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**INDEPENDENT MONTENEGRO:
EARLY ASSESSMENT AND PROSPECTS FOR
EURO-ATLANTIC INTEGRATION**

GENERAL REPORT

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I. INTRODUCTION

1. On 21 May 2006, the population of Montenegro voted in favour of the independence of this country of around 650,000 people and less than 14,000km². This referendum marked the latest episode in the break-up of the former Yugoslavia, which started over 15 years ago and led to some of the darkest episodes in recent European history. The separation between Serbia and Montenegro, which had grown increasingly apart throughout the 1990s and were kept together in a loose and largely unpopular federation since 2002, was widely expected. Nevertheless, the independence of Montenegro raised many fears relating both to the future of the new country itself and to the impact that its independence could have on other countries of the region and beyond. It was feared in particular that Montenegro's independence would open a Pandora's box by encouraging secessions in other parts of the world, including first and foremost, Kosovo, but also Bosnia and Herzegovina, breakaway regions of the South Caucasus or other provinces in Europe. It was also feared that Montenegro's independence would antagonise and further radicalise Serbia at a time when the country already appeared to be drifting slowly towards isolation due to negotiations on Kosovo, the suspension of talks with the European Union, and deficient co-operation with the Hague Tribunal.

2. The first anniversary of Montenegro's independence provided a good opportunity for assessing the actual impact of this independence. The picture that emerges from developments over this past year is a nuanced one. Many fears now appear to have been exaggerated. Montenegro held successful parliamentary elections and is engaged in an ambitious reform programme. Additionally, after initial tensions in the run-up to the referendum, relations between Montenegro and Serbia are now fully appeased. Montenegro has also unambiguously stated its aspiration towards Euro-Atlantic integration and made this its strategic objective. This commitment should be welcomed and encouraged. In this context, Montenegro's accession to NATO's Partnership for Peace (PfP) is a positive step. The Rapporteur would also like to welcome the decision taken at the Spring Session in Madeira in May 2007 to grant the Parliament of Montenegro the status of associate member of the NATO Parliamentary Assembly.

3. However, despite these positive developments, the situation is far from fully stabilised and a number of major uncertainties remain. Some of these affect the country itself, which remains very polarised and struggles to define its identity and institutions in a new Constitution. Above all, the main uncertainty relates to the future of Serbia, particularly in the context of negotiations over Kosovo's future status. Finally, full integration into NATO and the European Union is still a long way ahead and many obstacles remain before Montenegro and Serbia can become fully-fledged members of the Euro-Atlantic community.

4. Montenegro thus provides an interesting case study of the dynamics currently re-shaping the Balkan region, some of which this Committee identified in last year's General Report on Bosnia and Herzegovina [164 CDS 06 E Rev. 1]. Despite obvious differences between the two countries, keywords such as Constitution, institution-building, sustainable multiethnic state, minority rights, regional co-operation and Euro-Atlantic integration, are equally relevant for both.

5. The report will start with a chronology of the events that led to Montenegro's independence. It will then attempt to provide an early assessment of the country's achievements in terms of domestic reform and integration in the international community. The last chapter will analyse the challenges and prospects for Montenegro's integration in Euro-Atlantic institutions.

6. The Committee travelled to Montenegro as well as to the former Yugoslav Republic of Macedonia* from 24 to 27 April 2007 to discuss with local officials and experts their assessment of recent developments in the region since Montenegro's independence.

* Turkey recognises the Republic of Macedonia with its constitutional name.

II. MONTENEGRO'S PATH TO INDEPENDENCE

7. Montenegro's path to independence has been somewhat chaotic. Although the break-up of the loose federation of Serbia and Montenegro was widely expected, the run-up to the referendum led to major tensions inside Montenegro, as well as between Montenegro and Serbia, and between Montenegro and the European Union. These tensions largely receded following the successful outcome of the referendum.

A. A SLOW DIVORCE

8. Montenegro was an independent country from 1878 to 1918, before it was united with Serbia. In the interwar period, Montenegro was part of the Kingdom of Yugoslavia, before becoming a republic within the Socialist Federal Republic of Yugoslavia at the end of the Second World War. While other Yugoslav republics seceded from Yugoslavia in the early 1990s, Montenegro maintained its union with Serbia, adopting in April 1992 the common Constitution of the Federal Republic of Yugoslavia. Under Slobodan Milosevic's presidency, Montenegrin authorities grew increasingly critical of Serbian policies in the region. In particular, Montenegrin authorities opposed Belgrade's campaign against Kosovo, providing a safe haven for refugees and opposition figures. At the same time, the Montenegrin leadership became more and more vocal in calling for Montenegro's independence.

9. The European Union engaged actively in moderating these demands, wary in particular of the negative impact that Montenegro's independence could have for the resolution of Kosovo's status. Instead, the Union helped broker the 2002 "Belgrade Agreement", signed by the Heads of State of the federal and republican governments, which dissolved the former Federal Republic of Yugoslavia and created the State Union of Serbia and Montenegro. The State Union was a very loose federation with a minimum number of common institutions and responsibilities restricted mainly to defence and foreign policy. It thus gave Montenegro many of the powers of independence, which some of its leadership were pushing for, without the difficulties that full independence might have caused for the region at the time. However, in practice, common institutions of the State Union barely functioned, suffering from strong disagreements between the two constituent entities.

10. The Constitutional Charter of the State Union adopted in 2003 included the possibility for either member of the State Union to secede from the Federation, but set a three-year moratorium on the holding of any referendum on independence. Even before the expiry of the moratorium, Montenegro's claims became increasingly pressing. The planned election to the State Union's Parliament in March 2005 provided the opportunity for a major crisis. Montenegro opposed the organisation of elections, calling instead for an early dissolution of the State Union, which Serbia firmly rejected. The two entities eventually reached an agreement in April 2005, but Montenegro's leadership continued to press for the organisation of a referendum in the spring of 2006.

