

Serbia and Montenegro

Self-rule

INSTITUTIONAL DEPTH AND POLICY SCOPE

Serbia and Montenegro, the legal successor of the Federal Republic of Yugoslavia, was a federation between 1992 and 2002, a confederation between 2003 and 2006, and became two independent states in June 2006 (Batt 2002, 2007; Crnohrnja 2002).¹ The federation and confederation consisted of two republics: Serbia (*Republika Srbija*) and Montenegro (*Republika Crna Gora*). Serbia contained two autonomous regions, Kosovo (*Kosovo i Metohija*) and Vojvodina (*Autonomna Pokrajina Vojvodina*). Serbia was divided into twenty-nine *okruzi* (districts), of which five districts are in Kosovo, plus the capital city of Belgrade (*Beograd*) which also served as a district. Montenegro had no intermediate tier.

The 1992 constitution listed federal competences and granted the constituent republics residual powers. Among federal competences were civil rights, regulation of the single market (including standard setting on agricultural, health, and pharmaceutical products), the environment, health, regional development, science and technology, transportation, territorial waters, property rights, social security and labor standards, foreign relations, customs, immigration, and defense (C 1992, Art. 77). All other matters fell within the jurisdiction of the republics, including the right to conduct foreign relations and conclude treaties on matters within their competence. Citizenship was a competence of the republics, with the proviso that citizens of a republic were automatically citizens of Serbia–Montenegro and enjoyed equal rights and duties in the other republic, except for the right to vote and be elected (C 1992, Art. 17). The constitutional revision of 2003 restricted confederal competences to defense, immigration, international law, standardization, intellectual property, and free movement of people (C 2003, Art. 19). All other competences, including foreign policy and citizenship, rested with the republics (C 2003, Art. 7).

Serbia had two autonomous regions—Kosovo and Vojvodina—with the authority to implement, but not legislate, in the fields of culture, education, language, public information, health and social welfare, environmental protection, urban and rural planning, and regional economic development (C 1990, Art. 109). They did not control local government or have residual powers. In 1990 Vojvodina and Kosovo were stripped of most powers, though the regions kept their parliaments and executives. The constitution was unchanged.

Violence escalated in Kosovo from 1995 and in 1999 it was brought under United Nations administration, though Serbia retained nominal sovereignty (Jenne 2009). Kosovo is not coded for the duration of UN guardianship, and we code it independently from 2008.

After the fall of Milošević in late 2000, the new democratically elected government began negotiations with Vojvodina, which led to the adoption of a law defining the competences of the autonomous province, also known as the omnibus law, which came into force at the beginning of

¹ Federalism in the Federal Republic of Yugoslavia until its dissolution in 1991 is discussed in Bieber (2013).

2002 (Law No. 55/2001). This gave Vojvodina some implementing power with regard to media, health, welfare, the environment, construction and urban development, employment, economy, mining, agriculture, tourism, and sport.

The capital city of Serbia–Montenegro was Belgrade (C 1992, Art. 5 and C 2003, Art. 6) which had its own law and statute within Serbia because the city was also the capital of Serbia (C 1990, Art. 7). The population size of Belgrade in 2002 was about 1.7 million people which was about 14.8 per cent of the total population. The Serbian constitution lays the basis for a separate regulatory framework for the City of Belgrade—which is further specified in national laws and a city statute—regarding the city’s territorial administration, revenues, and specific competences as a capital city (C 1990, Art. 118). Belgrade had the status of a city which meant that it established town municipalities (*gradske opštine*) within its territory each with their own assemblies and chairmen (C 1990, Art. 117–118). In addition to this specific regime, Belgrade also exercised the same competences as other municipalities in culture, educational, environmental protection, health, social welfare, tourism, and town planning and the city also was responsible for state functions elsewhere provided by *okruzi* (C 1990, Art. 113; Council of Europe: Serbia and Montenegro 2001). However, interference and tight supervision by the central government meant that, in practice, municipalities could not independently exercise these responsibilities (Council of Europe: Serbia and Montenegro 2001). We score Belgrade 1 on policy scope to reflect the tight control exercised by the Serbian government.

