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"LAW AND JUSTICE"

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SOME ASPECTS OF THE CONSTITUTIONAL POSITION OF PARLIAMENTS IN THE POST-YUGOSLAV AREA – COMPARATIVE ANALYSIS

Abstract:

In the states that emerged from the dissolution of Yugoslavia, with the exception of Bosnia and Herzegovina, comparable systems of government have been established, which at a more general level show similarities with other countries of the former socialist bloc. Liberal-democratic concepts, essentially of a parliamentary type, with a more or less strengthened role of the president of the republic, constitute the fundamental framework of government organization in these countries. In Bosnia and Herzegovina, however, the (con) federal and consociational arrangement, as a result of an international peace agreement, has produced an atypical system of government with numerous (semi)presidential elements. This paper will analyze the constitutional position of parliaments in these states, focusing on their structure and composition, competences, and mandates. While constitutional standards and significant similarities can be observed regarding competences – comparable to other parliamentary systems – specific solutions or deviations from standard models often define the character or functionality of a given system and therefore deserve special analysis. Furthermore, there is a noticeable predominance of unicameralism, but also a unique form of bicameralism in Bosnia and Herzegovina and quasi-bicameralism in Slovenia, along with certain differences in terms of composition, election, and dissolution procedures. Through comparative analysis, with appropriate references to standards or solutions in other European countries, we will indicate the degree of similarity in the issues analyzed, their functionality, as well as the specific determinism of those solutions that are unique.

Keywords: *parliament, organization of government, parliamentary system*

INTRODUCTION

In the 1990s, alongside the process of the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY), the member republics (which gained state independence in 1992 and 2006) underwent a conceptual transformation of their systems of government. Following broader Eastern European processes and changes, the Yugoslav republics replaced the socialist constitutional framework, unity of power, one-party system, delegate electoral model, and self-managed social organization with concepts of liberal-democratic constitutionalism, based on the separation of powers, political pluralism, and direct elections.

However, the absence of parliamentary traditions, rooted political parties, constitutional conventions, and the political culture required by the new concept, along with the legacy of a political order marked by authoritarian elements, resulted in certain modifications or deformations of the declarative commitment to the development of a parliamentary system (politically accountable government and balance of powers). The political circumstances of the time, inherited patterns of earlier periods, and a political culture shaped by crisis and the collapse of the state and its political system were not conducive to the development of parliamentary systems.

When crafting new arrangements, models were at times sought (except in Slovenia) in systems that are theoretically or in practice considered semi-presidential,[1] but not fully so - except in Croatia between 1990 and 2000.[2] A similar tendency was present in other Eastern European countries as well.[3] Although parliamentary-type separation of powers was proclaimed as a constitutional principle, its elaboration leaned toward a stronger role for the head of state as a stabilizing element of power, albeit not to the level of a semi-presidential system (such as in France, Finland, Russia, or to some extent Romania and Poland)[4], but certainly beyond the standard parliamentary system.[5] In Bosnia and Herzegovina, however, the Constitution was not the result of a domestic nor democratic constitutional process, as its dissolution occurred amid civil war, but rather of an international agreement in 1995. Although in each of these countries the parliament exercises constituent and legislative powers, political responsibility of the government, and significant appointment competencies, there are also specific differences in seemingly less important issues that affect the functioning of each system or give the constitutional design a particular tone and color.

1 Unlike the semi-presidential system, "the executive branch in a parliamentary system is only formally bicephalous, and in practice essentially monocephalous. This is because the head of state is an ineffective exerciser of executive powers." Rapajić, M. (2016). *Izvršna vlast u polupredsedničkim sistemima*. Doktorska disertacija. Kragujevac: Pravni fakultet u Kragujevcu, p. 46.

2 "In the short history of the constitutionality of the Republic of Croatia, two constitutional forms of government organization were applied: the semi-presidential system from 1990 to 2000 and a version of the parliamentary system introduced by the constitutional changes of 2000 and significantly supplemented by the constitutional changes of 2001, which abolished bicameralism." Smerdel, B. (2010). *Parlamentarni sustav i stabilnost hrvatskog ustava - slijede li nakon predsjedničkih izbora nove promjene ustrojstva vlasti?* (Retrieved on July 1, 2025) from: https://journals.openedition.org/revus/1128

3 Kutlešić, V. (2002). *Organizacija vlasti: uporedna studija ustava bivših socijalističkih država Evrope*. Beograd: Službeni list SRJ, p. 200.

4 The founder of the theory of the semi-presidential system, Duverger (1980) points out its key determinants: 1) direct election of the president; 2) significant (independent) powers of the president; 3) parliamentary government (Duverger, M. (1980). A New Political System Model: Semi-presidential Government. *European Journal of Political Research* 8(2), p. 166). Sartori (1994) adds additional principles: direct election is not necessary, but election by parliament is excluded; the head of state, although independent of parliament, cannot govern directly, his will must be accepted and processed by the government; independence of the government from the president; different balances of power within the executive branch, but on condition that there is an "autonomous potential", demarcated competencies between the two components of the executive branch. Sartori, G. (1994). *Comparative Constitutional Engineering; An Inquiry into Structures, Incentives and Outcomes*. New York: University Press.

5 In Austria, Ireland, and Portugal, a form of government with strong powers for the head of state, corresponding to a semi-presidential one, has been constitutionalized. However, political practice has been based on the parliamentary principle from the very beginning, which has become a tradition, although political circumstances can be unpredictable. Duverger, M. (1980). *op. cit.*, p. 167.

Since parliament is a classical political body, its organization and competencies are determined by the constitution.[6] Considering that the position of parliament encompasses a wide range of issues and requires broader exposition, this paper presents a comparative analysis of its constitutional-legal status in the post-Yugoslav states, with the aim of identifying common standards, modifications of individual institutions, and specific deviations. Emphasis is placed on the composition and election, powers, and mandates of the parliaments in these countries.

COMPOSITION AND ELECTIONS

The general concept of parliament, regardless of the government system in which it exists, presumes a collective representative state body that performs legislative functions. This modern concept emerged in the 18th century – excluding England – with the first constitutions in the United States (1787) and France (1791), stemming from the idea of popular (national) sovereignty. In comparative constitutional law, however, even among similar governmental systems, parliamentary structures vary.

Parliamentary structure refers to how a parliament is organized – whether it is unicameral or bicameral. A unicameral (a one-chamber) parliament consists of representatives elected in the same way, based on the same principles, and representing the same interests. This principle is not challenged by affirmative action measures that guarantee representation for certain categories (typically national minorities), such as special electoral districts, quotas, or adjusted thresholds. Nevertheless, all members of parliament are equal. On the other hand, if the parliament is divided, then this means that different parts represent different interests, structures and parts of society. The structure of the parliament is determined by various territorial, political, historical and socio-economic reasons. Unicameral parliaments are usually directly elected, through universal and equal elections, and all members of parliament have the same rights. In comparative law, the majority of parliaments are (though often asymmetrically) bicameral, and multicameralism is very rare today. The different chambers represent different interests, with one of them (the lower) always being directly elected.

