

# State Capture and Widespread Corruption in Serbia

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## Abstract

Large-scale systemic state capture, which is the root of widespread corruption, is acquiring such proportions in Serbia that it may undermine the success of its transition. 'State capture' is defined as any group or social strata, external to the state, that seizes decisive influence over state institutions and policies for its own interests and against the public good. The appropriation of state institutions and functions by the political party leadership is being carried out at an alarming rate in Serbia, as supported by research data in this paper by Vesna Pesic, an International Policy Research Fellow. The phenomenon of state capture is explored in depth looking at its background, prevalence and variety of mechanisms in Serbia today. The author concludes with policy options and recommendations to help curb corruption, address the deep mistrust expressed by the Serbian people about their political system, and to pave the way for democratic transition.

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# STATE CAPTURE AND WIDESPREAD CORRUPTION IN SERBIA

VESNA PESIC\*

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## Introduction

Large-scale and systemic state capture, which is the root of widespread corruption, is acquiring such proportions in Serbia that it may undermine the success of its transition. This phenomenon of state capture has to be differentiated from the corrupt actions of giving and receiving bribery ('administrative corruption') and connected with the institutional and legal weaknesses of the social system. Recent literature<sup>1</sup> defines state capture as the 'seizure' of laws to the advantage of corporate business via influential political links in the parliament and government. When the state is captured in this manner, the whole legal system becomes the opposite of what it should be, because it works to the advantage of illegal interests that are dressed up in a legal form.<sup>2</sup> For the purpose of this policy paper, I have defined 'state capture' as any group or social strata, external to the state, that exercises decisive influence over state institutions and policies for its own interests against the public good. I will show that in Serbia, political parties are the main agents being used to appropriate state and public assets. They are systematically expanding their political and financial power, influence and ability to employ their relatives and party cronies, and promote the personal and corporate interests of the political and economic elites in control behind the scene. The appropriation of state institutions and functions by the political party leadership is being carried out by the use of a variety of mechanisms, which I will explain using my research data. How the citizens of Serbia perceive the role of the parties in state capture and corruption will be presented using a survey of public opinion conducted specifically for this paper. I will conclude by presenting a list of policies that should be applied to reduce or neutralise the captured state phenomenon.

## 1. The extent of the problem

During the first two transition years after the overthrow of Slobodan Milosevic in 2000, political corruption in Serbia seemed to decline. The government was not the centre of corruption as was the case in the previous regime.<sup>3</sup> When the first democratic Prime Minister, Zoran Djindjic,

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<sup>1</sup> See for example J. Hellman, G. Jones, and D. Kaufmann, *Seize the State, Seize the Day: State Capture, Corruption and Influence in Transition*, World Bank Policy Research Paper 2444, September 2000; Daniel Kaufman, "Rethinking Governance Empirical Lessons Challenge Orthodoxy", World Bank Institute, Discussion Draft, March, 2003; Joel Hellman and Daniel Kaufmann, "The Inequality of Influence" ([http://www.worldbank.org/wbi/governance/pdf/inequality\\_influence.pdf](http://www.worldbank.org/wbi/governance/pdf/inequality_influence.pdf)).

<sup>2</sup> For more about the concept of state capture, see Nemanja Nenadic, "Tycoons and Corruption", *Politika*, 12 November 2006.

<sup>3</sup> The beginning of the transition in Serbia counts from the fall of the regime of Slobodan Milosevic, October, 2000.

was assassinated and his government<sup>4</sup> was forced to resign under the pressure of his political rivals (from the same victorious coalition which took power in October 2000 against Milosevic, and which was backed by the ‘old forces’), state capture was renewed together with the rise of *party influence* on the state institutions.<sup>5</sup> After the elections in December 2003 and after a new government was created in March 2004, state capture began to reach alarming proportions – a trend that has continued for the past two and a half years. The extent of political corruption is corroborated by the World Bank report on patterns and trends of corruption in all transition countries in the 2002-05 period.<sup>6</sup> The research shows that some transition countries have recorded continued success in fighting corruption (Georgia, Slovakia, Romania, Bulgaria and Croatia made headway with regard to all dimensions, while Moldova, Tajikistan, Ukraine and Latvia made progress along some dimensions). On the other hand, some countries, including Serbia, Albania, the Kyrgyz Republic and Azerbaijan, experienced an increase in corruption after 2002 with respect to monitored indicators. Serbia has suffered both an increase in ‘petty’ i.e. administrative, corruption (bribery)<sup>7</sup> and state capture, which is qualified as ‘grand and systemic corruption’ rooted in political corruption and uncontrolled powers of the political elite. With regard to higher levels of state capture, Serbia finds itself in the same group as Albania, Bosnia-Herzegovina and the FYR of Macedonia.

The Serbian citizens’ perceptions of corruption coincide with the World Bank’s research results and the TI (Transparency International) CPI rank. The data of the survey conducted for this policy paper (see Annex I) show that Serbia’s citizens think corruption is widespread and that it has increased in recent years. When asked about the proportions of corruption, only 3% of those polled think it is minor, 34% qualify it as considerable, while 53% perceive it as widespread. As many as 56% of the respondents think corruption has risen in the past two years, while merely 19% are of the view that it has decreased (the rest had no opinion). The answers to the question: “During which government has corruption been the greatest?” yielded similar percentages: 51% said it was never greater than in the Milosevic era, while 25% said it was greatest now. Only 9% think corruption was at its highest during the first post-Milosevic government (led by Prime Minister Djindjic) and 5% think it was the highest when Prime Minister Zivkovic led the same government after Djindjic’s assassination.<sup>8</sup>

Following the change in government, there was a shift in priorities leading to a more old-styled manner of governance, expressed in the political/party control of the police, the security intelligence agency, the media, and the judiciary, bringing back the old cadres to positions in

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<sup>4</sup> After the assassination, the government remained the same and only the Prime Minister was elected – Zoran Zivkovic, the Vice-President of the Democratic Party and Djindjic’s close collaborator.

<sup>5</sup> This is not to say that there was significantly less corruption in Serbia during the first (Djindjic’s) government. Rather, it is to say that the first government and its ministers, as public institutions of the highest influence, had not yet been captured by the party elite’s interests, nor were public appointments yet based exclusively on party criteria. Extreme appointment manipulation did not yet exist as a major link for the appropriation of the public interests. The ‘party state’ had not yet been created.

<sup>6</sup> *Anti-corruption in Transition 3, Who is Succeeding...and Why?*, James H. Anderson and Cheryl W. Gray, World Bank, Washington, D.C., 2006

<sup>7</sup> This research has also shown one positive trend: there was a reduction in the percentage of profit given to bribery. It was reported that this was due to smaller amounts being asked for bribery. Although the requests are becoming more frequent, the total amount of corruption was lower.

<sup>8</sup> I count only two governments after Milosevic: one of Djindjic, and the other of Kostunica. Some people claim that there were three governments. They include the Zivkovic government as a separate one. Since Zivkovic as Prime Minister did not change the Djindjic government from the personnel point of view, nor did he introduce changes in policy, and since it only lasted from March to November 2003, I have not treated it separately.

state organs. Whereas the first Djindjic government<sup>9</sup> ambitiously and enthusiastically concentrated on enabling Serbia to integrate with the EU as soon as possible, enthusiasm for the EU integration process noticeably ebbed after the second government came to power. A rightist clerical-nationalist party has played the leading role in the coalition government set up in March 2004.<sup>10</sup> Adverse to western values, it has placed commitment to EU integration on a back burner.<sup>11</sup>

The second transition government continued with the passing of a number of anti-corruption laws,<sup>12</sup> contributing to a trend towards improvement in Serbia's position on the TI rating score during the period of 2003-06 (Serbia had not been measured prior to these years). The most recent publication of the TI Corruption Perception Index (CPI) for 2006 shows that Serbia has slightly improved its position, rising from a 97-103 ranking to a 90-92 ranking (together with Suriname and Gabon), with a CPI of 3.0 (it was 2.7 for 2004 and 2.8 for 2005) among 163 countries. This grade is still very low and signifies endemic corruption (5.0 means that corruption has been reduced to a somewhat bearable level). A comparison with the ex-socialist countries shows that the best are Estonia with 6.7, Slovenia with 6.4 and Hungary with 5.2, while Albania (2.6), Russia (2.5) and Belarus (2.1) have the worst positions. Serbia is in the bottom half of the 20 ex-socialist countries; it has the 13th position on the list. Its grade is only slightly better than the worst and substantially worse than the best countries.

Although Kostunica's government has passed a number of laws which have had some effect on the country's rating, adequate institutional reforms have not been established to ensure accountability, transparency, rule of law, public sector effectiveness and merit-based public office appointments. The implementation of some laws was postponed or had no great consequence. Rather, the government has focused on reviving nationalist values, resolving the "Serbian national issue" and preserving the staff and corruptive institutional structures that better serve such objectives. Reforms of the state institutions have merely been rhetorical. Insufficient encouragement has been given to the competitiveness of the economic and political systems. New decrees have extended discretionary decision-making methods.<sup>13</sup> The privatisation of the big public companies has not yet begun.<sup>14</sup> The effectiveness of regulatory institutions has been sabotaged and the implementation of the Law on Auditing State

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<sup>9</sup> In the Serbian public's mind, the assassination of Zoran Djindjic was understood to be the resistance of the old cadres in security institutions to his intention to modernise Serbia and prepare the country to join the EU as soon as possible. His cooperation with the Hague Tribunal crimes was part of his threat to reform the military and secret police and bring in new administrative people.

<sup>10</sup> It is the Democratic Party of Serbia (DPS) whose president is Vojislav Kostunica, presently Prime Minister of Serbia, and ex-President of the Federal Republic of Yugoslavia.

<sup>11</sup> This proves that the EU has stopped negotiations with Serbia about the S&A agreement because of the lack of political will to extradite Ratko Mladic and others accused of war crimes to the ICTY.

<sup>12</sup> The Law on the Prevention of Conflicts of Interest was passed in April 2004; the Law on Free Access to Information, November 2004; the Law on the State Auditing Institution, at the end of 2005; the Law on the Protection of Competition – the "Anti-Monopoly law," September 2005; while the Ombudsman Law, and the Anti-corruption Strategy were passed by Parliament in December 2005.

<sup>13</sup> Ex-minister of Finance, Bozidar Djelic, says that the new wave of politisation of public institutions has led to the unilateral increase in discretionary decision-making by the Government (unsupported by law or Parliamentary decision) regarding different types of taxes (excise tax on petroleum, customs tariffs, etc.). These were previously regulated by law. See *Kada cemo ziveti bolje* (When We Will Live Better), Sluzbeni Glasnik at al., Belgrade, 2006.

<sup>14</sup> Under considerable pressure by the International Monetary Fund to start the privatisation of the public companies, the Serbian Government's strategy is to begin with the partial privatization of the Serbian Petroleum Industry (Naftna industrija Srbije – NIS), which will take place in 2007.

Institutions and the Ombudsperson Law has been delayed. The Anti-Corruption National Strategy passed in December 2005 still lacks an institutional framework; specific action plans have not yet been drafted.

The weakening of the European orientation of the Serbian transition has been accompanied by the rebuilding by the political and business elite<sup>15</sup> of 'state capture' mechanisms. They have been able to 'seize control' of state institutions, exercise immense influence and amass considerable wealth. The phenomenon of state capture has been responsible for large-scale growing corruption and has seriously jeopardised public interest and transition in Serbia. Although transition in the economic sphere (mainly on the macroeconomic level and privatisation) has continued, institution-building in political, judiciary and administrative systems has been delayed, creating the opportunity for state capture.

The visible consequence of the deficiencies described above has been the continual corruption affairs appearing in the news during the past three years. All cases have been at ministry level. The greatest number has been connected with the 'finance party' (G17 Plus). Scandals have included: the privatisation procedure of the National Savings Bank;<sup>16</sup> a bribery situation publicly known as the 'Brief Case Affair' involving the Vice-Governor of the National Bank of Serbia; the gross manipulation of a mineral water company privatisation; graft in army procurement and the unauthorised commitment for the purchase of a satellite for monitoring security zones around Kosovo. Other cases of suspected corruption having potential million-dollar damages for society involve the import of electricity (owners of the import company are said in public to be financiers of the biggest political parties), the import of petroleum from Syria and the buying of railway cars without tender and procurement procedures.<sup>17</sup>

None of these affairs has been resolved by legal process and the government 'reacted' with silence. The president of the Anti-corruption Council of the Government of Serbia, the advisory body founded by the Djindjic government to deal with this problem, has estimated recently that the level of corruption in Serbia is once again at the level it was before October 5<sup>th</sup> (when Milosevic was in power). She pointed out that during the last three years there has been no audited National Final Budget Statement. She warned the public that the National Investment Plan (NIP) launched by the Minister of Finance and supported by the Government has been passed in a corrupt manner – without law for its implementation and control – by avoiding legal procedures and by giving discretionary decision-making to a group of ministers. She predicted that the corruption in the country will rise significantly if the NIP is implemented.

Recent events related to the preparation, approval process and content of the new Constitution of Serbia confirm my initial hypothesis about 'state capture' by the political/party elite. In mid September 2006, leaders of the four biggest parties<sup>18</sup> agreed literally overnight<sup>19</sup> on their

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<sup>15</sup> Research into the origin of the present-day economic elite indicates that it has been recruited from socialist companies beginning in 1989. Their former directors, experts and managers, once part of *nomenclature*, are the 'tycoons' of today (see Mladen Lazic, "Recruitment of the New Economic and Political Elites", *Republika*, June 2006).

