

Democratic functions of the political opposition in the 21st Century Serbia. Standards with tiny roots*

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1. Introduction

This paper has the ambition to describe and analyse the position and functions of the political opposition (s) in the Republic of Serbia (hereinafter: Serbia). We try to answer the question, to which extent political opposition in Serbia has the status and legal protection inevitable to fulfil its functions in the democratic society in accordance with the existing European standards. Author of this paper argues, that despite of formally existing democratic constitutional framework from 1990, the functions and status of the political opposition are seriously blurred by the continuous efforts and techniques of major ruling political parties and their leaders aiming to extensively dominate and control all public institutions and resources of the state, as well as to rule the media. During the 33 years long history of the multiparty system in Serbia, three different periods should be distinguished, with three different ruling political parties, and three political leaders. However, these periods are linked with different but similar efforts of the ruling political elites, and political leaders, to exploit all public institutions and resources of the state to strengthen their power, to discredit and blur the political opposition, to exclude it from the decision-making processes and public resources. What makes the Serbian example more odd, are endeavours of the ruling parliamentary parties to control local self-governments, to create a local electoral system that blurs the specificities of the local communities, and makes easier for dominant political stake

* The article has been submitted to a double-blind peer review process according to the journal's guidelines.

holders in state, to gain control over all local self-governments, to erase out political plurality, to distort local democracy. The author argues that the blurred position and role of the opposition are deeply rooted in the constitutional and political culture in Serbia. It is widely shared conviction that the ideas and principles like the separation and division of powers, power-sharing, strong protection of human rights, rule of law something that weaken the governance, weaken the state, while, on the other hand, strong leadership, administrative centralization, political control over public institution and media are principles and techniques necessary for successful governance.

This paper is divided into five sections. In the first, short historical summary of democratic elections in Serbia will be elaborated, with the emphases on three distinguished historical periods, with three different ruling elites and leaders. In the second section, the functions and protection of the political opposition will be elaborated with references to the European standards. In the third section, legal regulation of the political opposition in Serbia will be elaborated and analysed. In the fourth section, those measures and endeavours of the ruling political parties will be identified which were pointed on to gain full control over all public institutions and resources in order to prevent the political opposition to effectively participate in the political life and decision-making, to disseminate its democratic functions. In this section particular attention will be granted to measures making extremely difficult to political opposition to win elections even on local level. In the fifth, and final part of this paper concluding remarks will be elaborated.

2. History of the multiparty elections in Serbia, political majorities and political minorities

The democratic multiparty political system, political rights, separation of powers, market economy and other principles of the liberal democracy were introduced into the political system in Serbia at the beginning of nineties of the 20-th century, such as in other European former socialist states. However, the first decade of the multiparty political system, unlike in the majority of other European former socialist states, were disturbed with the violent break-up of the federal, socialist Yugoslavia, international isolation of Serbia, sanctions, wars in the neighbourhood of Serbia, later even within Serbia. From 1990 till the end of 2023 altogether 14 multiparty elections for the National Assembly were organized¹. Alongside with the elections for the National Assembly, elections were regularly organized as well as for the Assembly of the

¹ Between December 1990 and June 2020, 12 regular and extraordinary elections were organized, for the summary of these elections see: V. Goati, *Tri decenije višepartizma - nezavršeni proces [Three Decades of Multiparty System – Process still not Finished]*, in S. Orlović - D. Kovačević (eds.), *Trideset godina obnovljenog višepartizma u Srbiji, [Thirty Years of reestablished Multiparty System in Serbia]*, Beograd, 2020, p. 11 ff. After 2020, extraordinary parliamentary elections were organized in April 2022 and in December 2024.

Autonomous Province of Vojvodina and assemblies of local self-governments (174), however not as frequently as on the national level due to the smaller number of extraordinary elections. In this 23 years long period, deputies in the national and local assemblies were elected under different electoral rules, with participation of various political parties, with different majorities and minorities in elected assemblies. However, this period might be roughly divided in three sections, dominated for long time by three charismatic political leaders and three dominant political parties.