With the exception of Bosnia and Herzegovina, whose Constitution includes a softened version of a presidential system, the other countries in this region have parliamentary systems with a strengthened role of the head of state, who is directly elected and holds (independent or non-independent) powers somewhat greater than the classical parliamentary standard, though not to the level of semi-presidentialism,[7] which can also affect the position of parliament within them. Namely, although indirect election is more typical of parliamentary systems, there are also examples of direct election, because the method of election itself does not determine the system of government.[8]

6 Marković, R. (2015). *Ustavno pravo*. Beograd: Pravni fakultet u Beogradu, p. 278.

7 Pejić (2007) also cites the possibility of the president interfering in the legislative sphere (the right to call a referendum, suspensive veto, dissolution of parliament) as an important feature of semi-presidential systems. However, the assessment of belonging to one of the theoretical models is made on the basis of a comprehensive analysis of the position of the head of state, his or her powers, the position and role of the government, and relations with parliament. Pejić, I. (2007). Polupredsednički sistem i mogućnosti kohabitacije. *Teme: časopis za društvena istraživanja, 31*(1), pp. 55-58.

8 Simović, D. (2008). *Polupredsednički sistem*. Beograd: Pravni fakultet u Beogradu i Službeni glasnik, pp. 216-248.

Parliament as a representative body, bearer of legislative and constitution-making power, is constitutionalized in each of them.

In Croatia, Serbia, and North Macedonia, the parliament (Sabor, National Assembly, Sobranie) is defined as a representative body, holder of legislative power, with Serbia explicitly stating constitution-making power as well, while in the others, although parliament is the holder of such power, it is not defined as such. In Montenegro, the general provisions define that the Assembly exercises legislative power, while the definition of parliament is functional, as is the case in Slovenia (National Assembly) and Bosnia and Herzegovina (Parliamentary Assembly), which do not contain a constitutional definition of parliament.

Unlike the strong bicameralism in BiH, whose parliament is composed of the House of Representatives and the House of Peoples, which are essentially equal, and the quasi-bicameral parliament in Slovenia (National Assembly and National Council), the other countries have unicameral parliaments. Unicameral parliaments are directly elected, based on the principle of universal and equal suffrage, with two approaches in determining the number of seats: 1) fixed (Serbia 250, Montenegro 81, Slovenia 90) and 2) in a range (Croatia 100–160 and North Macedonia 120–140).[9] Although the electoral system is regulated by law, constitutions provide for: 1) the possibility (in Croatia, alongside general suffrage, national minorities have a special right to elect their own representatives), or 2) the obligation that the law ensures representation of national minorities ("authentic representation" in Montenegro; "Equality and representation of genders and representatives of national minorities shall be ensured in the National Assembly, in accordance with the law"; "One deputy from the Italian and Hungarian national communities shall always be elected to the National Assembly in Slovenia"). Members of national minorities, although elected through measures of affirmative action, have the same status as other members of parliament and, despite terminological differences, are considered representatives of all citizens. Pajvančić[10] states that in most countries the constitution or electoral law explicitly prescribes that a member of parliament, especially in the house of citizens, represents all citizens and not only those who gave them their vote, and only exceptionally the voters of their own electoral unit. This solution is directly related to the principle of the free mandate.

In BiH, there is a bicameral parliament, which is an expression of its complex state organization (federal-confederal) and consociational democratic order.[11] The House of

9 The way in which European constitutions determine the number of MPs varies. More often, the absolute number of MPs is determined (Belgium, Denmark, Finland, Italy, Luxembourg, Poland, Switzerland, Sweden, Poland). The constitutions of some countries determine the minimum and maximum number (Germany, Belgium, Portugal, Spain), or determine it by law depending on other factors, e.g. the number of voters (or the number of inhabitants) for which one deputy is elected. Sometimes this basic criterion is corrected by one that takes into account the territorial division or the representation of certain communities (minimum representation of electoral units). In that case, the number of deputies will be determined by the decision to call the elections. Pajvančić, M. (2008). *Parlamentarno pravo*. Beograd: Konrad Adenauer, p. 14.

10 *Ibid.*, p. 20.

11 Consociationalism, characteristic of multinational states, basically implies: 1) horizontal division of power between communities (proportional, parity, proportional); 2) autonomy of social segments, especially in identity issues; 3) veto power or qualified majority in decision-making; 4) proportional electoral system and grand coalitions. Lijphart, A. (1977). *Democracy in Plural Societies: A comparative exploration*. New Haven/London: Yale University Press; Bieber, F. (2005). *Post-war Bosnia: Ethnicity, Inequality and Public Sector Governance*. Basingstoke: Palgrave Macmillan. It can represent a complement to territorial autonomy and federalism, based on ethnic criteria. The BiH model is consistently consociational, more so than in Belgium, or in North Macedonia and Switzerland where it is more a matter of political practice. Kasapović,

Representatives (42 members), although directly elected, is not a general representative body, because the constitutionally established distribution of seats by entities (28:14 in favor of the Federation of BiH compared to Republika Srpska), together with so-called entity voting, i.e., the possibility of a veto by 2/3 of members from the entity, on any decision (in both houses), makes this house a combined citizen representation. The House of Peoples of BiH (15 delegates) is composed of delegates elected by entity parliaments, with the delegates of the Bosniak or Croat clubs in the House of Peoples of the Federation of BiH required to be Bosniaks or Croats respectively, and the delegates of the National Assembly of Republika Srpska—Serbs. A comparable system of ethnic representation exists only in Belgium.[12] Although the electoral system is regulated by law, some constitutions imply a proportional electoral system (Slovenia even sets a 4% threshold; Serbia allows for placing the mandate at the disposal of the electoral list). Also, the free mandate is explicitly guaranteed in Slovenia, Croatia, and North Macedonia, while in Montenegro the Constitution prescribes the reasons for termination of mandate. In BiH, the issue of mandate is regulated by law, with the term "delegate" used for members of the House of Peoples, who represent the National Assembly of Republika Srpska or the Bosniak or Croat clubs of the Federation Parliament, which – by literal interpretation of the Constitution – would make the mandate imperative. In Serbia (Article 102), "A Member of Parliament is free to, under conditions determined by law, irrevocably place their mandate at the disposal of the political party at whose proposal they were elected as a Member of Parliament." This provision allows the legislator to depart from the principle of free mandate and prescribe that its actual"holder" is the political party. However, the conditions under which this may occur are legally reserved – this is only a possibility – so the presumption is in favor of the free mandate, which may or may not be limited by law. Nevertheless, the Constitution does not unconditionally guarantee the free mandate.[13]

Although it is not a classic second house of parliament, the National Council in Slovenia has a representative function, which consists in representing socio-economic and local interests, as well as advisory, suspensive, initiative, and conditionally corrective and supervisory roles. The National Council is a representative body of holders of social, economic, professional, and local interests, with a mandate of five years, longer than that of the National Assembly, in order to ensure stabilization of the representative body. The National Council has 40 members. It consists of 4 representatives each: 1) of employers; 2) of employees; 3) of farmers, artisans, and independent professions; 6 representatives of non-economic activities; and 22 representatives of local interests. Their election and mandate termination, as well as the organization of this body, are regulated by law. In addition to being the holder of legislative initiative and a suspensive veto, at the request of the National Assembly, the Council must express its opinion on a given issue.

