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## **Accession of the Republic of Montenegro to the Council of Europe**

Report  
Political Affairs Committee  
Rapporteur: Mr Jean-Charles GARDETTO, Monaco, Group of the European People's Party

### *Summary*

The Republic of Montenegro applied for membership to the Council of Europe on 6 June 2006, three days after its parliament declared it independent. The Committee of Ministers forwarded the application to the Parliamentary Assembly for an opinion on 14 June 2006.

A number of reforms have been carried out in the Republic of Montenegro, bearing witness to political will but also to undoubted dynamism in the legislative field. Progress has been made in a number of areas, notably in the drafting of the new constitution, and should continue to be carried out by the authorities of the Republic of Montenegro. The signature of the declaration accepting the seven minimum principles to be included in the Constitution of Montenegro is one concrete example of the Montenegrin authorities' commitment to Council of Europe values and has been a major step forward in the accession procedure of the country to the Council of Europe.

The Political Affairs Committee therefore proposes that the Assembly recommend that the Committee of Ministers invite the Republic of Montenegro to become the 47th member state of the Council of Europe, on the understanding that the country will honour, within the time limits set, the commitments listed in the draft opinion. These include, inter alia, signing and ratifying a number of European conventions, and especially confirming in writing that Montenegro considers itself bound, with effect from 6 June 2006, by the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its Protocols; quickly completing the constitutional reform and adopting a new constitution within one year at the most and continuing legislative and institutional reforms, particularly in the field of human and minority rights.

## A. Draft opinion

1. The Republic of Montenegro applied to accede to the Council of Europe on 6 June 2006, three days after the declaration of independence.
2. On 14 June 2006, the Committee of Ministers invited the Parliamentary Assembly to express an opinion on this application, in accordance with Statutory Resolution (51) 30.
3. Following a decision taken on 26 June 2006 by the Bureau of the Assembly, on 5 July 2006 the Parliamentary Assembly asked two eminent legal experts, Mr Kaarlo Tuori, member of the Venice Commission and Mr Anthony Bradley, substitute member of the Venice Commission, to assess the conformity of the legal order in the Republic of Montenegro with Council of Europe fundamental principles. Their report was submitted in September 2006.
4. The Assembly acknowledges the special circumstances surrounding the application of the Republic of Montenegro to accede to the Council of Europe, given that it was part of the State Union of Serbia and Montenegro, which was a member of the Council of Europe from 3 April 2003 to 3 June 2006.
5. The Assembly examined the situation in the Republic of Montenegro on several occasions when it was part of the State Union of Serbia and Montenegro, and has also done so since its independence.
6. In May 2006, an ad hoc Committee observed the referendum on the state status of the Republic of Montenegro (Serbia and Montenegro) and concluded that, generally, the referendum was conducted in accordance with Council of Europe commitments and standards and with other international standards for democratic electoral processes.
7. On 29 June 2006, the Assembly adopted Resolution 1514 (2006) on the consequences of the referendum in Montenegro.
8. An ad hoc Assembly committee observed the parliamentary elections in Montenegro on 10 September 2006. In its conclusions the ad hoc committee stressed that “the parliamentary elections [...] were largely conducted in accordance with the standards of the Council of Europe, and with the other international standards for democratic elections” .
9. In two letters from Mr Miodrag Vlahovic, Minister for Foreign Affairs of Montenegro, to the Secretary General of the Council of Europe, Mr Terry Davis, dated 6 and 12 June 2006, Montenegro made it known that, as a newly independent state, “it would like to establish its successor status to all conventions, charters or agreements of the Council of Europe to which Serbia and Montenegro was party or member, including any partial agreement under the conditions established in each of them, including the financial ones, and which was in force in respect of its territory”.
10. The Assembly welcomes the intention of the authorities of the Republic of Montenegro to honour the international treaties and other agreements to which the State Union of Serbia and Montenegro was a party. The Assembly is particularly satisfied to note in this connection that Montenegro considers that since 3 June 2006 it is bound by the obligations stemming from the European Convention on Human Rights.
11. The Assembly notes that Montenegro is a signatory or party to the so-called open conventions signed and/or ratified when it was part of the State Union of Serbia and Montenegro, and, in particular, the Framework Convention for the Protection of National Minorities (ETS No. 157) and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126).
12. With regard to the Republic of Montenegro’s declaration of succession to the Partial Agreements of which Serbia and Montenegro was a member, the Assembly notes that the Republic of Montenegro is *ipso facto* party to the Enlarged Partial Agreement establishing the Group of States against Corruption (GRECO), member of the European Pharmacopoeia, member of the Partial Agreement on the Youth Card for the Purpose of Promoting and Facilitating Youth Mobility in Europe,

member of the Enlarged Partial Agreement Establishing the European Commission for Democracy through Law (Venice Commission), member of "Eurimages".

13. In a decision dated 14 June 2006, the Committee of Ministers decided, as an interim measure, that the Republic of Montenegro could take part as an observer in all the intergovernmental committees of experts in which it expressed an interest and decided that, pending the examination of the Republic of Montenegro's application for membership to the Council of Europe, representatives of the Government of the Republic of Montenegro would be invited to attend the meetings of the Committee of Ministers.

14. The Assembly, for its part, decided in its Resolution 1514 (2006) to allow the participation of an ad hoc delegation of the Parliament of Montenegro in its activities, upon its request, pending a decision on Montenegro's membership of the Council of Europe.

15. The Assembly welcomes the progress Montenegro has already made in many fields and the political will expressed by its authorities to pursue the reform process. This commitment must now be translated into practice through measures to implement and speed up reforms.

16. The Assembly considers that, once Montenegro has joined the Council of Europe, the existing and future specific co-operation and assistance programmes should be targeted to assist it in honouring its commitments and that the Office of the Council of Europe Secretariat in Podgorica should be enhanced to that effect.

17. The Assembly notes and welcomes the Declaration of 8 February 2007 regarding the seven minimum principles to be included in the Constitution of the Republic of Montenegro signed by the Speaker of Parliament of the Republic of Montenegro, the Prime Minister of the Republic of Montenegro and the heads of the political groups represented in Parliament.

18. The Assembly considers that the inclusion of these seven principles in the constitution forms an integral part of the commitments of the Republic of Montenegro.

19. The Assembly takes note of the letter from the Minister for Foreign Affairs of Montenegro, dated 6 June 2006, as well as the letter received from the President, the Prime Minister and the Speaker of Parliament of Montenegro dated ... 2007 and observes that the Republic of Montenegro is determined to honour the following commitments:

19.1. *Conventions:*

19.1.1. to confirm in writing, at the latest on the date of accession that, by virtue of the notification of succession contained in the letters of 6 and 12 June 2006 of the Minister of Foreign Affairs of the Republic of Montenegro to the Secretary General of the Council of Europe, Montenegro considers itself bound, with effect from 6 June 2006, by:

19.1.1.1. the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and Protocols Nos.1, 4, 6, 7, 12, 13 and 14 to the Convention and the European Convention on the Suppression of Terrorism (ETS No. 090);

19.1.2. to accede to the General Agreement on Privileges and Immunities of the Council of Europe (ETS No. 002) and its protocols 1 and 6 within one year at the latest;

19.1.3. to sign the Convention on the Avoidance of Statelessness in relation to State Succession (CETS No. 200) at the time of its accession and ratify it without delay;

19.1.4. to ratify the Convention on Action against Trafficking in Human Beings (ETS No. 197) within one year of its accession;

19.1.5. to sign and ratify, within two years of its accession, the European Convention on the Exercise of Children's Rights (ETS No. 160);

19.1.6. to sign and ratify, within two years of its accession, the European Convention on Nationality (ETS No. 166);

19.1.7. to ratify without delay, and at the latest within two years of its accession, the European Social Charter (revised) (ETS No. 163), and endeavour as from now to pursue a policy in keeping with the principles set out in it;

19.1.8. to ratify within one year of its accession the protocol amending the European Convention on the Suppression of Terrorism (ETS No. 190);

19.1.9. to ratify the Convention on the Prevention of Terrorism (CETS No. 196) within one year of its accession;

19.1.10. to ratify the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) within one year of its accession;

19.1.11. to ratify, within two years of its accession, the Civil Law Convention on Corruption (ETS No. 174);

19.1.12. to sign and ratify, within two years of its accession, the Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191);

19.1.13. to ratify the European Charter on Local Self-Government (ETS No. 122) without delay and at the latest within one year of its accession;

19.1.14. to sign and ratify, within two years of its accession, the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106) and its Protocols;

19.1.15. to ratify the Convention on Cybercrime (ETS No. 185) and its additional protocol (ETS No. 189) within three years of its accession;

19.1.16. in order to ensure the effective prosecution of war crimes and to ensure the best regional cooperation in this respect:

19.1.16.1. to sign and ratify, within two years of its accession, the European Convention on the International Validity of Criminal Judgments (ETS No. 070);

19.1.16.2. to sign and ratify, within two years of its accession, the Convention on the Compensation of Victims of Violent Crimes (ETS No. 116);

19.1.16.3. to sign and ratify, within two years of its accession, the European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes (ETS No. 082);

19.1.16.4. to review the restrictive declarations contained in the instrument of ratification of the European Convention on Extradition (ETS No. 024), according to which Montenegro shall refuse extradition of its nationals;

19.1.16.5. to ratify, within two years of its accession, the second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182).

