Parliamentary **Assembly**
Assemblée parlementaire

Parliamentary Assembly
Assemblée parlementaire
COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Doc. 10969 revised
26 June 2006

Observation of the conduct of the referendum on state status of the Republic of Montenegro (Serbia and Montenegro) on 21 may 2006

Report
Ad Hoc Committee of the Bureau of the Assembly
Rapporteur: Mr Jean-Charles Gardetto, Monaco, Group of the European People's Party

The referendum on state status of the Republic of Montenegro (Serbia and Montenegro) on 21 May 2006 was generally conducted in accordance with Council of Europe commitments and standards and with other international standards for democratic electoral processes. It gave voters a genuine opportunity to express their views on the future status of Montenegro through the exercise of direct democracy.

I. Introduction

1. At the invitation of Mr Ranko Krivokapic, Speaker of the Parliament of Montenegro, the Bureau of the Assembly decided at its meeting of 13 April 2006 to appoint an *ad hoc* committee to observe the referendum on state status of the Republic of Montenegro (Serbia and Montenegro) on 21 May 2006. I was appointed chair and rapporteur of the committee.

2. Following proposals from the Assembly political groups, the *ad hoc* committee was composed as follows:

Socialist Group (SOC)

Mr Athanasios ALEVRAS	Greece
Mr Andreas GROSS	Switzerland

Group of the European people's party (EPP/CD)

Mr Aleksander BIBERAJ	Albania
Mr Jean-Charles GARDETTO	Monaco
Mr Renzo GUBERT	Italy
Mr Egidijus VAREIKIS	Lithuania
Mr Piotr Wach	Poland

F – 67075 Strasbourg Cedex, tel: +33 3 88 41 20 00, fax: +33 3 88 41 27 76, http://assembly.coe.int, e-mail: assembly@coe.int

Alliance of Democrats and Liberals for Europe (ADLE)

Mr Ivo BANAC	Croatia
Lord RUSSELL-JOHNSTON	United Kingdom

European Democratic Group (GDE)

Mr Miroslav BENEŠ	Czech Republic
Mr Dimitry SKARGA	Russian Federation

Venice Commission

Mr Owen MASTERS, United Kingdom
Mr Gaël MARTIN-MICALLEF, Administrator

Secretariat

Mr Bas Klein, Deputy to the Head of the Secretariat of the Interparliamentary Co-operation and Election Observation Unit
Mr Chemavon Chahbazian, Administrator
Mr Francesc Ferrer, Press Attache
Mrs Farida Jamal, Principal Administrative Assistant

3. The *ad hoc* committee formed part of the International Referendum Observation Mission (IROM), which also included observation missions from the OSCE Parliamentary Assembly, the European Parliament, and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR). For this particular referendum, the International Mission was also joined by a delegation from the Congress of Local and Regional Authorities of the Council of Europe. Co-operation and co-ordination between the various delegations taking part was of a very high standard.

4. The *ad hoc* committee met in Podgorica from 19 to 22 May 2006, and held meetings with, *inter alia*, representatives of the two main blocs, the pro-independence (PIB) and pro-union (PUB) blocs, Mr Miodrag Vlahovic, the Montenegrin Minister for Foreign Affairs, Ambassador Frantisek Lipka (Slovakia), the Chair of the Republic Referendum Commission (RRC), the head of the OSCE/ODIHR observation mission and his team, representatives of NGOs, which played an active part as domestic observers, and representatives of the media. As part of the *ad hoc* committee's work programme, the head of the Parliamentary Assembly delegation met Mr Ranko Krivokapic, Speaker of the Montenegrin Parliament, and Ambassador Miroslav Lajcak (Slovakia), the personal envoy of the EU High Representative in Montenegro. The committee's programme of meetings appears in appendix 1.

5. On voting day, the *ad hoc* committee was divided into nine teams and observed the referendum in the capital Podgorica and Montenegro's different regions.

6. The IROM concluded that the referendum on state status of the Republic of Montenegro (Serbia and Montenegro) on 21 May 2006 complied with Council of Europe commitments and standards and with other international standards relating to democratic elections. It gave voters a genuine opportunity to express their views on the future status of Montenegro through the exercise of direct democracy. The joint statement appears in appendix 2.

7. The *ad hoc* committee wishes to thank the OSCE/ODIHR election observation mission and the Director and staff of the Council of Europe office in Podgorica for their co-operation and support.

