

**MONTENEGRO:
RESOLVING THE
INDEPENDENCE DEADLOCK**

1 August 2001

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MONTENEGRO: RESOLVING THE INDEPENDENCE DEADLOCK

EXECUTIVE SUMMARY

Ten months after the fall of Slobodan Milošević, considerable progress has been made in establishing democratic governance in the Federal Republic of Yugoslavia (FRY) and reintegrating the country into the international community. Yet the future of the federation itself remains in doubt. The FRY is a hollow edifice whose institutions hardly function except as an address for the international community. Montenegro's authorities no longer recognise the legitimacy of the federal government. All sides agree that the status quo is unsustainable and that Montenegro and Serbia must find a new basis for their relationship.

Montenegro's authorities remain committed to independence. However, the hopes of the republic's ruling parties that the election on 22 April 2001 would bring a comfortable victory, to be followed swiftly by a referendum and independence, were not realised. The narrow victory for the pro-independence parties only confirmed the depth of division over the republic's status. Plans for an independence referendum were postponed until early 2002. With some difficulty, the pro-independence ruling parties formed a minority government backed by the radically pro-independence Liberal Alliance, which demands rapid progress towards a referendum. However, the lack of a broad consensus on the status issue or on the rules and conditions for a referendum makes it difficult to press ahead with independence plans under current circumstances.

While there is little risk of serious conflict in Montenegro, prolonged political uncertainty could further polarise and radicalise the different sides. There is also a danger that the continued domination of the political agenda by the status

issue could result in a loss of momentum in government reform efforts.

These risks can, and should, be avoided. Various initiatives are underway to break the deadlock. Serbian government officials have stated that Montenegrins should decide on their future as soon as possible, so that Serbia's own development will not be held hostage to the indecision of its federal partner. Belgrade's impatience has been heightened by difficulties with its Montenegrin coalition partner at the federal level, the pro-Yugoslav Socialist People's Party (SNP), particularly over cooperation with the international criminal tribunal in The Hague, which the SNP opposes. The view is increasingly gaining ground in Serbia that a federation which is boycotted by the ruling Montenegrin parties and whose survival hinges on an alliance with Milošević's recent allies, the SNP, is not worth preserving.

The new FRY government is drafting a constitution for a revitalised, thinner federation. Because they still do not recognise federal institutions, the Montenegrin authorities reject this initiative. Instead, Montenegrin President Milo Djukanović hopes that Belgrade's impatience will accelerate direct negotiations with the Serbian government on a new, loose union of independent states.

In case Djukanović's hope for an agreed separation cannot be achieved, other exits from the deadlock need to be explored. The Montenegrin government stresses the need for dialogue within Montenegro and with Belgrade. This should be encouraged. However, the Montenegrin authorities should be discouraged from proceeding with plans for an

independence referendum without having first achieved a consensus on its rules and procedures.

Although the Montenegrin authorities currently refuse to postpone independence plans or to participate at the federal level, a compromise should not be ruled out. To succeed, it would have to avoid the appearance of producing winners and losers. For now, the ruling Montenegrin parties should be encouraged to cooperate at the federal level for the mutual benefit of both Serbia and Montenegro. However, the pro-independence parties cannot realistically be expected to abandon their goal, which did win majority support, though narrowly, on 22 April. Both Belgrade and the international community should acknowledge the right of Montenegrins to choose independence, but they should encourage Montenegrins to postpone any decision to a period when conditions are more favourable than they are now.

Meanwhile, the international community is contributing constructively to long-term stability in Montenegro through extensive technical support for reforms. Continued support should be strictly conditional on progress, especially in making government cleaner and more transparent. Reform of the criminal justice system and serious action against organised crime are litmus tests of the government's real willingness to change. At the same time the international community should drop its fruitless and unnecessary opposition to Montenegro's independence, which only hinders its ability to influence developments positively. Rather it should help Montenegro to find a way out of the deadlock over independence by encouraging and assisting in the search for a compromise solution.

RECOMMENDATIONS

To PODGORICA

1. The Montenegrin authorities should:
 - (a) seek a resolution of the status issue through dialogue among the political parties in Montenegro as well as with Belgrade;
 - (b) not proceed with plans for an independence referendum without having first reached a broad consensus among the parties in

Montenegro about the conditions under which it would be held;

- (c) adhere strictly to the constitutional procedures regarding a change in the republic's status, including the requirement for a two-thirds parliamentary majority.
2. All political parties in Montenegro should work to ensure a calm and constructive environment in which citizens can freely decide on the future of the republic.
 3. The anti-independence political parties in Montenegro should continue to participate constructively in political life and reject the idea of boycotting a possible independence referendum.
 4. All political parties, media and institutions should respect the equal rights of all citizens of Montenegro, including members of ethnic minorities, and should avoid any actions or statements that might encourage inter-ethnic tension.

To BELGRADE

5. The authorities in Belgrade, federal and Serbian, should engage constructively with the Montenegrin government to define their future relationship, without excluding the possibility of Montenegrin independence.

To PODGORICA AND BELGRADE

6. In looking for ways to resolve their future status, both Belgrade and Podgorica should:
 - (a) put the emphasis on dialogue rather than simply adopting proposals or platforms that largely re-state already well-worn positions;
 - (b) immediately begin discussions on the detailed, functional issues involved in any future relationship, irrespective of what form that relationship might take. Such issues include areas in which both have stated that they would like to cooperate, including defence, foreign policy and monetary policy.

TO THE INTERNATIONAL COMMUNITY

7. The international community should modify its present policy approach to:
 - (a) emphasise its acceptance of the right of Montenegrins themselves to decide their future;
 - (b) adopt a neutral stance on the status of Montenegro and its future relationship with Serbia and be ready to help the two find a mutually satisfactory basis for their new relationship; and
 - (c) urge the Montenegrin authorities, in the absence of a broad domestic consensus in favour of independence, to find ways of cooperating constructively with Belgrade in the mutual interest of both Serbia and Montenegro.
8. The international community should continue to assist Montenegro with aid and technical support for reforms, but
 - (a) condition this assistance to progress in carrying out reforms and not link it to Montenegro's status;
 - (b) take a pragmatic approach to reforms by helping to devise structures that are acceptable to both republics, based on best international practice rather than setting as a key policy priority the revival of defunct federation structures.
9. The international community should make a long-term commitment to assisting reforms in Montenegro, emphasising the work of building the capacity of Montenegrin institutions to implement reforms in practice and insisting upon progress in reforms especially in areas concerning cleaner and more transparent government, including:
 - (a) reform of the Ministry of the Interior (MUP) – downsizing, de-politicisation and increasing the effectiveness of law enforcement;
 - (b) action to reduce organised crime and corruption, including a thorough investigation of official involvement. As signs of good will, the black market in cigarettes should be ended, and steps should be taken to stop the trade in stolen vehicles;
 - (c) judicial reform, including de-politicisation of the judiciary; and
 - (d) putting into practice the promises to end conflicts of interest on the part of government officials.
10. The European Union should assist Serbia and Montenegro to devise appropriate arrangements in areas where joint approaches are envisaged, including a single market, a customs union, taxation, and competition regulation.

Podgorica/Brussels, 1 August 2001



MONTENEGRO: RESOLVING THE INDEPENDENCE DEADLOCK

I. INTRODUCTION

Ten months after the fall of Slobodan Milošević in October 2000, considerable progress has been made in establishing democratic governance in the Federal Republic of Yugoslavia (FRY) and in reintegrating the country into the international community. The FRY has been admitted to the United Nations, the OSCE and the International Monetary Fund. On 23 July 2001, a European Union—FRY Consultative Task Force was inaugurated as the first step towards reaching a Stabilisation and Association Agreement with the EU. International sanctions against the FRY have been lifted, and significant international aid has begun to arrive.

Despite all this good news, the future of the FRY itself remains in doubt. Its two constituent republics, Serbia and Montenegro, remain at loggerheads over their future relationship, with Montenegro's authorities maintaining their independence aim. While the FRY has scored external success, it is a hollow edifice whose institutions hardly function except as an address for the international community, which recognises the FRY as the subject of international law. In Montenegro, the writ of federal institutions has been whittled away over the past three years,¹ and that republic's authorities no longer recognise the legitimacy of the federal government.

All sides agree that the status quo is unsustainable and that Montenegro and Serbia must find a new basis for their relationship. Prior to the parliamentary election held in Montenegro on 22 April 2001, Montenegro's pro-independence ruling parties had confidently predicted a speedy resolution of the problem, foreseeing a comfortable victory, to be followed by a referendum on independence.² However, the election result, while producing a narrow victory for pro-independence parties, only confirmed the depth of division in Montenegro over the republic's status and the lack of a consensus behind a move towards independence. Following the election, plans for an independence referendum were postponed.

However, the parties which subsequently formed a government have not abandoned the independence project. Having gone so far in committing himself to independence, and given that the pro-independence parties did win the election, it is politically difficult for Montenegrin President Milo Djukanović to retreat. But the current circumstances make it equally hard to press ahead. The effect is to prolong the FRY's agony. This is unsatisfactory for both republics. The dysfunctional nature of the FRY's institutions and the fact that an excessive amount of political energy continues to be devoted to the status issue threaten seriously to hamper reform efforts.

