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## Lijphart's Conceptual Map of Democracy: The Case of Serbia

### Abstract

In this paper the author maps the position of Serbia on the scale of consensual/majoritarian democracy, by analysing the period from abandoning of the authoritarian communist regime and reinstatement of democracy beginning in 1990, up to now. For this purpose, ten institutional variables - the crux of the contrast between majoritarian and consensus democracy models are examined in the context of Serbia. The methodological approach applied is that of new institutionalism. Political institutions encompass not only formal constitutions and organisational structures, but also informal conventions of political life and we show that the design of new political institutions can change the behaviour of political actors to meet expectations, shaping their values, norms, interests and power relations.

Keywords: Serbia, Lijphart, institutions, consensus democracy, majoritarian democracy

Serbian political science marks the beginning of the democratic transition in modern-day Serbia with two dates. The first is the point of departure from the authoritarian, monolithic and single-party communist regime and of the constitutionalisation of principles underlying classical democracy - sovereignty of citizens, rule of law, separation of powers, party pluralism and free elections, private property, human and minority rights, etc. - in the early nineties of the last century, and the second is the October 5, 2000 democratic (r)evolution. With the collapse of SFRY and associated major social and political turnabout in 1990, opportunity to choose new institutions was wide open. At this historical turning point, political elites chose from a wide spectrum of different options to pursue Westminster democracy. Majoritarian electoral system which, as a consequence, produced few effective political parties, evasion of coalition governments, comparatively long cabinet tenures, conflict-charged interest group pluralism, centralism, dependence of constitutional legislature and central bank, as some of its traits. This initial choice largely determined the direction in which Serbian politics was moving during the 1990's. Although before long, with the introduction of proportional electoral systems, radical amendments were made to the election legislation, the

consistently high number of constituencies - 9 and 29 - and the persistence of a high electoral threshold of 5% continued to distort the proportionality of votes and mandates. This allowed for policymaking based on the conflict with the opposition, without even a basic consensus. The democratic changes of October 5 presented a fresh opportunity for elites to choose direction. This time, there was an unconscious move towards consensual democracy. A single constituency and a greater degree of proportionality, party system oscillating between moderate and polarised pluralism, broad coalitions, frequent changes in cabinet party composition, creation of institutional framework for trilateral negotiations, etc., shaped the behaviour and actions of key political and social actors in the first decade of the 21st century. Seemingly neutral rules and procedures of consensus democracy define "appropriate" behavior in the given context, weaken the symbolic antagonism dominant during the 1990's and build a policy that is based on cooperation, rather than conflict.

### Lijphart's conceptual map of democracy

The theory of democratic consociation, modeled by Lijphart by generalising consociational experiences of states such as the Netherlands, Austria and Switzerland, served as the basis for developing, during the 1980's and 1990's, a dichotomous typology of democracy models - majoritarian (Westminster) and consensual. While consociational democracy was proposed as the only solution for plural societies since "the actual choice lies not between the British normative model of democracy and consociational model, but between consociational or no democracy" (Lijphart 1992: 296), consensus democracy, in Lijphart's view, represents an optimal solution for all democratic countries, whether plural or homogenous.

Understanding of the consensual model of democracy is not possible without contrasting it to the majoritarian model. To the question: who will govern in a society and whose interests should the government mind when there is no consensus among the people and their preferences are at odds, Lijphart offers two answers: "the majority of citizens" (majoritarian democracy) and "as many people as possible" (consensus democracy). Since all those affected by a decision should have the opportunity to participate in its making, the consensus model is fairer and more democratic. Presenting consensus democracy is not possible without contrasting its key features (ten institutional variables) with the basic traits of majoritarian (Westminster) democracy.<sup>1</sup> Lijphart groups these ten variables in two distinct dimensions - the executive-parties dimension and the federal-unitary dimension.

1 In his first work in which he postulates the difference between majoritarian and consensus democracy, *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries*, published in 1984, Lijphart determines eight institutional variables to distinguish between consensus and majoritarian democracy. In his 1999 book: *Patterns of Democracy: Government Form and Performance in Thirty-Six Countries*, one variable is dismissed (number of party system dimensions) and three new variables added (interest group system, central bank independence, judicial review of constitutionality).

The first five differences of the executive-parties dimension are: (1) concentration of executive power in a single-party system, versus executive power-sharing in broad multiparty coalitions; (2) executive-legislative relationships in which the executive is dominant versus executive-legislative balance of power; (3) two-party versus multiparty systems, (4) majoritarian and disproportional electoral system versus proportional representation; (5) pluralist interest group systems with free competition among groups versus coordinated and “corporatist” interest group system aimed at compromise and harmonisation (Lijphart 1999: 76).

On the other side, there are five differences between majoritarian and consensus models forming the federal-unitary dimension: (1) unitary and centralised governments versus federal and decentralised governments; (2) concentration of legislative power in a unicameral legislature versus division of legislative power between two equally strong but differently constituted houses; (3) flexible constitutions which are subject to amending by simple majority versus rigid constitutions which can be amended only by a qualified majority vote; (4) systems in which legislatures have the final word on the constitutionality of their own legislation, versus systems in which laws are subject to a judicial review of their constitutional compliance by supreme or constitutional courts; (5) central banks dependent on executive power versus independent central banks (ibid: 76-77).

