



Office for Democratic Institutions and Human Rights

## REPUBLIC OF MONTENEGRO

### REFERENDUM ON STATE-STATUS

21 May 2006

**OSCE/ODIHR Referendum Observation Mission  
Final Report**



Warsaw  
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**REPUBLIC OF MONTENEGRO**  
**REFERENDUM ON STATE-STATUS**  
**21 May 2006**

**OSCE/ODIHR Referendum Observation Mission**  
**Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

The 21 May 2006 referendum on the state-status of the Republic of Montenegro provided its citizens with a genuine opportunity to determine the future course of Montenegro as an independent state. This was achieved through a referendum process that ensured this long-standing issue could be determined peacefully, with legitimacy and certainty. Overall, the referendum was conducted in line with OSCE and other international standards related to democratic electoral processes.

The legal framework for the referendum provided a solid basis for the conduct of a referendum that respected fundamental democratic rights and, in general, met with international standards for electoral processes that apply to the holding of referenda. The 2006 special referendum law was the result of a consensus that followed political party negotiations in early 2006, and was able to maintain cross-party political support for its full implementation, including on contentious issues such as the majority requirement for the decision to be made. In a number of key areas, the special referendum law demonstrated an improvement to the wider legislative framework that govern elections in Montenegro and could serve as a model for forthcoming elections in Montenegro, as well as for any future referendums.

Throughout the referendum process, the Republican Referendum Commission (RRC) and the 21 Municipal Referendum Commissions functioned well and operated in a fully transparent manner. Equal participation by both sides in the referendum commissions, as well as the effective role played by an independent chairperson of the RRC, strengthened confidence amongst political actors in the referendum administration. Although RRC members tended to vote along partisan lines, many of the key decisions in the preparatory phase of the referendum were taken with consensus. On referendum day, there was a notable level of cooperation amongst polling board members from different sides. However, in the post-referendum period, a notably less harmonious approach was taken by members of the RRC.

The quality and accuracy of the voter registration in Montenegro are of a high standard, although practical shortcomings exist. A total of 484,718 voters were registered for the referendum, with over 21,000 names added to the voter register during the public inspection period. As with previous elections, the voter registration process was challenged by opposition political parties. However, significant transparency afforded the inspection of relevant data on the eligibility of citizens to vote. This increased cross-party confidence in the accuracy of voter lists, and addressed many of the complaints that had been submitted.

The competitive pre-referendum environment was marked by an active and generally peaceful campaign that ensured that voters across the country were well-informed of both

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<sup>1</sup> During the preparation of this report, the authorities of Montenegro scheduled the parliamentary and municipal elections for 10 September 2006.

viewpoints reflected by the referendum question. While both referendum options utilized extensive and well-planned media advertising campaigns and rallies, campaign activity tended to focus on door-to-door canvassing. The quality of the campaign benefited from a number of televised debates between political leaders and significant public funding. Both referendum options respected the right of the other to express an opinion, although there were a number of instances of negative campaigning and government involvement in the campaign of the pro-independence option. There were no reports of restrictions on fundamental civil and political rights.

Broadcast and print media provided voters with diverse views and enabled them to make informed choices between distinct alternatives. An effective regulatory framework for the campaign period contributed towards more balanced opportunities for equal coverage, with the public broadcast media offering equal free airtime to both referendum options. The public TVCG1 gave overall equal access to both campaigns but favoured to an extent pro-independence views in news coverage. Print media often showed partiality for either pro-independence or pro-union campaigns, and occasionally published inflammatory news-reports. Although there was no direct campaigning in the media during the pre-referendum silence period, many instances of indirect support of independence were noted.

Over fifty complaints were submitted to the RRC and/or to the public prosecutors before the referendum-day. Most complaints related to alleged problems with the voter register but some 20 claimed criminal acts, including pressure on employees, to vote in favour of independence or to not vote. One high-profile conviction resulted in the imprisonment of pro-independence activists for vote-buying activities. In general, the complaints resolution and appeals process worked effectively; however, during the post-referendum period the procedures proved to be more problematic. The transparency of the referendum was significantly strengthened by an active participation of civil society groups and domestic non-partisan observers.

Voter turnout on 21 May was at 86.5 per cent, reflecting high voter interest in the referendum. Polling on referendum day proceeded smoothly, with a generally calm atmosphere. International observers characterized the polling day proceedings as “very good” or “good” in more than 96 per cent of observation reports. The procedures for the counting of votes and tabulation of results were assessed in a similarly positive manner. Isolated cases of procedural irregularities were noted and in two instances, there were circumstances that indicated vote-buying schemes. Following the announcement of preliminary results, some 210 complaints were submitted by the pro-union bloc, the majority of which related to the voter register. All complaints were dismissed by the RRC using the casting vote of its chairperson.

Final results were announced on 31 May. With 55.5 per cent of valid votes being cast in favour of independence, the referendum was passed. The Montenegrin parliament acknowledged the decision of the referendum on 3 June and declared Montenegro to be independent.

The OSCE/ODIHR stands ready to continue its support for the efforts of Montenegrin authorities, political parties and civil society to further improve electoral practices in Montenegro.

## II. INTRODUCTION AND ACKNOWLEDGMENTS

Following invitations to observe the 21 May 2006 referendum on state-status, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Referendum Observation Mission (ROM) in the Republic of Montenegro on 28 March 2006. The OSCE/ODIHR ROM, headed by Mr. Jørgen Grunnet (Denmark), consisted of 29 experts and long-term observers (LTOs) based in Podgorica and six other regional centres covering all 21 municipalities in Montenegro. The OSCE/ODIHR ROM closed operations on 2 June following the announcement of final results on 31 May.

For observation of referendum day, the OSCE/ODIHR ROM joined efforts with the observer delegations of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the Congress of Local and Regional Authorities of the Council of Europe (CLRAE) and the European Parliament (EP) to form an International Referendum Observation Mission (IROM). Professor Nevzat Yalçintaş (Turkey), Head of the OSCE PA delegation, was appointed by the OSCE Chairman-in-Office as Special Coordinator to lead the Short-Term OSCE Observer Mission. On referendum day, 365 short-term observers from 35 OSCE participating States, including 54 from the OSCE PA, 18 from the PACE, 12 from the European Parliament and 14 from the CLRAE, were deployed within the IROM.

The OSCE/ODIHR ROM assessed compliance of the referendum process with OSCE commitments and other international standards for democratic electoral processes, and domestic legislation. This final report follows a statement of preliminary findings and conclusions which was released at a press conference on 22 May 2006, and is available on the OSCE/ODIHR website ([www.osce.org/odihr](http://www.osce.org/odihr)), as are the reports of the previous observations missions deployed by the OSCE/ODIHR since 1997.

The OSCE/ODIHR ROM is grateful to the authorities, the Republican Referendum Commission, political parties and civil society of the Republic of Montenegro for their co-operation. The ROM also wishes to express its appreciation to the OSCE Mission in Serbia and Montenegro, its Office in Montenegro, and the resident diplomatic missions of OSCE participating States and international organisations for their support.