## 19.2. *Constitutional reform:*

19.2.1. to quickly complete the constitutional reform and adopt a new constitution within one year at the most, in close co-operation with the Venice Commission and in full compliance with international standards and, in this connection, to include in the constitution the following seven minimum principles already approved in the Declaration of 8 February 2007 signed by

the Speaker of Parliament of the Republic of Montenegro, the Prime Minister and the heads of the political groups represented in Parliament:

19.2.1.1. the Republic of Montenegro is a civic state, based on civic principles by which all persons are equal and not on the equality between constituent peoples;

19.2.1.2. the independence of the judiciary must be guaranteed and the imperative of avoiding any decisive role of political institutions in the procedure of appointment and dismissal of judges and prosecutors recognised;

19.2.1.3. in order to avoid conflict of interests, the role and tasks of the Public Prosecutor should not include both the application of legal remedies for the protection of constitutionality and legality and the representation of the Republic in property and legal matters;

19.2.1.4. the efficient constitutional protection of human rights must be ensured. The constitution should provide for the direct applicability of the human and minority rights, as was recognised in the Charter on Human and Minority rights of Serbia and Montenegro. The constitutional reform therefore needs to provide for at least the same level of protection of human rights and fundamental freedoms as the one provided for in the Charter, including with respect to the rights of minorities;

19.2.1.5. capital punishment is prohibited at all times;

19.2.1.6. the constitution should include transitional provisions for the retroactive applicability of human rights protection to past events. It should also include provisions on the retroactive applicability of the European Convention on the Protection of Human Rights and Fundamental Freedoms and its Protocols;

19.2.1.7. the constitution should regulate the status of the armed forces, security forces and intelligence services of Montenegro and the means of parliamentary supervision. It should provide that the position of the commander-in-chief be held by a civilian;

19.2.2. to include also in the constitution:

19.2.2.1. a provision providing for the direct applicability in domestic law of international conventions, in particular in the field of human and minority rights;

19.2.2.2. a provision setting out the right to an effective remedy, as foreseen in Article 13 of the European Convention on Human Rights;

19.2.2.3. the mandate, appointment procedure and guarantees of independence of the Ombudsman;

19.2.2.4. a provision maintaining existing laws, unless until amended through the normal democratic process, in full respect of the principle of legal certainty;

19.2.2.5. provisions defining the state of emergency, its proclamation, the legal effects thereof and the supervisory powers of the Parliament;

19.2.2.6. a clear definition of local self-government based on the principles of the European Charter of Local Self-Government.

19.3. *Domestic legal system:*

19.3.1. to continue to review the compatibility of its existing and future domestic legal standards with the ECHR, Council of Europe standards and by drawing on its expertise;

19.3.2. to speed up completion of the reforms to ensure that courts and public prosecutors are professional and independent and that procedures for appointing and dismissing judges and prosecutors respect the independence of the judiciary;

19.3.3. to take the necessary steps to ensure that the case-law of the European Court of Human Rights is taken into account by the domestic courts;

19.3.4. to provide the Constitutional Court and the judiciary as a whole with adequate funding;

19.3.5. in conformity with Article 13 of the ECHR, to introduce an effective remedy – aimed at accelerating proceedings or at obtaining compensation – against excessive length of proceedings before national courts;

19.3.6. to adopt a law allowing a victim of a violation of the ECHR to ask, in appropriate cases, for the re-examination or re-opening of the case at domestic level;

19.3.7. to urgently ensure that anti-corruption legislation is adopted, GRECO's recommendations and conclusions implemented and the administrative capacity in the area of anti-corruption policy upgraded;

19.3.8. to strengthen the office of the prosecutor for organised crime;

19.3.9. to amend the law on conflict of interest in accordance with European standards and adopt and implement laws on political parties and the financing of political parties ensuring transparency and accountability;

19.3.10. to increase as soon as possible the Parliament's budgetary means and its administrative capacity;

19.3.11. to strengthen the government structures responsible for local self-government, notably with regard to administrative supervision, and to revise the legislation and regulations governing local budgeting, equalisation schemes and the devolution of sectoral responsibilities to the municipalities;

19.3.12. to urgently adopt a law on non-discrimination which guarantees that no-one shall be discriminated against on any ground such as sex, race, colour, language, religion, sexual orientation, handicap, political or other opinion, national or social origin, association with a national minority, property, birth or other status;

19.3.13. to take all necessary steps to ensure equality between men and women in law, in the family, society, economy and politics ;

19.3.14. to take all necessary measures, in particular legislative measures, to implement resolutions and other instruments of the Council of Europe on the protection of children and disabled people and integrate those people in society;

19.3.15. to adopt, as soon as possible and in line with Council of Europe standards, the laws on identity documents, on citizenship, on the place of residence and on foreigners;

19.3.16. to revise the electoral law and, in particular, the provision concerning the system for allocating seats to political party lists, to ensure that it does not mislead voters;

19.3.17. to speed up reforms concerning the media in order to safeguard their independence and to ensure the implementation of the law on access to public information;

19.3.18. to provide the public service broadcasting system with the financial means to enable it to perform its functions;

19.4. *Human rights:*

19.4.1. to respect the independence of the Ombudsman institution and support its activities, not least by means of adequate funding, and act on its recommendations;

19.4.2. to ensure that the laws concerning respect for human rights and minorities are rapidly implemented and their implementation monitored by independent institutions;

19.4.3. to take all necessary steps to ensure the permanent, safe and sustainable return of refugees and displaced persons, as well as to ensure the reparation for refugee families who have suffered human rights violations;

19.4.4. to adopt all the appropriate measures to implement the asylum legislation in full compliance with the 1951 Geneva Convention and its 1967 Protocol;

19.4.5. to issue personal documents to refugees and displaced persons and repeal all discriminatory provisions in the fields of labour, education, access to property rights, legal redress and access to citizenship and to health services;

19.4.6. to enact and implement a law on citizenship to prevent statelessness in accordance with the relevant Council of Europe instruments and addressing in particular the situation of displaced persons from Kosovo;

19.4.7. to continue the educational reform in order to eliminate all types of discrimination based on ethnic origin and make arrangements to teach the principles of tolerance and respect for others and all their differences in schools;

19.4.8. to implement the strategy and action plan for the integration of Roma;

19.4.9. to improve prison conditions, in particular as regards vulnerable groups such as juvenile offenders and those in need of psychiatric care;

19.4.10. to step up efforts to combat trafficking in human beings and provide adequate assistance and protection to the victims;

19.4.11. to carry out effective investigations, in accordance with the case-law of the European Court of Human Rights, into unsolved cases connected with the armed conflicts in the former Yugoslavia;

19.4.12. to collaborate fully with the International Criminal Tribunal for the Former Yugoslavia, especially as regards the search and arrest of the indictees which are still at large, and implement schemes to help the population understand and accept its objectives;

19.5. *Honouring of commitments:*

19.5.1. to co-operate fully in implementing Assembly Resolution 1115 (1997) on the setting up of an Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe (Monitoring Committee) and the monitoring procedure introduced pursuant to the Committee of Ministers' declaration of 10 November 1994 (95th Session).

20. In the light of the foregoing, the Assembly considers that Montenegro is able and willing, in accordance with Article 4 of the Council of Europe Statute, to fulfil the provisions of Article 3, which sets out the prerequisites for membership of the Council of Europe: "Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council".

21. To ensure that these commitments are honoured, the Assembly has decided to monitor the situation in Montenegro, as from its accession, pursuant to its Resolution 1115.

22. On the basis of the undertakings set out above, the Assembly recommends that the Committee of Ministers:

22.1. invites Montenegro to become a member of the Council of Europe;

22.2. allocates Montenegro 3 (three) seats in the Parliamentary Assembly.

23. To enable the Republic of Montenegro to honour its obligations and commitments, the Assembly recommends that the Committee of Ministers:

23.1. enter into a political dialogue in order to step up political, financial and technical support for the necessary reforms;

23.2. establish priority areas for the co-operation programmes.

## B. Explanatory memorandum, by Mr Jean-Charles Gardetto, Rapporteur

### I. Introduction

1. Following the referendum on the independence of Montenegro on 21 May 2006 and the declaration of independence adopted by the Montenegrin parliament on 3 June 2006, the Republic of Montenegro has found a new place in the European and international community as a sovereign and independent state.

2. The Republic of Montenegro applied for membership to the Council of Europe on 6 June 2006, three days after its parliament declared it independent. The Committee of Ministers forwarded the application to the Parliamentary Assembly for an opinion on 14 June 2006.

3. In two letters from Mr Miodrag Vlahovic, Minister for Foreign Affairs of Montenegro, to the Secretary General of the Council of Europe, Mr Terry Davis, dated 6 and 12 June 2006, Montenegro made it known that, as a newly independent state, *“it would like to establish its successor status to all conventions, charters or agreements of the Council of Europe to which Serbia and Montenegro was party or member, including any partial agreement under the conditions established in each of them, including the financial ones, and which was in force in respect of its territory”*.

4. In accordance with the usual procedure, the Assembly Bureau asked two eminent lawyers, Mr Kaarlo Tuori, member of the Venice Commission, and Mr Anthony Bradley, substitute member of the Venice Commission, to assess the compliance of the legal system of the Republic of Montenegro with the Council of Europe’s fundamental principles. The eminent lawyers visited Montenegro on 29 and 30 August 2006. The Assembly Bureau authorised publication of their report on 6 October 2006.

5. I should like, from the outset, to point out that there are special circumstances surrounding the request from the Republic of Montenegro for membership of the Council of Europe, given that it used to be part of the State Union of Serbia and Montenegro, which was a member of the Council of Europe from 3 April 2003 to 3 June 2006. This scenario is not new for the Council of Europe, however. In 1993, one of its member states, the Czech and Slovak Federal Republic (CSFR), ceased to exist and the two new states resulting from the break-up of the CSFR, which had in the meantime each adopted constitutions as sovereign and independent states, applied to join the Council.

6. It should be underlined that the process of accession to the Council of Europe has evolved over the years. Accessions by states to the Council have always been based on the shared values of pluralist parliamentary democracy, the rule of law and respect for and the protection of human rights and fundamental freedoms. The principle of the rule of law is one of the Council of Europe’s core values and a requirement under its statute for accession by new member states, which must make it the guiding principle of all action by public authorities. The constitution or basic law is the very foundation of a state’s legal system. Before admitting new member states, the Council of Europe therefore checks whether the constitutional provisions governing the countries are in line with the above principles. Since the large numbers of applications that followed the political changes in central and eastern Europe after 1989, the commitments required of and accepted by applicant states and set out in the Parliamentary Assembly’s opinions on the admission of new member states have become increasingly detailed. The requirements in constitutional terms have also become more specific<sup>1</sup>. It can therefore legitimately be said that the content of the constitution which Montenegro intends adopting is of decisive importance

7. I am pleased that the Committee of Ministers has decided to invite the representatives of the Government of Montenegro to attend all Committee of Ministers meetings and those meetings of intergovernmental committees of experts that they are interested in as observers. I consider that Montenegro’s participation in the committees of experts will help speed up reforms in the country. An ad hoc delegation of Montenegrin parliamentarians should also continue to be involved in the activities of the Parliamentary Assembly until such time as the country joins the Council of Europe.

