



A policeman maintains order during a pro-independence rally in Podgorica, ahead of the 21 May 2006 referendum in the Republic of Montenegro. © OSCE/Gunnarsdottir

The dominating issue in Montenegro in 2006 was the country's future status - independence from the union with Serbia, an issue that diverted attention from urgently needed reforms in many sectors of public life such as the economy, the judicial system, and social security. In addition, authorities failed to make decisive efforts to fight widespread organized crime and corruption.

The international community, and especially the European Union (EU) and the Council of Europe's Venice Commission were involved in the decision-making process over Montenegro's status. The referendum held on 21 May favored independence, a decision that was confirmed by a declaration passed by the parliament on 3 June.¹ The newly re-established state became a member of the OSCE, the UN and other international intergovernmental organizations, which gave Montenegrin authorities new, full competences, but also responsibilities with regard to human rights protection.

Expectations that Montenegrin authorities would channel their energies to long-awaited reforms after the status issue was solved were not fulfilled. Although the general and local elections again required much attention, the slow pace of other political processes relating to human rights protection was unreasonable and unjustified. In the same vein, the formation of the new government was prolonged and the process of creating a new constitution for Montenegro was slowed down.

The slow progress made in the establishment of new institutions and the adoption of a new constitution was partly attributable to the fact that most opposition parties that had promoted the idea of a joint state with Serbia did not formally recognize the results of the referendum and embarked to obstruct the reorganization process. Some of them, for example the Serbian People's Party and the part of the opposition that still followed the "Greater Serbia" project, openly proclaimed that they still aimed at making Montenegro part of a

union with Serbia. All opposition parties, however, later participated in the general and local elections.

While in the pre-referendum era Serbia was in many ways directly involved in the governing of Montenegro, its strategy after independence was - as defined by Serbia's new constitution - that as the "mother state" of all Serbs its obligation was to take care of Serbs no matter where they lived. This attitude went so far as to make some Serbian politicians promise to grant Serbian citizenship to all Montenegrin citizens who declared themselves Serbs.

Referendum and elections

Referendum

On 21 May a referendum on the status of Montenegro was held. It was partly based on the Law on Referendum on State and Legal Status of the Republic of Montenegro, which prescribed a threshold of 55% of all valid votes as the qualified majority necessary for a decision to re-establish independence and to be recognized by the international community. The law was an outcome of the international community's cooperation.

Independence was established with a narrow margin of 55.5% of the vote, while 44.5% voted against it.

According to both local and international observers, the referendum process was carried out in a peaceful, correct and democratic manner, and generally according to international standards; the minor irregularities reported did not influence the result. The only notable issue that was criticized by many was the 55-percent threshold demanded by the EU, a requirement that had never been applied to any other elections in Europe. While the proponents of independence charged Serbia - and particularly the Serbian army's secret service and the Serbian Orthodox Church - with illegitimate interference in the election campaign, the opponents of independence

claimed that resources of Montenegrin state institutions were used to promote the pro-independence campaign.

Elections

The 10 September parliamentary and local elections enjoyed a special character in that the parliament elected was responsible for adopting the constitution of the independent Montenegro. According to observers (including the Montenegrin Helsinki Committee, MHC) the elections were held in a democratic atmosphere and without significant irregularities.

However, some legal provisions of election legislation were not in compliance with international standards: for example, as the voters only voted for a party list, not an individual candidate, the law allowed party leaders to select their deputies for parliament.

The victor of the elections was the coalition of the Democratic Party of Socialists and the Social Democratic Party, who won the absolute majority. The coalition government formed later included also other parties, for example parties promoting the rights of ethnic Albanians and Croatians.

Torture, ill-treatment and police misconduct

The MHC received many reports of alleged torture or other inhuman or degrading treatment or punishment.

◆ In the most prominent case, a group of 14 ethnic Albanians were arrested on 9 September during a police operation called "Eagle's Flight" and charged with criminal association, terrorism and illegal possession of weapons and explosive materials. Later, two of them were released but at the same time another two Albanians were arrested for the same activities. At a press conference to announce the arrests police made a show of weapons and explosive materials allegedly discovered during the operation. The incident gained

considerable media coverage due to its timing just ahead of the general election, and therefore had important political implications. The MHC, which investigated the case after being alerted three hours after the arrests, established that the police had used disproportional and illegal force against some of the arrested persons and their family members, and at least a number of them during arrest and investigation. The detainees demanded an independent investigation into their case, however, only an internal police investigation was initiated and that happened only after the case had garnered international attention. The prosecutor then also paid interest in the case - the process was pending at year's end. The police insisted that they had used legal force.

Freedom of religion and the right to cultural heritage

The right to freedom of religion or belief continued to be violated. Both legal regulations and practices fell short of international standards, and the situation worsened toward the end of 2006, after the re-establishment of independence.

