

THE VIDOVĐAN CONSTITUTION AND THE ALTERNATIVE CONSTITUTIONAL STRATEGIES

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The article analyses key points of conflict in the constitutional process of the Kingdom of Serbs, Croats and Slovenians. The author identifies the issue of internal territorial delimitation as the hot spot in the dispute between the most influential political parties, and argues the source of conflict was the fact that different political strategies were attached to the national ideologies which had been formed long before the creation of the state in 1918. Although not entirely unified regarding all constitutional issues, a key Slovenian and a key Croatian political party advocated the preservation of historical boundaries, in line with the federalization strategy based on the national principle. Through various political and legal maneuvers their alternative proposals were completely ignored, with the Vidovdan constitution establishing the unitary regime.

Key words: constitution, state organization, political strategy, local government, national question

1. INTRODUCTION – THE BACKGROUND OF DIVISIONS

The South Slavs in the pre-Yugoslav period experienced several different state formations; from principalities under the supremacy of more powerful kingdoms through to completely independent states. At the beginning of the 20th century, Serbs already had a unitary state under the rule of a Serbian king, while Slovenians and Croats lived within the lands of the Habsburg Monarchy. Although there existed numerous political visions, the majority of Serbian Yu-

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goslav concepts were based on the idea of a state that would unite all Serbs and have at least a relative Serbian majority. According to this vision, the South Slav state should be centralized and unitary, while its legal tradition should be based on continuity of the independent Serbian state. On the other side, the Croats had developed wider range of state concepts; from a completely independent Croatia to federal and confederal ideas whether inside or outside of the Habsburg Monarchy.¹ Common to all of them was the reunion of Croatia, Slavonia and Dalmatia within a 'triune' kingdom. The Slovenians, however, regardless of their political preference, foremost strived to include the whole Slovenian ethnic area in the South Slavs formation, while the dominant conservative party Slovenska ljudska stranka (the Slovenian People's Party, SLS) considered, at least during the Habsburg Monarchy era², that Roman Catholics should have the dominant position and the role of cultural mentors for the other South Slavs.

During the period of World War 1 the predominant part of Slovenians and Croats laid high hopes on the Habsburg Monarchy being preserved and the creation of a third (South Slav) unit. In contrast, the political leadership of Serbia saw the Habsburgs as the biggest obstacle on the way to a common South Slav state. All of these different visions of the future were reflected in the legal and political acts of that period. Although, some consider the May Declaration as revolutionary new concept³, its main elements emphasized the Habsburg Monarchy framework and Croatia's historical state right, while the Serb opposition saw the Serbian royal dynasty Karađorđević as the fundament of the future South Slav state.⁴ An example of formal Serbian political view was presented on 18 October 1918, when the Manchester Guardian reported on Nikola Pašić's statement that the South Slavs would create a great Serbian state, which would be the framework for integrating the 'unfortunate fate' that had divided it in the past. At the same, Serbian military commanders in the field were not hiding the fact they were prepared to go to war for the ideal of Greater Serbia.⁵

¹ Engelsfeld, N., *Hrvatske federalističke ideje u razdoblju između dva rata 1918-1941*, Zbornik Pravnog fakulteta u Zagrebu, vol. 50, no. 6, 2000, pp. 937 – 955.

² Rahten, A., *Slovenska ljudska stranka v dunajskem parlamentu: slovenska parlamentarna izkušnja v habsburški monarhiji 1897-1914*, Cenesa, Celje, 2001.

³ Lukan, W., *Habsburška monarhija in Slovenci v prvi svetovni vojni*, Zgodovinski časopis, vol. 62, no. 1-2, 2008, pp. 91 – 149.

⁴ Rahten, A., *Slovenska ljudska stranka v beograjski skupščini. Jugoslovanski klub v parlamentarnem življenju Kraljevine SHS 1919-1929*, Založba ZRC, Ljubljana, 2002, p. 13.

⁵ Đokić, D., *Nedostižni kompromis. Srpsko-hrvatsko pitanje u međuratnoj Jugoslaviji*, Fabrika knjiga, Beograd, 2010, p. 39.

When the Austro-Hungarian Empire fell apart, the Slovenians and Croats rushed to form the State of Slovenians, Croats and Serbs (State of SCS). Although the latter fulfilled all key criteria of statehood which were later formalized in the Montevideo Convention (permanent population, territory, effective authority and the capacity to create relationships with other subjects of international law)⁶, it soon ceased to exist upon the First-December Act which formed the Kingdom of SCS. The clash of opposing political strategies, this time within the common state, put to the test Ivan Cankar's (a Slovene writer, poet and political activist) famous claim that the southern Slavs will not become the same nation due to the overly long period of divergence in cultural development, but could achieve political unity if they accept the concept of political Yugoslavism.⁷ The earliest disputes already occurred over the legal nature of the First-December Act, as well as the legal continuity of the Kingdom of SCS.⁸ While the Serbian authorities were celebrating the Kingdom of SCS' formation⁹, some Croats were protesting because the First-December Act was never ratified in parliaments¹⁰, and, thus, denied the legitimacy and legality of this Act. The fact the Serbian army behaved like an occupying force¹¹ only increased mistrust in and aversion to the Serbian authorities among the non-Serb population, resulting in several revolts including Croatian military troops' protest against Croatian merging with Serbia on 5 December 1918, to which the new government responded with force killing 13 and wounding 17 demonstrators.¹² In this context, it was crucial to form the constitution to calm the electrified atmosphere down and provide an environment for the coexistence of the various South Slav statehood traditions, which seemed incompatible.

⁶ Crawford, J., *The creation of states in international law*, Clarendon, Oxford, 2007, pp. 111 – 119.

⁷ Melik, V., *Slovinci 1848–1918: razprave in članki*, Litera, Maribor, 2002, p. 605.

⁸ Ivašković, I., *Der Streit um den Rechtsstatus des Königreiches der Serben, Kroaten und Slowenen*, in: Holcman, B. (ed.), *Festschrift für Gernot Koehler zum 75. Geburtstag „--- ich rief dich bei deinem Namen und gab dir Ehrenamen“ (Jes 45, 4)*, Faculty of Law, Maribor, 2017, pp. 197 – 221.

⁹ Jovanović, S., *Ustavno pravo Kraljevine Srba, Hrvata i Slovenaca*, Izdavačka knjižarnica Geze Kona, Beograd, 1924, p. 9.

¹⁰ Vukas, B., *Hrvatska državnost s gledišta međunarodnog prava*, Pravni fakultet, Zagreb, 2002, p. 47.

¹¹ Banac, I., *Nacionalno pitanje u Jugoslaviji: porijeklo, povijest, politika*, Globus, Zagreb, 1988, pp. 144 – 146.

¹² Pavličević, P., *Povijest Hrvatske*, Naklada Pavičić, Zagreb, 2002, p. 320.