The first decade of the multiparty Serbia was marked with the ruling of the Serbian Socialist Party (successor of the former Communist party, hereinafter: SSP) and its undisputed leader Slobodan Milošević. Milošević formally accepted the liberal democratic system, opposition political parties were legalized, they participated on elections, however SSP and Milošević tried hard to preserve full control over public institutions, resources of the state, media, including manipulations and sometimes direct cheating on elections. From time to time Milošević used physical repression against the opposition and its leaders. The SSP and its leader were not ready to accept and respect the opposition, labelling it as traitors, foreign mercenaries. The regime of Slobodan Milošević finally collapsed in October 2000, after mass demonstration of the political opposition triggered by the attempt of falsification of the results of the September 2000 presidential elections, on which Vojislav Koštunica, the candidate of the Western oriented united political opposition (hereinafter: DOS) defeated Slobodan Milošević. In December 2000 the DOS achieved massive victory on parliamentary elections in Serbia, winning more than 64% of votes and 70% of seats in the National Assembly². The victory of the DOS meant the end of the international sanctions and isolations, membership of Serbia (FR Yugoslavia) in the Council of Europe, privatization and opening of the economy, beginning of the integration to the European Union, investigation of war crimes etc. Between 2001 and 2007 within the DOS coalition two political parties and their leaders competed for the dominant position, Democratic Party and Serbian Democratic party, resulting a situation without clear domination of one leader and one party. However, gradually the Democratic party, with its leader Boris Tadić, who was elected two times for the president of Serbia (in 2004 and 2008) become new undisputed political leader of Serbia. The Tadić era 2004-2012 gradually reinvented many governing techniques of the Milosević era. Mainly from 2007/8 this party had begun to control and exploit public resources, to take control over public institutions, to dominate media, endeavours to take control over all larger local self-governments in Serbia etc. Such as in Milošević era, in Tadić

² V. Goati, cit., p.14.

era, the ruling party endeavours to gain full control over institution, to exclude the opposition from decision-making processes, to control media, the distribution of budgetary incentives to companies, resources etc. In order to achieve domination not only on state level but also in local level, local elections were organized also upon proportional representation system with party lists, the local elections were organized on a same date as parliamentary elections. The Tadić era ended in 2012, when the presidential elections were organized on the same day with the elections for the National Assembly, Assembly of the Autonomous Province of Vojvodina, and assemblies of local self-governments. After Tadić slightly lost the presidential elections, it resulted in the collapse of the Democratic party in all levels, because the former coalition partners of the Democratic Party changed the side, and formed new majority in the National Assembly with the Serbian Progressive Party, which were formed by the fraction of the nationalist anti West Serb Radical Party. After a short transition period, and victory on 2014 year extraordinary elections, the new leader of the SPP Aleksandar Vučić, gradually became undisputed political leader of the state. In 2016, SPP achieve victory once again on the elections for the National Assembly, won the elections for the Assembly of the Autonomous province of Vojvodina, and, moreover, in April 2017 Vučić achieve triumphal victory on the presidential elections as well.. From this period Vučić, and his ruling party used all governing techniques of Tadić, but further enhanced them, and used these techniques and mechanisms to efficiently marginalize and dismantle the political opposition and strengthen its political power and influence over media and all state resources and public institutions.

3. *The functions and protection of the political opposition*

Historically, the notion of the political opposition first emerged in the course of the struggle of the British Parliament to criticise and limit the sovereign powers of the monarch. For a long period of time political science largely neglected to study political oppositions³. The pioneer among the authors putting opposition to the centre of the study of democratic policy was Robert Dahl⁴. Political oppositions differs from state to state, however theory emphasises some basic common functions of the opposition

³ J. Garritzmann, *How much power do oppositions have? comparing the opportunity structures of parliamentary oppositions in 21 democracies*, in *The Journal of Legislative Studies*, 2017, p. 2 ff.

⁴ L. Helms, *Studying parliamentary opposition in old and new democracies: Issues and perspectives*, in *The Journal of Legislative Studies*, 2008, p. 6 ff.

in all democracies. These are, first, to criticize, monitor and control the government actions, and second, to offer reliable political alternatives to the majority in power⁵. Scholars also emphasise that oppositions, in and outside of parliaments are crucial ingredient of the well-functioning representative democracy⁶. Authors emphasising the pivotal role of the opposition in democracy, usually neglect that besides the so called pendulum or majoritarian democracy, there are other patterns, or forms of democracy. Hendriks distinguishes four basic forms of democracy: pendulum and consensus democracy (indirect democracies) and voters and participatory democracy (direct democracies)⁷. Lijphart distinguishes two basic patterns of democracy majoritarian and consensus democracy, arguing in favour of the consensus democracy, particularly in plural societies⁸. In consensus democracy political opposition do exists, and has its distinguished role, albeit the division line between the majority and minority are less clear and permanent. The difference is that the majoritarian model of democracy is adversarial, and competitive, whereas the consensus model is characterized by inclusiveness, bargaining, and compromise⁹; or, as Kaiser defined it as “negotiation democracy”¹⁰.

Dahl and scholars following the path of his studies tried to differentiate between oppositions in different democratic states. Authors distinguished strong and weak opposition, cohesive or defuse opposition, and opposition in intensive conflict with the governing majority rejecting the Regime, and opposition having similar political goals as the ruling majority, correcting the Regime¹¹.

Based upon scholarly works and living practices, international organizations, primarily the bodies of the Council of Europe (hereinafter: CoE) enacted political documents, common good practices containing, guidelines and recommendations for CoE states concerning the role and functions of the political and particularly parliamentary oppositions. These guidelines, constitute standards which should be implemented by states in their legislation and political practice in order to further develop democracy in member states. Among these document we specially point on

⁵ J. Garritzmann, cit.