II. Legal and political context

8. The referendum on state status of the Republic of Montenegro (Serbia and Montenegro) of 21 May 2006 was held in accordance with the Constitutional Charter that came into force on 4 February 2003. Article 60 of the Charter authorised Montenegro to withdraw from the existing state community by means of a referendum organised according to accepted democratic standards, by stipulating that,

"on expiry of a three year period, member states could start the procedure for withdrawal from the State Union of Serbia and Montenegro".

9. On 27 May 2005, the Council of Europe's Parliamentary Assembly requested an opinion of the Venice Commission on the compatibility with applicable international standards of the existing legislation in Montenegro concerning the organisation of referendums, with a special focus on the issues of required turnout and majority and the criteria for eligibility to vote.

10. In Opinion 343 (2005), the Commission recommended that "serious negotiations should take place between the majority and opposition within Montenegro in order to achieve a consensus on matters of principle concerning the conduct and implementation of the proposed referendum, in particular as regards the specific majority that should be required to ensure that the outcome of the referendum is accepted by all major political groups in Montenegro.".

11. In accordance with the amendment to the Constitutional Charter of the State Union of 7 April 2005, the European Union played an active part in these negotiations. To that end, it appointed Ambassador Miroslav Lajcak (Slovakia) personal envoy of the EU High Representative in Montenegro. Following the negotiations, agreement was reached by the majority and the opposition on two fundamental points: a 50% turnout of all the electors on the electoral register and a 55% "yes" vote as the requirements for independence.

12. This agreed approach concerning the required minimum turnout and qualified majority of votes cast undoubtedly increased the legitimacy of the election results and created a solid basis for Montenegrin independence.

13 The "*lex specialis*" on the legal status of the Republic of Montenegro was enacted by the Montenegrin parliament on 1 March 2006, following intense consultations between the two blocs. Areas that were not covered by the 2006 Act were governed by the Referendum Act of 2001, the Election of Councillors and Representatives Act, as amended in 2000, and the Electoral Register Act (2000). Generally speaking, the legal arrangements governing the referendum were compatible with fundamental civil and political rights and with international electoral standards.

14. The Pro-Independence Bloc (PIB) comprised the Party of Democratic Socialists, led by Prime Minister Milo Djukanovic, the Social Democratic Party, the Democratic Union of Albanians, the Democratic League of Montenegro, the Liberal Party, the Civic Party and the Bosniak Party. The Pro-Union Bloc (PUB) was made up of political parties that formed the parliamentary opposition: the Socialist People's Party, the People's Party, the Serbian People's Party and the Democratic Serbian Party. The PUB also included a newly established coalition of Bosniak non-governmental organisations.

III. Administration of the referendum

15. In accordance with the special law on the legal status of the Republic of Montenegro of 1 March 2006, a Republic Referendum Commission (RRC) was set up by a decision of the Montenegrin Parliament of 15 March 2006. The RRC had 16 members, made up of 8 representatives of each bloc, together with a chair and secretary with no voting rights. Following negotiations between the two blocs, Ambassador Frantisek Likpa (Slovakia) was appointed Chair of the RRC by the Montenegrin Parliament, as an independent person with a casting vote should the votes of members of the Commission be tied.

16. The referendum administration was further composed of 21 municipal referendum commissions (MRCs) and 1 118 polling boards. A total of 484 718 voters were registered to take part in the referendum. Registration ended on 10 May 2006. Membership of the municipal referendum commissions and the polling boards was divided equally between the two blocs, on the same principle as that governing the Republic Referendum Commission.

17. During the referendum campaign, the RRC held 15 meetings, took various decisions, issued instructions and received 59 complaints. The complaints mainly concerned problems with voter registration and attempts to influence the outcome by purchasing votes. According to international and domestic observers, the agreement between the two blocs on the electoral register did much to

improve the atmosphere in the RRC, whose members started for the first time to vote on certain matters according to their personal convictions rather than party loyalties, as had often been the case hitherto.

18. Nevertheless, despite this improvement, in most cases RRC members voted according to party lines obliging the Chair of the Commission to use his casting vote to unblock the situation. The RRC managed the referendum transparently and objectively, with its decisions taken in accordance with the legislation and generally within the statutory deadlines.