The post-World War I state of South Slavs and its first constitution has been quite well researched and described in literature from various aspects. This study brings a fresh perspective on crucial processes of adopting the first constitution of the Kingdom of SCS, presents its alternatives and opponents, emphasizes key conflicting issues that were posed in the constitutional parliamentary debate, and evaluates it from Croatian, Slovenian and Serbian national perspective. Therefore, this article has the ambition to enrich the literature with new perspective on existing theses on South Slavs relations between two world wars.

2. POLITICAL SCENE OF THE KINGDOM OF SCS

The formation of the Kingdom of SCS brought different political traditions together. During the late 19th and early 20th century lively political activity developed within Serbia where three political streams (liberal, radical-national and conservative) were forcing each other to improve their political programmes¹³, but due to constant political upheavals accompanied by political murders the independent Serbia failed to develop modern state institutions. Hostility between two Serbian royal families, slower economic development, the constant danger of military conflicts and, finally, the War shaped a kind of political culture in Serbia whereby the most important factor was the control over repressive authorities. On the other hand, it would be unfair to say that Slovenians and Croats were from the political aspect in more stable environment, but rather that their political representatives had to take into account much stronger political forces within the Habsburg Monarchy, so the Slovenians and Croats had to primarily rely on parliamentary activity. Those differences in political culture spilled over and consequently shaped the following parliamentary discussion of the new state.¹⁴

One Serbian political party that ignored cultural differences or at least downplayed them was the Demokratska stranka (Democratic Party, DS). It saw the particular South Slav state as an ideal opportunity for implementing the concept of an indivisible Yugoslav nation. However, the historical development of particular concept shows that this political group grounded its pro-

¹³ Perović, L., *Narodna radikalna stranka: utemeljenje ideologije socijalnog, nacionalnog i političkog jedinstva srpskog naroda*, in: Biserko, S. (ed.), *Proces Vojislavu Šešelju: Raskrinkavanje projekta Velika Srbija*, Helsinški odbor za ljudska prava u Srbiji, Beograd, 2009, pp. 35 – 90.

¹⁴ Gašparič, J., *Parlamentarna razprava v prvi Jugoslaviji*, Prispjevki za novejšo zgodovino, vol. 54, no. 2, 2014, pp. 63 – 78.

gram more in Serbian national ideology than in pan-Slavism. Indeed, Ljubomir Davidović as party's formal president, and even more the party's ideologist Svetozar Pribičević, advocated specific Yugoslav nation. Pribičević's previous political activity clearly showed him advocating the union of South Slavs with two preconditions; 1) exclusion of Bulgarians and 2) the Serbian leadership of the union.¹⁵ One of the key objectives in this political strategy was to implement a strong central state administration, implying the rejection of any form of federalism. Therefore, in the constitutional assembly election campaign the DS sought to convince voters of the harmfulness of preserving the historical borders within the state. For the DS, the latter would only benefit separatist groups financially supported by foreign forces (mainly Italy, Germany and Hungary), that wanted to retain the internal potential for the Yugoslav unity's destruction. In line with DS's programme, the concept of Yugoslav nation requested unified state administration, and thus the party considered it legitimate to strive to break off the legal traditions of the states that had existed prior to the Kingdom of SCS.¹⁶ Of course, the political movement within DS was a complex of various views on desired future of South Slavs; even Svetozar Pribičević himself has been changing his perspective dramatically during the first decade of the Kingdom SCS¹⁷, so it would be pretentious to oversimplify the politics of particular party. However, the DS advocated the state centralization until it directly affected the party itself.¹⁸

The political party with the by far largest support in Serbia (foremost in Serbian rural areas¹⁹), the Narodna radikalna stranka (National Radical Party, NRS), was committed to the idea of unitarism, but it did not agree with omitting the "historical right to a state" concept from the fundamentals of the Kingdom of SCS. In this context, however the party leaders considered that the Croatian historical right had failed to pass "the historical test", so the Kingdom of SCS should only be based on the tradition of the Serbian state. General opinion within the NRS was also that there was no need to create a hybrid Yugoslav nation because the Croats and Slovenians should over time adopt the key elements of Serbian culture. Consequently, the NRS's political

¹⁵ Ivašković, I., *Razsežnosti jugoslovanstva v prvi polovici 20. stoletja*, Faculty of Social Sciences, Ljubljana, 2012, pp. 151 and 171 – 176.

¹⁶ Banac, *op. cit.* (fn. 11), p. 175.

¹⁷ Matković, H., *Svetozar Pribičević i Samostalna demokratska stranka do šestojanuarske diktature*, Institut za hrvatsku povijest, Zagreb, 1972.

¹⁸ Dobrivojević, I., *Državna represija u doba diktature kralja Aleksandra 1929-1935*, Institut za savremenu istoriju, Beograd, 2006.

¹⁹ Perović, *op. cit.* (fn. 13), p. 45.

strategy included the idea of a strong central state administration, but did not completely exclude the existence of certain federal elements. The latter should however imply the need to change historical borders, which actually meant a reduction of the Croatian unit according to the linguistic theory of Teodor Pavlović and Vuk Karadžić and their postulate that Croats live only in the area of the Chakavian dialect. The NRS programme promoted the idea of political centralization and administrative decentralization, which would enable the concentration of political power in Belgrade, while administrative autonomy would be given to Serbian enclaves in predominantly Croatian areas. Consistently with that, the NRS proposal for internal territorial delimitation envisaged the cancellation of the historical borders, which would contribute to the creation of a Serb majority in the Dalmatian hinterland. Party member Stojan Protić also suggested combining Herzegovina and Montenegro, which would put the Croats in western Herzegovina in a minority position. Similar motifs also lay behind the proposal to combine areas of Bačka and Syrmia in Vojvodina.²⁰ Despite their programmatic differences, NRS and DS both advocated a similar internal state organization and were therefore highly probable coalition partners after the constitutional elections. In addition, the fact that both parties had different electoral bases (the NRS enjoyed support in Serbia, while the DS targeted Serbian voters outside Serbia) helped prevent any kind of competition between the parties in the pre-election campaign.

The political scene in Croatian areas was more fragmented, due to various factors (a large percentage of Serbs in Dalmatian hinterland and in some parts of Slavonia and Syrmia; different political traditions in Dalmatia and Croatia-Slavonia etc.). However, especially in Croatia-Slavonia area by far the most popular was Hrvatska pučka seljačka stranka (the Croatian Peoples' Peasant Party, HPSS)²¹, which programme was based on national self-determination, autonomy and republicanism. Combining the concept of the historical Croatian state right with the peasant heritage enabled broad support for the party not only among farmers, but also among part of the Croatian bourgeoisie. When it became clear the Habsburg state would not survive, the HPSS president, Stjepan Radić, proposed the creation of the Danubian Federation which for a certain period would be under a French or American protectorate. Then, when it became obvious that the Habsburg South Slavs would merge with the Kingdom of Serbia, Radić suggested a three-member presidency consisting of the Serbian king, the Croatian Ban and the President of the Slovenian Na-

²⁰ *Ibid.*, pp. 162 – 163.

