democratic electoral processes, and domestic legislation. This statement of preliminary findings and conclusions is delivered prior to publication of the official referendum results by the Republic Referendum Commission (RRC) and the expiry of the legal deadline for hearing possible appeals. The OSCE/ODIHR ROM will remain in Montenegro to continue the observation of this process. The OSCE/ODIHR will publish a comprehensive final report approximately two months after completion of the process.

Preliminary Conclusions

The 21 May referendum provided a genuine opportunity for Montenegrin voters to decide their future state-status through a process of direct democracy, ensuring this issue could be resolved in a peaceful and legitimate manner. Overall, the referendum was conducted in line with OSCE and Council of Europe commitments and other international standards for democratic electoral processes. Voter turnout exceeded 86 per cent, reflecting high voter interest in the referendum.

The competitive pre-referendum environment was marked by an active and generally peaceful campaign. Both referendum options respected the right of the other to express an opinion, although there were a number of instances of negative campaigning. There were no reports of restrictions on fundamental civil and political rights.

Broadcast and print media provided voters with diverse views and enabled them to make informed choices between distinct alternatives. The public broadcast media offered equal free airtime to both referendum options. The public TVCG1 gave overall equal access to both campaigns but favoured to an extent pro-independence views in news coverage. Print media often showed partiality for either pro-independence or pro-union campaigns, and occasionally published inflammatory newsreports. Although there was no direct campaigning in the media during the pre-referendum silence period, the IROM noted many instances of indirect support of independence.

The legal framework for the referendum largely meets international standards for electoral processes. The 2006 special referendum law was a result of the consensus that followed political party negotiations in early 2006, and was able to maintain cross-party political support for its full implementation, including on contentious issues such as the majority requirement for the decision to be made. The referendum question was clear.

The voter register in Montenegro is overall accurate. The remarkable transparency afforded to political parties to inspect the voter register increased cross-party confidence in the accuracy of voter lists and addressed many complaints that had been submitted. A total of 484,718 voters were registered, an increase of some 26,000 compared with previous elections.

Equal participation by both sides in the referendum administration, as well as the role played by an independent chairperson of the RRC, strengthened confidence amongst political actors in the process. The RRC and the 21 Municipal Referendum Commissions generally functioned well and provided full access to their meetings for observers and media. However, there were frequent delays in decision-making resulting from repeated voting along partisan lines, although a notably more consensual and professional approach was taken in the later stages of the process. The transparency of the referendum was significantly strengthened by an active participation of civil society groups and domestic non-partisan observers.

Over fifty complaints were submitted to the RRC and/or to the public prosecutors before the referendum-day. Some 20 were related to alleged pressure on employees to deliver the vote in favour of independence or to not vote, and vote-buying; some 15 are still pending resolution. In general, the complaints resolution and appeals process worked effectively.

More than 96 per cent of the IROM observation reports characterized the polling day proceedings as “very good” or “good”. There were isolated cases of procedural irregularities that indicate that Polling Board members in all municipalities would benefit from further training. There were two instances – in Pljevlja and Berane – where international observers reported suspicious activities that may indicate vote-buying schemes on the part of the Pro-Independence Bloc.

The IROM calls on both pro-independent and pro-union parties and their supporters to maintain a constructive approach during the post-referendum period. The organizations represented on IROM stand ready to continue their support for the efforts of Montenegrin authorities, political parties and civil society to further improve electoral practices in Montenegro.

Preliminary Findings

Referendum Context

The 21 May referendum on the future state-status of the Republic of Montenegro provided a genuine opportunity for the citizens of Montenegro to decide whether their country should be an independent state or remain in the State Union with Serbia. The question of independence has long characterised – and polarised – the political landscape in Montenegro and thus it is notable that there has been wide, cross-party support to the issue being resolved legitimately and with certainty through a referendum.