By means of analysis and accurate quantitative measurement of these ten institutional variables and distinctions between them which arise from the contrast between majoritarian and consensus models, every state can be placed on the “conceptual map” of democracy, where each can be located at both ends of the continuum (majoritarian/consensus) or anywhere in between. The author’s aim is to examine these variables in Serbia and to determine the location and possible variations in the two periods observed (1990-2000; 2001-2010).

### **Serbia - from majoritarian toward consensus democracy**

The first of the ten variables characterising the contrast between majoritarian and consensus models of democracy is the party system. Two-party systems define the majoritarian model, while a feature of consensus democracy is the existence of several parliamentary parties. In majoritarian democracies, the effective number of parliamentary parties is below, or just above two, while in the consensus model, this number is usually above three.

Following eight cycles of parliamentary elections, the Serbian party system is still at the stage of institutionalisation. Fluctuations in election results indicate instability of Serbia’s party system, while “great and abrupt changes in the parties’ electoral strength indicate their relatively fragile and volatile relations with voters” (Stojiljković 2008: 213). As the consequence of weak party identification, voter crossovers are common, even between ideologically distant political parties. The quantitative

measure of these transfers is the percentage of votes which changed a political party by comparison to the previous elections and is computed by adding together all differences in the percentage of votes of parliamentary parties compared to the previous elections. Data on inter-party shifts in Serbia up to 2003 are as follows: 1992 - 48.1%; 1993 - 24.4%; 1997 - 26.2%; 2000 - 110%; 2003 - 41.5%. The average electoral instability during this period was around 50% (ibid: 123).

The number of registered parties (629 in January 2009) (Jovanović 2008: 110-111), the number of elective and parliamentary parties and the total number of parties in the ruling coalitions are the best indicator of the high level of fragmentation and dynamics of the party system of Serbia. The first multiparty elections in Serbia held in 1990 according to the majority election model, with 250 single-mandate constituencies produced the party system with a dominant party - the Socialist Party of Serbia (SPS) with 46.1% votes, won 77.6% deputy mandates - but they did not lead to the creation of two-party system. Fourteen political parties and coalitions won seats in the National Assembly of the Republic of Serbia, while eight seats belonged to candidates of citizens' groups. At opposition's insistence, the electoral law was amended in 1992 and henceforth, until the last elections (2008), in place were different variations of the proportional electoral system which, as a rule, leads to multipartism.

Aside from the 2000 elections which resulted in a party system with a dominant coalition - Democratic Opposition of Serbia (DOS) won 176 deputy seats - the period from 1992 to 2010 is characterized by a minimum of three and usually more relevant parties on the Serbian political scene and the party system oscillating between moderate and polarised pluralism. According to Slaviša Orlović, Serbian party system has the traits of polarised pluralism and is marked by "the existence of anti-systemic parties" which do not share the values of the political system in which they operate, the existence of "bilateral opposition" - two opposition parties are closer to the regime than to each other - physical busyness of the centre leading to polarisation - party of the centre opposed to both left and right wing - the predominance of centrifugal over centripetal forces leading to the strengthening of extremist parties, ideological paradigm which blocks the reaching of a basic consensus on key issues and the existence of an irresponsible opposition (Orlović 2008: 402-403).

The method that we will apply in order to determine the number of parties on the party scene in Serbia is the calculation of the effective number of parliamentary parties by using the index developed by Laakso and Taagepera based on the following formula:

$$EPN = \frac{1}{\sum_{i=1}^n S_i^2}$$

$S_i$  represents the proportion of mandates won by the  $i$ -party (Laakso, Taagepera 1979: 3-27).

Among Serbian researchers there is a dilemma about how coalitions should be counted in the calculation of effective number of parties index. Some authors count coalitions with dominant actors as a single party, while coalitions with several relevant actors are counted as several parties - in the case of DOS as three parties (Goati 2004: 180-182). Some take as units of analysis coalitions and not individual parties within them (Orlović 2008: 404), and there are also authors who count each party within a coalition separately (Vukomanović 2005: 31). For example, the fragmentation index after the parliamentary elections in December 2000 was 9.11, or nearly equal to the effective number of parties index at the beginning of transition in Poland, which was 10.85 (Linz, Stepan 1998: 332-333).<sup>2</sup> It is interesting that, if we apply the criterion: coalition = one party, the Laakso-Taagepera index for 2000 elections is 1.89.

Because of these discrepancies in the results, which result from acceptance of different models for counting coalitions, it seems necessary, for the sake of accuracy, to set some rules which will help us to specify, when calculating the effective number of parties index, where a coalition “ends” and a party “begins”. Thus, we will count the parties running in elections as part of a coalition as separate if they: 1. in the creation of cabinet, despite being part of a losing election coalition, gain executive power, as well as those parties which, although part of the winning election coalition, are excluded from the coalition government and included in the opposition parliamentary benches; 2. establish a single parliamentary group, i.e. after the new parliament is constituted and within one year from the date of its constituting, form a separate parliamentary group; 3. changes which occur in the course of a legislature and within the period of one year, and lead to the formation of breakaway parliamentary groups or to the creation of new parties that also have the mandates in the National Assembly will not be taken into account.

