ELECTORAL SYSTEMS:
A SPECIAL REVIEW OF THE LOCAL-SELF GOVERNMENT IN SERBIA

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Abstract. *The electoral system is part of the broader election law, which also includes an electoral form, constituencies, electoral competition, voting, methods of converting votes into mandates, as well as election threshold. Most often, the choice of the model by which the members of the representative bodies will be elected has a major effect on the entire political system of the state. Regarding the electoral form, electoral systems at both the national and the local level are divided into the majority and the proportional system, but there is also a large number of "mixed" electoral systems. When it comes to the Republic of Serbia, as well as many other countries of Central and Eastern Europe, the initial dominance of the majority electoral system in almost all the countries in the 1990s was gradually replaced by a proportional electoral system. Local self-government represents a democratic framework for citizen participation in managing the affairs of their immediate interest,where citizens, directly and by secret ballot, elect the municipal assembly members, as the highest representative body of the municipality. In case of local self-government, the D'Hondt election method and the 5% threshold are applied. When it comes to the electoral systems and the parties of national minorities, the laws of the Republic of Serbia provide significant measures for the participation of this type of political organization in the distribution of mandates, subject to special conditions, even when they receive less than 5% of the total number of votes.*

Key words: *electoral system, electoral models, local self-government.*

INTRODUCTION

Election is one of the most important elements of the political system and democratic society. With their right to vote, which is a basic constitutional right, citizens express their support of the authorities as they directly participate in the constitution of the public

office. Democracy would not exist without fair and democratic elections. Elections are one of the basic preconditions for every democratic society (Kurtović, 2013: 92-93).

In modern political science, there are several hundred definitions of electoral systems. The electoral system basically represents the institutional form within which voters express their political views in the form of votes, and votes turn into mandates. The electoral system is, therefore, part of a broader election law, which includes the electoral form, constituencies, electoral competition, voting, methods of converting votes into mandates and, finally, an election threshold.

The selection of the electoral system is one of the most important institutional decisions for each country. The choice of the model for electing members of the representative bodies has strong effects on the whole political system of the state. Historically, disregarding the short traditions of transitional democracies, once established electoral systems last for quite a long time. Of course, there are frequent examples of changing or constituting new electoral systems, which is the result of new circumstances caused by certain historical, ethnic, political, cultural and other factors.

In relation to the electoral form (model), the electoral systems, both at the national and the local level, are divided into the majority system and the proportional system, but there is also a large number of "mixed" electoral systems (Sartori, 2003: 21-7). The majority electoral model means that "the winner takes it all", either with a relative or absolute majority, regardless of whether it is a so-called single-round or two-round election. The model of the two-round majority electoral system is, according to some authors, "unrepresentative", because candidates who have won less than 50% of votes can enter the second round. On the other hand, proportional electoral systems are based on the distribution of mandates in parliament in accordance with the number i.e. percentage of the votes obtained.

Voting, as a form of expressing voters' will towards individual candidates and lists, is also one of the fundamental components of the electoral system. It can be performed through the so-called closed and open lists. Closed lists mean that each voter can choose only one candidate or a list, previously determined by the submitter - political party or coalition. In this respect, it is important to point out that these lists can be either closed blocked lists or closed unblocked lists. Closed blocked lists mean that a party or coalition management of a particular electoral list has previously established a list of candidates for the members of parliament, after which there is no possibility of changing their order. A closed unblocked list allows voters to vote for individual candidates within the list, and thus influence the order of mandates of a particular political party or coalition. Within such lists, the party and coalition management only determines the list of candidates, while the citizens make a decision in the election. Open lists, therefore, leave voters the possibility to vote for more than one candidate belonging to different party lists.

When it comes to the method or form of voting, there is a possibility of applying the "one vote" principle, where one voter can only choose one candidate. On the other hand, preferential voting means voters can compose a list of potential candidates. All the countries of former Yugoslavia apply the "one vote" principle with the exception of the Republic of Slovenia, which provides the possibility of preferential voting for the members of the Hungarian and Italian minorities when electing members of parliament belonging to these ethnic communities.

One of the key segments of electoral systems is the choice of a method for converting votes into mandates. In this context, the D'Hondt method prevails in our area. This

method was first applied in Belgium in 1899, while today it is used in most European countries (Italy, Austria, Finland, Belgium, etc.). According to this method, the total number of votes cast for each candidate or list is divided by the proper set of divisors (e.g. 1, 2, 3, 4, 5, 6, 7 ...), depending on the number of participants in the electoral process. Therefore, the mandate is given to the political party having the largest quotient.

