

SERGIO ORTINO, MITJA ŽAGAR AND VOJTECH MASTNY

THE CHANGING FACES OF FEDERALISM

**Institutional reconfiguration in Europe from
East to West**

MANCHESTER UNIVERSITY PRESS
Manchester and New York

distributed exclusively in the USA by Palgrave

Copyright © Manchester University Press 2005

While copyright in the volume as a whole is vested in Manchester University Press, copyright in individual chapters belongs to their respective authors, and no chapter may be reproduced wholly or in part without the express permission in writing of both author and publisher.

Published by Manchester University Press
Oxford Road, Manchester M13 9NR, UK
and Room 400, 175 Fifth Avenue, New York, NY 10010, USA
www.manchesteruniversitypress.co.uk

Distributed exclusively in the USA by
Palgrave, 175 Fifth Avenue, New York,
NY 10010, USA

Distributed exclusively in Canada by
UBC Press, University of British Columbia, 2029 West Mall,
Vancouver, BC, Canada V6T 1Z2

British Library Cataloguing-in-Publication Data
A catalogue record for this book is available from the British Library

Library of Congress Cataloging-in-Publication Data applied for

ISBN 0 7190 6996 3 *hardback*
EAN 978 0 7190 6996 3

First published 2005

14 13 12 11 10 09 08 07 06 05 10 9 8 7 6 5 4 3 2 1

Typeset in Minion
by Servis Filmsetting Limited, Manchester
Printed in Great Britain
by CPI, Bath

CONTENTS

List of contributors	page vi
Introduction <i>Sergio Ortino, Vojtech Mastny and Mitja Žagar</i>	1
1 The future of Europe in an era of federalism <i>Peter H. Russell</i>	4
2 The historical experience of federalism in Eastern and Central Europe <i>Vojtech Mastny</i>	21
3 The Russian federation and 'functional federalism': lessons from Tatarstan and Chechnya <i>David M. O'Brien</i>	47
4 The role of the Baltic states, Poland and Hungary in the new Europe <i>Kristian Gerner</i>	63
5 The image of Europe: European integration and the new Central Europe <i>András Bozóki</i>	85
6 The collapse of the Yugoslav federation and the viability of asymmetrical federalism <i>Mitja Žagar</i>	107
7 National federalism within the EU: the Austrian experience <i>Peter Pernthaler and Anna Gamper</i>	134
8 Farewell to the 'unitary federal state'? Transformation and tendencies of the German federal system <i>Jens Woelk</i>	156
9 Italy's long devolutionary path towards federalism <i>Francesco Palermo</i>	182
10 Regional autonomy, cultural diversity and European integration: the experience of Spain and Belgium <i>Bruno de Witte</i>	202
11 The United Kingdom and France: a stronger decentralization or just an institutional 'maquillage'? <i>Giovanni Poggeschi</i>	226
12 Some first reflections on the 'treaty establishing a constitution for Europe' <i>Gabriel N. Toggenburg and Orsolya Farkas</i>	246
13 Functional federalism between geopolitics and geo-economics <i>Sergio Ortino</i>	274
Index	299

SERGIO ORTINO, VOJTECH MASTNY AND MITJA ŽAGAR

Introduction

This book is the outcome of the project 'The Applicability of the Federative Model in the Relations between States in Postcommunist Europe'. This project was established as one of the Pan-European Research Groups of the Council for European Studies in New York in 1994. It was designed to bring together scholars from North America, and Western and Eastern Europe to jointly study different aspects of federalism at both national and supranational levels within the interstate setting of post-Cold War Europe. Drawing on expertise from different disciplines, including political science, sociology, history, and constitutional and international law, the project has been directed by Vojtech Mastny and Sergio Ortino.

The project envisaged a series of three meetings with the final goal of producing an authoritative volume on the past, present and future of federalism in Europe. After identifying the principal avenues of inquiry and agreeing on the structure of the volume, the participants in the group prepared drafts of their respective contributions, which were discussed by the group as a whole at its successive meetings and subsequently revised to reach the final form. The contributions included case studies on federalism in different countries, analysis and interpretation of historical experiences with federalism, discussion of theoretical issues, and presentation of federative models potentially applicable at the national and international levels.

The first meeting of the group was held in March 1995 at the Johns Hopkins University School of Advanced International Studies in Bologna, Italy. The second meeting was held in May 1996 at the Open Media Research Institute (OMRI) in Prague, Czech Republic. The third meeting took place in August 1997 at the European Academy in Bolzano, Italy, which also provided financial support. At this meeting, the group appointed Sergio Ortino and Mitja Žagar as co-editors of the book, and Vojtech Mastny as a co-director of the project agreed to assist the editors.

Taking into account the evolution of the project over a period of time during which some of the perspectives on federalism had changed, the group altered the original title of the project to better reflect the broader scope of the volume after additional contributors had been brought in. The new title is that of this book.

The group agreed on the desirability of presenting the almost completed manuscript of the book prior to its publication to a selected wider audience of scholars, journalists and public officials from different parts of Europe and North America. The Institute for Advanced Studies in the Humanities (Kulturwissenschaftliches Institut) in Essen, Germany, provided the forum for this discussion in June 1998. The meeting in Essen, which resulted in revisions of the manuscript, was co-sponsored by the European Academy of Bolzano. However, this was not the final version of the manuscript.

While the manuscript produced after the Essen meeting was in the hands of Gary Bruce for language and copy editing, the process of enlargement of the European Union made an incredible acceleration. The so-called EU eastern enlargement included eight former – Central European and Baltic – communist countries along with Malta and Cyprus. New developments required additional revisions of the manuscript. After the setting up of the European convention the editors decided to ask the authors for the last time to update and revise their contributions for the publication, thereby completing the project and process that had started ten years previously. In this process some additional authors joined the team – some of them replacing original contributors who were no longer able or willing to participate.

Initially, the project began with a focus on Central Europe (Middle Europe, *Mitteleuropa*) – the group of countries situated between the European Union and former Soviet Union. The aim was to consider how these countries might associate with one another while they were waiting – as many clearly were – for their eventual inclusion into the European Union. It quickly became clear, however, that Central Europe as a free-standing association of its own had no future and that an inquiry into federal possibilities for this region had to pay attention to the wider European experience with federalism – both to the east and to the west. Hence the geographic range of the present volume is much broader than Central Europe. It includes the Russian Federation, and Eastern, Central and Western Europe. Special attention is paid to the European Union and federalism in the context of the future developments in Europe. This is reflected also in the structure of this book.

Peter H. Russell provides the theoretical introduction to the volume. He presents the fundamental concepts that frame the discussion on federalism in Europe. The chapter examines the actual and possible role of federalism, its prospects and limitations, in the reuniting of Europe after the end of the Cold War and the fall of communism. This chapter is followed by Vojtech Mastny's contribution on historical federal experiences in Central and Eastern Europe – focusing on economic and federal relations among the countries. Case studies

begin in the East with David O'Brien's study of Tatarstan and Chechnya in the Russian Federation. They then move geographically westward to the countries of Eastern and Central Europe (Baltic and Central European countries) with contributions by Kristian Gerner and András Bozóki, and a chapter by Mitja Žagar on the collapse of the Yugoslav federation. The book reaches Western Europe with chapters on federalism in Austria by Peter Pernthaler and Anna Gamper, on the federal experience of Germany by Jens Woelk, on proposals for federal reforms in Italy by Francesco Palermo, on federal developments in Spain and Belgium by Bruno De Witte, and a chapter on federalizing activities in the UK and France by Giovanni Poggeschi. Orsolya Farkas and Gabriel von Toggenburg analyse the federal dimensions of the EU itself and its projected expansion eastward in their chapter. The book concludes with Sergio Ortino's contribution on 'functional federalism'.

The common denominator of all the chapters is their focus on the federal relationships – past, present and future – within and among the peoples and states of Europe. There is a common expectation that the future of Europe is and ought to be profoundly federal. In this context it is, of course, equally clear that federalism is a complex and multi-faceted concept and that the possible federal developments of Europe will be long and complex processes.

This book would not have been possible without a grant from the Council for European Studies in New York and the generous assistance of the European Academy of Bolzano and the Institute for Advanced Studies in the Humanities in Essen. The contributing authors and editors owe special gratitude to them. The editors would like to thank also all contributing authors for their excellent cooperation. The authors and editors would like to thank Gary Bruce and Savio de Sousa, who as copy editors did an excellent job revising the manuscript for language and style. The editors would also like to thank the publishers, Manchester University Press, for their decision to publish the book, their reviewers for valuable comments, and their editors for their support and assistance in publishing this book.

6

The collapse of the Yugoslav federation and the viability of asymmetrical federalism

Pluralism and asymmetry in multiethnic states

The spectacular collapse of the former Yugoslav federation – a state often praised for its successful management of ethnic relations – has raised the wider question of the viability of federalism as a constitutional solution for multiethnic states. Is the very existence of ethnic diversity an insurmountable problem?¹ Were there alternatives that could have saved the Yugoslav federation? In particular, was the model of an asymmetrical federation which developed in Yugoslavia in the late 1980s such an alternative?

Ethnic and cultural diversity exists in every country. Increased ease of transportation and global communication has resulted in growing internal and international mobility, thereby enhancing diversity. Constitutions and policies, however, have often failed to recognize this reality.² Few countries have recognized the existence of ethnic and cultural pluralism, much less developed mechanisms to regulate possible conflicts.³

Most states and their constitutions are still based on the concept of the nation-state, an entity forged by the historic development of Europe since the sixteenth century. Influenced by the rise of modern European nations and nationalist movements, this concept defined nation-states as ethnically and culturally homogeneous entities that can be properly described as 'single-nation-states'. Such states acquired an ethnic identity. They were perceived as instruments for the realization of national interests of 'titular' nations. The myth of ethnic homogeneity triumphed over the existing reality. Since ethnic diversity was usually perceived as a problem, national constitutions designed hierarchical and homogeneous political systems which ignored the existence of the diverse asymmetries of modern societies. Little attention was paid to citizens not belonging to the 'titular' nation or to other asymmetries inherent in any society.⁴ Thus, the creation of nation-states ironically fostered ethnic

consciousness of minorities and distinct communities that nation-states sought to deny.⁵

The Yugoslav state and the idea of Yugoslavia in history

The first Yugoslav state, established after World War I as the Kingdom of Serbs, Croats and Slovenes,⁶ was not an artificial entity created by great powers. The idea of Yugoslavia, and demands for a common state by its main ethnic constituents, had long existed.