The above criteria allow us to identify parties which, although running in elections within a coalition, intend to pursue an independent party policy during the legislature. By adopting these rules, we will neutralise situations in which parliament fragmentation is due to the trailing of small-scale “caravan” parties on the electoral lists of relevant political parties, as well as the practices of deputy “crossover” from one camp to another or the creation of new parliamentary groups and political parties as a result of internal party strife or various forms of inter-party trading, so typical of Serbian parliamentarianism.<sup>3</sup> By following these rules, the effective number of parliamentary parties index was calculated for two periods, respectively: from the establishment of a multiparty system in 1990 to December 2000 elections and from the elections held in 2003 to the last elections in 2008 (Table 1).

2 High level of fragmentation of the Polish Sejm is the consequence of application of the purely proportional electoral system - single constituency and non-existence of election threshold.

3 As an illustration, in 2008 elections, deputy mandates were won by five party and three national minority lists, but at the end of 2010 there were 23 political parties represented in the Serbian parliament.

Election year	Laakso-Taagepera Index
1990	1,64
1992	3,74
1993	3,27
1997	3,15
2000	2,91
<b>Average value (1990-2000)</b>	<b>2,94</b>
2003	4,80
2007	4,59
2008	4,56
<b>Average value (2001-2010)</b>	<b>4,65</b>

*Table 1: Laakso-Taagepera Index in Serbia*

The second institutional variable contrasted between the majoritarian and consensus democracy is cabinet type, namely the difference between one-party majority governments (the principle of executive power concentration in the hands of the majority) and broad multiparty coalitions (the principle of executive power-sharing), and thus it refers to the scope of participation of people's representatives in executive bodies. Apart from the classical distinction between one-party and coalition cabinets, cabinets can be distinguished also in terms of support they enjoy in the legislature. We can thus make a tripartite classification of cabinets: (1) minimal winning cabinets in which the party or parties making up the cabinet control the majority of parliamentary seats, but the cabinet does not include any party not needed to achieve parliamentary majority, which is why these cabinets are called "minimal"; (2) oversized cabinets, coalitions with "excessive majority" include in their composition parties whose parliamentary support is not necessary for securing parliamentary majority, (3) minority or "undersized" cabinets which do not have majority support in the legislature.

According to Lijphart, one-party and minimal winning coalition cabinets belong to the majoritarian part of the spectrum, while multiparty minority cabinets and "excessive majority" coalitions have consensual characteristics. In Serbia, 11 cabinets have been composed since 1990. The first two cabinets formed after multiparty elections held according to a two-round system were single-party majoritarian. Subsequently, and following the introduction of proportional electoral model, Serbia in less than two decades of renewed parliamentarism saw all cabinet types: minority single-party - once, minority coalition - once, broad coalition governments - three times, and minimum winning coalition cabinets - four times.

elections	Cabinet type	Parliamentary majority	Prime-minister	Term of office
1990	Single-party majority	SPS (194 mandates)	Dragutin Zelenović	11-02-1991 23-12-1991
	Single-party majority	SPS (194 mandates)	Radoman Božović	23-12-1991 10-02-1993
1992	Single-party minority	SPS (101) supported by SRS (73)	Nikola Šainović	10-02-1993 18-03-1994
1993	Minimal winning coalition	SPS (123) + ND (6)	Mirko Marjanović	18-03-1994 24-03-1998
1997	Minimal winning coalition	SPS (110) + SRS (82)	Mirko Marjanović	24-03-1998 23-10-2000
	Broad coalition	SPS (110) + SPO (45) DOS	Milomir Minić	23-10-2000 25-01-2001
2000	Broad coalition	DOS (176)	Zoran Đinđić	25-01-2001 12-03-2003
	Broad coalition	DOS	Zoran Živković	18-03-2003 03-03-2004
2003	Minority coalition	DSS, G17, SPO-NS (109) supported by SPS (22)	Vojislav Koštunica	03-03-2004 15-05-2007
2007	Minimal winning coalition	DSS-NS (47) + DS (64) + G17 (19)	Vojislav Koštunica	15-05-2007 07-07-2008
2008	Minimal winning coalition	ZES (102) + SPS (20) Minorities (7)	Mirko Cvetković	07-07-2008

Table 2: Cabinets of the Republic of Serbia

Source: Milan Jovanović, *Političke institucije u političkom sistemu Srbije*, Institut za političke studije, Belgrade, 2008, p. 230.

The following table shows the period of each particular type of cabinet in Serbia, covering the last decade of 20th and the first decade of 21st century:

Cabinet types	1990 2000	2001 - June 2010
Minimal winning, single-party	20,5	-
Minimal winning coalition	67,2	32,1
Minority, single-party	10,4	-
Minority, coalition	-	34,1
Oversized coalition	1,9	33,8
<b>Total</b>	<b>100</b>	<b>100</b>

Table 3: Proportion of tenure of five cabinet types in Serbia (%)

Lijphart expresses the overall share of the majority element in the cabinet structure as the average of two values, single-party cabinets (both majority and minority) and minimal winning cabinets (single-party and coalition), and the results for Serbia in the two periods observed are indicated in Table 4.