11. The following months were marked by tense negotiations between all stakeholders. The Montenegrin leadership persistently pushed for a referendum, stating on some occasions that it would organise it even without the support of the international community. The opposition threatened to boycott the referendum. The European Union strived to act as moderator, while firmly opposing unilateral secession and requesting that a consensual solution, supported by all parties, be found. It appointed a Special Envoy, Ambassador Miroslav Lajcak (Slovakia), to facilitate negotiations. Contentious issues included majority requirements for the referendum to pass, participation of Montenegrins residing in Serbia in the referendum, and the composition of the referendum administration.

12. All parties – Belgrade and the Montenegrin opposition first, followed by the Montenegrin leadership – finally agreed in February 2006 to the proposals put forward by the European Union, paving the way for the organisation of the referendum. It was agreed in particular that the referendum would only be valid if independence was supported by 55% of the valid votes, and voter turnout exceeded 50% of the total number of registered voters. Consensus on the procedure later remained as a major feature of the campaign. Despite strong polarisation between pro-independence and pro-union forces, none of the political parties challenged the process itself. This contrasted sharply with earlier tensions.

B. VOTING FOR INDEPENDENCE

13. The referendum on Montenegro's independence was organised on 21 May 2006. The question put to voters was the following: "Do you want the Republic of Montenegro to be an independent State with full international and legal personality?" Fifty-five and a half percent of votes were cast in favour of independence, and 44.5% against. Turnout reached an impressive 86.5%. The conditions set for the validation of the referendum were therefore met, and the Montenegrin Parliament proclaimed the country's independence on 3 June 2006.

14. The International Referendum Observation Mission led by the OSCE assessed the conduct of the referendum positively, stating in its report that "the 21 May referendum provided a genuine opportunity for Montenegrin voters to decide their future state-status through a process of direct democracy, ensuring this issue could be resolved in a peaceful and legitimate manner. Overall, the referendum was conducted in line with OSCE and Council of Europe commitments and other international standards for democratic electoral processes".

15. The campaign saw the constitution of two main blocs: a pro-independence bloc and a bloc favouring the continuation of the union with Serbia. The pro-independence bloc was led by the ruling Democratic Party of Socialists (DPS), and its coalition partner, the Social Democratic Party (SDP), and included also 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 included a number of opposition parties: the Socialist Peoples' Party (SNP), the People's Party (NS), the Serbian People's Party (SNS) and the Democratic Serbian Party (DSS).

16. The campaign was thus very polarised. However, the OSCE reported that "the competitive pre-referendum environment was marked by an active and generally peaceful campaign. Both referendum options respected the right of the other to express an opinion, although there were a number of instances of negative campaigning." Tensions went up after the official outcome of the referendum was announced and representatives of the pro-union bloc boycotted the session of the parliament in which independence was officially proclaimed. This however did not last long as parties had to focus on a new campaign for the parliamentary elections which were called for 10 September 2006.

17. As the short chronology above demonstrates, the independence of Montenegro was not an entirely smooth process. Nor was it totally uncontroversial. The independence of Montenegro also fed accusations of double standards and calls for independence in other parts of the region, Kosovo of course, but also Bosnia and Herzegovina. There, separatist voices advocated that a similar procedure be followed to determine the future of Republika Srpska. Although such a scenario was firmly rejected by mainstream politicians and by the international community, such assertions only complicated already difficult discussions on Bosnia's future Constitution and on police reform. They also led to an upsurge of nationalist rhetoric during the parliamentary elections, which took place on 1 October 2006.

18. Nevertheless, predictions that Montenegro's independence would be a destabilising factor did not prove right. The process was successful and its legitimacy as well as that of the outcome

were eventually recognised by all major stakeholders. Arguments that Montenegro would set a precedent also proved weak in comparison with the obvious specificities of the Montenegrin case, in particular the fact that the Constitution of the State Union left the door open to independence and that the separation was organised in a consensual manner.

III. BUILDING A STATE AND FUNCTIONING INSTITUTIONS

19. Following independence, Montenegro faced a double challenge. As a new state, it had to build or consolidate its institutions. Simultaneously, as other countries in transition, it was faced with the challenges of domestic reform. The young Montenegrin state engaged in an in-depth transformation involving all layers of government, from the basic institutional framework to legislation and society. A lot has been achieved in a short period of time. However, major challenges remain, including in particular the adoption of a new Constitution providing for a sustainable multiethnic state.

A. ELECTING A PARLIAMENT

20. The first major step in the consolidation of Montenegro's statehood was the organisation of parliamentary elections. These were held on 10 September 2006, only four months after the referendum on independence. A total of 12 party lists and 747 candidates competed for the 81 seats in Montenegro's unicameral Parliament. Of these, 5 seats were reserved for the Albanian minority, which elects its representatives in specifically designated constituencies. Local elections in 14 of Montenegro's 21 municipalities were also held on the same day.

21. The elections saw the victory of the ruling coalition of the DPS and the SDP, which, with 48% of the votes, secured an absolute majority of 41 seats. The Serb List, which brings together four Serb parties, came second with 12 seats. Other opposition parties include the SNP and its ally, the NS, which together won 11 seats – down from the 26 seats they held previously, and the Movement for Changes also with 11 seats. Remaining seats were shared among smaller parties. Turnout was again high at 71%.

22. The International Election Observation Mission (IEOM) led by the OSCE considered that “the campaign was overall calm, orderly and low-key”. Elections were deemed “largely in line with OSCE commitments and Council of Europe standards for democratic elections, although a number of reappearing challenges remain”. These included in particular allegations of undue pressure on voters; amendments made to the Election Law after the election had been announced; a controversy about the fairness of the distribution of public funds to parliamentary and non-parliamentary parties; the impossibility for independent candidates to run; and the lack of transparency in the allocation of mandates.

23. Although political parties reorganised after the referendum on independence and were not officially structured around the pro-independence and pro-union blocs in the parliamentary campaign, elections were clearly a follow-up on the referendum, with the ruling coalition taking credit for leading the country to independence and presenting itself as the guarantor of Montenegro's integration into European and Euro-Atlantic institutions. The state of the economy, unemployment and foreign investments were also major topics in the campaign. Ethnic claims were also put forward by parties representing ethnic minorities, as will be discussed in greater detail in section D.