THE CENTRAL DILEMMA: THE MAJORITY OR THE PROPORTIONAL ELECTORAL SYSTEM

In modern political systems, dilemmas related to the choice between the majority and the proportional system (including their numerous variants) were often closely related to the wider definition of the political system, *i.e.* the choice between the presidential or the parliamentary system of the organization of power. Giovanni Sartori believes that the reengineering and selection of the electoral system were fundamental to the establishment of democracy in post-socialist societies (Sartori, 2003: 21-7). One of the basic characteristics of a well-chosen electoral system is its acceptability for the majority, that is, for all leading political factors. Of course, this should finally lead to a complete stabilization of the political scene, as well as the reduction of potential conflicts. In this regard, Sartori emphasizes that the important thing is not the choice between the majority or the proportional electoral system, but its full acceptability and the ability to ensure a stable and accountable government after the election.

Defining the framework of the electoral system essentially determines the structure of the party system. Sartori asserts that the majority system is a better option since its antipode, the proportional system, often leads to "corrupt and blocked coalition governments". Moreover, Sartori claims that the majority electoral system affects the formation of two-party systems, which are more stable than moderately or highly pluralized party systems. A proportional electoral system induces additional fragmentation of the society and leading political parties, which can also affect the instability of the entire political system (Jovanović, 2004: 379-400). Nevertheless, many authors point out that the proportional election system is a better option since it allows fragmented societies to preserve full representativeness of the representative bodies. In these systems, the election threshold is also significant, as well as its effect on the formation of electoral systems.

In addition, it is emphasized that the proportional electioral system stimulates government spending and breaks the bond between the voters and members of parliament. The proportional system basically fragments the parties and allows small parties to blackmail the big ones. Opponents of the proportional system also note that the system of party lists gives great power to party leaders in relation to elected MPs. It is also mentioned that proportional electoral systems increase government spending as it is necessary to satisfy the consumer appetites of all the parties participating in the election. One of the objections to a proportional election system is that it weakens the link between MPs and voters. This link is stronger in the majority system; however, this does not guarantee better solutions. Despite these shortcomings, all countries within the European Union, except for the United Kingdom, employ some form of the proportional system.

Finally, the majority system does not necessarily lead to the consolidation of the political scene. Even if this happened, it would mean the elimination of small parties and the dominance of two or three parties. More precisely, the majority system most often, but not inevitably, leads to the strengthening of the party scene. Here it is quite possible

that members of different political affiliations are elected in different constituencies. This is especially true for a culturally, ethnically or otherwise heterogeneous country.

All in all, both electoral systems have their advantages and disadvantages. The advantage of the majority system is the internal division of political power, balance of interests, and the possibilty to creat the policy above the municipal level. Another advantage of this system is that it properly determines political responsibility, strongly connects members of parliament to the will of the voters, and sometimes allows a more homogeneous executive and legislative power. The disadvantages of the proportional system are the fragmentation of the political scene, the great influence of the leaders on the election of members of parliament, as well as the distance between voters and members of parliament. On the other hand, the shortcomings of the majority system are the possibility of bad policy dominance, dominance of local interests at the central level, and the risk of populism.

In the countries of the former Eastern Bloc, certain segments of the electoral systems at the national and local level started to be defined in the period from 1989 to 1992. After the initial dominance of the majority electoral system in almost all the countries of Central and Eastern Europe at the beginning of the last decade, a gradual transition to the proportional electoral system took place. This is confirmed by the reforms of electoral systems in the majority of former Yugoslav countries.

THE CASE OF THE REPUBLIC OF SERBIA AND
ELECTORAL SYSTEM OF THE LOCAL SELF-GOVERNMENT

In the Republic of Serbia, there have been several different electoral systems over the past few decades. The first multi-party election in Serbia, held in 1990, was organized following the two-round majority electoral system, The proportional system with nine constituencies was introduced in the next election held in 1992. In the election held in 1993, the same election law was applied. However, in the 1997 election, there was a redefinition of constituencies, whose number increased from 9 to 29.

Some authors are inclined to believe that the formation of the electoral system in Serbia over the past two decades has been carefully performed by the ruling parties. Due the increase in the number of constituencies and their creation on the basis of the areas where certain parties traditionally had strong support, those parties managed to increase the number of madates they won (Goati, 2002: 248-51). The Act on the Election of Members of the Parliament[1], which was in force in the 2000 and 2003 elections, introduced a proportional electoral system with a fixed 5% threshold. Pursuant to this Act, the entire territory of the Republic of Serbia was defined as one constituency. Such a high threshold left a number of political parties of minority ethnic communities outside the parliament, which was overcome by introducing a clause by which these parties shall enter the parliament even without winning at least 5% of the votes, pursuant to the 2004Act Amending the Act on the Election of Members of the Parliament. Namely, in the course of the candidacy, the Republic Electoral Commission is authorized to

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[1] Act on the Election of Members of the Parliament, Official Gazette RS, 35/2000, 57/2003 – decision of CCRS, 72/2003 – other law, 75/2003 – correction of other law, 18/2004, 101/2005 – other law, 85/2005 – other law, 28/2011 - decision of CC, 36/2011 and 104/2009 – other law)

determine which political parties and coalitions have the status of representatives of minority communities' interests.