²¹ Avramovski, Ž., *Britanci o kraljevini Jugoslaviji: Godišnji izvještaji Britanskog poslanstva u Beogradu 1921–1930*, Arhiv Jugoslavije, Beograd, 1986, p. 38.

tional Council. According to this plan, the constitutional assembly should be composed of 42 members: 10 from the Serbian assembly, 10 from the Croatian parliament and 10 from the Slovenian National Council, while Bosnia would have the right to select four members, and Montenegro, Dalmatia, Vojvodina and Istria would each have two members.²² After forming the Kingdom of SCS, Radić suggested introducing the American federal model. The latter represented an ideal, not only due to the use of federal principles, but also because at that time US diplomacy emphasized the importance of national self-determination.²³ According to the HPSS programme, the state of South Slavs should be united only outwards, while on the inside it should function as a community of states. The latter should also include Bulgaria, and should not have the Serbian royal dynasty in the monarch position, similar to how the USA was unable to exist under the (British) monarchs. During the first phase of the constitutional process, the HPSS was unwilling to recognize the merger of the State of SCS and the Kingdom of Serbia as a legitimate act and was trying to gain the attention of US President Woodrow Wilson with a petition that had gathered 115,167 signatures in Croatia in only six weeks: 'All of signed Croatian citizens declare on the basis of the internationally recognized right of national self-determination that we are with our hearts and minds for a neutral Croatian peasant republic, and for the Croats, who form the nation with a millennial statehood right, we demand to convene a special Croatian constitutional assembly before the Peace Congress Paris creates a final decision on the fate of the Croatian people. We authorize the main board of the Croatian Peoples' Peasant Party and president of the HPSS Stjepan Radić to present this request at the Peace Congress in Paris'.²⁴ As a result, the authorities treated the party similarly as the Communist Party of Yugoslavia (KPJ), whose members were repeatedly imprisoned. Radić himself ended up in prison, from where he managed to send a letter to the French government: 'All signed Croatian citizens decisively protest because the military laws of Serbia were extended on the territory of Croatia and because Croatian citizens have been illegally recruited in the Serbian army, and we request the Republic of France to protect our lives, our families and our property because the Serbian military command in Croatia behaves like an occupying force, even worse, and therefore violates

²² Prepeluh, A., *Pripombe k naši prevratni dobi*, Založništvo tržaškega tiska, Trst, 1987, pp. 171 – 175.

²³ Pirjevec, J., *Jugoslavija 1918–1992. Nastanek, razvoj ter razpad Karadjordjevićeve in Titove Jugoslavije*, Založba Lipa, Koper, 1995, p. 14.

²⁴ Banac, *op. cit.* (fn. 11), pp. 118 and 228.

international law'.²⁵ The HPSS programme was therefore during the whole of that period based on non-recognition of the legitimacy of the First-December Act and on the demand to form a special, exclusively Croatian constitutional assembly. When it became clear that federalization was out of the question for the DS and NRS, the party radicalized its positions and began to pursue the ideal of a completely independent Republic of Croatia.

The SLS, the political party with the strongest support among Slovenes, did not cooperate with the HPSS during the first period of the Kingdom of SCS. Moreover, party chairman Anton Korošec publicly declared his loyalty to the Serbian king and opposed the republican state concept: 'I am a monarchist, but also every patriotic republican has to admit that we are not yet ready for a republic'.²⁶ Nevertheless, from the outset a significant number of SLS members were closer to Radić's positions regarding internal organization of the state. They were gathered around Fran Kulovec, the loudest representative of those Slovenians dissatisfied with the events after the War, and especially with the break of Aleksandar Karađorđević's promise given on 1 December 1918 that the autonomous bodies of the State SCS will continue to operate until the Constitutional Assembly is formed.²⁷ This discontent culminated in the outcome of the Carinthian plebiscite, when Kulovec stated: 'As long as they in Belgrade do not understand that we are not the United Serbia, but Yugoslavia, and that is not the task of our central government to introduce the Cyrillic alphabet and fill their pockets with commissions and taxes, and as long as they do not realize that they are dealing with free and equal brothers and not with the subjugated citizens, we shall experience disappointment after disappointment. After Carinthia there will be Gorenjska, and we are blind if we cannot agree at least on the requirement of wide autonomy, which should guarantee us the position in Yugoslavia we deserve. Only in this way will we be important to Belgrade and will we have a meaning in the world, and we must not pronounce ourselves as a meaningless province, which can only find its salvation if it renounces Slovenianhood and its specific cultural identity as soon as possible'.²⁸ Obviously, during this first period of the new state there was a large gap between monarchists and republicans in the SLS. It seems, however,

²⁵ *Ibid.*, p. 234.

²⁶ Slovenec: političen list za slovenski narod (journal), *Vodilne misli za volilni boj v konstituanto. Govor ministra dr. Korošca na sestanku zaupnikov S. L. S. v Mariboru*, vol. 48, 2. Oct. 1920.

²⁷ Perovšek, J., *V zaželeni deželi. Slovenska izkušnja s Kraljevino SHS/Jugoslavijo 1918-1941*, Inštitut za novejšo zgodovino, Ljubljana, 2009, p. 42.

²⁸ Rahten, *op. cit.* (fn. 4), p. 66.

that the autonomist fraction prevailed in the end. Even Korošec himself had to bow to the republicans, causing the SLS to withdraw from the interim government before the elections and triggering an avalanche of criticism of the idea of centralism in SLS journals: 'Under the disguise of Yugoslavism, they (DS) support the Greater Serbia national idea, national language and religion. ... they advocate the harshest militarism, they use censorship and restrict freedom of association'.²⁹

Beside the HPSS and SLS, some Serb parties were also in favor of decentralizing the country. However, the latter had relatively little support and many more Serb politicians who opposed the government engaged in the *Komunistička partija Jugoslavije* (the Communist Party of Yugoslavia, KPJ). The latter stemmed from the point of integral Yugoslavism and actually had a similar attitude to the national question as the DS.³⁰ In that sense, it was thus a competitor of the DS, which began to take on an important share of public support in the industrialized cities. The party had the status of a third political force in the country with especially strong public support in the capitol city of Belgrade, where the government had to break the electoral rules to introduce a special regime that prevented the party's chairman Filip Filipović becoming mayor.³¹ The KPJ programme advocated a soviet model for the state, and for this cause one part of the party's membership was even prepared to violently overthrow the government. Consequently, the KPJ was characterized as the most dangerous enemy by the authorities. Its relations with the government were so strained that in December 1920 the latter issued a special decree limiting the KPJ's functioning and, the following year, after the assassination of Milorad Drašković, the party was finally banned.

3. CONSTITUTIONAL PROPOSALS

The constitutional process officially began on 3 January 1919, when the regent Aleksandar convened a temporary assembly for the purpose of forming the law for elections to the constitutional assembly. Indicatively, members of this assembly were not stipulated by the First-December Act, but were determined

²⁹ Slovenec: političen list za slovenski narod (journal). *Dve mentaliteti*, vol. 49, 24. Feb. 1921.

³⁰ Ribičič, C., *Izvršilna oblast v stari Jugoslaviji*, Zbornik znanstvenih razprav, vol. 38, no. 1, 2009, pp. 241 – 268.