24. The Prime Minister and historic leader of the country, Milo Djukanovic, stepped down shortly after the elections and was replaced by Zeljko Sturanovic, whose government was confirmed by the new Parliament on 10 November 2006. Presidential elections will next be held in 2008.

B. ADOPTING A CONSTITUTION

25. Although parliamentary elections were organised quickly following independence, the adoption of a new Constitution appeared to raise more difficult issues. Since independence, Montenegrin authorities have functioned under the regime of the 1992 Constitution. A law from October 2006 set the procedure for the adoption of a new Constitution, providing in particular that it would have to be approved by a two-thirds majority of the parliament, and if this was not achieved, by a simple majority of the population in a referendum.

26. Talks on a new Constitution started at the end of November 2006, but soon stumbled over several disputes. Opposition parties challenged in particular the procedure for the adoption of the new Constitution, requesting that the text be approved by a two-thirds majority in a freshly elected Parliament. Their appeal to the Constitutional Court on these grounds was rejected on 6 December 2006. The procedural deadlock was broken when opposition parties agreed in November 2006 to join a Special Parliamentary Committee on the Constitution.

27. Another important development was the declaration signed, on 8 February 2007, by the Speaker of the Parliament, the Prime Minister and the leaders of political groups represented in parliament, endorsing 7 general principles, which the Council of Europe had set as pre-requisites for the country's accession to the organisation. The Serb List and the Alliance of Liberals and the Bosniak Party refused to sign this document. The principles require in particular that Montenegro establish a system based on the equality of people and not of constituent peoples; that it guarantee the independence of the judiciary and the efficient constitutional protection of human rights, including minority rights; that the Constitution regulate the status of the armed forces, security forces and intelligence services of Montenegro and the means of parliamentary supervision, providing in particular that the position of the Commander-in-Chief be held by a civilian.

28. On 3 April 2007, the Parliament agreed to a draft Constitution proposed by the Constitutional Committee, which however still includes alternative wordings on a number of contentious issues. One set of issues relates to the designation of the state language and of state symbols – i.e. the coat of arms, the flag and the anthem. Ethnic minorities strongly oppose the ruling coalition's proposals, which they claim mark a departure from tradition and demonstrate the government's intention to deny the pluralistic identity of the country and promote the assimilation of all ethnic groups. Thus, whereas the current draft mentions "Montenegrin" as the official language of Montenegro, Serb parties favour the designation "Serbian language of Iekavian dialect", while others suggest using "Serbian, Montenegrin". The Bosniak party is also pushing for a mention of Bosnian as an official language of Montenegro.

29. As the Committee has learned during its visit to Podgorica, this dispute is not purely symbolic; it illustrates a general dissatisfaction among ethnic minorities with the ruling coalition's conception of the role of ethnic minorities in the new state and with the arrangements it proposes for the protection of minority rights. This translates into a broader debate between supporters of the model of a "civic state" – based on the equality of all citizens regardless of their ethnicity or religion – and those advocating a "national state" – based on the shared sovereignty of all citizens and all national communities. Whereas the ruling coalition favours the former model, representatives from Serb, Bosniak and Albanian parties have called for a greater protection of rights of national communities in the Constitution, including educational and cultural autonomy, the use of minority languages, guaranteed representation in Parliament, in state and local institutions, and in public services.

30. Another divisive issue relates to the recognition of Montenegro's churches (particularly the Serbian and the rival Montenegrin Orthodox Churches) and the exercise of the freedom of religion.

The possibility to change the state's status by referendum is also debated. However, it has to be noted that no political party currently challenges the existence of the Montenegrin state as such.

31. A final source of contention relates to the organisation of the judiciary. Under the current draft, judges would be appointed and dismissed by the parliament based on a recommendation by a Judicial Council composed of judges and legal experts. An alternative proposal suggests removing any political intervention in the appointment and dismissal of judges, leaving the decision exclusively to the Judicial Council.

32. The draft Constitution was submitted to the Venice Commission of the Council of Europe, which criticised technical shortcomings and identified two main problematic areas: the imperfect protection of human rights and insufficient protection of minority rights; and provisions regarding the appointment and dismissal of judges, which do not fully satisfy the requirements of an independent judiciary.

33. After a period of public debate, the Constitutional Committee adopted a final draft on 31 July 2007 in a session which was boycotted by opposition parties. This draft is largely based on the original proposal presented in April. The Parliament is now expected to discuss this text and adopt the final version of the Constitution in September. Unless political parties manage to reach a consensus on the divisive issues, it might be difficult to gather the required two-thirds majority in parliament. Yet, failure to agree on a draft through the parliamentary procedure would require the organisation of yet another referendum, which might encourage further divisions and tensions.

C. PROMOTING DOMESTIC REFORMS

34. The government has already started implementing an ambitious programme of domestic reforms, with the assistance and under the supervision of various international partners. Many steps have already been taken since 2002, but independence has brought both new challenges and new opportunities. As early as April 2006, the Montenegrin government adopted an Action Plan for the functioning of the Republic of Montenegro as an independent state, which set immediate political and legislative priorities until November 2006 for the pre- and post-referendum phases. Upon his appointment as Prime Minister in November 2006, Mr Sturanovic presented his government's programme, which builds on the Action Plan. Relying on a "proactive comprehensive approach", the programme included a broad set of reforms and priorities: reform of the state administration; strengthening of the institutional framework for local self-government; further reform of the judiciary; police reform; fighting organised crime and corruption; promotion of economic growth; employment and poverty reduction; tax reform; pension reform; education and health care reform; Euro-Atlantic integration (EU and NATO); and promotion of relations with regional and international partners.