The State Union of Serbia and Montenegro was established in 2002 by the “Belgrade Agreement” that placed *inter alia* a three-year moratorium on the holding of any referendum on independence by either member of the State Union. Following the expiry of that moratorium, the Government of Montenegro indicated its intention to hold this referendum. A lack of consensus between political actors on the conditions for the conduct of the referendum led to the participation of the European Union (EU) Special Envoy, Ambassador Miroslav Lajcak, in negotiations to reach an agreement.

A framework on the conditions for the referendum was agreed in February 2006, with a compromise found on the particularly contentious issue of what majority would be required to decide on the state-status. For the current referendum to be considered as having been passed, 55 per cent of the valid votes had to be cast for the “yes” option, and a voter turnout had to be over 50 per cent of the total number of registered voters.

The Pro-Independence Bloc (PIB) was composed of the ruling Party of Democratic Socialists (DPS), led by Prime Minister Milo Djukanović, the Social Democratic Party (SDP), the Democratic Union of Albanians (DUA), the Democratic League of Montenegro (DSCG), the Liberal Party (LP), the Civic Party (GS) and the Bosniak Party (BP). The Pro-Union Bloc (PUB) was made up of political parties that form the parliamentary opposition, and were led by the Socialist People’s Party (SNP) of Mr. Predrag Bulatović, the People’s Party (NS), the Serbian People’s Party (SNS) and the Democratic Serbian Party (DSS). The PUB also included a newly established coalition of Bosniak non-governmental organizations.

The referendum was given a further political impetus by the fact that parliamentary elections, as well as a number of key municipal elections, are scheduled for October 2006.

Legal Framework

The basis for the holding of the 21 May referendum was provided by the Constitutional Charter of the State Union of Serbia and Montenegro (2003), the Constitution of the Republic of Montenegro (1992) and a *lex specialis* – the Law on the Referendum on State Legal Status (LRSL) which was adopted by the Parliament of Montenegro on 1 March, 2006, following the extensive consultations between the two sides of the referendum issue. In areas not covered by the LRSL, provisions from a series of other laws apply, including the Law on Referendums (2001), the Law on the Election of Councillors and Representatives (2000, as amended) and the Law on Voter Registers (2000). In general, the legal framework for the referendum respects fundamental civil and political rights and meets international standards for electoral processes.

The LRSLS contained many provisions that ensured cross-party participation in the referendum and enabled both sides to compete with each other on a generally equal basis. These provisions included equal representation on referendum administration bodies, the allocation of equal amounts of public funds for each side's campaign, a restriction on the role of public bodies or the use of state resources in support of a campaign, and a requirement for Montenegrin media to be informative, objective and neutral.

The referendum question – *Do you want the Republic of Montenegro to be an independent state with full international and legal personality?* – was clear, ensuring that all voters were able to express their choice without ambiguity.

Referendum Administration

The referendum was conducted by a three-tiered administration: the RRC, 21 municipal referendum commissions (MRCs) and 1,118 polling boards (PBs). The 16 members of the RRC, ten members of each MRC and six members of each PB were equally distributed between the two blocs, strengthening confidence amongst political actors in the impartiality of the referendum administration. As agreed during the negotiations on the conduct of the referendum, an independent person – Dr. Frantisek Lipka from Slovakia – was appointed by Parliament to chair the RRC with the right to use a casting vote in the case of a tied decision between RRC members. Two innovative parliamentary committees – one to monitor media and the other to monitor campaign financing – were also established, with equal representation from each bloc, to assess compliance with legal requirements.

The RRC operated in an open and transparent manner and provided full access to its meetings for observers and media as well as establishing a website. The RRC and MRCs met frequently and generally functioned well, taking the required decisions on all major issues relating to procedures and administrative arrangements, although some key decisions – for example, relating to the marking of valid ballots – were taken at a late stage in the process. Indeed, frequent delays in the work of the RRC were caused by prolonged, often unnecessary debates, although its members adopted a notably more consensual and professional approach in the two weeks preceding referendum day. In most cases, however, the RRC members chose to vote along partisan lines rather than on the merits of substantive issues and, despite occasions of consensus, there were many instances where the RRC Chairman was required to use his casting vote. In general, the referendum administration could have considered the need for voter education on polling procedures as well as training of polling board members.