³¹ Tomasevich, J., *Četnici u drugom svjetskom ratu 1941–1945*, Sveučilišna naklada Liber, Zagreb, 1979, p. 24.

by the government itself.³² Pursuant to that law, Serbia was divided into a larger number of smaller electoral units, which then enabled a better result for political parties with stronger support in Serbia.³³ The relative winner of the elections held on 28 November 1920 was the DS with 92 seats, while the second-placed NRS won 91 seats out of a total of 419 representatives in the assembly. The KPJ (at the time still not prohibited) came third with 58 seats, followed by the HPSS with 50 and Savez zemljoradnika (the Association of Farmers) with 39. The pro-government Jugoslavenska muslimanska organizacija (Yugoslav Muslim Organization, JMO) won 24 seats, the SLS 14, Socialdemokratska stranka (the Social Democratic Party) 10, Hrvatska pučka stranka (the Croatian People's Party) 9, the National Turkish Organization 'Džemijet' 8, while seven minor parties received less than 8 seats.³⁴

The process continued with adoption of the Rules of Procedure on the Constitutional Procedure, which was, tellingly, drawn up independently by regent Aleksandar and the government. According to Article 8 of the Rules of Procedure, each representative had to take an oath to the king and could not become a member of the assembly otherwise. This implied unconditional consent for the monarchic regime, which significantly limited the assembly's importance. It also enabled the Constitutional Assembly to enforce the constitutional draft by a simple majority.³⁵ Accepting the monarchic framework in advance was even criticized by those Croatian politicians who otherwise supported the united Serbo-Croatian-Slovenian state. An example is Mate Drinković and his speech given on 26 May 1921: 'The elections were carried out, but we did not come to the constitutional assembly. That was, my gentlemen, actually a repository of people where a few lords ordered that each member must first swear loyalty to the king and to be obedient to the rules of procedure, which in advance restricted the rights and freedom of national representatives ... That was not enough for them so they bribed 22 members in order to more easily manage this warehouse'.³⁶ Interestingly, the constitutional procedure also required assembly members to only discuss the governmental proposal. Only if the latter was not

³² Sirotković, H.; Margetić, L., *Povijest država i prava naroda SFR Jugoslavije*, Školska knjiga, Zagreb, 1988, p. 233.

³³ Ribičić, *op. cit.* (fn. 30), p. 245.

³⁴ Engelsfeld, N., *Povijest hrvatske države i prava – razdoblje od 18. do 20. stoljeća*, Pravni fakultet, Zagreb, 2002, p. 308.

³⁵ Engelsfeld, N., *Poslovník Ustavotvorne skupštine Kraljevine Srba, Hrvata i Slovenaca 1921. godine*, Zbornik Pravnog fakulteta u Zagrebu, vol. 44, no. 4, 1994, pp. 377 – 417.

³⁶ Džoić, D., *Teorije o složenoj državi (federalizmu) na južnoslavenskim prostorima od početka 20. stoljeća do 1941. g.*, Pravni fakultet, Zagreb, 1995, p. 168.

adopted, could members present their own constitutional initiative with the support of at least 20 representatives.³⁷

In the next stage, the government established a constitutional committee (it consisted of Slobodan Jovanović, Kosta Kumanudi, Bogumil Vošnjak, Lazar Marković and Ladislav Polić) with the aim of drafting the final constitution. Indicatively, the starting points for the draft were the previous Serbian constitution from 1903 and the Belgian constitution, both of which implied a unitary organization. According to the first draft, the Kingdom of SCS should be divided into nine provinces: 1) Serbia; 2) Kosovo, Metohija and Macedonia; 3) Croatia and Slavonia with Rijeka, Istria and Međimurje; 4) Bosnia; 5) Montenegro with Herzegovina, the Bay of Kotor and the Littoral; 6) Dalmatia; 7) Syrmia with Bačka; 8) Banat; and 9) Slovenia with Prekmurje.³⁸ Those provinces would be further divided into districts, each district would be divided into 'kotar' counties and the smallest units would be municipalities. The provinces and districts were to be state-administrative and self-governing units, the kotar counties were expected to be purely state-administrative and the municipalities purely self-governing units. Modelled on the Belgian constitution, the state would be organized centrally and the provinces should not have classic self-governing powers due to the specific jurisdiction of the chief of the province, who could prevent the implementation of all provincial assembly decisions. An appeal against his veto could only be submitted to the National Council, whose composition was determined by the king. Moreover, according to this proposal the monarch was supposed to have jurisdiction to appoint the president of the first-instance administrative courts in each province.³⁹

The constitutional process was not smooth (two temporary governments resigned and constitutional committee members were changed), but the initial draft was never substantially altered. The government of Nikola Pašić (president of the NRS) finally presented the draft to the assembly. Pašić himself was the first to stand up in defense of the proposal with his speech on 12 May 1921: 'Gentlemen, I would like to turn your attention to the fact that constitutions are not eternal ... our constitution has to be created to ensure a defense system for our country, if our old enemies start to destabilize the current situation. ... As I said at the beginning, I consider that this is not a perfect constitution ... If this constitution is something that would hinder national progress and development,

³⁷ Čulinović, F., *Jugoslavija između dva rata*, Jugoslavenska akademija znanosti i umjetnosti, Zagreb, 1961, p. 219.

³⁸ Hohnjec, J., *O ustavi naše države*, Leonova družba, Ljubljana, 1928, p. 13.

³⁹ *Ibid.*, p. 16.

and could even hamper the defense of our country, we are here to repair it'.⁴⁰ This could be seen as a proposition for the mutability of constitution. However, this was not so easy. Any constitutional amendment, according to the proposal, could be proposed only by of the king or the national assembly. In the latter case, the support of a qualified majority of 60% of all parliamentary members was required.⁴¹ On the other hand, adopting the constitution only required a majority of over 50%. This shows the tendency to maintain the regulation mainly proposed by the Serbian representatives, who during the debate in the constitutional assembly had emphasized that Serbs had made many sacrifices for the new state, and that this was not done for any kind of state form, but specifically for a "united" state. The speech by Velizar Janković, the minister of railways, on 22 April 1921 is also revealing: 'And when we have come to discuss our national sacrifices, then I must also say this; our people, especially those in Serbia, which has given more than a million graves, this nation was not dying for federalism, autonomies and similar arrangements, they were not dying for the country, which would be similar to the former Austria, they were dying for a country that on the inside will be similar to Serbia'.⁴² Obviously, the government officials saw the greatest risk in federalism, which would give autonomy to specific parts of the Kingdom of SCS. Which parts they had in mind were implicitly indicated by Ljubomir Jovanović in his speech given on 20 April: 'I consider that it is necessary to leave Slovenia in one piece because Slovenia is our western part, our border to the west and to central Europe; if we leave it in one piece, it will be able to protect us better. This is my personal opinion. ... But I also tell you: not all parts of our country are equal. There are places that have their own specific needs. This is, for example, Slovenia. However, gentlemen, there are areas in which such special needs do not exist, and for which there is no reason to have such treatment'.⁴³ If, therefore, Slovenian areas, according to some radicals and democrats, could constitute a single unit within the state with the argument that a given unit would thereby be stronger, the autonomy of the other historical areas represented a threat to the governmental vision for the country. These areas had to be split in order to avoid any concentration of power outside of Belgrade. Thus, it is not oversimplification if we say that the integration of Croatian areas within the Kingdom of SCS was the antithesis of the Serbian vision of the South Slav state.