FISCAL AUTONOMY

Under the 1992 constitution, both the federal government and the republics of Serbia and Montenegro had full authority over all taxes except for some portion of sales taxes and customs and excise taxes (C 1992, Art. 76). The constitutional revision of 2003, which created a confederation, transferred all fiscal powers to the republics and the confederation was dependent on contributions from the republics of Serbia and Montenegro (C 2003, Art. 18).

In Serbia, tax authority was highly centralized, and *okruzi* and the autonomous provinces were dependent on central government transfers. The Serbian constitution stipulated that the autonomous provinces could collect revenues as laid down by law (C 1990, Art. 109), but an enabling law was never passed.^a

Similar to other municipalities, Belgrade received a share of the revenues of taxes on income, property, forestry and fishing, and business but the bases and rates of these taxes were set by the central government (Council of Europe: Serbia and Montenegro 2001). The law on local government stipulated that Belgrade was entitled to receive 5 per cent instead of 10 per cent of business tax revenues collected within its territory (Council of Europe: Serbia and Montenegro 2001).

BORROWING AUTONOMY

During federation, the constitution stipulated that the federal government could not borrow, but the republics could (C 1992, Art. 76). The constitutional revision of 2003 reinforced this (C 2003,

Art. 18). In Serbia, *okruzi*, Belgrade, and the autonomous provinces of Vojvodina and Kosovo were not allowed to borrow.^a

REPRESENTATION

The parliaments of Serbia and Montenegro and, within Serbia, the assemblies of the autonomous provinces of Vojvodina and Kosovo were directly elected on four-year cycles (C 1990, Art. 74; C 1992, Art. 77; C 1992, Art. 80; and C 2003, Art. 20). All assemblies chose their executives (C 1990, Art. 92; C 1992, Art. 92; C 1992, Art. 101; and C 2003, Art. 21). The assembly of Belgrade was composed of directly elected councilors which elected several vice-presidents and a president to form the executive (C 1990, Art. 118; Council of Europe: Serbia and Montenegro 2001). *Okruzi* in Serbia were deconcentrated government outposts without elected officials.

Shared rule

There was considerable power sharing between the republics in the federation and confederation. Within Serbia, there was some bilateral power sharing with the special autonomous regions. Belgrade did not have shared rule.

LAW MAKING

Under the 1992 constitution, the upper house (chamber of republics; *Vece Republika*) of Serbia–Montenegro was made up of twenty deputies from each member republic elected by the republic assemblies (*L1, L2, L3*) (C 1992, Art. 80.3). In general, the two houses voted, by simple majority, on all matters within the jurisdiction of the federal legislature, except that a two-thirds majority in the upper house was necessary for single market legislation, regulation in the socioeconomic field, and regional development (*L4*) (C 1992, Art. 90).

The 2003 reform introduced a unicameral parliament in which Serbia had 91 and Montenegro 35 deputies (C 2003, Art. 20). The aggregation rule fell between the principles of “one region, one vote” and “one person, one vote,” though closer to the former than the latter (Serbia had about ten million inhabitants and Montenegro slightly more than 600,000) (*L1*). Deputies were indirectly elected from the assemblies of Serbia and Montenegro for the first two years upon adoption of the constitutional charter (C 2003, Art. 20). We consider this to be institutional representation (*L2*).^β Regional representatives constituted the majority of representatives (*L3*), and while the scope of parliamentary authority was narrowed compared to its predecessor, the assembly retained significant legislative authority (*L4*). Each republic had a veto since laws and constitutional amendments required a double majority: a majority of representatives of each republic and an overall absolute majority (*L5, L6*) (C 2003, Art. 23). Following a three-year waiting period specified in the constitution (C 2003, Art. 60), the Montenegrin parliament initiated secession by calling for a referendum, which was held in June 2006.