<sup>16</sup> The whole case, in detail, was presented and published by the Council Against Corruption of the Government of the Republic of Serbia, in Serbian and English: *Corruption, Power, State*, Part two, prepared by Verica Barac and Ivan Zlatic, *Res Republika*, Belgrade, 2005.

<sup>17</sup> For a description of the corruption affairs, see *Okupacija u 26 meseci 2004-2006* (Occupation in 26 Months, 2004-2006). Centar za Modernu politiku (Center for Modern Politics), Belgrade, 2006.

<sup>18</sup> These four parties are: the Democratic Party of Serbia (DPS) of Vojislav Kostunica, the Democratic Party (DP) of Boris Tadic who is also President of Serbia, the Serbian Radical Party (SRP) of Vojislav Seselj (which is the biggest individual party in the Parliament), and G17 Plus of Mladjan Dinkic, presently Minister of Finance.

Constitution Proposal. Without a single day of public debate, based on the decisions of the party leaders, Parliament passed the Proposal and called for a referendum for its approval. Even the members of the Parliament never received the Proposal, nor did they have a chance to discuss it in session when adopted. Citizens and their organisations did not have a chance to debate it either. Among items that reinforce capture state mechanisms of the political parties in the Constitution, MP mandates belong to the parties. In Article 102 it is stated that “the MP is free to (...) irrevocably put his mandate at the disposal of the party on whose list he was elected as MP”.<sup>20</sup> In addition, the immunity rights for the MPs have been broadened. These changes will strengthen the political power of the party elite and its interests (i.e. executive power) and additionally degrade Parliament and the MPs’ responsibility to the constituents’ interests by re-confirming their impunity. The public has given the new Constitution the name “The Functionary’s Constitution”. The legitimacy of this public reputation of the Constitution was soon demonstrated when the Basic Law on the Implementation of the Constitution was on the Parliament’s agenda. The parties made a ‘deal’ that they would vote for the Law only if, during the first session of the new Parliament (after the January elections), the heads of the two independent institutions would be replaced: the Governor of the National Bank of Serbia and the Ombudsman for Information.<sup>21</sup>

The new Constitution will not help curb ‘state capture’ and its damaging consequences. It will not make political leadership accountable to the public. Even worse, judicial independence is not guaranteed by preventing party/political influence over the courts, the police and public prosecution. Getting to the roots of corruptive practices in governance is crucial to Serbia’s ability to break the grip of rigid institutional structures constructed to protect vested interests, so that it might proceed successfully in the European Union enlargement process. However, these two clear mandates in the new Constitution will make it difficult to eliminate the parties’ use of public offices for their private interests rather than for representing constituents’ interests and for the pursuit of the public good.<sup>22</sup>

## 2. The State Capture model in Serbia and its mechanisms

From the point of view of system theory, state capture is caused by a weak functional differentiation within the social system. Boundaries between the subsystems do not exist or are porous. Power and goods from the economic sub-system are convertible for influence and goods from the political sub-system and vice versa, depending on where the dominant power of the social system lies. The dominant power in Serbia is still located within the political system.

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<sup>19</sup> The official justification for such a hasty adoption of the new Constitution was to “preserve Kosovo in Serbia” by saying in the Constitution that Kosovo is part of Serbia.

<sup>20</sup> The President of Transparency Serbia, Vladimir Goati, commented that Article 102 of the new Constitution (which gave mandates to the parties) singled out Serbia as the only European country to have such a rule. This type of rule only exists in some Asian countries (e.g. Bangladesh, Pakistan and India).

<sup>21</sup> The mandate of the Governor of the NBS does not coincide with the elections or changes in the Parliament or government. The same refers to the Ombudsman for Information whose work became influential and highly appreciated by the public. The impression is that somebody from the government asked for his removal because he performed his public role in a proper and independent way (he caught the Minister of Police in a lie).

<sup>22</sup> To protect the parties’ interest in having control of the mandates in the Serbian Parliament, the three main parties (the DPS of Kostunica, DP of Tadic, and SRP of Seselj/Nikolic) decided to disengage the sovereignty of the people by giving the ownership of all mandates to the parties. The real user of sovereignty (which should stem from the citizens) will be the parties’ leaderships, enabling them to exercise state authority, if not directly, then indirectly by owning the MPs’ mandates. See Aleksandar Molnar, *Republika*, 24 October 2006, pp. XXII, XXII.

The most important 'capturing' agents are the political party leaderships who have seized huge state property including public companies, public offices and institutions for their own interest. The second important agent is the 10-15 richest tycoons of the country who finance all the relevant parties, thereby becoming part of the system.<sup>23</sup> Both elites, in collusion with each other, have established a system of integrating their influences, interests, and services for mutual gain. This collusion has created an oligarchic social structure in Serbia that undermines effective institution-building and the rule of law. The main chains of influence and the connection of interests are demonstrated in the Model of State Capture in Serbia (Figure 1).

Figure 1. Model of State Capture in Serbia

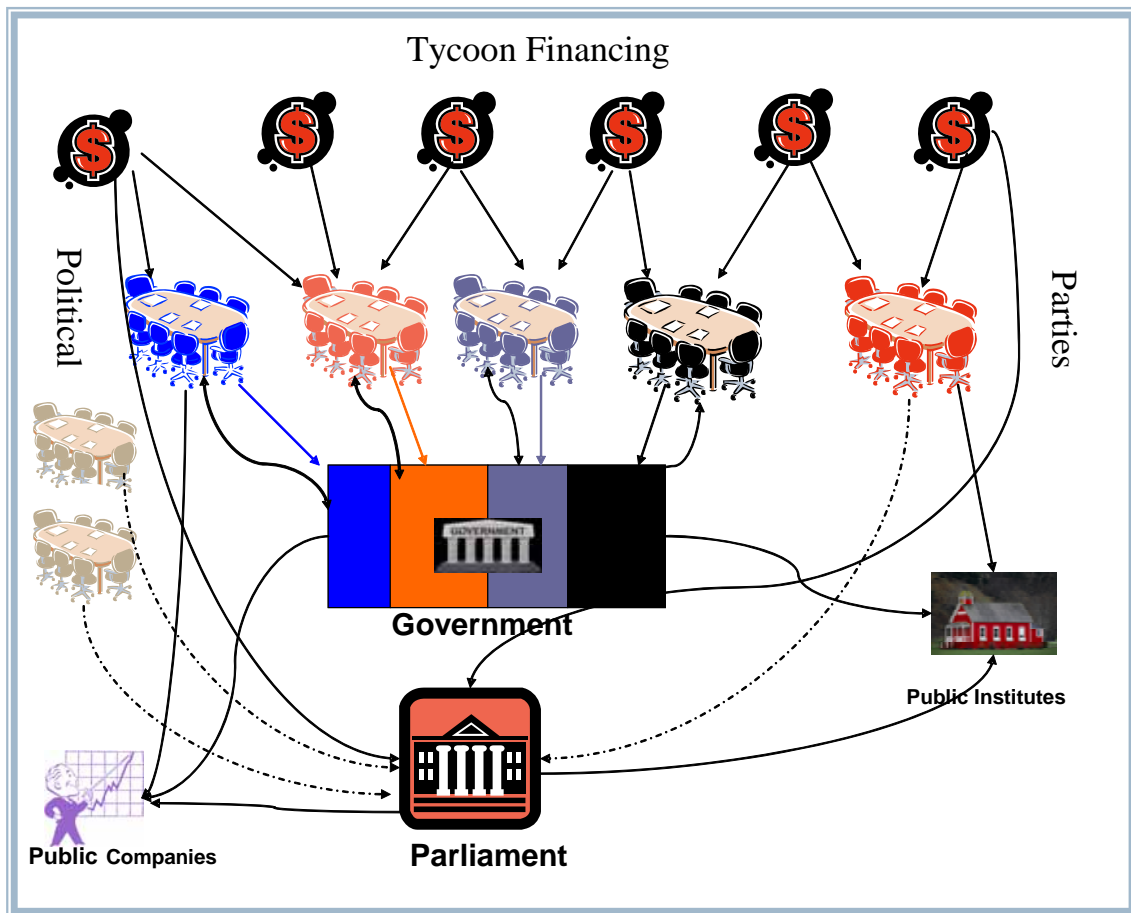


Figure 1 shows the mutual dependence between the political and business elite and how the tycoons help sustain their political positioning by financing all of the relevant parties. In return, the ruling parties protect economic markets, fix tenders and auctions, and pass favourable legislation for the tycoons. It also shows how government, parliament and parties are connected with public companies and public institutions as their own shares of power. The (black) links which go from the government to the parties show that the position of the ruling parties in the described context has a feedback effect on the parties, making their decision-making more centralised, oligarchic, and located practically in the hands of the president of the party.

<sup>23</sup> In a recent Interview, the former Vice-President of the Serbian Government, Miroljub Labus, said that "the tycoons cooperate perfectly with all parties – from the Radicals to the Democratic Party of Serbia; they have become part of the system", daily *Danas*, 11-12 November 2006.



### ***The mechanisms used***

The following analysis will concentrate on 'state capture' as a specific process in which political elites gain control of public offices, enterprises, utilities, and resources through a mingling of state, political party, and economic power. Emphasis is placed on the concrete mechanisms which explain how political parties impose their own benefits over public interests, how these mechanisms are incorporated into the multi-party system and how the party-state amalgamation has been achieved.

I have selected the following six interconnected mechanisms of state capture:

- 1) Division of the government and the entire public sector into a feudal-type system whereby each party in the ruling coalition is given control over the portion it receives (based roughly on the number of MPs it has in parliament) as if it were its own private fief<sup>24</sup> "Vertical Partition" of the Government, as it is called in public, has eliminated the mutual political control of the coalition partners.
- 2) Connected with the first, the second mechanism entails appointing leading party officials (presidents, their deputies, etc) to manage the 'fiefs' although they are simultaneously discharging their party offices. Because the party leader-feudalist has MPs in the parliament providing majority support to the government, corruption is practically incorporated into the manner in which the government operates.<sup>25</sup> If a minister were to be dismissed for corruption, he would withdraw his MPs and the Government would lose the parliamentary majority and fall.
- 3) Degradation of the parliament and the mechanism used for bribing MPs assuring their loyalty: obedience is obtained by offering the MPs multiple functions such as being appointed to the managing boards of the public companies or being appointed to perform executive functions in local and regional governments, enabling them to receive several sources of income.
- 4) Parties in the ruling coalition have the exclusive 'right' to make appointments in state administration, public companies, utilities, institutes, agencies, funds, health, social and cultural centres, dormitories, veterinary clinics, schools, theatres, hospitals, libraries, monuments and memorial parks' maintenance services – all of which belong to the public and are supported by the public budget. Management positions are not advertised and based

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<sup>24</sup> Given the current constellation of political forces and the proportional election system, no party can win a majority. Therefore, coalitions are formed at all levels of authority. At the local government level, coalitions are broader and their clashes over the division of power are the cause of constant decompositions of the local governments.

<sup>25</sup> For instance, the Capital Investments Minister publicly admitted that the public company Serbia Railways, which is under the control of his party (the director of the company is from his party), had not respected the procurement procedure when buying Swedish railway cars. Despite the confession, nobody suffered any consequences because if the Minister and the Director of the public company were to have been made responsible and subject to legal proceedings, it could have prompted the withdrawal of support to the government of his MPs' and the government would have fallen. In fact, the person who disclosed the irregularities was dismissed from his post. The Finance Minister found himself to be in a similar situation when the case of the National Saving Banks was once again opened to the public. This case connects the Minister with the corruption that was discovered. The accusations against the Minister were disclosed on a TV show by the President of the Anti-corruption Council of the Government of Serbia, Verica Barac, but to no avail because the same mechanism of protection was applied.

on merit, which additionally damages public interests and constitutes widespread discrimination of citizens on the basis of party affiliations.<sup>26</sup>

- 5) The relationship between parties (government) and business is not regulated in a transparent manner because the Law on the Funding of Political Parties, passed in 2003, is deficient in its controlling mechanisms and was not strictly and effectively implemented in practice. The effectiveness of this law is the same as that of other similar laws for which “political will” is needed. There is a tacit agreement between the parties not to implement the law strictly.<sup>27</sup> As a result, corruption in this area has not diminished. The parties have remained the centre of the corruption.
- 6) Political influence over the judicial system is excessive, and there is a lack of checks and balances between the three main state powers. The executive branch (which again means party influence) has gained control over the parliament, the courts and public prosecution. This key mechanism is an extremely extensive separate topic which must be investigated in-depth independently, and it will therefore not be part of this research.

### 3. How the government functions as a confederation of party ‘fiefs’

I will analyse the party feudal system at the national level by presenting details about the cases of the Ministry of Finance and the Ministry of Education and Sport. I will then describe how the ‘party state’ functions at the local level by presenting the case of Novi Sad, which is the third largest city in Serbia and the capital of Vojvodina province.