35. Observers generally agree that Montenegro has already achieved a lot. The reform agenda is supported by a strong economy. The 2006 Gross Domestic Product (GDP) is estimated at 1.9 billion euros and GDP growth at 6.5%, with a 2.5% inflation rate. With a per capita income of 2,950 euros, Montenegro ranks above its neighbours. Montenegro also ranks first in the region in terms of Foreign Direct Investments (FDI); these represent over 25% of GDP. Half of this FDI is in real estate. Growth is supported mainly by the transport and construction sectors, as well as by a booming tourism industry which generated an estimated 300 million euros of receipts in 2006. The state's budget for 2006 recorded a surplus due mainly to high VAT revenues and another surplus is expected in 2007. Unemployment remains relatively high, yet decreasing, at an estimated 13.4% at the end of May 2007 according to official national data. The level of the grey economy – which the UN Development Programme put at 40% of the total economy in 2005 – is also a legitimate cause of concern.

36. Initial efforts point to a number of areas which are likely to pose long-term challenges. Possibly the greatest challenge will be the capacity of Montenegro to build sustainable and efficient institutions, starting with the core state institutions. Strengthening the parliament's capacities and providing it with adequate resources are pre-requisites for ensuring proper democratic oversight of the reform effort. During its visit to Montenegro, the Committee learned that new means of parliamentary control are being developed; the parliament has also gained in transparency and established links with civil society organisations. As a result, its popularity has grown significantly. Nevertheless, lack of resources and personnel in particular remain a challenge.

37. A lot also remains to be done to improve the efficiency of governmental action, particularly regarding strategic planning and coordination. Measures taken since independence also demonstrate that, although Montenegro did well in terms of legislative activity and adoption of reforms, implementation is often lagging. These problems will only get more acute as Montenegro's process of Euro-Atlantic integration accelerates and the country faces mounting pressure to step up reforms.

38. Reform of the state administration is a pre-condition for the success of the reform agenda. Various international bodies have emphasised that Montenegro's public administration lacks appropriate resources, and suffers from deficient accountability, deficient political neutrality and professionalism, and a poor implementation capacity. Full implementation of the decentralisation agenda will also require additional capacity-building efforts for local administration.

39. The judiciary is possibly the most problematic state institution. The Committee has learned that the current functioning of the judicial system is widely considered as unsatisfactory. The judiciary is one of the least trusted institutions; it is symptomatic that other law enforcement institutions are said to complain regularly about lack of co-operation. Additionally, the current system for the appointment and dismissal of judges is fraught with political influence. In July 2007, the government presented a strategy for reforming the judiciary, which aims at addressing some of these issues.

40. Corruption and organised crime represent another important challenge for the current government. Montenegrin authorities adopted in July 2005 a Strategy on Combating Corruption and Organised Crime. Since independence, several steps have been taken to facilitate the implementation of this strategy and the current government has made the fight against corruption and organised crime one of its priorities. An Action Plan was adopted in August 2006 and a commission set up in February 2007, headed by the Deputy Prime Minister for European Integration, to manage, organise and coordinate the activities of all government authorities and institutions involved in its implementation.

41. Regarding the fight against corruption, the Action Plan provides in particular for the extension of the mandate of the prosecutor in charge of organised crime to cases of corruption and for the creation of a specialised unit within the police. According to the OSCE Office in Podgorica, from June 2006 to March 2007, 200 complaints were filed to relevant services. However, a number of loopholes in the legal and administrative frameworks, as well as an ongoing lack of transparency and oversight, continue to provide a favourable environment for practices of corruption. Further efforts are thus required to strengthen the legal framework and reinforce the capacities of bodies in charge of the fight against corruption.

42. The same is true of the fight against organised crime. Economic crime, drug trafficking and human trafficking continue to represent serious challenges, while the investigation and prosecution of cases remain deficient and marred by suspicions of political involvement. Institutions in charge of the fight against organised crime are understaffed and lack necessary resources and capacities. For instance, the Organised Crime Department within the Police's Criminal

Investigations Directorate functioned with a staff of four at the end of 2006. Similar deficiencies undermine the work of the prosecutor for organised crime and of the judiciary. Other priority areas include strengthening the witness protection framework, criminal intelligence capacities, and oversight mechanisms. Overall, Montenegrin authorities still need to develop a comprehensive reform plan which addresses every step in the process – from investigation to prosecution – and encompasses all relevant areas – police reform, reform of the judiciary, etc.

D. GOVERNING A MULTIETHNIC SOCIETY

43. Interethnic relations could represent another important challenge for Montenegro, particularly when taking into account the regional context. Montenegro is a multiethnic state, where, according to the 2003 census, Montenegrins represent only 43% of the population. Other ethnic groups include Serbs (34%), Bosniaks and Muslims (12%), Albanians (5%), Croats (1%), and others (7%), including a 20,000 strong Roma population.

44. Most of these groups are represented by specific political parties, which have been active in highlighting the problems faced by their communities and articulating their claims. Tensions emerged at various instances during the referendum and election campaigns. The referendum campaign was highly polarised, with most ethnic Montenegrins supporting independence, while most of the Serb population favoured the continuation of the union with Serbia. Following confirmation of independence, the Serb parties adopted a defiant attitude, refusing to officially acknowledge the outcome of the referendum and boycotting parliamentary sessions.

45. A debate also emerged about political representation of ethnic minorities, prompted by the adoption, ten days before the referendum, of the Law on Minority Rights and Freedoms. This law, which was the result of two years of intense negotiations, included a provision to reserve seats in the parliament for representatives of ethnic minorities – one seat for minorities representing 1 to 5% of the population and 3 seats for minorities representing over 5%. The Constitutional Court scrapped the law in July 2006, arguing that it contravened the principle of equality of all citizens before the law as guaranteed by the Constitution. This decision provoked an uproar among minority parties. It also further highlighted the discrepancies between the treatment of the Albanian minority, which benefits from a special arrangement whereby it elects representatives based on votes cast in specifically designated constituencies, and other national minorities.

46. The issue of minority rights featured again during the election campaign. Parties representing minority communities denounced the poor representation of their communities in state and local institutions and called for further decentralisation of local self-government. The Serb List was most vehement in advocating the rights of the Serb community in Montenegro, calling for the official recognition of the Serb language and the role of the Serbian Orthodox Church in the Constitution, and demanding greater autonomy.