Both sides displayed a continued commitment to actively participate in the referendum administration at every level, however, there were three instances of temporary boycotts from the referendum administrative bodies. The PUB representatives withdrew from one RRC meeting in protest against the arrest of one its appointees to the RRC and detention of other activists on charges of unauthorised submission of voter registration applications, but returned immediately upon their release. There were also short-term boycotts by the PUB representatives on the parliamentary media committee and on the Niksic MRC because of alleged complaints but, in both instances, the members returned upon the resolution of the issues.

Voter Registration

The legal framework provided the same right of suffrage for the referendum as for presidential and parliamentary elections in Montenegro i.e. for those aged over 18 years who are citizens of Montenegro and have held permanent residency in Montenegro for 24 months. Serbian citizens with permanent residence in Montenegro for the same period, or Montenegrin citizens temporarily resident elsewhere were also eligible to vote.

As with elections, for this referendum, members of the public could inspect the voter register and request additions or other changes. A total of 484,718 voters were registered to take part in the referendum, a significant increase in the number of registered voters from previous elections. Around 26,000 names of registered voters were added to the Central Voter Register (CVR) after the public inspection period and appeals to the Administrative Court, reflecting the level of public interest in the referendum.

As with previous elections in Montenegro, the quality of the CVR was frequently challenged by the political parties within the PUB, who alleged that inaccuracies in the data of registered voters would adversely and deliberately affect their supporters or otherwise benefit the PIB vote. In a political agreement that reflected the remarkable transparency of the voter registration process in Montenegro, experts from the two blocs were able to undertake a cross-check of the CVR against electronic data on citizens held by the Ministry of Interior. The cross-check identified around 5,400 eligible voters who were not on the voter register, and their names were added to the CVR. The cross-checking exercise addressed many of the PUB criticisms against the CVR and, more widely, had a notably beneficial impact on the atmosphere of the referendum process, especially between the opposing members of the RRC.

Campaign Environment

The pre-referendum environment was marked by an active and generally peaceful campaign that ensured voters across the country were well-informed of the views of both sides of the referendum question. Each side respected the right of the other to express an opinion, although there were a number of instances of negative campaigning, including the use of invective personal attacks against opponents and the defacing of billboards.

There were no reports of restrictions on the fundamental civil and political rights associated with a proper campaign, including the freedoms of assembly, association and expression. Campaign activity by both blocs tended to focus on door-to-door canvassing, complemented by extensive and well-planned media advertising campaigns that ran for over four weeks. While the PUB held many small- or medium-sized rallies in most municipalities, the PIB held fewer but larger-scale events. The campaign capacities of both sides were significantly strengthened by the equal allocation of public funds that provided a balance of opportunities for campaigning, including access to advertising, however, the total amount of money spent on campaigns is expected to be much higher. In a noteworthy improvement from previous election campaigns, the leaders of both blocs took part in two TV duels, giving voters an opportunity to directly compare their arguments.

There were numerous occasions where the Montenegrin government has participated in the referendum process, especially through the issuing of policy declarations for a post-

independence Montenegro. One of these declarations was widely circulated in a letter to citizens by the Prime Minister in an official envelope, blurring any distinction between the Government and the “Yes” campaign. In general, the authorities have largely displayed support to the pro-independence campaign, but there was not excessive Government interference to unduly influence the outcome of the referendum.

National minorities were also active in the campaign, but mostly within their own communities. During the campaign period, the Assembly adopted a new law on national minorities, *inter alia*, increasing minority representation in the Assembly. The timing of the passage was described by the opposition parties as manipulation of the referendum process to secure minority vote for the independence option. Notably, one minority party was explicit in their linkage of support for the Pro-Independence Bloc with the passage of the law.