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<sup>1</sup> Cf. *Problèmes d'ordre constitutionnel dans le processus d'adhésion d'Etats de l'Europe centrale et orientale au Conseil de l'Europe*, Heinrich Klebes and Despina Chatzivassiliou, in ‘*Revue Universelle des Droits de l’Homme*’, 27 December 1996, pp. 269-286.

8. I was appointed Rapporteur in June 2006 to draft a report by the Political Affairs Committee on the request for an opinion by the Parliamentary Assembly of the Council of Europe on the accession of the Republic of Montenegro to the Council of Europe. My task is therefore to assess whether the Republic of Montenegro is in compliance with the Council of Europe's principles with a view to admission to the organisation. To this end, I have at my disposal the opinion by the eminent lawyers, the declarations by the Montenegrin authorities and other information I have gathered myself. In this context, I carried out a fact-finding visit to Podgorica from 8 to 13 October 2006, during which I was able to meet numerous representatives of the authorities, civil society and the international community. In January 2007, during the Plenary session of the Parliamentary Assembly, I was able to hold an exchange of views in the framework of the Political Affairs Committee meeting with a delegation of Montenegrin parliamentarians, among which was the Vice-Speaker of the Parliament. I visited Podgorica again on 26 February 2007 to meet the President, the Prime Minister, the Speaker of Parliament and the leaders of the parliamentary political groups in order to present them with an initial draft opinion setting out the list of commitments which Montenegro will have to make and solicit their reactions.

9. I should like to thank the authorities of Montenegro for their excellent co-operation, open-mindedness and for their hospitality during my visits to Podgorica. Lastly, I should like to thank all the people we talked to on the spot for taking the time to meet us and answer our questions, enabling me to broach a wide range of subjects. This was extremely useful for my work as rapporteur.

10. I should like particularly to underline the excellent collaboration which took place since the outset with the rapporteurs Mr Jurgens, from the Committee on Legal Affairs and Human Rights, and Mr Holovaty from the Monitoring Committee. I felt it appropriate for me and the rapporteurs to be able to confer regularly and consider the alternatives to enable Montenegro to join the Council of Europe at the earliest opportunity.

11. The opinion which I am submitting to the Political Affairs Committee for adoption is the result of extensive co-operation between the three rapporteurs and includes amendments proposed by the two rapporteurs which I accepted and integrated in the body of the text.

12. I should like to take this opportunity to thank Mr Jurgens and Mr Holovaty for the quality of their contribution to the appended opinion.

13. The content of the opinion, which lists the commitments Montenegro will have to honour on joining the Council of Europe, is divided into several sub-sections, one of which refers to the conventions which the country will have to sign and ratify. I wish to underline here that the deadlines indicated for signature and ratification take account both of what the Council of Europe proposed in previous accession processes and of what was agreed at the time of the Federal Republic of Yugoslavia's application for membership in 2003. The deadlines indicated seek to combine all of these factors and that of Montenegro's administrative capacity to honour the commitments in practice.

## **II. Review of the current situation in Montenegro and of the constitutional reform**

14. It should be pointed out and welcomed that the authorities of the Republic of Montenegro, in letters dated 6 and 12 June 2006 from the Minister of Foreign Affairs, Mr Vlahovic, to the Secretary General of the Council of Europe, have indicated their intention to honour the commitments and undertakings entered into by the State Union of Serbia and Montenegro in its capacity as a Council of Europe member state.

15. The Montenegrin parliament's approval of the new government, lead by Prime Minister Mr Sturanovic, on 10 November 2006, is clearly a positive development. It is the first government formed since Montenegro's declaration of independence.

16. Following a series of lengthy consultations with all the political parties in parliament, the Prime Minister presented a new, restructured government with only 14 cabinet ministers, four fewer than in the previous government.

17. It is pleasing to note that the new government's political programme clearly underlines that its main aims are to speed up and improve European and Euro-Atlantic integration through democratic

reforms, especially in view of the accession of Montenegro to the Council of Europe as well as its close signature of a stabilisation and association agreement with the European Union.

18. The momentum of reform in the country, particularly the substantial number of laws being drafted and passed, and the recent evidence of its political maturity on the occasion of elections – most recently the referendum on independence and the parliamentary elections – illustrate Montenegro's willingness to consolidate democracy and bring its legal rules into line with Council of Europe standards.

19. When I started my work as Rapporteur, I felt duty bound to underline the fact that one essential element was missing and was preventing me from advancing as hoped for in my task, namely the new constitution, which was to replace the 1992 Constitution dating back to the time when Montenegro was part of the State Union. Serious internal deadlock was preventing any progress with constitutional reform.

20. However, I must emphasise that things have now changed for the better. During my visit to Podgorica in October 2006, it seemed clear that the main priority of the Montenegrin authorities was to provide the country with a new constitution. I was able to ascertain that the political will to move forward was certainly there and that politicians were mobilised. This was further confirmed during my second visit to Podgorica on 26 February 2007, where the Speaker of the Parliament pointed to the progress made in the drafting of the new constitution.

21. The law on the adoption and promulgation of the new constitution has been passed on 26 October 2006. It stipulates that the constitution may be adopted by a two-thirds majority in parliament. If, however, such a majority is not obtained, the law provides for a referendum, whereby the constitution would be adopted by means of a simple majority.

22. On 13 October 2006, Montenegrin parliamentarians received a draft of a new constitution drawn up by a group of legal experts specially appointed for the purpose. While the establishment of a parliamentary constitutional committee responsible for examining and working on the text took some time, it was finally appointed on 10 November 2006 under the chairmanship of the Speaker of the Parliament of Montenegro, Mr Ranko Krivokapic. It has 16 members, i.e. nine from the opposition and seven from the government side. Its first working meeting was held on 20 November 2006.

23. It should, however, be noted that the opposition members declined to contribute to the committee's work at the beginning, on the ground that the Constitutional Court had not yet ruled on their appeal concerning the law on the adoption and promulgation of the constitution. The appeal in question was brought on procedural grounds. According to the opposition, the law received votes from certain members of parliament who were not entitled to vote. In its ruling on 6 December 2006, the Court dismissed the appeal on the ground that it did not have jurisdiction to rule on the law in question, as it was constitutional and could not therefore be challenged.

24. In the interest of the country and the people of Montenegro, it is absolutely essential that all the parliamentary political parties get together to discuss the real challenges facing the country and co-operate in drafting the new constitution. I am therefore delighted that the opposition have at last joined the constitutional committee, enabling it to move forward with its work with all of its members. It has now adopted a new working method and set up three sub-committees, each focusing on different sections of the constitution, i.e. the separation and organisation of powers, constitutionality and human rights and fundamental freedoms.

25. The Venice Commission was only able to begin its work on 23 November 2006, when it received the English translation of the draft constitution drawn up by the legal experts. Until then, all it had at its disposal was a summary handed over by the Speaker of Parliament, Mr Krivokapic, at its meeting in Venice on 13 October 2006, covering several points in the draft constitution. It should be underlined that this draft version underwent preliminary analysis during an experts' meeting in Podgorica on 28 and 29 November 2006 at which Venice Commission experts, parliamentarians from the government side and from the opposition, the Speaker of Parliament and experts from the OSCE held a promising exchange of views on the content of the draft version of the constitution and the principles to be followed.

26. Since then, the constitutional committee has held regular meetings in order to produce a revised draft constitution, which it seems should soon be finalised. However, it may take several more months until the final text of the constitution is adopted, which is why I and the rapporteurs agreed on a procedure which would both enable the constitutional reform to continue in the right direction and make it possible to obtain clear and detailed undertakings from the Montenegrin authorities on minimum standards to be included in the constitution.

27. To this end, we drew up a list of seven minimum principles to be included without fail in the Montenegrin Constitution (see appendix) and asked, in a letter from the Chair of the Political Affairs Committee on 22 January 2007, the Montenegrin authorities and the leaders of all political groups to undertake to include these principles in the constitution. This step was an indispensable one in order to pursue further the accession procedure.

28. The Montenegrin authorities, i.e. the Prime Minister and the Speaker of Parliament, and the leaders of the political groups signed a declaration on 8 February 2007 undertaking to respect the seven minimum principles and include them in the constitution. Only two political groups refused to sign the joint declaration, the Serbian list and the alliance of liberal and Bosniac parties. However, more than the 2/3 required majority was reached through the leaders of the political groups who signed the declaration, expressing therefore their willingness to see those seven minimum principles included in the constitution.

29. I would underline that the signing of these initial undertakings in the form of a declaration was only a preliminary stage to enable me to move forward with my work as Rapporteur. As indicated above, the constitution is the very foundation of a state's legal system; in the absence of a new constitutional text following the country's independence, it was essential to obtain a strong and clear political commitment from the Montenegrin authorities concerning their intentions in the area of constitutional reform. The declaration also demonstrates Montenegro's commitment to respect European standards and values. I am delighted that a large majority of the political groups in the country have joined together in signing up to a joint declaration paving the way for the continuation of Montenegro's accession procedure to the Council of Europe.

30. Montenegro will now have to continue its efforts to finalise its constitutional reform and, as indicated in the opinion, adopt a new constitution fully in line with international standards, in close co-operation with the Venice Commission, within a year at the most.

31. Without prejudging the opinion that the Venice Commission will issue in due course on constitutional reform in Montenegro, and on the basis of the report by the eminent lawyers, I would like to reiterate the great importance of honouring the commitments Montenegro will follow. The few additional points below concerning human rights strike me as fundamental and the Montenegrin authorities should bear them in mind when carrying out their constitutional reform:

- the catalogue of rights, which have to be guaranteed by the constitution, must be reworded and completed, in line with the European Convention on Human Rights;
- the direct applicability of constitutional provisions and international treaties on human rights and minority rights must be recognised;
- the right to direct individual constitutional appeals must be established;
- the criteria for legitimately restricting certain rights must be laid down;
- the principle of proportionality must be established;
- the constitution must enshrine the principle of non-discrimination applicable to everyone, not just Montenegrin nationals, and allow for positive discrimination.