⁶ R.B. Andeweg, *Parties in parliament: The blurring of opposition*, in W.C. Müller - H.M. Narud (eds.), *Party Governance and Party Democracy*, New York, 2013, p. 100 ff.

⁷ F. Hendriks, *Vital Democracy: A Theory of Democracy in Action*, Oxford, 2010.

⁸ A. Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, New Haven & London, 2011, p. 5

⁹ *Ibid.*, p. 2

¹⁰ A. Kaiser, *Types of Democracy: From Classical to New Institutionalism*, in *Journal of Theoretical Politics*, 1997, p. 434.

¹¹ J. Blondel, *Political opposition in the contemporary world*, in *Government and Opposition*, 1994, p. 469 ff.

the Resolution 1601 of the CoE Parliamentary Assembly¹², and two documents of the Venice commission¹³ on the role of the opposition and on the relationship between parliamentary majority and opposition¹⁴. Recommendations in these documents call for the legal surrounding and political practice allowing free establishment and activities of political organizations, their participation on elections, and putting opposition MP-s on to equal footing with the MP-s consisting the ruling majority. Guidelines offer solutions that guarantee right to opposition deputies to effectively take part in the legislative process, to criticize and control government, to participate effectively in the activities of standing committees, to initiate inquires and debates on political issues important for the opposition, to have necessary time for participation in debates, to disseminate ideas information, to reach information necessary to monitor the activities of the government, to table various draft laws, other motions in parliament, to have a freedom and security. Besides rights of the opposition, documents emphasise responsibilities of the opposition as well, calling for constructing behaviour from the side of the opposition.

4. *Regulation of the political opposition in Serbia*

Political rights, elections, political parties and their financing, procedures of the National Assembly and other democratically elected bodies, judicial protection of constitutional rights are guaranteed and regulated extensively by the Constitution of Serbia and plenty of laws and other regulations in Serbia. All these acts and provisions constitute the legislative framework for the political oppositions, parliamentary and non-parliamentary as well in Serbia. This framework was gradually shaped within and influenced by the integration process of Serbia into the European Union, particularly after 2012 when Serbia officially received the status of candidate country. Based on the yearly progress reports of the European Commission and various reports of the CoE, the legal framework of political rights and freedoms, elections and their protection is

¹² Procedural guidelines on the rights and responsibilities of the opposition in a democratic parliament, Resolution 1601 (2008).

¹³ European Commission for Democracy Through Law (Venice Commission) Draft Report on the role of the opposition, Study number 497, June 2009.

¹⁴ European Commission for Democracy Through Law (Venice Commission) Parameters on the Relationship between the Parliamentary Majority and the Opposition in a Democracy: A Checklist, Opinion no. 845/2016.

basically in accordance with the European standards, however implementation in practice often discloses shortcomings as well. In this section of the essay the relevant legislative framework determining the status and rights of the political opposition will be described, analysed only sporadically, focusing on some solutions that deserve specific attention. In this analyses we will focus on the relevant constitutional provisions, laws regulating parliamentary, provincial and local elections, party financing, media broadcasting establishment of political parties, and rules of the houses of various assemblies. In our analyses we try to evaluate this legislative framework from the point whether they put on equal footing political oppositions and political majorities, or not. Whether they guarantee equal chances to oppositions and to ruling majorities. The analyses will begin with the Constitution of Serbia. The Constitution were enacted in 2006 and it was amended in 2022¹⁵. The Constitution has no single provision explicitly mentioning opposition, however plenty of provisions and guarantees are protecting the position and rights of the opposition. Besides the extensive list of political rights from the universal suffrage¹⁶, freedom of expression¹⁷ and media¹⁸, right to political association¹⁹ and assembly²⁰ etc. Some provisions are particularly interesting for the rights of the political opposition, and required also by guidelines of the CoE. Among these, one should mention the right to every member of the National Assembly to table draft laws²¹, all members enjoy material and procedural immunity from prosecution²². Fifty members of the national assembly out of total 250 can table interpellation²³, 60 can launch vote of no confidence against the government²⁴, 25 members can institute procedure for the constitutional review of any law enacted in the National Assembly²⁵, furthermore, one third of members can initiate constitutional review of a law prior to its promulgation²⁶. The session National Assembly shall be convoked obligatory if one third of members request it, with

¹⁵ Ustav Republike Srbije [The Constitution of the Republic of Serbia] Službeni glasnik RS br. 14/2022, [Official Gazette of the Republic of Serbia no. 98/2006, 115/2022].

¹⁶ Constitution, Article 52.

¹⁷ Constitution, Article 46.

¹⁸ Constitution, Article 50.

¹⁹ Constitution, Article 55.

²⁰ Constitution, Article 54.

²¹ Constitution, Article 107, par 1.

²² Constitution, Article 103.

²³ Constitution, Article 129.

²⁴ Constitution, Article 130.