## III. REFERENDUM CONTEXT

The 21 May 2006 referendum on the state-status of the Republic of Montenegro addressed the long-standing issue as to whether Montenegro should be an independent state or remain in the State Union with Serbia. The referendum provided an opportunity for the citizens of Montenegro to determine the future of their state's status through a genuine exercise in direct democracy that ensured the decision on independence was taken peacefully and with legitimacy and certainty.

The State Union of Serbia and Montenegro was established in 2002 by the "Belgrade Agreement" as the successor state to the Federal Republic of Yugoslavia. The Constitutional Charter of the State Union placed *inter alia* a three-year moratorium on the holding of any referendum on independence by either member of the State Union. Following the expiry of that moratorium, the Government of Montenegro indicated its intention to hold a referendum

for Montenegro to leave the State Union and to become an independent state with full international and legal personality.

The political landscape in Montenegro has long been characterised by deep polarisation on the issue of independence versus union with Serbia, that was reflected in the differences between political parties. The independence of Montenegro had been the key platform of the ruling Party of Democratic Socialists (DPS) and its coalition partners in recent elections. The parliamentary opposition, led by the Socialist Peoples' Party (SNP), strongly opposed independence. To some extent, political opinions on independence also echoed the diverse demographic composition of the approximately 670,000 members of the Montenegrin population<sup>2</sup>.

Such divisions were reflected in a lack of consensus between political actors on the conditions for the conduct of a referendum on state-status. To address this impasse, the European Union (EU) High Representative for the Common Foreign and Security Policy, Mr. Javier Solana, appointed a Special Envoy, Ambassador Miroslav Lajcak (Slovakia), to lead negotiations on reaching an agreement. A framework on the conditions for the referendum was agreed in February 2006, with compromises being found on all contentious issues, including the majority requirements for the referendum to pass, and politically balanced referendum administration led by an independent chairperson. It was notable that there was wide, cross-party support to the agreed framework for the referendum throughout the campaign period.

The legal framework for the referendum provided for two separate blocs to campaign on the referendum question. The pro-independence bloc (PIB) was composed of the ruling DPS, led by Prime Minister Milo Djukanović, the Social Democratic Party (SDP), the Democratic Union of Albanians (DUA), the Democratic League of Montenegro (DSCG), the Liberal Party (LP), the Civic Party (GS) and the Bosniak Party (BP). The Pro-Union Bloc (PUB) was made up of political parties that form the parliamentary opposition, and were led by the SNP of Mr. Predrag Bulatović, the People's Party (NS), the Serbian People's Party (SNS) and the Democratic Serbian Party (DSS). The PUB also included a newly established coalition of Bosniak non-governmental organizations. The referendum was given a further political impetus by the fact that parliamentary elections, as well as a number of key municipal elections, were foreseen for autumn of 2006.

#### **IV. LEGAL FRAMEWORK FOR THE REFERENDUM**

##### **A. APPLICABLE LEGISLATION**

The constitutional basis for the referendum was provided by the Constitutional Charter of the State Union of Serbia and Montenegro (2003) and the Constitution of the Republic of Montenegro (1992), both of which required for a referendum to be held to effect any change in the state-status of the Republic. The 1992 Constitution (Articles 2 and 119) contained provisions where there could have been different interpretations on whether a decision by a referendum to change state-status was immediately binding or still required the approval of parliament.

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<sup>2</sup> According to the 2003 census, Montenegro consists of around 40 per cent Montenegrins, 30 per cent Serbs, 14 per cent Bosniaks and Muslims, 7 per cent Albanians, 1 per cent Croats and 1 per cent Roma.

The framework for the referendum was established by a *lex specialis*, the Law on the Referendum on State Legal Status (LRSLs), which was adopted by the Parliament of Montenegro on 1 March 2006 following the extensive consultations between the two sides of the referendum issue. In areas not covered by the LRSLs, provisions from a series of other laws applied, including the Law on Referendums (2001), the Law on the Election of Councillors and Representatives ('the Election Law') (2000, as amended) and the Law on Voter Registers (2000), as well as relevant decisions of the Constitutional Court and the Republican Referendum Commission (RRC).

## **B. ASSESSMENT OF THE LEGAL FRAMEWORK**

The special legal framework for the referendum on state-status provided a solid basis for the conduct of a referendum process that respected fundamental democratic rights and, in general, met international standards for electoral processes that apply to the holding of referenda. However, for forthcoming elections in Montenegro, as well as for any future referenda, there remain a number of key areas where legislation can be improved.

The LRSLs placed two criteria for a decision in favour of the independence to be considered as valid. The minimum turnout requirement that at least 50 per cent of registered voters participate in the referendum, and the qualified majority requirement that 55 per cent of valid votes needed to be cast for the 'yes' option. Such referendum conditions reflected the political consensus within Montenegro that a decision for independence warranted a greater degree of support than a simple majority vote. From a political perspective, the '55 per cent' requirement also meant that the outcome of the referendum could not be considered as a foregone conclusion, thus discouraging boycotts. While the LRSLs did not directly address whether the referendum would have a binding effect, a legal challenge that the referendum would still require the approval of parliament was dismissed by the Constitutional Court shortly before the referendum.<sup>3</sup>

Overall, however, the LRSLs addressed the significant issues surrounding the conduct of the referendum and effectively regulated the establishment of the referendum administration bodies, the financing of campaign expenses, the conduct of the campaign, its coverage by the media and the rights of observer groups. In a number of key areas, the LRSLs demonstrated an improvement to the wider legislative frameworks that govern elections in Montenegro by containing many provisions that guaranteed cross-party participation in the referendum process and enabled both sides to compete with each other on a generally equal basis. These included equal representation on referendum administration bodies from both sides of the referendum, the allocation of equal amounts of public funds for each campaign and a requirement for the Montenegrin media to be informative, objective and neutral. There were also explicit restrictions on the role of public officials or state bodies or the use of public resources in support of either side's campaign. The referendum question placed by the LRSLs was clear and ensured that all voters were able to express their choice without ambiguity.<sup>4</sup>

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<sup>3</sup> The claim, submitted to the Constitutional Court by the Movement for the Preservation of the State-Union, asserted that the LRSLs contravened Article 119 of the Constitution. This provision could be interpreted as requiring a two-thirds majority vote of parliament, as well as a referendum vote, for a change in state-status to be valid. In contrast, Article 2 of the Constitution specifically states that "any change in the status...shall be decided only by citizens in a referendum". The Court held that Article 2 prevailed.

<sup>4</sup> The stipulated question was "Do you want the Republic of Montenegro to be an independent state with full international and legal personality?" (LRSLs Art.5)

Nevertheless, there were shortcomings in the legal framework for the referendum. Although the complaints and appeals procedures established by the 2000 Election Law are generally satisfactory, they provide unrealistic timeframes and unclear deadlines for the submission and resolution of disputes relating to the referendum process. This proved particularly problematic during the post-referendum phase.

The polling procedures, also outlined in the 2000 Election Law, contain a number of mandatory reasons for the dissolution of a polling board and the holding of repeated voting. Although in fact there was no instance where a polling board was dissolved or where repeat voting was required, the Election Law provides too many possibilities for such events to take place; indeed, many of the stipulated reasons are minor (e.g. the presence of campaign material within 50 metres of a polling station) and all could be more effectively addressed through other means rather than obliging the immediate dissolution of a polling board. Furthermore, there is also no legal provision to allow for a formal recounting of votes if a discrepancy in the results is identified. The 2001 Law on Referendums applied a restrictive method on how a ballot paper should be marked, requiring an option to be circled, which potentially could have invalidated ballot papers even in cases where the intention of a voter was otherwise clear.