32. The new constitution should be drafted in line with European values, standards and practices, particularly regarding human rights and minorities.

33. The workings of democratic institutions and of the legal system have been studied in detail in the eminent lawyers' report, which may be consulted as appropriate, and that is why I should like here to highlight a few salient points, focusing on the reforms that seem relevant to the purpose of this report, namely the consolidation of democracy in the Republic of Montenegro and the harmonisation of its legal rules with Council of Europe standards.

### **III. Rule of law, human rights protection and legislative reform**

34. A number of reforms have been carried out, bearing witness to political will, but also to undoubted dynamism in the legislative field. Progress has been made in a number of areas, sometimes with the co-operation of the Council of Europe, the OSCE and other international experts. It must also, however, be borne in mind that in some sectors legislative progress is slower or has yet to materialise. Further significant efforts need to be made for the effective implementation of certain laws.

#### *i. Effective implementation of laws*

35. This is a recurrent problem that deserves the full attention of the authorities of Montenegro. A number of laws have been drafted and passed by Parliament, but all too often they are not implemented, in many cases because of a lack of instructions, a lack of funds or quite simply a shortage of qualified staff to perform the relevant tasks. There is an urgent need for the Montenegrin authorities to release the material and human resources required to implement these laws. One example is the law on asylum, which was passed in the course of 2006 but has still not been implemented. It provides that asylum seekers, refugees and individuals enjoying humanitarian protection may not be forced to return to their countries of origin if their lives or freedom may be endangered on the grounds of their race, religion, nationality, social status or political beliefs or if there is a risk of their being exposed to torture or inhuman or degrading treatment. Under this law, such individuals would at least enjoy humanitarian protection, if not a right of asylum.

36. Many laws which are essential to bringing Montenegrin legislation into line with Council of Europe standards still have to be passed, for instance those on citizenship, identity documents, place of residence and aliens.

#### *ii. Judicial system*

37. Montenegro's judicial system is currently governed by the 1992 Constitution. The previous government initiated a new judicial reform strategy, which is currently in progress. This strategy aims at improving the efficiency of the judicial system, access to justice and the training of judges and prosecutors. However, the judicial system is severely lacking in resources for implementing the strategy and there are serious questions concerning many areas. The process for appointing and dismissing prosecutors and judges and the level of their pay is one example. Judges and prosecutors are nominated, respectively, by a judicial council and a prosecutors' council and then appointed by Parliament. However, the members of the judicial council themselves are also appointed by Parliament. Parliamentary involvement in the process may legitimately give rise to suspicions about the independence of the judiciary as a whole. It is also essential that the remuneration of judges and prosecutors is commensurate with their duties so as to prevent increasingly large numbers of capable judges and prosecutors moving to the Bar or the private sector. Finally, the excessive length of procedures is not acceptable and the authorities should give it the appropriate attention in order to solve the problem which prevents justice to operate within reasonable timeframes. As foreseen in Article 13 of the European Convention on Human Rights, the right to an effective remedy should be introduced - aimed at accelerating proceedings or at obtaining compensation - against excessive length of proceedings before national courts.

38. It is essential that the new constitution guarantees the independence of the judiciary and includes provisions ruling out any involvement of political institutions in decision-making in the procedure for appointing and dismissing judges and prosecutors.

39. Improving human rights training for judges should also be among the priorities. The Montenegrin authorities should complete the reforms designed to establish courts and a public prosecution department that are professional and independent. It is essential that public confidence in

the judicial system is restored. Proceedings should be simplified and reduced in duration, rules of conduct for prosecutors should be adopted and training on judicial ethics should be provided for all members of the judicial system. Training on the functioning of the European Court of Human Rights and on its case-law would be highly recommended.

40. It is highly recommended that Montenegro adopts a law allowing victims of violations of the ECHR to request, if appropriate, the re-examination of their case or the re-opening of procedures before the domestic courts.

*iii. Capital punishment*

41. This was totally abolished under Montenegro's criminal law in 2002. At the same time, accused persons may be extradited to countries where capital punishment is still in force, but only on condition that the death penalty is not applied to them there. Yet the 1992 Constitution, which is currently in force, still authorises capital punishment. It is therefore vitally important that the provisions concerned do not appear in the text of the new constitution. A corresponding undertaking has already been given by the Montenegrin authorities in the declaration signed on 8 February 2007 concerning the minimum principles to be included in the constitution.

*iv. Respect for freedom of religion*

42. I met representatives of the Catholic Church, the Serb Orthodox Church, the Montenegrin Orthodox Church and the Muslim community. These communities seem to cohabit completely harmoniously in the country and there would not appear to have been any serious incidents based on religion in Montenegro. However, there are still serious disputes between Serb Orthodox representatives and Montenegrin Orthodox representatives, as the Serb Orthodox Church does not recognise the Montenegrin Orthodox Church. Dialogue should therefore be conducted so as to overcome these disputes.

*v. The refugee situation*

43. The authorities must undertake to take all the steps needed to ensure the safe and permanent return of refugees and displaced persons. Displaced persons from Kosovo, who had the status of "internally displaced persons" before Montenegro became independent, should have their status redefined so as to prevent their becoming stateless. According to UNHCR figures, there are a total of 26 193 refugees and displaced persons in Montenegro. There is therefore an urgent need for the Montenegrin authorities to implement the above-mentioned law on asylum at the earliest opportunity, as the deadline for its implementation, which is laid down in the text itself, has just expired. The implementation of the law should also be fully in line with the 1951 Geneva Convention and the 1967 protocol.

44. It is also essential that Montenegro honours the commitment to sign and ratify the Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession. The avoidance of statelessness is one of the major preoccupations of the international community. In accordance with customary international law, states have an obligation, when determining their nationals, to avoid cases of statelessness. The rules for the implementation of this obligation are set out in the 1961 United Nations Convention on the Reduction of Statelessness, which Montenegro has not yet signed up to.

45. The avoidance of statelessness is closely linked to the right of the individual to a nationality, since the non-fulfilment of this right leads to statelessness. Experience has shown that, in particular in connection with state succession, a large number of persons are at risk of losing their nationality without acquiring another nationality and in consequence becoming stateless. The Convention on the Avoidance of Statelessness therefore builds on the European Convention on Nationality by developing more detailed rules to be applied by states in the context of state succession with a view to preventing, or at least as far as possible reducing, cases of statelessness arising from such situations. It is therefore essential that Montenegro also signs and ratifies the European Convention on Nationality.

vi. *Respect for the rights of minorities*

46. According to the 2003 census, Montenegro had a total population of 670 000, broken down as follows: 43% Montenegrins, 32% Serbs, 11.7% Bosniaks and Muslims, 5% Albanians, 1% Croats and 7% "others". The latter figure includes the Roma population, estimated to total 20 000, refugees and "internally displaced persons" from Kosovo. Montenegro has made progress in this area by passing a law on minorities. The definition of the actual concept of minority in this law, however, excludes from its scope anyone who does not have the nationality of the Republic of Montenegro. The country's authorities therefore need to review the provision in question and take great care when preparing the law on citizenship, which is, I gather, in the process of being drafted. The citizenship criterion has to be removed from article 3 of the law on minority rights and freedoms. The citizenship legislation should be analysed in the light of European standards. The implications of the Constitutional Court's ruling setting aside articles 23 and 24 of the law on minority rights and freedoms should be carefully considered, in particular in the context of monitoring of the Framework Convention for the Protection of National Minorities, and due attention will have to be paid to the principle of non-discrimination. As enacted, Article 23 of the Law, applying the principle of affirmative action, provided for an additional mandate in the Parliament of Montenegro for minorities that make up between 1 and 5% of the total population, and also for three guaranteed mandates in the Parliament for minorities exceeding 5% of the total population. Similar provision was made by Article 24 for additional minority representation in local self-government. The Constitutional Court held that these provisions were inconsistent with the constitution, since they conflicted with the principle of the equality of all citizens before the law guaranteed by the constitution, and were an attempted amendment of the constitution by the Parliament. The conclusion of bilateral agreements with neighbouring states on the protection of national minorities is to be recommended.

47. In this context, it should be stressed that further efforts should be made to integrate the Roma community living in Montenegro at all levels of society. Although the previous government did adopt an action plan for 2005-2015 for integrating Roma into society, serious discrimination remains. The displaced Roma living in Montenegro encounter serious difficulties in terms of access to the fundamental rights of housing, health care, employment and social protection. The proportion of Roma living in poverty is almost five times the national average. It is still all too often the case that Roma children are marginalised and excluded from the education system.

48. It should be noted that the Council of Europe will launch its *Dosta!* awareness-raising campaign, which seeks to promote a positive image of Roma to counter common prejudices and stereotypes, in Montenegro even before the country officially joins the Council of Europe. It is to be hoped that Montenegro will draw the relevant lessons from the campaign and disseminate them in society.

vii. *Education*

49. This is certainly a priority area, which underpins the development of any society. Compulsory classes should be included in school programmes in order to teach tolerance of differences in general and respect for others as from primary school, so that children are taught these concepts from a very early age.

50. Education reforms should be carried forward so as to eliminate all types of discrimination based on ethnic origins.

viii. *Respect for the principle of non-discrimination*

51. It should be pointed out that Montenegro still does not have legislation against discrimination. There are merely a small number of non-discrimination provisions in some of the existing laws. A specific law providing for general application of the principles of non-discrimination and equal treatment should be passed. The law should provide that no-one may be discriminated against in any way on any ground such as sex, race, colour, language, religion, sexual orientation, disability, political or other opinion, national or social origin, association with a national minority, property, birth or other status. It is also essential to increase the material (in particular financial) and human resources of the government office for gender equality.

52. The representation of women in politics remains very limited. The political parties failed to comply with the 30% minimum quota required for candidates in the parliamentary and local elections.