²⁵ Constitution, Article 168, par. 1.

²⁶ Constitution, Article 169.

previously determined agenda²⁷. The elections for the Serbian National Assembly, Assembly of the Autonomous province of Vojvodina, assemblies of local municipalities, and elections for the head of the state (President of the Republic), are all regulated by separate pieces of legislation²⁸, however these relatively fresh laws, have only few novelties and they re-enforced the already existing electoral system and they have similar procedural provisions²⁹. General assessment of these laws is, that they put participating political organizations basically on equal footing creating no massive obstacles for opposition political organizations in the process of candidacy and in participation and monitoring of the electoral process. However, the common rule, that the permanent members of the electoral bodies are elected by the ruling majority, while additional members are delegated by the promulgated lists, participating on concrete election are actually advantageous for the ruling parties³⁰. The Law on party financing³¹ regulates in detail the financial resources of political activities in Serbia. The law defines different sources and categories of the financing, including the limits of different sources, legally permitted sources, including subsidies from the state, provincial and local budgets, as well as prohibited sources of financing. The law makes no distinction between political subjects in opposition and those in power, they are formally on equal footing. Concerning the subsidies from the budget, parties and other political organizations with small number of members in the parliament, irrespective whether they are in opposition, or they are part of the ruling majority have modest preferential

²⁷ Constitution, Article 106, par. 3.

²⁸ Zakon o izboru narodnih poslanika, [Law on the Election of the Members of the National Assembly] Službeni glasnik RS br. 14/2022 [Official Gazette of the Republic of Serbia no. 14/2022]. Pokrajinska skupštinska odluka o izboru poslanika u Skupštinu Autonomne pokrajine Vojvodine [Assembly Regulation on the Election of the members of the Assembly of the Autonomous Province of Vojvodina], Službeni list APV br. 40/2023 [Official Gazette of the Autonomous Province of Vojvodina no. 40/2023], Zakon o lokalnim izborima [Law on Local Elections], Službeni glasnik RS br. 14/2022, 35/2024 [Official Gazette of the Republic of Serbia no. 22/2022, 35/2024]., Zakon o izboru Predsednika republike [Law on the election of the President of the Republic] , Službeni glasnik RS br. 14/2022 [Official Gazette of the Republic of Serbia no. 22/2022].

²⁹ For example, deputies in assemblies, state, provincial and local are elected in proportional representation system, with party lists, and 3% electoral threshold.

³⁰ Decisions, and by-laws regulating in detail the operation of local electoral bodies, nomination of local electoral body members, on sheets for the collection of support signatures of citizens for voters necessary for the candidacy are all decisions made by permanent members of the electoral committees, hence the ruling majority can influence these decisions easily,. As a consequence, the ruling party can collect support signatures first, consequently, this candidate list will appear on ballot lists with number one, first. etc. After the candidacy phase is ended, the electoral process will be governed by the wider electoral committee, including the delegates of all promulgated list.

³¹ Zakon o finansiranju političkih aktivnosti [Law on Financing Political Activities] Službeni glasnik RS br. 14/2022 [Official Gazette of the Republic of Serbia no.14/2022].

treatment³². Some of the limitations and prohibitions are indirectly favourable to the opposition, others to the ruling majority. For example the ban on donations from domestic public companies or other companies having businesses with the public sector³³ is practically restricting the ruling majority, while the prohibition to receive donations from a foreign citizen, company or organization is mainly in the interest of the ruling majority³⁴. The relatively liberal rules on the individual donations from domestic individuals and companies are indirectly in favour of the ruling majority, bearing in mind that the support to the ruling majority, disposing over all public resources might be a lucrative investment, while investing into the opposition is a highly risky investment³⁵. The rights and functions of the opposition to large extent depends, within constitutional guarantees, on laws regulating media broadcasting. Three major pieces of legislation in the area of broadcasting are the Law on Public Broadcasting and Media³⁶, the Law on Electronic Media³⁷, and the Law on Public Media Services³⁸. Analysing them from the rights and functions of the political opposition, few concrete provisions shall be mentioned. Law on Public Broadcasting and Media declares the protection of plurality in the area of public information and prohibits and sanctions monopolies and media concentration³⁹. The Law on Electronic Media empowers an independent body: Regulatory Body for Electronic Media (hereinafter: REM) with wide range jurisdiction in the area of electronic media, including monitoring and fining, enacting bylaws, distribution of broadcasting licences etc⁴⁰. All decisions of the REM are enacted by the nine member “Council” of the REM, elected by the National Assembly, by majority vote, without special guarantees to the parliamentary opposition⁴¹. However, National Assembly elects members proposed by electronic media associations, associations of journalist, churches, national minority

³² Law on Financing Political Activities, Article 17.

³³ Law on Financing Political Activities, Article 12, par 3.

³⁴ Law on Financing Political Activities, Article 12, par 1.