Although the provisions of the LRSLs were only applicable to the referendum on state-status, many of the measures it contained could be incorporated into electoral legislation in order to improve the conduct of electoral processes, including any future referenda, in Montenegro.<sup>5</sup> In particular, there should be a review of the legal framework for the composition of election administration bodies, the transparency of campaign finance and the conduct of the campaign and media. Moreover, there remain a number of shortcomings in the 2000 Election Law that relate specifically to parliamentary and municipal elections that have not been addressed by the Montenegrin authorities.<sup>6</sup>

## V. ADMINISTRATION OF THE REFERENDUM

### A. STRUCTURE AND COMPOSITION OF THE REFERENDUM ADMINISTRATION

The referendum was conducted by a three-tiered administration established by the LRSLs: the RRC, 21 municipal referendum commissions (MRCs) and 1,118 polling boards (PBs). This *ad hoc* structure for the referendum was similar to that which is used for the administration of elections in Montenegro. As agreed during the negotiations on the conduct of the referendum and in accordance with the LRSLs, the 16 members of the RRC, ten

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<sup>5</sup> Many of the measures adopted by the LRSLs had previously been identified as recommendations in the final reports of OSCE/ODIHR election observation missions in Montenegro (see OSCE/ODIHR final reports on the May 2001 parliamentary elections, the May 2002 municipal elections, the October 2002 early parliamentary elections and the May 2003 presidential election) as well as assessments on referendum legislation (see 2001 assessments of the Law on Referendums and the draft Laws on Referendums).

<sup>6</sup> Key recommendations contained in the OSCE/ODIHR final reports on the 2001 and 2002 parliamentary elections and the 2002 municipal elections that have not yet been addressed by the Montenegrin authorities relate to (a) the distribution and ownership of elected mandates (b) the rights of independent candidates (c) a guarantee for political plurality in the permanent composition of election administration bodies (d) a clearer definition of the rights and duties of members of election administration bodies (e) the allocation of assembly seats to be calculated in relation to the total number of valid votes cast.

members of each MRC and six members of each PB were equally shared between the two blocs. The LRSLS also prescribed methods for ensuring that there was an equal distribution of the chairpersons for MRCs and PBs between the two sides.

Ensuring such a balanced representation strengthened confidence amongst political actors in the impartiality of the referendum administration at every level. This was reinforced by the appointment of an independent RRC chairperson with the right to use a casting vote in the case of a tied decision between RRC members.<sup>7</sup>

In a further innovation to address potentially contentious issues, two *ad hoc* parliamentary committees – one to monitor media and the other to monitor campaign financing – were established with equal representation from each bloc. Both committees played a useful role in assessing and reporting on compliance by blocs and media outlets with their legal requirements.

## **B. ASSESSMENT OF THE ORGANISATION OF THE REFERENDUM**

The RRC and MRCs met frequently and operated in an open and transparent manner throughout the process, providing full access to their meetings for observers and media. The RRC generally functioned well, taking the required decisions on all major issues relating to procedures and administrative arrangements. However, some key decisions (e.g. the method for the marking of valid ballots) were taken at a late stage in the process, while other delays were caused by prolonged and often unnecessary debates between RRC members that tended to focus along partisan lines.

Most of the important decisions of the RRC during the pre-referendum period were taken by consensus. Both sides displayed a continued commitment throughout the process to actively participate in the referendum administration at every level. In particular, RRC members were observed to adopt a notably more professional and consensual approach to their work in the two weeks preceding referendum day following an agreement to allow a wider cross-check of voter registration data.

However, the RRC also needed to take decisions that had been referred to the Commission following tied vote at the MRC level where there was no casting vote; for example, when in Danilovgrad, MRC members could not agree on the location of some polling stations. Furthermore, there were three instances of temporary boycotts, while a much less harmonious approach was taken by RRC members in the post-referendum period.<sup>8</sup> In general, boycotts would have been regarded as an ineffective tactic as the LRSLS provided that all referendum administration bodies could take decisions with a 50 per cent quorum and so could function legally even with the representatives of just one of the two sides being present.

The RRC adopted rules of procedure for its meetings and provided draft regulations for MRCs to adopt. However, there were inadequately defined rights and duties for RRC and

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<sup>7</sup> An independent person, Dr. Frantisek Lipka from Slovakia, was appointed as RRC chairperson by Parliament with all-party consensus on 16 March 2006. He was supported by two independent technical advisers.

<sup>8</sup> Prior to the referendum day, PUB representatives on the RRC withdrew from one meeting in protest against the arrest of one its appointees to the RRC and detention of other activists on charges of unauthorised submission of voter registration applications, but returned immediately upon their release. There were also short-term boycotts by the PUB representatives on the parliamentary media committee and on the Niksic MRC.

MRC members. Concern was expressed at the lack of guidelines for the professional behaviour for members of the referendum administration, many of whom continued to participate in partisan or personal activities that created potential conflicts of interest to their public role. Referendum officials were not provided with sufficient professional or technical training on their work and, in particular, the training provided to PB members was inconsistent and could have been substantially improved in its quality. In contrast to best international practice, there was no legal requirement for the RRC or any other neutral body to provide voter education initiatives to promote public awareness on citizens' rights related to suffrage and the procedures for polling.

Some concern was expressed over whether the issue of the method for marking valid ballots – by which an option needed to be 'circled' – would create problems for polling boards to determine the validity of a ballot paper. A decision by the RRC on 17 May tried to address this issue by giving broad guidelines on what constituted a valid mark. The decision also instructed that those ballot papers, the validity of which could not be determined, should be classified by PBs as 'questionable ballots' to be checked by MRCs. Such a classification was not provided for in law and required last-minute changes to the instructions on counting procedures issued to PB and MRC members and other stakeholders.

Overall, the work of the referendum administration, while successful, highlighted the need to reform the administrative structures for elections and referendums in Montenegro, including a need for a professional secretariat that has technical expertise in administering all aspects of the electoral process.

## **VI. VOTER REGISTRATION**

### **A. THE RIGHT TO VOTE**

The right to vote in the referendum was afforded by the LRSLS to those voters who normally enjoy suffrage for presidential and parliamentary elections in Montenegro: an eligible voter was one aged over 18 years, who held Montenegrin citizenship and who had been permanently resident in Montenegro for a period of at least 24 months. By law, these qualifications meant that an eligible voter also included any Serbian citizen with a permanent residence in Montenegro for the same period, as well as a Montenegrin citizen who was temporarily resident in Serbia or abroad but who had retained a registered permanent residence at an address in Montenegro.

There are estimated to be several hundred thousand Montenegrins who are registered as permanently resident in Serbia but they were not eligible to vote in the referendum. Although this exclusion was criticised by pro-union activists, it would have created a wholly different electorate for the referendum compared to elections for republic institutions in Montenegro and would have included persons who otherwise held the right to vote in Serbian elections.