Serbia	Minimal winning cabinets (%)	Single-party cabinets (%)	Majority element share
1990-2000	87,7	30,9	59,3
2001-2010	32,1	0	16,0

*Table 4: Majority element share in the cabinet structure in Serbia*

The third variable between the majoritarian and consensus model of democracy concerns the relationship between the legislative and executive branches of government. Executive power dominates in the majoritarian model, while the balance between legislative and executive powers is typical for the consensus model. The best indicator of executive and legislative powers and their relationship in the parliamentary system is the duration of the cabinet, as “a cabinet, which has been in power for a longer period of time is more likely to be dominant in relation to the legislative body, while a cabinet with a short period of time in power will most probably be relatively weak” (Lijphart 1999: 161). For this reason, Lijphart measures the dominance of executive power in two ways. In one, he focuses on the party composition of the cabinet and counts the cabinet as one if its party composition remains unchanged, while in the other he uses four criteria for the cabinet cessation - changes in party structure, change of Prime minister, of the coalition status and the running of new elections. Finally he determines the level of dominance of executive over legislative by calculating the average value of the results obtained by two different methods.

Since out of the twelve Serbian governments to date<sup>4</sup>, the replacement of the prime minister-designate without change of the party composition occurred only three times, the results obtained by using different models will not show significant variations. The first three cabinets were composed from the ranks of SPS and a few non-partisan figures, while only the third cabinet resulted from the new elections, while the second cabinet resulted from the change of prime minister. Besides this, there were no changes in the party composition even following the assassination of the Prime Minister Zoran Djindjić, when the eighth cabinet, headed by Zoran Živković, continued to enjoy the support of the “rump” DOS coalition. Table 5 shows the average duration of Serbian cabinets in two periods (1990-2000, 2001-June 2010), and the average value as an indicator of executive power dominance.

The fourth variable between majoritarian and consensus democracy refers to the type of electoral system. The system of majoritarian democracy is characterised by the electoral system of relative (first-past-the-post) or absolute majority (two-round system), in which deputies are elected in single-mandate constituencies. On the other hand, proportional representation is a typical feature of consensus democracy.

<sup>4</sup> We count the cabinet composed by Zoran Djindjić as two - before and after the stepping out of DSS from the cabinet in August 2001 - since its composition was changed by this act.



In the majoritarian system, candidate supported by the majority of voters wins, while proportional representation aims to distribute mandates according to the number of votes.

Serbia	Average duration of cabinet (I)	Average duration of cabinet (II)	Average value
1990-2000	2,7	1,8	2,25
2001-June 2010	1,87	1,55	1,71

Table 5: Executive power dominance of in Serbia

The electoral system in Serbia has been subject to frequent changes. In addition to its fundamental changes in 1992 and the transition from majoritarian to proportional electoral system, substantive changes in election institutes have been reduced to the change of the number (size) of constituencies. The size of a constituency represents the number of seats allocated in an electoral district and directly influences the proportionality of election results. In Serbia, the number of constituencies was reduced from 250 single-mandate units established in 1990 to nine multi-mandate units, using d'Hondt formula for converting votes into seats and the electoral threshold of 5%. In 1997, the number of constituencies was increased to 29, and such conversion of large into medium constituencies was aimed at distorting the proportionality and thereby increasing chances of the ruling majority to win.

After the DOS coalition assumed power in 2000, Serbia was constituted as a single, unified constituency. The detrimental effect of a single electoral district and the five percent electoral threshold on the representation of minority parties was manifested only in the sixth election cycle (2003) when, for the first time since the introduction of competitive elections, national minorities did not have their representatives in the National Assembly.<sup>5</sup> The consequences of this electoral model were eliminated by abolishing of the electoral threshold for national minority parties, which, since the adjustment of the electoral law, have been participating in the distribution of seats, notwithstanding the 5% of votes received, if in elections they reach or surpass the number of votes equal to the natural electoral threshold.

Despite many variations within the proportional system and although no system of proportional representation is totally proportional, they are significantly less disproportional than the systems of relative and absolute majority, which can be demonstrated by using different indexes for the measuring of (dis)proportionality.<sup>6</sup>

5 In Serbian parliamentary elections of 2000, national minority parties joined the DOS coalition, which prevented the dispersion of their votes.

6 Most commonly in use are Rey's index, Loosemore-Hanby index, "east squares index" of Michale Gallagher and the largest deviation index. See: Dušan Vučićević (2009) „Manipulativni uticaj izborne jedinice“, *Srpska politička misao*, 1, pp. 204-206.

The degree of disproportionality of election results in Serbia (Table 6) was obtained by using the Gallagher index of least squares, whose advantage is stronger detection of a few major deviations than a large number of minor deviations:

$$LSq = \sqrt{\frac{1}{2} \sum (V_i - S_i)^2}$$

<b>Election year</b>	<b>LSq</b>
<b>1990<sup>7</sup></b>	<b>23,65</b>
<b>1992</b>	<b>10,22</b>
<b>1993</b>	<b>9,31</b>
<b>1997</b>	<b>7,98</b>
<b>2000</b>	<b>5,34</b>
<b>Average value (1990-2000)</b>	<b>11,3</b>
<b>2003.</b>	<b>6,42</b>
<b>2007.</b>	<b>5,16</b>
<b>2008.</b>	<b>2,18</b>
<b>Average value (2001-2010)</b>	<b>4,59</b>

*Table 6:* Index of disproportionality in the elections in Serbia

Source: National Bureau of Statistics (data for 1990: Milan Jovanovic, *Izborni sistemi - Izbori u Srbiji 1990-1996*, Institut za političke studije, Službeni glasnik, Belgrade, 1997).