³⁵ Individuals are permitted to donate yearly maximally 10 average monthly salary, while a companies are permitted to donate yearly maximally 30 average monthly salary. Law on Financing Political Activities, Article 10.

³⁶ Zakon o javnom informisanju i medijima [Law on the Public Information and Media] , Službeni glasnik RS br. 92/2023 [Official Gazette of the Republic of Serbia no. 92/2023].

³⁷ Zakon o elektronskim medijima [Law on Electronic Media] , Službeni glasnik RS br. 92/2023 [Official Gazette of the Republic of Serbia no. 92/2023].

³⁸ Zakon o javnim medijskim servisima [Law on the Public Media Services] , Službeni glasnik RS br. 83/2014, 103/2015, 108/2016, 161/2020, 129/2021, 142/2022, 92/2023 [Official Gazette of the Republic of Serbia no. 83/2014, 103/2015, 108/2016, 161/2020, 129/2021, 142/2022, 92/2023].

³⁹ Law on the Public Information and Media. Articles 6, 53-55.

⁴⁰ Law on Electronic Media, Art. 7.

⁴¹ Law on Electronic Media, Art. 11.

self-government, universities, and various ombudsman-s⁴². This latest provision is aimed to restrict the ruling majority in the National Assembly to elect persons of their own choice. Finally, the Law on the Public Media Services regulates the status and functioning of two public media services (hereinafter: PMS), the Serbian Radio-Television and Vojvodina Radio-Television. According to the law, through its programs, among others, PMS-s are respecting and promoting the pluralism of political ideas, and makes possible the proportional confrontation of different political attitudes⁴³. The rights and functions of the parliamentary opposition and oppositions in provincial and local municipal assemblies are regulated by the standing orders of these democratically elected assemblies. The Standing orders of the Serbian National Assembly⁴⁴, as a general rule, do not make any difference between members of the National Assembly who belong to the ruling majority and those part of the opposition. These rules are colour blind, however some rules are particularly important for the rights of the opposition. The rights and privileges of the members of the National Assembly are equal. The formation of parliamentary fractions require at least five members. The parliamentary fractions are represented in permanent bodies of the National Assembly proportionally to the number of their members, and they have time for discussion also proportionally to their numerical strength. The opposition has no guarantee to have presidents or vice presidents in permanent committees, and the standing orders stipulate that the parliamentary majority should have majority in all permanent committees⁴⁵. The Standing Orders of the National Assembly regulates the question addressed by the member of the National Assembly to the Government or member of the Government in detail⁴⁶. Standing orders of the Assembly of Autonomous Province of Vojvodina and local municipalities, are very similar to the Standing order of the National Assembly, prescribing no special rights and privileges for the opposition deputies.

⁴² Law on Electronic Media, Art. 12.

⁴³ Law on the Public Media Services, Article 7, par 1.

⁴⁴ Poslovnika Narodne Skupštine [Standing Order of the National Assembly], Službeni glasnik RS br. 20/2012 [Official Gazette of the Republic of Serbia no. 20/2012].

⁴⁵ Standing Order of the National Assembly, Article 23, par. 2.

⁴⁶ Standing Order of the National Assembly, Article 204-216.

5. *Measures and techniques of the political parties marginalizing and frustrating the political opposition*

This paper has the ambition to point on and identify those techniques and measures used in Serbia by which the ruling political elites use (and used) in order to marginalize and dismantle political oppositions. These measures and techniques have different effects on the functioning of the political system in Serbia. First, they make extremely difficult for the opposition to democratically dismiss ruling parties, second political opposition is to a large extent excluded from the effective participation in decision-making processes, and prevented to fulfil functions of the political opposition in the democratic state. Finally, such situation radicalizes the political opposition toward the governing majority, in such situation escalation of the political polarisation is a consequence.

In the following, we try to identify and explain main techniques and measure used by the ruling political elite by which it protect its dominant position and marginalize and frustrate oppositions. These are domination, control and exploitation of public institutions and resources, control over media and domination in media, and distortion of local elections and local democracy.

5.1 *Domination, control and exploitation of public institutions and resources*

Slobodan Jovanović, the outstanding Serbian scholar and politician before more than a century formulated that political parties in Serbia are “machines for conquest of the state powers” and “associations for the exploitation of the state powers”⁴⁷. The actuality of the above statement is still undeniable. Actually, the dominant ruling political parties from 1991 till nowadays tried to maximally exploit their electoral victories, to take full control over the complete public sphere, to control the entire system of public institutions, not only the administrative organizations, police, military, but the judiciary and other independent bodies, public institutions in the sphere of education, social and health care and culture etc. Like in the communist period (from 1945 till 1990) when the ruling and only permitted communist party and its leader controlled the entire society, ruling parties after 1990, to a large extent try to establish similar domination in society, with the difference, that they had to take power in

⁴⁷ S. Jovanović, *O državi, Osnovi jedne pravne teorije*, Beograd, 1922, p. 370.

multiparty political environment, with competition with other parties, by the decision of the majority, tested on plural elections.