⁴⁰ *Ibid.*, pp. 20 – 21.

⁴¹ Ribičič, *op. cit.* (fn. 30), p. 250.

⁴² Hohnjec, *op. cit.* (fn. 38), p. 21.

⁴³ *Ibid.*, p. 22.

Slovenian liberals who became members of the DS were also against the federalism. Gregor Žerjav, then the most prominent Slovenian liberal politician, even tried to put blame for losing Carinthia, Gorizia and Trieste on the federalist concept in his speech on 14 February 1921: 'We (Slovenians) in Yugoslavia have experienced two serious losses. Due to disagreements, we have lost Carinthia and our brothers in Gorizia and Trieste ... because of them we must abandon any separatism ... whenever we read the newspapers from Vienna and Italy, we have the feeling that they are very keen to see factions which desire the separatist and federalist organization of our country. ... I think ... that such a state would be poor, and would only be good for our old enemies'.⁴⁴ However, although DS members were also defending the view that Serbs had scarified the most among all South Slavs for the Kingdom of SCS, as explained before, even the Serb majority in the DS tried not to emphasize Serbia's role too much, but instead exposed the Yugoslav nation as the party's main strategic objective. An example of that came in a speech by Ljubomir Davidović, chairman of the party, on 15 April 1921: 'Even on these occasions, gentlemen, you may hear the call "unite Croats", or another one "unite Serbs" ... I'm against that, gentlemen, I prefer to emphasize one other call; with a stronger, better, wider, greater reach, the call "Yugoslavs unite!"'⁴⁵ The Independent Agrarian Party represented by Bogumil Vošnjak, who was also a Slovenian member of the constitutional committee held a similar position. In his speech on 7 February 1921, he claimed there were not enough qualified people for an effective decentralization and that dividing up the country on ethnic principles would only encourage separatist tendencies and therefore harm unitarism, which according to Vošnjak was 'the beginning and the foundation of the new state'.⁴⁶ The unitarism concept was also defended by the Savez zemljoradnika, which further claimed that for reasons of stability the king has to be at the top of the state hierarchy with control over the legislative and judicial authorities. Members of the JMO argued similarly, making only one additional proposal regarding autonomy: the recognition of Sharia courts in Muslim areas.

Parallel to the work of the constitutional committee opposition groups were proposing their own visions of the constitution and, as part of them, the organization of the state territory. Narodni klub (the People's Club, NK), consisting of various Croatian intellectuals, proposed a federalist version that Ivan Pavačić thoroughly described on 10 May 1921. The constitution should be based on

⁴⁴ *Ibid.*, p. 25.

⁴⁵ *Ibid.*, p. 22 – 23.

⁴⁶ *Ibid.*, p. 26.

five principles, namely: 1) unity of the country; 2) sovereignty of the people; 3) individual freedom; 4) social justice; and 5) federalism. The latter was perceived as necessary due to Croatian history and its international subjectivity which had been preserved for centuries in various kinds of political and legal entities. For this group, the Kingdom of Croatia, Slavonia and Dalmatia was a historical fact to which Croats had become accustomed and which could not just vanish overnight. The Kingdom of SCS would thus contain six units: Serbia (which would include Kosovo, Metohija and Macedonia); Croatia-Slavonia-Dalmatia (which would include Međimurje, and Istria with the islands); Bosnia and Herzegovina; Montenegro; Vojvodina (Bačka, Banat and Baranja); and Slovenia. According to Pavačić, only such large provinces could also have financial autonomy.⁴⁷ Under this proposal, the parliament should be bicameral, with the national assembly being formed by elected representatives at the state level, while representatives at the provincial level would form the senate. The latter would have the right of veto for any law suggested by the national assembly, except those relating to state finances. Each province would have its own assembly and be authorized to confirm the king's proposed appointment of the provincial chief. In line with tradition, the leader of Croatia would have the title 'ban'. The provinces would also have provincial courts of law and autonomous legislation, but would not have international subjectivity.⁴⁸

Another alternative vision of the constitution was introduced by the Yugoslav Club, which was formed by the SLS, the HPS and the Bunjevačko-šokačka Party (a party of Croats from Vojvodina). Anton Korošec presided over this group, which opposed the government's constitutional proposal also due to its violation of the Corfu Declaration. This constitutional proposal was some kind of attempt to find a compromise between the centralist and federalist visions. The state would be a parliamentary monarchy with large government powers and at the same time should keep the internal historical borders. The only change the Yugoslav Club proposed was to merge Dalmatia with Bosnia and Herzegovina. Other units would be: Slovenia (with Prekmurje); Croatia-Slavonia with Međimurje; Montenegro; Vojvodina; and Serbia. Korošec commented on this proposal on 15 April 1921: 'We know very well why you give so much importance to the specific distribution.⁴⁹ You gave the task to a number to kill the historical distribution of country. Most Croats and Slovenians advocate much greater power for the authorities of the units which would have, to put it

⁴⁷ *Ibid.*, p. 29.

⁴⁸ Džoić, *op. cit.* (fn. 36), pp. 175 – 176.

⁴⁹ The final constitutional draft proposed that each unit within the state should have no more than 800,000 inhabitants.

frankly, historical borders. And this is because we think those historical borders will enable us to successfully preserve and improve our cultural, economic and political life. ... We require, consistently with our democratic principles and objectives, that more people participate in law-making and self-government; therefore, we demand the delegation of the legislative and governmental powers to the provinces that we propose.⁵⁰ According to this proposal, the provinces would have provincial assemblies which would have legislative authority on the basis of constitutional provisions rather than on the basis of devolution or transfer from the central parliament or the king, and would have an exhaustive list of responsibilities in the following fields: 1) the interior; 2) trade and crafts; 3) construction; 4) forestry and mining; 5) agriculture; 6) agricultural reform; 7) food; 8) education and religion; 9) health; 10) social policy; 11) judiciary; and 12) finance. A more detailed explanation of the autonomous provincial powers was given by a Croatian member of the Yugoslav Club, Dr Dublić on 31 March 1921: 'Nowadays, there is no one who would, theoretically or practically, argue that autonomy means sovereignty or that autonomy means a state within a state. This is what we do not want. ... Autonomy means nothing more than the authorization by a sovereign state for one factor ... If autonomy is good in the case of the judiciary and courts of law, why cannot this autonomy be good when it comes to ethnic goods and the administration of other areas?'.⁵¹ Unlike the NS, the Yugoslav Club plan envisaged that the chief of a province would be appointed by the government from among three candidates recommended by the provincial assembly. Likewise, every provincial law should be further confirmed by the government. At the national level, this proposal also recommended a bicameral central parliament where each house would have 200 representatives. The lower house would be elected at the state level, and the upper house would be elected on the provincial level (one-half of those representatives would proportionally represent different social classes (workers, peasants etc.), while the other half would be elected on the national level).⁵² According to this proposal, people would have the right to a legislative initiative if the latter was signed by at least 10% of all voters. The people could also initiate a referendum on the abolition of a law if that was required by at least 20% of all voters.