#### *Box 1. The political system, appointments and influence*

Serbia has adopted a parliamentary political system. The party (or the coalition of parties) which gets a majority of MPs in parliament (250 seats) elects the government as an executive state-organ. The Government now has 19 ministries, but the number is changeable (each government decides the number of ministries). It has the President of the Government (Prime Minister). The number of MPs of a particular party that are elected, if the party is a member of the government ruling coalition, defines the proportion the party will receive of the ministries and all other positions in the public enterprises (there are 17 public companies founded by the Government), institutions, agencies, foundations and services which are under the jurisdiction of the government. Many positions are under the jurisdiction of each minister. Since Serbia is a highly-centralised country, one minister, for example, the Minister of Education and Sport, has the authority to appoint more than 3,000 directors of primary schools, and about 400 directors of secondary schools in Serbia<sup>28</sup> (schools in Vojvodina are not under the Serbian Ministry). The Minister of Health has similar appointment authority, appointing directors for the hospitals, health centres, and other health institutions founded by the government, etc.

<sup>26</sup> The implementation of the new Law on State Administration took effect in July 2006. Along with the many problems involved in its application and the usual deficiencies of the law itself, it has been reported that many advertisements began to appear in the newspapers for the positions of deputy-ministers. See Ana Trbovic, *Blic* (daily newspaper), 25 November 2006.

<sup>27</sup> Only three parties (there are about 39 active parties and a total of more than 400 registered parties) submitted their complete annual financial and activity report on time to the Financial Board of the Assembly. This shows that the parties do not respect their obligations established by law. For greater detail about this problem see: Vladimir Goati, *Partijske borbe u Srbiji u postoktobarskom razdoblju* (Struggles among Parties in Serbia in Post-October Period), Fridrich Ebert Shiftung, Belgrade, 2006, pp. 179-204.

<sup>28</sup> The source for determining the number of schools in Central Serbia: *Statistical Year Book of Yugoslavia*, 2000. Bozidar Djelic also reported that there are 3960 primary schools and 577 secondary schools (the total for Serbia), *Kada cemo ziveti bolje*, Belgrade, 2006.

In addition to the appointments at the national level, there are a huge number of appointments in the public sector at the local level (governments, public companies, services and institutions which are under the jurisdiction of the autonomous provinces (Vojvodina and partly Kosovo), cities, and municipalities. Appointments in the provinces, cities and municipalities (there are about 160 municipalities) belong to the parties' coalitions at that level. Proportions vary from one city or municipality to another. It is estimated that the magnitude of power in the hands of the government/parties amounts to 40,000 appointments counting all levels – national, provincial, city and municipality.

### 3.1 The feudal/party system at the national level: The cases of the Ministry of Finance and the Ministry of Education and Sport

At present, the ruling coalition in Serbia is composed of four parties,<sup>29</sup> which distribute the 'fiefs' as follows:

Party	Number of MPs	Number of ministries	Quotas in public companies (managing positions)
DPS	53	10 (11)	50%
G17+	34	4 (3)	30%
SRM-NS	22	5	20%
SPS	20	-	Quota of DPS

The coalition agreement sets the percentages of public offices that each ruling party receives in accordance with the number of seats won in the Parliament. The second part of the agreement has had a direct impact on the growth of corruption during the last three years. This aspect was not present in the first post- Milosevic government.<sup>30</sup> It focuses on the content and classifies all offices by portfolios (horizontally and vertically). State capture and monopoly constitute part of the division – each coalition party receives a number of related portfolios and staff to manage by itself. Power is thus feudalised – each ruling party is the absolute ruler of its own 'fief'. The government is now operating as a confederation of 'power fiefs'. This 'holistic' division of power among the ruling parties has produced unaccountable government; individual ministers have become more powerful and with broader authority and functions; government does not function as a team, and the Prime Minister does not take responsibility for the government as a whole or each ministry, as was the case in the first government.

<sup>29</sup> The DPS (Democratic Party of Serbia) president is Vojislav Kostunica who is also Prime Minister of Serbia; G17 Plus President Mladjan Dinkic is Minister of Finance; SRM (Serbian Renewal Movement of Vuk Draskovic President of the Party is Minister of Foreign Affairs, and NS (New Serbia), President Velimir Ilic is Minister of Capital Investments. The government thus composed still did not have a majority in the Parliament, and as a minority government, it is supported by the SPS (Socialist Party of Serbia of Slobodan Milosevic, presently led by Ivica Dacic).

<sup>30</sup> The first post-Milošević government was formed by 18 parties, but it avoided the 'feudal' division of portfolios. The first government (2001-03) had two parts: one composed of experts and non-party personalities who got their positions on merit and, the second part was political and composed of numerous political leaders of the parties who participated in the grand coalition against the Milosevic regime and who got the positions of vice prime minister. The composition of each ministry was a mixture of different parties, so effective control was achieved even without strong and strict institutional rules of control.

### ***How the 'feudal system' functions in practice***

The strongest party (the DPS) with 53 MPs controls 10 ministries (plus the Ministry of Defence after the dissolution of Serbia and Montenegro). This party exclusively controls appointments in the two most powerful 'institutions of authority': Internal Affairs (the Ministry of Police and the Intelligence Agency) and Economic Affairs (two ministries: one for the internal economy and the other for International Economic Relations). In the same manner, this party holds the Ministry of Justice, the Ministry of Science, the Ministry of Education and Sport, the Ministry of State Administration and Local Self-Management, the Ministry for Religion and the Ministry of Energy. As the strongest party, the DPS manages the largest (mainly monopoly) companies, like Telecom (and the telecommunications system), PTT (Post Office, Telegraph and Telephone Company), 'Galenika' (the biggest pharmaceutical company whose director is vice-president of the DPS), Yugo-Import (an arms-trading company), etc.

G17 Plus exclusively controls the Ministry of Finance, the National Bank of Serbia, and all financial institutions, as well as money circulation. It also controls the Ministries of Health and Agriculture. Both ministries have a huge vertical control of local appointments all over Serbia, including the big monopoly company Srbija Sume (Serbian Forests) which is often described as a "state within a state". The SRM-NS coalition<sup>31</sup> has been allocated the Ministry of Foreign Affairs, and Capital Investments, as their most important 'fiefs'. They have three more ministries: the Ministry for Diaspora, the Ministry of Culture and the Ministry of Commerce & Tourism. The NS (New Serbia) controls the Railways of Serbia and the Roads of Serbia, while the SRM controls Belgrade Fair (at the beginning this party controlled Yugoslav Airway Transportation -- JAT, but for mismanagement, the position of the president of the Executive Board was given to the vice-president of DPS).

The 'confederation of fiefs' of the interior, economy and finance (where the power lies) is in fact an exchange-system of services and interests between the parties in the coalition (and their hidden financiers) based on mutual blackmailing to withdraw MPs from the Parliament if a minister (i.e. president of the party) were to be denounced for corruption. This system corrupts key state institutions: the police, intelligence,<sup>32</sup> the judiciary, finance and economic institutions, health care and the national budget expenditure. The system also combines different ministries in the hands of one party in order to multiply their power. For example, the Ministry of Agriculture received new authority to deliver credits directly to the farmers, without a transparent procedure; on the other hand, it got from the Minister of Finance (at the time Vice-President of the G17 Plus) a tenfold bigger budget than this Ministry had before. In this way it gained huge discretionary authority, which was denounced in public, to be used for buying political support and votes.<sup>33</sup> In conclusion, it is not an exaggeration to say that the 'feudalised government' is integrated by its own corruption.

### ***The case of the Ministry of Finance***

To demonstrate the very peculiar structure of the Government of Serbia, which I have described as a confederation of 'power fiefs', I will analyse the Ministry of Finance and public financial

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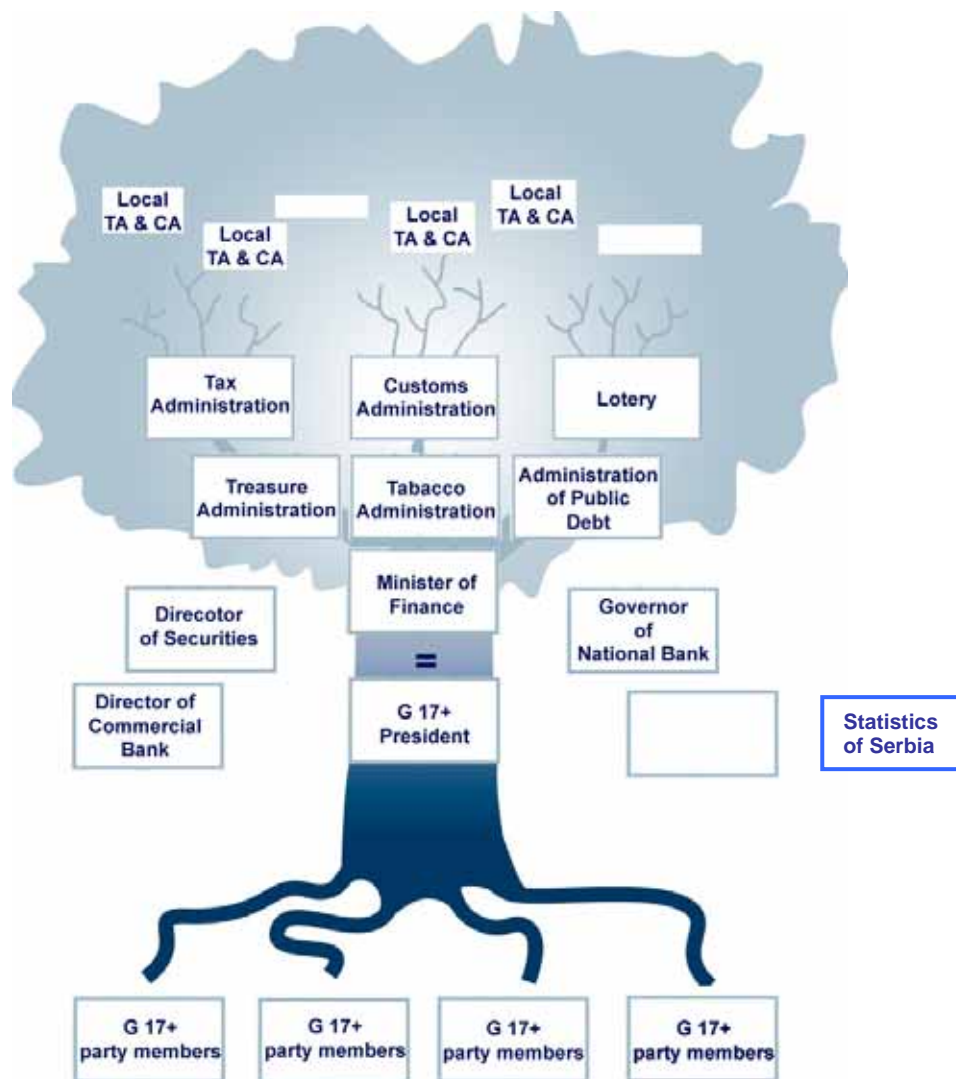
<sup>31</sup> This coalition does not exist any more. After the ruling coalition was formed, some parties and coalitions split. Details about the consequences of these new divisions on the public sector are not provided.

<sup>32</sup> The Intelligence Service was used last year to spy on the MPs about their intentions to vote for the budget of 2006. Two people were expelled from the Parliament overnight because they said that they would not vote for the budget.

<sup>33</sup> The non-transparent approval of credits to the farmers by the Ministry of Agriculture, was denounced most often in public by the Radicals, since farmers are their main constituency.

institutions. G17 Plus has been allocated all portfolios regarding finance. Its leader is the Finance Minister (he is the active President of the G17 Plus) and he has appointed “reliable” associates and party cronies to the posts below him. The same party has been given rule over central financial institutions and services. Primary among them is the National Bank of Serbia, although it should have independent status. The party also controls other independent institutions such as the Commercial Bank, the Securities Commission, State Statistics et al., and the executive departments under the Ministry such as the Tax Administration, the Customs Administration, the Lottery, etc. About 90% of all positions are appointed by party criteria and are members of the G17 Plus.<sup>34</sup> (See Figure 2.)

Figure 2. Tree of the G17 Plus’ fief



<sup>34</sup> Data about both ministries and their party appointments have been obtained with the help of journalists and insiders who are previous and present holders of high senior positions in the Ministries.

The striking fact is that institutions like the tax and customs administrations, the National Bank of Serbia,<sup>35</sup> the Securities Commission, the State Statistics, and other institutions that have to be independent from political influence are interwoven with party functions.<sup>36</sup> The lack of transparency in the recruitment process for government and state institutions' positions, and in the way in which party/state functions are fused at the central level, has severely damaged the accountability of government.

Apart from the horizontal (at the national level) party rule, this party also rules vertically by appointing the heads of local tax administrations, customs boards and other local administration units. Procedures for local appointments include proposals from the local party units. In practice, employment opportunities for the heads of local tax administrations, customs, etc. are not publicly advertised or discussed officially; local party boards recruit the heads of the local administration units all over Serbia.<sup>37</sup> The selected candidates are sent to the Minister for approval. About 90% of the director appointments at the local level for tax or customs offices are from the ranks of the G17 Plus. In practice, horizontally and vertically, all the financial branches and the money circulation are under the control of one party without internal or external control, nor competition for the appointments. Two hierarchies – the party and the state – have overlap. That is how the closed, 'fief' system of authority functions.

### ***The case of the Ministry of Education and Sport (MES)***

The next analysis shows the comparison between the first and second post-Milosevic governments related to the party membership of the Ministry itself, appointed Heads of the County Educational Departments and the appointments in institutions, companies and commissions dealing with education in Serbia. It reveals the degree to which professionalisation has been replaced by the party system in this Ministry.

