

INTERIM REPORT 1
28 March – 20 April 2006

I. EXECUTIVE SUMMARY

On 21 May 2006, the Republic of Montenegro (Serbia and Montenegro) will hold a referendum on its future state-status, proposing a clear question on whether it should become an independent state with full international and legal personality, or remain within the State Union of Serbia and Montenegro. The referendum will be held under a special legal framework that establishes two criteria for the referendum to be considered as having been passed: at least 55 per cent of the valid votes must be cast for the “yes” option, and there must be a minimum voter turnout of at least 50 per cent.

The question of independence or continued union with Serbia has long been the dominant issue on the Montenegrin political agenda and has been integral to the polarisation and mistrust between the key political actors in government and opposition. Such lack of consensus led to the involvement of the European Union (EU) in negotiations on the conditions for the conduct of the referendum, which were agreed to by all parties in late February 2006.

Two separate blocs represent the different sides to the referendum question. The pro-independence bloc includes the ruling Party of Democratic Socialists of Prime Minister Milo Djukanović and six other political parties, three representing national minorities. The pro-union bloc consists of the Socialist People’s Party, the People’s Party, the Serbian People’s Party, the Democratic Serbian Party and one group of representatives of the Bosniak minority.

The EU-led negotiations resulted in the adoption of a *lex specialis*, the provisions of which aim to ensure fair competition and the widest possible participation in the referendum process. The law specifies the allocation of public funds to each side’s campaign, regulation of media coverage, and restrictions on the use of state resources in favour of any side.

Both blocs are guaranteed equal participation in the referendum administration bodies. As agreed during the negotiations on the conduct of the referendum, an international personality - Dr Frantisek Lipka (Slovakia) - has been appointed by the Montenegrin Parliament as Chair of the Referendum Republican Commission (RRC). The RRC and 21 Municipal Referendum Commissions are meeting regularly, but there is concern that the RRC members have been repeatedly voting along partisan lines on issues relating to voting procedures and on resolving complaints against the referendum process. The RRC does not currently plan to provide a training programme for polling board members on voting and counting procedures, nor is the ROM aware of any wide-ranging voter education initiatives to inform citizens of voting procedures and other issues.

The public and private media in Montenegro have adopted regulations and a code of conduct to provide equal and balanced coverage of the referendum campaign. A parliamentary committee established to monitor the media coverage, consisting of representatives of both blocs, has temporarily suspended its work because of a disagreement on coverage of campaign events. OSCE/ODIHR media monitoring to date indicates an only slightly larger allocation of time on television news broadcasts to the views of the pro-independence bloc.

The campaigns of both sides were launched in April and have become invigorated and more confrontational following the start of televised debates on 10 April. Campaign events have been aimed mostly at core supporters, with both sides choosing to target undecided voters through door-to-door campaigning.

Several complaints on the referendum process, including allegations of interference with the voter register and attempts at vote-buying, have been lodged with the RRC and other relevant authorities. A number of complaints are being investigated by the public prosecutor.

The OSCE/ODIHR established a Referendum Observation Mission (ROM) to the Republic of Montenegro (Serbia and Montenegro) on 28 March 2006. The ROM consists of 29 experts and long-term observers.

II. MISSION INFORMATION

Following invitations to observe the 21 May 2006 referendum on state-status, an OSCE/ODIHR Referendum Observation Mission (ROM) was established on 28 March in the Republic of Montenegro (Serbia and Montenegro). The OSCE/ODIHR ROM, headed by Mr. Jørgen Grunnet (Denmark), consists of 29 experts on electoral processes and long-term observers (LTOs) from 19 OSCE participating States. The main office is in Podgorica, with LTOs based in seven regional centres covering all 21 municipalities in Montenegro. LTOs were deployed on 10 April.

The OSCE/ODIHR has requested 200 short-term observers (STOs) to monitor proceedings on referendum day. The OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the Congress of Local and Regional Authorities in Europe (CLRAE) and the European Parliament (EP) have all indicated their intention to send observers.