A total of 484,718 voters were registered to take part in the referendum, a significant increase in the number of registered voters from previous elections. In a reflection of the major public interest in the referendum, more than 16,000 names of registered voters were added to the Central Voter Register (CVR) during the public inspection period between 3 March and 25 April. Around 5,400 more names of registered voters were then added during a 10-day period when appeals to be added to the CVR could be made to the Administrative Court.

## B. ASSESSMENT OF VOTER REGISTRATION PROCEDURES

The registration of voters in Montenegro is a passive system, whereby the names of eligible voters are included based on information provided *ex officio* by the Ministry of Interior (MI) and municipalities and citizens are entitled to check their registered status to announce possible inaccuracies. The 2000 Law on Voter Registers provides for high levels of transparency to the voter registration process, enabling members of the public as well as political parties to inspect voter registration data and to request additions or other changes if they were needed. However, access is generally provided only through electronic data records and transparency could be even further strengthened if the voter register was published in printed formats and made available or displayed at convenient public locations.

Political parties were also provided with the opportunity to inspect the paper records of the MI at the municipal level in order to cross-check the eligibility of registered voters. As with previous elections in Montenegro, the quality of the CVR was routinely challenged by the political parties within PUB, who alleged a series of inaccuracies in the data of registered voters which they claimed would adversely and deliberately affect their supporters or otherwise benefit the PIB.

On 4 May, following a notable political agreement between the government and representatives of the opposition, a cross-check took place between the CVR and a centralised electronic database held by the MI on permanent residence.<sup>9</sup> The cross-check, performed by technical experts from both blocs, identified around 5,500 eligible voters who were not on the register and some 6,800 entries of names not existing in the MI database. The names added to the CVR by the Administrative Court appeared to resolve almost all of these problem cases. The cross-checking exercise directly addressed many of the PUB criticisms against the CVR and, more widely, had a notably beneficial impact on the atmosphere of the referendum process, especially between the opposing members of the RRC.

The voter registration process in Montenegro can be considered to have a considerable level of accuracy, although practical shortcomings exist. The procedures that must be followed by voters seeking to prove their eligibility to be included on the CVR, or for removing deceased persons, are unclear and inconsistent between different municipalities. Similarly, the procedures for citizens to keep the MI informed of changes in their residence status, which is crucial data for an accurate CVR, are often cumbersome and prone to delay.

## VII. CAMPAIGN AND PRE-REFERENDUM ENVIRONMENT

The pre-referendum environment was marked by an active and generally peaceful campaign that ensured voters across the country were well-informed of the views of both referendum campaigns. Each side respected the right of the other to express an opinion, although there were a number of instances of negative campaigning, including the use of invective personal attacks against opponents, the defacing of billboards and inflammatory graffiti.

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<sup>9</sup> The database of permanent residence has been not formally established and the MI publicly acknowledged that it should not necessarily be considered as an accurate or comprehensive record. Access to the database had been demanded by the political parties within PUB for several years.

There were no reports of restrictions on the fundamental civil and political rights associated with a proper campaign, including the freedoms of assembly, association and expression. Campaign activity by both blocs tended to focus on door-to-door canvassing. This technique was acknowledged as being the key part of the political campaign by all major parties. Door-to-door campaigning began immediately after the passage of the referendum law, and was reportedly used to assess the accuracy of the voter list, and to identify voter's needs, as well as the voting intentions.

Both referendum campaigns utilized extensive and well-planned media advertising that ran for over four weeks. Clear campaign platforms emerged, with both sides claiming their victory would accelerate Montenegro's integration into the European Union. This issue took on special significance after the EU suspended negotiations on a Stabilization and Association Agreement (SAA) with the State Union in the middle of the campaign because of a failure by the Government of Serbia to arrest persons indicted by the International Criminal Court. The PUB highlighted the social, economic and cultural benefits of continued union with Serbia. The PIB campaign focused on endorsements by ordinary citizens as well as well-known personalities from the field of sports, entertainment and culture. Extensive use was made of images of famous areas of natural beauty as well as historical references. The PUB campaign made use of both historical references and markedly youth-oriented imagery but some pro-union activists made explicit efforts to linking a "No" vote with the defeat of the incumbent government including highly negative personal attacks against the Prime Minister.

While the PUB held many small- or medium-sized rallies in most municipalities, the PIB held five large-scale events. The campaign capacities of both sides were significantly strengthened by the equal allocation of €1,000,000 each in public funds that provided a balance of opportunities for campaigning, including access to advertising. The total amount of money spent on campaigns appeared to have been much higher. In general, the mechanisms for accounting either side's income and expenditure for the campaign failed to guarantee sufficient transparency. The ad hoc parliamentary committee of campaign financing delayed the release of public funds to the two blocs for their campaigns for over three weeks until it adopted its rules of procedure on 3 April but there was no complaint that this adversely affected the start-up of either side's campaign.

In a noteworthy improvement from previous election campaigns, the leaders of both blocs met in two TV debates, giving voters an opportunity to directly compare their arguments. Furthermore, key figures in both blocs took part in a series of weekly debates on both state-funded and private television channels, providing the public with a range of perspectives on the state-status issue.

The Montenegrin government participated in the referendum process on a number of occasions, especially through the issuing of policy declarations for a post-independence Montenegro. One of these declarations was widely circulated in a letter to citizens by the Prime Minister in an official envelope. This exercise blurred the distinction between the Government and the "Yes" campaign. In general, the authorities largely displayed support to the pro-independence campaign, but there was not excessive Government interference in the campaign. Overall, the legal requirements of campaigning contained in the LRSLS were respected by all actors involved in the campaign.

## VIII. MEDIA COVERAGE

### A. MEDIA LANDSCAPE

Montenegrin citizens, especially those residing in the urban and coastal areas, have access to information from a wide range of media outlets. There are four Montenegro-based daily newspapers and over 70 television and radio channels, including some 20 which function as public broadcasters. Since 2002, an improved media framework has been introduced, which has ensured broadcasters require a proper license and are supervised by the state Broadcasting Agency. Overall, despite the thriving nature of the media landscape, there remain ongoing challenges to strengthen technical resources and improve the quality and professionalism of journalism. The national public broadcaster, RTCG, was often criticised by political parties within the PUB for an alleged lack of impartiality.

### B. LEGAL FRAMEWORK

The legal framework for the coverage of the referendum campaign in the media was comprehensively governed by LRSLs. It provided citizens with the right to be informed in a truthful, timely and unbiased manner, under equitable terms, about the referendum process and different referendum options. The LRSLs also required media to provide assistance to voters in making an informed choice through specific information programs and public debates in which both referendum campaigns would take part. The public broadcast media were under an obligation to provide equal presentation to the different referendum options and to publish and adopt regulations on their coverage of the campaign, and all outlets did so before the launch of campaign activities.

The LRSLs also appealed to all privately-owned media, as well as any foreign media available in Montenegro, to adopt a Code of Conduct that promoted fair and equal coverage of the referendum campaign. A Code of Conduct was prepared by a civil society group, the Association of the Independent Electronic Media of Montenegro, and committed its signatories to respecting principles of independence, impartiality, fairness and balance in the coverage of the referendum campaign. The Code of Conduct was signed by all significant Montenegrin media outlets, including all public broadcasters, as did about one third of Serbian media outlets available in Montenegro, including the public broadcaster RTS and three daily newspapers.