*Party membership of the ministry in the first and second governments*

<b>Positions</b>	<b>I Government</b>	<b>II Government</b>
Minister	CAS	DPS
Vice-Minister	DP	DPS
Deputy Minister	Non- party	DPS
Deputy Minister	Non- party	DPS
Deputy Minister	Non- party	DPS coalition party
Deputy Minister	CAS	Unknown

<sup>35</sup> Since October 2000, Serbia has changed three governors of the National Bank. The first Governor was Mr. Dinkic, at present Minister of Finance; the second was a non-party expert appointed to replace Mr. Dinkic because he, as a vice-president of the G17, was involved in partisan politics; the third governor of the NBS was a candidate from the ranks of the G17 Plus, when this party became the member of the ruling coalition.

<sup>36</sup> For example, the Director of the Tax Administration of Serbia was a member of G17 Plus; advancing politically, he became a member of the G17 Plus Executive Board; recently he was transferred to the position of State Secretary in the Ministry of Finance, while his position in the Tax Administration was given to another member of the same party.

<sup>37</sup> Ex-Minister of Finance, Bozidar Djelic, in his recently-published book said that he was under pressure from the local party boards of the DOS coalition who 'suggested' to him who the heads in the Tax Administration should be. He complains that he became very unpopular among DOS local activists because he refused to let them impose personnel in Tax Administration. However, he estimates that during the last two years, the situation has changed in the opposite direction; some people without professional references have received positions in the Tax Administration, while some with established professional reputations have lost their positions at the request of the local party boards, or because there were doubts about their 'party loyalty'.

*Composition of the heads of county educational departments, by party affiliation*

<b>Counties</b>	<b>2000/Minister/CAS<sup>38</sup> Heads</b>	<b>2004/Minster/DPS Heads</b>
Sombor	Non-party	DPS
Zrenjanin	-  -	DPS
Novi Sad	-  -	DPS
Pozarevac	CAS	DPS
Valjevo	DP	DPS
Kragujevac	Non-party	DPS
Nis	CAS	DPS
Zajecar	DC	DPS
Leskovac	Non-party	DPS
Beograd	CAS	DPS
Kosovo-Ranilug	Previous	DPS
Kosovka Mitrovica	-  -	Previous
Cacak	-	DPS
Krusevac	-	DPS

When the new government came into power, the Heads of County Educational Departments appointed in 2000 were all dismissed (except one in Kosovo); the turnover at this middle-rank position was one hundred per cent. All new appointments were exclusively selected from the dominant party for this party fief (the Minister's Party is the Democratic Party of Serbia – DPS). Since their professional reputations were much lower, this turnover meant that more-qualified people were replaced with less-professional directors. This change reflected the changes in the Ministry itself: the best experts available in Serbia were hired as leaders of the educational reform in the first government, but they were all thrown out to give place to the 'reliable' people of the new dominant party.

The same type of one-party control criteria can be found in all other educational institutions: The Centres as well as the semi-independent institutions (founded by the Ministry) devoted to development and evaluation of the quality of education, professional training of teachers, etc.) were reorganised. The directors of the Centres (experts and non-party people) were dismissed and replaced with less qualified people from the DPS.<sup>39</sup> Public companies founded by the Ministry such as the very profitable Text Book Publishing Company, were given to the DPS.

The same party (DPS) got the position of President of the Board for Education in the Parliament. On the lower side of the hierarchy, going down to the directors of the schools, the official procedure theoretically empowers the schools boards composed of nine people (three parents, three school employees, and three from the local government) to elect the director and send the elected candidate to be approved by the Minister. But in practice it is not so, because the three people from the local government who are from the party, impose the selection of the school director in many cases.<sup>40</sup> The forging of party criteria for appointing directors of the primary and secondary schools all over Serbia, has led to numerous public conflicts between the

<sup>38</sup> Two parties in the first government – The Civic Alliance of Serbia (CAS) and the Democratic Center (DC) – are small liberal parties with many professionals and experts. Both joined the big coalition against Milosevic.

<sup>39</sup> One MP in the Parliament said that we can “speak about the terror of government and politics over professionalism and qualifications in the state administration”.

<sup>40</sup> One candidate for School Director in the city of Nis was threatened with death if she did not withdraw her candidacy. She was a victim of political revenge, as was the case all over Serbia. It was said that political pressures are present in all institutions and procedures.

Minister and schools which did not want to accept the imposed and unqualified directors. Only when the schools threatened to go on strike because of the political appointments imposed by the Ministry, were they able to win the battle for more qualified and professional directors of the schools.<sup>41</sup>

The analysed pattern of ‘party recruitments’ is not specific only to the Ministry of Education or to the Ministry of Finance. Upon investigating the individual appointments of directors at the local level, in schools, libraries, cultural centres etc., and noting the number that were appointed by the central government, it is evident that non-party candidates have had almost no chance to reach a director position in local-level institutions<sup>42</sup>. The analysis of some individual cases has shown that at the very moment when one party ‘conquers’ a ministry, the local party functionaries start insisting to party headquarters that they get the leading position against other candidates in the competition. The party administration prepares the case for the Presidency of the Party to influence their ministers to appoint ‘our people’.

The here described widespread practice giving almost absolute advantage to a ‘party candidate’ has marginalised both fair competition and professionalism in the managing positions. By preventing competition and weakening professionalism, corruption has become protected within the political/party hierarchy and has been influenced by the top positions in government. This is a general rule that is being applied in all ministries and middle administration positions in the county institutions and companies – down to the local level offices.<sup>43</sup>

### **Public companies<sup>44</sup>**

Privatisation in Serbia is only half-complete. In total, about 50% of the companies are still owned by the state, or have mixed state, ‘social’ and private property. When taken together, 40% of the total workforce lives in the unreformed economy.

The most important aspect of state capture is the ‘seizure’ of the public companies. Parties in the ruling coalition manage them exclusively. Public property has thereby effectively been converted into ‘party property’ and is managed in its interests. And it is a huge amount of assets that has been captured. The 17 biggest companies founded by the government of Serbia are managed by the parties that comprise the ruling coalition at the national level – the managing boards, presidents and directors – are compiled and by a quota-system are divided up among each of the parties of the ruling coalition which appoint the management positions as if the

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<sup>41</sup> The most striking case, when the school choice for the Director won, was in the Economic (secondary) School in Cacak.

<sup>42</sup> The case refers to the selection of the heads of libraries which the Republic of Serbia has founded and whose appointments are given to the Ministry of Culture. The heads of the libraries in the cities of Nis and Jagodina have been appointed according to the party criteria of the Minister. This caused considerable public outcry. Candidates with more qualifications for the job threatened that they would appeal to the International Labor Organisation for protection under the equal access to jobs and functions requirement. Via personal contact I learned that in many cases ministers are informed by the local party boards as to who the favourite in the competition should be.

<sup>43</sup> The Police Minister has replaced all 16 Heads of Police Districts, and in total, he replaced about 700 senior policemen since he took over the office. There is no audit or supervision of budget spending in the police, nor civilian control of the police and intelligence. Police procurements are a ‘state secret’ exempt from monitoring.

<sup>44</sup> “Public companies” in Serbia are companies which manage ‘public utilities’ in different sectors such as energy, transportation, telecommunications and natural resources. They are very big and often are monopolies. Their management boards are appointed by the Government of Serbia. In each municipality or city there are public utilities whose management is appointed by the local governments.



companies were their own property. All other public companies – about 500 – are in the hands of the ruling coalitions at the local levels (see Box 2 below).

There are many indicators that management-hiring decisions in the public companies do not follow the criteria of merit, experience and qualifications. Nor are managers held responsible for results. If the government wants to keep low prices, producing losses, the managers appointed by the parties must comply. This is the case with electricity prices that are lower than in the rest of the region. Justification for controlling prices in electricity (or other prices) is the socially-based argument of subsidising the low salaries of the population; it also serves to present inflation as being nominally lower. But the low prices have also provided substantial benefits to the private interests of the party-related firms that are selling electricity abroad. Such discretionary decisions about prices in public companies can bring enormous profit to the tycoons who are financing the parties of the ruling coalition.

### *Box 2. State ownership of public companies*

State ownership of public companies is still extremely large and privatisation is still in its early stages, due to the resistance of the political parties to lose their power over such extensive resources. According to NBS (National Bank of Serbia) data for 2004 (data for 2005 have not yet been released), financial reports were submitted by 521 public companies employing 190,000 workers (i.e. 16% of Serbia's workforce). The value of their capital stood at 932 billion dinars and their collective losses at 21 billion dinars.

The 17 public companies owned by the Republic of Serbia had a gross income of 713.21 billion dinars, which is 18.7% of the total income of the Serbian economy. The net profit of profitable companies was 32.59 billion dinars which was double the amount earned in 2004. total losses of companies that lost money were 33.24 billion dinars, which accounts for 15.8% of the total losses of the Serbian economy.

These figures should not obscure the fact that 45.8% of the total capital and 43.5% of the permanent resources of the Serbian economy are concentrated in the 17 public companies. If this capital produces only 18.7% of the total revenue of the economy, then the conclusion can not be positive about the productivity of the public companies. These companies employ 11.4% of the total workforce. Their salaries tend to be higher than average because they account for 16.7% of the gross wage expenditure for of all people employed in Serbia. This difference in salary is found almost totally in the top management levels.

*Source:* Data about public companies are taken from articles published in July 2006 issues of the Belgrade daily *Danas*.

Since public companies are the political-power stronghold of the ruling parties, they are used in many different ways. Benefits for the party include the companies being used for the employment of party members and for rewarding party functionaries for their loyalty with the extra income of directorships. Parties may also get free direct services such as publicity for their campaigns, the publishing of journals and advertising materials, the delivering of presents to the socially deprived in the name of the party, etc. They even serve to control media: the biggest public company, Electro-distribution of Serbia, has purchased 14% of the shares of the daily newspaper *Politika*, using public money to retain government control over the news media.<sup>45</sup> The government has direct control over the public company Radio-TV of Serbia (RTS), even

<sup>45</sup> *Politika* is the oldest and the most influential of Serbian newspapers. Traditionally it has been controlled by the government. At present, half of it is owned by the German company Vac and half by small domestic shareholders. In order to help the papers pay its debt (€ million) and to retain control of 50% of shareholder equity, the Electric Company Electro-Distribution invested the money and became a 14% owner of *Politika*.

though it was supposed to be an independent information public service.<sup>46</sup> In a somewhat different way, the government controls *Vecernje Novosti*, the most popular daily, by preventing an independent person from buying a majority stake. On the contrary, it was sold to tycoons close to the government and its ruling parties. On the local level, the ruling parties control the public media. The most recent drastic case was to dismiss the editorial board of the weekly papers in Zrenjanin. This was done by Kostunica's DPS, which had taken control of the municipality.<sup>47</sup>

The 'right' to appoint directors, as well as managing boards, is not subject to any public control regarding the use of resources or salaries for the management board. Nor is there any independent external auditing of the real situation in the company. When asked about the salaries of the top management, the directors of the public companies chose not to answer, saying that it is a 'secret'.<sup>48</sup> Detailed research on salaries in public companies shows that the average income of the employees is not significantly higher than in other enterprises. Income is much higher only for the top-management boards who, in individual cases, receive more than 500.000 dinars per month (6 thousands euros, in a country where the average salary is €200-250). Salaries for the members of the managing boards vary from company to company but they can be two or three times the average managerial salary. The true benefit is even much greater because it is not a job, but a position that can be held in addition to regular jobs or other positions.

Party-nominated management boards are not there to control and supervise the business results of the company and work for the public interest, but to 'turn a blind eye' to their own and party interests. Public companies are the nest of corruption and the loss of public money. This can be changed only by the process of privatisation. The IMF suggests that real reforms will start when public companies, (most often monopolies) enter an adequately-designed and controlled privatisation process.<sup>49</sup> Only then will the real reforms in Serbia take place.

### 3.2 Local level: the case of Novi Sad

The city of Novi Sad was selected as a case study to demonstrate the link between party gains and the turnover of executive employment in municipalities and their public companies, utilities and services. This city is a clear case of the party shift after local elections because the Serbian Radical Party (SPR) won the last elections in 2004 (with two coalition partners: the Socialist Party of Serbia and the DPS) after the Democratic Party (DP) with its coalition partners had

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<sup>46</sup> The first thing that Kostunica's Government did was to illegally appoint the new director of the State TV. Citizens are required by law to pay for this TV service together with their electricity bill, although the RTS is not really an independent public service, since it is controlled by the government and the ruling parties.

<sup>47</sup> Justification for the dismissal was that an editorial written about Ratko Mladic was not a 'local topic'. It should be mentioned that the newspapers were very successful financially and were widely read by the people of Zrenjanin.

<sup>48</sup> Although the Commissar for the Free Access to Information reacted, and requested that the companies respond as required by law, there has been no answer.

<sup>49</sup> Under pressure from the IMF, the Serbian Government hired a foreign privatisation advisor to assist privatisation of Naftna industrija Srbija (NIS) – the Serbian Petrol Industry – which is one of the largest public companies of Serbia. Despite paying for strategy advice on privatisation procedures, the government secretly held negotiations with the Russian company ('Rosnjeft') in order to avoid a publicly announced tender. The secret negotiations were held during the last two months of 2006 although the privatisation was planned to start at the beginning of 2007. Daily newspapers *Danas*, 6-7 January 2007.

dominated the city for 8 years. The Radicals got 35 elected members of the City Assembly, and with their partners, had a majority of 42 representatives (out of 78 assembly members).