47. Another incident involved the arrest on the eve of the election of a group of Albanian activists of the Movement for Ethnic Albanian Rights in Montenegro – including two candidates – and of former Kosovo Liberation Army fighters suspected of preparing a plot to set up an autonomous Albanian region in Montenegro.

48. Discussions on the new Constitution have demonstrated that tensions are not fully appeased and that political parties remain divided on identity related issues. Following the invalidation by the Constitutional Court of the law on minorities, ethnic parties have been eager to seize the opportunity created by the debate on the Constitution to secure the rights that the law would have granted them. Serb parties have been particularly active in pressing for a greater recognition of the role of national communities and enhanced protection of minority rights in the Constitution. Bosniak parties have become more vocal in this discussion and are generally supportive of the amendments proposed by Serb parties. Albanian parties also appear increasingly harsh in their

opposition to the ruling coalition's draft and have advanced radical alternatives, such as the establishment of a second chamber of parliament representing national minorities.

49. The ruling coalition needs the support of opposition parties to reach the two-thirds majority required for the adoption of the Constitution in the parliament and avoid another referendum. Government figures have already indicated that they are open to a compromise solution. This would certainly be the most desirable outcome. Minority parties raise legitimate concerns regarding the protection of minority rights, as acknowledged by the Venice Commission. On the other hand, the ruling coalition's wariness of imposing institutional burdens on the young state of Montenegro and encouraging further divisions among its peoples is also understandable. Given the importance and sensitivity of the issues at hand, it is therefore essential that all parties engage in an appeased and constructive discussion, and reach consensus. In a regional context characterised by tensions over Kosovo as well as ongoing difficulties in Bosnia and Herzegovina, developments in Montenegro could send decisive signals. The political class in Montenegro should recognise that it faces a historic opportunity to create a model of multiethnicity in the region.

E. REFORMING THE DEFENCE AND SECURITY SECTORS

50. Police reform has already gone some way. Whereas Republics within the former Yugoslavia did not have armies, they had authority over the police. As a result, Montenegro inherited a functioning police structure. This however required in-depth reform. Under the former Yugoslavia, the police tended to be highly militarised and politicised, acting as the oppressive arm of the regime in the 1990s. With the arrival to power of Mr Djukanovic and his split with the regime of Slobodan Milosevic, the Montenegrin police was also caught in the struggle between Milosevic loyalists and supporters of the new Montenegrin leader. As a result, an OSCE report from 2001 concluded that the police in Montenegro was oversized, corrupt, politicised and inadequately trained.

51. Montenegrin authorities initiated a major reform in 2005 with the Law on Police and the Law on the Agency for National Security, which aimed to strengthen professionalism, accountability and decentralisation. The laws separated the secret service and the police administration from the Ministry of Interior, thereby creating two new police authorities: a police directorate and an Agency for National Security. Both are headed by a director appointed by the government upon recommendation by the parliament. The police remains under the "executive oversight" of the Ministry of Interior, but the law makes it clear that Ministry has no operational responsibility. It is responsible only for policymaking, legislation and administrative matters. The police administration is organised into 7 regions and 14 sub-regions corresponding to the 14 municipalities. A Police Academy became operational in October 2006. These initial steps now need to be consolidated. Further efforts are required in several important areas: strategic planning, decentralisation, accountability – including financial transparency and accountability, training, investigative intelligence and risk analysis tools, community policing, and border policing.

52. In comparison, Montenegro's armed forces still need major reform. The Army was one of the few functions of the State Union of Serbia and Montenegro that functioned together right until independence. As Serbia inherited the vast majority of military assets, both physical and human, after the Union split, Montenegro has been forced to build its defence architecture almost from scratch. Within weeks of independence, however, the government created a Ministry of Defence and adopted a Strategy of National Security.

53. The Strategy defines the strategic goal, security interests and objectives of Montenegro, the threats it faces, the priorities of its national security, the national security architecture – relevant authorities and their respective roles, the internal and external tasks of the security forces, and the principles applying to homeland security. According to the Strategy, Montenegro's security policy focuses "on the preservation of its national and state interests and on seeking to fully meet its

security objectives, based on the principles of a developed democracy, rule of law and its orientation towards Euro-Atlantic integration with full respect of international law and the internationally accepted principles of peaceful resolution of disputes and with respect of the environment". It should aim to address the following threats: conventional military threats, global terrorism and violent extremism, organised crime, corruption, difficulties relating to transition, disasters, epidemics and accidents, and common crime.

54. The Strategy provides for a civilian Minister of Defence, who was appointed in October 2006. The new Defence Ministry has started to reduce and modernise the armed forces. Conscription was abolished in August 2006 and the armed forces will be reduced from 6,000 to 2,400 soldiers by the end of 2007. They will include the following components: the General Staff, one Infantry Brigade, one Special Operations Brigade, one Training and Support Brigade, an Air Force base, a Navy base, a Guard of Honour, and a Military Police Unit. The Special Operations Brigade is set to become the niche capability for participation in NATO operations.

55. During its visit to Podgorica, the Committee learned that outstanding challenges of defence reform include: insufficient financial and material resources; a poor education system; surplus of civilian staff; a deficient infrastructure; and armament surpluses. Further steps of the reform process should therefore focus on modernization, training, and equipment, as well as the engagement of the armed forces in international missions. The Chief of General Staff insisted on the importance of international and regional co-operation to assist Montenegro with its defence reform.

56. Most recently, the government adopted the National Defence Strategy and started discussing the laws on national defence and on the armed forces. Their adoption is expected for the end of 2007, following the completion of the constitutional process and the adoption of the new Constitution. As for the defence budget, it should remain within the 2% framework.

57. In Podgorica, the delegation was also informed that the parliament is progressively perfecting its oversight over the defence and security sectors. Hearings with the directors of police and of the National Security Agency are already organised on a regular basis. This, however, is not yet the case with the Minister of Defence. Additionally, Montenegrin parliamentarians acknowledged that their work is still hindered by a relative lack of experience, expertise and resources.