The Yugoslav idea, influenced by Illyrianism and Pan-Slavism, emerged in the nineteenth century. It called for cooperation among 'brotherly' South-Slav(ic) nations and for the creation of an autonomous political unit (within existing empires) or an independent state where they could live together. Several national leaders believed that a common state would lead to national liberation and improve their future development. Two conflicting concepts of a common state existed at this time. The centralist concept advocated the creation of a unitary state, dominated by Serbs and, possibly, the formation of a single Yugoslav nation. The decentralist concept called for the recognition of ethnic diversity and autonomy and the establishment of a federation or confederation. These competing concepts were still in evidence when initiatives to create a new state of South-Slav(ic) nations intensified just before and during World War I. The creation of the Kingdom of Serbs, Croats and Slovenes marked the establishment of the unitary state based on the centralist concept. Although there was some opposition among the non-Serbian population, the fact that the Kingdom of Serbia had emerged victorious after the war, and the fear of a Soviet-type revolution in some regions of the country, combined to quell opposition.⁷

The constitutional development of the former Yugoslavia is usually divided into two main periods: (1) the period of the monarchy and (2) the period of the federal republic. The first period began with the formation of the Kingdom of Serbs, Croats and Slovenes. Its unitary and centralized political system did not reflect the incredible cultural, ethnic and regional diversities in the country, the results of the region's turbulent history. The Balkan peninsula – a natural bridge between Asia and Europe – has been a crossroads of different religions, cultures and civilizations since prehistoric times. Frequent migrations of peoples changed the ethnic composition of the region. When 'new historic peoples' came to the region, the 'old population' moved to remote areas and often managed to preserve their language, culture and identity. South Slavs settled in the territory of the former Yugoslavia in the sixth and seventh centuries. The division of the Roman Empire in the fourth century AD established a borderline, which to a considerable extent still exists, in the territory of what is today Bosnia-Herzegovina. After the schism in 1054, this border divided two Christian cultures: the Roman Catholic culture in the west and the orthodox culture in the east. The invasion of the Ottoman Turks in the fourteenth and fifteenth centuries brought the Islamic relig-

ion and culture to this region. Although Islam dominated eastern culture for five centuries, it did not eliminate orthodox Christianity. Tolerance of the Ottoman Empire enabled the coexistence of several specific – ethnic and regional – Islamic and orthodox cultures. Nevertheless, it did not eliminate occasional conflicts. The border between the Roman Catholic area and the Islamic–orthodox area stabilized along the current political borders of Bosnia-Herzegovina. Rebellions against Ottoman rule in the nineteenth century eroded the Ottoman Empire and enabled the creation of new Balkan states, including the Kingdom of Montenegro and the Kingdom of Serbia, while northern and western parts of the former Yugoslavia remained within Austria–Hungary until the end of World War I.⁸

Instead of recognizing the existing cultural and ethnic diversity, the Yugoslav constitution-makers decided to limit these differences by creating a new ethnic and national identity. The constitution of the Kingdom of Serbs, Croats and Slovenes of 1921 introduced a new concept of ‘one (Serbian–Croatian–Slovenian) nation of three names’ (*troimeni narod*) consisting of three historic ‘tribes’: Serbs, Croats and Slovenes. This concept – influenced by Serbian expansionist nationalism – denied the very existence of Macedonians, Montenegrins and Bosnian Muslims/Bosnians, who were considered South Montenegrin or Bosnian Serbs with specific historic characteristics. The introduction in 1929 of a new official name, ‘The Kingdom of Yugoslavia’, reinforced the unitary system and the goal of creating a new ‘Yugoslav nation’. The constitution of the Kingdom of Yugoslavia of 1931 forbade any political association on ‘religious, tribal (ethnic) or regional’ grounds (Art. 13 Par. 1), thereby substantially restricting political rights, including rights to association and to gather, and freedom of speech. The only trace of linguistic or ethnic pluralism in this constitution was the definition of the official ‘Serbian–Croat–Slovene’ language (Art. 3) based on the recognition of the existence of, at least, three different languages.⁹

Although the constitutions of 1921 and 1931 proclaimed democratic principles and human rights, their provisions were seldom realized. Several constitutional provisions were ignored or even invalidated by subsequent legislation. Additionally, the work of the democratic institutions was often paralysed. The underdeveloped unitary monarchy dominated by the king could not be classified as a democratic state by any standards. Non-Serbian citizens became increasingly dissatisfied because of a number of factors, including the denial of the existence of ethnic pluralism, Serbian domination and expansionism, economic and social crises, restricted human rights and curtailed democracy, centralism and unitarism. Demands for the development of democracy, ethnic and social equality, social, economic and political reform, decentralization and broad autonomy, and for the establishment of federalism were ignored by the ruling establishment. Instead, the official ideology of kinship of the Yugoslav population, and repression, provided for the necessary cohesion.

In the area of federalism, the attempt to decentralize Yugoslavia by the establishment of ‘Banovina of Croatia’ (*Banovina Hrvatska*) in 1939 was the only

important development. 'Banovina of Croatia' included most territories where Croats formed the majority of the local population. It was established through a special decree issued by the vice-regency based upon the constitutional provisions for a state of emergency; that is, without the cooperation of parliament. This decree was the realization of the so-called Cvetković–Maček agreement (*Sporazum Cvetković–Maček*) on mutual cooperation and sharing of power between the ruling Serbian and Croatian elites. Yugoslav prime minister Dragiša Cvetković, the leading Serbian politician at the time, and Vlatko Maček, president of the Croatian peasants' party (*Hrvatska Seljačka Stranka*) and leader of 'the peasant democratic opposition', signed this agreement on 23 August 1939. It was the result of an awareness among national elites that ethnic differences would not disappear and that a new Yugoslav national identity would not be created easily. This agreement assured a special position of Croatia and Croats in the new country, but it also emphasized the equality of Serbs, Croats and Slovenes in the common state. The agreement anticipated wide autonomy and elements of statehood for ethnically defined 'Banovina of Croatia'.¹⁰

The formation of 'Banovina of Croatia' was very controversial. On the one hand, it was the beginning of decentralization in the highly centralized Kingdom of Yugoslavia. The implementation of the Cvetković–Maček agreement and the formation of 'Banovina of Croatia' could very well have laid the foundations for the different treatment and official recognition of ethnic diversity. On the other hand, there were several negative aspects to the establishment of the new political entity. The Cvetković–Maček agreement was an exclusive deal between two hegemonic ethnic elites that assured their domination and introduced a kind of dualism, thereby placing other ethnicities in an inferior position. The formation of 'Banovina of Croatia' decentralized the existing system to a certain degree, but this decentralization was not accompanied by democratization. Additionally, 'Banovina of Croatia' was formed by a special decree issued in an undemocratic – and possibly unconstitutional – way. Although the existing circumstances did not require the declaration of a state of emergency, the ruling regime used constitutional provisions for a state of emergency that entitled the vice-regency to issue special orders. These special orders then had to be confirmed by the People's Assembly.¹¹ The state of emergency declaration caused the dissolution of the People's Assembly. Elections for the new assembly were postponed for different reasons until the beginning of World War II. The People's Assembly has never confirmed the special decree on the formation of 'Banovina of Croatia'.

Were it not for World War II, other nations would certainly have issued claims for similar autonomy. The occupation of Yugoslavia interrupted these developments and prevented the full realization of the agreements for Croatia. As it was, the existence of ethnic diversity was not officially recognized in the Kingdom of Yugoslavia and there were no adequate mechanisms for the democratic regulation of ethnic relations. Democratization had not even started. The existing centralized, unitary and undemocratic political system did not provide the necessary cohesion and failed to mobilize people of different ethnic origin

for the defence of the country. The institutions of the Kingdom of Yugoslavia, including its army, disintegrated within a few days of the attack on Yugoslavia in April 1941, thereby exposing the fragility of Yugoslavia's political system. The occupation ended the first phase of constitutional development.

The four-year occupation of Yugoslavia saw divisions of its territory among aggressors, the rise and fall of Croatian and Serbian puppet states, destruction and casualties. The national liberation movement united all patriots regardless of ethnic origin or political affiliation and liberated the country. The national liberation movement was an important part of the international anti-Hitler coalition. Although the communist party of Yugoslavia (CPY) led and dominated resistance to the Nazis, the national liberation war was above all a struggle for ethnic survival and liberation. The national liberation movement was by its nature multiethnic. Not only did it recognize and respect the existence of ethnic diversity, but it was organized as a coalition of national liberation movements built on the federal model. It proclaimed principles of equality, equal cooperation, 'brotherhood and unity of all Yugoslav nations'.

World War II also witnessed the first major violent ethnic conflict in this territory. The main protagonists of this ethnic war were Serbian Chetniks (*četnici*) and Croatian Ustashe (*ustashe*). Chetniks considered themselves to be the 'king's army in Yugoslavia' and operated mostly in Serbia, Montenegro and Bosnia-Herzegovina. Ustashe were the political and military arm of the Croat puppet state – the Independent State of Croatia. Both armed formations helped in the administration of occupied territories and collaborated with German and Italian occupiers of Yugoslavia in the fight against partisans. Usually, they did not fight each other directly. They terrorized local populations, mostly because of their ethnic or religious origin, but also because of their political affiliation. Ustashe tended to terrorize the Serbian and orthodox population, while Chetniks terrorized Croats and the Catholic population. Both exterminated their political opponents and terrorized Gypsies (Roma) and Jews.

