

CRS Report for Congress

Received through the CRS Web

Serbia and Montenegro Union: Background and Pending Dissolution

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Summary

On May 21, 2006, Montenegro held a long-awaited referendum on independence; 55.5% of the electorate voted in favor of independence, slightly over the 55% threshold established by the European Union (EU), and turnout exceeded 86%. Serbia and Montenegro were the last remnants of the former Yugoslavia to exist in a common state. They formed a new, highly decentralized state union under an agreement brokered by the EU in 2002-2003, which allowed for either republic to hold a referendum after three years. Serbia's political leaders supported continuation of the union but recognized the referendum outcome. The impending dissolution of the Serbia and Montenegro union comes at the same time as the international community is conducting talks on the future status of Kosovo, a disputed province in Serbia. This report may be updated as events warrant. For additional information, see CRS Report RL30371, *Serbia and Montenegro: Current Situation and U.S. Policy*, by Steven Woehrel.

Introduction

On February 4, 2003, a new common state of Serbia and Montenegro replaced the bi-republic Federal Republic of Yugoslavia (FRY). The event quietly marked the culmination of intensive European Union-led efforts to negotiate the continuation of a common state, as well as the start of a process to implement and develop the blueprint for the new, highly decentralized state. The agreement to keep Serbia and Montenegro a single international entity was initially viewed as a foreign policy success for Javier Solana, the EU's common foreign policy representative. The EU brokered the union (dubbed by some as "Solania") in support of its goal eventually to integrate all of the states of the western Balkans into the EU and to prevent further instability in the region that might arise from the creation of new states and new borders.

Despite the agreement, the complicated union arrangement did not resolve significant political and structural differences between the two republics that contributed to difficulties in integrating with the EU, a primary incentive for concluding the union agreement in the first place. Brussels devised special arrangements for Serbia and Montenegro to overcome these challenges and achieve further progress toward EU association. Nevertheless, Montenegro's leaders continued to pursue independence for the small republic. Meanwhile, the international community opened talks on Kosovo's future status in early 2006. While the Kosovo issue more directly involves Serbia than Montenegro, the status of Kosovo and the status of the union may bear some mutual impact.

Shape of the Union

The Belgrade Agreement and Constitutional Charter envisaged Serbia and Montenegro to be a loose confederation of two member states with joint state powers remaining limited and split roughly equally between the two republics. Federal institutions included a president, parliament, council of ministers, and constitutional court. The agreement called for the 126 seats in the union parliament to be nominated first by the republic parliaments, and then openly contested in direct elections by early 2005 (a missed deadline addressed by amendments to the Constitutional Charter in April 2005). The union council of ministers included five departments: foreign affairs,¹ defense, international economic relations (including relations with the EU), internal economic relations, and protection of minority and human rights. Federal court institutions, which have only slowly become established, were supposed to oversee harmonization of the

Leadership and Key Dates

President of Serbia and Montenegro: Svetozar Marovic
 President of Serbia: Boris Tadic
 Prime Minister of Serbia: Vojislav Kostunica
 President of Montenegro: Filip Vujanovic
 Prime Minister of Montenegro: Milo Djukanovic

Mar. 14, 2002 — “Belgrade Agreement” (Agreement on Principles of Relations between Serbia and Montenegro within the State Union) was signed, and witnessed by EU High Representative Javier Solana

Apr. 9, 2002 — Both republic parliaments passed the Belgrade Agreement

June 18, 2002 — Inaugural meeting of the Constitutional Commission created by Agreement was held

July 2002 — Agreement made on an Economic Action Plan to harmonize economic policies between two republics

Dec. 6, 2002 — Constitutional Commission adopted Constitutional Charter

Feb. 4, 2003 — Constitutional Charter came into effect

Mar. 3, 2003 — New Serbia and Montenegro parliament convened, elected Svetozar Marovic (of Montenegro) President of Serbia and Montenegro on March 7

Sept. 4, 2004 — The EU adopted a “twin-track” approach with Serbia and Montenegro to reflect their disparate economies, but endorsed continuation of the state union

Apr. 7, 2005 — EU, Serbian and Montenegrin officials signed amendments to the Charter to keep union parliament in office and postpone direct elections until next republic-level parliamentary elections

Oct. 10, 2005 — The EU opened Stabilization and Association Agreement negotiations with Serbia and Montenegro

Dec. 16, 2005 — The Council of Europe's Venice Commission issued an opinion on Montenegro's planned referendum on independence

Mar. 2, 2006 — The Montenegrin parliament passed a referendum law that incorporated EU recommendations on procedures

May 21, 2006 — The referendum on independence passed by a vote of 55.5% in favor to 44.6% against

¹ Montenegro retains its own minister for foreign affairs.

republics' judicial practices. The army is controlled by a supreme defense council comprised of the federal president and presidents of the two member republics.