Official Belgrade has adopted a position that Montenegrins should decide on their future as soon as possible so that Serbia's own development will cease to be hostage to events in Montenegro. The impatience of the Belgrade authorities with

¹ On the process by which Montenegro ceased to participate in federal institutions and its disassociation from Yugoslavia, see ICG Balkans Report N° 101, *Current Legal Status of the Federal Republic of Yugoslavia (FRY) and of Serbia and Montenegro*, 19 September 2000.

² For an analysis of Montenegro's political scene on the eve of the 22 April election, see ICG Balkans Briefing, *Montenegro: Time to Decide*, 18 April 2001.

Montenegro has been heightened in recent weeks by strained relations with their Montenegrin coalition partner at the federal level, the pro-Yugoslav Socialist People's Party (SNP), particularly over the question of the FRY's cooperation with the international war crimes tribunal (ICTY) in The Hague. The view has increasingly gained currency in Belgrade that a federation in which the ruling Montenegrin parties do not participate and whose survival depends upon an alliance with Milošević's recent allies, the SNP, is not worth preserving.

Many in the international community greeted the narrow Montenegrin election result as vindication of the policy of discouraging Montenegrin independence moves and urging a solution within the framework of union with Serbia. The United States and the EU have urged Montenegro and Serbia to get down to serious dialogue and avoid unilateral moves. International financial support for Montenegro continues and technical support for reforms has been stepped up. This report argues that the stress on keeping the federation together actually makes it more difficult for the international community to have a positive impact on developments. It further argues that if Montenegro is to be helped out of its domestic deadlock, and efforts to persuade it to defer independence plans under the current, unsatisfactory circumstances are to bear fruit, the international community should lay greater stress on its readiness to accept the democratic will of the Montenegrin people.

II. STALEMATE IN MONTENEGRO

A. ELECTION RESULT

The pro-independence coalition of Djukanović's Democratic Party of Socialists (DPS) and the Social Democratic Party (SDP) put a brave public face on the 22 April 2001 election result, pointing out that it, with other parties committed to independence, had won an absolute majority of votes cast and of seats in parliament.³ Nevertheless, the narrowness of the victory and the coalition's failure to win an outright majority were a bitter disappointment.⁴ Technically, the Together for Yugoslavia coalition, comprising the Socialist People's Party (SNP), the People's Party (NS) and the Serb People's Party (SNS) had lost the election. But their supporters were jubilant as the results came in, parading through the streets of Podgorica with Yugoslav flags and firing automatic weapons into the air in celebration. Pro-Yugoslav leaders had prepared themselves for defeat, claiming massive electoral fraud in advance of the vote and threatening not to recognise the result.⁵ The result surely surprised them as much as it did the pro-independence coalition.⁶

The radically pro-independence Liberal Alliance of Montenegro (LSCG) found itself in a strong position, holding the balance of power between the two main pro-independence and pro-Yugoslav blocs. While the party's natural ally appeared to be the DPS-led coalition, the LSCG leadership had long regarded the DPS, and Djukanovic personally, with deep antipathy and distrust. For its part, the DPS had opted against a pre-election alliance with the LSCG precisely because it considered that

³ The president of the DPS Executive Committee, Miodrag Vuković, described the result as the "sweetest victory" in the past ten years (*Vijesti*, 23 April 2001).

⁴ As confirmed to the ICG by a source who was present at the DPS headquarters when the preliminary election results were announced.

⁵ See ICG Balkans Briefing, *Montenegro: Time to Decide*, 18 April 2001.

⁶ While pointing to various shortcomings, the OSCE/ODIHR Election Observation Mission judged that the election "was conducted generally in accordance with OSCE commitments for democratic elections and the Council of Europe standards". *Republic of Montenegro/Federal Republic of Yugoslavia, Parliamentary Election 22 April 2001, OSCE/ODIHR Election Observation Mission Report*, Warsaw, 12 June 2001.

party utterly unreliable. Thus quite apart from the narrowness of the victory for the pro-independence parties (between them they received less than 54 per cent of the vote), the attempt to put together a workable government that would advance the independence project, as well as promised reforms, was bound to be difficult.⁷

B. A NEW GOVERNMENT

With no grouping enjoying a parliamentary majority, the election was followed by weeks of negotiation among the parties that tested every possible combination of forces. Parties pursued different potential alliances at the same time, causing suspicion, bitterness and recrimination.¹¹ First, the LSCG on 28 April 2001 offered a coalition agreement to the DPS-SDP coalition. Apart from insisting upon the holding of an independence referendum, the LSCG made a series of other demands, including economic reforms and democratisation of state media. Of particular import, given the sensitivity of that ministry, was the LSCG's insistence that it should appoint the minister and all assistant ministers in the Ministry of the Interior. In addition the party sought the portfolios of justice minister and state prosecutor, as well as assistant minister posts in several other key ministries. The DPS swallowed hard and expressed its willingness in principle to accept these demands. The LSCG was to draw up a draft coalition agreement.

In the meantime, and despite initial LSCG denials, it emerged that the party was also in talks with leaders of the Together for Yugoslavia coalition on a possible arrangement whereby the pro-Yugoslav bloc would support a minority LSCG government. The attraction of this plan for such opposites on the key status issue was the opportunity to dismantle

the DPS edifice of power, especially in the interior ministry and state media. The LSCG won a promise that the pro-Yugoslav parties would support the holding of an independence referendum.¹² However, this unlikely alliance was shot down by NS leader Dragan Šoć, who had been abroad during the key negotiations.

Under heavy internal criticism from eminent party figures for its dealings with the pro-Yugoslav parties, the LSCG leadership on 18 May finally delivered a draft coalition agreement to the DPS and the SDP. However, it inserted into the proposed agreement an additional demand, which had been raised earlier as an alternative to other demands, that the DPS and SDP should give five of their allocated seats in parliament to the LSCG as compensation for alleged electoral theft. The DPS and the SDP dismissed this and announced that they were open to coalition talks with all parties. To many it seemed that the LSCG leaders had given up on coalition government with the DPS and the SDP and deliberately made an unacceptable demand.¹³

It was already clear that some leading DPS figures preferred a broad, so-called "concentration" coalition with pro-Yugoslav parties. Notably, DPS vice-president Svetozar Marović, who had long been known to be unenthusiastic about independence, favoured an agreement among all parties for the sake of healing the divisions in society.¹⁴ Prime Minister and DPS vice-president

⁷ For the results of the parliamentary elections held on 22 April 2001 see Appendix A.

⁸ *Republic of Montenegro/ Federal Republic of Yugoslavia, Parliamentary Election 22 April 2001, op. cit.*

⁹ The threshold to gain seats in parliament was 3 per cent of the total ballots cast.

¹⁰ Special five-seat constituency covering areas where ethnic-Albanians form a majority.

¹¹ For a chronology of the stages of negotiation that finally led to the formation of a government, see *Monitor*, 25 May 2001, "Velike tajne malog kabineta", and reports in *Vijesti*, 21-25 May 2001.

¹² The LSCG leaders believed, although SNS leader Božidar Bojović denied this, that they received a commitment that the pro-Yugoslav parties would drop their long-standing demands that Montenegrins living in Serbia should be able to vote in an eventual referendum, and that in order for a vote for independence to be valid, a majority of all registered voters (as opposed to a majority of those who actually participated in the vote) should be in favour. For a discussion of the referendum law, see ICG Balkans Report N° 107, *Montenegro: Settling for Independence?*, 28 March 2001.

¹³ Former LSCG leader Slavko Perović, who retains key influence in the LSCG leadership, remained defiant, insisting that the chance to reach an agreement with the pro-Yugoslav parties was an excellent opportunity (*Vijesti*, 21 May 2001). However, LSCG leaders also explained their actions by claiming that very influential representatives of the international community encouraged them to seek an alliance with the pro-Yugoslav parties in order to destroy Djukanović (*Monitor*, 25 May 2001, "Velike tajne malog kabineta").

¹⁴ Reported in *Vijesti*, 25 May 2001.

Filip Vujanović met the SNP and NS leaders to discuss a possible coalition government. Šoć said later that Vujanović and Marović spoke of a concentration government that would take the government Platform of August 1999 as its basis for resolving the status issue.¹⁵ That proposal for the future relationship between Montenegro and Serbia had envisaged a very loose confederal arrangement within a single state. It had been proposed jointly by the NS, the DPS and the SDP when the three parties were in coalition, and before the DPS had declared itself in favour of independence. Thus it seems that in May 2001 certain DPS leaders were prepared to compromise on an early independence referendum in order to form a functioning government.

Speculation about a possible concentration government was halted on 21 May 2001 when the LSCG offered to support a minority government of the DPS and the SDP. The offer was quickly accepted (although the SDP in particular expressed reluctance, urging the LSCG to reconsider participating in government), leading to an agreement between the three parties on 28 May¹⁶ that was to last for one year. The main condition was that the new government should establish conditions to hold an independence referendum.

C. REFERENDUM PROMISE

The agreement to form a minority government relying on LSCG support ensured that the independence issue would remain at the top of the political agenda despite the fact that the 22 April election result made an early push towards independence highly problematic:

- The results revealed the narrowness of support for independence. In such circumstances the outcome of any referendum is highly unpredictable.
- Montenegrin society is deeply divided over the issue, and pressing ahead with independence plans now risks further polarisation.