M. (2005). *Bosna i Hercegovina: Podijeljeno društvo i nestabilna država*. Zagreb: Politička kultura; Stojanović, N. (2007). Konsocijacija, Švajcarska i BiH. *Pregled – časopis za društvena pitanja, 48*(3-4), pp. 63-87.

12 Popelier, P. (2018). Bicameralism in Belgium: The dismantlement of the Senate for the sake of multinational confederation. *Perspectectives on Federalism, 10*(2), pp. 215-237.

13 A consequence of the concept that a member of parliament represents all citizens (national sovereignty) is also a free mandate. Most constitutions in Europe guarantee a free mandate. "Every imperative mandate is null and void." (Art. 27 of the French Constitution). "Members of the (lower house) are not bound by mandate and vote without instructions." (Art. 96 of the Norwegian Constitution). "Members of the Bundestag are representatives of the entire people. They are not bound by orders and instructions and are subject only to their own conscience." (Art. 38 of the German Basic Law). "Members of parliament decide freely and are not bound by any directives or instructions issued by their constituents (Paragraph 56 of the Danish Constitution). "Every member of parliament represents the nation and is not bound by the instructions of his constituents in the performance of his mandate." (Art. 67 of the Italian Constitution).

POWERS

The role of parliament is decisively determined by the system of government. After the assembly system, the parliamentary system is characterized by the largest number of competences and greater formal significance of the parliament.[14] Still, the constitutional practices of the post-Yugoslav states have not only not avoided but have been particularly affected by the tendencies of strengthening the executive at the expense of the parliament. Since the establishment of the parliamentary system, the dualism of the executive has significantly evolved, strengthening the power and dominance of the government in the system of separation of powers.[15] The role of political parties is growing, and thereby also the executive power, where, as a rule, its political leadership is concentrated, and the reduction in the role is also contributed to by other phenomena such as the strengthening of constitutional judiciary, integration processes (decision-making at the EU or NATO level),[16] the emergence of regulatory bodies, etc. The actual power of the head of state, but also of the parliament or government, nevertheless crucially depends on the political structure within a given country.[17]

Formally, the competence of parliament in each of the analyzed countries boils down to a similar scope of matters. Even where the relevant text lists them in detail, there is a possibility of extension to other issues, whether they are naturally regulated by law, provided elsewhere in the constitution (e.g., electoral or oversight competences), or a legal provision establishes parliamentary authority. In this respect, the solutions in Serbia, Montenegro, and North Macedonia are particularly similar, where competences are listed in detail with multiple examples or opportunities for extension. The Constitution of Slovenia, however, contains significantly fewer provisions, but the importance of parliament derives from general provisions on legal regulation of numerous matters (human rights, economic and social structure, president, government, defense, judiciary, Judicial Council, local

14 Stanić (2024) observes two sides of the modern constitution: the formal (division of state power functions into different bodies – "division of labor", where very little remains of mutual limitation and control) and the political. "In the legal sense, it means, as described, the division of functions between different state bodies. In the political sense, power is exercised by the party or parties that make it up, while the opposition exercises political and legal control. This also indicates the crucial role of the opposition within representative democracies. Parties in power, while exercising power, can implement certain political decisions and most often all functions of state power are directed towards that goal, and little or nothing remains of the division of power itself, as it was conceived, because the parties that have a majority in parliament also form the government, which rarely loses confidence in the parliament itself, but only in elections." Stanić, M. (2024). Podela vlasti i raspuštanje parlamenta – evropski noviteti. *Revija za evropsko pravo, 26*(1), p. 64.

15 Pejić, I. (2016). Parlamentarna vlada: mogućnosti ravnoteže u sistemu podele vlasti. Zbornik radova Pravnog fakultetu u Nišu, 55(73), p. 69.

16 Croatia and Slovenia are members of the EU. The adoption of general legal acts at the EU level, as well as the determination of policy, is primarily the responsibility of the European Council, the Council of the EU (in which the state is represented by the executive authorities, the Government, ministers, the head of state), and the Commission. The Constitution of Croatia stipulates that the Parliament participates in the European legislative procedure in accordance with the treaties on which the European Union is founded. The Government of Croatia reports to the Parliament on proposals for legal regulations and decisions in the adoption of which it participates in the EU institutions. The Parliament may adopt conclusions on these proposals on the basis of which the Government acts in the EU institutions. The Parliament's supervision of the Government's actions in the EU institutions is regulated by law (Art. 141.b.). This nevertheless strengthens the role of the executive branch.

17 Duverger, M. (1980). *op. cit.*, pp. 167–180.

self-government, public finances, etc.), as well as on the government's responsibility. The Croatian Constitution, amended in 2000, changed the system from semi-presidential to parliamentary, though it retained numerous presidential powers, adding that they are exercised at the proposal of the government or prime minister, and/or with the co-signature of the prime minister, including shared competences of the Sabor and the president (decisions on war and peace, use of the army, etc.). Nevertheless, standard parliamentary competences are prescribed in the Constitution, in several places, with the possibility of their expansion through law. The Constitution of BiH, similarly to Slovenia, defines competences sparsely but provides legislative power to the parliament in matters within BiH's jurisdiction, as well as those agreed upon by the entities, creating significant ambiguity about the nature of such acts.

Parliamentary competences can be grouped into five groups:

1) Legislative function in a broader sense. Considering that in a material sense there is no essential difference, i.e., the constitution is the "supreme law," this function would also include the constitution-making power, which is explicitly mentioned in some constitutions. Besides passing laws, this function includes other acts that are normative in nature, such as the budget, ratification of international treaties, spatial and development plans, etc. In North Macedonia, authentic interpretation of laws is explicitly mentioned, which in other countries is encompassed within the legislative power as a unified concept. Also, in Croatia, Serbia, and Montenegro, the adoption of defense (and national security) strategy is listed as a parliamentary competence — a political act by nature but entrusted to parliament due to its significance, whereas similar political acts in other areas are adopted by the government. In Serbia, the National Assembly gives prior consent to the statute of the autonomous province (decides also on its creation, abolition, or merger), and in Montenegro it is explicitly stated that the Assembly regulates the system of state administration. In BiH, ratification of international treaties includes consent from the Presidency. Regarding the legislative function, a suspensive veto by the head of state exists in all countries, except BiH (except for state symbols, where there is an absolute veto) and Croatia[18], with the veto being broader in North Macedonia (no constitutional deadline, which can transform it into an absolute veto, though not applicable to laws adopted by a 2/3 majority). In that country, a constitutional convention has been established by which the 7-day deadline for promulgating a law is considered the timeframe in which the president must declare their stance.[19] Although present in comparative law (France, Italy), delegated legislation (outside of emergencies) is only recognized by the Croatian Constitution. The Croatian Sabor may authorize the Government for up to one year to regulate specific issues within its scope by decrees, except those relating to elaboration of constitutionally defined human rights, national rights, electoral system, organization, jurisdiction and operation of state bodies and local self-government. Afterward, the decrees cease to be valid unless the Sabor decides otherwise.