The founding documents called for the creation of a common market and the free movement of persons, goods, services, and capital but give the federal government only a coordinating and harmonizing role in these matters with the member states. Most economic and monetary powers remained with the republics. Serbia and Montenegro retained separate currencies, central banks, and monetary and fiscal policies, for example.² The Belgrade Agreement and Constitutional Charter provide for the withdrawal of either state (or both) from the union following the expiration of a three-year period and a referendum.

Interim Developments

Since the union's founding, different policy priorities and concerns in each republic caused development of the union to languish. Although economic revitalization and reforms have been dominant concerns for both Serbia and Montenegro, their respective governments sought different policy approaches that reflected substantial differences in economic structure and scale between the two republics. This in turn presented insurmountable hurdles in the effort to harmonize the republics' economic policies. Some observers believe that the structural differences and divergent priorities between the two republics were simply too great to allow the union to function as a single state in the long run.

The pull of moving closer to European integration played a large role in keeping the union in force. However, Montenegro's leadership never relinquished its ultimate goal of independence.

EU integration. Since playing a key international role in brokering the Belgrade Agreement, the European Union remained the primary external force promoting continuation of a joint Serbia and Montenegro state. As both republics share the goal of attaining EU membership, EU officials attempted to leverage this influence by insisting that Serbia and Montenegro's surest and quickest path toward closer integration with the EU lies together rather than apart. At the June 2003 Thessaloniki summit, EU and western Balkan leaders agreed to move the region toward European integration through a Stabilization and Association process (SAp).³ Later that year, the EU agreed to begin a feasibility study for a Stabilization and Association Agreement (SAA) with Serbia and Montenegro, the first step in the EU accession process. The EU pressed Serbia and Montenegro to achieve greater harmonization of their economic, trade, and tariff policies. However, lack of progress in harmonization, the uncertain political climate in Serbia, and Serbia's lack of full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) delayed further work on the SAA feasibility study with Serbia and Montenegro in 2003 and early 2004.

² Montenegro adopted the *deutschmark* in 2001 (while it was still part of the FRY) and now uses the *euro*. Serbia uses the *dinar* as its currency.

³ See EU-Western Balkans Summit Declaration, June 21, 2003, at [<http://www.eu2003.gr>].

In mid-2004, EU members adopted a “twin track” policy that recognized Serbia and Montenegro’s economic distinctions and differentiated EU approaches to them, including different trade and customs regimes. Concurrently, the policy called for the preservation of Serbia and Montenegro’s existence as a single state entity. Officials from both Serbia and Montenegro welcomed the EU initiative, if for different reasons. Despite the new approach, progress in finalizing the feasibility study and opening negotiations on an SAA continued to lag, mainly because of Belgrade’s insufficient cooperation with ICTY. Some significant progress by Serbia in late 2004-early 2005 on ICTY cooperation helped to alleviate this hurdle, if only temporarily.⁴ In April 2005, the EU approved a feasibility study on opening SAA negotiations with Serbia and Montenegro, which formally opened in October. However, after several rounds of reportedly positive progress in the SAA talks, the EU suspended further talks in April, citing Serbia’s still incomplete cooperation with ICTY.

Position of Montenegro. The Montenegrin government remained the driving political force promoting dissolution of the union. Prime Minister Djukanovic and his Democratic Party of Socialists, as well as its coalition partners, have long been identified with the ultimate goal of independence. While a relatively dormant issue in 2003, Montenegro’s leaders renewed their commitment to independence as the three-year moratorium drew to a close. They proposed direct talks with Belgrade on negotiating a separation in the form of a “union of independent states,” which Belgrade rejected. They also insisted on holding a referendum in advance of parliamentary elections scheduled for October 2006. Montenegro’s leaders have stated that progress toward achieving an SAA with the EU should not hinder prospects for Montenegro’s independence. In fact, they view independence as a means toward quicker EU integration, and the recent EU decision to suspend SAA talks over Belgrade’s lack of full cooperation with ICTY appeared to bolster this view. The government’s domestic critics charged that Djukanovic’s focus on independence had diverted attention away from other pressing policy problems in Montenegro. Though never surpassing the pro-independence vote in popularity, the pro-unionist and anti-government bloc was expected to register a sizeable share of the vote.

Referendum Background and Results

Montenegro’s leadership has consistently insisted that the republic be allowed to exercise its democratic right to hold a referendum on independence. The April 2005 amendments to the Charter upheld Montenegro’s right to hold a referendum but also called for Montenegro to cooperate with the EU on respecting democratic standards. The international community’s approach to the referendum focused on process and preparations for the vote; key issues of concern included required turnout, necessary margin of victory, and voter eligibility.

The Venice Commission, a legal advisory body to the Council of Europe, issued an opinion on Montenegro’s referendum law in mid-December 2005.⁵ Among other things, it rejected a Serbian proposal to consider the sizeable Montenegrin population residing in Serbia as eligible to vote. The Commission recommended that the majority and

⁴ See also CRS Report RS22097, *Balkan Cooperation on War Crimes Issues*, by Julie Kim.