- Given the LSCG's deep distrust and antipathy towards the governing parties, and its insistence on pursuing an independence referendum, reliance on the LSCG is a recipe for unstable government.

According to the agreement with the LSCG, a new referendum law, related specifically to the independence referendum, should be passed within 60 days of the convening of the parliament, with the referendum to be held not more than six months later. Failing that, the law should be passed within 90 days of the convening of the parliament, in which case the referendum should be held no longer than five months later. As the new parliament was convened on 24 May 2001, the deadline for an independence referendum should, by this timetable, fall in late January 2002.

The bitterness that had accompanied the negotiations over a new government did not end with the agreement with the LSCG. The distrust and hostility of LSCG leaders towards the DPS did not diminish, and they continued to express it publicly. Liberal distrust was reinforced by the stress that the new government program laid on the need for dialogue within Montenegro and with Serbia on the status issue. Suspicion was particularly raised by the fact that the program did not initially contain the agreed timetable for an independence referendum, an omission that had to be rectified before LSCG deputies would vote for the new government.¹⁷ Liberal deputies did vote for the government on 2 July 2001, and party president Miroslav Vicković asserted that the LSCG's support was sincere, in the expectation of getting an independence referendum. However, the comment of party treasurer and former leader Slavko Perović that the government program was demagogic and designed to mislead the citizens,¹⁸ gave a strong indication of the problematic nature of the LSCG's support for the government.

Despite the oft-stated commitment of Djukanović and the DPS to hold a referendum, Perović remained suspicious of their real intentions.¹⁹

¹⁷ *Vijesti*, 27 June 2001.

¹⁸ Reported in *Vijesti*, 3 July 2001.

¹⁹ Perović told the Serbian daily *Danas* (as reported in *Vijesti*, 13 June 2001) that the Montenegrin authorities were doing everything to avoid an independence referendum. He went on that "Djukanović has two strategic aims – to give a new face to his crime-based

¹⁵ Reports in *Vijesti*, 21 and 25 May 2001.

¹⁶ Reports in *Vijesti*, 22 May 2001, and text of agreement in *Vijesti*, 29 May 2001.

While Perović's judgement may be tinted by personal hatred of Djukanović, there are indications that the DPS leadership may indeed have continued to explore a compromise solution with the pro-Yugoslav parties even after reaching agreement with the LSCG. The inconclusive April election result and the perception of the LSCG as an unreliable partner may have prompted leading DPS figures to conclude that the party should keep its options open. This need not mean abandoning the independence aspiration. Indeed, that seems unlikely given the political capital invested by the DPS leadership. However, the realisation that support for this project is far from overwhelming appears to have strengthened the conviction of some in the DPS leadership, notably Marović, that it would be unwise to press ahead with undue haste.

Marović is a senior and highly influential figure in the DPS. Regarded as relatively pro-Serbian, his support for Djukanović in 1997 was seen as an important assurance that the DPS would not, under its new leader, adopt a pro-independence stance. However, the political agenda moved on, and when, following the fall of Milošević, Djukanović did opt for Montenegrin independence, Marović supported him. The parliamentary speaker before the April 2001 election, Marović headed the DPS-SDP electoral list and spoke out strongly in support of independence.²⁰ However, since the election, Marović has appeared to be the party's leading advocate of caution.

Some observers have seen Marović's actions as evidence of factional strife within the DPS. Indeed, placing his name at the head of the DPS list and appointing him to lead the preparations for a party congress in October 2001, when the DPS statutes will be changed to reflect the pro-independence line,²¹ might be seen as a ploy to bind him to the party policy on independence. Although Marović has been consistently loyal to the party, he has issued apparently contradictory statements on the status issue. In an interview for the pro-SNP *Glas*

Crnogoraca he appeared to argue for a union of Serbia and Montenegro with a single international personality. Questioned about this in parliament, Marović lamented that the nuances of his thoughts on the matter are apparently too subtle for the newspapers and stated his preference for a union of Serbia and Montenegro as "sovereign" states.²² Perović saw Marović's ambiguity as evidence that Djukanović himself stood behind alleged efforts by Marović and Vujanović to form a broader government together with the SNP and/or the NS.²³

Consistent themes in Marović's statements since the 22 April election include:²⁴

- The need for dialogue among all parties in Montenegro, and with Serbia.
- The priority of safeguarding internal stability and avoiding polarisation of positions. In this context, Marović has said that a new referendum law should be based on consensus among the parties, so that all sides would accept the rules and the result. Marović sees the avoidance of a referendum boycott by pro-Yugoslav parties as essential. Thus he has said that the timetable for adopting a referendum law and holding a referendum agreed between the DPS-SDP coalition and the LSCG should not be applied rigidly unless agreement is reached with other parties, too.
- The need to respect the positions of the international community (inevitably understood as meaning consideration for the international position against Montenegrin independence).
- The option of a union of independent states, as advocated by the DPS, is the preferable outcome, but the will of the Montenegrin people will be decisive.

Following the inauguration of the new government dialogue between the governing and opposition

regime and to justify, with the seal of the Liberal Alliance, the fact that there will almost certainly not be a referendum in Montenegro."

²⁰ During the election campaign, Marović asserted that Yugoslavia no longer existed in any meaningful sense and stated that an independence referendum would probably be held by July 2001 (*Vijesti*, 3 April 2001; *VIP Daily News Report*, 2 April 2001).

²¹ Reported in *Vijesti*, 18 July 2001.

²² Reported in *Vijesti*, 29 June 2001. To Perović's direct question whether he was in favour of Serbia and Montenegro having separate seats in the UN, Marović reportedly declined to answer, smiled and sat down.

²³ *VIP Daily News Report*, 9 and 11 July 2001.

²⁴ For example, see statements by Marović to *Vijesti*, 28 June and 21 July 2001, and interview with Marović in *Vijesti*, 12 July 2001.

parties was stepped up, and initial contacts were fruitful and conciliatory. Apart from Marović's contacts with SNP and NS leaders, Vujanović instituted formal consultations with opposition parties. In separate meetings with Vujanović on 20 July 2001, the leaders of the pro-Yugoslav parties accepted the prime minister's offer to establish mechanisms for opposition parties to be involved in the preparation of economic reforms. SNP leader Predrag Bulatović said his party would agree to an independence referendum if it was prepared by a broad concentration government, including representatives of the pro-Yugoslav as well as pro-independence parties. In order for all sides to accept the rules and conditions under which any referendum would be held, Bulatović asserted, the preparations could not be left to the pro-independence parties. Contentious issues such as fair media coverage, the financing of campaigns, the role of the police and problems with the electoral rolls would have to be resolved by agreement among all parties.²⁵

Bulatović's concerns about the conditions for a referendum have some justification. Although the Election Observation Mission (EOM) of the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) gave an overall positive assessment of the conduct of the 22 April election, it also noted a number of shortcomings. There were widespread complaints of political pressure on government employees, especially police officers, to support the governing parties. There was evidence of active engagement by police officers in campaign activities for the ruling parties. The EOM confirmed the practice of known DPS officials distributing food assistance, in what was seen by opposition parties as blatant vote buying.²⁶ On the other hand, the EOM found that claims by the pro-Yugoslav parties of massive irregularities in the voters' lists were not justified, and that the degree of accuracy fell "within the parameters of established democracies".

The EOM noted that while there is a broad diversity of media in Montenegro, state media "only partly respected their obligation to provide

balanced and unbiased campaign coverage". Domestic political coverage in the main television news programs was reduced during the campaign, and party affairs were shifted to a special parliamentary channel, where the division of airtime among the parties was carefully regulated. The EOM report noted, however, that what coverage there was in the main news programs tended to show the Montenegrin authorities in a positive context and the federal authorities in a negative context. One feature noted by the ICG was the recurrence in state and other pro-independence media of fierce attacks on FRY President Vojislav Koštunica.²⁷ This practice was clearly aimed at damaging the pro-Yugoslav parties. But if Bulatović may have some cause for complaint about coverage in the pro-independence media, the ugly record of the pro-Yugoslav Montenegrin media in trying to stir up inter-ethnic tension is far more deserving of condemnation.²⁸

Whatever the extent of the alleged shortcomings, there is clearly a serious issue of trust involved in holding a referendum on this highly divisive issue. Probably the most important point of contention concerns the referendum law. The pro-Yugoslav parties have threatened to boycott a referendum unless the law passed in February 2001 is changed to allow Montenegrins in Serbia to participate and to require a majority of all registered voters to cast ballots in favour in order for a pro-independence result to be valid.²⁹ Under the present law, a boycott could deal a fatal blow to the hopes of independence supporters since the participation of

²⁷ For example, a fierce attack on Koštunica in the pro-independence *Vijesti* on 20 April 2001, which appeared to compare the FRY president unfavourably even with Milošević. The article appeared to be a ruse to circumvent the 48-hour pre-election media silence, which had already begun. (The EOM report noted that all print media violated the silence.)

²⁸ For example, an article in the pro-SNP *Glas Crnogoraca* of 25 April 2001, claiming that ethnic Albanians were over-represented in the election, included a cartoon with an offensive caricature of an ethnic Albanian with a knife in his belt, pointing to a map of Montenegro with the initials KLA (Kosovo Liberation Army) scrawled across it. On the attempts by pro-Yugoslav politicians to stir up inter-ethnic tension during the election campaign, see ICG Balkans Briefing, *Montenegro: Time to Decide*, 18 April 2001.