Ruling political parties after taking power, are using legally entrenched powers of ministries, the government and government bodies, to appoint or hire loyal party members, or non-party member, but loyal sympathizers in administration and different public institutions. It is widely acknowledged that in Serbia not only principals and directors of hospitals, social care institutions, schools, museums, theatres and public utility companies are appointed based on the criteria of loyalty towards the ruling party (parties), but almost all new employments in these institutions require party membership and proof of loyalty. The “Army” of such politically loyal and servile principals and other employees have to continuously prove its loyalty to the ruling party (parties) by participating in political meetings, campaigns and elections. All these persons are registered and monitored by party centres, and those, showing no loyalty and obedience, face discharge (principals, directors) or notice to quit (mainly those employees without permanent status). Besides the employment of party members in public sphere, state resources are exploited also by creating a network of private companies friendly and loyal to the ruling parties and their leaders (client system), usually successfully participating in public procurements. These companies, their employees are also reservoirs of votes for ruling political parties. By the above techniques ruling parties, with time, gradually successfully infiltrate more and more into public institutions, enlarging the number of their party members, the number of certain (safe) voters, party activists. Individuals gradually become aware, that in many professions and businesses loyalty to, and membership in a ruling party is a key for success. Hence, it is not surprising that the ruling parties (SSP in nineties, Democratic party between 2007 and 2012, and SPP from 2013 till nowadays) had enormously large number of party members, the present ruling SPP party has the membership over 800.000 adult citizens. It is the characteristic of the Serbian political system, that the membership of the dismissed, former ruling parties massively migrate into the new ruling political party without caring for ideological differences.⁴⁸ By the way of the above described technique the ruling majority gradually ensure that the members of the political opposition are excluded to large extent from the employment in public sector and management of the public institutions, and second, that they have and

⁴⁸ T. Korhecz, *Ustavno načelo podele vlasti – zakonodavna vlast, izvršna vlast i poželj političkih stranaka u Republici Srbiji [The Principle of the Division of Powers - Legislative and Executive Power and Political Parties in the Republic of Serbia]*, in: D. Simović - E. Šarčević (eds.) *Parlamentarizam u Srbiji [Parliamentarism in Serbia]*, Sarajevo, 2018, p. 132 ff.

“Army” of economically dependent loyal voters and party members, providing massive advantage on all elections.

5.2 Control over media and domination in media

Among the keys for the successful and long domination of the current governing majority over its political opposition is in the dominant position in media. Aleksandar Vučić, the president of Serbia, who is undisputed political leader of Serbia from 2014, formally led the ruling political party, SPP from 2012 till 2023, is clearly dominating the media stage in Serbia.

Although the public information by internet media, social networks, various influencers, self-made reporters are quickly changing the habits of media consumers in Serbia, but they are mostly popular among those under thirty years. The middle age generation, and those over 60 years of age, whose votes are decisive on elections are still, primarily informed from TV broadcasting. From four private Tv Broadcasters with licences for national frequency at least three openly endorse Vučić, and the ruling SPP party, while none of them is close to the ideas of the political opposition. The situation is less disproportionate within two public broadcasters, even these PMS broadcasters are far from objective, impartial and balanced in their programmes⁴⁹. The Progress report on Serbia of the European Commission for 2023 identify only moderate progress in the area of media freedoms and plurality. The commission emphasises that “media pluralism and editorial independence remain to be improved” and that the “political and economic influence on the media remains a source of concern”, furthermore “REM fails to demonstrate its independence in a consistent manner and to exercise its mandate to the full in safeguarding media pluralism and professional standards”⁵⁰. The broadcasters favouring the ruling political majority spent lot of time and energy to openly discredit opposition political parties and their leaders, while they regularly omit to invite them or to ask them to defend their ideas and standings. The media and journalists critical towards the ruling majority are often abused and humiliated by ruling party leaders, facing also anonymous threats and even verbal and physical assaults for their “non-patriotic” behaviour. The influential international media NGO, the RSF “Reporters Sans Frontiers”, in its most recent ranking of states ranked Serbia on 98 place among 180 states⁵¹. The shortcomings

⁴⁹ European Commission, *Serbia 2023 Report*, Brussels, 8.11.2023, p. 45.

⁵⁰ *Ibid.*, p. 6. and p. 44.

⁵¹ <<https://rsf.org/en/index>> (visited 25.06.2024.)

regarding media freedoms of the Serbian democracy are recognized by many from the beginning, but all legislative reforms, and attempts of the international community seems to change little in this area. Today, the media domination of the ruling political parties is not ensured through the state owned and strictly directed media, like in nineties, but with sophisticated indirect financing of the friendly private media houses, buying, changing the ownership of the opposition media, careful distribution of national frequencies. etc. New elites successfully complied with the new legal circumstances, stick was often replaced with carrot, but the domination remained. The media stage in Serbia is not only dominated by the ruling political party and its undisputed political leader Vučić, but it is also deeply polarised. Balanced, fact based, and fact finding journalism is present only sporadically, mainly in some programmes of PMS-s.

