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Serbia and Montenegro Union: Prospects and Policy Implications

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Summary

Serbia and Montenegro are united in a highly decentralized joint state under an agreement brokered by the European Union (EU) in 2002 and 2003. Authorities in Montenegro are planning to hold a long-awaited referendum on independence in April 2006, as provided for in the union agreement. A sizeable minority of the population and the political opposition in Montenegro oppose independence. Most of Serbia's political leaders support continuation of the union but say they will recognize any result that is accepted by the EU. Uncertainty about the state's future comes at the same time as the EU is negotiating an association agreement with Serbia and Montenegro and 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 came into being, replacing 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 have contributed to difficulties in integrating with the EU, a primary incentive for concluding the union agreement in the first place. Brussels has since devised special arrangements for Serbia and Montenegro to overcome these challenges and achieve further progress toward EU association. Nevertheless, Montenegro's leaders continue to pursue independence for the small republic. Meanwhile, the EU, the United States, and the rest of the international community have begun a process to address the question of Kosovo's future status. 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 are comprised of 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 includes 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, are 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

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

April 9, 2002 — Both republic parliaments passed the Belgrade Agreement

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

July 2002 — Agreement 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

March 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

April 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

Feb. 7, 2006 — Scheduled date for an extraordinary parliamentary session in Montenegro to set a date for a referendum before end of April 2006

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 call 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 remain with the republics. Serbia and Montenegro retain 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.

Factors for Cohesion

EU integration. Since playing a key international role in brokering the Belgrade Agreement, the European Union has remained the primary force promoting continuation of a joint Serbia and Montenegro state. As both republics share the goal of attaining EU membership, EU officials have 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 on a common agenda to move the region toward European integration through the framework of the EU's 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 in order to facilitate progress in integrating with the EU. However, lack of progress in tariff and trade 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.

In mid-2004, the EU considered new approaches to Serbia and Montenegro in order to break the stalemate. 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 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. Significant progress by Serbia since late 2004 on ICTY cooperation helped to overcome, if not entirely eliminate, this hurdle.⁴ In April 2005, the EU approved a feasibility study on opening SAA negotiations with Serbia and Montenegro. SAA talks formally opened on October 10.

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>].

⁴ See also CRS Report RS22097, *Balkan Cooperation on War Crimes Issues: 2005 Update*, by Julie Kim.

A further hurdle to EU integration was the status of the Serbia and Montenegro union parliament, whose mandate was set to expire by early 2005. With the two republics unable to agree on whether and how to carry out direct elections to the union parliament, the EU again had to intervene. On April 7, EU High Representative Solana, along with Serbian and Montenegrin officials, signed amendments to the Constitutional Charter that extended the mandate of the union parliament and called for separate direct elections to be held in each republic at the time of the next republic-level parliamentary elections. The amendments also called for any possible referendum on secession to meet “internationally recognized democratic standards.”

Other Factors. Another factor that may encourage the continued existence of the union is Serbia and Montenegro’s dealings with other international organizations. For example, both republics seek closer ties with and/or entry into NATO and the WTO. Maintaining the union may prove the quickest route toward achieving their objectives, as opposed to establishing new links to these institutions as two independent states.

Political positions and public opinion in both republics may also reinforce continuation of the union. In Serbia, most parties in the government and in opposition support the union. The Serbian government has rejected Podgorica’s proposal to dissolve the state in favor of a union of independent states. An exception is Serbia’s small G-17 Plus party, which has advocated “Serbian independence,” or separation from Montenegro (as well as Kosovo), as a quicker route to EU integration. While the leadership in Montenegro remains firmly committed to the goal of independence, the opposition parties support union with Serbia. Public opinion poll data in Montenegro varies but shows divided sentiments on the issue, with a growing margin favoring independence over continuation of the union. Still, a future referendum could register a large voice of opposition to Montenegrin independence.

Factors for Dissolution

Structural Differences. Since the union’s founding in 2002-2003, different policy priorities and concerns in each republic have caused development of the union to languish. While economic revitalization and reforms are the dominant concerns for both Serbia and Montenegro, their respective governments have sought different policy approaches and strategies that reflect substantial differences of economic structure and scale between the two republics. This in turn presented insurmountable hurdles in the process of trying to harmonize the republics’ economic policies. Some observers believe that the structural differences between the two republics are simply too great to allow the union to function as a single state in the long run.

Position of Montenegro. The Montenegrin government remains 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 have since renewed their commitment to independence. They have proposed direct talks with Belgrade on negotiating a separation in the form of a “union of independent states,” which Belgrade has rejected. They also insist on holding a referendum in 2006, possibly by April, in advance of parliamentary elections. 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 European integration. The government's critics charge that the government's focus on independence diverts attention away from other pressing policy problems in Montenegro.

Referendum Outlook

Montenegro's leadership has consistently insisted that the republic be allowed to exercise its democratic right to hold a referendum on the future of the union and is apparently confident that the results will endorse independence. The April 2005 amendments to the Charter reinforced Montenegro's claims to its right to hold a referendum but also called for Montenegro to cooperate with the EU on respecting democratic standards on holding referenda. The international community's approach to the referendum has focused on process and preparations for the vote; key issues that emerged have included required turnout, necessary margin of victory, and voter eligibility. In June, Serbian Prime Minister Kostunica presented to the EU a list of over 250,000 Montenegrins living in Serbia that he argued should be eligible to vote in a future referendum in Montenegro. The Montenegrin government rejected this position and charged Kostunica with interference in Montenegro's internal affairs.

The Venice Commission, a legal advisory body to the Council of Europe, issued an opinion on Montenegro's referendum law in mid-December.⁵ Among other things, the Commission recommended that the majority and 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, and he is tasked with facilitating dialogue between the government and opposition on the terms of the referendum. Presently, the opposing parties appear far apart on many of these issues.

Montenegro has called for its parliament to meet on February 7 to set a date for the referendum before the end of April. The actual date of the vote and wording of the referendum question are to be determined later. Other outstanding issues include whether and by what margin parliament may need to ratify the referendum results, whether opponents of independence may call for a boycott of the vote, how the international community may judge the process and outcome, and how the EU-led SAA process might be affected by a pro-independence outcome. Montenegro has said it will invite international observers to the vote. Belgrade has pledged not to interfere with the referendum plans.

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 have commenced and are likely to intensify in

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

early- to mid-2006. While no formal linkage exists between the issue of Kosovo's status and the inter-republic relationship between Serbia and Montenegro,⁶ many observers believe each situation could affect the other and open a broader discussion of borders, sovereignty issues, and state relationships. Montenegrin officials have claimed, although the EU has not confirmed, that EU officials have sought a postponement of the referendum until later in 2006, after the Kosovo status negotiations are well under way.

U.S. Policy

The United States strongly supports the long-term goal of countries of the western Balkans to join Europe and recognizes Europe's leading role in the stabilization of the region, in close cooperation with the United States. 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 U.S. suspension of some FY2005 assistance to Serbia announced in January 2005.⁷

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. With regard to Montenegro's plans to hold a referendum, U.S. officials have said that the United States will accept any outcome that is achieved through democratic means and through a process accepted as legitimate by all sides. They emphasize U.S. support for Serbia and Montenegro's progress toward Europe, within or outside of the state union.⁸

⁶ 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.

⁷ The FY2006 foreign operations appropriations (P.L. 109-102/H.R. 3057) maintains ICTY-related conditions on aid to Serbia. For more information, see CRS Report RS21686, *Conditions on U.S. Aid to Serbia*, by Steve Woehrel.

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