²⁹ For a discussion of the referendum law, see ICG Balkans Report N° 107, *Montenegro: Settling for Independence?*, 28 March 2001.

²⁵ *Vijesti*, 20 July 2001.

²⁶ *Republic of Montenegro/ Federal Republic of Yugoslavia, Parliamentary Election 22 April 2001, OSCE/ODIHR Election Observation Mission Report*, Warsaw, 12 June 2001.

more than half of all registered voters is required for a valid result. Given the narrowness of the majority in favour of independence revealed in the 22 April election and that some 20 per cent of the electorate never participates, a boycott by the pro-independence parties would make it very hard to achieve the required 50 per cent turnout.

On the initiative of the LSCG, the DPS agreed to establish a multi-party working group to draw up a new referendum law.³⁰ LSCG leaders expressed the view that the requirement of a 50 per cent turnout should be dropped. Vujanović declared that the timetable for a referendum agreed with the LSCG would begin from the foundation of the working group, which would push back the deadline for holding the referendum to March 2002.

The head of the OSCE/ ODIHR office in Podgorica offered the advice of ODIHR experts in drafting a new referendum law.³¹ (ODIHR experts had also provided an assessment of a draft of the earlier law.) From the point of view of international standards, there may be no grounds for objecting to the LSCG's proposal to drop the requirement for a 50-per cent turn out. However, the credibility of the process is equally important. Bulatović has said that the SNP will not participate in the working group established by the DPS and the LSCG, which he saw as a product of the agreement between the DPS-SDP coalition and the LSCG on support for the new government.³² Not only is there no consensus on independence; there is none even on the process and rules for deciding the matter. To proceed with plans for a referendum under current circumstances would be highly divisive and risk polarising Montenegrin society still more radically. There are strong reasons for believing that the cautious approach urged by Marović and adopted by Vujanović, based on a search for consensus through dialogue, is wise.

However, such caution would likely put impossible strain upon the arrangement between the government and the LSCG. Any appearance that the DPS was drawing back from independence would also risk losing the support of the SDP. For

the moment the DPS maintains that it is on course to press ahead with the referendum as planned. However, as already noted, LSCG suspicions that the DPS may also be holding open other options are quite plausible. All the parties are waiting to see how events will unfold. It cannot be ruled out that at some point a perceived need for caution and consensus will move the DPS, if not to abandon the independence project, at least to postpone its realisation.

³⁰ Report on meeting of leading figures from the LSCG and the DPS, *VIP Daily News Report*, 10 July 2001.

³¹ Reported in *Pobjeda*, 12 July 2001.

³² Interview with Predrag Bulatović in *Vijesti*, 17 July 2001.

III. A DYSFUNCTIONAL FEDERATION

Montenegro has reached a stalemate. The authorities face great difficulties either in pressing ahead with the independence project or in drawing back. Djukanović appears to have been encouraged that the trend in Belgrade since the Serbian government transferred Milosevic to The Hague on 28 June 2001 might increase the prospects for an agreement on separation directly between the Montenegrin and Serbian governments, neatly sidestepping his domestic complications.

A. A VIRTUAL GOVERNMENT

The federal Yugoslav government has long been a hollow edifice. Firstly, it is in practice not truly federal at all. Since Djukanovic turned against Milošević and set about distancing Podgorica from Belgrade in 1997, Montenegro has taken over most functions notionally belonging to the federation and no longer acknowledges the legitimacy of federal authority.³³ Formally, there are Montenegrin representatives in federal institutions. However, since the governing parties have not participated in politics at the federal level since 1998, these come only from Montenegro's pro-Yugoslav, opposition parties.

Both under Milošević and since the takeover in Belgrade in October 2000 by the Democratic Opposition of Serbia (DOS), the SNP has supplied the federal prime minister and several federal ministers. As federal prime minister, former SNP leader Momir Bulatović was Milošević's faithful stooge. As Montenegro's ruling coalition (including at that time the pro-Yugoslav but anti-Milošević NS) boycotted the federal elections of September 2000, DOS was forced to turn to the SNP in order to form a government with majority support in the federal parliament.³⁴ That new

federal government included SNP vice-president Zoran Žižić as prime minister.

The distaste felt by many DOS members at an alliance with Milošević's former allies from Montenegro was apparent from the outset. Given the lack of authority of federal institutions in Montenegro, a federal government headed by a Montenegrin was clearly a sham. Nevertheless, DOS needed a federal government, however empty of content, in order to reintegrate the FRY (i.e. Serbia) into international institutions such as the UN, the OSCE and the IMF. So long as the SNP did not interfere with affairs in Serbia, DOS leaders were prepared to tolerate a member of Montenegro's opposition representing the country internationally as prime minister.

The SNP does not participate in government business in any meaningful way, and the federal authorities are in effect mainly an additional layer of the government of Serbia.³⁵ The party's benefits from participating in the federal government are of a different kind. First, it has a hand in drawing up proposals with DOS for a new constitutional arrangement for the joint Serbian-Montenegrin state. Second, it gets access to resources to conduct its activities in Montenegro.³⁶

B. FEDERAL GOVERNMENT CRISIS

The inherent strains between DOS and the SNP only came to the fore when the SNP began to hinder DOS's plans in Serbia. Impatience surfaced in May 2001, when SNP deputies obstructed moves to remove the parliamentary immunity of two prominent acolytes of Milošević accused of crimes under his rule. One of the members of

³³ On the process by which Montenegro ceased to participate in federal institutions and its disassociation from Yugoslavia, see ICG Balkans Report N° 101, *Current Legal Status of the Federal Republic of Yugoslavia (FRY) and of Serbia and Montenegro*, 19 September 2000.

³⁴ Montenegrin representatives are disproportionately represented in the federal parliament, and in the upper house hold half of the 40 seats.

³⁵ In an angry letter to Koštunica, Žižić and Serbian Prime Minister Zoran Djindjić in July 2001, Deputy Federal Prime Minister Miroljub Labus asserted that he had been doing Žižić's job for the last eight months, and that as Serbia alone paid for the federal state, a Montenegrin should not hold the position of finance minister (reported in *Vijesti*, 11 July 2001).

³⁶ For example, the formation of a FRY government office in Podgorica in January 2001 (*Vijesti*, 31 January 2001); Serbian Agriculture Minister Dragan Veselinov claimed that money intended for the purchase of chemical fertiliser had been creamed off by a federal government agency in order to finance the SNP election campaign, an accusation vigorously denied by the SNP (reported in *Vijesti*, 7 May 2001).

DOS, the New Democracy (ND) party, accused the SNP together with Milošević's Socialist Party of Serbia (SPS) and allied Serbian parties of "blatantly obstructing efforts of the new authorities to settle the situation in the state".³⁷

Matters came to a head in June 2001 over cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. This issue had been building since before Montenegro's election. It was a matter of vital importance to DOS, as the success of an international donors' conference, scheduled for late June, and considerable international financial support were at stake if cooperation with the ICTY was not forthcoming. The SNP, however, saw matters differently. It did not have such a stake in securing international support. Despite its inclusion in the federal government, the SNP did not have responsibility for the success of government programs in either Serbia or Montenegro. The Montenegrin government, not the SNP, would be the international community's partner in implementing assistance programs in Montenegro.

Other considerations were at the forefront of SNP leaders' minds. Just as in the time of Milošević, a difference of perception was apparent between some leading SNP figures employed at the federal level, in Belgrade, and party leaders in Montenegro. While federal Prime Minister Momir Bulatović was acting as a faithful servant of Milošević, senior SNP figures in Podgorica, led by the then party vice-president, Predrag Bulatović (no relation to Momir), had sought to distance themselves from the former FRY president and adopt a more clearly Montenegrin profile. Thus the SNP, guided by Predrag Bulatović, was able to switch support to DOS in October 2000, despite resistance from Momir Bulatović, who Predrag afterwards replaced as party leader.

Over cooperation with the ICTY, federal Prime Minister and SNP vice-president Zoran Žižić was more inclined to find a way for the SNP to reach an accommodation with DOS, rather than risk a split that would bring into question not only the federal government but the common state itself. Predrag Bulatović, on the other hand, was much more sensitive to the feelings of SNP members and supporters in Montenegro about the prospect of

transferring FRY citizens to the ICTY. In an interview in May 2001, referring to the Yugoslav attack on Dubrovnik in 1991, and Djukanović's commitment to Montenegro's full cooperation with the ICTY, Bulatović said that "I have met many worried people who went against Dubrovnik, and for whom Mr. Djukanovic too easily says: we will extradite them. I say: the SNP will not."³⁸ Bulatović clearly agonised over the issue, and in a speech to the SNP's Main Board at the end of May he reportedly spelt out the consequences of the party's rejection of DOS's proposed law on cooperation with the ICTY: a boost to Djukanović; conflict with the international community; and the risk that DOS would turn its back on the SNP and look instead to the NS as its partner from Montenegro.³⁹

SNP fears that the NS, which had opposed Milošević and was much more relaxed about cooperation with the ICTY, stood to benefit if the SNP did not support DOS on ICTY cooperation were probably well-founded.⁴⁰ But SNP leaders also appeared to fear that if they agreed to a law on cooperation with The Hague that envisaged the transfer of FRY citizens, they stood to lose support domestically to the People's Socialist Party (NSS), formed by supporters of Momir Bulatović after he lost the SNP leadership.⁴¹ At a meeting of the SNP main board in Kolašin, in the northern heartland of SNP support, an overwhelming majority voted against the draft law on ICTY cooperation proposed by DOS.⁴² The vote confirmed the unpopularity among the SNP's pro-Yugoslav constituency in Montenegro of cooperation with the ICTY.

