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Consequences of the referendum in Montenegro

Opinion¹

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Rapporteur: Mr Jean-Charles Gardetto, Monaco, European People's Party

I. Conclusions of the Committee

1. The Monitoring Committee welcomes the draft resolution presented by the Political Affairs Committee on the consequences of the referendum in Montenegro, as the text fully takes into account the views and ideas expressed by the Rapporteur of the Monitoring Committee in a prior consultation.
2. For his part, the Rapporteur of the Monitoring Committee has based his contribution on previous conclusions of the co-Rapporteurs of the Monitoring Committee on Serbia and Montenegro and on the two exchanges of views that the Committee held following the latest monitoring visit by the co-Rapporteur Mr Goerens to Serbia and Montenegro: on 19 May in Budapest, with the participation of a member of the State Union parliament and on 6 June in Paris with the participation of Mr Ranko Krivokapić, Speaker of the Montenegrin parliament.
3. Furthermore, the Rapporteur for opinion of the Monitoring Committee chaired the *ad hoc* Committee of the Bureau of the Parliamentary Assembly which observed the referendum on state status in Montenegro and was able to obtain first-hand impressions of the way it was prepared and held. The *ad hoc* Committee concluded that the referendum was generally conducted in accordance with Council of Europe and other international standards for democratic electoral processes and that it gave voters a genuine opportunity to express their views on the future status of Montenegro through the exercise of direct democracy.
4. The obligations and commitments of Serbia and Montenegro to the Council of Europe emanate from Assembly [Opinion 239](#) (2002), which related to the application for membership of what was then the Federal Republic of Yugoslavia. Following the Belgrade Agreements and the adoption of the Constitutional Charter, the State Union of Serbia and Montenegro became member of the Council of Europe in April 2003. Both Assembly [Opinion 239](#) (2002) and the Assembly [Resolution 1397](#) (2004) on the functioning of democratic institutions in Serbia and Montenegro state commitments which are common and others which apply specifically to Serbia or to Montenegro.
5. Since accession to the Council of Europe, the State Union of Serbia and Montenegro has been under the monitoring procedure in the Parliamentary Assembly and under a specific monitoring procedure of the Committee of Ministers, under which the Secretary General has presented ten reports on compliance with obligations and commitments. The monitoring procedures have so far developed in a spirit of cooperation and good will and have witnessed significant progress in several areas.
6. Both in its Declaration of Independence and in its request for membership in the Council of Europe, the Republic of Montenegro has committed itself to respecting and implementing all

the Council of Europe conventions and protocols that had been signed and ratified by the State Union of Serbia and Montenegro and in the first place the European Convention on Human Rights. The Montenegrin Government accepts in their entirety the commitments and responsibilities included in these documents and is determined to act in accordance with their principles.

7. Montenegro had been fully integrated in the Council of Europe within the framework of the State Union prior to its dissolution. Therefore, pending membership, the ties between the organisation and Montenegro should remain as close as possible, in order: to keep the pace of the reforms undertaken with Council of Europe assistance; to assist most usefully the democratic transformations that will be needed in the process of building an independent state; to ensure the best possible level of cooperation between the Council of Europe and its Montenegrin partners.

8. Consequently, the process of negotiation of the commitments and obligations that the Republic of Montenegro will have to enter upon accession, should ensure continuity with the all the applicable commitments entered by the State Union and build on them in the best adapted and most constructive way. The Monitoring Committee should be involved in this process.

9. The Republic of Serbia, which has assumed the continuation of the State Union in the international community, has assumed all the relevant obligations and commitments of the State Union. It is clear that in this new situation these commitments have to be reviewed and redefined, in constant dialogue with the authorities, parliament, political forces and civil society. This is needed not simply for the sake of coherence, but first and above all in order to assist the country most usefully in the important challenges that it is currently facing. The Council of Europe must therefore more than ever give the Republic of Serbia strong encouragement and step up dialogue and cooperation, in order to enhance the role Serbia can play for peace and stability in the region, to ease the increasing feeling of isolation and frustration amongst Serbian citizens and counteract the raising influence of radical nationalist forces. The Council of Europe has to fully support Serbia also in the preparation of its Chairmanship of the Committee of Ministers, starting in May 2007.

10. Although the commitments related to the functioning of the State Union are no longer applicable, a major current obligation for both Serbia and Montenegro, stemming from these commitments, is to ensure that all the issues pertaining to the dissolution of the State Union are handled in the most constructive and democratic way.

II. Proposed amendments to the draft resolution

11. The committee proposes the following amendments:

Amendment 1

In paragraph 9, after the words "The Assembly will spare no effort to support Serbia" replace the rest of the paragraph with the following text:

"where there is a risk that the multiple challenges that it is currently facing in a climate of political instability would further increase the feeling of isolation and frustration amongst Serbian citizens and the support for radical nationalist forces. Now is the time for Serbia to concentrate on its own priorities, such as to replace the Milosevic's era constitution, to engage in urgently needed reforms, to solve the problem of the new ministries, especially those of foreign affairs and defence, to negotiate the future status of Kosovo and to deal with the consequences of the suspension of the negotiations with the European Union for a Stabilisation and Association Agreement (SAA) because of its failure to comply with the requirements of the International Criminal Tribunal for Former Yugoslavia".

Amendment 2

In paragraph 11, replace the words: "allow Montenegrin students to pursue their studies under the same conditions as Serbs" by "continue to give Montenegrin students the same status as that enjoyed by students of Serb ethnicity from neighbouring countries"

Amendment 3

After paragraph 11, insert a new paragraph as follows:

"The Montenegrin referendum has been widely referred to in different parts of Europe and the world as a potential precedent for settling conflicts and satisfying people's aspirations for independence. The Assembly however wishes to stress that the independence of Montenegro results from specific constitutional arrangements in the framework of the State Union which had been democratically negotiated between the two states and had the stamp of international approval. The Montenegrin referendum should therefore be considered as an example above all in terms of its peaceful and democratic nature and not as a model to be automatically followed in other situations, especially where separatist or self-proclaimed political entities are trying to deny internationally recognised sovereignty and territorial integrity of a state".

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Reporting Committee: Political Affairs Committee

Committee for opinion: Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Reference to committee: Reference No. 3247 of 26 June 2006

Opinion unanimously approved by the Committee on 27 June 2006

Secretaries of the Committee: Mrs Ravaud, Mrs Chatzivassiliou, Mrs Theophilova-Permaul, Mrs Odrats

¹ See Document 10980 tabled by the Political Affairs Committee.