The stages of Yugoslav federalism

Federalism had already been introduced to the former Yugoslavia during World War II. The antifascist council of national liberation of Yugoslavia (AVNOJ), as the supreme authority of the Yugoslav national liberation movement, comprised representatives of all national liberation movements, and established the democratic federal Yugoslavia (DFY) by a decree adopted at its second conference in November 1943. The decree stated that the common resistance of liberation movements of all nations secured the material, political and moral conditions for the 'creation of the future brotherly, democratic, federative community of our nations' built upon the 'democratic federative principle of a community of equal nations'. DFY was defined as a state established 'on the basis of every nation's right to self-determination including the right to secession or union

with other nations'. The federation ensured 'full equality of its five nations, Serbs, Croats, Slovenes, Macedonians and Montenegrins or the national states of the peoples of Serbia, Voivodina [*Vojvodina*] and Sanjak [*Sandžak*], Croatia, Slovenia, Bosnia-Herzegovina, Macedonia and Montenegro, respectively', and excluded 'every possibility of domination, privileges or majorization of one nation to the disadvantage of another, or one federal state to the disadvantage of another'. Additionally, 'all national minorities in Yugoslavia' were ensured national and minority rights by a special decree. The second conference of the AVNOJ decided the cooperation of the partisan movements and the king's government in exile. It also decided that the future form of government in Yugoslavia would be established by a public vote after the war.¹² The adoption of the first postwar constitution in the former Yugoslavia in 1946 marked the beginning of the second – federative – phase of its constitutional development.

The 1946 constitution: the Federal People's Republic of Yugoslavia

The constituent assembly of Yugoslavia was elected immediately after World War II to determine the form of government and adopt a constitution. Its bicameral structure reflected the federal structure of the country. The federal chamber was a house of representatives where one representative was elected per forty thousand voters. The chamber of nations represented federal units and the ethnic plurality of the Yugoslav community. This chamber was to ensure equality of nations (and nationalities) and federal units in the drafting and adopting of the new constitution. Each of the 6 federal units, irrespective of its size, elected 25 representatives to the chamber of nations, whereas citizens of Voivodina elected 15, and citizens of Kosmet and Metohia (Kosovo) 10.¹³ The constituent assembly passed the declaration on the proclamation of the Federal People's Republic of Yugoslavia (FPRY) on 29 November 1945. This declaration determined the republican and federal form of government.

The constituent assembly passed the constitution of the FPRY in January 1946.¹⁴ Following the Soviet example, it established a fairly centralized Soviet-type federal model and a one-party political system known as a 'people's democracy'. Nevertheless, the constitution took into account the federalism of the national liberation movement.

Despite fears of possible disintegration, the constitution defined 'the Yugoslav federal republic' as a 'community of equal nations, which, on the basis of their right to self-determination, including the right to secession, expressed their will to live together in a federative state' (Art. 1). The FPRY was composed of six constituent 'People's Republics' (PRs): Croatia, Slovenia, Bosnia-Herzegovina, Macedonia, Montenegro and Serbia with the autonomous province (AP) of Voivodina and the autonomous region (AR) of Kosovo-Metohia (Art. 2).

Neither the federal constitution nor those of the republics defined Serbia as

a federation, although it included the regions of Voivodina and Kosovo-Metohia which were guaranteed autonomous rights.¹⁵ The federal constitution treated Serbia as one of six republics with equal rights. Nevertheless, it provided for a direct representation of the AP and AR in the federal assembly, which should have strengthened the position of Serbia in the federation. Considering the centralized political process and the power of the federal leadership and CPY at the time, constitutional status, however, held little weight.

Formally, the constituent republics restricted their sovereignty only by transferring to the federation, through the federal constitution, certain rights. Competences of the federation resembled those in other federations, but in practice most relevant political, economic and social issues were decided at the federal level. The federal parliament – the People's Assembly – could change the inter-republic boundaries only with the consent of the affected PRs. The federal constitution proclaimed 'the right to cultural development and free use of their language' for all national minorities (Articles 9–13 of the constitution of the FPRY).

The People's Assembly had two chambers that were equal in their competences. In this manner, the constitution guaranteed a balance between the democratic rule of the people and the equality of the PRs and nations. The federal chamber was a house of representatives and the council of nations represented federal units. The council of nations was to ensure equality of PRs and nations. Each PR, regardless of size, elected 30 representatives, the AP elected 20 representatives, and 15 representatives were elected in the AR.¹⁶

In the years immediately following World War II, communist ideology dominated all spheres of everyday life, including ethnic relations. Continuing its prewar orientation, the CPY insisted on ethnic equality and protection of minorities. The existing political monopoly of power of the CPY considerably reduced the constitutionally provided autonomy of nations and PRs. The official ideology declared that the national liberation and 'socialist revolution' had resolved all ethnic and other social conflicts. Consequently, the constitution did not include provisions on the management and resolution of conflicts. The CPY and its leadership performed these functions informally when needed.

The constitutional law on the foundation of the social and political regulation of the FPRY and on the federal authority bodies of 1953 and revisions of 1954

Following the break with Stalin in 1948, the constitutional law of 1953 introduced self-management, and substantially changed the existing political system.¹⁷ It was expected that the introduction of social self-management would eventually eliminate all social conflicts. The new self-managing system was to replace traditional political institutions and enable full direct social, economic and political participation in the development of the country. The slogan 'Factories to Workers!' was

realized by the election of workers' councils in all factories, and the same organizational concept was to be introduced in all other spheres of life. In this context, the constitutional law abolished the council of nations as an independent chamber of the federal assembly, replacing it with the chamber of producers. The council of nations, as a kind of 'half-chamber' with very restricted competences, became a part of the federal chamber (Articles 14, 44–6, 48). Representatives in the council of nations were elected by the assemblies of the republics, by the autonomous province and by the autonomous region.¹⁸

The revised constitutional law changed the political system a year later and further reduced the role of the council of nations, which remained a part of the federal chamber. Its role was based on the premise of the official ideology that the national liberation war had resolved all major ethnic conflicts and that the introduction of social self-management enabled the resolution of all potential social conflicts. The law provided for the calling of a special session of the council of nations upon the request of its members, but such a session has never been convened.¹⁹

Self-management was developed as an alternative to the Soviet model of development and to Soviet ideology. The formal introduction of self-management in different spheres of economic and social life and the transformation of the 'people's democracy' into a new self-managing system demanded a different role from the CPY. The CPY renamed itself the League of Communists of Yugoslavia (LCY) at its 7th congress in Ljubljana in 1958 to stress its new role in the self-managing society. Although its political and ideological monopoly was still preserved to a large extent, and many changes were cosmetic in order to differentiate the LCY from Soviet-type communist parties, the LCY was nonetheless quite different from traditional communist parties. The political reforms introduced by the LCY opened the door to gradual democratization. The new LCY programme adopted at this congress elaborated the policy and role of the LCY in different fields. It stressed the importance of the principle of self-determination of nations for the existence of the Yugoslav federation. Principles of equality and the 'brotherhood and unity of the Yugoslav nations', and the assurance of adequate social status for ethnic minorities were declared the bases for the regulation of ethnic relations. The LCY was aware of the importance of stable ethnic relations. The programme criticized nationalism, stressing its potential destructive powers in a multiethnic society. Nationalism was defined as 'the remains of bourgeois nationalism' incompatible with self-management and democratic socialism. In the utopian view of the LCY, self-management would resolve all conflicts, including ethnic conflicts, thereby surpassing the conflicting class society.²⁰

The 1963 constitution of the Socialist Federative Republic of Yugoslavia

The constitution of the Socialist Federative Republic of Yugoslavia (SFRY) of 1963 was based on the ideology of social self-management.²¹ It introduced a

system of 'socialist democracy' based on integrative social self-management, and changed the official name of the country to stress these developments. Although Yugoslavia was still defined as a multinational federation, the class component of the federation prevailed over the ethnic component in the constitution. The ideal was the creation of a classless society, free of economic and social exploitation. The federal constitution defined the six Socialist Republics (SRs) as 'state socialist democratic communities, based upon the power of working people and self-management' with their own constitutions, which had to comply with the principles of the federal constitution (Art. 108). Instead of different status for autonomous units, the constitution outlined the equal status of two APs, Kosovo-Metohia and Voivodina. They were defined as socio-political communities within Serbia (Articles 111–12).

The council of nations, which was to reflect a pluralistic ethnic structure and to assure equality among federal units and ethnic communities in the federal parliament, was still a 'sub-chamber' of the federal chamber in the five-chamber federal assembly. Its competences were very limited (Articles 165–6, 190–1).

Besides the general provisions on equality of languages, alphabets and nations, the constitution guaranteed the rights of members of each nation to be educated in their own language in the territory of another republic (Art. 42).²² The constitution also guaranteed the rights of national minorities to education in their own language (Art. 43). Other minority rights were regulated by the constitutions and laws of the SRs. The term 'nationality' was employed instead of the term 'national (ethnic) minority' to express the new ethnic policy that established these minorities as equal communities. These changes actually improved the situation of ethnic minorities in the former Yugoslavia.

In response to different problems in ethnic relations, the competences of the council of nations were strengthened. Amendment I to the federal constitution, implemented in 1967, assured the equality and influence of nations, nationalities, the SRs and the APs. The council of nations was entitled to deal with all matters related to the equality of republics, nations and nationalities, or related to the constitutionally guaranteed rights of the republics. This chamber became equal to the federal chamber within the framework of its competences.²³

Ethnic relations in the former Yugoslavia deteriorated in the late 1960s. Recognizing the importance of amicable ethnic relations and equality for a multiethnic country, a new round of federal constitutional reforms was launched. Amendments VII, IX and XII of 1968 defined the chamber of nations as the first chamber of the federal assembly and significantly strengthened its competences. The chamber of nations independently dealt with matters of equality of the republics and the autonomous provinces and other matters of common interest. As an equal chamber (to the chamber of the working communities), it decided at all instances when two-chamber decision-making was constitutionally anticipated in the federal assembly. In accordance with the specific procedure determined by the standing orders of this chamber, if ten representatives of this chamber so demanded, the chamber of nations could deal with any

issue related to the equality of the republics, nations, nationalities, or with any issue which involved encroachment upon the constitutional rights of the republics and autonomous provinces. Each republic assembly elected twenty representatives to the chamber of nations, and each assembly of the AP elected ten representatives.²⁴

Constitutional Amendment XVIII (1968) outlines the significance of the socialist autonomous provinces (SAPs) of Voivodina and Kosovo within the SR of Serbia for the realization of national equality and for the integral development of self-management. The rights and duties of the SAP and competences of its bodies were determined by its constitutional law in compliance with the federal and Serbian republic constitutions. Additionally, Amendment XIX granted the right to use minority languages in dealing with public institutions and in public activities, in accordance with the constitutions and laws of the republics.