2) Matters constitutionalized as parliamentary competences that, due to their importance, transcend the standard tri- or quadripartite division of powers and reflect state sovereignty, which is exercised by citizens through a directly elected representative body. These include decisions on war and peace, declarations of emergencies (war or

18 Golić, D. (2021). Predsednik republike na razmeđu parlamentarnog i polupredsedničkog sistema. *Kultura polisa, drugo posebno izdanje*, pp. 105-122.

19 Pilipović, M. (2025). Neki aspekti ustavnog položaja predsjednika republike u državama nastalim disolucijom Jugoslavije u svjetlu komparativnog prava. *Strani pravni život*, (1), p. 86; Klimovski, S., Deskoska, R., & Karakamiševa, T. (2012). *Ustavno pravo*. Skoplje: Prosvetno delo, pp. 432-433.

state of emergency), use of armed forces beyond national borders, state territory, calling referendums[20] (except in BiH). In North Macedonia, the Sobranie decides on accession to or withdrawal from unions or communities with other states, whereas in Croatia such a decision by the Sabor is confirmed by a referendum. In Montenegro and North Macedonia, the constitution assigns parliament the authority to decide on state borrowing, and in Montenegro also on managing property above a value determined by law. In Croatia, the Sabor's competence regarding the use of armed forces, especially abroad, is detailed. Based on the Sabor's decision, the President declares war and concludes peace; the Sabor grants permission for foreign forces to enter or operate on Croatian territory, for Croatian forces to operate abroad, to assist an allied country, including exercises and training outside Croatia, on the government's proposal and with the president's consent. Nevertheless, the Sabor may generally substitute the president's consent with a qualified majority. A specific solution reducing the government's role is the provision that the Sabor determines its own policy.[21] In all these states, parliaments adopt political documents expressing the body's commitment, goals, or stance – such as conclusions, declarations, resolutions, recommendations – some of which are defined in the constitution (Montenegro, North Macedonia, Croatia), and others by law or rules of procedure.

3) Government oversight by parliament is a feature of parliamentary and mixed systems, where the government and many executive agencies (central bank, security services, regulatory bodies) are accountable to parliament. A wide range of oversight instruments are available, including the possibility of dismissal. The most important are constitutionally regulated, but parliamentary standards dictate that many are detailed in rules of procedure or rely on constitutional conventions. Oversight instruments typical of rationalized parliamentarism exist in each of these countries.[22] Constructive votes of no confidence (electing a new government, modeled after Germany), confidence votes tied to legislation, confidence votes initiated by the prime minister, and interpellations are features of Slovenia's constitutional arrangements. However, the most characteristic solution concerns parliamentary investigations. The National Assembly may initiate investigations on matters of public concern, at the request of 1/3 of MPs or the State Council. It appoints a commission with powers equal to judicial authorities in terms of investigation and examination (Art. 93). Given that judicial authorities hold numerous coercive powers (summoning, detaining, arresting), this surpasses standard parliamentary oversight and represents an original, non-aligned approach. In Croatia, the Constitution defines classical instruments such as votes of no confidence or confidence in the government or its members, and a ban on repeating failed no-confidence motions by the same sponsors for 6 months. The constitutions of Serbia, Montenegro, and North Macedonia include classical provisions on votes of confidence, no confidence, interpellation, with similar bans (180 or 90 days). In North Macedonia, the ban does not apply if the new motion is submitted by more than half the MPs, and if the prime minister proposes dismissing over a third of the initial cabinet, the Sobranie must elect a new government, effectively terminating the government's mandate. In Montenegro, the Constitution provides an incomplete

20 Calling a referendum is not the exclusive right of the parliament in Croatia.

21 Unlike other means of control, which have the properties of indirect, future influence, this Croatian solution, similar to those in Hungary, Romania, and Slovakia, has an immediate impact, and represents the introduction of elements of unity of power and strengthening of parliament. Kutlešić, V. (2002). *op. cit.*, p. 177.

22 A request for a vote of no confidence is not an individual right of an MP; in the event of an unsuccessful vote, there is a time ban on the same MPs submitting a proposal, deadlines for voting, an obligation to elect a new government within a certain period, etc.

interpellation mechanism, and without a convention, this instrument may fade or atrophy entirely, since there's no sanction if the government's or minister's response is rejected. In BiH, the Constitution recognizes only votes of no confidence in the Council of Ministers and an obligation to submit a report to the Parliamentary Assembly – not a standard parliamentary system instrument (nor is the Council of Ministers a proper government). Regarding oversight of other institutions, Montenegro's Assembly oversees the military and security services, whereas regarding the Central Bank and the State Audit Institution (independent and accountable, reporting), explicit oversight is not mentioned, but left to legal regulation — which should imply parliamentary accountability. In Serbia, the National Assembly oversees the security services, Governor of the National Bank, Ombudsman, and State Audit Institution (some declared independent). In Croatia, the Sabor oversees the armed forces and security services, while the Croatian National Bank and State Audit Office are defined as independent and autonomous, submitting reports to the Sabor, implying a lower level of oversight in line with legal provisions. Still, in multiparty systems, oversight – as a power of criticism – essentially belongs to the opposition. It doesn't necessarily mean dismissal but rather conditioning (the majority, through party organization, more effectively controls the government), which is theoretically considered an autonomous function, not parliamentary direction of the government (majority) through oversight.[23]