The ad hoc parliamentary committee on monitoring the media coverage of the referendum was established on 15 March. The LRSLs provided the committee with the power to receive complaints of non-compliance with legal requirements and, where proven, to issue warnings which media outlets were obliged to publish. Significantly, the committee provided a useful forum for discussions on media related issues and granted both representatives from both blocs an opportunity to articulate their concerns and perception of the campaign developments in the media. In all but one of the 373 cases it reviewed, the representatives from both blocs voted along partisan lines.<sup>10</sup> The work of the committee was temporarily suspended for seven days following a disagreement that led to a boycott by PUB representatives.

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<sup>10</sup> There was consensus between the committee members on a complaint against the publicly-funded newspaper *Pobjeda* which contained offensive language in a headline.

### C. MEDIA MONITORING

From 3 April 2006 to the start of the campaign silence period on 19 May, the OSCE/ODIHR ROM conducted qualitative and quantitative analyses of primetime broadcasts (18:00 till 24:00) on the two public television channels (TVCG1 and TVCG2) as well as six private TV channels available in large parts of Montenegro (Elmag, IN, MBC, Montena, Pink M) as well as Serbian public TV channel RTS. Four daily Montenegro-based newspapers (*Dan*, *Pobjeda*, *Republika*, and *Vijesti*) as well as the Serbian daily *Vecernje Novosti* were also monitored.

All media outlets provided coverage on the campaign and on the issue of the future status of Montenegro, while access to the media was afforded to both referendum campaigns through news coverage, free airtime and paid advertisements. The media provided voters with a real opportunity to receive full information on the different platforms and opinions upon which they could make their choice in the referendum. However, no media carried adequate levels of voter education.

The public broadcast media produced a series of special free-of-charge programmes, which featured the platforms of both sides of the referendum. Monitoring of the media output during the referendum campaign indicated that TVCG1 dedicated over 17 per cent of its primetime coverage to referendum issues. In contrast, only 2 per cent of the airtime on RTS and TVCG2 was given to the referendum.

Total referendum-related coverage in prime-time broadcasts (18:00 – 24:00) of 8 monitored TV channels

TV Channels	RTCG 1	RTCG2	Elmag	IN	Montena	MBC	Pink	RTS
Referendum coverage (primetime broadcasts)	17%	2%	5%	14%	11%	15%	6%	2%

In general, the public broadcast media complied with their legal requirement to provide equal access to both referendum options for free airtime and to provide balanced information on the referendum process. Over two-thirds of the referendum related news on public TVCG was dedicated to covering neutral or technical issues. However, there was an imbalance in the remaining news coverage, with 24 per cent of airtime being provided to pro-independence views compared to 8 per cent for pro-union viewpoints. To a large degree, this imbalance was caused as news reports on the activities of members of the government and other senior state officials invariably also provided opportunities for them to discuss their pro-independence views.

Coverage of referendum issues in the primetime newscasts of monitored TV channels<sup>11</sup>

	RTCG1	RTCG2	Elmag	IN	MBC	Montena	RTS
Pro-Independence	24%	20%	26%	38%	40%	34%	12%
Neutral	68%	70%	55%	51%	47%	51%	61%
Pro-Union	8%	10%	19%	11%	13%	15%	27%

Similar reasons for imbalanced news coverage that favoured the pro-independence campaign was seen on the private channels IN, Montena and MBC. TV Elmag displayed a balanced approach in its news coverage but tended to favour pro-Union opinions in other programmes.

<sup>11</sup> TV Pink M did not air news programs.

The coverage provided on RTS and Serbian programmes broadcast on TV Pink M was rather more limited in time but favoured the state-union. During the campaign a number of TV channels, including TVCG, Montena and IN aired music clips that strongly reiterated the theme of Montenegrin sovereignty.

The print media provided an even greater level of coverage on the referendum but, in contrast, most newspapers showed clear bias to one of the referendum options. While *Republika* and to an extent the state-controlled *Pobjeda* showed bias in favour of the pro-independence option, *Dan* demonstrated clear bias to the Pro-Union Bloc. Although the Serbian daily *Vecernje Novosti* dedicated more space in favour of the state-union, and *Vjesti* favoured independence views especially at the end of campaign period, both newspapers were mostly balanced in their coverage of the referendum options in comparison with other three monitored newspapers.

Coverage of referendum issues in the monitored newspapers

	<i>Dan</i>	<i>Pobjeda</i>	<i>Republika</i>	<i>Vecernje Novosti</i>	<i>Vjesti</i>
Pro-Independence	9%	40%	45%	16%	37%
Neutral	43%	46%	50%	47%	47%
Pro-Union	48%	14%	5%	37%	16%

The media were obliged to provide participants of the referendum campaign with equal prices for paid campaigning and advertising. Paid advertisements were launched in the media on 10 April. The pro-independence campaign used significantly more television advertising – over two thirds of all paid advertisements on the monitored TV channels were for PIB. In contrast, the PUB focused its paid advertising campaign in the print media.

Apart from a few articles with inflammatory language published in some Serbian media and at times in *Dan*, the campaign coverage in the print media – as with the broadcast media – was fair and calm. In the post-referendum period, *Dan* published the names of persons it alleged were responsible for violations of the law even though it undertook no attempt to verify the truth of allegations.

No direct campaigning was monitored in the media during the pre-referendum silence period, but instances were noted of indirect support for the pro-independence campaign. *Vjesti* published a front-page picture of a PIB campaign rally on the first day of the campaign silence period.

## IX. RESOLUTION OF PRE-REFERENDUM COMPLAINTS

### A. LEGAL FRAMEWORK FOR COMPLAINTS AND APPEALS

The LRSLs (Art. 32) provided specific powers to the RRC to address complaints related to the misuse of state resources or public office. The procedures for submitting other complaints on the referendum process that alleged violations of the law or for lodging an appeal against a decision of an administrative body were governed by the 2000 Election Law and other administrative or civil legislation. Allegations of criminal acts could be referred for investigation to the police or the public prosecutor. Criminal charges against alleged violators could also be brought directly by an aggrieved citizen.

It is notable that a significantly higher number of formal complaints were submitted during the pre-referendum period than in previous elections, including allegations of criminal behaviour. In general, the available mechanisms provided a satisfactory framework for resolving disputes within the referendum administration. However, there remain shortcomings in the procedures by which complaints related to other authorities can be resolved within an appropriate timeframe, in particular on issues related to the voter register, which is supervised by the Ministry of Justice.

## **B. PRE-REFERENDUM COMPLAINTS**

Over fifty complaints relating to the pre-referendum period were formally submitted to the RRC and/or to the public prosecutors. The majority of these complaints, almost all of them were submitted on behalf of the PUB, alleged problems with voter registration and included allegations of interference by public officials in the registration process. Almost all complaints relating to the voter register were resolved or withdrawn following the cross-check of the CVR against the Ministry of Interior database. No complaint on CVR was submitted in the two-week period that followed the cross-checking exercise on 4 May.