Predrag Bulatović faced a near impossible dilemma: to risk bringing down the federal government and thus imperil the future of the common state with Serbia whose preservation is the core aim of his party; or to accept DOS's demands and risk alienating the SNP constituency

³⁷ Reported in *Vijesti*, 9 May 2001.

³⁸ Interview for Montenegrin television, reported in *VIP Daily News Report*, 14 May 2001.

³⁹ Reported in *Vijesti*, 31 May 2001.

⁴⁰ Serbia's justice minister, Vladan Batić, declared at the beginning of July 2001 that the NS, having been on the right side since 1990 (i.e. opposed to Milošević), was the natural partner for DOS in Montenegro (*Vijesti*, 5 July 2001).

⁴¹ *Vijesti*, 31 May 2001.

⁴² *Vijesti*, 4 June 2001.

in Montenegro. The SNP tried to persuade DOS to accept an SNP proposal that a general law on cooperation with the ICTY should be passed at the federal level that would not refer to the transfer of FRY citizens and would leave the specifics to the republic level parliaments. While offering a compromise that operational implementation of the law could be carried out at the republic level, DOS insisted that the law had to be passed at the federal level as it was the federation that was accountable for fulfilling the FRY's international obligations.⁴³

The failure of the SNP to accede to DOS's demands led the exasperated Serbian leaders to bypass the federation altogether and, the day before the international donors' conference convened in Brussels on 29 June, simply to transfer Milošević to The Hague without formalities. The move, which also infuriated Koštunica, who was himself reluctant on cooperation with the tribunal, led to the SNP pulling out of the government.⁴⁴

C. AN AGREED SPLIT?

The episode poisoned the SNP's relations with DOS⁴⁵ and led some Serbian politicians to despair of preserving a common state with Montenegro. Serbian Prime Minister Zoran Djindjić declared that DOS was paying "the cheque" for having had to enter a coalition at the federal level with Milošević's former partners.⁴⁶ Serbia's justice minister, Vladan Batić, went further, saying that "finally the time is coming when Serbia can no longer be held hostage to various political ambitions of individual subjects of Montenegro", and that "it is time for the citizens of Serbia to

decide whether they want to live in such a common state with Montenegro".⁴⁷

SNP leaders, too, were deeply embittered, Predrag Bulatović complaining that the Serbian government had, by riding roughshod over the FRY constitution, struck a blow at the federation.⁴⁸ Indeed, the Serbian government's decision to invoke an article of the Serbian constitution allowing the republic to override the federation when Serbia's own interests were at stake sent the clearest message that the Serbian authorities were prepared to follow Montenegro's example and simply sideline the federation.

Following the resignation of Žižić and other SNP ministers from the federal government, the possibility of holding new federal elections was mooted. However, such a step would have made little sense without the DPS, which confirmed on 2 July that it would not participate.⁴⁹ Agreement was reached to form a new federal government, that would include the NS and the small SNS (also a member of Montenegro's "Together for Yugoslavia" opposition coalition) as well as DOS and the SNP. New federal Prime Minister Dragiša Pešić was officially appointed by Koštunica on 17 July 2001.⁵⁰ The fact that no first-rank SNP figure had accepted the appointment was interpreted by many as evidence that not even the SNP still took federal institutions seriously.⁵¹ The new government was reduced to ten ministers (including the prime minister), more accurately reflecting the limited functions of the federal authorities. But the anomaly remains of a federal government that is not recognised in one of the two federal units.

Djindjić has commented of Koštunica that "he is in a very strange situation as president of a Yugoslavia which in fact does not exist. Montenegro has not accepted this state for four or five years already." Djindjić added that Yugoslavia, the federal government and the federal

⁴³ *VIP Daily News Report*, 6 June 2001.

⁴⁴ On the steps that led to Milošević's transfer to The Hague and the crisis in the federal government that it caused, see ICG Balkans Briefing, *Milošević in The Hague: What it Means for Yugoslavia and the Region*, 6 July 2001.

⁴⁵ Although perhaps not with Koštunica, who clearly sympathised with the SNP's position on cooperation with the ICTY, even though his party had reluctantly accepted the necessity of passing the law on cooperation. SNP officials believed that Koštunica understood their position (as stated by the SNP official Dejan Abazović and reported in *Vijesti*, 9 June 2001).

⁴⁶ Interview with Djindjić for the Austrian news agency APA, reported in *Vijesti*, 7 June 2001.

⁴⁷ Interview with Batić for *Nezavisna svetlost* (of Kragujevac), cited in *Vijesti*, 8 June 2001.

⁴⁸ Statement by Bulatović, reported in *Vijesti*, 30 June 2001.

⁴⁹ Statement by President of the DPS Executive Committee Miodrag Vuković, reported in *Vijesti*, 3 July 2001.

⁵⁰ *Vijesti*, 18 July 2001.

⁵¹ For example, statement by DPS spokesperson Igor Lukšić, reported in *Vijesti*, 18 July 2001.

level are in practical terms Serbia. He went on to say that Montenegro must hold an independence referendum in order to decide the issue, and that Montenegrin independence would not be destabilising.⁵² Djindjić has said that the formation of a new federal government would not resolve the crisis in the federation or bring greater stability. What is needed is to prepare a proposal for a new constitutional arrangement for the federation and to try to persuade the Montenegrin “majority” – that is the pro-independence parties – to accept it. He was prepared to accept any solution, so long as it did not involve two chairs in the UN and other international organisations, as that would mean the end of the joint state. If Montenegro accepted the proposal offered, then new federal elections could follow. Otherwise, the two republics should simply separate. He has also said that Montenegro should decide what it wants by the end of 2001.⁵³

The impatience of Djindjić and many others in Serbia to see the relationship with Montenegro resolved one way or the other quickly, to end the unsatisfactory situation in the federation, is understandable. However, as explained above, following the 22 April election it is not easy for Montenegro to reach a quick decision. The debacle in the federal government appears to have heartened the Montenegrin authorities that a way may be found out of the political stalemate in Montenegro by reaching agreement on a separation direct with Serbia’s leaders. The DPS urged the Serbian authorities to enter a dialogue with it, as their natural partner in Montenegro.⁵⁴ Vujanović contacted Djindjić, suggesting that dialogue be established between the Montenegrin and Serbian authorities on redefining the relationship between the two republics.⁵⁵

Both Djukanović and Vujanović have made clear their position that the negotiating partners should be the governments of Serbia and Montenegro. This is important, as Podgorica does not recognise the legitimacy of the federal authorities. The Montenegrin authorities have, however, said that it is up to Serbia who from its side would participate

in talks, so there would be no objection to the inclusion of Koštunica.⁵⁶ Additionally, while Djukanović and Vujanović have stressed the need for dialogue among the political parties in Montenegro, the Montenegrin authorities reject the notion that the pro-Yugoslav Montenegrin parties should, through their participation in the federal government, be included in negotiations between Podgorica and Belgrade.⁵⁷

There is a variety of initiatives on the table for ending the deadlock in the federation and rearranging the relationship between Serbia and Montenegro. Judging by their public pronouncements, the two sides often appear to speak past rather than to each other. This appearance to a considerable extent reflects differences of approach among parties in both republics.

Approaches currently in play are as follows:

- 1) The newly constituted federal government has been set as a key task the drawing up of a proposal for a new federal constitution, which should then be put to the Montenegrin government.⁵⁸ This initiative takes up the work that had already been done by the SNP and DOS following the 22 April Montenegrin election, and follows on from the proposal presented by Koštunica in January 2001 for a “functioning federation”.⁵⁹ The proposal will be for a very loose federation with few

⁵² Interview with Djindjić for U.S. television, reported in *Vijesti*, 16 July 2001.

⁵³ Statements by Djindjić reported in *VIP Daily News Report*, 2, 3 and 9 July 2001.

⁵⁴ Statement by DPS spokesperson Igor Lukšić, reported in *Vijesti*, 9 June 2001.

⁵⁵ Reported in *Pobjeda*, 11 July 2001.

⁵⁶ Serbian officials had responded to Montenegrin calls for talks between the Serbian and Montenegrin governments by insisting that the federal level must also be included. Djindjić said that he would not participate without Koštunica. Djukanović replied that it was up to Belgrade who represented Serbia in talks (*VIP Daily News Report*, 11 July 2001).

⁵⁷ The DPS warned DOS against an initiative for the SNP to draw up a new “platform” for rearranging the federation, stating that DOS should deal with the representatives of the majority in Montenegro (*Vijesti*, 10 May 2001).

⁵⁸ Koštunica said when announcing the appointment of Pešić as federal prime minister that a draft new constitution should be ready by the end of August 2001 (reported in *Vijesti*, 18 July 2001).