Contrary to the expectations of the ruling regime, the introduction of self-management did not eliminate social conflicts. The system was very complex, thereby limiting popular participation in decision-making. Based on the ideological presumption that Yugoslavia was – or was soon to become – a conflict-free society, the political system did not develop adequate democratic mechanisms for the management and resolution of conflicts. Problems in ethnic relations and occasional nationalistic excesses persisted throughout the 1960s and 1970s. Nationalism escalated especially in Croatia, but it also grew in other parts of the country. Considering its potentially destructive power, nationalism was declared the main danger for the existence of the multinational Yugoslav federation. The leaders of Croatia, Slovenia and Serbia were replaced on the pretext of their nationalism (in combination with so-called liberalism). Lacking adequate constitutional and legal mechanisms for the management of ethnic relations and conflicts, president Tito and the communist leadership employed informal methods to handle these problems. The leadership hoped that further decentralization and the introduction of certain confederal elements into the Yugoslav federal system would prevent possible ethnic conflicts. Influenced by problems in ethnic relations, constitutional amendments in the late 1960s increased the autonomy of SRs and SAPs and stressed the importance of ethnic pluralism. However, this process of decentralization and democratization did not substantially reduce the actual power of the federal centre nor that of the LCY.²⁵

The 1974 constitution of the SFRY

The 1974 constitution of the SFRY²⁶ continued the decentralization and democratization process launched by the constitutional amendments of the 1960s. It emphasized ethnic and social pluralism and – to a certain degree – enabled its manifestation in the political system. The federal constitution further formally increased the autonomy and independence of federal units, the SRs and the SAPs. It was believed that further decentralization of the federation would

enhance the equality of nations and federal units and reduce the possibility of ethnic conflicts.

The constitution of the SFRY defined the SRs as 'states based on the sovereignty of the people and the power of and self-management by the working class and working people'. The dual nature of republics was underlined. They were defined simultaneously as states and as 'socialist, self-managing communities of the working people and citizens and of nations and nationalities having equal rights' (Art. 3). The idea was that self-management would slowly transform the existing models of alienated nation-states with their monopoly of power into self-managing communities based on the initiative and participation of the people. The hope was that self-management would eventually eliminate the traditional nation-state.

The SAPs within the SR of Serbia were not defined as states, but as 'autonomous, socialist, self-managing democratic socio-political communities' which were to provide for ethnic equality and for the preservation of ethnic plurality of these communities (Art. 4). Nevertheless, the SAPs were also considered constituent elements of the Yugoslav federation and the constitution provided for a direct representation of SAPs in all major federal institutions. Again, the constitution did not define Serbia formally as a federation, although Serbia included autonomous provinces which held that status of constituent elements of the Yugoslav federation.

Both chambers of the assembly of the SFRY reflected the federal concept of parity. The federal chamber was defined as a house of representatives to which each SR (irrespective of its size and number of voters) elected 30 delegates and to which each SAP elected 20 delegates (Art. 291). The chamber of the republics and provinces represented federal units composed of delegations of assemblies of SRs and SAPs. The assembly of each republic was assigned 12 delegates, and the assembly of each SAP 8 delegates. The delegates elected to the chamber of the republics and provinces retained their position in the respective republic or province assembly (Art. 292). These solutions were introduced to ensure the greatest possible measure of equality of the constituent SRs (as national states and self-managing communities) and SAPs (as specific self-managing communities) in both chambers of the assembly of the SFRY. In this context, the federal constitution defined which matters had to be decided on the basis of the consensus of all republic and provincial assemblies in the chamber of the republics and provinces. In these matters, the members of this chamber from a certain SR or SAP voted in unison (Art. 295). If a consensus was not reached, the decisions could not be adopted, unless the issue required urgent measures, but even these could not be adopted for longer than one year. A form of minority veto was given to the SRs and the SAPs to ensure their equality (Articles 289, 295–6, 298–304).

The parity structure was also introduced at the level of the presidency of the SFRY to ensure the equality of all federal units (republics and autonomous provinces), nations and nationalities.²⁷ Additionally, the principle was adopted that the federal and ethnic structure should be considered in the formation of

the federal government called the federal executive council (Art. 348 and Amendment XLIII, 1988).

The territory of the Yugoslav federation was composed of the territories of the republics. The borders and the territory of an SR could only be changed with the consent of the affected republic (Art. 5). The borders of the republics, therefore, held legal status similar to the status of international borders.

The constitutional reform of 1974 changed the nature of the Yugoslav federation – at least formally – by introducing certain traditional confederative elements into the system. This reform not only strengthened the autonomy of federal units, but also introduced a concept of shared sovereignty. The federal constitution defined republics as nation-states of constituent nations which were based on the sovereignty of the people. Except for international independence and international legal personality, republics were given all the attributes of statehood. These attributes included constitutions that determined their political systems, coats of arms, national anthems, national official languages, public holidays, and specific educational systems and programmes. Autonomy and independence of the republics were formally limited only by the constitutional principle that the constitutions of republics should not contradict the federal constitution. Nevertheless, the constitutions of the republics introduced only a limited number of specific features into their respective systems. The constitutional and political systems of all the republics were very similar.²⁸

The federal constitution determined the specific constitutional status of both autonomous provinces. Their primary role was to assure ethnic equality and to preserve ethnic plurality in these 'autonomous, socialist, self-managing democratic socio-political communities'. Although they were not defined as states, they were considered constituent elements of the Yugoslav federation. The Yugoslav constitution guaranteed them substantial autonomy and direct representation in federal bodies, in addition to the equal representation which Serbia enjoyed.

The actual level of decentralization in Yugoslavia at the start of the 1970s did not match the decentralized federal system introduced by the constitution. Yugoslavia was still rather centralized. The LCY dominated political processes and life; its monopoly of power was not questioned. When the constitution was drafted, there was even some criticism that the direct representation of autonomous provinces in federal bodies, in addition to the equal republic representation of Serbia, could favour the Socialist Republic of Serbia within the federation. The Serbian leadership, however, insisted on such an arrangement.

Following the introduction of the federal, republic and provincial constitutions in 1974, the gradual process of (formal) decentralization began in Yugoslavia. This process intensified especially after the death of president Tito in 1980 and culminated in the late 1980s and the early 1990s. Formerly, president Tito and the LCY had played the central role in political processes and had been the main integrative factors in the Yugoslav federation in the 1970s. They played the central role also in the resolution of conflicts, although their role was

not determined by the constitution. The constitution – based on the official ideological presumption that Yugoslavia was a conflict-free society and that the system of self-management assured the necessary cohesion – did not create any political institutions that could have assumed the informal functions of president Tito and the LCY in the management of conflicts and in assuring the necessary cohesion within the system. This deficit became particularly evident in the late 1980s.

The process of decentralization gradually increased the actual autonomy and influence of federal units, including that of the autonomous provinces. They became important independent players at the federal level in the 1980s and their interests often conflicted with the interests of Serbia. The Serbian leadership started to complain that this situation placed the republic in an inferior position in the federation. They claimed that Serbia was unable to control its own affairs and entire territory. It should be remembered that the constitution of the Socialist Republic of Serbia of 1974 assured the direct participation and influence of both autonomous provinces within political institutions at the republic level. On the other hand, the provincial and Serbian constitutions did not regulate the Serbian republic government in its dealings with the autonomous provinces. Beginning in the 1980s, the Serbian leadership, unhappy with the existing situation and constitutional arrangements, began to demand the introduction of policies and institutional reforms that would assure the influence and control of the Serbian government over provincial affairs.

Although the constitution of 1974 did not open up the political process very much, it started the process of gradual democratization that enabled the formal introduction of democracy in the late 1980s and early 1990s. Simultaneously with decentralization, the constitution introduced the system of self-managing communities of interests that managed the existing pluralism of interests in different fields – such as culture, education, science and research, social insurance and healthcare. This concept of pluralism of self-managing interests gradually opened up the political process to different political interests. This development led to the establishment of the first opposition organizations. In Slovenia, opposition was channelled into an official umbrella socio-political organization called the socialist alliance of working people. The development of organized opposition was hampered by the escalating crisis.²⁹

The social and economic crises in Yugoslavia and the 1988 constitutional amendments to the 1974 constitution of the SFRY

The economic, political and social crises in the former Yugoslavia deepened in the 1980s and the existing system was unable to deal with them. Although the ruling regime acknowledged the existence of the economic crisis, it denied the existence of the social and political crises until the late 1980s. It claimed that the only problem was the inadequate realization of the existing constitutional system.³⁰ By

the time the regime recognized the existence of the social and political crises and the need to reform the existing political system in Yugoslavia, the consensus of all federal units necessary to amend the federal constitution no longer existed. Two opposing concepts for political reform of the federation had emerged by the late 1980s that had made global political reform impossible. The first concept advocated further decentralization and increased autonomy of the federal units, while the second concept called for a strong and centralized federation.

The adoption of constitutional amendments in 1988³¹ represented a compromise, but ultimately a solution that failed to resolve the major problems of the day. Nevertheless, these amendments enabled further democratization, multiparty elections and the introduction of certain limited economic and political reforms. These reforms proposed by the federal government of prime minister Marković soon failed, however. There was neither the political consensus nor the public support necessary for successful political and economic reform.