Despite the commendable efforts of some women activists in political parties in both blocs, the campaign at the national and local level was notable for the absence of women in senior positions.

Media Coverage

There was extensive media coverage of the referendum, reflecting the thriving media environment in Montenegro, which has a wide availability of broadcast and print media operating within a reformed legislative and licensing framework. The OSCE/ODIHR ROM conducted qualitative and quantitative analyses of media coverage since 3 April. The TV outlets monitored during primetime (18:00-24:00) were: TVCG1, TVCG2, Elmag, IN, MBC, Montena, Pink M and Serbian public TV channel RTS. Newspapers monitored were the Montenegro-based dailies *Dan*, *Pobjeda*, *Republika*, *Vijesti* and the Serbian daily *Vecernje Novosti*.

Access to the media was afforded to both referendum options through news coverage, free airtime, television debates and paid advertisements, providing citizens with full information on the different platforms and opinions upon which they could make their choice.

All significant Montenegro-based media and some of the Serbia-based media outlets available in Montenegro signed a Code of Conduct for media in the pre-referendum period, in which they agreed to provide fair and balanced coverage of referendum issues. Public TVCG1 dedicated 17 per cent of all their primetime broadcasts to referendum issues; in contrast, Serbian public TV RTS provided just two per cent.

Overall, the public TVCG1 media complied with their legal requirement to provide equal access to both referendum options to free airtime and to provide balanced information on the referendum process. Almost two-thirds of the referendum-related news public TVCG1 was dedicated to neutral or technical issues, however, the remaining part favoured pro-independence views with over three times as much airtime as the pro-union views. To a large degree, this imbalance was caused as news reports on the activities of members of the government and other senior state officials invariably also provided opportunities for them to discuss their pro-independence views. Similarly imbalanced coverage in favour of the pro-independence campaign was seen on private IN TV and, to a lesser degree, with TV Montena and MBC. TV Elmag displayed a balanced approach in its news coverage but tended to favour pro-Union opinions in other programmes. The coverage provided on RTS and Serbian current-affairs programmes broadcast on TV Pink M was in favour of State Union.

The print media provided an even greater level of coverage on the referendum but, in contrast, most newspapers showed clear bias to one of the referendum options. While state-owned *Pobjeda* and the private *Republika* were in favour of the pro-independence option, *Dan* demonstrated strong support to the Pro-Union Bloc. Although Serbian daily *Vecernje Novosti* showed some bias in favour of the State Union, and *Vjesti* favoured independence views, both newspapers were mostly balanced. Apart from some articles with inflammatory language published in some Serbian media and at times in *Dan*, the campaign coverage in the print media – as with the broadcast media – was fair and calm.

The parliamentary committee for monitoring the campaign in the media had limited competencies and committee members tended to vote along partisan lines but, overall, it provided a useful forum for media complaints to be raised and discussed. In total, the committee reviewed 373 articles and TV programmes.

Although there was no direct campaigning in the media during the pre-referendum silence period, the ROM noted many instances of indirect support of independence such as airing PIB campaign songs on TVCG and portraying the word “DA” (Yes) in wide range of media outlets. A large picture from a PIB campaign rally was published on the front page in *Vijesti* two days before the referendum.

Resolution of Complaints

Over fifty complaints relating to the referendum process were formally submitted to the RRC and/or to the public prosecutors. The majority of these complaints, almost all of them submitted on behalf of the PUB, alleged problems with voter registration and included allegations of interference by public officials in the registration process, which is a criminal act. In general, the complaints resolution and appeals process worked effectively in addressing the complaints.

Through its Working Body on Complaints, the RRC reviewed all complaints, but was usually unable to resolve them within the prescribed deadline of 72 hours, and decisions were mainly taken on the casting vote of the RRC Chairman. Where complaints alleged possible criminal acts, the RRC forwarded them to the public prosecutor. On issues related to voter registration, the complaints were forwarded to the Ministry of Justice, which supervises the maintenance of the CVR. Almost all complaints relating to the voter register were resolved or withdrawn following the cross-check of the CVR against the Ministry of Interior database.