IV. Voter Registration

19. A crucial aspect of the referendum was the need to update the electoral register and the criteria for the right to vote in the referendum. Under the legislation in force, any citizen of Montenegro who had reached the age of 18 and had been permanently resident in Montenegro for 24 months before polling day was entitled to vote. Citizens of Serbia who had been resident for the same period and Montenegrin citizens temporarily resident abroad could also vote in the referendum.

20. The opposition parties at the previous elections had accused the Montenegrin authorities of being unwilling to check and update the electoral register, which the opposition claimed was penalising its supporters.

21. The register was made available for the public to consult and check. The process of checking and updating the register allowed nearly 26 000 names to be added to the lists, bringing the total electorate to 484 718. One of the main benefits of this exercise was that it helped to legitimise the outcome of the referendum and remove the scope for speculation after the event.

22. To put an end to the continuing disputes about the electoral register, political agreement was reached between the two blocs to undertake a cross-check of the register against electronic data on citizens held by the Ministry of Interior. As a result, Montenegro has been able to update its electoral register and set an example to other countries experiencing similar problems.

23. Thanks to significant efforts by experts from the two blocs in conjunction with officials of the interior ministry and the RRC, carried out in conditions of transparency, more than 5 400 persons with the right to vote but not included on the register were added to it with the agreement of both sides. This means that the problem of the reliability of the electoral register has been resolved for future elections as well.

V. Period preceding the referendum and the media

24. The campaign was conducted in a calm and peaceful manner. Each bloc respected the other's right to express its point of view freely, though this did not mean there were no personal attacks on opponents. The RRC has not received any complaints of restrictions on the fundamental political and civil rights to organise meetings or demonstrations.

25. The referendum contest between the two blocs was very intense, involving a marked political confrontation and major rallies of sympathisers, but without violence or any visible tension in the streets.

26. According to PUB leaders, the Montenegrin authorities put pressure on public officials and the employees of certain public enterprises to vote "yes" in the referendum and organised free charter flights to bring back citizens from the diaspora. The members of the *ad hoc* committee found no tangible evidence of such irregularities.

27. International and national observers reported that during the campaign both blocs avoided raising ethnic issues. However, it should be noted – and it is no great secret – that the great majority of electors who voted for the union were Serbs, who make up nearly 40% of the population of Montenegro. The majority of Montenegrins voted for independence, as did the national minorities, who were fairly active during the campaign, though within their communities. The opposition accused the authorities of passing a new law on national minorities during the campaign, which increased their parliamentary representation, thus securing minority support for independence.

28. Generally speaking, according to the OSCE/ODHIR monitoring report on the mass media in Montenegro since 3 April 2006, the TVCG1 public network complied with its legal obligation to offer each bloc equal and free broadcasting time. But even though there were a large number of outlets offering voters a wide range of information on the campaign, the reporting tended to give more coverage to the pro-independence bloc and the executive branch. Coverage by the private television channel IN TV and, to a lesser extent, TV Montana and MBC also favoured independence. On the other hand, Serbian television supported the union.

29. The written press tended to take a very clear line. The daily "Probjeda", financed by the state, and the privately owned daily "Republika" supported independence. The Serb language daily "Vecernje Novosti" supported the union. According to the same OSCE/ODHIR report, with certain rare exceptions campaign coverage in the print media was fair and calm.

VI. Referendum day – vote counting and calculating the results

30. On referendum day, voting took place in a calm and peaceful atmosphere. Long queues formed at certain polling stations, meaning that voters had to exercise considerable patience before casting their ballots. Electors were able to vote freely, without any form of intimidation or outside pressure.

31. The *ad hoc* committee observed practically no irregularities on the day of the vote, aside from a few minor technical problems that could not have any impact on the final outcome. Neither the *ad hoc* committee nor the RRC received any official complaints on voting day.

32. The vote count generally went smoothly and without incidents.

33. The opposition members on the Podgorica municipal commission refused to sign the returns for 39 polling stations and asked for a recount. The RRC therefore failed to present the preliminary referendum results on 22 May and repeatedly postponed planned press conferences without offering comprehensible explanations, thus creating a certain tension and confusion on the day after the referendum.

34. The *ad hoc* committee regrets this lack of openness in the RRC's communications, particularly as the Commission had organised the referendum process so well. According to the observers and officials of the International Referendum Observation Mission (IROM), the aim of the PUB bloc in refusing to sign the voting returns was to cast doubts on the legitimacy of the referendum, by attempting to transfer the issue to the Constitutional Court.