IV. MONTENEGRO IN THE INTERNATIONAL ARENA

58. Montenegro's independence has been rapidly recognised by the international community and the new state has been prompt in establishing diplomatic relations both at the regional and at the international level. A major challenge was the re-definition of its relations with Serbia.

A. SUCCESSION TO TREATIES AND TO INTERNATIONAL AND REGIONAL ORGANISATIONS

59. Instances of state succession are not unprecedented in Europe. The break-up of the Soviet Union and of the former Yugoslavia resulted in many cases of secession and dissolution of federal entities. International law contains some guidance as to how to deal with state succession, but practice demonstrates that much depends on the agreements reached between the relevant entities. A model of "successful" break-up was the dissolution of Czechoslovakia, which led to the emergence of two new states on the international arena, the Czech Republic and Slovakia. The dissolution of the former Soviet Union raised more difficult legal questions, but Russia was considered to be the successor state, while other entities became new independent states. The

most complex situation resulted from the break-up of the former Yugoslavia. Slovenia, Croatia, Bosnia and Herzegovina and the former Yugoslav Republic of Macedonia, were all considered as new states, however a controversy emerged as to whether Serbia and Montenegro was the successor state or was also a new state. The status of Serbia and Montenegro remained uncertain until the fall of Milosevic's regime in 2000 and the new government's decision to apply for membership to the United Nations as a new member.

60. These past experiences certainly informed preparations for Montenegro's independence. In fact, article 60 of the Constitutional Charter of the State Union of Serbia and Montenegro provided the general guideline for settling a break-up of the Union. It stated that "should Montenegro break away from the state union of Serbia and Montenegro, the international instruments pertaining to the Federal Republic of Yugoslavia, particularly UN SC Resolution 1244, would concern and apply in their entirety to Serbia as the successor. A member state that implements this right shall not inherit the right to international personality and all disputable issues shall be separately regulated between the successor state and the newly independent state."

61. In accordance with article 60, Serbia thus automatically succeeded to the Union's rights and obligations resulting from international treaties and membership in international organisations. On the contrary, Montenegro was considered as a new state and therefore has had to ratify or accede to existing treaties and apply for membership of international organisations. In the interim, Montenegro's declaration of independence stated that the new state will consider itself bound by international treaties to which the State Union was a party as far as they are relevant for the territory of Montenegro.

62. Montenegro was rapidly recognised as a new independent state by the international community. The European Union and its member states did so in a declaration from 12 June 2006, while Serbia recognised Montenegro on 15 June 2006. Montenegro was also rapidly admitted to the United Nations on 28 June 2006 and thus became the 192nd member state of the Organisation. It became a member of the OSCE on 22 June 2006. Accession to the Council of Europe was delayed due partly to developments related to the constitutional debate. Nevertheless, Montenegro was admitted as a new member on 11 May 2007.

63. Montenegro was also swift in joining regional co-operation frameworks. This is a positive development, as these frameworks have recently gained new momentum. In December 2006, Montenegro became one of the member states of the extended Central European Free Trade Agreement (CEFTA), which consolidates 32 existing bilateral agreements between Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Albania, Bosnia and Herzegovina, Serbia and Moldova, into one single framework. It became the 11th participant to the South East European Co-operation Process on 11 May 2007 and will thereby contribute in February 2008 to the transformation of the Stability Pact into the Regional Cooperation Council. Montenegro also joined the European Energy Community established in July 2006 between the European Union, Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia, as well as the United Nations Mission in Kosovo (UNMIK).

64. In the field of defence, Montenegro participates as an observer in the South Eastern Europe Defence Ministerial (SEDM) process and has already expressed hopes of joining the Adriatic Charter, a US initiative to promote regional co-operation between Albania, Croatia and the former Yugoslav Republic of Macedonia in their efforts to integrate Euro-Atlantic institutions. Serbia, Montenegro and Bosnia and Herzegovina are already regularly invited to Adriatic Charter meetings.

B. RE-DEFINING RELATIONS WITH SERBIA

65. Throughout the negotiations preceding the organisation of the referendum, the Serbian government advocated the maintaining of the State Union, supporting the pro-union bloc in Montenegro in their campaign against a referendum. Its assent to the European Union's criteria in February 2006 largely relied on the assumption that the target of 45% of no votes would be reached. These calculations were proven wrong. Arguably some of Serbia's actions turned voters against maintaining the State Union, most notably the large funeral for Slobodan Milosevic held in Belgrade, and the EU's decision to halt negotiations on the Stabilisation and Association Agreement (SAA) due to the Serbian government's lack of compliance with the International Criminal Tribunal for the former Yugoslavia (ICTY).

66. In the immediate aftermath of the referendum, the Serbian government gave mixed signals. Serbian President Boris Tadic was immediately positive, congratulating Montenegro two days after the referendum and visiting Montenegro five days later. In this meeting with then Montenegrin Prime Minister Milo Djukanovic, both leaders declared that their countries would maintain the best possible relations, as this was in the interests of their citizens and their European and Euro-Atlantic aspirations. Serbian Prime Minister Vojislav Kostunica and other nationalist Serbian politicians, however, were more reluctant to acknowledge the outcome of the referendum. Yet the Serbian government officially recognised Montenegro's independence on 15 June 2006, and signed a treaty with Montenegro establishing full diplomatic relations on 22 June. Montenegro did not send an ambassador to Belgrade until 5 January 2007, however, and Serbia has yet to send one to Podgorica.

67. Following the break-up of the State Union, Serbia also had to re-organise its institutions and quickly engaged in the drafting of a new Constitution. A draft was adopted by the Serbian Parliament on 30 September 2006 and submitted to a referendum on 28-29 October 2006. It was approved by 53% of the population in a vote that was considered by the Parliamentary Assembly of the Council of Europe (PACE) – the only international organisation to observe the referendum – as in line with international standards. However, the referendum campaign focused more on the issue of Kosovo, and a provision in the draft Constitution stating that Kosovo is an integral part of Serbia, than on the re-organisation of the state's institutions. The adoption of the draft Constitution was thus generally considered as a political move with broader implications and motivations than just the need to deal with the consequences of Montenegro's independence.