5.3 Distortion of local elections and local democracy

Among the techniques and measures of the ruling political parties aimed to prevent political opposition to fulfil its democratic functions and to marginalize it, to prevent it to participate in political decision making processes is the distortion of local democracy in Serbia. In the Milosević era to lesser extent, in the Tadić era much more, but especially in the current Vučić era, ruling party with various measures tried to take control over local self-governments. Local self-governance means that people in local community, by their elected representatives create local policy, decides on local matters, dispose with local incomes in accordance with local needs and locally defined preferences. The ruling parties continuously had a fear that local self-governments and also provincial autonomy can diffuse the public power, they could be a ground where opposition politicians can practice leadership, prove and improve their capacities to govern. The vertical division of powers, such as the horizontal division of powers is alien to political structures with strong desire to control the entire public sector, to control the society as a whole. The option to erase out local self-government is not constitutional and even less realistic, therefore ruling political parties, particularly after 2006 first changed the electoral rules for local elections⁵², and also used other techniques allowing them to distort local democracy and prevent political opposition to strengthen by taking power on local level, even in areas where they are popular and have gifted local leaders. Important legislative step in distorting local democracy had

⁵² Zakon o lokalnim izborima [Law on local elections], Službeni glasnik RS br. 129/2007 [Official Gazette of RS no. 129/2007].

been made with changing the local electoral system. The 2007 Law on local elections introduced proportional representation (PR) system with 5% threshold for the election of deputies in local self-government assemblies. The election of the mayor directly by citizens was replaced with the election of the mayor by majority vote in local assembly. The new local electoral system was almost the same as the electoral system for National Assembly, existing from year 2000. The result of these changes was that strong political parties, with substantial financial resources and capacities became crucial actors in local elections, although lists nominated by civil activists (groups of citizens) were not excluded from the competition, their participation become rather exception, then a rule. In an electoral system where the voter on ballot paper can read only the names of various lists, and bearers of lists, the individual capacities and reputation of candidates on party lists in local community became secondary, while the overall reputation of the party nominating the list of candidates, its presence in media, professionalism of the political campaign, available resources often proved to be decisive for the victory. Furthermore, according to the relevant provision, the bearer of the list can be anyone, including persons who are not on the list of candidates. This rule made possible to nominate lists in all local self- governments with the name of the most popular political leader, as bearer of the list. The electoral system for the members of the Vojvodina provincial Assembly was amended only in 2014⁵³, and after amendments, the combined electoral system was replaced with PR system like in state and local level.

Besides changing the legal framework of the local electoral system favouring major political parties and giving them crucial role in local elections, the distortion of local democracy was further enhanced by setting the date of local and provincial elections on to the same date as elections for the National Assembly. With lot of demagogy and sarcasm this step was explained with less expenses for the organization of elections. This manipulative political-tactical measure entirely changed the character of local elections. Local elections cease to be elections around local issues and local candidates, about local policy, they simply became part of, or derivative of national level political battle. The ruling party campaigned with same slogans, symbols and faces on elections for National Assembly as on local level. The victory on nation level elections guaranteed the victory on provincial and local level as well, with few exception. This way manipulations with local elections contributed further to the

⁵³ Pokrajinska skupštinska odluka o izboru poslanika u Skupštinu Autonomne pokrajine Vojvodina [Provincial Assembly Regulation on the Election of the Assembly of the Autonomous Province of Vojvodina], Službeni list APV br. 23/2014 [Official Gazette of the APV no. 23/2023].

control of the ruling political party over entire public sector and marginalization of the political oppositions. Local democracy become seriously distorted, today it is far from being the school of democracy, decision making and management of issues of local character by the local community and elected authentic representatives of the local community, making possible to protect local peculiarities and diversity in general. Today, the provincial government, mayors and local self-governments are simple executive branches of the central government, by local political actors being there exclusively because of their loyalty to the ruling party and its leader. Finally, these functionaries were elected exclusively because they were nominated by the party leadership and was put on the party list. Their contribution to the electoral victory is minimal, what determines the scope of liberty to act autonomously as future mayors or other local functionaries. What is even more disturbing, that the above described techniques was established already during the Tadić era, it was only developed further during the Vučić era. In deeply polarised Serbian political arena, the distortion of the local democracy do not worry the majority of political parties even within the political opposition. The opposition primarily act to dismiss replace the ruling Regime, not to change the patterns of ruling in Serbia. The ideas of division of powers, consensus and deliberative democracy, diffusion of powers, independent judiciary, federalism, strong local democracy, plurality of cultures, ideas is alien to the political culture in Serbia in general. Politicians mainly believe on strong political leadership, concentration of powers, centralized administration and public powers, majoritarian democracy. How political plurality and local democracy is understood, the statement from 25 of March, 2024 of Dragana Sotirovski, mayor of the town of Niš can illustrate well “I will leave the city of Niš and settle elsewhere if the opposition MP s will win on local elections here, it will be nonsense if the power in local level differs from the state level power, we can not have such situation”⁵⁴. Power sharing, deliberation to reach a consensus, cooperation between the ruling majority and opposition is strange and alien idea in Serbia.