The Law on Legal Position of Religious Communities adopted in 1977 (during the communist era) was not in line with international standards. In addition, the authorities continued to grant the Serbian Orthodox Church a privileged status reminiscent of that of an official state church, citing its "special legal status" but failing to point out on which provisions such status was based on. Other religious communities, particularly the Montenegrin Orthodox Church and its priests and believers, were in a clearly discriminatory position.² This special status of the Serbian Orthodox Church was reflected in all sectors of life, including in legal cases in which it was involved: judgments against the church were not executed while those in its favor were. What is more, Montenegrin president Filip Vujano-

vic in November publicly declared that his policy of favoring the Serbian Orthodox Church lie in his "obligation" to respect the internal rules of that church.

Intentional destruction of cultural heritage³

Intentional destruction of cultural heritage and the absence of governmental reaction to prevent this was part of the government's policy vis-à-vis religions. The long-standing problem of preservation of tangible and intangible cultural heritage - much of which was related to Montenegrin religious sites and traditions - persisted and the new government showed no capacity or political will to solve it.

The issue of systematic and deliberate destruction of Montenegrin cultural heritage dates back to early 1990s. Since then, for example, the archeological sites of Doclea, Martinicka Gradina, and Zlatica - all of major importance to Montenegrin culture - have been largely destroyed, and the Serbian Orthodox Church has continued to gain sole ownership rights of some church buildings from the early Christian period without solid legal and cultural basis for property rights. The most serious case, however, was the damage caused by a Serbian army helicopter to an unexplored archeological site on the top of the Rumija mountain in June 2005 and the erection of a Serbian Orthodox church building on the site - both acts violated national and international law (including UNESCO conventions) and were perceived as serious insults by Montenegrins against their cultural heritage. While there was an official decision from a government agency to remove the Serbian church building, the decision was not implemented.

According to the MHC, the Serbian Orthodox Church in Montenegro, and possibly also official Serbian governmental bodies, were involved in many incidents of destruction of cultural heritage, with the in-

tion of destroying evidence of the historic continuity of Montenegrin traditions and identity and an attempt of forced assimilation of Montenegrins into Serbian culture.

International humanitarian law

On a positive note, the chief prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY), Carla Del Ponte stated that Montenegrin officials' cooperation with the tribunal was satisfactory in 2006. In addition, some progress was made in cooperation with the neighboring countries, particularly with Croatia, in prosecuting war crimes due to an agreement between chief state prosecutors to pursue such cases in national courts. Nevertheless, while several war crime trials continued during the year, Montenegro failed to completely fulfill its obligations to investigate war crimes and indict their perpetrators in national courts.

◆ The state prosecutor brought criminal charges against six persons who were high-ranking Montenegrin police officers in the 1990s because of their alleged partic-

ipation in the so-called Herceg Novi case. The case dates back to 1991 when at least 83 refugees from Bosnia and Herzegovina, 49 of them Muslims, were forcibly returned by Montenegro to a region in Bosnia controlled by Radovan Karadzic's troops. Most of the returned Muslims were reportedly killed. The investigation into the case was still ongoing at year's end and there was criticism that progress was intentionally obstructed by Montenegrin authorities. A number of family members of the deported persons initiated civil proceedings for compensation for damage. While some first instance decisions were reached in 2006, no final sentences were pronounced and criticism was voiced that these trials were unreasonably prolonged.

The so-called Kaludjerski Laz case involved the killing between March and May 1999 of 20 Albanian civilians in Kaludjerski Laz, some of them while crossing the border between Kosovo and Montenegro. The civil proceedings for compensation were at an initial stage and, pending police investigation, no decision was met by the end of 2006 on possible criminal proceeding.

SOURCES FOR FURTHER INFORMATION:

◆ Montenegrin Helsinki Committee, e-mail: montheco@cg.yu

Other organizations:

- ◆ Center for Monitoring (CEMI), at www.cemi.cg.yu
- ◆ Center for Democracy and Human Rights (CEDEM), at www.cedem.cg.yu
- ◆ Center for Democratic Transition (CDT), www.cdt.org
- ◆ Amnesty International, at www.amnesty.org

Endnotes

¹ Decision on Proclamation of Independence of the Republic of Montenegro and the Declaration of the Independent Republic of Montenegro.

² The privileged status of the Serbian Orthodox Church dates back to 1920 when Aleksandar Karadjordjevic, by a decree, established this church from many independ-

ent Orthodox Churches, among which was the Montenegrin Orthodox Church. In 1993, Montenegrin Orthodox believers re-established the Montenegrin Orthodox Church, but all church building and other property officially remained in the possession of the Serbian Orthodox Church. Members of the Montenegrin Orthodox Church still cannot access the churches that once belonged to them.

³ For details on this issue, see IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2006 (Events of 2005)*, at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4255.