As has been demonstrated at the national level, state capture of all positions in public offices is the model operating at the local level as well. On the local level it is more visible how elected people get jobs in public companies, and how nepotism operates together with cronyism.

### ***The structure of the City Authority***

The table below shows the government structure by the party-related distribution of the ‘ministries’ and positions in the local government. It shows that there was a 100% turnover after the local elections: one party (coalition) enters the local government and takes over all public positions; after the next election, another army comes along to take over their positions. It also demonstrates that no professionalism is needed.

Government/Secretariats	City Council 2004 - present	City Council 2000-2004
Mayor (directly elected)	SRP	LSV*
City Architect/Urbanism	Quota of SRP	LSV
City manager	SRP	-
Budget and finances	SRP	DP
Communal activities	SRP	DP
Transportation	SRP	LSV
Social protection	SRP	CAS
Sport	SRP	DP
Environment	SRP	-
Culture	SRP	LSV
Education	SPS	Reform Party/Vojvodina
Economy	SPS	RP/Vojvodina
Administration and legal affairs	SPS	DP
Health	DPS	CAS
Information	-	Social Democratic Party (SDP)

\* The League of Social-Democrats of Vojvodina.

The table above shows the government structure by the party-related distribution of the ‘ministries’ and positions in the local government. It shows that there was a 100% turnover after the local elections: one party (coalition) enters the local government and takes over all public positions; after the next election, another army comes along to take over their positions. It also demonstrates that no professionalism is needed.

The cost in terms of managerial capacity is enormous. As soon as one group of managers gains the knowledge and experience to lead health or education etc. it may be thrown out and replaced after the next elections. Hundreds of people who were appointed by the Democratic Party before the last elections had to find another job<sup>50</sup>, and it will be the same with Radicals when they lose the elections and a new coalition comes into power in Novi Sad. Investments in the training of

<sup>50</sup> No exact number is available as to how many appointed positions (jobs) there are in the city of Novi Sad. There are only different estimations, which vary from 500 to 1000 positions.

local government cadres are a complete waste, without establishing professionalism criteria in the local institutions. Since local government and services are closest to the needs of the citizens, the practice of totally politicising local functions is damaging to public interests, as if local governments exist only to employ party cronies, families and friends.

The 'turnover' of power is used in several different ways to the benefit of the party cronies, families and friends and against the citizens' and the public interest:

- 1) To obtain leading positions in the public companies: of the 42 members of the Assembly who were elected, 24 got jobs in public companies in the positions of directors and professional posts. Three members of the City Assembly elected from the DP list left their party and joined the Radicals majority for family reasons (to protect their husbands from losing director positions which they occupied in the previous distribution of managing positions in the public companies).
- 2) More than 1,000 people received jobs without public advertisement and competition in the city administration and public companies. During the first 13 months of the rule of the Radicals, 965 people from their party were employed in the public companies and utilities (while the DP employed 654 people during the 8 years of their rule). Many of the employments were based on nepotism (family and friendship ties), creating numerous public scandals. The mayor of Novi Sad reacted to nepotism scandals by delivering a special announcement "that she is against nepotism and conflict of interests, calling appointees to show public awareness and give up positions obtained in such an immoral way". But nothing has changed. All the 'immoral positions' have remained in the hands of family members, party cronies and friends.
- 3) More than 30 people without the required educational qualifications, via family and party ties, got jobs in the city administration, in leading positions. The jobs were in the public companies and utilities (there are 15 such companies under the rule of the city and they are in the hands of the ruling coalition) and in institutions of culture, urbanism, museums, school boards and directors and etc.
- 4) The Radicals and their coalition partners (DPS and SPS), who divided the public companies, have ignored the previous practice that the presidents of the managing boards of the public companies (and institutions) and the presidents of the monitoring boards must be from different parties. This practice had enabled some elementary internal control to be established. Now both the president of the managing boards and the presidents of the monitoring bodies are from the same party.
- 5) The dramatic lowering of the qualifications of the appointees in the local government and companies has led to huge losses which must be covered by the city budget (which is created from the money of the citizen tax payers). The financial reports of the city companies have shown that they have been making less and less profit; the city transportation company has had a five-fold bigger loss (deficit) than it had in 2004 (when the Radicals came to power) while the biggest company (Sport Center of Novi Sad – SPENS) has suffered losses for the first time in its history. The City Assembly passed a revision of the budget by which an additional 750 million dinars in subsidies was approved for the city companies. This means that more than half of the city budget is being used to subsidise public companies.
- 6) The salaries of the directors in the public companies have been raised to such an extent, that 44 of the directors of the public companies and institutions (as well as their advisors and deputies), were on the list of millionaires of Novi Sad. For example: the Director of the Public Transport Company (which has had the biggest deficit) has the biggest salary; second on this list is the Director of the Institute for Building Novi Sad; third is the Director of the

Business Premises Areas, and so on. All directors with the highest salaries are high functionaries of the SRP and some of them are also members of the National Parliament.

In conclusion, data for the City of Novi has demonstrated that the ‘state capture’ and its feudal mechanisms installed by the ruling parties has operated on a local level in an even more overt and arrogant way; it has severely corrupted the public sector at the expense of the citizens and their public interest.

#### 4. Degradation of the Serbian parliament and multiple functions of MPs<sup>51</sup>

Serbia has a proportional election system: the whole country is one electoral unit, and each competing party offers its list of candidates for the 250 seats in the Parliament. This electoral system usually produces coalition governments because no single party can gain a majority. The parties’ top leaderships (mainly the president of the party) have been able to take control over the seats in the Parliament first by composing the candidates’ lists and then by deciding which candidates will enter the Parliament after the elections, regardless of their order on the list. The arbitrary selection of who will enter the parliament is a relevant corruptive mechanism of state capture permitted by the electoral law. Moreover, those who are selected to enter the Parliament are obliged to sign blank resignations prior to entering the Parliament. This has become an illegal ‘invention’ of the parties. These blank resignations are kept by the party leaders, who activate them as needed. If an MP is disloyal or does not vote as instructed (this is especially so for the MPs of the ruling parties), s/he is stripped of his or her mandate and thrown out of the Parliament. This illegal practice was introduced by Kostunica’s minority government.<sup>52</sup> It was illegal because (on 27 May 2003) the Constitutional Court (responding to the complaint of Kostunica’s Democratic party of Serbia which was stripped of its mandates) decided that the mandate belongs to the individual MP, thus establishing the principle of the ‘independent mandate’. This decision limited the power of the party, but it opened up the opportunity for the misuse of the mandates, such as ‘selling the mandates’. Mandates were bought, when needed, either to keep the majority of the Government, or by the opposition to try to overthrow government. Not all cases of “disobedience” fell into this category<sup>53</sup>, but the illegal expulsion of the MPs became the ‘method’ used by the Government to assure its majority and the composition of the Parliament. The ‘method’ was implemented through the Administrative Board of the Parliament which is composed of the ruling parties’ representatives.<sup>54</sup>

In trying to eliminate the corruptive mechanisms in the Serbian Parliament, the Venetian Commission on Serbian Electoral Legislation has suggested that the electoral legislation in Serbia has to be changed to make clear that a) mandates belong to the individual MPs, and b) parties and coalitions must announce in advance the numerical order of the candidates who will

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<sup>51</sup> I will not present in this paper the multiple functions of the Government officials; they can be seen in the Policy Documentation Center where I posted my published article on that topic (<http://pdc.hu>).

<sup>52</sup> Vladimir Goati, *Politicke borbe u Srbiji u postoktobarskom razdoblju*, op. cit., pp. 108-109. Goati has shown the changing practice of parties’ control over the mandates in the Serbian Parliament during the 15 years of the multi-party system.

<sup>53</sup> Two MPs of the G17 Plus said that they would not vote for the 2006 state budget just before the vote was taken for the budget in the Parliament. They were excluded from the Parliament the very next day, by illegal activation of their ‘blank resignations’.

<sup>54</sup> See more about the misdoings of the Administrative Board, and the illegal use of the ‘blank resignations’ in Goati, op. cit., pp. 109-110. In regard to the government’s method to create its majority, Goati concluded that it “mutated from government de jure into government de facto, which has maintained its position via usurpation”.

enter the parliament from the lists, instead of being allowed to choose after the elections which candidates will get the mandates. Under current practice, citizens never know who they are voting for. But instead of enacting the suggested reforms of the Electoral Legislation, the new Constitution, created by the agreement of the four leaders of the parties, clearly states that the mandates belong to the parties. The ratification of the new Constitution made it more difficult to eliminate corruptive mechanisms from the Parliament.

To cement their obedience, MPs are corrupted by being given money for trips they never made and for Parliament committee sessions they never attended. But the main bribery mechanism lies in the opportunity of the MPs to accumulate offices: MPs can simultaneously be mayors of cities (or municipalities), presidents of the regional government,<sup>55</sup> or members of the local governments ('councils') and be on the managing boards of funds or agencies. They can be elected as assembly members on all other local levels (city and province). They can be business advisers, city land bureau directors and members of the managing boards, presidents or directors of public companies. The only limitation for MPs imposed by the Law on Conflicts of Interest (passed in April 2004) is that they may not have a managerial position in more than one public company at a time. By the same law, MPs explicitly have the right "to keep their managing rights in other business enterprises, if that does not influence their public functioning and their impartial and independent performance".

Holding multiple functions allows MPs to have several sources of income. Figure 3 shows that 61% of MPs have other functions, of which 44% have one more function and 17% hold two or more functions. Getting the most lucrative functions in a public company is possible only by decision of the president of the party. This gives the party presidents great power by allowing them to deliver 'rewards' to other party functionaries. The richer the public company one gets, the more s/he will gain by sitting on the managing board.

Figure 3. MPs' multi-functions

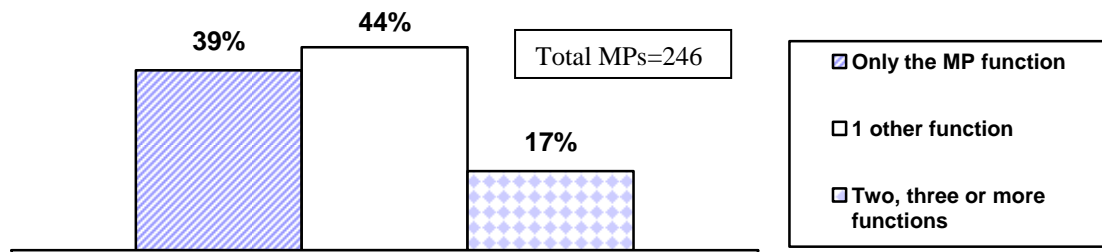
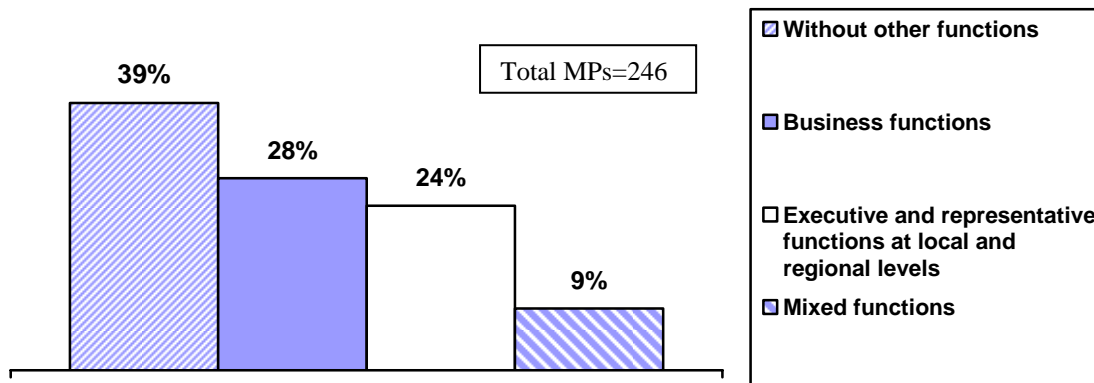


Figure 4. MPs' multi-functions by content

<sup>55</sup> This is the case of the president of the Vojvodina Government, who is at the same time an MP, a Vice-President of the Democratic Party and a member of the Fund for Development.



I have identified 23 individual MPs who have 4 public functions; 17 mayors of the cities are MPs.<sup>56</sup> When some of the party leaders were interviewed about the reasons for the accumulation of functions, the answer was that the mayors of the cities and municipalities, and the directors of city-land bureaux and other institutions want to be MPs because of the immunity they enjoy. Another reason for function-accumulation in few hands comes from the oligarchic structures in the parties: it is easier to control a small number of people than it is a wider group, as in the case of dispersed functions. Some MPs hold all representative roles (cities, provinces) below the National Parliament. Being liberated from the restrictions of the Law on the Conflict of Interests (which is tightly controlled by their parties), and enjoying a widely-defined immunity, the MPs can provide ‘state capture’ in a literal sense as the ‘seizure’ of laws to the advantage of corporate business via influential political links in the parliament. They have the privilege to be ‘legally bribed’.