The autonomous provinces of Vojvodina and Kosovo (until it became a UN protectorate in 1999) did not share law making in the (con)federation of Serbia and Montenegro. The assemblies

of the autonomous provinces had the constitutional right to introduce bills and regulations in the Serbian parliament (*L5*) (C 1990, Art. 80).

EXECUTIVE CONTROL

Serbia, Montenegro, Vojvodina, and Kosovo did not have executive control.^α

FISCAL CONTROL

The republics had a veto over the distribution of revenues in the (con)federation through their role in the (con)federal parliament (C 1992, Art. 80.3). From 2003, a double majority was required: a majority of representatives of each republic and an overall absolute majority. This also gave the republics a veto for bilateral fiscal control (C 2003, Art. 23). The autonomous provinces of Vojvodina and Kosovo did not have fiscal control.

BORROWING CONTROL

There were no routine intergovernmental meetings to coordinate borrowing. The autonomous provinces of Kosovo and Vojvodina did not have borrowing control.

CONSTITUTIONAL REFORM

Between 1992 and 2002, constitutional change required a two-thirds majority in both chambers (C 1992, Art. 139). Constitutional articles, including those relating to federal accession, secession, and federal and republic competences, required legislative majorities in each republic and a two-thirds majority in the lower house of the federation (C 1992, Art. 140). From 2003, constitutional change required the consent of both republics' legislatures (C 2003, Art. 61–62) in addition to a double majority in the unicameral legislature (C 2003, Art. 23).

Vojvodina and Kosovo had a veto on constitutional change within Serbia but no input in reforming the constitution of the (con)federation. The Serbian constitution stated that the statutes of the autonomous provinces “shall be enacted by its assembly, subject to prior approval of the national Assembly” (C 1990, Art. 110).^β

Primary references

Montenegro. (1992). “Constitution of the Republic of Montenegro.” October 12, 1992.

Serbia. (1990). “Constitution of the Republic of Serbia.” September 28, 1990.

Serbia. (2001). “Law No. 55/2001. Law on Establishing the Competences of Autonomous Provinces.” December 14, 2001.

Serbia and Montenegro. (1992). “The Constitution of the Federal Republic of Yugoslavia.” April 27, 1992.

Serbia and Montenegro. (2003). “Constitutional Charter of the State Union of Serbia and Montenegro.” February 4, 2003.

Secondary references

- Batt, Judy. 2002. “‘Fuzzy Statehood’ versus Hard Borders: The Impact of EU Enlargement on Romania and Yugoslavia.” In Michael Keating, and James Hughes (eds.), *The Regional Challenge in Central and Eastern Europe. Territorial Restructuring and European Integration*, 161–181. Brussels: P.I.E.-Peter Lang.
- Bieber, Florian. 2013. “‘Federalizing the Federation’ The Failure of the Yugoslav Experiment.” In John Loughlin, John Kincaid, and Wilfried Swenden (eds.), *Routledge Handbook of Regionalism and Federalism*, 513–526. Abingdon: Routledge.
- Crnohrnja, Mihailo. 2002. “Yugoslavia.” In Ann L. Griffiths (ed.), *Handbook of Federal Countries, 2002*, 372–386. Montreal: McGill-Queen’s University Press.
- Dabla-Norris Era, and Paul Wade. 2002. “The Challenge of Fiscal Decentralization in Transition Countries.” *International Monetary Fund Working Paper, WP/02/103*.
- Elazar, Daniel J. 1991. *Federal Systems of the World. A Handbook of Federal, Confederal and Autonomy Arrangements*, 349–355. London: Longman.
- Harloff, Eileen M. 1987. *The Structure of Local Government in Europe: Survey of 29 Countries*, 161–166. The Hague: International Union of Local Authorities.
- Humes, Samuel, and Eileen Martin. 1969. *The Structure of Local Government. A Comparative Survey of 81 Countries*, 633–637. The Hague: International Union of Local Authorities.
- Popovski, Vesna. 1995. “Yugoslavia: Politics, Federation, Nation.” In Graham Smith (ed.), *Federalism: The Multiethnic Challenge*, 180–207. London: Longman.
- Sevic, Zeljko. 2001. “Local Government in Yugoslavia.” In Emilia Kandeveva (ed.), *Stabilization of Local Governments. Local Governments in Central and Eastern Europe. Volume 2*, 417–470. Budapest: Local Government and Public Sector Reform Initiative.
- United Nations Development Program. 2005. *Fiscal Decentralization in Transition Economies: Case Studies from the Balkans and Caucasus*. Bratislava: UNDP.
- Vujacic, Ilija G. 2002. “The Challenges of Ethnic Federalism: Experiences and Lessons of the Former Yugoslavia.” In Jürgen Rose, and Johannes Ch. Traut (eds.), *Federalism and Decentralization. Perspectives for the Transformation Process in Eastern and Central Europe*, 259–270. New York: Palgrave.