The last difference between the majoritarian and consensus democracy under the executive-parties dimension pertains to interest group system. The characteristic system for majoritarian democracy is a competitive and uncoordinated pluralism of autonomous groups, versus a coordinated corporatist system which focuses on compromise, as the key feature of consensus democracy. There are four key components that can be used to identify corporatism: (1) interest groups are relatively few, but relatively large in terms of membership size; (2) interest groups are organised in leading national organisations; (3) regular consultations are held among leaders of the leading national organizations, particularly those representing workers and management, both among themselves and with government representatives; (4) the aim of these consultations are tripartite agreements that are binding for all of three sides in the negotiations (Lijphart 1999: 191-192).

Analogously to political pluralisation process, several autonomous trade unions emerge in Serbia during the 1990's. Much needed action cooperation among various unionist centres is burdened by past problems (division of the unions' property), a legacy of mistrust and disputes, vanities of leaders. An additional problem is that the

leading Serbian trade unions are primarily loose (con)federations of their members, characterised by organisational pluralism (professional, branch, territorial basis of organisation). Conflict pluralisation resulted in the atomisation and fragmentation of the trade union movement and consequently led to the marginalisation of the trade unions' role.

Rights and freedoms of trade union association and action, right to collective bargaining and concluding collective agreements, to strike, and to the participation of employees in the management and distribution of profit during the nineties, from the legal perspective, were set in a satisfactory way. However, the realisation of these rights was hindered by various factors. In addition, there was no interest among employees in "codecision", strikes were rife, salaries non-market, guaranteed and insufficient, while social dialogue was part of the game by various political actors (Stojiljković 2008: 230-255).

The situation did not change significantly even after 2000, so "facing each other were (...) uncoordinated, weak and rivalling unions, unarticulated and inadequately organised employer structures and unstable governments, under-motivated for effective social dialogue with social partners"; (Ibid: 259). Although in 2001 the Socio-Economic Council (SEC) was founded as an institutional framework for tripartite negotiations, which was an indirect acceptance of the social neocorporatist model aiming toward the establishment of the consultative process and dialogue, there was no significant change. As the most important decisions are not discussed in the SEC, but the government attempts to obtain coverage for its policy by receiving subsequent acclamation within the SEC, social dialogue, although necessary, becomes an empty institutional shell. The unequal position of trade unions in relation to the employers and the government is illustrated by the dispute over the adoption of the General Collective Agreement, the Employers' Union refusal to sign it and the freezing of its financial provisions.

A short overview of the functioning of the interest group system of in Serbia classifies it much closer to the majoritarian than the consensus pole and is characterised by a large number of interest groups, of which only some are relevant, powerlessness of leading organisations at the national level, weak tripartite consultations and the absence of a binding agreement for all three sides. Wars, isolation and the hard transition in Serbia, accompanied by the economic decline of the state and its citizens resulted in the emergence of conflict union pluralism. However, some progress has been evident in recent years because an institutional framework was created for tripartite negotiations, and unions find the basis for joint action which is ultimately likely to lead to their reconciliation. Therefore, we rate Serbia in the period from 2001 to 2010 with a score of 2.60. On the other hand, the absence, if formal, of the institutional framework for negotiations between the government, employers and unions in the period up to 2000 increases the index of interest group pluralism to 2.80.

A fundamental feature of the majoritarian democracy is the concentration of power, while the consensus model is characterised by power-sharing. Lijphart

transposes this distinction also to vertical organization of power, contrasting a unitary state and centralisation on one hand, and federalism and decentralisation on the other. From the legal point of view, Serbia is a unitary state decentralised along two lines - those of local self-government and territorial autonomy. Under the 2006 Constitution, asymmetric territorial autonomy was maintained - autonomous provinces are not present on the entire territory, and moreover, their status is not equal as substantial autonomy is stipulated for Kosovo and Metohija<sup>7</sup> and a monotypic form of local self-government with municipality as a unique type of local self-government - city and Belgrade city exercise the functions of municipality. The establishment of new and dissolution, or merging, of existing autonomous provinces is permitted "but the procedure for the creation of regions is restrictive and almost impracticable, requiring amendments of the Constitution, which objectively means that regionalisation is hard to reach" (Djordjevic 2008: 102).

In practice, Serbia is a centralised state. Reform laws just opened the process of decentralisation of power in the form of transfer of competencies, responsibilities and resources from the central to local authority level. Successful implementation of reforms implies the development of a comprehensive network of local authorities, strengthening of local authorities in respect of competences, finances and overall resources and fostering of partnerships among various levels of authority. The state has too many competencies, while local authorities do not have enough, and thus the state "paddles" instead of "steering" (ibid: 102). Although the adoption of Law on Establishing the Competencies of AP Vojvodina and the ratification of the Vojvodina Statute by the National Assembly of the Republic of Serbia mark some progress, what will matter is how the Province's autonomy will function in practice and whether it will remain centralised, with Novi Sad as its administrative centre, or represent a first step toward bringing government closer to citizens and developing the model of centralization consistent with Serbia's needs.