Regulations on conflict of interests serve to set standards for public office performance, build citizen confidence in state institutions, and prevent multiple functions and corruption. In essence, these regulations put limits on the accumulation of functions by public officials, which always leads to the concentration of power in a society and the degradation of public interest. If public officials are acting in many public roles, they cannot comply with the requirements of any of the roles, thus damaging public interest. The Law on the Conflict of Interests passed in Serbia has not met public expectations, mainly for the following reasons:

- 1) Many public functions were not embraced by this law, including roles most likely to be exposed to corruption, such as positions in the courts, prosecution offices, police, customs, tax administration, intelligence and security organs, jails, health and social funds and many other important functions.
- 2) The law allows for the accumulation of functions.
- 3) The Republican Board for Preventing Conflicts of Interest is not professionalised. It does not set criteria for the election of its members (even education requirements do not exist) and their competences are not defined (except for the three members elected by the Supreme Court). Members of the Board have other jobs in the private and public sectors and they make decisions ad hoc (they meet from time to time, the Law does not say how often

<sup>56</sup> It was denied in public that a politician, who is directly elected, can have another public office at the same time, referring to the widespread practice of city mayors simultaneously holding MP positions. See Nemanja Nenadic (Transparentnost – Srbija): “Sprecavanje i razresavanje sukoba javnog i privatnog interesa” (“Preventing and Resolving Conflicts between Public and Private Interest”), in *Konflikt interesa kod javnih funkcionera i javnih sluzbenika u Srbiji* (Conflict of Interests of Public Functionaries and Public officers), Transparentnost – Srbija, 2006, pp. 89-106.

the Board will meet and according to what procedure). How they are elected is also questionable (the Supreme Court elects three members, the Bar Association one and the National Parliament five on the proposal of the Serbian Academy of Sciences and Art), giving SASA a de facto majority on the Board.

- 4) The Law does not contain sanctions for the conflict of interest. The Board can only give non-public warnings followed by public recommendations for resignation if the non-public warning does not have an effect on violators of the law. The property of the functionaries is a secret not available to the public, etc.

## **5. Regulatory institutions, laws and anti-corruption policies in Serbia: An overview with special attention given to the law on financing political parties**

From the point of the 'state capture' problem, we will see what Serbia has been doing to create independent regulatory institutions, and anti-corruption policies. We will investigate how far it has proceeded towards controlling the political governing process and the powerful 'political class', and towards reforming the economic process so as to reduce and eliminate monopolies and the special privileges of the business elite (tycoons) based on political influence.

If Serbia wants to join the EU integration process, she must build strong anti-corruption institutions whose target must be to improve the performance of the public sector in general, rather than to reduce corruption per se. She must develop a professional and merit-based civil service as an important step in the long-term process of reducing corruption; she must establish the supreme independent auditing institution to control budget expenditure and audit how taxpayers' money is spent (this institution should control all public budgets, including the Serbian National Bank and the managing of public money, public companies, political parties, etc). She must establish a functioning Ombudsperson position and anti-corruption commissions and agencies and build a wide network of regulatory institutions and monitoring boards which can strengthen the capacity of society to prevent the excessive influence of state organs and political voluntarism. Effective legislative improvements are also needed in the fields of a) free access to public information, b) the elimination of conflict of interests (which I have previously commented on), c) the promotion of free competition, d) the financing of political parties, e) regulations of the 'one-stop shop' concept, and so on.

Serbia has started to form the above-mentioned institutions but its policies have not been decisive, and the results are more than modest. The supposed regulatory institutions that have been formed all have grave deficiencies due to distorted political influence. Due to the almost total political management of the so-called 'independent agencies', it has even been suggested that it is better to overtly return their functions to the government in order to clarify who is really responsible. Anti-corruption actions have been arbitrary and abrupt, using selective arrests<sup>57</sup> and phoney publicity; they have been ad hoc, being formed and disbanded from one

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<sup>57</sup> In the interview of one MP, a well-informed person, the following accusation was made during a Parliament session urgently called to strip the immunity of the State Prosecutor who was already arrested: "This session was called because one businessman ordered the government to arrest all his rivals. This businessman gave them a lot of money. This supposed justification for stripping the Prosecutor's immunity was more than ridiculous. The real reason was that he prevented Merkator from buying C market. I will leave it to the reader to guess the name of the businessman who was bothered by this decision of the Prosecutor. The comment was made during the interview "He gives them (to the ruling parties in the government) so much money that he can order them to do what he wants". *Skupstinska mreza*, October 2006 (<http://www.skupstinskamreza.org.yu/index.php?ID=9&itemTypeID=31&contentID=2>).



day to the next. An indicative story refers to the formation of the specialised Anti-corruption Agency, which Serbia has the obligation to create according to international conventions (the UN and the Council of Europe) she signed. The first framework for the specialist Anti-corruption Agency was created in 2002 (with the cooperation of the OECD and the Council of Europe). Drafting of a Law on the Anti-corruption Agency was delayed by the present government. Only recently (October 2006), did the public learn that the government has prepared a proposal for this Agency. It will not come into effect until at least 1 October 2007. Among the responsibilities of this Agency will be the control of the financing of the political parties.

I will now give a brief overview of some of the anti-corruption institutions and laws that exist, giving special attention to the Law on the Financing of Political Parties because of its key role in curbing state capture and the links between political party leadership and the economic elite (tycoons).

- 1) Almost nothing has been done to introduce professional requirements for appointed positions. An improvement was made in the state administration, by passing the Law on State Administration (it came into effect starting in July, 2006). According to this law, deputy ministers will be professionalised and positions will be advertised. But, as always, the problem is implementation. Contrary to the declared intentions of the law, the government has begun organising an almost total politicisation of staffing from the top to the lowest positions of the administration. The staffing initiative started when new elections were announced (for 21 January 2007). All of a sudden, in November 2006,<sup>58</sup> a large number of advertisements for 'deputy ministers' appeared in the newspapers. The intention is to transform their party cadres into 'professional civil servants' and entrench them in the government administration after the elections. Along with this typical 'political' implementation, the law also has other deficiencies because it does not cover public servants in the police, the customs, security, tax administration etc. Experts say that there is no 'political will' in politicians to give up party influence over state administration. Such a change can only happen if Serbia advances towards EU integration and applies the policies and procedures that are required for membership.
- 2) In 2005, Serbia passed the Law on the Institution for State Audit, but the Institution has not yet been established. Serbia is now the only country in the region that does not have a State Audit Institution. In public, the predominant opinion is that there is no readiness on the part of the Minister of Finance (and the government) to permit auditing control of any of the state institutions, national budget, financial statements of the government and ministries, local governments, public enterprises, political parties etc. In Serbia there are no well-qualified auditing companies if EU standards are taken as a measure. The best that exist, knowing that a state audit would be highly-exposed to political influence and lobbying, do not want to risk competing for the job.<sup>59</sup>
- 3) The Ombudsperson Law was passed but no one has yet been appointed to that position. In Vojvodina an 'Advocate for the Citizens' exists, and a similar position was recently created

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<sup>58</sup> An unusual haste was reported in the press. Crowds lined up in the ministries created by the desire of the ruling parties to maintain their political appointees in the government as if they were professionals. In great haste, exams for civil servants (professional status) were organised, and passing grades were required to retain the positions held. It is reported that some parties are taking revenge against the others so that the other parties' people do not pass the exams. It has also been reported that some people with secondary education are passing the exams, while others with PhDs are failing. *Blic*, daily newspapers, 19 December 2006.

<sup>59</sup> Ljubisa Stanojevic, professor for accounting and auditing, in *Politika*, 20 November 2006.

in the City of Belgrade, but on the national level the situation has remained stagnant from the beginning. As is the case with some other important institutions, the Ombudsperson became a Constitutional category, so that may help it to function in the future.

- 4) Anti-corruption agencies and commissions have not yet been formed although the National Anti-corruption Strategy was passed in the Parliament in December, 2005. What still exists is the Anti-corruption Council, a body comprised of civil society representatives, which was formed during the first transitional government, and which will be dismissed since the new Agency mentioned above will take its place. There are a couple of NGOs that are dealing with corruption. The most prominent and active is Transparency Serbia.
- 5) Regulatory institutions are being developed in Serbia but they are not independent from the executive or from political, and business influence. Their lack of independence has destroyed their reputations from the outset. Each institution has the same problem: they are purposely designed by law not to function. The most scandalous case of fixing the work of such institutions was Republic Radio-diffusion Agency (RRA) for the 'neutral' distribution of national frequencies to TV and radio stations. A whole book could be written about the scandalous work of the RRA. Other less well-known examples include competition policy and the 'Anti-monopoly Commission'.

Because of the huge domination of monopolies in Serbia (she has received the lowest grade – 1 for competition policy),<sup>60</sup> it has been said that Serbia does not have any competition policy. Most of the public companies are monopolies; private firms also look for privileges in order to avoid market competition (most commonly, protection is purchased by buying laws via connections in the government). To curb monopolies, the Law on the Protection of Competition was passed last year. The Anti-monopoly Commission was established after a long delay. The law will not be effective because of its evident deficiencies: it does not punish domination of a market, but only the 'misuse' of such a position on the basis of "reasonable discretionary estimation".

- 6) The latest draft law on foreign investments included the concept of 'one-stop shop' and it is another example of the grave distortion of a good idea. The World Bank made very serious remarks on how the law will open the door wide to corruption because of its deficiencies. In the law, the one-stop shop will be virtual; it will not be an actual office. Each municipality (there are almost 160 in all) will be a one-stop shop. The actual shop will simply be the discretionary judgment of the mayor, and, for larger investment – the Minister of Economy. The one-stop shop can be at the service of an investor, or he can be deprived of it, depending on the discretionary decision of the mayor or the Minister, independently of what the law says. Discretionary decision-making provides an open invitation to pay-off requests.

### ***The law on the financing of political parties***

The Law was passed in 2003 but it did not meet the expectations to prevent secret, under-the-table, party financing, which has become a tradition in Serbia, since the introduction of the multi party system in Serbia in 1990. The government and the parties are supported by big capital contributions and it is a well-known public 'secret' that the tycoons finance all the major parties. Individual donations are officially limited for the regular functioning of a political party to 10 average salaries for persons (per calendar year this amounts to €2,600), and 100 average salaries for organisations (amounting to €25,000). For election campaigns, the limit to donations is determined in relation to the funds provided from the budget (it is around 350.000 dinars, and

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<sup>60</sup> According to the Transitional Report of the EBRD for 2005; only two ex-communist countries, Turkmenistan and Bosnia and Herzegovina, received such a low grade.

1.4 million dinars for an ongoing campaign). Each contribution must be recorded in the accounting books of the party and anonymous donations are forbidden. In practice, however, the law is not adhered to and the names of the donors are not disclosed, although by law each donation over \$100 must be reported along with the name of the donor.

What is needed is a transparent model for financing the parties and an efficient control-mechanism. Serbia must pass such a law; there are many good practices that can easily be adopted and implemented. But the 'financing law' will be useful only if Serbia passes a law on political-party organisation, and this is currently lacking. The law presently in effect is the old socialist law about 'social-political organisation'. The need for this law is urgent because there are more than 400 parties in Serbia. Any serious control must start by clarifying what constitutes a political party and what the procedures for its creation and activities should be.

The main problem of the existing law is that it does not provide for the establishment of a separate institution to monitor the funding of parties, nor a separate body charged with supervision. There now exist two control bodies which are not connected with each other: the Republic Electoral Commission for the campaigns; and the Parliament Board of Finance for controlling regular party activities and financing. This supposed control body is composed of party members who submit the financial report. This means that the parties control themselves. Although these organs can employ professional reviewers, they abstain from doing it for two reasons: first, they lack the political will to really control the party financing; second, these two bodies (the REC and PBF) do not have a budget to pay reviewers. Furthermore, these two bodies do not have the legal authority to start procedures against a party that violates the law; they can only initiate a process that must be carried out by other organs. This practically renders in-existent the control of the parties by the law.<sup>61</sup> The law suffers from other deficiencies, such as the stipulation that 20% of the money from the budget set aside for party financing should be distributed to the parties at the beginning of the campaign, and 80% at the end of the campaign (according to success in elections). This means that parties have to find money from other sources, because they need money at the beginning of the campaign. Uncertainties in the law, and especially its weak control, have paved the way for the undisciplined behaviour of the parties. The majority do not respect the law, and do not submit complete financial reports in due time. No parties have published their financial reports and made them available to the public, although it is required by law.

Despite the parties having avoided transparent financial operations by taking advantage of the weak control mechanisms of the law, they have nevertheless been able to receive between 5 and 7 million euros a year provided by law from the state budget. There are many indications that politicians have systematically been creating loops of companies through which they have acquired a lot of that money.<sup>62</sup> Under the same political influence the supposedly independent, regulatory institutions (commercial courts, enterprise registries, the stock market and the media) have compromised their ability to control corruption.

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<sup>61</sup> Monitoring of the presidential campaign in 2004 demonstrated that all candidates spent more money than permitted, but nothing happened and no sanctions took place. To learn more about the problems of the controlling mechanisms set up by law, see the excellent monograph: Vladimir Goati, Nemanja Nenadic, Predrag Jovanovic: *Finansiranje predsednicke izborne kampanja 2004 u Srbiji* (Financing Presidential Election Campaign 2004 in Serbia), *Transparentnost - Srbija*, 2004.

<sup>62</sup> The detailed reports about such cases were submitted to the government by the Anti-Corruption Council, but they have never been reviewed.

The delay of the government to form a specialised Anti-corruption Agency, which would effectively control party financing (together with the Institution for State Audit), means that the coming elections will be carried out under the existing highly-deficient control mechanisms.<sup>63</sup>

The preceding analysis confirms that Serbian anti-corruption policies are weak, and as such, contribute to state capture and corruption. It also confirms that if there is no political will to curb the corrupt state, no law is good enough. The law can be perfect but it will still not function if there is no will for it to be implemented and enforced.