⁵⁹ On Koštunica’s proposal, see ICG Balkans Report N° 107, *Montenegro: Settling for Independence?*, 28 March 2001. Žižić hosted discussions among DOS and SNP representatives on a new platform on the Montenegrin coast in June (reported in *Vijesti*, 4 June 2001).

functions at the federal level. Slobodan Samardžić, an advisor to Koštunica and member of the working group charged with producing a draft, has said that the proposal envisages the following areas falling to the federal government: guarantee of basic rights and freedoms; foreign affairs; defence; monetary policy; customs policy; and transport and communications.⁶⁰

The Montenegrin authorities have rejected this approach, Djukanović stating that it prejudices efforts to reach agreement through dialogue.⁶¹

- 2) Direct talks between Serbia and Montenegro, along the lines suggested by the DPS. The Montenegrin authorities would like to see such talks lead to an agreement on a loose association of independent states, as proposed by the Montenegrin government in December 2000. This proposal envisages cooperation in such areas as monetary policy, foreign affairs and defence.⁶² The rationale behind such an approach is that if Belgrade and Podgorica could reach agreement on Montenegrin independence, to be followed perhaps by some new, loose union or confederation between sovereign states, domestic Montenegrin opposition to independence would lose all meaning. Thus the internal stalemate over the issue could be neatly sidestepped. If agreement were reached, referendums might follow in both Montenegro and Serbia, especially if the two governments had an understanding on some future relationship between independent states.

Persistent rumours of secret contacts between Djukanović and Djindjić have been hotly denied.⁶³ So far there is little appetite for such an approach in official Belgrade. However, if the draft constitution under preparation is, as seems likely, finally rejected by the

Montenegrin side, direct negotiations would seem to be a logical next step.

- 3) The Montenegrin government might, whatever the state of play between Podgorica and Belgrade, reach agreement with the pro-Yugoslav parties on holding an independence referendum, perhaps following the formation of a concentration government. This approach appears fraught with difficulty. As already described, the pro-independence and pro-Yugoslav parties are far apart over the conditions under which a referendum would be held.

Djukanović has insisted that Montenegro will not yield on plans for a referendum.⁶⁴ If the pro-independence parties were to go ahead without agreement from the opposition and call a referendum under rules that suited their purposes (i.e. if the requirement for a 50 per cent turnout were dropped), the polarisation in Montenegrin society would widen. Further, if a referendum were held without first reaching a broad consensus among the parties, the government would still have to face the constitutional requirement for a two-thirds majority in parliament to ratify any change to the status of the state. While many advocates of independence argue that it would not be necessary to abide by this stipulation following a referendum in favour of independence, there is no basis for such an interpretation in the constitution.⁶⁵ It would be highly inadvisable for the Montenegrin government to press ahead with an independence referendum without reaching a consensus on the rules and procedures among all of the main parties.

The actual course of events will be determined to a considerable extent by the political dynamic in both republics. Koštunica has a particular interest, as federal president, in asserting the legitimacy of federal institutions, as does the SNP. Unsurprisingly, they are the main backers of the approach based on a new draft constitution to be

⁶⁰ Interview with Samardžić in *Vreme*, reported in *Vijesti*, 13 July 2001.

⁶¹ Statements reported in *VIP Daily News Report*, 9 and 11 July 2001.

⁶² On the Montenegrin government platform of December 2000, see ICG Balkans Report N° 107, *Montenegro: Settling for Independence?*, 28 March 2001.

⁶³ Denial by the president of the DPS Executive Committee, Miodrag Vuković (*VIP Daily News Report*, 10 July 2001).

⁶⁴ Statement reported in *Vijesti*, 23 July 2001.

⁶⁵ On the procedures laid down in the constitution for holding a referendum on changing the status of the republic, see ICG Balkans Briefing, *Montenegro: Time to Decide*, 18 April 2001 and ICG Balkans Report N° 107, *Montenegro: Settling for Independence?*, 28 March 2001.

presented by the federal government. Djindjić is much less insistent upon this. His preference is certainly for some form of union between Serbia and Montenegro within a single state, especially given the unresolved status of Kosovo.⁶⁶ And he would surely prefer to have the DPS as a Montenegrin partner at the federal level. However, he is clearly ready in principle to accept Montenegrin independence, and his priority is to see the matter resolved one way or the other, sooner rather than later.

The formation of a new federal government will not necessarily end the problems between DOS and the SNP, especially as the issue of cooperation with the ICTY is unlikely to disappear with the transfer of Milošević to The Hague. If impatience over the SNP within DOS does not abate or if it is fuelled by further controversies, the readiness of Djindjić and others in DOS to consider a speedy split with Montenegro may well grow. This is probably what Djukanović is counting on. However, Koštunica, while having expressed his readiness to accept the will of the Montenegrin people,⁶⁷ is unlikely to give up on the federation easily. And Djindjić, despite his softer stance, is unlikely to choose to confront Koštunica over the matter given that he and his party, the Democratic Party of Serbia (DSS), are by far the most popular forces on the Serbian political scene. If relations between Djindjić and Koštunica, and between DOS and the SNP, are patched up over the coming weeks, Djindjić would be less likely to help Djukanović to effect a split.

Although the DPS's stance is that it will not compromise on independence and will not participate in any elections at the federal level, a change cannot be totally ruled out. As already described, the DPS has, since the 22 April election, attached a very high priority to dialogue, both within Montenegro and with Serbia. The party has already postponed its referendum plans from the June or July 2001 deadline declared during the election campaign to early 2002. Even that timetable seems ambitious unless early agreement is reached with Belgrade on a split. If hopes for such an agreement are not realised relatively soon,

the domestic constraints on Djukanović will be severe. As described earlier, there are powerful voices in the DPS urging caution and consensus.

The key problem for Djukanović is that the government depends on support from the LSCG, which is strictly conditional on an early referendum. Yet it is very hard for him to move the issue forward. Unless Djindjić helps him, he may have little option in a few months time but to seek a compromise. It is probably unrealistic to expect Djukanović or the DPS to abandon their independence plans. They have invested too much political capital in the project. To drop it now would betray the majority that supported pro-independence parties on 22 April, for which the DPS would risk paying a political price.

Any possible compromise would have to avoid the appearance of winners and losers. This would at the very least require Belgrade and the international community to accept that the independence aspiration had not been abandoned. For there to be any prospect of the DPS agreeing to participate at the federal level, it would have to be part of a package which included further dialogue on rearranging the relationship between Serbia and Montenegro. And the international community, as well as Belgrade (which has been much less severe than the international community in its attitude towards Montenegrin independence), would have to acknowledge independence as a possible outcome.

The DPS may yet come to accept that, until conditions are more favourable to independence, it should find a way of participating constructively at the federal level. After initial reluctance, the Montenegrin authorities accepted the need to take part in the international donors' conference in Brussels on 29 June 2001 from within the FRY delegation.⁶⁸ Similarly, the Montenegrin authorities have accepted that contacts with the IMF must for the present be through the FRY. In general, there appears to have been a marked improvement in the atmosphere between Belgrade and Podgorica (the latter's antagonism to Koštunica notwithstanding)

⁶⁶ On the potential impact of Montenegrin independence on Kosovo, see ICG Balkans Report N° 107, *Montenegro: Settling for Independence?*, 28 March 2001.

⁶⁷ Interview with Koštunica for *Vijesti*, 16 October 2000.

⁶⁸ *Reuters*, 18 May 2001. Montenegrin Finance Minister Miroslav Ivanišević declared after the conference that he was satisfied with it, and that Montenegro's treatment had exceeded his expectations (*BBC Worldwide Monitoring*, 30 June 2001).

since the early period after Milošević's fall when the Montenegrin authorities felt, not entirely without reason, that Belgrade was deliberately trying to freeze them out of autonomous international contacts.⁶⁹ Belgrade and Podgorica have, for reasons of mutual self-interest and practical necessity, found ways of cooperating constructively. This development should be encouraged and perhaps extended.

IV. INTERNATIONAL HELP

The basic international policy towards Montenegro has remained unchanged since the 22 April 2001 election. It is founded on the conviction that the best solution for the relationship with Serbia involves a democratic Montenegro within a democratic Yugoslavia.⁷⁰ An EU Troika delegation rushed to Podgorica immediately after the election to argue that the close result made serious talks between Podgorica and Belgrade all the more essential.⁷¹ The expressed international preference that a solution be found within the framework of a single, common state continues, however, to be accompanied by acknowledgement that the will of the Montenegrin people would be respected.⁷² Thus despite the frequent appearance from the Montenegrin perspective of overbearing outside pressure, there is room for flexibility within the existing international policy parameters.

A. STABILISATION IMPERATIVE

The priority for all sides in approaching Montenegro's relationship with Serbia should be to avoid destabilisation. Admittedly the present potential for serious de-stabilisation or conflict in Montenegro is slight. While there have been reports in the Belgrade and pro-Yugoslav Montenegrin media of alleged preparations among ethnic-Albanians to spread the current strife in Macedonia to Montenegro,⁷³ ICG research in the areas concerned found no substantiating evidence. Inter-ethnic relations in Montenegro are good by the standards of the region, and the ethnic Albanian minority is in any case relatively small (6.6 per cent according to the 1991 census) and not

⁷⁰ This policy was enunciated in the conclusions of a European Council session on 15 May 2001 and in a statement by U.S. Assistant Secretary of State Beth Jones on 11 July to the House International Relations Subcommittee on Europe.