The amendments of 1988 introduced some elements of centralization at the federal level. They assured the special stable financing of the federal Yugoslav people's army and increased the competences of the federation. They introduced minor changes in the functioning of the federal government and other institutions. Nevertheless, the centralization was much less than that advocated by the 'centralists'. On the other hand, these amendments did not include any key proposals of the 'decentralists', who demanded weaker federal institutions, further decentralization of the political and economic systems, and increased autonomy for the federal units.

In the period from 1989 to 1991, all attempts to reform the existing political system failed. The proposals to centralize the existing federal system and substantially increase competences of federal institutions advocated by the federal institutions, Serbia and Montenegro did not find the necessary support.³² The proposal to introduce asymmetrical federalism, which would have allowed for different political systems within Yugoslavia, and the proposal of Slovenia and Croatia for a confederal Yugoslav union were also rejected.³³ Conflicts between the 'centralists' and 'decentralists' escalated in the late 1980s, until they finally paralysed the existing political system at the beginning of the 1990s.

The collapse of the Yugoslav federation

Economic, social and political differences in Yugoslavia continued to grow in the 1980s. This became especially evident in the different level of democratization and in the specific political situations in the republics and the autonomous provinces. Political systems of individual federal units began to reflect the political concept desired by their political leadership. This led to the establishment of different political systems in each federal unit. Differences between the republics and autonomous provinces increased with the introduction of political pluralism and a multiparty system. Each federal unit followed its own, specific path.

Consequently, the constitutional reforms carried out in the republics and the autonomous provinces reflected these growing differences.³⁴

Constitutional reforms in the republics and autonomous provinces after World War II traditionally involved the harmonization of the constitutions of the republics and provinces with the amended or new federal constitution. Constitutional reforms in republics and autonomous provinces in the period from 1989 to 1991 substantially exceeded this traditional task. Republic and provincial constitutions introduced political concepts that were often inconsistent with the existing constitution of the SFRY of 1974 as amended in 1981 and 1988. The new constitutions in Serbia and Croatia and the amended constitution of Slovenia reshaped the federation and changed relations at the federal level, although there were no new formal changes to the federal constitution.

Slobodan Milošević, the Serbian communist leader,³⁵ had consolidated his political power in Serbia by 1988. He arranged for his supporters to publicly demonstrate for the replacement of the existing leadership in the autonomous provinces, and took control over both autonomous provinces. His supporters were mostly low-paid workers of Serbian nationality, who believed they were defending Yugoslavia and Serbian interests; they were an organized mob that threw their lunch – bread and yoghurt – at their opponents. For this reason their marches were called, colloquially, the ‘Yoghurt revolution’. Milošević also had political ambitions as a leader at the federal level and advocated the introduction of a centralized Yugoslav federation dominated by the LCY. He envisaged that Serbia and its autonomous provinces would play a central role. Following the failure of his proposals to reform the federation and the LCY, he focused on political reforms in Serbia that would ensure his political power. In September 1990, prior to the first multiparty elections, Serbia became the first Yugoslav republic to adopt a new constitution. The constitution of the Republic of Serbia³⁶ introduced the (semi)presidential system, thereby replacing the former assembly system. It essentially diminished the autonomy of both autonomous provinces, which no longer had their own constitutions. These provincial constitutions, which had guaranteed a high level of provincial autonomy, were replaced by provincial statutes. The consent of the people’s assembly of the Republic of Serbia was required for the adoption of the provincial statute by the provincial assembly. The new Serbian constitution abolished the presidencies of both provinces and changed the name of the autonomous province of Kosovo to the autonomous province of Kosovo and Metohia. (Articles 6, 108–12) Although the Serbian constitution encroached upon the constitution of the SFRY (1974), Serbia maintained that the federal bodies should not be changed and that the autonomous provinces, now controlled by Serbia, should remain represented in the federal bodies, thereby ensuring Serbian control over these bodies. In the area of ethnic minority rights, Serbia, at least formally, retained the regulations which were already in force. However, minority rights received less protection due to the reduction of the autonomy of the provinces.

After the first multiparty elections in 1990 the previous political opposition –

the Croatian democratic union (*Hrvatska demokratska zajednica*) – came to power in Croatia. The constitution of the Republic of Croatia³⁷ was adopted in December 1990, when Croatia was still a constitutive part of the SFRY. This constitution regulated the bases for the multiparty political system and introduced a specific variant of the (semi)presidential system. However, it did not define Croatia as a multinational state, which aggravated relations with the Serbian minority. Rebellious Serbs in Croatia – supported by the leadership of Serbia – demanded the status of a constituent nation and rejected being treated merely as a national minority. These conflicts resulted in a civil war (1991–92) and the temporary division of the country. During the war in Croatia, the Croatian parliament (*Sabor*) passed a special constitutional law on human rights and freedoms and on special rights of ethnic minorities. In addition to certain traditional minority rights, minorities were given the right to special cultural autonomy. Their proportional participation in the representative bodies was assured, with the possibility of founding local communities and regions with special autonomous status.³⁸

Slovenia chose a different path for constitutional reform. From 1989 to 1991 the republic's assembly adopted almost a hundred amendments to the republic's constitution of 1974. These constitutional amendments introduced political pluralism, furthered political and economic democratization, strengthened the republic's autonomy, reinforced Slovenia's right to self-determination, abolished the communist political ideology in the Preamble and changed the official name of the Socialist Republic of Slovenia to the Republic of Slovenia. This gradual constitutional reform enabled a peaceful political transition, and political and social stability. The SFRY no longer existed by December 1991 when the constitution of the Republic of Slovenia was adopted.³⁹ Official international recognition of Slovenia's independence came in January 1992.

The process of the disintegration of ex-Yugoslavia had already started in the 1980s, long before the actual collapse and disintegration took place.⁴⁰ The existing federal constitution and the inability to reform the economy, political system and federation contributed to this.

The conflict between advocates of centralization (and initially also unitarism) and advocates of decentralization existed even before the creation of the Yugoslav state after World War I. It persisted throughout its existence, conditioned its constitutional and political development and contributed to the tragic collapse of the multiethnic Yugoslav federation. In the late 1980s two conflicting concepts emerged within the Yugoslav communist leadership. Considering social and economic differences and especially different levels of democratization in the republics and provinces, the Slovenian and later Croatian leadership called for democratization, the introduction of political pluralism (and later a multiparty political system and elections), further decentralization of the federation and stronger autonomy for federal units. On the other hand, the Serbian political leadership – with the support of Montenegro and some federal institutions – demanded (re)centralization of the federation, the reinforcement of 'democratic centralism' in the LCY and the strengthening of its political monopoly, a strong

federal centre and limited autonomy for the federal units. This political conflict between the communist leadership of Serbia and Slovenia was soon perceived as an ethnic conflict. The growth of Serbian expansionist nationalism and the escalation of conflicts increased the support for decentralization of the federation in Croatia, Macedonia and Bosnia-Herzegovina at the beginning of the 1990s. As it turned out, neither of the options prevailed. Escalating conflicts paralysed the existing constitutional system, rendering it incapable of coping with the crisis.

The process of democratization in Yugoslavia proceeded at a different pace in each federal unit in the late 1980s. It resulted in the creation of political parties, the formal introduction of a multiparty system and the first multiparty elections in all republics in 1990. Political parties emerged in an environment without multiparty political traditions, where people had been used to a single-party political system. Lacking other effective possibilities, politicians in different regions used ethnicity and ethnic myths to mobilize people for their political aims. Politicians reinterpreted ethnic myths and historic events to explain their actions, proposals and political programmes and to attract support.⁴¹ Ethnic affiliation and nationalism became important political factors in all republics and provinces. The use of nationalism and historic and ethnic myths contributed to the transformation of political conflicts into ethnic conflicts.

Yugoslavia did not become as conflict-free as the communist ideology had hoped. The existing constitutional and political system failed to provide for the necessary cohesion of the multiethnic Yugoslav community. President Tito and the LCY were very successful at the informal management and resolution of ethnic and other social conflicts after World War II due to their political and social influence. Not only did the death of president Tito in 1980 and the disintegration of the LCY in 1990 eliminate successful factors in the informal management and resolution of conflicts, but they also eliminated key informal factors that provided for the internal cohesion of Yugoslavia. The lack of formal constitutional mechanisms for the management of crises, the disappearance of effective informal mechanisms and (especially) the lack of interest in a common existence within the federation contributed to the escalation of conflicts at the beginning of the 1990s. The Yugoslav constitution of 1974 had therefore failed to perform its main task: it did not prevent the collapse of the Yugoslav federation because it failed to provide the formal democratic framework, mechanisms and procedures for the management of crises and for the peaceful resolution of ethnic and other conflicts. The failure to amend the federal constitution and reform the federation – including the rejection of the introduction of asymmetrical federation – was also an important factor in this context.⁴²

The alternative of asymmetrical federation

Federalism was an important issue in Yugoslavia after World War II. The federal arrangement seemed to be the only possible 'solution' for this multiethnic

country and it became a constitutional principle that found broad popular support. Federalism was taught at schools and research on federalism was encouraged.⁴³ When it became obvious that the existing federal model was unable to handle the growing crisis in Yugoslavia, the search for alternative solutions began. The positive aspects of the existing federal model, as well as its deficiencies, were carefully studied⁴⁴ in an attempt to develop an adequate federal model.