*ix. The protection of women and children*

53. Domestic violence against women remains a taboo subject and few statistics are available, as Montenegro still does not have enough facilities for helping the victims or a legal framework concerning such violence. I urge Montenegro to increase the number of facilities for helping the victims of domestic violence, which should offer the women concerned psychological, financial and medical support. I strongly urge the Council of Europe to implement its European campaign to combat domestic violence against women on the ground in Montenegro so as to raise the country's authorities' awareness of the seriousness of the problem.

54. With regard to children's rights, Montenegro passed a law on child protection and social protection in 2005. However, family legislation is outdated and is not in line with Council of Europe standards and should therefore be revised. It would be desirable for Montenegro to be involved in implementing the Council of Europe's three-year action programme (2006-2008) to promote children's rights and protect children against violence, Building a Europe for and with Children, and for Montenegro to make sure that it is a party to all international and European legal instruments on child protection. It is to be hoped that Montenegro will respect the commitment to sign and ratify the European Convention on the Exercise of Children's Rights.

55. It would also be desirable for Montenegro to step up co-operation with other states, notably with neighbouring states and in particular with Serbia, and implement swift judicial procedures suited to the needs of children especially in the case of family disputes, alongside opportunities for mediation, which do not always succeed, with a view to sparing children the additional suffering caused by lengthy and painful proceedings.

*x. Respect for freedom of the media*

56. The media sector is not very extensive but it is in keeping with the country's size. It would seem that freedom of the press is guaranteed in Montenegro, despite a few isolated incidents. In particular, there was the murder in 2004 of the director and editor-in-chief of the daily newspaper, *Dan*. The circumstances surrounding the murder are still murky and the case has not been cleared up to date.

57. It should be underlined that the independence of the state media needs to be ensured more effectively. They sometimes suffer from political interference in their activity. To this end, it would be desirable if the authorities of Montenegro could speed up reforms concerning the media in order to safeguard their independence. Providing the public service broadcasting system with the financial means to enable it to perform its functions would also be needed.

58. Montenegro is strongly urged to ensure the proper implementation of the law on access to public information. Although it was passed in November 2005, it would seem that the officials in charge of implementing it have still not received proper training, this applying in particular to the persons responsible for providing information upon request, who also have a part to play in publicising the legislation more widely. The law on media concentration is still only a draft, which Parliament should give full attention so that it is finalised as quickly as possible in line with European practice.

*xi. The operation of parliament*

59. The new Government and the Parliament should bring together all Montenegro's communities in order to build a strong and prosperous country. This means that Parliament must operate effectively and that there should be a spirit of constructive dialogue between the Government side and the opposition. Parliamentary session boycotts and a lack of consensus between the government and the opposition on essential issues, as was the case with the law on minority rights and freedoms, for instance, should be a thing of the past. Situations of that kind in no way contribute to the credibility of Parliament or the legitimacy of the laws it passes.

60. Parliament also needs to be more effective, for example through the increase of its budgetary means and administrative capacity, in terms of scrutiny of the legislative process and of government, including with regard to parliamentary oversight of the defence forces and security services. This should also be enshrined in the country's constitution, along with a provision that the commander-in-chief of the armed forces should be a civilian. It should be underlined here that, by "commander-in-chief" of the armed forces, I mean the highest **political** authority of the armed forces, such as the Minister of Defence for example.

*xii. Elections*

61. On the whole, the elections held in Montenegro since independence have been in line with Council of Europe standards and the other international standards applicable to democratic elections. However, it is important for Montenegro to improve the operation of its electoral system, in particular with regard to electoral legislation, the rules on media coverage of election campaigns, the allocation of seats in parliament and the transparency of campaign financing. Montenegro should continue its co-operation in this area with the Council of Europe's experts and the Venice Commission and make the most of their expertise.

62. The stability of electoral legislation is a vital aspect of democratic electoral processes. The legislative changes made on 28 July 2006 after the calling of the elections in the case of the parliamentary elections of 10 September 2006 were therefore unfortunate.

63. It would be desirable for Montenegro to revise its electoral legislation, in particular the provision on the system for allocating seats to the party lists, so as to prevent voters being misled. The legislation only requires half of the seats won by a party or a coalition to be allocated according to the order of the names on the lists and parties are therefore free to allocate the remaining seats to any other candidates on their lists, which the voters may not have wished to vote for in the first place. This has the effect of reducing transparency and misleads voters' votes. This is not acceptable in a democratic state.

*xiii. Combating corruption and organised crime*

64. The Montenegrin authorities must seriously strengthen efforts to combat corruption within the executive, legislature and judiciary, and particularly within the public prosecution department, police and government departments. It is worth underlining the progress the country has made in implementing legal standards and measures for preventing and combating corruption in government, including, in particular, the establishment in 2001 of an anti-corruption agency, which became the anti-corruption directorate in 2003. This was followed in August 2006 by the adoption of an action plan for implementing the July 2005 strategy on combating corruption and organised crime. Under the action plan, the prosecutor specialised in combating organised crime will also be responsible for prosecuting and investigating cases of corruption. I welcome the decision by the government in February 2007 to set up a national commission for implementing the action plan on the programme for combating corruption and organised crime. Its task will be to manage, organise and co-ordinate the activities of government administrative bodies, authorities and other institutions involved in implementing the programme.

65. Much remains to be done, however, and progress in implementing these measures is still very slow. Further progress is desirable in areas such as access to official documents, the prevention of conflicts of interest, and government officials moving to the private sector. Inadequate training of officials, judges and prosecutors involved in prosecuting, investigating and ruling on corruption offences is also a problem. It is also important to establish arrangements for co-operation between the police and the public prosecution department so that they share their know-how and experience of dealing with cases of corruption and with financial crimes related to corruption.

66. It is important that Montenegro adopts, as a matter of urgency, national legislation to combat corruption and that it ensures the implementation of the recommendations and conclusions of the Group of States against Corruption (GRECE). It is strongly recommended that Montenegro ratifies the relevant existing international conventions, in particular the Civil Law Convention on Corruption.

*xiv. Combating all forms of trafficking, including trafficking in human beings*

67. Combating trafficking in human beings should also be one of the authorities' priorities, particularly in view of the undertakings that Montenegro would have to agree to on joining the organisation, by signing and ratifying the Convention on Action against Trafficking in Human Beings. Trafficking in human beings remains a crucial problem which must be tackled not only by the international community as a whole but also locally by the Western Balkan States and Montenegro. Co-operation must be stepped up here between countries of origin, destination countries and transit countries. Montenegro is essentially a transit and destination country for women and girls who are trafficked for the purposes of forced prostitution.

68. Child exploitation and trafficking should also be tackled seriously by the Montenegrin authorities. Stepping up international co-operation between police forces and judicial services is one way of combating the problem effectively.

69. Montenegro has a national co-ordinator against trafficking in human beings who operates at various levels: prevention, victim protection and bringing perpetrators to justice. While the task is huge, the material (above all financial) and human resources available are still too limited. At present, the national co-ordinator only has two advisers and an assistant. Helping and protecting trafficking victims is essential.

*xv. Co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY)*

70. Co-operation with the ICTY has become an international obligation for Montenegro since it gained independence. It should co-operate fully and unreservedly with the tribunal so that it does not become a haven for war criminals still at large. Schemes should be introduced to help the population understand and accept the objectives of the ICTY. It would seem that Montenegro's co-operation with the tribunal is satisfactory at present.

71. As regards the proceedings in domestic courts concerning the unresolved cases relating to the armed conflicts in the former Yugoslavia, however, inquiries should be conducted more speedily and effectively, in accordance with the case-law of the European Court of Human Rights. In particular, attention should be drawn to the forced disappearance of 83 Bosnian Muslims, who apparently were "deported" from Montenegro to the then Bosnia-Herzegovina in 1992. To date, the Montenegrin authorities would not appear to have taken all the necessary measures to shed light on that manifest violation of human rights. It would seem necessary for the Montenegrin authorities to provide assistance to the relatives of those concerned, in particular by granting them a right to compensation. We should underline, however, that Montenegro has recently signed the United Nations' Convention on forced disappearances.

*xvi. The police*

72. It is essential that the reform of the police should continue and that the police force is subject to civilian oversight so as to prevent any abuses. I feel duty bound to refer to the incidents that took place on 9 September 2006, on the eve of the parliamentary elections. On that occasion, 17 men of Albanian ethnic origin were arrested as part of an anti-terrorist operation. 14 of the 17 were detained, including three American citizens, who, according to some sources, were ill-treated. I believe that the Montenegrin authorities should not let this sort of incident go uninvestigated, and that they should carry out a speedy and effective investigation in accordance with the case-law of the European Court of Human Rights. According to the information at my disposal, investigations are under way and initial evidence has been gathered by the police and submitted to the public prosecution department. It is vital that light is shed on the affair and the truth is established.

*xvii. Local government*

73. The structure of local government in Montenegro is laid down in the law on local self-government of 9 July 2003. At present, Montenegro has 21 municipalities, including the administrative capital, Podgorica, and the historical and cultural centre, Cetinje. In terms of institutional dialogue, the government appears willing to co-operate and negotiate with the Union of Municipalities of Montenegro concerning the reform of local government. The law on local self-government clearly

establishes the right of local authorities to take part in the drafting of legislation on local self-government. A co-operation agreement was signed by the government and the Union of Municipalities in November 2006. The recent establishment of the joint local and central government committee, whose statutes were drawn up by the Justice Ministry and the Council of Europe in 2005, should also be seen as a promising sign for institutional dialogue between central and local government.

74. It should however be underlined that the existing legislation regarding self-government is not in line with the European Charter on Local Self-Government. It is urgent that Montenegro ratifies this Charter without delay after its accession to the Council of Europe. Furthermore, Montenegro should strengthen its government structures responsible for local self-government, notably with regard to administrative supervision, and to revise the legislation and regulations governing local budgeting, equalisation schemes and the devolution of sectoral responsibilities to the municipalities.

75. Greater efforts still need to be made in the area of the devolution of powers and administrative boundaries. While the public administration reform strategy for 2002 to 2009, which was updated and amended in November 2006 on the occasion of the second South-Eastern Europe Regional Ministerial Conference, is to be welcomed, it would be desirable for the Montenegrin authorities to move forward with the reform on the devolution of powers in consultation with local government partners and with the aid of relevant Council of Europe expertise.