4) Electoral functions of parliament in comparable systems of governance may include a narrower or broader set of officials – primarily the election of the government in parliamentary and mixed systems, the election of the governor of the central bank, judges, prosecutors, and in some cases even the head of state (as in Germany, Italy, Hungary, Greece). When exercising electoral functions, the parliament is often bound by a proposal from the head of state, government, or special bodies such as the judicial or prosecutorial councils. In the analyzed countries, the head of state is directly elected, but in BiH, the Parliamentary Assembly, i.e. its members from the relevant entity, elect a member of the Presidency in case of premature termination of the mandate. Regarding the election of the government, all these countries have a similar solution – the involvement of the head of state and parliament as involved entities. The head of state proposes a candidate for prime minister, usually preceded by mandatory consultations with elected party lists (with all political parties in Parliament in Montenegro). His role is more formal, since the overall parliament-government relationship implies the substantive role of parliament in government formation. However, that role is not always merely declarative – depending on political circumstances, especially in a fragmented parliament, the president may play a mediating role in forming a majority. In all countries, the method of selection implies a parliamentary, not a chancellor-type government, since all its members are elected, not just the prime minister (a system once present in the 1992 Constitution of the FRY). The procedure is somewhat specific in Slovenia, where the president is not the exclusive proposer of the prime minister (after the first proposal, groups of MPs may also nominate, with a vote on the president's proposal held first – similar to solutions in Poland). Nevertheless, a parliamentary government as a standard in each of these states (except BiH, whose Council of Ministers cannot be labeled a government in the true sense) stems from parliamentary will, not the head of state, who is limited by the parliamentary majority (explicitly stated in the constitutions of Croatia and North Macedonia). Participation in the election of constitutional court judges is standard in all these countries, except BiH. In Serbia, parliament elects 10 (out of 15) Constitutional Court judges, together with the president; in Croatia all 13; in Montenegro all 7; in North Macedonia[24] and Slovenia all

23 De Vergotini, Đ. (2015). *Uporedno ustavno pravo*. Beograd: JP Službeni glasnik, p. 620.

24 In Montenegro and North Macedonia, two constitutional court judges are nominated by the head of state.

9, based on appropriate proposals. In BiH, six constitutional judges are elected by entity parliaments, and three by the President of the European Court of Human Rights, after consultations with the BiH Presidency. Although the election of judges is generally under the jurisdiction of judicial councils as independent bodies, parliaments have certain electoral competences in this branch of government.[25] In Slovenia and North Macedonia, parliament appoints judges based on the proposal of the judicial council, [26] while in other countries this role is smaller. In Croatia, it elects and dismisses only the president of the Supreme Court (on the proposal of the president of the Republic).[27] Parliament plays a somewhat larger role in electing members of judicial councils, which are constitutional bodies in all these countries.[28] In North Macedonia it elects all members, in Montenegro 4 out of 10, in Slovenia 5 out of 11 (on the proposal of the president), in Croatia at least 2 out of 11, and in Serbia 4 out of 11 members of the High Judicial Council (in BiH this is not a constitutional category). In North Macedonia, parliament elects public prosecutors, while in Serbia, Montenegro, and Croatia it elects the public prosecutor general (on the proposal of the prosecutorial council, or in Croatia the government); in Serbia also 4 (of 11) members of the High Prosecutorial Council, in Croatia at least 2 (of 11), while in the remaining countries this is regulated by law.[29] In Slovenia, parliament elects the governor of the Central Bank and members of the Court of Audit; in Serbia and Montenegro it elects the governor and governor's council; in Montenegro the president of the State Audit Institution (in Croatia these matters are regulated by law). In Serbia, North Macedonia, and Montenegro, parliament also elects the human rights ombudsman. In North Macedonia, the Sobranie also elects the (advisory) Committee for Inter-ethnic Relations. Based on constitutional provisions or legal regulation, parliaments may also perform other electoral competences.

5) Quasi-judicial function: parliament's role in determining the responsibility of high state officials (ministers or the president of the republic) for acts related to their office, with a specific sanction – dismissal (impeachment) due to constitutional violations or serious criminal offenses. This often combines with the involvement of a constitutional

25 Golić, D. (2019). Izbor sudija u Srbiji, Crnoj Gori i Bosni i Hercegovini - nezavisnost i(li) legitimitet. *Pravni život, 4*(12), pp. 715-733.

26 The powers of the Councils for the Judiciary are such that the Parliament accepts or rejects their proposal, thus practically ensuring the Venice Commission's recommendation that the Council should have "a decisive influence on the appointment and promotion of judges and on disciplinary measures against them." Venice Commission, CDL-JD(2007)001rev, p. 11.

27 In Hungary, the President of the Supreme Court is elected by Parliament on the proposal of the President of the Republic, while the Deputy Presidents are appointed by the President of the Republic on the proposal of the President of the Supreme Court.

28 In Spain, there is a General Council of the Judiciary that appoints, promotes and supervises the work of judicial office holders. It consists of the President of the Supreme Court and 20 members, 12 of whom are from the judiciary, who are elected by the Head of State on the recommendation of Parliament. In Portugal, in addition to the President of the Supreme Court, the Council consists of 16 regular members - two appointed by the Head of State, seven elected by Parliament, and seven members from the judiciary. In France, judges and prosecutors are appointed by the Head of State on the recommendation of the Council, with a majority of judicial members. The Presidents of the Republic, Parliament, and the Council of State participate in the election of non-judicial members. Voermans, W., & Pim Albers, P. (2003). *Pravosudni saveti u zemljama EU*. Hag: Evropska komisija za efikasnost pravosuđa (CEPEJ), p. 9.

29 The Venice Commission suggests that "a significant part or the majority of the members of the Council for the Judiciary should be elected by the judiciary itself. In order to ensure that the Council for the Judiciary has democratic legitimacy, the remaining members should be elected by parliament from among persons with appropriate legal qualifications, taking into account possible conflicts of interest." Venice Commission, *op. cit.*, p. 7.

or other high court (without excluding criminal liability). Sometimes, parliament only files the charges, and the violation is determined by the court (Denmark, Finland, Belgium, the Netherlands, Spain, Italy) or by a constitutional court (Austria, Germany), or a specially established judicial body (Greece, France).[30] This group of competences also includes the power to grant amnesty.

Theoretically, the president bears legal but not political responsibility. Comparative systems include mixed forms of responsibility (Austria, Romania) for high treason, constitutional violations, and serious criminal acts, where the decision on the sanction (dismissal or recall referendum) is made by parliament; however, a court necessarily participates in the procedure, making this responsibility different from political responsibility. The parliamentary decision on dismissal, as a sanction for constitutional violation (unlike in Croatia and North Macedonia, where a constitutional court decision on a constitutional violation automatically terminates the function), and the conditions and procedure for indictment (qualified majority may initiate proceedings, "serious violation of the constitution," high treason, qualified majority required for dismissal) grant this institute (though not completely) a political character, balancing these two bodies.[31] Parliament's role in this process is strongest in Montenegro and Serbia. It initiates the procedure, and when the constitutional court determines that the president has violated the Constitution, the National Assembly may (but need not) adopt a dismissal decision by a 2/3 majority, whereas in Montenegro, the decision is made by a simple majority. In Slovenia, the Constitutional Court has discretionary authority: "The National Assembly files charges against the president. Charges for violation of the constitution or law are brought before the Constitutional Court. The Constitutional Court decides on the merit of the charges or acquits the accused by a 2/3 vote of all judges and may decide on removal from office." Until a decision is made, the Constitutional Court may temporarily suspend the president (Art. 109 of the Constitution). In Slovenia, there is also a legal responsibility mechanism for government members. The National Assembly may initiate proceedings to dismiss the prime minister or a minister before the Constitutional Court for constitutional or legal violations committed in office. The procedure is conducted as in the case of the president.