The concept of asymmetrical federalism emerged in Yugoslavia in the late 1980s, a few years before social asymmetries became central topics in the social sciences. The term 'asymmetrical federation' was first used by professor Peter Jambrek and the author of this chapter in a public discussion on the proposed federal constitutional reform, organized by the Slovenian Writers' Association and Slovenian Sociological Association in Ljubljana (Slovenia) in March 1988. In his discourse on existing asymmetries in complex modern societies, professor Jambrek mentioned the struggle of Quebec for the status of a distinct community within the Canadian federation. I spoke of the need for political systems to reflect asymmetrical reality considering the existing problems in Yugoslavia. We suggested a new federal model – 'the asymmetrical federation' – that would enable federal units to gain special status in certain fields in order to realize their specific interests. We argued that principles of asymmetry should also be used to reform the Yugoslav federation. In the two years following this meeting, I developed a theoretical model of the asymmetrical federation by taking into account contemporary studies and theories of federalism, the situation in the former Yugoslavia and similar developments in the world. This model offered solutions for the coexistence of different political systems in a federation.⁴⁵

The concept of the asymmetrical federation attracted the interest of politicians in Slovenia at the end of 1988. They saw the asymmetrical federation as a decentralized alternative to the existing federal system. Discussions on asymmetrical federalism in Slovenia intensified at the beginning of 1989 when the first proposals to introduce this model in Yugoslavia appeared.⁴⁶ These discussions provoked vigorous reactions from advocates of centralization from other regions of the former Yugoslavia. They rejected any discussion of the idea that asymmetrical federalism was an alternative to federal constitutional reform. Opponents of asymmetrical federalism declared that the very initiative to discuss these issues was an attempt to destroy the existing Yugoslav federation.⁴⁷

Nevertheless, the Slovenian political leadership officially proposed in 1989 the introduction of an asymmetrical federation. The document 'for the European quality of life', adopted by the central committee of the League of Communists of Slovenia (LCS) on 26 October 1989 reads:

What is the asymmetrical federation?

We call for the further development of the Yugoslav federation so as to assure a stable and effective federal state based on the recognition of diversity and independence of the republics. Those republics which advocate a specific decision can agree to adopt this decision for themselves [*at the level of the federation*]. They must also

assure the financing of any new activities. The decision in question is binding only on those republics which actually adopt it.⁴⁸

At the 11th Congress of the LCS a few months later, the LCS adopted the above proposal and added the following text: 'This proposal does not undermine the functions of the federation such as international relations, defense against foreign aggression, and those functions that secure Yugoslavia as a common economic space.'⁴⁹ The Slovene political leadership and the LCS hoped that these proposals would stimulate democratic discussions which would develop compromise solutions for future constitutional reform of the federation. These hopes proved naive, as proposals for the introduction of asymmetrical federalism in Yugoslavia were immediately rejected.

Following the rejection of these proposals, the presidencies of Slovenia and Croatia went a step further and prepared a confederate proposal for reform which proposed the transformation of Yugoslavia into a community of independent states of Yugoslav nations, similar to the European Union. This proposal reflected the political sentiment of a majority of the people in Slovenia and Croatia who were unhappy with the existing federal arrangements but who still believed that their multiethnic community could be democratized and reformed.⁵⁰

The theoretical model of asymmetrical federalism that served as the basis for the above proposals was designed to translate the asymmetries and differences that existed in Yugoslavia into a political and legal system. By establishing the procedure for asymmetrical decision-making, the constitution of an asymmetrical federation allows every federal unit to realize its specific interests within the constitutional framework. The federal constitution establishes the list of issues that are to be decided in this way.

The model of asymmetrical decision-making in federations is very different from traditional models of decision-making in federations, which tend to be based on the fixed division of competences between the federation and federal units. Traditionally, decisions made at the federal level are binding for all federal units. For the adoption of certain important decisions, federal constitutions require decisions by a specially weighted majority. Very seldom is the consensus of all federal units required, and in such cases the veto of one federal unit blocks the decision. The federal constitution in an asymmetrical federation introduces the model of asymmetrical decision-making for those issues that would usually require decisions by consensus or by a weighted majority. This model enables federal units that wish to regulate certain issues at the federal level to adopt a decision which will be binding on all federal units that adopt it. On the other hand, to protect the equality and interests of federal units, the model of asymmetrical decision-making enables individual federal units to reject such a decision at the federal level if they disagree with it. Federal units that reject the decision at the federal level are entitled to regulate this issue for themselves.

The logical consequences of the application of the model of asymmetrical

decision-making are new asymmetries in the legal and constitutional systems. If the procedure for asymmetrical decision-making is employed, decisions will be binding only on those federal units that actually adopt them. Such decisions could establish new functions and powers of the federation regarding these federal units. Federal institutions could perform different functions for different federal units or groups of federal units. When federal units authorize the federation to perform certain common functions for them, they have to assure the necessary organizational structure and financial resources at the federal level. They also have to determine decision-making procedures and the framework of their cooperation. As mentioned above, federal units which do not adopt these decisions are not bound by them. They could regulate, arrange and perform these issues, functions and competences on their own.⁵¹

The theoretical model of the asymmetrical federation introduces a flexible division of competences and powers based on the primacy of federal units. The federal constitution determines exclusive competences of the federation by enumeration. All other competences and powers rest with the federal units. A specific feature of the asymmetrical model is that if a number of federal units decide to do so, they are permitted to transfer certain competences and powers to the federation, even if there is no consensus of all federal units. Participating federal units could establish two or more different legal and political sub-systems within the federation. This system may be useful in multiethnic and diverse countries, because it can accommodate substantial asymmetries within the constitutional system.

Critics of this model claim that it would result in a very complex and ineffective system. They fear that the asymmetrical federation would be unable to function properly and that people would not understand it due to its complexity. Such a situation, they argue, could lead to instability.

To reduce these problems, the constitutions of asymmetrical federations must precisely define the extent and content of asymmetrical decision-making within the federal system. Constitutions can limit the asymmetrical decision-making to specific issues, cases, functions and fields. It is most likely that constitutions will continue to determine the fixed common competences, powers and functions of federal institutions, and the basic relations between the federation and federal units.

The model of the asymmetrical federation can be employed to decentralize existing federal states and to increase the role of federal units within the federation. It was designed to assure equality of federal units and of distinct (ethnic) communities, regardless of their size, social power and position. The model of asymmetrical federalism may be considered to be a mechanism for the regulation of ethnic relations in multiethnic countries and for the management of social and economic crises.

This model could also have international implications. It could be used at the level of international integration – such as the European Union – as a mechanism that would assure the protection of specific interests of member states in

different fields. It could also provide the formal framework for different speeds of integration and different circles of participating member states.

The asymmetrical federation was seen in Yugoslavia as a (possible) stage in the transition from a federation into a confederation (confederacy) or vice versa.⁵²

The model of the asymmetrical federation has never been applied. In Yugoslavia it emerged too late to become a viable alternative. The tragic collapse of Yugoslavia was the result of the existing political system and the particular federal model that was unable to deal with the growing crisis. Nevertheless, the main reason for the collapse was the lack of interest on the part of federal units and the Yugoslav population to stay together in the future. It became impossible to mobilize people and distinct communities for active participation in the management of the crisis. Had such a mobilization been possible, elements of the model of asymmetrical federalism could have been used in combination with other proposals to address the crisis.

After the disintegration of the SFRY

The SFRY disintegrated, but federalism has not disappeared from the territory of the former Yugoslavia. Two of the five successor states are, at least formally, federations – the federal republic of Yugoslavia, which was in 2003 officially renamed Serbia and Montenegro, thereby eliminating the name of Yugoslavia from the world's political map – and Bosnia-Herzegovina, established by the Dayton agreement. Each would make an interesting case study. Although they differ substantially, both are asymmetrical and internally diverse, and both are experiencing severe problems in ethnic relations that could endanger their very existence. Their existing federal models are specific and will likely evolve substantially if they survive long enough. Without the assistance and pressure of the international community in implementing the Dayton agreement, Bosnia-Herzegovina would have already disintegrated. This federation is especially interesting, as it is an attempt to prevent future civil/ethnic wars in this territory. It consists of the Bosnian–Croat federation and the Republic of Srpska, which also represents three main ethnic communities in the country. Although the Dayton accord established Bosnia-Herzegovina as the only independent and sovereign state, it hardly exists in practice and is totally dependent on the international community, as many – or perhaps most – Croats and Serbs would prefer unification with their respective nation-state.⁵³

Notes

- 1 Tensions among ethnic groups were evident in the 1980s and 1990s in several countries of the first, second and third world, such as Belgium, Canada, Chechnya (Russia), India, Iraq, Israel, Lebanon, Mexico, Nagorno Karabakh, Northern Ireland (UK), Peru, Rwanda, Spain, Sri Lanka, Tibet (China), USA (e.g. racial riots in Los Angeles) and the

ex-Yugoslavia (including its successor states: Bosnia-Herzegovina, Croatia, Macedonia and the Federal Republic of Yugoslavia with Kosovo, Sandjak and Voivodina). Tensions among ethnic groups and ethnic conflicts were less likely to transform into violent conflicts and (civil ethnic) wars in democratic countries with rich democratic traditions. See T. R. Gurr and B. Harff, *Minorities at Risk* (Washington, DC: United States Institute for Peace, 1993); T. R. Gurr and B. Harff, *Ethnic Conflict in World Politics* (Boulder, Colorado: Westview Press, 1994).