The KPJ members, while the party had not yet been banned, were not united regarding the participation within constitutional assembly. Some of them even boycotted its work, while some communists had sworn to the king and

⁵⁰ Hohnjec, *op. cit.* (fn. 38), p. 45.

⁵¹ *Ibid.*, p. 46.

⁵² *Ibid.*, p. 41.

attended the parliamentary sessions, but then did not participate in voting on the constitutional proposal. The party also did not submit its own plan for the constitution.⁵³ Instead, it merely stated that it advocated the Soviet Union regime and the universal right to vote for all 18-year-old citizens who work. They would, according to the KPJ model, elect representatives to the city soviets which would then, under the principle of proportionality, propose their delegates in the 'kotar' soviets. The latter would choose their delegates in the district soviets, and district soviets would send their delegates to the provincial soviets. Finally, the provincial soviets would propose their members to a nationwide congress of soviets.

The Socialist Party of Yugoslavia distanced itself from the KPJ programme. Etbin Kristan, the party's chairman, explicitly stated that the Socialists would not pursue the revolutionary road to a socialist regime because they agreed with the concept of evolutionary state progress. Therefore, they were willing to accept the governmental plan for the constitution, which would then be gradually changed. Their idealistic vision of the state was a republic with an emphasis on decentralization. However, they did not mention the historical borders. Kristan described his vision on 14 April 1921: 'When I'm talking about self-government, then I do not demand the autonomy which you are so afraid of, and which you think will destroy our country. I, as a socialist, advocate the existence of one single state ... because economic life requires a large territory. ... but a unified country cannot only be maintained by bayonets, the unity will be secured only if people feel happy in this country. You do not want this because if you trusted people you would then recognize self-governing rights to the people, but you do not want that because you are afraid of the people. ... That is why you don't dare to say how the self-governing bodies will be elected'.⁵⁴ As we can see, Socialists were not defending decentralization due to national motifs, as confirmed by Milan Korun on 12 May 1921: 'Regarding the division of the country into provinces, we reject all the historical and tribal aspects ... I understand the position of the Croats to advocate this kind of division, although I disagree with it and, moreover, I consider it as a bad solution'.⁵⁵ The party largely supported the constitutional plan of Josip Smodlaka, who was at that time one of the most prominent Croatian politicians from Dalmatia. He envisaged a compromise between the centralist and federalist models, as

⁵³ Engelsfeld, N., *Rad kluba komunističkih poslanika u plenumu Ustavotvorne skupštine (u prosincu 1920. i siječnju 1921.)*, Radovi Instituta za hrvatsku povijest Sveučilišta u Zagrebu, no. 2, 1972, p. 255.

⁵⁴ Hohnjec, *op. cit.* (fn. 38), p. 32.

⁵⁵ *Ibid.*

had been used in the South African Union. The state should be unified with a strong central government and indivisible sovereignty, but at the same time would have administrative units with the status of self-governing regions. There would be 12 provinces according to Smodlaka's proposal, and each would have a provincial assembly, a provincial government and a chief of the province. The elections for provincial governments and assemblies would be held every three years, while the chief of the province would be elected by the king from among candidates proposed by the provincial government. All provincial powers would be defined precisely in the constitution, and would not be subject to change if there was no qualified majority in the constitutional assembly.⁵⁶

The HPSS, which was renamed to Hrvatska republikanska seljačka stranka (the Croatian Republican Peasant Party, HRSS), refused to participate in the constitutional assembly but had proposed its own constitutional plan which was published on 26 June 1921.⁵⁷ The party demanded full national sovereignty and a republican type of country. Sovereignty should, according to this proposal, be achieved with a plebiscite on the convocation and dissolution of the constitutional assembly. In order to initiate the plebiscite, the petition should collect at least 100,000 signatures of citizens older than 18 (including women). Any kind of transformation of the historical borders would not be possible without a plebiscite. For a law initiative or an amendment it would be necessary to collect only 30,000 signatures of citizens. National sovereignty would, under this proposal, also be practiced through the electoral system for separate constitutional and legislative parliaments. The first would be convened 14 days after the elections and could only dissolve itself, without the king's intervention. On the other side, the legislative parliament would be elected every four years. According to the HRSS programme, the crucial self-governing bodies would be municipal and county assemblies. Both the counties and municipalities should have full autonomy in adopting their own policies and laws in all areas except those explicitly reserved for governmental bodies at the national level. Even the president of the republic (who would be elected every four years) or the government would not be able to intervene in the autonomous self-governing affairs. The areas that would fall under national jurisdiction and be covered by the government were the following: ministry of justice, the national economy, national education, national health, national defense, international relations, and finance in listed fields. The programme also included an article that pro-

⁵⁶ Džoić, *op. cit.* (fn. 36), pp. 180 – 181.

⁵⁷ Sirotković, H., *Radićev Ustav neutralne seljačke republike Hrvatske iz 1921. godine (U povodu 80. obljetnice donošenja)*, Rad Hrvatske akademije znanosti i umjetnosti, Zagreb, knj. 482, 2002., pp. 81 – 93.

hibited the government from engaging in secret diplomacy and recognizing any kind of secret agreements. At the same time, the plan also set strict limits for the state in determining income tax. Judges should be independent and could not be changed, transferred or retired before the age of 65, when they automatically retire.⁵⁸

The plans of certain other Croatian political parties were even more subversive. For example, Hrvatska stranka prava (the Croatian Party of Rights, HSP) announced its programme on 1 March 1919 in which it declared that, on the basis of the entire Croatian history, the party remained committed to realizing the historical state of the Croatian people, its right to self-determination and the integration of all Croatian territories, namely Croatia, Slavonia, Dalmatia with the islands, Rijeka, Međimurje, Prekmurje, Bosnia, Herzegovina and Istria with the islands to form a single Croatian state. The HSP called for a people's democratic republic where the president would head the country and preside from the capitol city Zagreb. The HSP programme did not define exactly the country's internal structure, but mentioned provinces with extensive autonomy.⁵⁹

We can conclude the constitutional debate was very dynamic. The proposals included the whole spectrum of different organizational concepts; from the unitary model of the NRS and the DS to a variety of federal and confederal models, and even completely separatist ideas that denied any kind of community of the Habsburg South Slavs and the Kingdom of Serbia. However, the final constitutional draft did not take any of the alternative proposals into account. Moreover, the Corfu Declaration was violated once again and the draft was accepted only by a simple majority. On 28 June 1921, on the anniversary of the Kosovo battle and the Vidovdan, 223 members of the constitutional assembly voted in favor, 35 were against and the rest abstained or boycotted the assembly's work (HRSS, KPJ and the Yugoslav Club). As historian Christian Nielsen said the day itself sent an unfortunate message that the constitution represented the triumph of Serb national ideology.⁶⁰ The fact that representatives of 72% voters from Croatia-Slavonia areas, 75% voters from Dalmatia, 70% voters from Slovenian areas, and even representatives of 57% voters from Montenegro boycotted or were against the constitution in its accepted form is in line with the thesis on Serbian predominance in the process of constituting the new state.⁶¹

⁵⁸ Džoić, *op. cit.* (fn. 36), pp. 181 – 185.