TERM OF OFFICE

The mandate of parliament in all the countries of the post-Yugoslav space lasts 4 years. However, only in BiH does the lower house always serve the full term; it cannot be dissolved. In connection with early termination of mandate, three situations are observed: 1) mandatory dissolution (*ex constitutione*); 2) optional dissolution; 3) self-dissolution. Also, under certain circumstances, its mandate is extended. In parliamentary and semi-presidential systems, dissolution of parliament represents a standard right of the executive branch, through which (theoretically) balance and mutual control of the executive and the parliament are achieved. However, in political practice, the reasons for dissolution exceed

30 De Vergotini, Đ. (2015). *op. cit.*, p. 588.

31 Classical legal liability similar to political office is provided for in the constitutions of Croatia and North Macedonia (the office ceases by force of the constitution), similar to legal liability in Austria. In Romania, in addition to legal liability (a decision of the Supreme Court on guilt for high treason means the termination of office), there is also mixed liability (for violation of the Constitution), where the decision of the Constitutional Court is consultative, the parliament calls a referendum (which can suspend it beforehand), and the voters decide on the removal. Rapajić, M. (2016). *op. cit.*, pp. 481-482.

the initial theoretical justification.[32] The original purpose of dissolution was to eliminate conflict between the legislative and executive branches, or between the president and the government (government majority). Over time, it took on a political character; the executive uses it due to a crisis of legitimacy, expectations of a more favorable electoral result, internal relations, estimation of the "political moment," so-called tactical dissolution.[33] "Dissolution of parliament served as a means of consolidating power, i.e., prolonging the stay in power; reasons included conflicts between political parties, intra-party conflicts in the form of defeat in party leadership elections, personal problems of certain party leaders or prime ministers and suspicion of their corruption, non-acceptance of decisions of the highest judicial instances, or the decisions on dissolution were of tactical and technical nature, without explanation."[34]

The questions of who holds this power, the reasons for dissolution, and possible limitations are regulated differently. In the parliamentary system, this power essentially belongs to the government, and in the semi-presidential system, the decision is made jointly by the government and the president or is an independent authority of the president (France, Romania). Due to certain interferences which, however, do not call into question the dominance of the parliamentary system, the head of state and the government may both participate in the decision on dissolution (in Serbia, in Croatia). In Montenegro, this power is held by the government (the president only issues the decree of dissolution). The Presidency dissolves the House of Peoples of BiH, which is a rarity – only the upper, indirectly elected house is dissolved. Mandatory dissolution (*ex constitutione*) implies precisely defined situations (e.g., failure to elect a government or adopt a budget), so the decision of the head of state is declarative in nature. In the case of optional dissolution, the reasons may be precisely or generally formulated, and upon their occurrence, the holder of the power decides whether to use it (Croatia, Poland, Romania, Czech Republic); or, 3) the reasons may not be defined at all (Serbia). Limitations may relate to the prohibition of dissolution in emergency situations, a specific period after or before elections (Russia and France, Czech Republic, among the analyzed countries Montenegro), during the process of deciding on confidence in the government or legal responsibility of the head of state (Croatia), etc.

In Slovenia, the institute of optional dissolution of parliament by the executive branch does not exist. Dissolution occurs by force of the Constitution in cases of failure to elect the Government within the constitutionally established deadlines and refers, logically, only to the National Assembly. If the first election of the Government is unsuccessful after 3 attempts, dissolution follows. The second case is in a situation where the Government loses the confidence of parliament (a vote of no confidence or a confidence vote requested by the Government) and, thereafter, within the prescribed deadlines, a new Prime Minister is not elected or confidence is not regranted to the current Prime Minister. The National Assembly has no possibility of dissolving itself.

32 Petrov (2015) emphasizes the so-called functionalist approach, whose supporters "analyze dissolution in a concrete socio-political reality, study what functions the constitution-maker intended for dissolution and what are the concrete consequences of applying this mechanism in constitutional reality. They especially emphasize the role of political parties in the constitutional system, which through their actions determine the content and concrete effects of constitutional institutions. Thus, even if it is possible to speak of the dissolution of parliament as a means of resolving disputes, these are undoubtedly not disputes between the legislative and executive branches, but between the relevant political parties." Petrov, V. (2015). *Parlamentarno pravo*. Beograd: Pravni fakultet u Beogradu, p. 144.

33 Stanić, M. (2024). *op. cit.*, pp. 57-77.

34 Pilipović, M. (2019). Uloga i razlozi raspuštanja parlamenta u zemljama regiona. *Zbornik radova Pravnog fakulteta u Nišu, 58*(82), p. 240.

In Croatia, in addition to mandatory, optional dissolution also exists, but with significantly narrower discretionary power of the executive branch. The first case of mandatory dissolution refers to failure to elect the first Government (after elections) in 2 attempts (then the head of state appoints a provisional government and calls elections). The second case refers to failure to elect the Government within 30 days from the moment the parliament (Sabor) voted no confidence. The third case concerns the failure to elect the Government following its resignation (Art. 113, para. 9). In these situations, the president's act only confirms the constitutional facts that produce constitutional effects. Optional dissolution may occur in two cases: 1) if the Government raises the question of its confidence and the Sabor votes no confidence in the Government, then the president, at the proposal of the Government and with the countersignature of the Prime Minister, after consulting representatives of parliamentary party groups, may dissolve the Croatian Sabor; 2) in the case where the Sabor fails to adopt a budget within 120 days from its proposal. These two cases serve more as instruments of mutual control between the Government and parliament, but the president's role cannot be considered purely formal. The Sabor certainly cannot be dissolved if it initiated the vote of no confidence in the Government itself. The restricted possibility of dissolving the Sabor is not a classic power of the parliamentary system — it is more a mechanism for balancing parliament and the executive. The Constitution allows the possibility of self-dissolution of the Sabor, for the purpose of calling early elections, by a decision of a majority of all representatives, which is not a unique example but is also not a typical institute of the parliamentary system. The president may not dissolve the Sabor during proceedings to determine his legal responsibility. The term of the Sabor may be extended by law in times of war, threat to state independence or unity, natural disasters, or when state bodies are prevented from functioning normally (Arts. 17 and 101).

The Constitution of Serbia distinguishes dissolution by force of the Constitution in four precisely defined situations: 1) if it does not elect a new Government within 30 days from the day no confidence was voted; 2) if it does not elect a new Government within 30 days from the day confidence was denied; 3) if it does not elect a new Government within 30 days from the day the Government's resignation was acknowledged; 4) if the Government is not elected within 90 days from the constitution of the new National Assembly. The Constitution also foresees the possibility of optional dissolution. The National Assembly may be dissolved only on a reasoned proposal of the Government, for which no reasons are specified in the Constitution – it may be for any reason, at the discretion of the Government. The President of the Republic may, but does not have to, accept the Government's proposal – it is thus a joint decision. The National Assembly may not be dissolved during a state of emergency or war, or if the issue of confidence in the Government has been raised (not in the case of the president's responsibility). The Constitution expressly stipulates that a dissolved assembly continues performing current or urgent tasks, defined by law. If it is dissolved, its mandate is reinstated by the proclamation of a state of emergency or war. The mandate of the National Assembly cannot be extended (while the mandate of the President and Government can be extended during war or emergency, which represents a constitutional deficiency). It has no right to shorten its mandate by itself.