- 2 On the other hand, several authors emphasize the importance of the regulation of ethnic relations and the protection of (ethnic, national) minorities for modern democracies and their development. See F. Benot-Rohmer and H. Hardeman, 'The minority question in Europe: towards the creation of a coherent European regime', *CEPS Paper*, 55 (Brussels: Centre for European Policy Studies, 1994); F. Capotorti, *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities* (New York: United Nations, 1991); W. Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995); R. Stavenhagen, *The Ethnic Question: Conflicts, Development, and Human Rights* (Tokyo/Hong Kong: United Nations University Press, 1990); M. Žagar, 'Evolving concepts of protection of minorities: international and constitutional law', *Gradiva in razprave* [Treatises and Documents], 31 (Ljubljana: Institute for Ethnic Studies, 1996), 135–91.
- 3 The analysis of more than eighty constitutions confirms this statement. For the information on the research project 'Democratization and Resolution of Ethnic Conflict: Management and Resolution of Ethnic Conflict in Democratic Societies' sponsored by the United States Information Agency – US Congress Democracy Commission Small Grants Program and its preliminary research findings, see M. Žagar, B. Jesih and R. Bešter (eds), *Constitutional, Legal and Political Regulation of Ethnic Relation and Conflicts: Selected Papers*. (Ethnicity 2. Ljubljana: Institute for Ethnic Studies, 1999). The project's internet home-page is located at: www.unisa.edu.au/lavskis/zagar/slovenia.htm, accessed 15 December 2003.
- 4 For further details on nation-states and their constitutions see M. Žagar, 'Constitutions in multi-ethnic reality', *Gradiva in razprave* [Treatises and Documents], 29–30 (Ljubljana: Institute for Ethnic Studies, 1994/1995), 143–6, 152–3; M. Žagar, 'Nation-states, their constitutions and multi-ethnic reality: do constitutions of nation-states correspond to ethnic reality?', *Journal of Ethno Development*, 3:3, 1–5, 6–8.
- 5 See M. Keating, 'Asymmetrical territorial devolution. Principles and practice', *Project on Federalism and Compounded Representation in Western Europe – University of Western Ontario* (Oslo: Norwegian Nobel Institute, June 1996), and Chapters 3 and 10 in this volume.
- 6 Western parts of Slovenia, Istria and Dalmatia – that had been given to Italy by great powers for its participation in World War I – became parts of the former Yugoslavia after World War II.
- 7 On the creation of the Yugoslav state, see I. Banac, *The National Question in Yugoslavia: Origins, History, Politics* (Ithaca/London: Cornell University Press, 1993, 1984); D. Djordjević (ed.), *The Creation of Yugoslavia, 1914–1918* (Santa Barbara/London: Clio Books, 1980).
- 8 See C. Jelavich and B. Jelavich, *The Establishment of the Balkan National States, 1804–1920*, vol. 8 of *A History of East Central Europe* (Seattle: University of Washington Press, 1977).
- 9 On the constitution of the Kingdom of Serbs, Croats and Slovenes of 28 June 1921 (also called 'St Vitus' Constitution' [vidovdanska ustava]), the Law on the Name and Division of the Monarchy into Administrative Regions of October 1929 that introduced the new official name 'The Kingdom of Yugoslavia' and the constitution of the Kingdom of Yugoslavia granted by King Aleksandar in 1931 in the Serbo-Croat language, see B.

- Petranović and M. F. Zečević (eds), *Jugoslovanski federalizam: Ideje i stvarnost, Tematska zbirka dokumenata, Prvi tom 1914–1943* [Yugoslav Federalism: Ideas and Reality, Thematic Collection of Documents, Vol. 1, 1914–1943] (Beograd: Prosveta, 1987).
- 10 For the Serbo-Croatian text of the agreement see Petranović and Zečević (eds), *Jugoslovanski federalizam*, pp. 508–10.
 - 11 See Art. 116 of the constitution of the Kingdom of Yugoslavia of 1931.
 - 12 The second conference of AVNOJ, held in Jajce (Bosnia-Herzegovina) on 29 and 30 November 1943, adopted the 'Decree on the Formation of Yugoslavia on the Basis of Federative Principle' that established the DFY. For the text of this and other documents of the conference (in Serbo-Croat and Slovene) see B. Petranović and M. F. Zečević (eds), *Jugoslovanski federalizam, Ideje i stvarnost, Tematska zbirka dokumenata, Drugi tom, 1943–1986*. [Yugoslav Federalism: Ideas and Reality, Thematic Collection of Documents, Vol. 2] (Beograd: Prosveta, 1987), pp. 791–801; *Prvo in drugo zasedanje AVNOJ; 26. in 27. novembra 1942 in 29. in 30. novembra 1943* [The First and Second Conference of AVNOJ: 26–27 November 1942 and 29–30 November 1943] (Ljubljana: Komunist, 1973). Citations from the decree translated by M. Žagar.
 - 13 The law also regulated the procedures for decision-making and the required majority for the adoption of decisions. See 'Zakon o ustavotvorni skupščini' [The Law on the Constituent Assembly], *Službeni list DFJ/ Uradni list DFJ* [Official Gazette of the DFY], 63 (1945).
 - 14 For the Serbo-Croat text of this constitution with commentaries, see *Novi ustavi: Zbirka ustava donetih posle drugog svetskog rata* [New Constitutions: A Collection of Constitutions, Adopted after World War II]. (Belgrade: Arhiv za pravne i društvene nauke, 1949), pp. 11–40, 155; Petranović and Zečević (eds), *Jugoslovanski federalizam*, Vol. 2, pp. 234–44.
 - 15 Art. 13 of the constitution of the PR of Serbia of 1947 stated that the AP and AR had autonomous rights, ensured by the constitution of the PR of Serbia in accordance with the constitution of the FPRY. It also outlined that each autonomous unit had its own autonomous statute, sanctioning its autonomous rights. These autonomous statutes had to be submitted to the People's Assembly of the PR of Serbia for verification. See Petranović and Zečević (eds), *Jugoslovanski federalizam*, Vol. 2, pp. 245–6.
 - 16 On the constitutional provisions for the People's Assembly, its chambers and the Presidium of the People's Assembly, see Articles 49–57, 60, 64, 70 of the constitution of the FPRY.
 - 17 See 'Ustavni zakon o temeljih družbene in politične ureditve FLRJ in o zveznih organih oblasti' [Constitutional Law on the Foundation of the Social and Political Regulation of the FPRY and on the Federal Authority Bodies], *Službeni list FNRJ/ Uradni list FLRJ* [Official Gazette of the FPRY], 3 (1953).
 - 18 The federal chamber was elected by voters in general elections. They elected 1 representative per 60,000 voters (Art. 26). People's representatives, standing for the council of nations, were elected in such a way that each republic's assembly elected 10 representatives, the autonomous province's assembly 6, and the assembly of the autonomous region 4 representatives (Art. 27 of the constitutional law).
 - 19 See: 'Zakon o spremembi 45, 46, 47, 48, in 2 odstavka 51. Člena ustavnega zakona o temeljih družbene in politične ureditve FLRJ in o zveznih organih oblasti' [Law on the Changing of Articles 45, 46, 47, 48 and Paragraph 2 Art. 51 of the Constitutional Law on the Foundations of the Social and Political Regulation of the FPRY and on the Federal Authority Bodies], *Službeni list FNRJ/ Uradni list FLRJ* [Official Gazette of the FPRY], 13 (1954).
 - 20 See *Program Zveze komunistov Jugoslavije, sprejet na 7. kongresu ZKJ* [The Programme of the LCY: Adopted at the 7th Congress of the LCY] (Ljubljana: Komunist, 1978), especially its section 'Federation and relations between the Nations of Yugoslavia', pp. 157–66.

- 21 See U. Sfrj, 'Ustava Socialistične federativne republike Jugoslavije' [The Constitution of the SFRY], *Uradni list SFRJ* [Official Gazette of the SFRY], 14 (1963).
- 22 Paragraph 3 of Art. 42 introduced an exemption to the principle of equality of languages and scripts of the nations of Yugoslavia: In the Yugoslav people's army only the Serbo-Croat language was used at the level of command, in military education and in the administration.
- 23 See Amendment I (1967) of the constitutional Amendments to the constitution of the SFRY of 1963, *Uradni list SFRJ* [Official Gazette of the SFRY], 18 (1967).
- 24 The chamber of nations, with 140 representatives, was the largest of the chambers of the federal assembly, which had 120 representatives each. See constitutional Amendments VII, IX (1968) to the constitution of the SFRY, 1963, *Uradni list SFRJ* [Official Gazette of the SFRY], 55 (1968).
- 25 Historian Dušan Bilandžić claims that as early as the beginning and mid-1960s the late Yugoslav president Tito and Edvard Kardelj expressed their fear that ethnic conflicts and aggressive nationalism in Yugoslavia could endanger its very existence and cause the destruction of the multinational state. The solution was sought in decentralization and even confederalization of the state, in order to ensure greater autonomy and independent development for each republic. See D. Bilandžić, 'Tito je još 1962. predvidio raspad Jugoslavije: Nekrolog SFRJ' [Tito Foresaw the Decomposition of Yugoslavia already in 1962: Necrology to the SFRY], *Slobodni tjednik* (Zagreb: 5 September 1992), p. 10.
- 26 See 'Ustava Socialistične federativne republike Jugoslavije' [The Constitution of the SFRY (1974)], *Uradni list SFRJ* [Official Gazette of the SFRY], 9 (1974), and corrections in 11 (1974). Official English translation: *The Constitution of the SFRY (With Constitutional Amendments I–VIII of 1981)* (Belgrade: The Assembly of the SFRY, 1981).
- 27 The proportional structure of the presidency of the SFRY was ensured by Amendment XXXIV (1971) to the constitution of the SFRY (1963). According to the constitution of the SFRY (1974), after president Tito's death, the president of the LCY was required to be a member of the presidency, together with the representatives of the republics and provinces, elected by the assemblies of the republics and provinces (Art. 321 and Amendment IV, 1981). This was changed with Amendment XLI (1988), when only representatives of the republics and provinces remained in the presidency.
- 28 See Ustav SFRJ, 'Ustavi socijalističkih republika i pokrajina, Ustavni zakoni, Registar pojmova' [The constitution of the SFRY, 'Constitutions of SRs and SAPs, Constitutional Laws (Legal) Glossary'] *Zbirka propisa* [Collection of Laws and Rules] (Beograd: Prosveta, 1974).
- 29 On the role of the federal constitution of 1974 in the process of democratization, see M. Žagar, 'Nekaj hipotez o kvadraturi kroga: Ustava SFRJ in proces osamosvajanja Republike Slovenije – Etnična dimenzija osamosvajanja Slovenije' [The Constitution of the SFRY and the Struggle for the Independence of the Republic of Slovenia: Ethnic Dimensions of the Independence], *Gradiva in razprave* [Treatises and Documents], 29–30 (Ljubljana: Inštitut za narodnostna vprašanja/Institute for Ethnic Studies, 1994/1995), pp. 231–60; M. Žagar, 'Ustava Socialistične federativne republike Jugoslavije iz leta 1974 in osamosvajanje Republike Slovenije' [The Constitution of the SFRY and the Independence of the Republic of Slovenia], *Slovenci in država: Zbornik prispevkov z znanstvenega posveta na SAZU, od 9. do 11. novembra 1994* [Slovenians and the State: The Collection of Contribution at the Scientific Conference at the Slovenian Academy of Sciences and Arts, 9–11 November 1994]. *Razprave/Dissertationes* 17. (Ljubljana: Slovenska akademija znanosti in umetnosti, Razred za zgodovinske in družbene vede/Academia scientiarum et artium Slovenica, Classis I: Historia et Sociologia, 1995), pp. 367–78. See also M. Klemenčič and M. Žagar, *The Former Yugoslavia's Diverse Peoples: A Reference Sourcebook*. (Santa Barbara, Ca., Denver, Co., Oxford: ABC Clío, 2004).