68. Serbia's referendum was also quickly followed by parliamentary elections, organised on 21 January 2007 and which led to the victory of the ultra-nationalist Radical Party with 28.5% of the votes, followed by the Democratic Party (DS) of President Tadic and the Democratic Party of Serbia (DSS) of Mr Kostunica. Kosovo was also a major topic in the campaign. The government was formed almost four months later, on 12 May 2007, after the DS and DSS finally agreed on the terms of a coalition.

69. In this difficult context, negotiations on the consequences of the break-up of the State Union have proceeded slowly. Most of the difficult issues in the split, such as pensions, healthcare, and other social security topics, were not discussed between the two governments prior to the referendum, as the Serbian government was reluctant to plan for possible independence. In July 2006, the two countries agreed to divide property and debts between the two, with Montenegro receiving 5.88% of the total. Military property was divided according to a different rule, each country keeping the assets located on its territory. Some of the most difficult issues regarding social insurance and pensions were resolved by an agreement signed by the two countries on 18 December 2006. The agreement also states that Montenegrin students will have the same rights as Serbian students in Serbia.

70. Relations between the two countries hit a snag in November 2006 when Kosovo's Prime Minister Agim Ceku visited Podgorica on the invitation of Mr Djukanovic. Belgrade reacted very strongly to this visit, declaring that Podgorica was not respecting the territorial integrity of Serbia. Relations improved, however, when Montenegro agreed to facilitate the voting of Serbian citizens residing in Montenegro in Serbia's parliamentary elections.

71. Good relations with Serbia are, and will continue to be, critical for Montenegro. Serbia is Montenegro's largest trading partner, accounting for 34.8% of its imports and 36.8% of its exports. In addition, the historic, cultural and educational links will continue to bind both countries, as made evident by the Montenegrin Parliament's Declaration in Relations with the Republic of Serbia, issued just before the referendum. Many citizens of each country reside in the other, and while their status is still unclear as border controls have not yet been installed, traffic across the border is likely to remain high.

72. Overall, the main uncertainty today is therefore not the state of relations between Montenegro and Serbia. Despite earlier tensions, these relations have been moving in the right direction. Montenegrin officials have even repeatedly told the Committee that relations with Serbia are better now than ever before. Serbia's future evolution, however, is more worrying. Recent events have highlighted once more the gap between the pragmatic liberal and the radical nationalist forces in the country. The new government has clearly stated its commitment to Euro-Atlantic integration and developed an ambitious programme of domestic reform. It has already registered significant achievements in its first months in office, including the re-opening of talks with the European Union on the SAA. It remains however, that liberal forces in Serbia operate in a particularly challenging environment, which has fed resentment and radicalism among the population. In this sense, the independence of Montenegro reinforced the existing disarray. However, the real challenge remains Kosovo and the way Serbia will handle the final stage of negotiations.

73. During its visit to Podgorica, the delegation learned that Montenegro feels vulnerable with regards to developments in Kosovo. Although no one seriously expects another armed conflict, Montenegrin authorities are concerned in particular about possible refugee flows, tensions within Montenegro's society, and deterioration of the economic situation. As a result, Montenegro has refrained from playing any major role in the status process. Montenegrin officials explained to the delegation that Montenegro should focus on preserving stability within its own borders, thereby demonstrating that it is possible to have a sustainable multiethnic state in the region. Montenegro's policy also aims at preserving good relations with both Belgrade and Pristina whatever the final status of Kosovo. Montenegrin officials insisted that any solution should avoid deteriorating relations in the region and warned that a unilateral proclamation of independence would put many countries of the region in a particularly difficult position.

V. MONTENEGRO ON THE PATH TO EURO-ATLANTIC INTEGRATION

74. Since independence, and in the campaign leading up to it, Montenegrin government leaders have made clear that the country's main foreign policy aim is integration into the Euro-Atlantic institutions. Indeed in the declaration of independence issued on 3 June 2006, the Montenegrin Parliament "confirmed as its strategic priority an accelerated integration into the European Union, and is determined to continue to efficiently fulfil the conditions and requirements included in the Copenhagen criteria and the Stabilisation and Association Process (SAP)." The victory of the ruling coalition in the parliamentary elections was further confirmation of Montenegro's pro-European orientation.

75. Independence from Serbia is largely seen both in and out of the country as a way for the Montenegrin people to speed their membership in the Euro-Atlantic institutions without being

hampered by the poor performance of the Serbian government in such areas as compliance with the ICTY. The Montenegrin government sent a strong signal to this effect in March 2007 when it detained and questioned several family members of former Bosnian Serb General Radovan Karadzic, who has been indicted by the ICTY and is still at large. A further step came with the arrest in June 2007 of Vlastimir Djordjevic, another major war crime indictee. Nevertheless, during a recent visit to Podgorica, the Tribunal's prosecutor, Carla del Ponte, called on the Montenegrin authorities to step up their efforts and engage more actively in the search for alleged war criminals.

Montenegro's relations with the European Union

76. The European Union has played a large role in shaping what is now the Republic of Montenegro. The EU's High Representative, Javier Solana, helped negotiate the Belgrade Agreement of 2002 and the conditions in which Montenegro's referendum on independence would be held. After the official declaration of independence by the Montenegrin Parliament on 3 June 2006, the EU and its member states were swift to recognise this independence.

77. Since then, relations between the European Union and the new Republic of Montenegro have progressed rapidly. On 12 June 2006, the EU Council agreed to develop further relations between the EU and the newly independent Montenegro, just 9 days after the country officially declared independence. Following this decision, an Enhanced Permanent Dialogue was launched on 24 July, and the Commission requested a mandate from the Council of the EU to negotiate a visa facilitation agreement, which was completed on 13 April 2007. While negotiations on a Stabilisation and Association Agreement had been ongoing in a "twin-track" process for Serbia and Montenegro since October 2005, negotiations with the independent Republic of Montenegro were launched officially on 26 September 2006. The SAA was not officially initialled in Podgorica until 15 March 2007, however, as the EU requested that Montenegro improve its customs system before the agreement could be signed. Further steps now appear to be conditioned on Montenegro's adoption of a new Constitution.