⁵⁴*Sotirovski kaže da će da se seli iz Niša ako pobedi opozicija - oni joj kao opciju nude Požarevac!*, in *direktno.rs*, 25. 03. 2024, available at <https://direktno.rs/vesti/srbija/517944/dragana-sotirovski-nis-opozicija-jelana-milosevic-pozarevac.html#google_vignette> (visited in 26.06.2024.)

6. Conclusion

In previous sections of this paper we tried to identify characteristics and specificities of the ruling majority and the opposition in Serbia. The character of the opposition is tied to the character of the government/ruling majority⁵⁵. We concluded that the political competition in Serbia is deeply polarized continuously from the early nineties⁵⁶. The ruling parties try hard to strongly grasp the power, to exploit political power entirely and to push political opposition to the margins, excluding it from decision-making processes. The opposition on the other hand rejects the governing majority and it is preparing to dismiss and replace the ruling majority in polling places, or even on streets. In Serbia the relationship between the ruling majority and the political opposition is functioning mainly on the pattern of the pendulum democracy (Hendriks), or the majoritarian democracy (Lijphart). Lijphart argued and offered empirical research results for his thesis that proper impetus for the development of the consensus democracy are parliamentary system (with government responsible to the legislative body) and proportional electoral system⁵⁷. In last 25 years Serbia has, at least formally parliamentary system and PR electoral system on national level (in local level in last 17 years) however, consensus democracy is still very alien and rejected in Serbia. One of the reasons why parliamentary system and proportional representation in various democratically elected assemblies had not pushed the Serbian democracy towards consensus democracy model lays in the position of the President of Serbia. The directly elected president, particularly if he was simultaneously the president of the ruling political party, created a situation in which the popularity of the President was above his own party, and second, that the overall power and influence of the president was beyond the influence of the ruling party⁵⁸. This situation pushed Serbia towards so called leader democracy⁵⁹ and the creation of dominant ruling and dominant opposition parties despite of many parties having seats in the national assembly. Such situation was present in all mentioned periods, in the era of Milošević, Tadić and Vučić as well⁶⁰. In such circumstances political opposition in general, and

⁵⁵ J. Blondel, *Political opposition in the contemporary world*, in *Government and Opposition*, 1994, p. 463.

⁵⁶ V. Goati, cit., p. 21 ff.

⁵⁷ A. Lijphart, *Patterns of democracy: Government forms and performance in thirty-six countries*, New Haven & London, 2011, p. 297.

⁵⁸ S. Orlović, *Političke institucije i partijski sistem Srbije [Political Institutions and Party System in Serbia]*, in S. Orlović - D. Kovačević (eds.), *Trideset godina obnovljenog višepartijska u Srbiji, [Thirty Years of reestablished Multiparty System in Serbia]*, Beograd, 2020, pp. 54-56.

⁵⁹ A. Körsényi, *Political Representation in Leader Democracy*, in *Government and Opposition*, 2005, p. 358 ff.

⁶⁰ S. Orlović, cit., p. 55.

parliamentary opposition in particular have no chance to fulfil its basic role and functions, even those characteristic for majoritarian democracies. In order to change things on the ground there is a need to elevate the level of the political culture in Serbia, to finally reject the remains of the totalitarian heritage, with strong political leaders, centralized and concentrated, unlimited state powers. Among the first steps, freedom of expression and media shall be developed and protected, and local democracy restored. These initial steps require both, consensus based political actions and legislative reforms. At least the main political actors should accept, that leader democracies, with centralized and concentrated state powers, and majoritarian decision making are not superior and more successful than consensus democracies based on inclusion of as many people as possible in decision making, with horizontal and vertical division of powers, power sharing, independent judiciary, limited government.

Abstract: The turbulent history of Serbia from early nineties, two decades of political reforms in post-Milosević Serbia was a period of political experiments with parliamentary democracy, last twenty years of this experiment was closely monitored by EU. In this paper we try to identify the legal framework, political and other social causes resulting in a sui generis practice of parliamentary system in Serbia. The hypotheses of this paper claims that the idea of power sharing, limited government, separation of powers, consensus building and participatory democracy is alien to the Serbian political elites and that these shortcomings made and makes almost impossible the realization of the traditional roles of the political opposition. Serbia, as many other transition states on the level of constitution formally accepted a pure, traditional model of Western parliamentary democracy even though it is not deeply rooted in its political tradition and culture.

Keywords: Serbia - political opposition - exploitation of public powers - exclusion - local democracy.

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