In general, the complaints resolution and appeals process, including the court system, worked effectively in addressing the complaints. Through its Working Body on Complaints, the RRC reviewed all complaints, but was usually unable to resolve them within the prescribed deadline of 72 hours, and decisions were mainly taken on the casting vote of the RRC Chairman.

On issues related to voter registration, the complaints were forwarded to the Ministry of Justice, which supervises the maintenance of the CVR. Where complaints alleged possible criminal acts, the RRC forwarded them to the public prosecutor. There were numerous allegations and complaints of 'vote-buying' and other types of bribery or coercion against voters, especially of undue pressure placed on public employees to vote in favour of independence. Some 20 such complaints were supported by written statements of the voters concerned and forwarded to the prosecutor for investigation. In one high-profile case, three persons, including two PIB activists, were convicted of attempting to bribe or coerce a voter to vote for independence or not to vote and sentenced to imprisonment for periods of up to ten months.

In a separate development, six PUB activists, including a member of the RRC, were detained on charges of unauthorised submission of applications in the name of persons seeking to be added to the CVR. The initial decision of an investigative judge to order two of the activists to be detained for 30 days – a decision overturned following the intervention of the state prosecutor – seemed disproportionate to the alleged offence. At the time of the closure of the Referendum Observation Mission, this case was still pending judicial resolution. In three other cases, PUB representatives brought criminal charges against MI and municipal officials alleging deliberate registration of ineligible voters and deregistration of eligible voters. Regrettably, the Montenegrin authorities did not publish a Code of Conduct for the behaviour of public servants, including police officers, during the referendum period.

## **X. PARTICIPATION OF NATIONAL MINORITIES IN THE REFERENDUM**

Political parties representing national minorities or members of minority communities in mainstream parties played an active role in the campaign, but mostly within their own communities. However, representatives of some Bosniak and Albanian parties did take a prominent role in public rallies. The profile of minorities in the media campaign, however, remained low. An analysis of the representation of minorities during a segment on state television dedicated to media events of the two referendum options indicated that national minority representatives appeared in approximately 14 per cent of PIB press conferences and only 2 per cent of equivalent PUB events.

During the campaign period, the Montenegrin parliament adopted a new law on national minorities, *inter alia*, establishing a mechanism which increases guaranteed parliamentary representation for national minorities in future elections. This significant legislation had been under discussion for almost three years, but was finally debated by parliament shortly before the referendum vote. The timing of the passage was criticised by the political parties within PUB and one civil society group as manipulation to secure minority vote for the pro-independence option. Notably, two minority parties were explicit in linking their offer of support to the PIB campaign with the passage of the law.

Representatives of national minorities were represented on the RRC, but otherwise only on other levels of the referendum administration where their communities were concentrated. The provision of bilingual referendum materials – in Serbian/Montenegrin and Albanian – was only made available in the specially designated polling stations and not in all areas where Albanian is spoken by the local community.

## **XI. PARTICIPATION OF WOMEN IN THE REFERENDUM**

Despite the commendable efforts of some women activists in political parties in both blocs, the campaign at the national and local level was notable for the absence of women in senior positions. The media profile of women demonstrated a more complex picture, with images of women fully utilized by both blocs in their advertising campaign but fewer instances of women playing a role at media events for either bloc.

The signing of a declaration on gender equality, specifically aiming to increase women's representation in local and republic level parliaments, by all political party leaders (all of whom are male) during the campaign was greeted by women political party activists as a success in terms of their lobbying efforts. However, there was considerable scepticism that it will be fully implemented.

The representation of women in the RRC and MRCs was low and was particularly poor in rural and minority areas but notably higher in the coastal municipalities of Tivat and Kotor. Two of the RRC members and four MRC chairpersons were women. There were no women PB members in over 36 per cent of the polling stations visited by international observers, while only 14 per cent of polling stations had more than 2 women PB members. A woman was PB chairperson in just 12 per cent of polling stations visited.

## **XII. DOMESTIC NON-PARTISAN OBSERVERS**

Montenegro has a well-established civil society including a number of organisations – such as the Centre for Election Monitoring (CEMI) and the Centre for Democratic Transition (CDT) – that have extensive experience in non-partisan election observation. Such active public participation, with domestic observer groups undertaking comprehensive, long-term observation of the referendum process, extensive coverage of polling stations on polling day, quick count and partial vote tabulation, strengthened the transparency and public credibility of the referendum process. Domestic non-partisan observers were present in over 86 per cent of polling stations visited by international observers.

## **XIII. POLLING ON REFERENDUM DAY – 21 MAY 2006**

### **A. OVERVIEW**

Polling on referendum day proceeded smoothly. A generally calm atmosphere was reported and there was a high voter turnout of 86.4 per cent, reflecting the level of voter interest in the referendum.

International observers visited 959 (86 per cent) of the polling stations in all 21 municipalities in Montenegro, with over 1,130 separate observations of voting at polling stations, 130 openings and 105 reports on close and counts. In most cases, international observers accompanied PB members for the transfer of materials at the MRCs. Designated international observer teams were present in all 21 MRCs during the tabulation process. A few instances of homebound voting were also observed.

The equal representation of activists from both sides of the referendum as PB members ensured that there was full transparency and participation in the polling process. There was no recorded instance of a boycott by PB members and international observers reported that there was a generally close cooperation between PB members at all times.

### **B. POLLING PROCEDURES**

Polling was positively evaluated by international observers, with 96.6 per cent of polling stations visited being assessed as “good” or “very good”. In only 3.3 per cent of visits was polling considered as “poor” and there was just one assessment of a polling station as “very poor”. There were similarly positive reports on the opening procedures.

Measures to safeguard the integrity of voting were implemented largely in accordance with the legal requirements. Yet, despite the overall positive picture, there were a number of observations, some isolated, where procedural flaws occurred that, in some cases, may have led to the dissolution of a polling station. For example, of the polling stations visited by international observers:

- in 4 per cent, the ballot box was observed not to be sealed properly;
- in 2 per cent, unauthorised persons were observed to be interfering in the polling process;
- in 9 per cent, international observers identified group voting;

- in 5 per cent, voters were observed marking their ballot papers outside of a polling booth;
- in 3 per cent, campaign materials were present near to the polling station;
- in 13 per cent, indelible ink was being applied incorrectly or at the wrong time, e.g. before identifying a voter was included in the voter register, causing possible disenfranchisement if the voter was not included and had to vote in another polling station.

A requirement for a voter to hand their ballot paper to a PB member after marking it, so that a control coupon can be removed, was observed to allow an opportunity for the choice of the voter to be revealed. There was also criticism that the quality of the ballot paper and the positioning of polling booths allowed PB members to identify the choice of the voter. Procedural irregularities were also observed with home-bound voting. However, international observers noted that very few complaints were lodged at PBs on referendum day.

Access to polling stations for people with disabilities was noted as difficult in 31 per cent of the polling stations visited.

International observers were made aware of a number of allegations that ‘vote-buying’ was taking place on referendum day. Although no direct observation of such activity was recorded, there were instances when international observers in Berane and Pljevlja identified circumstances that may have been consistent with vote-buying. On four separate occasions, international observers saw voters photographing their ballot papers with mobile-phone cameras, which may also have indicated vote-buying.