78. While Montenegro has made enormous progress towards EU accession, important obstacles remain. In November 2006, the EU sent a strong signal to Montenegro and the other Balkan aspirants that their accession will take time, and will be under stricter conditions than previous enlargements. This signal came through the release of a Progress Report on each of the candidate and potential candidate countries. Montenegro's report showed that the country still has many reforms to enact. The EU particularly worries about Montenegro's administrative capacity, the high level of corruption in the country, and Montenegro's customs service. Perhaps most worryingly for Montenegro, the report also states that further enlargement of the EU cannot be made without addressing the Union's "integration capacity," meaning its institutional capability to deal with new members. Other countries of the region which are more advanced in their negotiations with the European Union – namely Croatia, which was hoping to join in 2009, and the former Yugoslav Republic of Macedonia – have already had to revise their prospects for membership accordingly. In this regard, the objective set by several government officials in Montenegro of filing an application for EU candidate status as early as 2008 seems overly ambitious.

79. As part of the EU's revised Stabilisation and Association Process, launched at the Thessaloniki Council in 2003, the Council established a European Partnership for each Balkan country. These partnerships list short-term and medium term goals for the country to achieve on its way to full EU integration. The EU also directs its financial aid toward these priorities. The EU Council released a new partnership document for Montenegro on 22 January 2007, as the previous partnership document for the State Union was no longer applicable. The Council set out 6 items as key priorities for the new Montenegrin government in the short-term, defined as one to two years. As expected, these priorities largely mirror the difficulties laid out by the Commission in

its Progress Report on Montenegro; they include: the adoption of a new Constitution that conforms to European standards for human and minority rights; completion of the legal framework for an independent country; reform of the public administration system; reform of the judicial system; enhancement of the fight against organised crime and corruption; strengthening parliamentary control over defence and security structures; continued full co-operation with the ICTY; and improvement in administrative capacity. The Montenegrin government has recently set up a Commission on European Integration to coordinate the activities of all relevant ministries on EU-related issues.

Relations with NATO

80. The Montenegrin government has also set joining NATO as a key priority for the country. The decision taken by NATO Heads of State and Government in Riga in November 2006 to allow Montenegro into NATO's Partnership for Peace (PfP) is a major step in this direction. The PfP Framework Document was officially signed in December 2006 and the Presentation Document adopted by the Montenegrin government in May 2007. An Agreement on Exchange of Information was also adopted in April 2007. Lastly, the government established a PfP Council chaired by the Prime Minister to oversee all PfP-related activities, and is in the process of setting up a diplomatic representation at NATO's Headquarters in Brussels.

81. While the government exhibits a strong determination to move forward with integration into the Alliance, support in the population for NATO membership is relatively weak. Whereas a large majority of the population (between 77 and 82%, depending on estimates) is in favour of EU integration, polls from the Centre for International Relations in Podgorica indicate that only one third of respondents explicitly supports NATO integration. There are even indications that opposition to NATO integration has increased in recent months to almost 40% in June 2007. The remaining 27% are undecided. This situation can be attributed in part to the lack of information among the population and persistent image of NATO as an aggressive military organisation, particularly in relation to NATO's intervention in the Yugoslav wars.

82. Montenegrin authorities have indicated on several occasions that they consider the processes of NATO and EU integration to be mutually reinforcing, although in practice priority is given to EU accession. For instance, the government programme of November 2006 states that "[a]t the same time with the EU accession, the integration of Montenegro to Euro-Atlantic community, through the membership in the NATO Partnership for Peace and NATO, will be carried out. These are compatible processes, which basically have the same goals – democratic reform of the overall society, security and safety strengthening, rule of law, functional market economy." During its visit to Podgorica, the Committee also learned that Montenegro does not consider the process of EU and NATO integration to be in any way incompatible with its good relations with Russia, which accounts for 12% of FDI in the country.

VI. CONCLUSIONS

83. Since the May 2006 referendum and the independence of the country, Montenegro has engaged in a far-reaching process of institution building and reform at an extremely fast pace. The country has achieved major progress in a limited period of time. In the short term, a major challenge will be the enactment of a new Constitution, which should embody a consensus on the basic principles underlying the new state. This task is complex, as almost half of the population voted against independence in the May 2006 referendum and as the constitutional debate has heightened divisions between ethnic groups. However, Montenegro should seize this historic opportunity to demonstrate that it can be a sustainable multiethnic state and a pillar of stability in the region.

84. As Montenegro has emerged as a new player in the international arena, it has set regional co-operation as a major priority, favouring the development of good relations with all its neighbours. Relations with Serbia, in particular, are appeased and widely considered as positive. However, uncertainties regarding the future status of Kosovo continue to cast a shadow over the future of the region. In this context, Euro-Atlantic institutions have an important role to play in diffusing tensions and providing a clear perspective for the region.

85. A large majority of the political class shows a high level of commitment to the goal of Euro-Atlantic integration. The image of the EU and NATO among the population is good, although EU membership seems to attract more popular support than NATO membership. The government is engaged in a broad effort to implement the reforms that are necessary to bring the country closer to EU and NATO standards. Defence reform remains a challenge, as the country had to build a defence from scratch. Other challenges on Montenegro's path to Euro-Atlantic integration include consolidating economic growth and settling outstanding issues regarding the protection of ethnic minorities. The shortage of expert knowledge and administrative capacity might also pose a serious challenge in the long term.

86. In this context, one priority area for the NATO Parliamentary Assembly should be to assist the Parliament of Montenegro in building up its capabilities for democratic control, particularly in the defence and security sectors. Another objective should be to support efforts to promote better information about NATO and about the challenges and benefits of NATO integration for Montenegro. Finally, the NATO PA will continue to provide a forum for dialogue, exchanges of experience and lessons learned on the process of Euro-Atlantic integration with countries of the region and beyond.