In line with the above observations regarding the territorial organisation of power and level of decentralisation, Serbia, measured by Lijphart's index of federalism, can be rated 1.3 for the period until 2000, while in the first decade of the 21st century, this index is increased to 1.4, primarily owing to various political actors' efforts toward the achievement of principles of decentralisation, deconcentration and devolution of power, cultural autonomy, regionalisation and fully-fledged local self-government and to the adoption, in recent years, of specific legal and institutional instruments causing it to become somewhat less centralized in practice, but still ranking it among the most centralised states in Europe.

The seventh institutional variable which differentiates majoritarian from consensus democracy is the concentration of legislative power in a unicameral legislature, as opposed to the division of legislative power between two equally strong and differently constituted houses. Namely, for any upper house of parliament to have influence, it must exert real power (decision-making power) and it must be

7 Article 182 of the Constitution of the Republic of Serbia, Službeni glasnik RS, 98/06.

electd according by different criteria than the lower house. Only such a bicameral parliament shows the features typical of the consensual model of democracy. Serbia's positioning in respect of this variable is simple. The National Assembly of the Republic of Serbia is a unicameral representative body composed of 250 deputies elected by proportional electoral system, and such a structure of legislature conforms with the unitary system of Serbia.

If the constitution cannot be amended by simple majority in the legislature and if there is an independent state authority to determine whether parliamentary acts comply with the constitution, decisions by parliamentary majority will not be arbitrary and unpredictable. Hence, Lijphart contrasts flexible constitutions and the absence of judicial review as majoritarian instruments, on the one hand, and rigid constitutions and judicial review as instruments of consensus, on the other. Easily amendable constitutions, by simple majority, are flexible, and if their amendment is complicated and requires different types of qualified majorities, they are rigid. In practice, there are different levels of constitutional rigidity and flexibility, so Lijphart proposes a scale of one to four to assess the constitutional rigidity of any state. The feature of complete flexibility is the requirement for constitutional amendments to be made by simple majority of deputies, including states with unwritten constitutions. By contrast, it is possible to distinguish three levels of rigidity: approval by less than a two-thirds majority, but by more than a simple majority, adoption by a two-thirds majority or its equivalent and verification by the so-called supermajorities.

Both Serbian constitutions since the reinstatement of the multiparty system (1990 and 2006) envisage two phases in the review process: the phase of submission and approval of the proposal to amend the Constitution and the phase of adoption of the act amending the Constitution. Under the 2006 Constitution, the proposal for amendment could be submitted by a minimum of one-third of deputies (1990 Constitution required a minimum of one-fifth, or 50 deputies), by the President of the Republic, by the Government and by at least 150,000 voters (1990 Constitution allowed for a proposal on amendment to be requested by 100,000 citizens with voting rights). A proposal to amend the Constitution is adopted by a two-thirds majority of all deputies.

The drafting and reviewing the act on amending the Constitution is followed by its adoption by a two-thirds majority of deputies who can decide to have the act on amending the Constitution validated by citizens in a referendum. However, apart from the optional constitutional referendum, the National Assembly is bound to call a Republic-wide referendum, if the amendment refers to the Preamble and/or the Principles of the Constitution, human and minority rights and freedoms, governance arrangements, declaration of the state of war and emergency, derogation from human and minority rights in the state of war or emergency or procedure for amending the Constitution. Since Lijphart set a rule that in situations where different rules apply to different parts of the Constitution, "those regarding amendments to the most fundamental Articles of the Constitution should be taken

into account “(Lijphart 1999: 226), we will accept as prevailing the “firmer” review procedure which, aside from a two-thirds majority in the parliament also requires validation by citizens in a referendum. However, amendment to the Constitution is adopted if the majority of voters who turn out in a referendum vote for it, while according to the 1990 Serbian Constitution, the act on amending the Constitution had to be voted by more than half of all eligible voters.<sup>8</sup> It is evident that Serbia is among states with rigid constitutions. We, therefore, set the index of constitutional rigidity of the 1990 Constitution at the score of 3.3, while the current Constitution from 2006 is graded 3.1. Accordingly, the overall index of constitutional rigidity for the period from 2001 to 2010 is 3.2.

The existence of a written and rigid constitution still does not necessarily mean sufficient limitation to the arbitrariness of the parliamentary majority. If the passing and reviewing of legislation is vested in a single legislative body, it could potentially rule on any controversies arising from these laws in its own favour. Hence, in order to address this issue, it is suggested to establish independent institutions to assess the compliance of the laws passed in parliament with the constitution or to authorise regular courts to perform judicial review. In the consensus model of democracy, the constitution is protected by judicial review, while the majoritarian model is characterised by the absence of judicial review. Lijphart uses a four-type classification to weigh judicial review. First, he draws a distinction between the absence and presence of judicial review and then sets three levels of performance in the exercise of this competence by the courts (weak, medium strength and strong judicial review) (Lijphart 1999: 228-230).