35. According to RRC data, there were 3 386 accredited referendum observers, of whom 615 were international observers. The *ad hoc* committee is particularly satisfied that domestic observers were present in practically all the polling stations on voting day, which added to the transparency of the conduct of the referendum and the subsequent vote counting.

36. More specifically, it congratulates those concerned on the atmosphere of tolerance and mutual respect that was evident in all the polling stations visited, despite the major issue at stake and the importance of each vote.

37. The *ad hoc* committee notes that the turnout was unprecedented. According to official results published by the RRC on 31 May 2006, the turnout was 86.5%. The "yes" for independence obtained 55.5% of the votes cast and the "noes" 44.5%

VII. Conclusions and recommendations

38. The *ad hoc* committee concludes that the referendum on state status of the Republic of Montenegro (Serbia and Montenegro) on 21 May 2006 was generally conducted in accordance with Council of Europe commitments and standards as well as other international standards for democratic elections and referenda. It gave voters a genuine opportunity to express their views on the future status of Montenegro through the exercise of direct democracy.

39. It believes that the fact that the citizens of Montenegro have expressed their free will in a fully democratic manner offers an example to the entire region. The high turnout shows how important it was for the citizens of Montenegro to have this opportunity to decide on their future by democratic and peaceful means.

40. A majority of citizens, 55.5% of those voting, expressed their clear preference for independence. At the same time, a considerable number of citizens, representing 44.5% of the votes cast, voted freely and democratically to maintain the union with Serbia. Following this referendum, the *ad hoc* committee considers it vitally important for the democratic stability of Montenegrin society, and more generally for regional stability as a whole, not to create dividing lines based on ethnic affiliations within Montenegro, and not to give the impression that there are winners and losers.

41. It welcomes the fact that it was possible to maintain genuine pluralism of media coverage throughout the referendum process. At the same time, though, it regrets that much of the reporting of the campaign tended to give more prominence to the independence bloc and the executive branch.

42. The Parliamentary Assembly is ready to offer Montenegro active and effective support in its progress, in accordance with the wishes of its population, towards a democratic society based on the values of the Council of Europe.

43. The Assembly is also prepared to observe the forthcoming parliamentary elections in Montenegro, scheduled for late September 2006.

Appendix 1

Observation of the referendum on state status of the Republic of Montenegro (Serbia and Montenegro)
21 May 2006

International Referendum Observation Mission (IROM)

Delegations of the Council of Europe and OSCE Parliamentary Assemblies, the European Parliament and the Congress of Local and Regional Authorities

PROGRAMME

Friday 19 May 2006
Hotel Crna Gora: Podgorica

17:00 Welcome for heads of delegations:

Mr Nevzat Yalcintas, Parliamentary Assembly of the OSCE
Mr Jean-Charles Gardetto, Parliamentary Assembly of the Council of Europe
Mr Jelko Kacin, European Parliament
Mr Keith Whitmore, CLRAE

17:15 Introduction and political assessment:

- Mr Jorgen Grunnet, Referendum Observation Mission
- Ambassador Paraschiva Badescu, Head of the OSCE office in Podgorica
- Mr Vladimir Ristovski, Director of the Council of Europe office in Podgorica
- Mr Jan Haukaas, Head of the Monitoring Mission

18:00 Domestic observer groups:

- Mr Željko Rutoviæ, Chair of the PIB bloc media coverage committee
- Mr Slaviša Guberniæ, Secretary of the PUB bloc media coverage committee
- Mr Ranko Vujoviæ, Executive Director of the union of independent electronic media
- Mr Vojislav Raoniæ, Director of the Montenegro media institute

Saturday 20 May 2006

09:00 Briefing by the IROM, including the results of the media monitoring, and technical matters

10:30 Mr Miodrag Vlahovic, Minister for Foreign Affairs

11:00 Ambassador Frantisek Lipka, Chair of the Republic Referendum Commission

11:45 Leaders of the Pro-Independence Bloc (PIB)

- Mr Ranko Krivokapic, Social Democratic Party
- Mr Hamdi Hasani, Democratic Union of Albanians
- Mr Gjoke Dukaj – Democratic League of Montenegro
- Mr Ivan Vujovic – Civic party
- Mr Zdravko Soc – Liberal party

13:00 Leaders of the Pro-Union Bloc (PUB)