⁵⁹ *Ibid.*, p. 187.

⁶⁰ Nielsen, C., A., *Making Yugoslavs: Identity in King Aleksandar's Yugoslavia*, University of Toronto Press, Toronto, 2014, p. 40.

⁶¹ Balkovec, B., *Volivci in glasovanje o vidovdanski ustavi*, *Zgodovinski časopis*, vol. 43, no. 2, 1989, pp. 241 – 248.

4. CHARACTERISTICS OF THE VIDOVDAN CONSTITUTION

The accepted version of constitution defined the Kingdom of SCS as a constitutional, parliamentary and hereditary monarchy, while the second and third articles promoted the assertion of one nation composed of three tribes.⁶² Article 46 assigned the legislative power to the king and the national assembly, although Article 49 stated that a law cannot be accepted without the consent of the king. Article 47 stated that 'the king practices the constitutional authority through the responsible ministries framed by the constitution'.⁶³ The judiciary should be within the domain of judges according to Article 48, but the latter should act on behalf of the king and on the basis of laws.⁶⁴

Analysis of the king's constitutional powers shows that the king had the right to convene elections and sessions of parliament. Of course, he was also empowered to dissolve parliament, and there was no other condition except convening new elections in the next three months and constituting a new parliamentary assembly within four months. Theoretically, the king could repeatedly dissolve the parliament as many times as needed until it reaches the composition he wanted.⁶⁵ Moreover, due to the fact of being elected by the king and given his subordination to the ministers, we can agree with the opinion of Perovšek⁶⁶ that the chief of a province was a government representative whose operations were fully determined by the central government and the king. Therefore, we can conclude that the parliament was only nominally placed in the same rank as the king, but was in fact below him. Although the government, individual ministers and members of parliament also had the legislative initiative, under Article 78 the king could reject any proposal arbitrarily. He indeed had an absolute veto regardless of the field of a particular law, and regardless of the parliamentary support for the proposal. Interestingly, the responsibility for any legislative initiative of the king was on the government because his initiative had to be approved by a particular minister.⁶⁷ However, that did not limit the king's powers since he was empowered, according to Articles 90 and 91, to appoint the prime minister

⁶² Sućeska, A., *Istorija i prava naroda SFRJ*, Svjetlost, Sarajevo, 1985, p. 182.

⁶³ Danić, D., *O uredbama: rasprava iz javnog prava*, Štamparija »Dom Maloletnika«, Beograd, 1929, p. 32.

⁶⁴ Engelsfeld, *op. cit.* (fn. 34), p. 318.

⁶⁵ Ribičič, *op. cit.* (fn. 30), p. 251.

⁶⁶ Perovšek, J., *Unitaristični in centralistični značaj vidovdanske ustave*, Prispevki za novejšo zgodovino, vol. 33, no. 1-2, 1993, p. 23.

⁶⁷ Art. 87 Ustava Kraljevine SHS, Uradni list deželne vlade za Slovenijo, Ljubljana, 1921.

and other ministers.⁶⁸ Moreover, ministerial sessions were headed by the king himself. Even if a parliament majority sought to impeach one of the ministers, the king could arbitrarily decide to recognize the impeachment or not. Due to empowerment of the king to intervene in any conflict between the government and parliament, some historians and lawyers⁶⁹ conclude that the Kingdom of SCS was primarily a monarchy, while the adjective ‘parliamentary’ should be conditionally understood. Indeed, the parliament’s powers were severely limited at the expense of the king. The constitution itself came into force only upon the king’s recognition.⁷⁰ Although Article 109 asserted the independence of the judiciary, the king also had a strong influence in this field, foremost with the power to block the courts. Advocates of the new constitution tried to excuse this fact with the difficulties of unifying all courts from different legal backgrounds. Therefore, the king was expected to be some kind a homogenization factor in the judicial system, which consisted of six legal systems with a different heritage. While this was true, it seems this was not the main cause for the king’s control over the judiciary. Article 111 stated that judges are appointed by a specific organ, but every judge had to be approved by the king.

In terms of the country’s internal organization, we can agree with the opinion of Neda Engelsfeld⁷¹ that the fundamental constitutional principles in the observed case were centralism of government and national unitarism. This was demonstrated by the articles relating to the official ‘Serbian-Croatian-Slovenian’ language and ‘Serbian-Croatian-Slovenian’ nationality. The king and the prince had to take an oath before the national assembly that they would guard the ‘unity of the nation’, and schools were required to ‘give moral education and develop civic consciousness in the spirit of national unity’. Moreover, the constitution prohibited all newspapers and media that encouraged separatism on a ‘tribal’ basis, while every citizen was obliged to ‘serve the interests of the national community’.⁷² Similarly as Engelsfeld, Avdo Sućeska⁷³ considered that the state administration was organized by bureaucratic principles and had the characteristic of a centralized state with a clear hierarchy, and a king at the top of it with the “final word” for all three branches of government. His will was implemented through 17 ministries, which were coordinated through the council

⁶⁸ Sirotković; Margetić, *op. cit.* (fn. 32), pp. 243 – 244.

⁶⁹ See e.g. Sućeska, *op. cit.* (fn. 23), p. 184.

⁷⁰ Ribičič, *op. cit.* (fn. 30), p. 246.

⁷¹ Engelsfeld, *op. cit.* (fn. 34), p. 323.

⁷² Perovšek, *op. cit.* (fn. 66), pp. 17 – 26.

⁷³ Sućeska, *op. cit.* (fn. 23), p. 182.

of ministers. The state had a unified state territory, a single citizenship and a single system of organizing authority across the territory. In order to maintain a centralist-unitary regime, the king, the DS and the NRS included Article 95 of constitution which implicitly prohibited the idea of federalism. The article stated that an administrative unit could only be determined by natural, social and economic criteria, and at the same time no unit was allowed to have more than 800,000 inhabitants.⁷⁴ However, JMO managed to achieve preservation of the historical borders of Bosnia and Herzegovina in article 135.⁷⁵

The king had the right to choose the chief of province, who exercised provincial administration under the direct supervision of the minister of the interior. This enabled the transfer of affairs from the existing provincial governments to particular ministries. The constitution stipulated that the powers tied to each provincial administration (financial, educational and socio-economic) were under the supervision of governmental representatives. Consequently, the finance minister had complete control over financial flows in self-governing units. Full control of the central government was strengthened by the law on county self-government adopted in April 1922. The latter divided the country into 33 provinces which were not determined by historical or national facts. Counties and municipalities were supposed to represent local self-governing units, while the provinces only exercised selected self-governing powers. Regardless of that fact the first elections for provincial assemblies were not held till 1927, due to the obstruction of centralist political parties.⁷⁶ Moreover, even those self-governing powers were minimized, allowing the central national authorities to implement their decisions at any time.⁷⁷ This once again confirmed the wide competences of the king who could prevent the implementation of any decision of self-governing bodies through the chief of the province.⁷⁸ The law on the state administration ordered the transfer of the then provincial powers to the central state administration in such a way that 'the general administration includes all affairs from the ministers of the interior, education, agrarian reform, for agriculture and water, for constructions, for trade and industry, for national health, social policy, religion and for the forests and ore'.⁷⁹ The executive of these affairs was

⁷⁴ Perovšek, *op. cit.* (fn. 24), p. 20.