The Constitutional Court of Yugoslavia and its six federal units was introduced by the Constitution of 1963. The centralized judicial review model was maintained also in the Constitutions of Serbia from 1990 and 2006, with its jurisdiction significantly expanded under the Constitution of 2006. Still, the impact of judicial review only partly depends on its formal existence and competencies vested in the Constitutional Court and much more on the frequency of its application in the legal system and the impact that political actors have on the autonomy and independence of the Constitutional Court. If we consider the formal position of constitutional courts in Serbia, we could rate judicial review as medium-strength. However, the functioning of this constitutional institution in practice and the lack of public awareness of its importance produce the effect of the “Constitutional Court existing only in the Constitution, and not in the life of the Constitution” (Marković 2007: 45).

Unsatisfactory functioning of the Constitutional Court has been the particularity of Serbia ever since the 1990 Constitution. “In Serbia, during the validity of the 1990 Constitution, the Constitutional Court had no power to preserve the legal hierarchy of the constitutional system or enforce the Constitution upon holders of executive power who were the leading authority” (Orlović 2008: 241), so we can agree with the

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8 Article 203 of the Constitution of the Republic of Serbia from 2006 (Sluzbeni glasnik RS, 98/06) and Article 133 of the Constitution of Serbia from 1990 (Sluzbeni glasnik RS, 1/90)



assessment of Slobodan Samardžić that until now, the Constitutional Court of Serbia was “generally powerless” (Samardžić 2004: 97). During the 16 years while the 1990 Constitution was in force, the Constitutional Court challenged the provisions of 43 different laws, or slightly more than 2.5 per year. Following the adoption of the 2006 Constitution, the Constitutional Court did not function for over a year because first judges were selected only in late 2007, while five judges appointed by the Supreme Court of Cassation were selected more than three years after the passing of the Constitution, in May 2010, among the 10 candidates proposed by the High Judicial Council and State Prosecutors’ Council in a joint session.

All this leads to the conclusion that constitutionality and legality, in the hierarchy of social values in Serbia, are not highly placed and that the attitude of executive power to the judiciary has not changed even after the October 5 changes, so we give the index of judicial review the score of 2.0, and we place Serbia in the category of states with weak judicial review.

The last institutional variable in the federal-unitary dimension refers to central banks and the scope of their independence and competences. Central bank independence is yet another form of power-sharing and belongs within the spectrum of features of consensus democracy. On the other hand, central banks’ dependence on the executive power is a feature of the majoritarian model of democracy. However, the comparison of the autonomy of the National Bank of Serbia (NBS) with the values given in central bank independence index for 36 democracies analysed by Lijphart is not accurate for two principal reasons. First, NBS has only existed since 2003 when FRY was dissolved and the State Union of Serbia and Montenegro created. Until then, the role the central bank was played by the National Bank of Yugoslavia, so the six years of functioning of NBS do not give a good basis for generalisation. Secondly, and more importantly, the values determined by Lijphart refer mainly to the period up to the beginning of 1990’s, which is followed by a rising trend of granting central banks a higher degree autonomy as a result of the adoption of the Maastricht Treaty in 1992, which foresees central bank independence as one of the conditions for participation in the euro (monetary) zone and a more prominent role of central banks which become institutions on whose capacity, foresight and efficiency economic developments in national economies will depend.

By way of an illustration, by analysing the sixteen variables of A. Cukierman, S. Web and B. Neyapti, regarding legal independence of central banks, which can be grouped into four categories (central bank governor, policy formulation, central bank’s objectives and restrictions on lending), Borko Milosavljević obtained the score of 0.67, which indicates that the level of independence of NBS is not high, as the highest score on the scale is 1. By comparison to the central banks of the Czech Republic (0.77), Bulgaria (0.80) and Poland (0.95), Serbian central bank is lagging behind, while its degree of independence equals that of the Romanian central bank (Milosavljević 2009: 67-70). It is interesting to note that, on Lijphart’s scale, Serbia would rank second, which best illustrates how much the level of central banks’



autonomy from executive power has increased over the last two decades. In addition, it should be taken into account that the actual independence of the NBS may be even lower considering that the index of independence is based on a survey of legal solutions, regardless of their implementation in practice.

## Conclusion

On the basis of the ten researched institutional variables, it is possible to create a two-dimensional conceptual map of democracy on which the position of each state can be located and assessed in terms of its proximity to the consensual or majoritarian democracy pole. Serbia's position in the two-dimensional model is observed within two time-periods (1990-2000; 2001-2010), taking into account nine institutional variables, as index of central bank independence is excluded (Figure 1).

Compared to the last decade of 20th century, when the executive-parties dimension was closer to the majoritarian pole (0.16), Serbia, in the first decade of 21st century clearly steered away toward the consensus model of democracy (-0.96).

	To 2000	From 2001
Effective number of parliamentary parties	2,94	4,65
Level of majority element in	59,3	16
Index of executive power dominance	2,25	1,71
Index of disproportionality	11,3	4,59
Index of interest group pluralism	2,8	2,6
Index of federalism	1,3	1,4
Index of bicameralism	1	1
Index of constitutional rigidity	3,3	3,2
Index of judicial review	2	2
Index of central bank independence	0,67	0,67

*Table 7: Serbia - institutional variables*

This shift is greater than a standard deviation (1.12). If we consider that in the 26 states studied by Lijphart in two periods (1946-1970; 1971-1996) there were only small variations and that no state turned from purely majoritarian into a consensus democracy and vice versa, and that in the first dimension an average shift towards the consensual pole was 0.03 of a standard deviation, it is clear that, in the executive-parties dimension, Serbia is an example of transformation towards consensus democracy. When it comes to the federal-unitary dimension, the scores for Serbia are 0.32 (1990-2000) and 0.33 (2001-2010). Unlike the first, there is almost no shift in the second dimension.