## **6. Survey on public opinion on corruption and state capture**

I have analysed objective data on state capture as a 'framework' to show that there is ongoing large-scale corruption. But for anti-corruption policies it is essential to know what the citizens, as the principle stakeholders, think about the mechanisms of state capture, how much they trust state institutions, how they judge 'party' job allocation in the public sector, what they think of the multi-functions held by the politicians and how they think corruption should be fought. I have divided the survey data on the public opinion of Serbian citizens into three sections: 1) concerns of the public about corruption and public confidence in the main state institutions and party leaderships; 2) judgment about the existing criteria for job allocation for the leading positions in public offices and what the criteria should be, including approval/disapproval on holding multi functions by politicians; and 3) tolerance and awareness of corruption in public offices, and what citizens think is the most efficient strategy to fight corruption in Serbia.

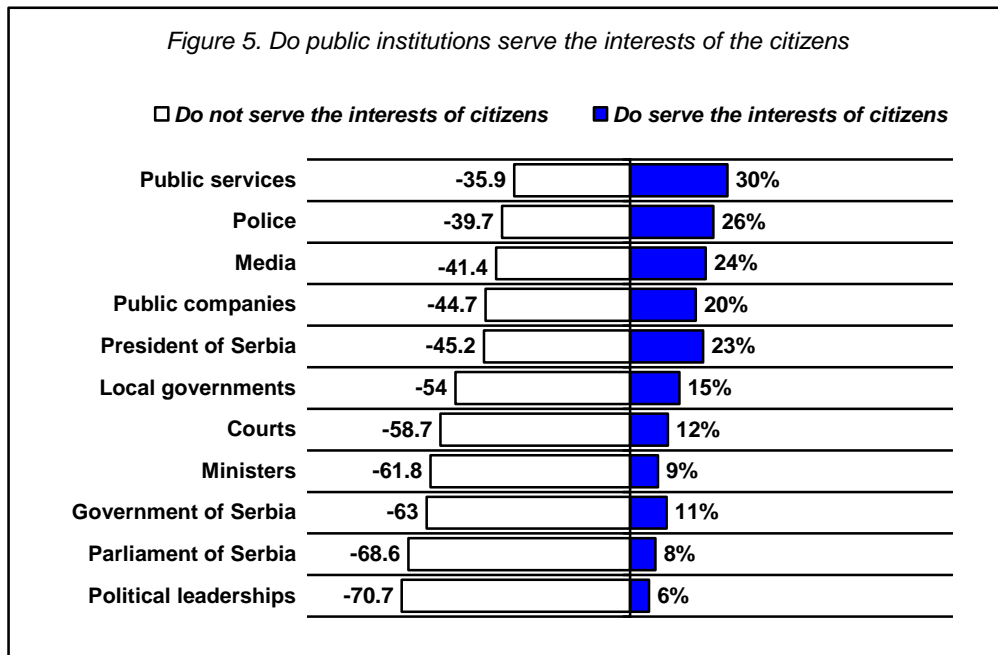
### ***Concerns about corruption and confidence in institutions***

The citizens of Serbia think that corruption is one of the four most important problems of the country. When citizens were asked to spontaneously choose the main problems Serbia is facing, the responses were the following: unemployment (55%), low standard of living (37%), Kosovo (23%) and corruption (28%).<sup>64</sup> High awareness of corruption has a direct impact on their trust in the main state institutions. Distrust of the institutions and the perception of them as being almost totally alienated from the interests of the citizens is alarming. Their answers to the question "which public institutions work for the interests of the citizens and for the general public good", show extremely low confidence in the institutions: only 6% of the citizens think that political leaderships work for the public good; Parliament gets only 8% positive votes, ministers 9%, government 11%, courts 12%, local governments 15%, public companies 20% and so on. All the institutions have an overwhelmingly more negative trust vote than positive (see Figure 5).

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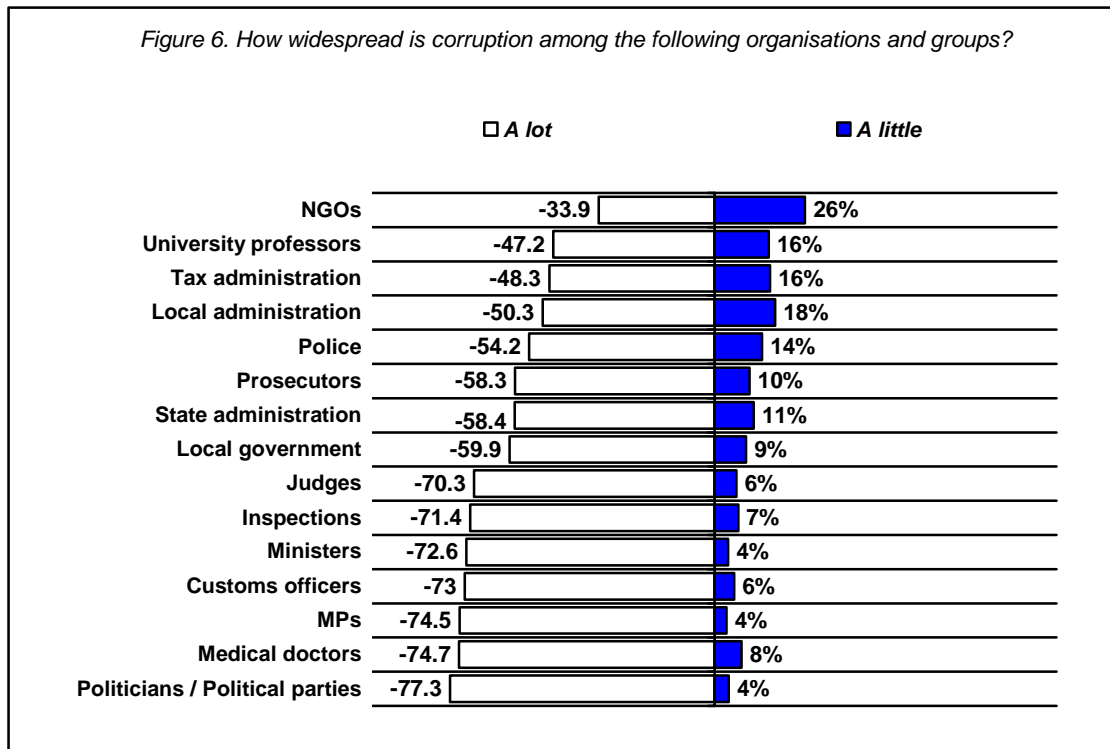
<sup>63</sup> Due to the new form prepared by Transparency Serbia to be used for the report of money collecting and spending during the January 2007 elections, more transparent reports are expected to be submitted 10 days after the elections are held.

<sup>64</sup> The higher percentage of concern about corruption than about Kosovo was due to the ongoing corruption affairs that were being aired in public when the survey was going on; other survey data show that concern about Kosovo is higher than about corruption, but it does not change the estimation that corruption is among the four biggest problems of Serbia.



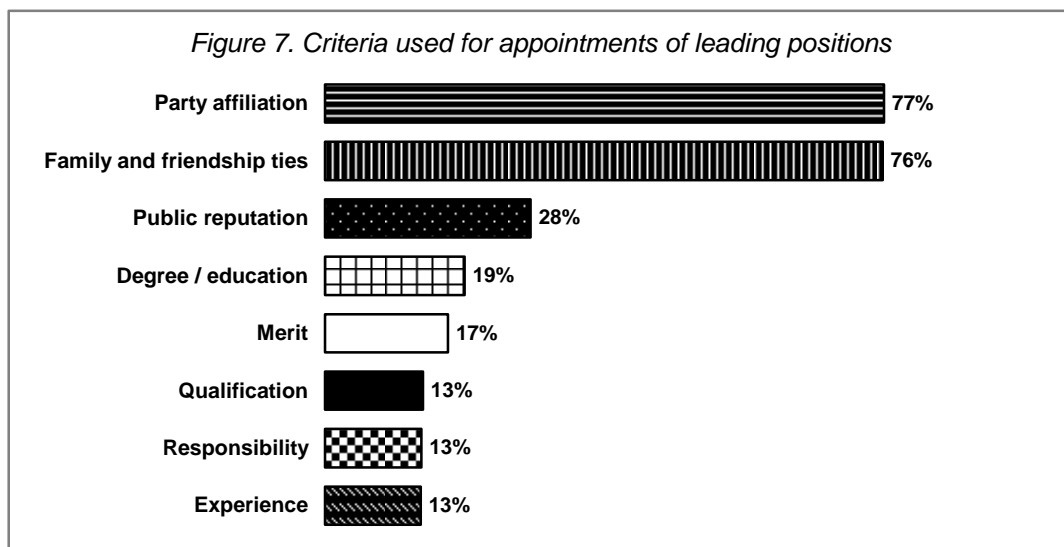
For whose interests are these institutions and organisations working? Using a scale from 1- 5 for each selected state office, the results are extremely worrying. A great majority of people, 71%, think that state offices work in their own interests, 70% say that they work for their parties, 69% say they work for their relatives and friends, and the same amount think that they work for “powerful people and businessmen”. Only 13% said that state offices work in the interests of the citizens!

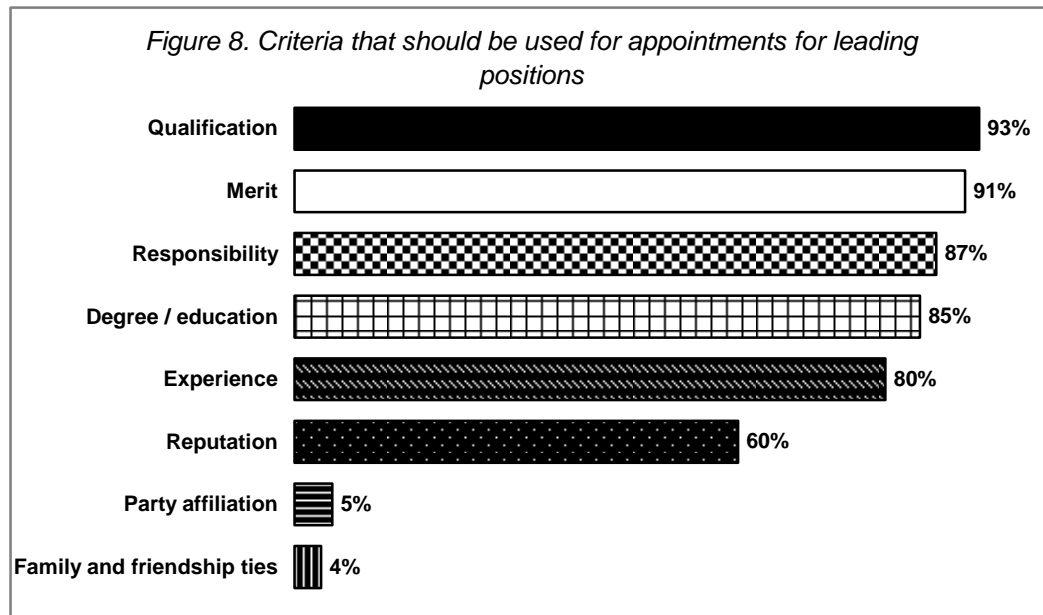
In response to direct questions about the public organisation or office in which corruption is the most widespread (using a scale of 1-5 for each institution), 77% think that the political parties are the most corrupt, doctors and MPs tied for second place with 75%, and so on (see Figure 6).



### Appointments to public offices

Citizens have a realistic perception about how positions in public offices are filled, confirming my research data. When asked about how appointments should be made, the response was almost totally opposite to the practice in reality. The citizens indicated that merit-based appointments should be the most important criteria used. More than 90% said that it should be the first criteria taken into account (Figure 8). A dramatically different picture was given about how they view the practice to be in reality. Citizen responses estimated that party membership and family/friendship ties are the most used criteria (77% and 76%, Figure 7), while merit and qualifications play a much lesser role in the selection process.





Perceptions about the procedures for recruiting for jobs in public offices show that 49% of the citizens think that advertisements for public office positions do not exist, and that the parties independently allocate these positions to their own people within party coalition agreements. A total of 40% think that when positions are advertised, the competition is fixed in advance. Only 8% of the citizens interviewed think that public advertisements of positions and the opportunity to apply are accessible to everyone.

The general public perceives the holding of multiple functions by politicians to be a negative practice and a problem. Over 90% of the total sample of citizens had this point of view. Among responses regarding multiple functions, 27% said that this phenomenon was caused by greed for money (to have many sources of income); 24% said that it is a problem because it is not possible to exercise so many functions and to perform them properly and in the interest of citizens; 20% estimated that multiple functions mean a concentration of power in fewer hands and that it is not democratic; 19% estimated that multiple functions give too much power to the parties. Only 9% said that having multiple functions is not a problem if someone is sufficiently capable of fulfilling them all in a proper way.

Citizens also disapprove of the practice that highly-positioned statesmen/women are simultaneously playing active, high-level roles in their respective parties. Some 54% of the sample disapproved of the practice, 29% expressed their disapproval only for the highest positions (Prime Minister, President and ministers) and 15% think that having both an active party function and a state duty or duties does not influence the effectiveness of their performances of both roles.