### **C. COUNTING OF VOTES**

The procedures for the closing of polling stations and the counting of votes were also evaluated positively; in 85 per cent of polling stations attended by international observers, the closing and counting process was assessed to be “very good” or “good”, as “average” in 14 per cent and in just one case there was an assessment of “poor”. An impressive degree of cooperation between polling board members was noted during the closing and count process and in particular over taking decisions on the validity of ballot papers; there were very few instances of so-called ‘questionable ballots’, the validity of which could not be determined. However, international observers considered there to be “tension or unrest” in 7 per cent and disputes between PB members in 6 per cent of polling stations.

Overall, international observers considered that there was a rushed approach to important steps during the counting of votes, which resulted in some shortcomings in following procedures, especially in the completion of protocol forms. In particular, a number of reconciliation checks that were required to be conducted prior to the opening of the ballot box, were sometimes missed; in 20 per cent of observations, the PB failed to perform the basic check of counting the number of voters who were recorded as having voted. In four cases, there was a 100 per cent turnout and the polling station was closed and counting begun before the prescribed time of 21:00.

In a significant breach of procedures that compromised full transparency in the results process, international observers recorded that in 42 per cent of cases, the protocol of results

was not immediately displayed at the polling station. Moreover, there were a number of instances where copies of the protocol were not provided to every PB member.

#### **D. TABULATION OF RESULTS**

The OSCE/ODIHR ROM observer teams present at MRCs evaluated the tabulation process positively. MRCs were generally found to be functioning effectively and efficiently with a good understanding of the procedures. The aggregation of results was generally unproblematic and most MRCs were able to submit aggregated results speedily and well within the prescribed timeframe. However, in some municipalities there was an inconsistent, and occasionally confusing, approach to dealing with discrepancies contained in the PB protocol of results. In Podgorica, in circumstances which indicated an attempt at political obstruction to the process, the MRC was unable to reach a decision on the protocols of results from 39 polling stations that contained discrepancies; in most of these cases, the discrepancies were minor and did not relate to the results of voting. The results in the 39 polling stations were approved by the RRC after verification of the protocols.

#### **XIV. RESOLUTION OF POST-REFERENDUM COMPLAINTS**

After the announcement of preliminary results, the political parties within PUB submitted some 210 complaints against the polling process. The complaints were submitted to eleven MRCs and, in all but eight cases, the MRCs could not decide on the complaints because of a ‘tied-vote’ and were referred directly to the RRC for resolution.<sup>12</sup>

The deadline for the submission of a complaint was 72 hours from the act or omission being complained against. In practice, for complaints against the polling process, this provided an uncertain deadline as it was not always clear against what alleged action the complaint was being made. The deadline for the resolution of a complaint was 24 hours from its submission. While it is important to have certainty that complaints should be resolved promptly, such a compressed timeframe created unrealistic pressure on the MRCs and RRC to address post-referendum complaints properly.

The vast majority of the post-referendum complaints referred to problems with the CVR and, in particular, the inclusion of a large number names of persons who, the PUB claimed, were ineligible to vote as they were resident in Serbia or other countries. The PUB representatives asserted that PBs should not have allowed such persons to vote. Although a considerable number of expatriate Montenegrin citizens did vote in the referendum, there was no substantiating evidence provided that they did not meet the criteria for voter eligibility, such as whether they had not maintained an address of registered permanent residence in Montenegro for at least 24 months. Moreover, the formal decision to include the named persons in the CVR had occurred on 11 May and had not been challenged earlier. As such, these cases did not constitute any polling irregularity; indeed, PB members were obliged to allow a voter to vote if their name was included in the CVR.

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<sup>12</sup> The complaints filed by MRC were: Podgorica (51); Bar (29); Budva (24); Plav (27); Rozaje (15); Berane (10); Ulcinj (6); Niksic (4); Cetinje (3); Danilovrgad (1); Pljevlja (1). The complaints rejected by the MRCs were: Cetinje (3); Berane (4); Niksic (1). All others were tied and referred directly to the RRC.

A smaller number of complaints referred to specific polling irregularities, including isolated instances of a person who voted twice and persons who voted on behalf of other persons. These are breaches of the criminal law and were referred by the RRC to the public prosecutor for investigation. However, the RRC assessed that the number of violations were small and unable to impact on the accuracy of the results.

The RRC rejected all complaints with the casting vote of the RRC chairperson. No decision of the RRC was appealed to the Constitutional Court by the deadline of the 30 May (i.e. within 24 hours of the final RRC decision on complaints as stipulated by the Law on the Constitutional Court). It should be noted that a number of PUB political leaders have repeatedly expressed their lack of confidence in the impartiality of the judges in the Constitutional Court.

## **XV. ANNOUNCEMENT OF RESULTS AND POST-REFERENDUM DEVELOPMENTS**

The speedy publication by the RRC of preliminary and final results of the referendum strengthened transparency and public confidence in the results process. Partial preliminary results on the referendum, that excluded the delayed aggregated results from the 39 polling stations in Podgorica, were announced by the RRC chairperson on 22 May. In accordance with the timeframe stipulated by the LRSLS, full preliminary results were announced by the RRC on 23 May. Following the resolution of the complaints and appeals process on 30 May, the final results of the referendum were approved by the RRC at its session on 31 May using the casting vote of the RRC chairperson. There were only minor changes to the preliminary results.

The official final results showed that the referendum on state-status had been approved by 55.5 per cent of the valid votes that had been cast and that 86.5 per cent of registered voters had participated.<sup>13</sup> Both criteria for the decision in favour of independence to be considered as valid had thus been met.

The RRC chairperson formally submitted a report on the official results of the referendum on state-status at a special session of parliament on 3 June 2006. Parliament voted to acknowledge that the results of the referendum meant that Montenegro was an independent state that would seek full international and legal personality.

In marked contrast to the wide, cross-party support that had been given to the referendum process during the negotiations on the conduct for the referendum and that was also displayed by the full engagement by both sides throughout the campaign period, the representatives of the PUB on the RRC were extremely critical of the referendum process after the announcement of the results. PUB representatives on the RRC did not sign the minutes of the 31 May session where the final results were approved and members of parliament from political parties within PUB did not attend the parliamentary session on 3 June.

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<sup>13</sup> Final results by municipality are annexed below.

## **XVI. RECOMMENDATIONS**

The following recommendations on improving the electoral processes in Montenegro, many of which reiterate recommendations of past OSCE/ODIHR Election Observation Missions, are offered for consideration and possible implementation by the Montenegrin authorities and political parties. According to best practices, election legislation should not be changed during an election process. These recommendations should therefore be adopted through the legislative process after the 10 September parliamentary elections. However, some of these recommendations could be addressed in a form of REC regulations before the forthcoming elections.