III. REFERENDUM CONTEXT

On 21 May, the Republic of Montenegro will hold a referendum on its future state-status, proposing a clear question on whether Montenegro should be an independent state with full international and legal personality. The referendum will determine whether Montenegro should leave the State Union of Serbia and Montenegro, established in 2002 by the so-called Belgrade Agreement that placed 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 period, in December 2005, the Government of Montenegro indicated its intention to hold the current referendum.

The political landscape in Montenegro has long been characterised by deep polarisation on the issue of independence or the continuation of the union with Serbia. Such division was reflected in a lack of consensus between political actors on the conditions for the conduct of the referendum. To address this impasse, the European Union (EU) High Representative for the Common Foreign and Security Policy, Mr. Javier Solana, appointed a Special Envoy, Ambassador Miroslav Lajcak, to lead negotiations on reaching 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 requirement would apply. For the current referendum to be considered as having been passed, two legal conditions must be met: 55 per cent of the valid votes must be cast for the “yes” option, and a minimum voter turnout requirement of 50 per cent of the total number of registered voters plus one voter. While the 55 per cent requirement has remained an issue of public debate, it has been accepted by both sides who, in meetings with the OSCE/ODIHR ROM, have stressed their commitment to the referendum process.

The legal framework provides for two separate blocs to campaign on the referendum question. The pro-independence bloc (PIB) is composed of the ruling Party of Democratic Socialists (DPS), led by Prime Minister Milo Djukanović, and its main coalition partner, the Social Democratic Party (SDP) of the Speaker of Parliament, Ranko Krivokapić. The PIB also includes the two Albanian political parties represented in Parliament, the Democratic Union of Albanians (DUA) and the Democratic League of Montenegro (DSCG), who joined PIB on 20 April. Two strongly independent political parties that are not members of the DPS-led parliamentary coalition – the Liberal Party (LP) and the Citizen’s Party (GS) – are also members of PIB, as is the Bosniak Party, a recently unified group of seven non-parliamentary Bosniak parties.

The pro-union bloc (PUB) is made up of the parliamentary opposition parties, led by the Socialist Peoples’ 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 includes a smaller coalition of Bosniak non-governmental organizations.

Parliamentary elections, and a number of key municipal elections, are scheduled in Montenegro for October 2006.

IV. LEGAL FRAMEWORK

A *lex specialis* for the current referendum, the Law on the Referendum on State Legal Status (LRSL), was adopted on 1 March 2006 and regulates the establishment of the referendum administration bodies, the financing of campaign expenses, the conduct of the campaign, its coverage by the media and the rights of observer groups. The law contains many provisions that seek to ensure cross-party participation in the referendum process, including equal representation on referendum administration bodies from both sides of the referendum question and the allocation of equal amounts of public funds for each campaign. There are also restrictions on the role of public bodies or use of state resources in support of either side’s campaign.

The LRSL also stipulates the referendum question (“*Do you want the Republic of Montenegro to be an independent state with full international and legal personality?*”) and

the two criteria by which a decision in favour of the referendum will be considered as valid. If the referendum is not passed, the LRSLS places a three-year moratorium on any future referendum on the issue.

In areas not covered by the LRSLS, 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 (2001).

V. REFERENDUM ADMINISTRATION

The referendum will be conducted by a three-tiered administration: the Republican Referendum Commission (RRC), 21 municipal referendum commissions (MRCs) and around 1,120 polling boards. The sixteen members of the RRC and ten members of each MRC were appointed by Parliament on 15 March and have been equally distributed between the two blocs. As agreed during the negotiations on the conduct of the referendum, an international personality – Dr. Frantisek Lipka (Slovakia) – has been appointed by Parliament to chair the RRC with the right to use a casting vote only in the case of a tied decision between RRC members. Polling Boards will be appointed on 11 May and will have six members, three from each bloc.

The RRC commenced its work on 22 March and has met regularly. So far, the RRC has operated in an open and transparent manner, including providing access to its meetings for observers and media as well as establishing a website. While a number of initial decisions were adopted by a consensus vote, since 11 April, RRC members have repeatedly debated and voted along partisan lines when taking decisions on voting procedures and on complaints. The RRC Chair has been required to use his casting vote on at least seven occasions. A number of interlocutors have expressed concern about the levels of mistrust and confrontation being shown by the RRC members at its meetings. LTOs report that all 21 MRCs are established and are functioning properly. Women's representation in the RRC and MRCs is low and is particularly poor in rural and minority areas, and notably high in the coastal municipalities of Tivat and Kotor. Two of the RRC members and four MRC chairpersons are women.