⁵ Text of the opinion can be found at [<http://www.venice.coe.int>].

opposition parties negotiate on the conduct and implementation of the referendum, especially with regard to the specific majority and turnout required for the referendum to pass. EU leaders also called for the Montenegrin parties to achieve a consensus on principles and processes and to refrain from unilateral actions. EU foreign policy chief Solana appointed Slovak diplomat Miroslav Lajcak to be his personal representative to Montenegro to facilitate dialogue between the government and opposition on the terms of the referendum.

After several rounds of talks in early 2006, EU envoy Lajcak proposed, among other things, that a winning majority comprise 55% of those voting, and that turnout exceed 50%. This formula represented a compromise between the opposition's demands for a threshold of a majority of the entire electorate and the government's preference for a simple majority of those voting. After the government and opposition accepted the EU terms, the Montenegrin parliament passed a new law on the referendum on March 2 that set a voting date of May 21, 2006. The text of the referendum question was: "Are you in favor of Montenegro as an independent state with full international and legal subjectivity?" Although the share of independence supporters appeared to be growing as the vote neared, it remained far from certain whether the independence camp would be able to reach the 55% threshold. Many observers wondered about the possibility of the vote results falling in a "gray zone" above 50% but below 55% and the implications of that uncertain outcome.

With a record-high turnout of 86.3%, the May 21 referendum resulted in 55.5% of registered voters in favor of independence and 44.5% against.⁶ Some in the pro-unionist camp disputed the results in certain polling stations, but their demands for a partial recount were dismissed. International officials promptly praised the successful conduct of the vote. EU officials stated that the EU could soon open separate SAA talks with Montenegro. Leaders from Serbia and Montenegro will now have to negotiate specific terms for the breakup of the joint state. As per the Belgrade Agreement, Serbia will become the legal successor to the state union after Montenegro gains independence.

Kosovo's Status

An international process to determine Kosovo's future status is currently under way. Since 1999, the province of Kosovo has come under U.N. administration under an international mandate regulated by U.N. Security Council Resolution 1244. In 2005, the U.N. Security Council endorsed launching a negotiated process on a Kosovo status resolution. Talks headed by a U.N. envoy commenced in early 2006, and international officials seek to conclude them by the end of the year. Although no formal linkage exists between the issue of Kosovo's status and the inter-republic relationship between Serbia and Montenegro,⁷ many observers believe each situation could affect the other and open a broader discussion of borders, sovereignty issues, and state relationships. Montenegrin officials insist that Montenegro's case for independence has nothing to do with the Kosovo situation.

⁶ Montenegro has 466,079 registered voters in a total population of about 670,000.

⁷ The Belgrade Agreement and Constitutional Charter state that, should Montenegro withdraw from the union, international agreements including U.N. Resolution 1244 on Kosovo shall apply to Serbia as successor to the FRY.

U.S. Policy

The United States strongly supports the long-term goal of countries of the western Balkans to join Europe and Euro-Atlantic structures. The United States supported the Solana-led negotiations leading up the Belgrade Agreement and welcomed the adoption of the Constitutional Charter. U.S. Administrations and some Members of Congress maintained longstanding close relations with the primary architects of the union agreement, Serbian Prime Minister Djindjic and Montenegrin President Djukanovic, ties stemming from the staunch anti-Milosevic positions of these leaders during the 1990s. Especially with regard to Montenegro, Congress took care to exempt that republic from economic sanctions during the Milosevic years, as well as earmark to it high levels of bilateral foreign assistance. Montenegro remains exempt from annual legislative conditions on U.S. aid to Serbia that pertain to Serbia's cooperation with the international war crimes tribunal. For example, Montenegro was spared from the temporary U.S. suspension of some FY2005 assistance to Serbia announced in January 2005.⁸

The U.S. policy agenda with Serbia and Montenegro has been largely dominated by the issue of ICTY cooperation and Kosovo. Nevertheless, the joint or separate future of Serbia and Montenegro is of importance to U.S. policymakers because of its potential impact on a range of bilateral and multilateral policy issues. These include U.S. support for the stabilization of the western Balkans region and its integration into western institutions, including NATO; the normalization and expansion of U.S. bilateral political, economic, and security relations with Serbia and Montenegro; Serbia and Montenegro's relations with the International Criminal Tribunal for the former Yugoslavia; and the future of Kosovo.

Prior to the referendum held in Montenegro, U.S. officials said that the United States would remain neutral and would accept any outcome that is achieved through democratic means and through a process accepted as legitimate by all sides. They emphasized U.S. support for Serbia and Montenegro's progress toward Europe, within or outside of the state union.⁹ After the vote, U.S. officials praised the peaceful conduct of the vote.

⁸ For more information, see CRS Report RS21686, *Conditions on U.S. Aid to Serbia*, by Steve Woehrel.

⁹ Testimony of Undersecretary of State for Political Affairs Nicholas Burns before the Senate Foreign Relations Committee, November 8, 2005.