76. In the case of administrative boundaries, the Justice Ministry has drawn up a new law in co-operation with the Council of Europe. While not providing for a complete overhaul of the country's administrative boundaries, it does enable central government, municipalities or citizens to have existing boundaries changed on the basis of objective criteria and a transparent procedure. The law has not yet been passed. Passing it swiftly would enable the government to optimise administrative boundaries and merge smaller, economically weak municipalities with larger, more economically viable ones. However, it would appear that passing the law remains very sensitive in political terms, as some political groups are afraid that the procedure and the criteria it provides for might be exploited by certain ethnic groups.

77. A new law on government ministries was recently passed under which responsibility for local authorities was transferred from the Justice Ministry to the Ministry of the Interior. The latter has never dealt with local government issues before and its administrative capacity in this area seems very limited at present. It is therefore essential to increase the resources and the administrative capacity of the bodies responsible for dealing with local self-government issues so that the reform of local government progresses swiftly and effectively. The appointment of a Deputy Minister with clearly defined responsibilities for local government is definitely to be recommended. According to the information at my disposal, it would already appear to be in progress.

#### **IV. Conclusion**

78. In the light of the above, I believe I can now propose to the Political Affairs Committee and then the Parliamentary Assembly to recommend that the Committee of Ministers invite the Republic of Montenegro to join the Council of Europe. Although the legal system of the Republic of Montenegro is largely consistent with Council of Europe standards, it is nevertheless desirable for the constitutional reform process under way in the country to be carried forward quickly and in such a way as to ensure its legitimacy and that the implementation of Council of Europe principles is guaranteed. I urge the Council of Europe and its organs, as well as the Venice Commission, to do everything possible to help the country with a view to its accession to our organisation and to help it to fulfil its commitments.

79. Once again, I urge the Montenegrin authorities to continue showing the level of goodwill already repeatedly demonstrated, and I am pleased to see that Montenegro is always a committed and active partner driven by the desire to respect our Organisation's values. I remain optimistic about the Montenegrin authorities' determination to keep moving in this direction in the weeks ahead so that their country can join the Council of Europe. I strongly urge the Montenegrin authorities to accept and honour the commitments asked of them.

80. In the meantime, I believe that an ad hoc delegation of Montenegrin parliamentarians should continue to take part in the activities of the Parliamentary Assembly until such time as the country officially accedes to the Council of Europe.

**Appendix I****Parliament of the Republic of Montenegro following the parliamentary elections on 10 September 2006**

<b>List of groups of deputies</b>	<b>Number of seats</b>
Coalition DPS-SDP (Democratic Party of Socialists and Socialist Democratic Party)	41
Coalition "Serbian list"	12
Coalition SNP-NS-DSS (Socialist Peoples Party, Peoples Party and Democratic Serb Party)	11
Movement for Changes	11
Coalition Liberal Party and Bosniaks' Party	3
Albanian Parties: Democratic Union of Albanians, Coalition of Democratic Union of Albanians and for the group of citizens - Albanian Alternative	3
<b>Total</b>	<b>81 seats</b>

\* \* \*

**Appendix II****List of documents prepared/commissioned by the Parliamentary Assembly concerning Montenegro since its independence**

- Doc. 10969 (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**
- Doc. 10980 (27 June 2006): **Consequences of the referendum in Montenegro**  
Resolution 1514 (2006)
- Doc. 10989 (27 June 2006): **Consequences of the referendum in Montenegro: Opinion of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)**
- Doc. 11037 (2 October 2006): **Observation of the Parliamentary elections in the Republic of Montenegro (10 September 2006)**
- **Eminent lawyers' report on the compliance of the legal system of the Republic of Montenegro with the Council of Europe's fundamental principles**, Mr Kaarlo Tuori, member of the Venice Commission, and Mr Anthony Bradley, substitute member of the Venice Commission

Appendix III

Exchange of correspondence concerning the Republic of Montenegro's application for membership of the Council of Europe



*Republic of Montenegro  
Ministry of Foreign Affairs*

No: *1074-1/06*

Podgorica, June 6, 2006

Your Excellency, *Dear Terry,*

It is my great pleasure to inform you that citizens of the Republic of Montenegro have voted in favour of the independence, on the democratic referendum on its state legal status, held on May 21<sup>st</sup>, 2006, with turnout of over 86 percent, out of which 55,5 citizens voted affirmatively, thus fulfilling the requirement agreed by all sides involved that the Republic of Montenegro becomes independent and sovereign state with full international legal personality if at least 55 percent of citizens vote in favour of restoration of its statehood. The referendum was held in partnership with the EU and in compliance with Article 60 of the Constitutional Charter of state union Serbia and Montenegro stipulating right of member states to initiate the proceedings for the change in its state status or to withdraw from the state union. The process of restoring independence was transparent and internationally monitored, and was widely recognized by OSCE/ODIHR, EU and Council of Europe observers to have been conducted in accordance with the best international standards and practice, in a fair and democratic manner.

In line with this decision of people, the Republic of Montenegro has started a process of international recognition and application for membership in the United Nations and other relevant international organizations.

To this aim, I have the honour to express the wish of the Republic of Montenegro to become a member of the Council of Europe as an independent state.

**H.E. Mr. Terry Davis  
Secretary General  
Council of Europe  
Strasbourg**

Wishing for Republic of Montenegro to contribute, in the framework of the Council of Europe, to safeguarding and implementation of the ideas and principles which are a common heritage of the family of European countries consisting of the spiritual and ethical values which are genuine source of individual freedoms, political liberty and rule of law,

Believing that full-fledged membership of the Republic of Montenegro in the Council of Europe will contribute to stability and security in the Region,

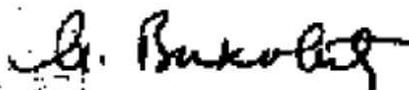
Convinced that full membership of the Republic of Montenegro in the Council of Europe is in the best interest of Montenegrin citizens and all ethnic communities, I declare that the Republic of Montenegro is determined to respect and implement all Conventions and Protocols of Council of Europe that the State Union of Serbia and Montenegro has signed and ratified so far. The Government of the Republic of Montenegro accepts in their entirety the commitments and responsibilities included in those documents, and affirm its determination to act in accordance with those provisions.

I have a great pleasure to inform you that the Republic of Montenegro fully accepts the principles of the rule of law and the exercise of human and minority rights and freedoms for all of its citizens, and is willing and able to collaborate genuinely and effectively in the implementation of the Council of Europe objectives. We are determined to further continue with the process of democratic reforms and to become as soon as possible a member of your Organisation.

I would like to point out that Government of the Republic of Montenegro will facilitate and support work of the Office in Podgorica in its present mandate until its admission to the Council of Europe.

I wish to avail myself of this opportunity to present to you and the members of the Committee of Ministers the assurances of my highest consideration.

Sincerely,



Miodrag Vlahovic  
Minister



*Republic of Montenegro*  
*Ministry of Foreign Affairs*

No: 04/14-14/663

Podgorica, June 12, 2006

Your Excellency, *Dear Terry,*

In line with the Decision on Independence of the Republic of Montenegro adopted by the Parliament of the Republic of Montenegro on June 3, 2006, which reads "The Republic of Montenegro shall apply and adhere to international treaties and agreements that the state union of Serbia and Montenegro was party to and that relate to the Republic of Montenegro and are in conformity with its legal order", as well as the Declaration of the Independent Republic of Montenegro adopted on the same session which reads that the Republic of Montenegro "shall accept and adhere to the rights and obligations that arise from existing arrangements with the European Union, United Nations, Council of Europe and the Organisation for Security and Cooperation in Europe, as well as other international organizations, that relate to Montenegro and are in conformity with its legal order, providing full support to the operation of their agencies and representations on its territory",

I would like to take this opportunity and notify that the Republic of Montenegro as a newly independent state would like to establish its successor status to all conventions, charters or agreements of the Council of Europe to which Serbia and Montenegro was party or member, including any partial agreement under the conditions established in each of them, including the financial ones, and which was in force in respect of its territory.

I would also like to confirm that the Republic of Montenegro considers itself bound by these conventions, charters and agreements of the Council of Europe, including partial agreements.

H.E. Mr. Terry Davis  
Secretary General  
Council of Europe  
Strasbourg

The Republic of Montenegro would appreciate very much if the Council of Europe would enable representatives of the Republic of Montenegro to have a status of a guest or be present in other capacity you deem adequate in all Council of Europe bodies and committees, pending its full-fledged membership in the Council of Europe.

I wish to avail myself of this opportunity to present to you and the members of the Committee of Ministers assurances of my highest consideration.

Sincerely yours,



*Miodrag Vlahović*

Miodrag Vlahovic

Minister

## Appendix IV

### **Conclusions of the eminent lawyers' report on the compliance of the legal system of the Republic of Montenegro with the Council of Europe's fundamental principles** (Report declassified by the Assembly Bureau on 6 October 2006)

#### **A. Main conclusions**

1. Montenegro had already been a member of the Council of Europe, in its capacity as federated republic of the State Union of Serbia and Montenegro, for over three years before it became independent on 3 June 2006. During this time, numerous and significant reforms have been carried out, mostly with the assistance of the Council of Europe and of other international experts, which have certainly improved the level of compatibility of Montenegrin legislation with the standards of the Council of Europe.

2. While adequate legislation is mostly now in existence, the major challenge and objective is now its implementation in practice. This requires in the first place a change in the mentality and culture of Montenegro. It also requires respect for and due application of the principles of transparency of the acts of administration and accountability of the authorities' conduct.

3. Upon becoming an independent State, Montenegro expressed its commitment to respect and implement all Council of Europe Conventions and Protocols which had been signed by the State Union.

4. The new status of Montenegro requires substantial constitutional reform to be achieved. This requirement is particularly urgent, as the level of protection of human and minority rights has lowered now that the Charter on Human and Minority Rights and Fundamental Freedoms of the State Union is no more in force.