### **A. GENERAL RECOMMENDATIONS RELATING TO ELECTORAL PROCESS**

1. The following improvements to the legal framework for electoral processes introduced by the LRSLs could be considered:
  - (i) Provisions that seek to ensure a balanced political representation on referendum or electoral administration bodies;
  - (ii) Provisions that prevent the abuse of office or restrict the role that can be played by a state or public official, including elected officials and police officers, in taking part in a political campaign;
  - (iii) Provisions that establish transparency for funding sources in political campaigns, including the establishment of a parliamentary committee to monitor campaign financing;
  - (iv) Provisions that establish a clear framework for the role of the media in its coverage of a political campaign, including the professional obligations of media outlets and the establishment of a parliamentary committee to monitor media coverage of the campaign with powers to issue warnings to media for non-compliance with legal requirements.

### **B. ADMINISTRATION OF REFERENDUMS AND ELECTIONS**

2. The rights and duties of all members of the responsible commission for elections and referendums should be clearly defined, including a Code of Conduct that outlines minimum standards of professional behaviour to ensure objectivity and to avoid conflicts of interest.
3. The responsible commission for elections and referendums should ensure that training is provided for election officials at all levels.
4. Parliament should delegate responsibility to a public body, preferably the responsible commission for elections and referendums, for providing neutral voter education during an election or a referendum. Voter education should include a focus on voter registration, polling procedures and the wider protection of a citizen's rights of suffrage.
5. Consideration should be given to amending the legal framework to address the circumstances where, in the case of an even number of members on a responsible commission for elections or referendums, there is a tied vote.

### **C. VOTER REGISTERS**

6. Provisional and final versions of the central voter register should be displayed or made available in printed form during the period for public inspection at convenient locations, including municipal and community centres. The list of registered voters for each polling station should be displayed at the polling station ahead of polling day.
7. The Ministry of Justice should provide consistent guidelines to municipalities for the documentation required by a citizen to prove their eligibility as a voter and for the removal of deceased persons as voters.
8. The 2000 Law on Voter Registers should be amended:
  - (i) to reflect the decision of the Constitutional Court restricting applications to amend the central voter register without the clear authority of the voter concerned;
  - (ii) to clarify the rights of inspection by political parties and citizens of other data held by state agencies.

### **D. COMPLAINTS AND APPEALS PROCEDURES**

9. The Election Law should be revised to provide fixed deadlines for the submission of complaints relating to the polling process at polling stations, for example 48 hours from the close of voting.
10. Consideration should be given to providing clearer and more effective means for resolving complaints against public bodies, such as a municipality or a government ministry, for its actions or omissions during an electoral process.
11. The public prosecutor should publish clear guidelines on the procedures by which complaints alleging criminal acts will be investigated during an electoral process.

### **E. CAMPAIGNING AND MEDIA**

12. The separation of state, municipal and political activities should be strictly enforced. A Code of Conduct for state or public employees, including police officers, during campaign periods, should be developed and publicised.
13. The media should be consistent in separating the activities of representatives of incumbent officials from the campaign activities they pursue as politicians. The media should not give privileged treatment to public authorities and figures during campaigns.
14. The media should continue to abide by a Code of Conduct during political campaigns and, in particular, to follow professional standards and avoid deliberate misinterpretation.
15. Regulations on the campaign silence period should be better defined, including what may constitute a breach of the prohibition on campaigning as well as outlining the possible sanctions against violators.

16. All sides in a referendum and all political parties and candidates in an electoral process should explicitly condemn vote-buying or attempted vote-buying and similar activities.

**F. POLLING PROCEDURES**

17. The grounds for the dissolution of polling boards, annulment of results and holding of repeated voting should be reviewed and limited only to serious violations.
18. Provision should be made to allow for the recounting of ballots by PBs to address possible discrepancies identified in the counting of votes. Municipal commissions should be provided with clear guidelines on how to address discrepancies identified in the protocols of results.
19. Training on voting and counting procedures should be provided for all PB members using consistent training materials and formats. Such training should ensure that procedural errors, such as the incorrect application of ink, are avoided and that key requirements, such as the immediate display of results, are universally followed.
20. Clearer forms for the protocol of results should be developed.
21. The requirement that a voter must hand their marked ballot paper to a PB member to remove a control coupon should be reviewed. The current procedure jeopardise the secrecy of the ballot.
22. Provision should be made for circumstances where a voter spoils their ballot paper.
23. The use of bilingual polling materials should not be limited only to specially designated polling stations but extended to all areas where Albanian or other minority languages or scripts may be used by a significant part of the local population.
24. The requirement for ballot papers to be marked only with a circle should be changed. All ballot papers that indicate the clear intention of the voter should be considered as valid.
25. Polling stations should be easily accessible to all voters.

**G. ROLE OF WOMEN IN ELECTORAL PROCESSES**

26. Political parties, civil society and state authorities should undertake a sustained programme to implement their commitments to improve the representation of women in parliament and municipal assemblies, as well as administrators of electoral processes.

**ANNEX A: FINAL RESULTS OF THE 21 MAY 2006 REFERENDUM ON STATE-STATUS**

Municipality	Number of Registered Voters	Voters Who Voted		Valid Votes for 'Yes'		Valid Votes for 'No'	
		Number	%	Number	%	Number	%
Andrijevica	4,369	3,928	89.91	1,084	27.74	2,824	72.26
Bar	32,255	26,382	81.79	16,640	63.67	9,496	36.33
Berane	28,342	24,051	84.86	11,268	47.17	12,618	52.83
Bijelj Polje	40,110	35,051	87.39	19,405	55.69	15,437	44.31
Budva	12,797	11,199	87.51	5,915	53.32	5,179	46.68
Danilovgrad	11,784	10,669	90.54	5,671	53.71	4,887	46.29
Žabljak	3,407	3,096	90.87	1,188	38.67	1,884	61.33
Kolasin	7,405	6,820	92.10	2,852	42.22	3,903	57.78
Kotor	17,778	14,897	83.79	8,200	55.70	6,523	44.30
Mojkovac	7,645	6,923	90.56	3,016	43.93	3,849	56.07
Nikšić	56,461	50,737	89.86	26,434	52.63	23,790	47.37
Plav	12,662	8,941	70.61	7,016	78.92	1,874	21.08
Plužine	3,329	2,959	88.89	716	24.30	2,230	75.70
Pljevlja	27,882	25,268	90.62	9,115	36.28	16,009	63.72
Podgorica	129,083	113,915	88.25	60,626	53.67	52,345	46.33
Rožaje	19,646	15,239	77.57	13,835	91.33	1,314	8.67
Tivat	10,776	8,800	81.66	4,916	56.45	3,793	43.55
Ulcinj	17,117	13,985	81.70	12,256	88.50	1,592	11.50
Herceg Novi	24,487	20,220	82.57	7,741	38.66	12,284	61.34
Cetinje	15,077	13,538	89.79	11,532	86.38	1,818	13.62
Šavnik	2,306	2,123	92.06	906	43.08	1,197	56.92
Voters in Prison		495		379	77.82	108	22.18
<b>Total for Montenegro</b>	<b>484,718</b>	<b>419,236</b>	<b>86.49</b>	<b>230,711</b>	<b>55.50</b>	<b>184,954</b>	<b>44.50</b>

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The ODIHR implements a number of targeted assistance programmes annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

Within the field of **tolerance** and **non-discrimination**, the ODIHR provides support to the participating States in implementing their OSCE commitments and in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website ([www.osce.org/odihr](http://www.osce.org/odihr)).