- Mr Velizar Kaludjerovic – Socialist People's Party
- Mr Predrag Popovic – People's Party
- Mr Andrija Mandic – Serbian People's Party
- Ms Dragica Perovic – Democratic Serbian Party

14:15 Regional briefing

Sunday 21 May 2006

Throughout the day Observation of the opening of polling stations, conduct of the referendum and the counts

Monday 22 May 2006

8.30 Debriefing of the *ad hoc* delegation

13.00 Press conference

Appendix 2

PRESS RELEASE

Referendum overall in line with international standards

PODGORICA, 22.05.2006 – The referendum on the future state-status of the Republic of Montenegro (Serbia and Montenegro) on 21 May was conducted overall in line with OSCE and Council of Europe commitments and other international standards for democratic electoral processes. It provided the voters a genuine opportunity to decide the future status through a process of direct democracy, concluded the International Referendum Observation Mission in a statement released in Podgorica today.

The mission deployed some 365 observers from 35 countries.

"In a demonstration of direct democracy, the people of Montenegro conducted a genuine and transparent referendum, and should be congratulated for their constructive approach in making this historic decision," said Professor Nevzat Yalcintas Head of the OSCE Parliamentary Assembly delegation, appointed by the OSCE Chairman-in-Office as the Special Co-ordinator for the OSCE short-term observers.

Jean-Charles Gardetto, Head of the delegation of the Parliamentary Assembly of the Council of Europe, said: "The high turnout showed the importance given by the people of Montenegro in deciding their future by democratic and peaceful means. They expressed their free will in a fully democratic and civil manner, something they can be proud of and that sets an example for the region. The Assembly stands ready to accompany Montenegro on the path its people have chosen."

Jelko Kacin, leader of the delegation of the European Parliament, added: "We were very positively impressed by the regularity and efficiency of the referendum process. We encourage all the citizens of Montenegro to work together for a bright, common future; their future lies in European integration and in this respect, they all are to be seen as winners. Serbia and Montenegro should closely co-operate for mutual recognition of the referendum results, for a consensual decision on the further steps and for a rapid resumption of the Stabilization and Association agreement negotiations, on the basis of each Republic's own merits."

Keith Whitmore, who led a delegation from the Congress of Local and Regional Authorities of the Council of Europe, said: "The Congress was joined for the first time by members of the Committee of the Regions. We commend the smooth and peaceful running of this historic referendum; however, a number of important issues need to be addressed such as the under-representation of women in polling boards and accessibility to polling stations for the elderly and disabled. We will continue working with authorities furthering democracy at local level in line with the European Charter of Local Self-Government."

"It has been a positive experience to follow the active and largely peaceful campaign and to see it culminate in the high turnout yesterday. Both sides have shown a political maturity which bodes well for the future of Montenegro", concluded Jorgen Grunnet, who heads the long-term Observation Mission from the OSCE Office for Democratic Institutions and Human Rights.

Election day was calm, with more than 96% of observers characterizing the vote positively. Some procedural problems were identified with the application of ink on voters' fingers, as well as a number of instances of group voting and of voters taking photographs of their marked ballot papers. Observers assessed the count and tabulation of votes positively. In two isolated instances, observers reported suspicious activities that may have indicated vote-buying schemes.

The campaign was competitive although there were instances of negative campaigning. The Republican Referendum Commission operated in a transparent manner and both referendum options displayed a commitment to participate in its administration. There was active involvement of civil society, particularly domestic observers.

Access to media was afforded to both options although some partiality was noted, mainly in print media. All in all, media provided voters with diverse views and enabled them to make informed choices. There was no direct campaigning in the media during the pre-referendum silence period, but many instances of indirect support of independence were noted.

For further information contact:
Urdur Gunnarsdottir, OSCE/ODIHR: +48 603 683 122, +381 67 376 597, urdur.gunnarsdottir@odihr.pl
Andreas Baker, OSCE Parliamentary Assembly: +45 6010 8030, andreas.baker@oscepa.dk
Francesc Ferrer, Parliamentary Assembly of the Council of Europe: +33 630 496 822, francesc.ferrer@coe.int
Sabina Mazzi-Zissis, European Parliament: +32 496 599 469, smazzi@europarl.eu.int
Pilar Morales, Congress of Local and Regional Authorities of the Council of Europe, +33 650 392 916, pilar.morales@coe.int