5. In our discussions with the representatives of the opposition, we were told that there are no major political disagreements with respect to the provisions of a new constitution on human rights or the three branches of state power. Eventual disagreements concern articles of a more symbolic nature. It is to be hoped that such disputes will not prevent there being a large backing for the new constitution from the political forces, civil society and the general public. Broad support for the new constitution will help to ensure its legitimacy. A procedure for the adoption of a new constitution that is agreed on by all major political forces will also add to its legitimacy.

6. It would be highly appropriate that this reform be carried out with the assistance of the Venice Commission, as indeed is desired by both the majority and the opposition, and as has been requested by the Parliamentary Assembly.

7. Ratification of the Council of Europe Conventions (*in primis* the European Convention on Human Rights, the Revised Social Charter, the European Charter on Local Self-government) and other relevant international treaties should be effected as soon as possible.

8. Co-operation with the Council of Europe and its monitoring bodies needs to be pursued; recommendations must be taken into account. Further legislative reforms should be carried out with the assistance of the Council of Europe.

#### **B. Specific findings in respect of the standards of the Council of Europe**

##### **Democracy**

9. Constitutional reform is urgently needed, notably in the following areas:

- technical adjustments following the new status
- state of emergency
- armed forces
- human rights
- courts of law and public prosecutors.

### **Rule of law**

10. Priority areas for reform, both in the constitutional and in the legal spheres, are the independence of the judiciary (both judges and prosecutors), corruption, fight against Economic and Organised Crime and legal certainty.

11. Due implementation of the legislation that is already in conformity with European standards must be ensured as a matter of priority.

### **Human rights**

12. The Chapter on Human Rights of the 1992 Constitution needs to be revised. The catalogue of rights needs rewording and completing, in line with the European Convention on Human Rights. Provisions on the direct applicability of human rights provisions, the right to a direct constitutional complaint for individuals, the criteria for legitimately restricting certain rights, the principle of proportionality, the right to an effective remedy; and the direct applicability of human rights treaties should be added to the constitution.

13. The bases for the existence, competence, appointment procedure and guarantees of independence of the Ombudsman should be included in the constitution.

14. Due implementation of the existing legislation must become a priority.

### **National minorities**

15. The direct applicability of minority rights provisions and of minority rights treaties should be added to the constitution.

16. The principles of non-discrimination (in favour of everyone, not only citizens) and permissibility of positive discrimination should be included in the constitution. A specific law giving general application to the principles of non-discrimination and equal treatment should be enacted.

17. The criterion of citizenship should be removed from article 3 of the Law on Minority Rights and Freedoms. The legislation on citizenship should be analysed in the light of the European standards.

18. The implications of the decision of the Constitutional Court annulling articles 23 and 24 of the Law on Minority Rights and Freedoms should be carefully considered, particularly in the context of the monitoring of the Framework Convention for the Protection of National Minorities, and due attention to the principle of non-discrimination will have to be paid.

19. The conclusion of bilateral agreements with neighbouring State on the protection of national minorities is recommended.

### **C. General conclusion**

20. The legal order of the Republic of Montenegro meets the standards of the Council of Europe, provided that an appropriate constitutional reform is carried out in a manner which will ensure its legitimacy. Further legislative reform is required in certain areas. Where existing legislation is compatible with the standards of the Council of Europe, there is a general and urgent need for its full implementation.

## Appendix V

### Programme of the visit of the Rapporteur Mr Jean-Charles Gardetto (8-13 October 2006)

#### **Sunday, 8 October**

19h00 meeting with Council of Europe office in Podgorica

#### **Monday, 9 October**

9h00 Mr Bojan Obrenovic, National Co-ordinator for Fight Against Trafficking in Human Beings

9h30 Mrs Nada Drobnajk, Head of the Government Office for Gender Equality

10h00 Mr Sefko Crnovrsanin, Ombudsman

10h30 Mr Mladen Vukcevic, President of the Constitutional Court

11h00 Mr Ratko Vukotic, President of the Supreme Court  
Mr Vukoman Golubovic, President of the Court of Appeal

11h30 Mr Branislav Radulovic, President of the Administrative Court

11h45 Mrs Vesna Medenica, Supreme State Prosecutor  
Mrs Stojanka Radovic, Special Prosecutor for fight against organised crime

12h30 Mr Sabahudin Delic, Vice-Minister for protection of rights of National and ethnic groups

13h00 Mr Slavoljub Stijepovic, Minister of Labour and Social Welfare

13h30 Mr Jusuf Kalamperovic, Minister of Interior  
Mr Veselin Veljovic, Head of Police

14h15 Mrs Gordana Djurovic, Minister for Foreign Economic Relations and EU integration

14h45 Working lunch with Mr Miodrag Vlahovic, Minister of Foreign Affairs - **cancelled**

17h00 Mr Martin Harvey, Head of EU Liaison Office

#### **Tuesday, 10 October**

9h00 Mr Zeljko Sturanovic, Minister of Justice

9h30 Mrs Vesna Kilibarda, Minister of Culture and media  
Mr Slobodan Backovic, Minister of Education and science

10h15 Meeting with the representatives of "Movement for changes"

11h00 Meeting with the representatives of the coalition: "SNP, NS, DSS"

11h45 Meeting with the representatives of the coalition "Serbian List"

12h30 Meeting with the representatives of the coalition: "Liberal and Bosniak Parties"

13h15 Meeting with the representatives of the coalition "Democratic Union of Montenegro – Party of Democratic Prosperity, Albanian alternative and the Democratic Albanian Union"

14h15 Mr Milo Djukanovic, Prime Minister

- 15h30 Mr Filip Vujanovic, President of Montenegro
- 16h00 Mr Ranko Krivokapic, Speaker of the Parliament of Montenegro
- 16h45 Press release
- 17h15 Working lunch in *Villa Gorica* with Mr Milan Rocen, Chief Political Adviser to the Prime Minister

**Wednesday, 11 October**

- 8h30 United States Consulate, Mrs Arlene Ferrill, Principal Officer
- 9h30 Mr Aleksandar Zekovic, Human rights expert  
Mr Dragan Prelevic, Lawyer  
Mr Dejan Vujanovic, Barrister
- 10h45 Meeting with Student Associations:  
- NGO Association of students of Montenegro – Mr Boro Krstajic  
- ELSA (European Association of Law Students) – Mr Vlado Dedovic
- 11h30 Meeting with Trade Unions  
Union of Employers
- 12h30 NGO Juventas, Mrs Adrijana Husic  
NGO Centre for Children's Rights, Mrs Rajka Cica Perovic
- 13h30 UNICEF  
UNHCR, Mrs Robin Ellis, Head of Sub-office Podgorica; Mr John Palmer, Associate Protection Officer; Mr Aleksandar Cadenovic, Assistant Protection Officer  
International Red Cross, Mrs Svetlana Boskovic
- 15h00 *Lunch break*
- 15h30 OSCE, Ambassador Paraschiva Badescu
- 17h45 Embassy of the Former Yugoslav Republic of Macedonia, Mr Slobodan Kovaceski, Chargé d'Affaires a.i.
- 19h00 Working dinner with Mr Florian Raunig, Chargé d'Affaires at the Austrian Embassy and Mr Yann Haukaas, Head of mission, EU Monitoring mission

**Thursday, 12 October**

- 8h30 Meeting with representatives of the Catholic Church
- 9h30 Meeting with representatives of the Serbian Orthodox Church
- 10h30 Meeting with representatives of the Islam religious community
- 11h30 Meeting with representatives of the Montenegrin Orthodox Church
- 13h00 *Lunch break*
- 14h00 Meeting with the media:  
- "Dan", written press  
- TV CG (state owned) and TV IN (private)
- 15h00 Meeting with the media:

- "Vijesti", written press
- Radio Free Europe, radio
- 

16h30 General Consulate of the Russian Federation, Mr Andrey V. Ermolenko, Chargé d'Affaires a.i.

**Friday 13 October**

9h00 Press conference

## Appendix VI

### **Letter sent by the Chairman of the Political Affairs Committee of the Parliamentary Assembly to the authorities of Montenegro concerning the seven minimum principles to be included in the constitution of the Republic of Montenegro**

Strasbourg, 22 January 2007

Dear President,  
Dear Prime Minister,  
Dear Speaker of the Parliament of Montenegro,

In accordance with the mandate given to Mr Jean-Charles Gardetto, Rapporteur on the accession of Montenegro to the Council of Europe, by the Political Affairs Committee of the Parliamentary Assembly of the Council of Europe, a list of the key items to be incorporated in the Constitution of Montenegro has been drawn up and agreed upon together with the Rapporteurs for opinion, Mr Holovaty, from the Monitoring Committee and Mr Jurgens, from the Committee on Legal Affairs and Human Rights.

On behalf of the Political Affairs Committee, I have pleasure in transmitting to you herewith this list which includes minimum principles which the authorities of Montenegro, namely the President, the Prime Minister and the Speaker of the Parliament of Montenegro, should commit themselves to include in their constitutional reform, prior to accession to the Council of Europe. It would be equally desirable if the leaders of the main opposition parties also signed this list. The list represents a first step in the accession procedure of the Republic of Montenegro to the Council of Europe and does not constitute the final list of commitments to be fulfilled by the Republic of Montenegro.

May I point out that the procedure by which you commit yourselves, *vis-à-vis* the Parliamentary Assembly, in accepting the key items set out in the list could take any of the following forms: by means of amendments to the 1992 Constitution, by the inclusion of these items in a new constitution, by the adoption of a parliamentary resolution, with a majority of more than two thirds, of the Constituent Assembly of Montenegro accepting those items or by the adoption of a political declaration, with at least a two thirds majority, considered binding by the parties, signed by the Speaker of Parliament, the government and the leaders of the main opposition parties.

I am convinced you will agree on the procedure and sincerely hope you will accept this list, thus allowing the Parliamentary Assembly to proceed further with the procedure of accession of the Republic of Montenegro to the Council of Europe.

A copy of this letter will be sent to the heads of the political groups represented in the Parliament of Montenegro, including the main leaders of opposition parties with a view to the further procedure.

I thank you in advance for your co-operation and express my confidence in the successful continuation of the accession procedure.