⁷¹ Reported in *Vijesti*, 25 April 2001. The U.S. ambassador also urged the need for talks in the light of the election result (reported in *Vijesti*, 17 May 2001).

⁷² For example, statement by Belgian Foreign Minister Louis Michel, representing the EU Presidency, in Vienna, reported in *Pobjeda*, 12 July 2001.

⁷³ For example, article in Belgrade's *Nedeljni Telegraf* of 13 June 2001, "Nove balkanske granice ili novi balkanski rat"; and in the pro-NSS (Momir Bulatović's party) *Dan* of 21 and 23 July 2001.

⁶⁹ For example over Djukanović's participation at the EU Balkan summit in Zagreb in November 2000 (reports in *Vijesti*, 13 and 14 November 2000).

territorially compact.⁷⁴ Claims of a potential for inter-ethnic strife appear to be a rather ugly attempt to stir up fear and tension and convey the impression that Montenegrin independence would be dangerous. Of crucial importance in Montenegro is that all of the main political parties have stressed the maintenance of peace and stability as the absolute priority. Montenegro preserved the peace in the much more menacing atmosphere when Milošević was in power. The chances of conflict now, when the threat from Serbia has gone, are remote.

Nevertheless, if there is no immediate prospect of serious conflict, the stalemate over independence does hold out the possibility of prolonged political instability, with attendant risks that should be avoided. There is the risk that extended political uncertainty could lead to further polarisation and radicalisation of positions. While the stress of the new Montenegrin government on internal dialogue is highly encouraging, key divisive issues, such as the conditions for an independence referendum, remain. If the government were to feel constrained to press ahead with referendum plans without first achieving a broad political consensus on the rules, a dangerous message would be sent that the rules of the process were not valid.

It is, therefore, of vital interest to the international community to help Montenegro find a solution that enables it to break the domestic deadlock over independence. As already discussed, the way forward is through open dialogue with Belgrade, accompanied by dialogue within Montenegro, as the Montenegrin authorities have themselves initiated. If developments in Serbia and in the federal government were to lead Belgrade to accept the Montenegrin proposal for separation, perhaps followed by a new union or confederation of independent states, then all well and good.

However, as explained earlier, it may not work out this way. For this reason the international community should help to provide an environment conducive to compromise. Repeating the mantra that Montenegro should remain in Yugoslavia does not do this. On the contrary, it is counter-

productive and tends to make pro-independence Montenegrins resentful. Rather, the emphasis should be switched to the international community's acceptance of the right of Montenegrins to decide on their future themselves. The prospects for encouraging the Montenegrin authorities to compromise, if necessary by postponing a decision on independence while finding ways to participate constructively at the federal level for the benefit of both Montenegro and Serbia, would then improve.

B. SUPPORT FOR REFORMS

Another risk arising out of a prolonged political crisis concerns the reform process. The government has embarked upon a series of potentially far-reaching political and economic reforms. The international community is providing substantial assistance, having correctly evaluated that it is essential for Montenegro's long-term stability, whether in union with Serbia or not, to build functioning institutions and a market economy. There is a risk that continuing uncertainty over the status issue will distract the authorities from the reform process and hold up necessary moves in key areas.

International technical assistance for reforms in Montenegro predates the fall of Milošević, but it has been stepped up considerably since then. The U.S. Agency for International Development is providing a range of advice. In the economic sphere this includes privatisation; economic policy; central bank reform and bank supervision; reform of the payments system; tax and fiscal matters; formation of capital markets; and commercial law reform. The EU has set up an Agency for Reconstruction in Montenegro, responsible for coordinating its aid efforts in areas such as infrastructure development; micro-credits for small and medium-sized businesses; education reform; and reorganisation of the finance ministry. Media reform is supported by both the U.S and the EU.

Important reforms are under way in some areas, most noticeably in the economic sphere. The government prepared a reform strategy in advance of the international donors' conference for the

⁷⁴ On inter-ethnic relations and allegations of ethnic-Albanian insurgent activities in Montenegro, see ICG Balkans Briefing, *Montenegro: Time to Decide*, 18 April 2001.

FRY held in Brussels on 29 June 2001.⁷⁵ That strategy was drawn up with EU assistance, and EU advisers have helped the government to set up an aid coordination unit to enable Montenegro to absorb assistance effectively. A notable measure adopted by the government with international help is a plan for a treasury system within the finance ministry.⁷⁶ If implemented successfully, the system would have far-reaching benefits in terms of bringing order to the hitherto chaotic public finances and ensuring greater transparency and effective parliamentary oversight.⁷⁷ Other important areas where progress is being made include banking reform and supervision. A law on public procurement promises higher levels of transparency and accountability in government.

In general, the experience of international technical advisers is that there is a high level of willingness to carry out reforms among the Montenegrin authorities, especially in the economic areas where international assistance has been concentrated.⁷⁸ However, in other important areas reform has been painfully slow. Ambitious plans were laid in 1998 for sweeping changes in the judiciary and public administration. However, despite a great deal of rhetoric and a new institute to promote reform, almost nothing was achieved.⁷⁹

Other key areas where the authorities have yet to demonstrate the will to carry out real reforms concern transparent and clean government. There are promises of change. For example, Vujanović has announced an end to the practice of senior government officials concurrently holding senior positions in enterprises.⁸⁰ The UK's Department for International Development (DFID) among others has offered advice on setting up effective and independent regulatory authorities for areas such as public utilities. Laws on freedom of

information, conflicts of interest and the financing of political parties are in the pipeline, and there are plans to institute an ombudsman. All these reforms, if carried through, would make a real difference for more efficient and honest government administration. However, good laws are not enough. Perhaps the greatest problem concerns the capacity of Montenegrin institutions and personnel to put them into practice. The top-to-bottom revolution in administrative practices that is needed will require, in addition to a real will to reform, international support for a considerable time to come.

In its approach to promoting reforms in Montenegro, elements in the international community have sometimes laid too great a stress on the rapid fulfilment of deadlines for drafting and passing laws. This habit, which appears particularly to affect U.S. assistance, is often linked to the expiry dates of contracts for international consultants, with the result that the deadlines frequently appear quite artificial to the Montenegrin authorities. In general, and the importance of solid laws notwithstanding, greater attention needs to be given to the long-term implementation of reforms.

There is also a variety of approach within the international community concerning the division between federal and republic level competencies. In general the U.S. and the UK, as well as international organisations such as the World Bank, have adopted a relatively flexible position. As long as reforms bring Montenegro and Serbia into line with international standards, they have not been unduly worried whether they are offering assistance to the republics in areas that according to the defunct FRY constitution are properly federal. The European Commission, by contrast, has adopted a more rigid approach, with assistance strictly conditioned on the principle of not building capacity in Montenegro in areas that, strictly viewed, belong to the federation. Further, an expressed aim of Commission assistance is to contribute to rebuilding the competencies of the federation. Given that the FRY as an entity has for all practical purposes ceased to function, and both Montenegro and Serbia accept that their relationship will need to be radically transformed, the Commission's approach is inappropriate and hampers the EU's ability to impact effectively on the situation.

⁷⁵ *Economic Reform and Recovery Strategy: Donor Appeal for 2001 – 2004.*

⁷⁶ *BBC Worldwide Monitoring*, 31 May 2001.

⁷⁷ For the effects of the new treasury system, see *Montenegro Economic Trends* (Monet) 5, April 2001 (Institute for Strategic Studies and Prognoses, Podgorica, and Centre for European Policy Studies, Brussels).

⁷⁸ As reported to the ICG.

⁷⁹ For a detailed account of the failures of judicial and administrative reform, see ESI report *Rhetoric and Reform: a Case Study in Institution Building in Montenegro, 1998 – 2001*, 28 June 2001.

⁸⁰ *Pobjeda*, 7 July 2001.

Of particular importance are promises by the authorities to reform and de-politicise the bloated, ineffective and often corrupt interior ministry (MUP).⁸¹ Reform of the MUP is politically highly sensitive, as indicated by the importance attached to it by the LSCG in the coalition negotiations in May 2001. The high number of police (estimated by the weekly magazine *Monitor* at between 15,000 and 17,000, in a country whose population size would, by normal international standards, warrant a police force of around 3,000) was formerly justified by the need to be prepared against the threat from Milošević. That rationale no longer applies. The ministry's manifest shortcomings have been especially apparent to the public in the failure of the police to make progress in investigating a series of murders since May 2000 of prominent MUP and underworld figures.⁸² Many continue to doubt the authorities' willingness to give up control over the MUP, and the outcome of reform here is a litmus test of their good faith.