- 30 See *Kritična analiza delovanja političnega sistema socialističnega samoupravljanja* [Critical Analysis of the Functioning of the Political System of Socialist Self-Management]. (Ljubljana: Zvezni družbeni svet za vprašanja družbene ureditve, Delavska enotnost, 1985).
- 31 See Amendments IX-XC (1988) to the constitution of the SFRY (1974), *Uradni list SFRJ* [Official Gazette of the SFRY], 70 (1988).
- 32 The presidency of the SFRY prepared a proposal for the reform of the federation based largely on the Serbian concept of a centralized federation, although the presidency's proposal was not as radical. This proposal supported by federal institutions, including the federal army, was supported by Serbia, which hoped to take control of the federal institutions on the basis of this proposal. See 'A concept for the constitutional system of Yugoslavia on a federal basis', *Review of International Affairs*, 41:974 (1990), 15–18.
- 33 See the proposal for 'A Confederate Model Among the South Slavic States' by the presidency of the Republic of Croatia and the Presidency of the Republic of Slovenia, Zagreb and Ljubljana, 4 October 1990, *Review of International Affairs*, 41:973 (1990), 11–16.
- 34 These differences between constitutions of SRs and SAPs grew with the adoption of constitutional amendments and new constitutions in 1989–91. See M. Žagar, *Primerjalna analiza amandmajev k ustavam SR in SAP iz leta 1989 v primerjavi z ustavo SFRJ (1974) in ustavnimi amandmaji (1981, 1988): Primerjava amandmajev k ustavi SFRJ (1988) z amandmaji k ustavam SR in SAP iz leta 1989* [Comparative Analysis of Amendments to Constitutions of SRs and SAPs of 1989 in Comparison with the Constitution of the SFRY of 1974 as Amended in 1981 and 1988: The Comparison of the Amendments to the Constitution of the SFRY of 1974 Adopted in 1988 with the Amendments to Constitutions of SRs and SAPs Adopted in 1989] (Ljubljana: Predsedstvo SRS, October–November 1989).
- 35 At the beginning of the 1990s, Slobodan Milošević was elected president of Serbia and served for two consecutive terms in this office. In the late 1990s he was elected president of the Federal Republic of Yugoslavia, which included Serbia and Montenegro.
- 36 See 'Ustav Republike Srbije' [The Constitution of the Republic of Serbia], *Službeni list RS* [Official Gazette of the Republic of Serbia], 1 (1990).
- 37 See 'Ustav Republike Hrvatske' [The Constitution of the Republic of Croatia], *Narodne novine RH* [Official Gazette of the Republic of Croatia], 56 (1990).
- 38 See 'Ustavni zakon' [The Constitutional Law on Human Rights and Freedoms and on the Rights of Ethnic and National Communities or Minorities in the Republic of Croatia], *Narodne novine RH* [Official Gazette of the Republic of Croatia], 65 (1991).
- 39 See 'Ustava Republike Slovenije' [The Constitution of the Republic of Slovenia], *Uradni list Republike Slovenije* [Official Gazette of the Republic of Slovenia], 33 (1991). The official English translation of the constitution was published in the autumn of 1992: Constitution of the Republic of Slovenia (Ljubljana, 1992).
- 40 The disintegration of the SFRY was officially recognized by the international community in January 1992, when the European Union (including some member states) and a number of other states recognized the independence of Slovenia and Croatia.
- 41 The medieval states of the Bosnians, Croats, Serbs and Slovenes were interpreted as direct predecessors of contemporary nation-states, although there was no such continuity. In explaining current political decisions and programmes, references were often made to specific historic events – such as the battle of Kosovo polje (Kosovo field) in Serbia or the Independent State of Croatia during World War II (totally dependent on Germany and Italy).
- 42 For a more detailed personal account of the Yugoslav crisis and the analysis of the collapse of ex-Yugoslavia see M. Žagar, 'Yugoslavia: what went wrong? Constitutional aspects of the Yugoslav crisis from the perspective of ethnic conflict', in M. Spencer (ed.), *The Lessons of Yugoslavia*, Research on Russia and Eastern Europe Series, Vol. 3

- (Amsterdam, Toronto et al.: JAI An Imprint of Elsevier Science, 2000), pp. 65–96; M. Klemenčič and M. Žagar, *The Former Yugoslavia's Diverse Peoples*, pp. 194–366.
- 43 The extensive list of books on federalism by Yugoslav authors includes: M. Jovičić, *Savremeni federalizam: Uporednopravna studija* [Modern federalism: A Study in Comparative Constitutional Law] Institut za uporedno pravo, Monografije 72 (Belgrade: Savremena administracija, 1973); Z. Lerotić, *Jugoslavenska politička klasa i federalizam* [Yugoslav Political Class and Federalism] (Zagreb: Globus, 1989); Z. Lerotić, *Načela federalizma višenacionalne države* [The Principles of Federalism in a Multiethnic State] (Zagreb: Biblioteka Globus, 1985); P. S. Nikolić, *Federacija i federalne jedinice: Uticaj federalnih jedinica na vršenje federalne vlasti. Ustavno-pravni aspekt* [Federation and Federal Units: The influence of Federal Units on the Powers of the Federal Authorities. Constitutional and Legal Issues] (Belgrade: Novinsko-izdavačka ustanova Službeni list SFR Jugoslavije, 1989); C. Ribičić and Z. Tomac, *Federalizam po mjeri budućnosti* [Federalism of the future] (Zagreb: Globus, 1989).
 - 44 A number of foreign authors also took part in the analysis of both the positive elements and problems of the Yugoslav system and federalism in general. See B. Denitch, *Limits and Possibilities: The Crisis of Yugoslav Socialism and State Socialist Systems* (Minneapolis, MN: University of Minnesota Press, 1990); S. P. Ramet, *Nationalism and Federalism in Yugoslavia, 1962–1991*. 2nd edn (Bloomington/Indianapolis: Indiana University Press, 1984, 1992); D. Rusinow, *The Yugoslav Experiment, 1948–1974* (Berkeley, Los Angeles: University of California Press, 1977); D. Rusinow (ed.), *Yugoslavia: A Fractured Federalism* (Washington, DC: The Wilson Center Press, 1988).
 - 45 See M. Žagar, *Sodobni federalizem s posebnim poudarkom na asimetrični federaciji v večnacionalnih državah, Doktorska disertacija* [Modern Federalism and the Applicability of the Theoretical Model of the Asymmetrical Federation in Multi-Ethnic States PhD Dissertation] (Ljubljana: Univerza Edvarda Kardelja v Ljubljani, Pravna fakulteta, 1990), pp. 325–98.
 - 46 The first article about asymmetrical federation appeared in the daily newspaper *Dnevnik*. See M. Žagar, 'Teze o asimetrični federaciji, I' [Theses on the Asymmetrical Federation, I], *Dnevnik* (Ljubljana, 11 April 1989), 11–12, and 'Teze o asimetrični federaciji, II' [Theses on the Asymmetrical Federation, II], *Dnevnik* (18 April 1989), 12. The first book that elaborated this concept in the context of the constitutional reforms of Yugoslavia appeared soon after. See M. Žagar, *Kakšni naj bosta novi ustavi? Teze za novo slovensko in jugoslovansko ustavo ter teze listine o človekovih pravicah in temeljnih svoboščinah* [How Should the New Constitutions Look? Thesis for the New Slovene and the New Yugoslav Constitution and for the Bill of Human Rights] (Ljubljana: Komunist, 1989), pp. 38–44.
 - 47 The opponents of decentralization and the asymmetrical federation demanded centralization, a stronger federal centre, and reduced autonomy of federal units. They thought that the best way of handling the crisis was to reduce existing differences and asymmetries in the former Yugoslavia. They usually opposed the introduction of political pluralism and a multiparty political system. (For a review of negative and positive reactions to proposals to introduce the asymmetrical federation in ex-Yugoslavia see Žagar, *Sodobni federalizem s posebnim poudarkom na asimetrični federaciji v večnacionalnih državah*, pp. 331–3, 382–5.)
 - 48 See: *Evropa zdaj!* [Europe Now!] (Ljubljana: 2 November 1989), p. 11. (Translated by S. P. Ramet and M. Žagar; the comment in brackets added by M. Žagar.)
 - 49 See *Za evropsko kakovost življenja, Dokumenti 11. kongresa ZKS For* [European Quality of Life, Documents of XI Congress of LCS] (Ljubljana: Komunist, 1990), pp. 43–4. (Translated by M. Žagar.)
 - 50 Beginning in the spring of 1990, the LCS and all other parties advocated confederal (confederate) status for Slovenia in Yugoslavia. Although some opposition leaders hoped for

full international independence for Slovenia, political parties did not include such a demand in their programmes at that time. See Žagar, *Sodobni federalizem s posebnim poudarkom na asimetrični federaciji v večnacionalnih državah*, pp. 330–3.

51 The legal and political theoretical models of the asymmetrical federation are elaborated in Žagar, *Sodobni federalizem s posebnim poudarkom na asimetrični federaciji v večnacionalnih državah*, pp. 337–97.

52 See M. Cerar Jr, 'Pojmovnik: Asimetrična federacija' [The Dictionary: Asymmetrical Federation], *Teleks* (6 July 1989), 29.

53 See *The Dayton Peace Accords: General Framework Agreement for Peace in Bosnia and Herzegovina* (Vienna: USIA Regional Program Office, 1995).