### ***Tolerance of corruption in public offices and the efficient anti-corruption strategy***

The citizens of Serbia are very sensitive to and intolerant of corruption. They said that if they knew that a politician from the party s/he usually votes for was corrupt, s/he would go to the party to denounce him (34% of the answers), 33% would not vote (would abstain), 22% would vote for some other party and 4% said that in spite of the corruption they would vote for their parties because the others are no better.

Other indicators on the same issue once again demonstrated a high sensitivity to and intolerance of corruption. Citizens claimed that they would immediately denounce someone who would ask for a bribe, but my opinion is that this is an overestimated expression of action that would not really be carried out when faced with bribery. In response to a question about the relative corruption of political bodies (saying that political corruption is the same in developed countries but did not prevent them from developing), 45% strongly disagreed with such a statement, while only 13% agreed (the others did not express an opinion).

As to why corruption is not being eradicated, 46% of the respondents expressed the view that the state is doing little to curb corruption because corruption is located in the state organs, while 21% felt that institutions such as the courts, inspections and budget controlling mechanisms are not working and a lesser number that said that there was no money to fight corruption, that political parties are not giving enough support and citizens are not supportive.

What do citizens think would be the most efficient policy to fight corruption? They mainly gave three largely substantiated answers. First, special and independent bodies must be created to fight corruption as the only focus; second, the rule of law and independent courts must be strengthened, and third, internal and external controls must be established for all public institutions together with sanctions for those who violate the rules and standards in the public sector. A small number, about 5% each, mentioned the need to increase the involvement of all citizens, the need to prohibit multiple functions, the need to introduce obligatory standards of behaviour for all public servants and the need to develop investigative journalism.

## **7. Conclusions and Policy Recommendations**

### ***General conclusions***

The complex transition process in Serbia remains overloaded with the specific problems of the past decades. Among these problems is the large-scale corruption that has survived during the six years since Milosevic was ousted from power. In the post-Milosevic period, Serbia has passed many laws and new institutions have been established to fight corruption. But the result is unsatisfactory, mainly because the laws are deficient (or improperly implemented), institutions are weak, and controlling mechanisms are almost non-existent. During the post-Milosevic period, there has been a tendency to install state capture as the corrupt and non-transparent norm of public sector governance in Serbia. This trend is due to the growing stabilisation of an oligarchic social structure and the loss of a strong pro-European and reformist policy-orientation in government. Serbia has not yet established differentiating lines to separate political and economic sectors. The high convertibility of influences between them has created a non-transparent and unaccountable government, undermining the main state institutions, including the judiciary, the Parliament and the principal regulatory and controlling institutions. This politically dominated system has created a framework for systemic corruption.

Accompanying these typical 'transitional' problems are the specific difficulties that Serbia has in complying with its international obligations to extradite Ratko Mladic and other accused Serbs to the ICTY for war crimes. The postponing of this obligation has held up the negotiations with the EU about the Stabilisation and Association (S&A) agreement with Serbia, curtailing, at least temporarily, the EU influence on institution building in Serbia. The lack of 'political will' for serious institution-building in the area of judiciary independence, professionalism, good governance and accountable executive organs has been clearly demonstrated. Unrestrained political leadership in Serbia has converted, to a great extent, the multi-party system into a rigid, party-feudal governance over public institutions and citizen interests. This conversion was identified as the phenomenon of state capture, which works on a two-way track: it seizes state



influence and all public institutions for political elite interests, and trades them for the illegitimate needs of privileged business (tycoons) in return for secret financing.

In summary, the results of my research on state capture and my survey of public opinion have demonstrated the following practical problems relevant for policy options:

- 1) Tycoons have become part of the system (government) by buying political influence to ensure their monopolies (which keep prices higher<sup>65</sup>), getting favourable laws and various privileges.
- 2) There has been an increase in discretionary decision-making of the ministers and government.
- 3) The administration of tax, customs, police, services and utilities, etc. has become highly politicised.
- 4) Multiple functions, exaggerated immunity, dismissing MPs from parliament, mingling of the highest party and state functions and ownership of the mandates by the parties all indicate the formation of an oligarchic political structure.
- 5) Political/party influence over the new regulatory institutions has been expanded by corrupting their control mechanisms, their selection processes, or simply, by delaying their establishment.
- 6) Power has been concentrated in the executive branch enabling it to subjugate the parliament and the judiciary system to such a degree that there is no effective control mechanism over government.<sup>66</sup>
- 7) Citizens have lost confidence in all public institutions and in politicians because of state capture mechanisms i.e. their imposing their own interests over public interests.

### ***Policy options and recommendations***

The main policy problem is: How can legal limits and effective control be established over the currently-unrestrained party leaderships in managing the public sector and public interests? The policy should constructively lead to the creation of good governance institutions and a supportive legal environment rather than focus entirely on the negative consequences of the system's illness. To investigate these opportunities, I will mention the positive elements of the changes that have occurred in the post-Milosevic era and point out public actors who could implement new policies to curb state capture. These positive elements for policy changes are:

- Economic reforms have not been discontinued during these six years (a short break was visible during 2004, especially in privatisation), which leaves the door open to the development of liberal, competitive markets and the completion of the privatisation process. Progress in this area will reduce the extensive state interference in the economy, diminish the power of monopolies and the seeking of 'favours' for business, and will augment the shift towards a new style of entrepreneurship and corporate business based on law and markets.
- Political competitiveness has not been completely eliminated; there is still room for new political alternatives. There are important differences in the main political orientations of

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<sup>65</sup> The daily paper *Politika* made an experiment comparing basic food prices in the Czech Republic and Serbia: the conclusion was that in Serbia the prices are almost twice as high due to the monopolies.

<sup>66</sup> For just this reason, the President of the Anti-corruption Council, Verica Barac, in her last announcement said that the government became "the centre of power and corruption", quoted from *Republika*, December 2006.

existing parties, giving citizens the opportunity to vote for those which are reformist and EU oriented.<sup>67</sup>

- Despite some negative actions of the government against the NGOs, they are growing stronger, raising their leadership capacities and strengthening their potential for influence by forming coalitions, engaging in joint actions, and cooperating with the new control institutions such as the Ombudsman for Information.<sup>68</sup> Investigative journalism is just beginning but it has already produced some positive results.<sup>69</sup>
- Institution-building and the development of a legal framework in the area of good governance is under way, but it needs to be continued, improved, implemented and monitored.
- Citizen awareness about corruption and state capture mechanisms is growing. They are the most important stakeholders and they need to establish alliances for combating extreme party/government power so that more accountable and transparent governance can be established in Serbia.

Based on the findings of the research and the positive tendencies that now exist for combating state capture, it is evident that if policy strategy is to be effective, it must be simultaneously carried out on three different policy levels. The *first* refers to the international level. In the context of Serbia's ambition to join the EU integration, the focal point must be to renew the suspended S&A negotiations with the EU. The condition for lifting the suspension should be Serbia's full commitment to its international obligations by extraditing Mladic and others accused of war crimes to the ICTY. Without opening up and making firm progress on the road to EU integration, it is highly unlikely that significant results can be produced on the second and third levels of policy for combating state capture and systemic corruption. EU support for wider political, economic and institution-building reforms is essential. The *second* policy cluster refers to the institutional and legal improvements that must be introduced in the area of fighting corruption in order to achieve the goal of reaching the benchmark of corruption reduction to grade 5 measured by the TI CPI index (which signifies bearable corruption). The *third* level of policy measures requires activating the society, civic organisations, professional associations, media and NGOs to a sufficient degree so that they can exert effective, systematic external pressure on the government to bring about its accountability, transparency and responsiveness to the citizens' needs and interests.

On the first level policy, to break through the political stalemate of Serbia's international obligations, the following EU policies are recommended:

1. Actively support the pro-European democratic forces and the civil sector aiming to marginalise the old nationalistic forces, which are the anchor of the state capture system and anti-European values and institutions.
2. Urgently demand that the new Serbian Government (to be formed after the elections in January 2007), extradite Ratko Mladic and other accused Serbs to the ICTY (International

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<sup>67</sup> As has been shown, there is a substantive difference between the way the Democratic Party and the Democratic party of Serbia would lead the government, although they are both considered to be part of the 'democratic bloc'.

<sup>68</sup> Some NGOs protested against the replacement of the Ombudsman for Information during the first session of the new Parliament. They had a very fruitful cooperation with the Ombudsman on several occasions.

<sup>69</sup> The TV show "Insider" of the B 92 TV Station is such a case. It has revealed all kinds of misdeeds of the government, especially in the area of police actions, security agencies, courts and prosecution cases, as well as tycoons avoiding customs, the smuggling of cigarettes, etc.

Criminal Tribunal for the Former Yugoslavia), in order to continue the negotiation process with the EU. The fulfilment of this obligation to the ICTY would give enormous potential to Serbia to eradicate the secretive state bodies of the old regime in the police and military, which are the true stakeholders of state capture, nationalistic manipulation and anti-European policies.

3. Strongly support Serbia's EU integration process, irrespective of the present ambivalence about future EU enlargement. The integration process in itself, with its insistence on political and economic reforms, free trade, and institution building, is more important than the final goal of becoming a full member of the EU, although the goal has to remain tangible because of its motivational effects for sustainable reforms and changes.

Second level polices, refer to the institution-building of good governance, derived from the analysis of state capture mechanisms and consequences. The following policies are recommended:

4. Establish control mechanisms without delay in all areas of public and private sectors where they are missing. This includes the implementation of already-existing laws. The State Audit Institution must be established and given real authority to audit all public budgets. The Agency for Fighting Corruption, the Ombudsperson, and the Civil Service Agency must also be implemented. The latter is provisioned by the Law on State Administration. It will promote professionalism and the complete de-politisation of state administration on all levels and sectors, requiring that all appointments be advertised and presented to the public.
5. Introduce an Ethics Code in all public institutions, giving particular weight to the ethical behaviour of MPs, government officials, judges, prosecutors, presidents of controlling boards of the regulatory institutions etc. The purpose is to raise the consciousness of ethical standards and increase the effectiveness of the public sector. It is needed to introduce the permanent education of public functionaries and civil servants in the domain of good governance. Themes covered should include the prevention of conflict of interests and the obligation to inform the public about topics of public interest, and about the need for citizens and professionals to participate in the drafting of new legislation.
6. Eliminate the possibility of lobbying the government regarding customs taxes, petroleum excise taxes, transfers to municipalities, credits, etc. Eliminate the discretionary decision-making of ministries and governments and base them on law.
7. Improve the already-existing laws and their regulatory bodies and adapt them to EU standards so that they may be more effective in their control of executive/political influences and may prevent their collusion with private business. In particular, the new Law on Financing Political Parties should be drawn up and submitted to the Parliament and an effective control body should be set up for its implementation.
8. Advocate improvements in the Law on Conflicts of Interest which was passed with many defects. It must cover all functionaries, it must prohibit multiple public functions for the MPs and other government officials and it has to professionalise the Board for the Prevention of the Conflicts of Interest.
9. Improve competition policy and eliminate monopolies and privileges in the Serbian economy by introducing more effective 'anti monopoly' control bodies, by expediting privatisation procedures, by legislating free trade policies and by signing free-trade agreements.
10. Develop effective strategies for the selling of shares of public companies (which do not deal with natural recourses) in order to introduce responsible, efficient, and merit-based management instead of present party cronyism and nepotism.

The third level policies emanate from the survey data I have presented showing the dissatisfaction of citizens with public-sector ineffectiveness and widespread corruption. They include:

11. Build up civil society's capacities and promote NGOs' alliances to organise public debates about party-conditioned distributions of leading positions in the public sector and discrimination on the basis of political convictions.
12. Organise campaigns against multiple functions. Advocate eliminating the mingling of state and party functions at the highest levels. Prohibit the 'feudal division' of the executive power in the new government which will be formed after elections.
13. Initiate public dialogues with the more open-minded political parties about changes in election laws, in order to strengthen the role of the parliament, increase the responsibility and professionalisation of the MPs, reduce the scope of their immunity, and enhance citizen-MP relations in proposing, implementing and monitoring the laws in the area of good governance and corruption prevention.
14. Enhance investigative journalism and public dialogues about state capture and good governance topics, as well as about corruption. Support the journalist profession in defence of the freedom of expression. Advocate real independence of the news media, TV and radio public services. Do not allow them to be an extended arm of the government.
15. Make alliances between the independent regulatory bodies (agencies) and NGOs. Facilitate their joint role as strategic partners in fulfilling their social roles including providing education and training and monitoring of the effectiveness of the new institutions.

Our research and survey data will hopefully serve to convince politicians and government officials to take into account public opinion and the almost total distrust that citizens have towards political institutions and political leaderships. This is leading to an alarming alienation of the citizens from the political system. The systematic and sustainable external influence of the civic organisations and NGOs can bring about the changes that are needed in the leadership of Serbia.

## Annex I. Survey Methodology

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- **Time frame:** Research was conducted during the period of 20-24 July 2006.
- **Population:** Serbia (excluding Kosovo) 18+ years of age
- **Sample size:** 1027
- **Sample type:** Three-stage random representative stratified sample
  - *Primary stage units:* Polling stations territories
  - *Secondary stage units:* Households (SRSSWoR – random walk)
  - *Tertiary stage units:* Respondents within the household (Kish tables)
- **Research sites:** 67 municipalities in Serbia, 127 local communities, urban, peripheral and rural neighbourhoods
- **Stratification:** gender, age and region
- **Sampling error:**
  - ±1.23% for incidence 5%
  - ±2.45% for incidence 25%
  - ±2.82% for incidence 50% (*marginal error*)