The parliamentary committees on media coverage and campaign financing were also established by Parliament on 15 March. Both committees have equal representation from each bloc. The media committee (12 members) commenced its work in late-March but has currently temporarily suspended its work because of a disagreement between its members following a series of votes along partisan lines (see 'Media' below). The campaign finance committee (six members) delayed the release of public funds to the two blocs for their campaigns until it adopted its rules of procedure on 3 April but it has since met regularly with most decisions being taken by consensus.

The RRC has decided that a vote will only be considered as valid if it is 'circled'. While this is in compliance with a provision of the Law on Referendum, some interlocutors have expressed concern that it may render as invalid some ballots, despite the intention of the voter being clear. The RRC does not currently plan to provide a training programme for polling board members on voting and counting procedures, nor is the ROM aware of any wide-ranging voter education initiatives to inform citizens of voting procedures and other issues.

The provisional voter register (PVR) was published on 4 March and showed a total of 466,235 registered voters. The PVR has been available for public inspection to allow for voters to make changes, additions or deletions and will close on 25 April. From that date and until 11 May, changes may be made upon the order of a court. The ROM is aware that approximately 7,830 people have already added their names to the total number of registered voters during the public inspection period. Both blocs are provided with full access to inspect the voter register, as well as opportunities to cross-check the voter register with other relevant data held by the Ministry of Interior. The voter register will be closed on 11 May and the total number of registered voters for the referendum will be announced by the RRC on 13 May.

VI. MEDIA

Since 3 April, the ROM has been conducting qualitative and quantitative analyses of eight television stations: two public channels (TVCG1 & 2) and five private channels (Elmag, IN, MBC, Montena, Pink M) as well as the main Serbian public channel RTS. In addition, four Montenegro-based daily newspapers (*Dan*, *Pobjeda*, *Republika*, and *Vjesti*) and the Serbian daily *Vecernje Novosti* have been monitored.

Montenegrin citizens, especially those in urban areas, have access to information from a wide range of media outlets, including some 70 locally registered broadcasters as well as media from Serbia and neighbouring countries. Following the implementation of a comprehensive legal framework for media in 2002, all broadcast media currently operating from bases within Montenegro are licensed.

The legal framework of the referendum campaign in the media is governed by the LRSLs and other relevant media legislation. The LRSLs obliges the media to assist citizens during the referendum process in making an informed choice and provides citizens with the right to be informed in a truthful, timely and unbiased manner, under equitable terms, about the referendum procedure and the different referendum options.

The publicly-funded media are required to provide equal presentation of different referendum options and to adopt regulations on their coverage of the campaign. Such regulations were adopted by the public broadcast media and the state-owned newspapers in March, in time for the launching of the campaign activities of both blocs. Public broadcast media have been providing information about the activities of the two options within special referendum programs, including regular televised debates between leading political actors from both groupings.

The LRSLs calls for privately-owned media in Montenegro, as well as non-Montenegrin media, to adopt a code of conduct for media in the pre-referendum period. A code prepared by the Association of the Independent Electronic Media of Montenegro commits signatories to respect principles of independence, impartiality, fairness and balance in the coverage of the referendum campaign. The code has been signed by all significant private Montenegrin media. So far, eight Serbian-based media available in Montenegro, including the nation-wide public media and three daily newspapers, have also signed up to the code.

Media outlets are legally required to provide blocs with equal prices for paid campaign advertising and that must be clearly marked. In general, the prices of campaign

advertisements have appeared to be higher than those for regular commercials. The paid campaign spots of both blocs started around 10 April.

The parliamentary committee for media coverage is responsible for receiving and examining complaints against media coverage of the referendum campaign. The committee, which consists of twelve members, six from each bloc, has the power to issue public warnings against media conduct. The committee has reportedly received more than seventy complaints but, so far, has generally found difficulty in reaching agreement on the complaints it has discussed and has repeatedly voted along partisan lines. In its last meeting on 18 April, the committee temporarily suspended its activities following disagreement on a complaint relating to a decision of public television management not to use campaign material submitted by blocs in its coverage of campaign events.