⁷⁵ Art. 135 Ustava Kraljevine SHS, *op. cit.* (fn. 67).

⁷⁶ Stiplovšek, M., *Prizadevanja skupščin ljubljanske in mariborske oblasti za izvajanje razširitev samoupravnih pristojnosti (1927 – 1929)*, *Lex localis*, vol. 11, no. 1, 2004, pp. 1 – 19.

⁷⁷ Sirotković; Margetić, *op. cit.* (fn. 32), p. 247.

⁷⁸ Art. 101 Ustava Kraljevine SHS, *op. cit.* (fn. 67).

⁷⁹ Perovšek, *op. cit.* (fn. 66), p. 22.

the chief of province who had to oblige the instructions of the ministers. All other affairs came directly under the jurisdiction of individual ministries. As already mentioned, the provincial chief had the power to prevent any decision of self-governing bodies. It was possible to appeal against his decision to the state council, which represented some kind of supreme administrative court.

5. CONCLUSION

As with any constitutional issue, the separation of law and politics may seem to be an unbridgeable problem, but it is fact that constitutional law is always in the function of politics. Indeed, all constitutional decision-makers indisputably come from the political sphere. Therefore, also in this particular case the constitutional alternatives should be perceived in the function of different political strategies whose fundamental lines were formed long before the Kingdom of SCS was being established.⁸⁰ The latter was marked by the violent removal of everything that smelled of the Austro-Hungarian regime, while the hegemony of the new government sought to consolidate itself by establishing predominantly Serb state pillars. In these terms, the constitution was clearly the crucial legal act. However, the adopted Vidovdan constitution and the following laws did not achieve the fundamental mission of the constitutional document, as occurred in other European countries at that time. For example, the essence of the French Constitution of 1791 was the definition of human and civil rights while, on the other hand, the Belgian constitution of 1831 emphasized that the king only had as much power as the people had delegated to him.⁸¹ On the contrary, the constitutional system of the Kingdom of SCS established a kind of paradox of parliamentarism. It is true however that most of the new states after the World War I had instable governments and were characterized by instability of the executive, but in other countries, parliaments were generated as a result of reducing the monarch's power and increasing the influence of the people's representatives. In this case the parliament had no possibilities of limiting royal power, but was actually a tool through which the king exercised his will. Therefore, we may agree with the opinion⁸² that in this case we cannot speak about a dualistic organization of the state with shared powers between the king and parliament, but about the absolutist regime of the Serbian king, which was only formally confirmed on 6 January 1929.

⁸⁰ Banac, *op. cit.* (fn. 11), p. 149.

⁸¹ Hohnjec, *op. cit.* (fn. 38), p. 5.

⁸² Ribičič, *op. cit.* (fn. 30), pp. 241 – 242.

The Vidovdan constitution confirmed the victory of the Serbian vision for the South Slav country; a country that would include all areas from Garašanin's plan; a country in which Belgrade is the political and administrative center; a country in which Serbs would have the relative majority; and a country in which the smaller nations would be prevented from political emancipation and realizing their autonomous national ambitions. The constitution failed to shrink the gap between opposite political sides, and at least temporally defeated all those political forces that sought to implement either a confederation, federation or perhaps some kind of union of states, which would be connected by the same ruler. Nevertheless, this study shows there were numerous supporters of alternative solutions, which advocated a totally different South Slav state, chiefly as a community of states.

From the Slovenian perspective the state that was actually realized represented one step forward in their national emancipation because, unlike in the Habsburg Monarchy, Slovenians had achieved at least partial subjectivity within the Kingdom of SCS, as confirmed by including Slovenians in the name of the newly created state. However, on the other side, the Vidovdan constitution reduced Slovenians to one branch of a larger nation. It is also true that the formation of the Kingdom of SCS enabled Slovenian fundamental political objectives to be achieved, namely to delimit the Slovenian territory in the nationally mixed areas in the west and north. However, the demarcation process resulted in a poor outcome for the Slovenians, especially those in Gorizia, Trieste and Istria who were cut off from the majority of Slovenians. Something similar was the case of the Istrian Croats as they too were separated from the Croatian core. This only further reduced the Slovenian and Croatian political influence in the Kingdom of SCS, and increased the relative influence of the Serb population, which eased the governmental efforts to preserve the unitary-centralist regime. From the Croatian perspective, the Vidovdan constitution represented the abolition of all elements of Croatian statehood, primarily the Croatian parliament, which represented a pivotal pillar of Croatia's sovereignty. The dissatisfaction of the Slovenian and Croatian opposition resulted in a latent internal political factor of instability, which endangered the very existence of the country especially during periods of major geopolitical shifts in the broader international community. The conflict between the different South Slav visions culminated in the assassinations in 1928 and 1934 and, finally, the internal weakness of the state was confirmed during World War 2 when the state collapsed practically without any resistance.

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Sažetak

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VIDOVDANSKI USTAV I ALTERNATIVNE USTAVNE STRATEGIJE

U članku se analiziraju ključne točke sukoba u ustavnom procesu Kraljevine Srba, Hrvata i Slovenaca od nastanka te države do usvajanja Vidovdanskog ustava. Autor identificira pitanje unutarnjeg teritorijalnog razgraničenja kao nepomirljiv dio inače šireg spektra ustavnopravnih sporova između najutjecajnijih političkih stranaka. Pritom argumentira tezu da izvor sukoba leži u činjenici da su različite političke strategije vezane uz partikularne nacionalne ideologije bile formirane puno prije nastanka jugoslavenske ideologije i stvaranja države 1918. Iako nisu bile u potpunosti jedinstvene u pogledu svih ustavnih pitanja, najveća slovenska i najveća hrvatska politička stranka zagovarale su očuvanje povijesnih granica, što je bilo u skladu sa strategijom federalizacije koja se temeljila na nacionalnom principu. Različitim političkim i pravnim manevrima njihovi su se alternativni prijedlozi u potpunosti zanemarili te je usvojen unitaristički Vidovdanski ustav.

Ključne riječi: ustav, državna organizacija, politička strategija, lokalna uprava, nacionalno pitanje

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