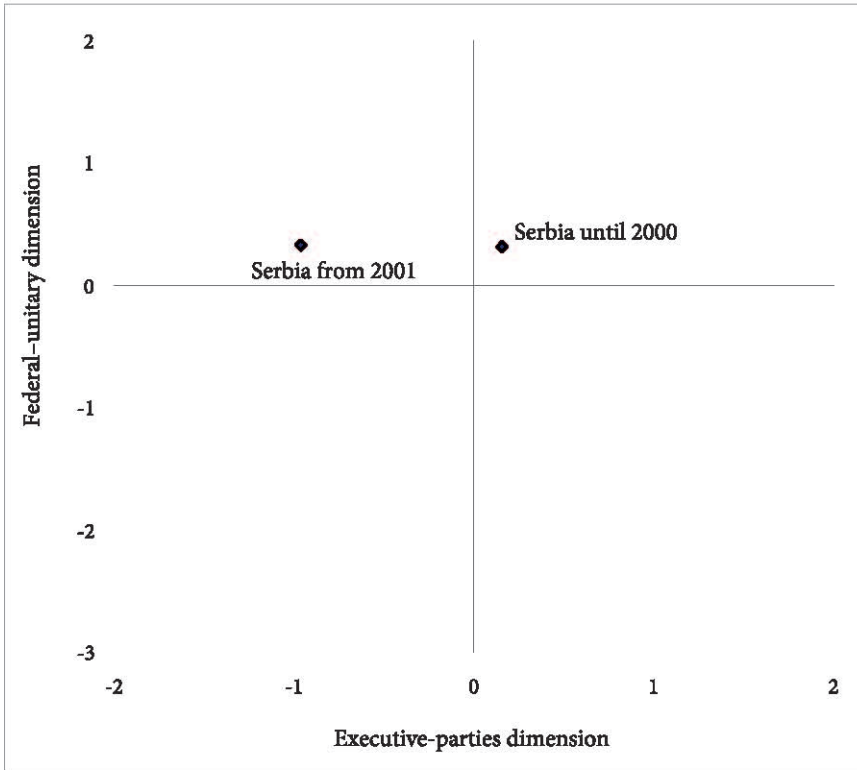


Figure 1: The position of Serbia on Lijphart's conceptual map

As we have shown, by observing the first dimension which Lijphart considers to be more important for the functioning of democracy, Serbia has passed from the majoritarian (1990-2000) to consensus democracy (2001-2010). Still, did this process result in fundamental changes in policymaking and is it possible to detect a link between such transformation and the weakening of ideological and political cleavages that pose a major obstacle for the consolidation of democracy in Serbia? Does the functioning of consensual institutions help in overcoming complex identity rifts and symbolic conflicts and in achieving a basic consensus on basic issues of the Serbian state and society?

During the nineties, party lines of separation were extremely sharp, and “civic” and “national” options were not inclined to reaching a compromise through negotiations. Conflict, mutual accusations, lack of desire to reach a consensus as features of the Serbian party scene are partly the consequence of the functioning of the majoritarian democracy model. As a starting point for the reshuffling of the

party scene and shift within the political and social sphere in Serbia in the form of a re-conceptualisation of the principles, objectives and means of political action, we recall 2003, when the minority government of Vojislav Koštunica was supported by SPS. It was followed by the adoption of the new Constitution in 2006, whose text was agreed through a broad consensus of almost all relevant political parties. Today, we have a coalition government composed of formerly irreconcilable enemies, Democratic Party (DS) and SPS, and the emergence of the Serbian Progressive Party (SNS), which appears as a party with significant coalition potential, which shows that the dividing lines are becoming more blurred and cooperation among the party leaders and elites more intense. Although there is no agreement on all issues, there is a clear intention to reach consensus on most pressing issues.

If we understand political parties as secondary agents of political socialisation, the anticipated effect of strengthening cooperation among Serbian parties would have to result in decreasing the depth of social divisions. Yet, the split into the nationalist and civic orientation in the Serbian society is not subsiding yet, in the first decade of the 21st century, and it can be observed in the form of cultural and value division into the traditional and modern Serbia. The intensity of the ideological and political rifts among Serbia's citizens is still strong and the political elites will have to work hard to mitigate them.<sup>9</sup> Changing the citizens' attitudes still requires more time than the changes in party policies, and significant in the pursuit of these aims will be the preservation of consensual institutions and based upon them, the policy of cooperation and compromise-seeking through negotiations.

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9 Cf. Jovan Komšić, Dragomir Pantić, Zoran Slavujević, *Osnovne linije partijskih podela i mogući pravci političkog pregrupisanja u Srbiji* Institut društvenih nauka Friedrich Ebert Stiftung, Belgrade 2003; Reports of the Centre for Free Elections and Democracy (September 2009, December 2009, February 2010)

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