Preliminary results of the ROM media monitoring indicate that both public and private media are providing wide and balanced coverage of the referendum issues and campaign through a range of different styles of programmes and articles. In general, the coverage so far has been focused on neutral issues relating to the referendum process but television news coverage has tended to provide a slightly larger share of time for pro-independence views associated with the government than those of pro-union.

VII. CAMPAIGN

Given the long-term polarisation between the pro-independence and pro-union groupings, which has often resulted in heated accusations and expressions of mutual suspicion, the campaign to date has so far been notably low-profile and calm. Both campaigns were quietly launched in mid-April with media spots or billboards showing clear “Yes” and “No” campaign messages appearing in urban areas but the campaign has become invigorated following the start of live televised debates which have been widely viewed by citizens. Newspaper reports of campaign speeches indicate political stances that are becoming increasingly more confrontational. There was a delay in the release of the €1 million of public funds allocated to each bloc’s campaign but no interlocutor has complained that the delay adversely affected their campaign planning. An initiative by the Centre for Democratic Transition (CDT) for a code of conduct for political campaigning during the referendum has not received consensus support from within both blocs.

Campaign events are beginning to take place, but as yet are distributed very unevenly across the country. Instead, the blocs have relied strongly on door-to-door campaigning by activists, lessening the visibility of the campaign. The Montenegrin Government has issued two declarations – on Independence (6 April) and on relations with Serbia and Serbian citizens (13 April) – that address their proposed policy if the referendum is passed. The substance of the declarations has prompted critical responses from both the PUB and representatives of the Government of Serbia.

National minorities are being actively courted by both blocs, and thus far there have been no reports of intimidation or coercion of national minorities. Against this background, a debate is scheduled during the campaign period in the Assembly of Montenegro on a new draft law on national minorities. The attention devoted to this issue by both blocs is a reflection of the anticipated participation of national minorities in the referendum campaign and of their potential importance to its outcome.

Representation of women in parliament is acknowledged by leaders of political parties to be poor. However, women have begun to have a more visible role in the referendum process through appearances on television debates, and through work as activists.

VIII. REFERENDUM COMPLAINTS

The ROM has been made aware of several referendum-related complaints submitted to the RRC and/or the police and public prosecutor. These complaints include allegations of interfering with the voter register, 'vote-buying', the buying of ID cards with the supposed intention of preventing individuals from being able to cast their ballot on referendum day, and the abuse of public office through coercion on employees of state enterprises. Most of these allegations involve acts designated as criminal offences. In one high-profile case showing a video of an alleged 'vote-buying' incident (the so-called 'Zeta'-case), charges have been brought by a public prosecutor and the case awaits trial.

The RRC has established a Working Board for Complaints to review and advise upon the complaints it receives within 72 hours; however, in its three sessions so far, it has not succeeded in reaching a decision and has referred each complaint back to the RRC for resolution. So far, the RRC has referred four cases to the public prosecutor and the Ministry of Justice for further investigation. The RRC has decided that it does not have the legal competency to resolve complaints relating to the voter register. One complaint requests the RRC to determine whether or not blocs had a right to unrestricted access to an electronic database of the register of permanent residence held by the Ministry of Interior.

The ROM is following the complaints resolution procedures for each complaint that has been submitted, paying particular attention to two complaints that alleging citizens have been deliberately prevented from applying to be added to the PVR.

IX. DOMESTIC AND INTERNATIONAL OBSERVERS

Three domestic non-partisan organisations – CDT, the Centre for Elections Monitoring (CEMI) and the Centre for Democracy and Human Rights (CEDEM) – will provide comprehensive coverage of the referendum process, including long-term observation, wide deployment to polling stations, media and campaign financing monitoring and a parallel vote tabulation.

On 19 April, the ROM held its initial meeting with representatives of diplomatic missions of OSCE participating States and international organisations. The OSCE/ODIHR ROM is grateful to the authorities, the Republican Referendum Commission, political parties and civil society for their co-operation.