The lower house of the Parliamentary Assembly of BiH cannot be dissolved, nor is there a possibility of self-dissolution. The Presidency of BiH, however, has the right to dissolve the House of Peoples. The reasons for dissolution are not determined. Considering that the dissolution does not concern the House of Representatives, this cannot be seen as a standard justification of this institution. Given the indirect (delegated, according to the Constitution) election of the House of Peoples (which does not participate in the election of the Council of Ministers), it is more likely a matter of conflict between two levels of

government, possibly a desire to align the composition of the House of Peoples with the changed political composition of entity parliaments.[35] The House of Peoples may dissolve itself, with a majority that includes a majority from at least two national clubs.

In North Macedonia, the executive branch does not have the power to dissolve the Assembly, and no cases of mandatory dissolution are foreseen. Accordingly, the absence of instruments of mutual control is evident, as neither the head of state nor the Government possesses the basic mechanism for balancing power against the Assembly – the possibility of dissolving it. The Assembly, however, may dissolve itself by an absolute majority of MPs. The term of the Assembly is extended during a state of war or emergency.

In Montenegro, both mandatory and optional dissolution exist, as well as prohibitions on dissolution and extension of mandate. Nevertheless, imprecision and incompleteness of the mandatory dissolution solution are noticeable. Optional dissolution is under the authority of the Government, while the president's role is only formal (he issues the decree). The Assembly is dissolved if it fails to elect a Government within 90 days from the day the president first proposes a mandate holder. It is questionable whether this case refers only to the election of a Government after elections or also to cases of early termination of its mandate. In cases of a vote of no confidence or Government resignation, there is no prescribed deadline for the election of a new Government, which may lead to an indefinite mandate of a technical Government (when there is no parliamentary majority). If the provision on mandatory dissolution is extended to these situations, the damage would be less. This is especially important because a Government that has received a vote of no confidence or is in resignation cannot dissolve the Assembly. If the Assembly does not perform its constitutional duties for a long time, the Government may dissolve it after hearing the opinion of the President of the Assembly and heads of parliamentary groups. This broad formulation allows the Government to resort to tactical dissolution of the Assembly. It cannot be dissolved during a state of war or emergency; if a vote of no confidence is underway; nor in the first 3 months after constitution or 3 months before the end of its mandate. During a state of war or emergency, its mandate is extended for up to 90 days after the cessation of the circumstances that caused that state. Upon proposal by the president, Government, or 25 MPs, the Assembly may shorten its mandate.

CONCLUDING CONSIDERATIONS

A comparative analysis of the provisions related to the composition, powers, and mandate of parliaments in the post-Yugoslav space reveals similarities stemming from their belonging to the same system of government, but also specific solutions, which arose from the need for different balances between the parliament, the head of state, and the government, sometimes even from the inconsistent application of the principle of flexible separation of powers, the need for originality, or due to various political circumstances (especially concerning the dissolution of parliament). The solutions in BiH are in every sense and aspect unique, which, in addition to the way its constitution was created, is also a result of a different

35 In comparative law, the dissolution of only the upper house is not common. The traditional justification for the dissolution of parliament in a semi-presidential system is the dispute between the head of state and parliament, which is brought before the citizens who will arbitrate in elections about who should receive primacy within the executive branch. Simović, D. (2008). *op. cit.*. Orlović (2018) states that by doing so, the executive branch "disciplines the parliament to the utmost extent, bringing their political conflict before the voters." Orlović, S. (2018). *Ustavno pravo*. Novi Sad: Pravni fakultet, p. 223. These arguments can hardly be applied to BiH. Golić, D. (2020). Kolektivni šef države i sistem vlasti - bosanskohercegovačka rešenja u svetlu uporednog prava. *Strani pravni život*, (2), pp. 27-42.

system of government in which the Presidency is the dominant executive body. Also, the combination of federal, confederal, and elements of consociational democracy through parliament (but also all other bodies) gives its constitutional system a special character.

Although balance and mutual control in contemporary constitutional practice are political concepts and, depending on political relations, gain specific content, the absence of a theoretically implied element of the parliamentary system is observed – the right of the executive to dissolve parliament – in Slovenia and North Macedonia. Thus, the role of parliament, beyond the standard "division of labor," is formally elevated above the level of the theoretically defined "balance and control." In other countries (except BiH), standard solutions regarding dissolution typical of rationalized parliamentarism have been constitutionalized, with the executive's power being the broadest in Serbia, followed by Montenegro, and somewhat narrower in Croatia. Also, the right to self-dissolution exists in each (except in Serbia and BiH with respect to the lower house), which also represents a departure from the parliamentary standard.

The specific solutions contained in the analyzed constitutions provide them with a certain originality. The State Council as a quasi-chamber, parliamentary investigations in Slovenia with the powers of judicial authorities, the general definition of competences – these are some of the specificities of the Constitution of Slovenia. The balance between the government and the President of the Republic is also reflected in the relationship of the executive with the Croatian Sabor, where every initiative, decision, or policy sent to the Sabor must be harmonized between the two executive bodies. As a consequence of the reduced competences of the president, the role of the Government and the Sabor has been strengthened. Also, the Constitution defines the role of the Sabor in shaping policies and making decisions at the EU level. In Serbia, there is a balanced relationship between the National Assembly and the executive, characteristic of the standards of rationalized parliamentarism. However, some solutions are distinctive, such as the possibility for an MP to place their mandate at the disposal of the political party under conditions determined by law, i.e., the absence of a guarantee of a free mandate. Also, the Constitution does not contain provisions on the extension of the mandate during wartime or a state of emergency, and it includes specific solutions concerning the responsibility of the President of the Republic. The Constitution of Montenegro does not contain precise provisions on mandatory dissolution in the event of a failure to elect a Government. This may result in a long existence of a Government without confidence, holding all powers. In this way, the role of the Government in the political system is strengthened. The Constitution of North Macedonia does not contain solutions typical of rationalized parliamentarism regarding mandatory dissolution, nor the right of the executive to shorten the mandate of the Assembly. Also, the undefined deadline for the proclamation of laws and the president's suspensive veto may be transformed into an absolute one. Nevertheless, constitutional conventions, which are not a strong suit of the constitutional systems of the analyzed countries, may produce solutions for contentious situations and give constitutional provisions a more favorable and effective form and content even without formal constitutional amendments.