Yours sincerely,

Abdulkadir Ateş

Cc: Mr Miodrag Vuković, DPS  
Mr Ivan Brajović, SDP  
Mr Novak Radulović, Serb List  
Mr Velizar Kaluđerović, SNP  
Mr Dragan Šoć, NS-DSS  
Mr Srđan Brajović, Movement for Changes  
Mr Kemal Purišić, Liberal – Bosniac Party  
C/o Parliament of the Republic of Montenegro  
Podgorica  
REPUBLIC OF MONTENEGRO

## Appendix VII

### **Proposals of the seven minimum principles to be included in the constitution of the Republic of Montenegro**

Drawing from the Eminent Lawyers report on the conformity of the legal order of the Republic of Montenegro with the Council of Europe standards, it is to be underlined that constitutional reform in Montenegro is urgently needed and that the following minimum principles should be included in the Constitution of the Republic of Montenegro:

- 1) the constitution must stress that the Republic of Montenegro is a civic state, based on civic principles by which all persons are equal and not on the equality between constituent peoples;
- 2) the constitution must provide for the independence of the judiciary and recognise the imperative of avoiding any decisive role of political institutions in the procedure of appointment and dismissal of judges and prosecutors;
- 3) in order to avoid conflict of interests, the role and tasks of the Public Prosecutor should not include, both the application of legal remedies for the protection of constitutionality and legality and the representation of the Republic in property and legal matters;
- 4) the efficient constitutional protection of human rights must be ensured. The constitution should provide for the direct applicability of the human and minority rights, as was recognised in the Charter on Human and Minority rights of Serbia and Montenegro. The constitutional reform therefore needs to provide for at least the same level of protection of human rights and fundamental freedoms as the one provided for in the Charter, including the rights of minorities;
- 5) the constitution should state that capital punishment is prohibited at all times;
- 6) the constitution should include transitional provisions for the retrospective applicability of human rights protection to past events. It should also include provisions on the retrospective applicability of the European Convention on the protection of Human Rights and Fundamental Freedoms and Protocols;
- 7) the constitution should regulate the status of the armed forces, security forces and intelligence services of Montenegro and the means of parliamentary supervision. It should provide that the position of the commander-in-chief be held by a civilian.

## **Appendix VIII**

**Declaration of 8 February 2007 from the authorities of the Republic of Montenegro in response to the list of the seven minimum principles to be included in the constitution of the Republic of Montenegro**



*Republic of Montenegro  
Constitutional Parliament*

*N<sup>o</sup>.01-GL-04/07*

*Podgorica 8. Feb 2007.*

With regard to the Proposal of the minimum principles that need to be incorporated in the Constitution for the purpose of accession of Montenegro to the Council of Europe, marked by the Council of Europe Committee for Political Issues under reference number 03/07 and dated January 22, 2007, addressed to the President of Montenegro, the Speaker of the Parliament and the Prime Minister, and also delivered to the president of the caucuses in the Parliament of the Republic of Montenegro;

Stemming from the fundamental commitment defined in the Declaration on Independence of Montenegro, dated June 03, 2006, that Montenegro as an independent state will still "continue to develop itself as a civil state, a multinational, multiethnic and multi-confessional society, based on respect for and protection of human and minority rights and liberties, principles of parliamentary democracy, rule of law and market economy, which will be improved by the adoption of the new Constitution";

Confirming the unanimous readiness of all the caucuses and Members of the Parliament expressed in the Parliamentary Declaration dated June 08, 2005 that "with all the political differences, efforts will be made to implement the European standards and speed up the European integration of Montenegro";

Accepting the principles, achievements and goals that the Council of Europe and the European Union are based upon;

*The highest representatives of the caucuses and the overall Constitutional Parliament and the Government of Montenegro, have agreed to define the following*

DECLARATION

on

the acceptance of minimum principles that need to be incorporated in the Constitution for the purpose of accession of Montenegro to the Council of Europe

Having in mind the importance of the adoption of the new Constitution in the shortest period of time, with this Declaration, *the highest representatives of the caucuses and the overall Constitutional Parliament and the Government of Montenegro* express their full readiness to incorporate into the new Constitution, in the definition of which there are intensive and expedient activities underway, the principles recommended by the Committee of the Council of Europe for Political Issues in the letter no. 03/07, dated January 19, 2007, and which was agreed at the session of the Political Committee held on January 22, 2007.

At the same time, having in mind that for none of the standards there is unified, especially constitutional-legal definition, *the highest representatives of the caucuses and the overall Constitutional Parliament and the Government of Montenegro*, also express their full openness to establish even closer cooperation with the Council of Europe with regard to the development and implementation of the Constitution.



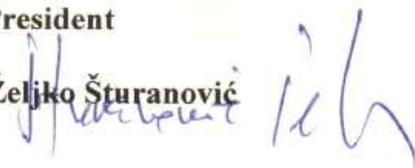
**Republic of Montenegro  
Constitutional Parliament**

**President**

  
**Ranko Krivokapić**

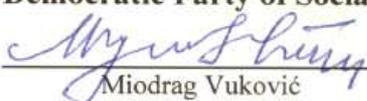
**Republic of Montenegro  
Government**

**President**

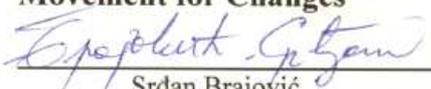
  
**Željko Šturanović**

**Chiefs of Political Groups  
In the Constitutional Parliament**

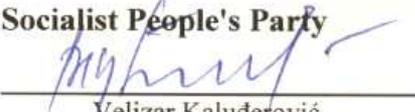
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Miodrag Vuković

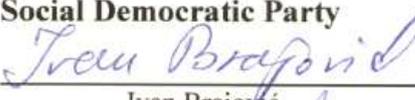
**Movement for Changes**

  
Srđan Brajović

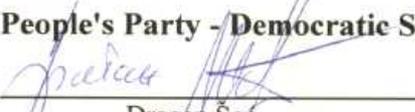
**Socialist People's Party**

  
Velizar Kaluderović

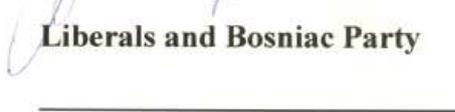
**Social Democratic Party**

  
Ivan Brajović

**People's Party - Democratic Serbian Party**

  
Dragan Šoć

**Liberals and Bosniac Party**

  
Kemal Purišić

**Representative of  
Albanians Parties**



Podgorica,  
8. February, 2007.

*Reporting Committee:* Political Affairs Committee.

*Reference to Committee:* No. 3245 of 26 June 2006

*Draft opinion* unanimously adopted by the Committee on 12 March 2007

Members of the Committee: Mr Abdülkadir **Ateş** (Chairman), Mr Konstantion Kosachev (Vice-Chairman), Mr Zsolt Németh (Vice-Chairman), Mr Giorgi Bokeria (Vice-Chairman), Mr Miloš **Aligrudić**, Mr Birgir Ármannsson, Mr Claudio Azzolini, Mr Andris Bērziņš, Mr Alexandër Biberaj, Ms Raisa **Bohatyryova**, Mr Luc **Van den Brande**, Ms Cornelia Cazacu, Mr Lorenzo Cesa, M. Mauro Chiaruzzi, Ms Elvira **Cortajarena**, Ms Anna **Čurdová**, Mr Noel Davern, Mr Dumitru Diacov, Mr Michel **Dreyfus-Schmidt**, Ms Josette **Durrieu**, Mr Mikko **Elo**, Mr Joan Albert Farré Santuré, Mr Pietro Fassino (alternate: Mr Pietro **Marcenaro**), Mr Per-Kristian Foss, Ms Doris Frommelt, Mr Jean-Charles **Gardetto**, Mr Charles Goerens, Mr Andreas **Gross**, Mr Jean-Pol Henry, Mr Serhiy **Holovaty**, Mr Joachim Hörster (alternate: Mr Eduard **Lintner**), Mr Tadeusz **Iwiński**, Mr Miloš **Jeftić**, Ms Darja Lavtižar-Bebler, Mr Göran **Lindblad**, Mr Younal Loutfi (alternate: Mrs Iliana **Iotova**), Mr Mikhail **Margelov**, Mr Tomasz **Markowski**, Mr Dick Marty, Mr Frano Matušić, Mr Murat Mercan, Mr Jean-Claude Mignon, Mr Marko **Mihkelson**, Ms Nadezhda Mikhailova, Mr Aydin Mirzazada, Mr João Bosco **Mota Amaral**, Ms Natalia Narochitskaya, Mr Grygoriy Nemyrya, Mr Fritz Neugebauer, Mr Pieter Omtzigt, Mr Theodoros Pangalos, Ms Elsa Papadimitriou, Mr Christos Pourgourides, Mr Gordon Prentice, Mr Gabino **Puche**, Mr Lluís Maria **de Puig**, Mr Jeffrey Pullicino Orlando, Mr Andrea Rigoni, Lord **Russell-Johnston**, Mr Oliver Sambevski, Mr Ingo Schmitt, Ms Hanne Severinsen (alternate: Mr Per **Kaalund**), Mr Samad Seyidov (alternate: Mrs Gultakin **Hajiyeva**), Mr Leonid **Slutsky**, Mr Rainer **Steenblock**, Mr Zoltán **Szabó**, Baroness Taylor of Bolton (alternate: Mr Nigel **Evans**), Mr Mehmet **Tekelioğlu**, Mr Tigran Torosyan, Mr Mihai Tudose (alternate: Mrs Florentina **Toma**), Mr José Vera Jardim, Ms Biruté Vesaitė, Mr Björn Von Sydow, Mr Varujan Vosganian, Mr Harm Evert **Waalkens**, Mr David **Wilshire**, Mr Wolfgang Wodarg, Ms Gisela Wurm, Mr Boris **Zala**, Mr Krzysztof **Zaremba**, ZZ...(alternate: Mrs Miroslava **Nemcova**).

*Ex-officio:* MM. Mátyás Eörsi, Tiny Kox

N.B.: The names of the members who took part in the meeting are printed in **bold**

*Head of the Secretariat:* Mr Perin

*Secretaries to the Committee:* Mrs Nachilo, Mr Chevtchenko, Mrs Sirtori, Mrs Pieter, Mr Alarcon I Jimenez