A related issue concerns the battle against organised crime. This was recently thrust to the forefront of attention by a series of articles in the Croatian weekly magazine *Nacional* concerning the highly lucrative cigarette smuggling through Montenegro. According to *Nacional's* sources, complicity goes up to the highest levels in the Montenegrin state, with Djukanović himself deeply implicated.⁸³ News that large-scale cigarette smuggling has gone on for several years under the protection of state organs was of little surprise to Montenegrins. Djukanović denied his involvement and initiated legal proceedings against the Montenegrin daily *Dan*, which had repeated the *Nacional* articles. He also called for a committee in the Montenegrin parliament to investigate the accusations.⁸⁴

The SNP also proposed the formation of such a committee. However, given the lack of instruments that it would have to carry out a serious

investigation, it is unlikely that it would make much impact. Debate in parliament on the establishment of a committee has not provided encouragement that the issue will be seriously tackled and has mainly been used as an opportunity for political posturing. The DPS has maintained predictably enough that the affair represents an attempt by the opponents of Montenegrin independence to undermine the president.⁸⁵

Such recriminations have taken up quantities of newsprint over several weeks, but they obscure the central point. There is little doubt that smuggling of cigarettes, stolen cars and many other items has been big business in Montenegro for several years, nor that such activities have had official sanction (how else could stolen vehicles be registered in Montenegro, for example, without any questions as to their origin being asked). While this could be presented as a matter of survival during the period of international sanctions, the effects of criminalisation of the economy and part of the administration are so insidious that curbing these activities should be an absolute priority and a condition of international assistance to Montenegro.⁸⁶

Whether or not elements in the international community were behind the *Nacional* articles in order to pressurise Djukanović to draw back from independence plans, as was rumoured, it is certain that many in the international community seized on the allegations as one more reason why Montenegrin independence should not be contemplated.⁸⁷ However, it would be a mistake to

⁸¹ Interview with new Montenegrin Interior Minister Andrija Jovičević in *Vijesti*, 23 July 2001.

⁸² On the shortcomings in the interior ministry, see *Monitor*, 20 July 2001, "Kome služi služba".

⁸³ Two-part article in *Nacional*, "Glavni mafijaški boss Balkana", 15 and 22 May 2001; interview with Srećko Kestner, *Nacional*, 29 May 2001; article entitled "Likvidacija opasnog svjedoka", *Nacional*, 5 June 2001.

⁸⁴ *VIP Daily News Report*, 11 June 2001.

⁸⁵ The widely held assumption that the U.S. was behind the affair was lent credibility in many eyes by *Nacional's* own assertion that a major western intelligence service had supplied information to the magazine. The U.S. ambassador in Belgrade strenuously denied a U.S. link (*Vijesti*, 15 June 2001). Other explanations offered were that individual grudges among the cigarette smuggling fraternity were at play, and that the affair was part of a broader struggle among international tobacco companies for control of the lucrative smuggling rackets into the EU through the Balkans.

⁸⁶ The loss to the Montenegrin budget alone, as a result of cigarettes entering the country without tax, should be sufficient reason to crack down on the black market in cigarettes (see article in *Vijesti*, 4 July 2001, "Zbog ulične prodaje cigareta pola milijarde maraka, umjesto u državni budžet, završilo kod privatnika").

⁸⁷ An international official in Brussels told the ICG that in the event of Montenegrin independence, it could be

make such a connection. The international community should insist upon strict conditionality for its assistance to Montenegro, but this should be tied to performance in carrying out reforms and tackling criminal activities. Here, again, the rather obsessive attitude of the international community towards preserving the federation can be seen. Too often its representatives seem to see such activities as another stick to beat Djukanović and the advocates of Montenegrin independence, rather than a problem that needs solving.

That the involvement of Montenegrin officials in such activities will have to be properly investigated is clear and is one more reason why reform of the highly politicised criminal justice system is essential. But the priority of the international community should be to help Montenegro avoid a drawn-out political crisis that risks radicalising political divisions and stalling reform momentum, rather than to hammer away on the stale, unnecessary policy of insisting that Montenegro remain within the FRY. The most constructive approach would be to help the Montenegrin authorities seek a compromise that will enable them to get out of the current deadlock over the status issue; to continue financial and technical support for the reform process; and to make such support conditional on performance in key areas of reform, particularly those affecting clean and transparent government.

Podgorica/Brussels, 1 August 2001

expected that while Serbia would proceed through reforms towards European integration, Montenegro would risk remaining a crime centre on a European scale.

APPENDIX A

RESULTS OF PARLIAMENTARY ELECTION, 22 APRIL 2001⁸⁸

Political party or coalition	For/against independence	Votes won %	Seats ⁸⁹	Special constituency ⁹⁰	Total seats
Victory is Montenegro's (DPS + SDP)	For	42	33	3	36
Liberal Alliance of Montenegro (LSCG)	For	7.8	6	-	6
Together for Yugoslavia (SNP + NS + SNS)	Against	40.6	33	-	33
People's Socialist Party (NSS)	Against	2.9	-	-	-
Serbian Radical Party (SRS)	Against	1.2	-	-	-
Democratic Union of Albanians	For	1.2	-	1	1
Democratic League in Montenegro [ethnic-Albanian party]	For	1	-	1	1
Others		3.3	-	-	-
Total		100	72	5	77

⁸⁸ Republic of Montenegro/ Federal Republic of Yugoslavia, Parliamentary Election 22 April 2001, OSCE/ ODIHR Election Observation Mission Report, Warsaw, 12 June 2001.

⁸⁹ The threshold to gain seats in parliament was 3 per cent of the total ballots cast.

⁹⁰ Special five-seat constituency covering areas where ethnic-Albanians form a majority.

APPENDIX B

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (ICG) is a private, multinational organisation committed to strengthening the capacity of the international community to anticipate, understand and act to prevent and contain conflict.

ICG's approach is grounded in field research. Teams of political analysts, based on the ground in countries at risk of conflict, gather information from a wide range of sources, assess local conditions and produce regular analytical reports containing practical recommendations targeted at key international decision-takers.

ICG's reports are distributed widely to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's internet site, www.crisisweb.org. ICG works closely with governments and those who influence them, including the media, to highlight its crisis analysis and to generate support for its policy prescriptions. The ICG Board - which includes prominent figures from the fields of politics, diplomacy, business and the media - is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; former Australian Foreign Minister Gareth Evans has been President and Chief Executive since January 2000.

ICG's international headquarters are at Brussels, with advocacy offices in Washington DC, New York and Paris. The organisation currently operates or is planning field projects in nineteen crisis-affected countries and regions across four continents: Algeria, Burundi, Rwanda, the Democratic Republic of Congo, Sierra Leone, Sudan and Zimbabwe in Africa; Burma/Myanmar, Indonesia, Kyrgyzstan, Tajikistan, and Uzbekistan in Asia; Albania, Bosnia, Kosovo, Macedonia, Montenegro and Serbia in Europe; and Colombia in Latin America.

ICG raises funds from governments, charitable foundations, companies and individual donors. The following governments currently provide funding: Australia, Canada, Denmark, Finland, France, Germany, Ireland, Japan, Luxembourg, the Netherlands, Norway, the Republic of China (Taiwan), Sweden, Switzerland and the United Kingdom. Foundation and private sector donors include the Ansary Foundation, the William and Flora Hewlett Foundation, the Charles Stewart Mott Foundation, the Open Society Institute, the Ploughshares Fund, the Sasakawa Foundation, the Smith Richardson Foundation, the Ford Foundation and the U.S. Institute of Peace.

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APPENDIX C

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Vice-President, Social Democratic Party, German Bundestag

Mark Eyskens

Former Prime Minister of Belgium

Yoichi Funabashi

Journalist and author

Bronislaw Geremek

Former Foreign Minister of Poland

I.K.Gujral

Former Prime Minister of India

Han Sung-Joo

Former Foreign Minister of Korea

El Hassan bin Talal

Chairman, Arab Thought Forum

Marianne Heiberg

Senior Researcher, Norwegian Institute of International Affairs

Elliott F Kulick

Chairman, Pegasus International

Joanne Leedom-Ackerman

Novelist and journalist

Todung Mulya Lubis

Human rights lawyer and author

Allan J MacEachen

Former Deputy Prime Minister of Canada

Graça Machel

Former Minister of Education, Mozambique

Barbara McDougall

Former Secretary of State for External Affairs, Canada

Matthew McHugh

Counsellor to the President, The World Bank

Mo Mowlam

Former British Secretary of State for Northern Ireland

Christine Ockrent

Journalist

Timothy Ong

Chairman, Asia Inc magazine

Wayne Owens

President, Center for Middle East Peace and Economic Co-operation

Cyril Ramaphosa

Former Secretary-General, African National Congress; Chairman, New Africa Investments Ltd

Fidel Ramos

Former President of the Philippines

Michel Rocard

Member of the European Parliament; former Prime Minister of France

Volker Ruhe

Vice-President, Christian Democrats, German Bundestag; former German Defence Minister

Mohamed Sahnoun

Special Adviser to the United Nations Secretary-General

William Shawcross

Journalist and author

Michael Sohlman

Executive Director of the Nobel Foundation

George Soros

Chairman, Open Society Institute

Eduardo Stein

Former Foreign Minister of Guatemala

Pär Stenbäck

Former Minister of Foreign Affairs, Finland

Thorvald Stoltenberg

Former Minister of Foreign Affairs, Norway

William O Taylor

Chairman Emeritus, The Boston Globe

Ed van Thijn

Former Minister of Interior, The Netherlands; former Mayor of Amsterdam

Simone Veil

Former Member of the European Parliament; former Minister for Health, France

Shirley Williams

Former British Secretary of State for Education and Science; Member House of Lords

Grigory Yavlinsky

Member of the Russian Duma

Mortimer Zuckerman

Chairman and Editor-in-Chief, US News and World Report