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НЕКИ АСПЕКТИ УСТАВНОГ ПОЛОЖАЈ ПАРЛАМЕНАТА НА ПОСТ-ЈУГОСЛОВЕНСКОМ ПРОСТОРУ – УПОРЕДНА АНАЛИЗА

Апстракт:

У државама насталим распадом Југославије успостављени су, са изузетком БиХ, упоредиви системи власти, који на нешто општијем нивоу имају сличности са другим државама бившег социјалистичког блока. Либерално-демократске концепције, у основи парламентарног типа, са више или мање ојачаном улогом председника државе, представљају темељна одредишта организације власти у њима. У БиХ, пак, (кон)федерално и консоцијално уређење, као резултат међународног мировног споразума изнедрило је атипичан систем власти, са бројним елементима (полу)председничког. У погледу уставног положаја парламената у овим државама анализираће се питање структуре и састава, надлежности и мандата. Иако се у питањима надлежности могу уочити конституционализовани стандарди и значајне сличности, упоредиве са другим парламентарним системима, специфична решења или одступања од стандардних неретко конкретном систему одређују физиономију или функционалност, те заслужују и посебну анализу. Такође, уочава се доминантност једнодомности, али и особена дводомност у БиХ и квази-дводомност у Словенији, те извесне разлике у погледу састава, избора и распуштања. Компаративном анализом, уз одговарајуће осврте на стандарде или решења у другим европским државама, указаћемо на ниво сродности решења у анализираним питањима, њихову функционалност, као и специфичну детерминисаност оних која су особена.

Кључне речи: *парламент, организација власти, парламентарни систем*

REFERENCES

1. Bieber, F. (2005). *Post-war Bosnia: Ethnicity, Inequality and Public Sector Governance*. Basingstoke: Palgrave Macmillan.
2. De Vergotini, Đ. (2015). *Uporedno ustavno pravo*. Beograd: JP Službeni glasnik.
3. Duverger, M. (1980). A New Political System Model: Semi-presidential Government. *European Journal of Political Research, 8*(2), pp. 165–187.
4. Golić, D. (2019). Izbor sudija u Srbiji, Crnoj Gori i Bosni i Hercegovini - nezavisnost i(li) legitimitet. *Pravni život, 4*(12), pp. 715-733.
5. Golić, D. (2020). Kolektivni šef države i sistem vlasti - bosanskohercegovačka rešenja u svetlu uporednog prava. *Strani pravni život*, (2), pp. 27-42.
6. Golić, D. (2021). Predsednik republike na razmeđu parlamentarnog i polupredsedničkog sistema. *Kultura polisa, drugo posebno izdanje*, pp. 105-122.

7. Kasapović, M. (2005). *Bosna i Hercegovina: Podijeljeno društvo i nestabilna država*. Zagreb: Politička kultura.
8. Klimovski, S., Deskoska, R., & Karakamiševa, T. (2012). *Ustavno pravo*. Skoplje: Prosvetno delo.
9. Kutlešić, V. (2002). *Organizacija vlasti: uporedna studija ustava bivših socijalističkih država Evrope*. Beograd: Službeni list SRJ.
10. Lijphart, A. (1977). *Democracy in Plural Societies: A comparative exploration*. New Haven/London: Yale University Press.
11. Marković, R. (2015). *Ustavno pravo*. Beograd: Pravni fakultet u Beogradu.
12. Orlović, S. (2018). *Ustavno pravo*. Novi Sad: Pravni fakultet.
13. Pajvančić, M. (2008). *Parlamentarno pravo*. Beograd: Konrad Adenauer.
14. Pejić, I. (2007). Polupredsednički sistem i mogućnosti kohabitacije. *Teme: časopis za društvena istraživanja, 31*(1), pp. 43–60.
15. Pejić, I. (2016). Parlamentarna vlada: mogućnosti ravnoteže u sistemu podele vlasti. *Zbornik radova Pravnog fakultetu u Nišu, 55*(73), pp. 67–86.
16. Petrov, V. (2015). *Parlamentarno pravo*. Beograd: Pravni fakultet u Beogradu.
17. Pilipović, M. (2019). Uloga i razlozi raspuštanja parlamenta u zemljama regiona. *Zbornik radova Pravnog fakulteta u Nišu, 58*(82), pp. 219-243.
18. Pilipović, M. (2025). Neki aspekti ustavnog položaja predsjednika republike u državama nastalim disolucijom Jugoslavije u svjetlu komparativnog prava. *Strani pravni život*, (1), pp. 75-101.
19. Popelier, P. (2018). Bicameralism in Belgium: The dismantlement of the Senate for the sake of multinational confederation. *Perspectectives on Federalism, 10*(2), pp. 215-237.
20. Rapajić, M. (2016). *Izvršna vlast u polupredsedničkim sistemima*. Doktorska disertacija. Kragujevac: Pravni fakultet u Kragujevcu.
21. Sartori, G. (1994). *Comparative Constitutional Engineering; An Inquiry into Structures, Incentives and Outcomes*. New York: University Press.
22. Simović, D. (2008). *Polupredsednički sistem*. Beograd: Pravni fakultet u Beogradu i Službeni glasnik.
23. Smerdel, B. (2010). *Parlamentarni sustav i stabilnost hrvatskog ustava - slijede li nakon predsjedničkih izbora nove promjene ustrojstva vlasti?* (Retrieved on July 1, 2025) from: https://journals.openedition.org/revus/1128
24. Stanić, M. (2024). Podela vlasti i raspuštanje parlamenta – evropski noviteti. *Revija za evropsko pravo, 26*(1), pp. 57-77.
25. Stojanović, N. (2007). Konsocijacija, Švajcarska i BiH. *Pregled – časopis za društvena pitanja, 48*(3-4), pp. 63-87.
26. Venecijanska komisija, CDL-JD(2007)001rev.
27. Voermans, W., & Pim Albers, P. (2003). *Pravosudni saveti u zemljama EU*. Hag: Evropska komisija za efikasnost pravosuđa (CEPEJ).

Legal sources:

1. Ustav Bosne i Hercegovine. *Aneks IV Opšteg okvirnog sporazuma za mir u Bosni i Hercegovini i Službeni glasnik BiH*, br. 25/2009 - Amandman I.
2. Ustav Crne Gore, *Službeni list CG*, br. 1/2007 i 38/2013 - Amandmani I-XVI).
3. Ustav Republike Hrvatske, *Narodne novine*, br. 56/90, 135/97, 113/00, 28/01, 76/10 i 5/14 – prečišćen tekst.
4. Ustav Republike Slovenije. *Službeni glasnik Republike Slovenije*, br. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a i

92/21 – UZ62a.
5. Ustav Republike Srbije, *Službeni glasnik RS*, br. 98/2006, 16/2022.
6. Ustav Severne Makedonije, *Službeni list SM*, br. 1/92, 31/98, 91/01, 84/03, 107/05, 3/09, 49/11, 6/19, 36/19 – prečišćen tekst.

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