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Self-rule in Serbia and Montenegro

| | | | Institutional depth | Policy scope | Fiscal autonomy | Borrowing autonomy | Representation | | Self-rule |
|-------------------------------|----|-----------|------------------------|-----------------|--------------------|-----------------------|----------------|-----------|-----------|
| | | | | | | | Assembly | Executive | |
| Republika Crna Gora | I | 1992-2006 | 3 | 4 | 4 | 3 | 2 | 2 | 18 |
| Republika Srbija | I | 1992-2006 | 3 | 4 | 4 | 3 | 2 | 2 | 18 |
| Okruzi | II | 1992-2006 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Beograd | II | 1992-2006 | 2 | 1 | 0 | 0 | 2 | 2 | 7 |
| Kosovo i Metohija | II | 1992-1998 | 2 | 1 | 0 | 0 | 2 | 2 | 7 |
| Autonomna Pokrajina Vojvodina | II | 1992-2001 | 2 | 1 | 0 | 0 | 2 | 2 | 7 |
| | II | 2002-2006 | 2 | 2 | 0 | 0 | 2 | 2 | 8 |

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Shared rule in Serbia and Montenegro

| | | Law making | | | | | | Executive control | | Fiscal control | | Borrowing control | | Constitutional reform | | Shared rule |
|----------------------------|------------------------|------------|-----|-----|-----|-----|-----|-------------------|---|----------------|---|-------------------|---|-----------------------|---|-------------|
| | | L1 | L2 | L3 | L4 | L5 | L6 | M | B | M | B | M | B | M | B | |
| Republika Crna Gora | 1992-2002 | 0.5 | 0.5 | 0.5 | 0.5 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 4 | 4 | 8 |
| | 2003-2006 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0 | 0 | 2 | 2 | 0 | 0 | 0 | 4 | 9 |
| Republika Srbija | 1992-2002 | 0.5 | 0.5 | 0.5 | 0.5 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 4 | 4 | 8 |
| | 2003-2006 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0 | 0 | 2 | 2 | 0 | 0 | 0 | 4 | 9 |
| Okruzi | 1992-2006 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Beograd | 1992-2006 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Kosovo i Metohija | 1992-1998 ^a | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 1992-1998 ^b | 0 | 0 | 0 | 0 | 0.5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 4.5 |
| Autonomna | 1992-2006 ^a | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Pokrajina Vojvodina | 1992-2006 ^b | 0 | 0 | 0 | 0 | 0.5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 4.5 |

National legislature has: L1 = regional representation; L2 = regional government representation; L3 = majority regional representation; L4 = extensive authority; L5 = bilateral regional consultation; L6 = veto for individual region. Total for shared rule includes the highest score of either multilateral (M) or bilateral (B).

^a Power sharing in Serbia and Montenegro.

^b Power sharing in Serbia. These scores are not used to calculate the country score for Serbia and Montenegro.

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