Six PUB activists, including a member of the RRC, were detained on charges of unauthorised submission of applications in the name of persons seeking to be added to the CVR. The initial decision of an investigative judge to order two of the activists to be detained for 30 days – a decision overturned following the intervention of the state prosecutor – was disproportionate to the alleged offence.

There were numerous allegations and complaints of ‘vote-buying’ and other types of bribery or coercion against voters, especially of undue pressure placed on public employees to vote in favour of independence. Some 20 such complaints were supported by written statements of the voters concerned and forwarded to the prosecutor for investigation. Several of these complaints were rejected due to lack of substantiating evidence; 15 cases are still pending. In one high-profile case, three persons, including two PIB activists, were convicted of

attempting to bribe or coerce a voter to vote for independence or not to vote and sentenced to imprisonment for periods of up to ten months.

Referendum Day

Voter turnout was high at an estimated 86 per cent, reflecting the level of voter interest in the referendum. A generally calm atmosphere was reported. More than 96 per cent of the observation reports of the IROM characterized the polling day proceedings as “very good” or “good”. There were isolated cases of procedural irregularities such as ballot boxes not properly sealed in 4 per cent of polling stations visited that indicate that Polling Board members in all municipalities would benefit from further training. In Plav, the Ministry of Interior issued a small number of identification documents to enable some persons without valid documents to vote.

There were two instances – in Pljevlja and Berane – where international observers reported suspicious activities that may indicate vote-buying schemes on the part of the Pro-Independence Bloc. A number of instances were also observed of voters taking photographs of their marked ballot papers.

Measures to safeguard the integrity of voting were implemented largely in accordance with the legal requirements. Problems were identified with the application of ink before confirmation of a voter’s eligibility (13 per cent). Group voting was high, occurring at 9 per cent of polling stations observed. Also, access to polling stations for people with disabilities was noted as difficult in 31 per cent of observations.

IROM observers also evaluated the vote count in positive terms with only 2 per cent characterizing the process as “poor”. In most cases observed, procedures to safeguard the integrity of the count were implemented properly but the copies of results were not displayed immediately at some 40 per cent of polling stations. The tabulation process at the MRCs generally proceeded smoothly.

Domestic Observation

A number of domestic non-partisan observer organizations, especially the Centre for Election Monitoring (CEMI) and the Centre for Democratic Transition (CDT), undertook comprehensive, long-term observation of the referendum process, extensive coverage of polling stations on polling day, quick count and partial vote tabulation. Domestic non-partisan observers were present in over 86 per cent of polling stations visited by IROM. Active participation of civil society strengthened the transparency of the referendum process.

*This statement is also available in the local language.
However, the English language version remains the only official document.*

Mission Information and Acknowledgements

The OSCE/ODIHR Referendum Observation Mission (ROM) opened in Podgorica on 28 March 2006 with 30 experts and long-term observers deployed in the capital and 6 regional centres. On referendum day, 365 short-term observers from 35 OSCE participating States, including 54 from the OSCE PA, 18 from the PACE, 12 from the European Parliament and 14 from the CLRAE, were deployed within the International Referendum Observation Mission (IROM). The IROM observed the polling and vote count in over 938 polling stations (84

per cent of all polling stations) throughout the country, and were present in all 21 municipal referendum commissions to observe the tabulation of results.

The OSCE/ODIHR ROM is grateful to the authorities, the Republican Referendum Commission, political parties and civil society of the Republic of Montenegro/Serbia and Montenegro for their co-operation. The ROM also wishes to express its appreciation to the OSCE Mission in Serbia and Montenegro, its Office in Podgorica, and the resident diplomatic missions of OSCE participating States and international organisations for their support.

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