According to the current legal regulations, primarily the Act on the Election of Members of the Parliament, there are closed blocked lists in Serbia, which means that their submitters determine the order of seats in parliament before publishing the results. The D'Hondt method of allocating the seats in parliament is utilized in Serbia, as well as in Croatia, Slovenia, Montenegro and Macedonia, for example. On the basis of this, the total number of valid votes in the election is divided by 250 (which is the number of MPs in the National Assembly of the Republic of Serbia), and during the final allocation only the political parties and coalitions that won over 5% of votes in the electorate are taken into consideration. It is said that the major disadvantage of this sistem is the "tranfer" of votes of smaller political parties (which have not passed the 5% election threshold) to the first-ranked parties or coalitions.

When it comes to the local self-government, which represents a democratic framework for citizens' involvement in managing the affairs of their immediate interest, municipal assembly members are elected directly and by secret ballot. Municipal assembly is the highest representative body of a municipality (Ilić, 2013: 274-27). Pursuant to the 1991 Local Elections Act, a candidate was to be appointed municipal assembly member if he/she won the majority of votes, provided that at least 50% of the total number of voters in the constituency cast their vote in the election. In view of the "two-round electoral system", if none of the candidates won the required majority in the first round, voting would be repeated within 15 days, when the candidate with the highest number of votes won the election (Ilić, 2013: 274-27). The 1999 Local Elections Act provided the introduction of a majority principle with one-round voting. The main reason for this was that the voters' will was more adequately expressed, that is, the electoral procedure was rational and efficient.

The 2002 Local Elections Act decided that the municipal assembly members were to be elected in direct elections and by secret ballot, based on the list of political parties, their coalitions or groups of citizens, which practically marked the introduction of a proportional system at the level of local self-government in the Republic of Serbia. Since then, elections in all cities and municipalities in the Republic of Serbia have been carried out following the proportional system, where a local self-government represents a unique, multi-nominal constituency. The D'Hondt system and the 5% electoral threshold are applied as well.

Significant measures regarding national minority parties were introduced in 2007 by the Local Elections Act[2], which stipulates that this type of political organization participates in the distribution of mandates under special conditions, even when they receive less than 5% of the total number of votes. Prior to this, the lower limit was 3%.

The organs of local self-government units are municipal/city assembly, as a legislative body, municipal/city council and president of the municipality/mayor, as executive bodies, and municipal/city administration[3]. The election for municipal/city assembly members is conducted pursuant to the Law on Local Elections from 2007. The proportional electoral system is in use. This fact shows that the greater the proportionality of the system, the more fragmented the party system, which implies the tendency for wider and numerous coalitions. The proportionality of the electoral system results in more proportionate transposition and better representation of minority parties, as well as the fragmentation of the party system and

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[2] Local Elections Act, Official Gazette RS, 129/2007, 34/2010 –decision of CC, 54/2011
[3] Law on Local Self-Government, Official Gazette RS, 129/2007, 83/2014, 101/2016, 47/2018

the inevitability of the coalition government (Orlović, 2012: 20-23). Candidate lists can be submitted by political parties, coalitions of parties and groups of citizens, and the election is held in the municipality/city as a single constituency. The lists participating in the distribution of mandates are those that win at least 5% of the votes, with the application of positive discrimination for the lists of national minorities (for which a 5% threshold does not apply). The mandates are distributed by applying the system of the largest quotient. The municipal/city assembly appoints the president of the municipality/mayor from the members of the assembly and his/her municipal mandate ends after the election. The assembly also elects members of the municipal/city council. The chief of the municipal/city administration is appointed by the municipal/city council, based on an open competition (Milosavljević, 2012: 765-766).

As for the election of delegates in the Assembly of the Autonomous Province of Vojvodina, during the past few decades, a single-round majority electoral system (1990) was used first, and it was followed by a two-round majority electoral system (in 1992), while in the elections in 1996 and 2000, as many as three candidates participated in the second round. Elections for delegates in the Assembly of the Autonomous Province of Vojvodina are peformed according to the combined electoral system. Sixty delegates are elected according to the proportional election system while the other sixty are elected according to the majority system. As for the election based on the proportional system, the Autonomous Province of Vojvodina represents a unique, "multi-nominal" constituency. The method of calculating the votes follows the D'Hondt method, and the election threshold is 5%. According to the Provincial Assembly Decision on the Election of Deputies of the Assembly of the Autonomous Province of Vojvodina from 2014[4], political parties of national minorities and coalitions of political parties of national minorities shall participate in the distribution of mandates even when gaining less than 5% of the votes out of the total number of voters who have cast their votes. This decision introduced a combined electoral system with 60 constituencies, and national minorities gained a special treatment in the electoral system. It implies that political parties of national minorities and coalitions of political parties of national minorities may nominate candidates for deputies if they have been supported by signatures of at least 3,000 voters per electoral list, instead of 6,000 prescribed for other parties. When it comes to the majority system, there is no such a difference; therefore, political parties, coalitions and groups of citizens which collect at least 200 signatures of voters in a constituency can nominate a candidate.

CONCLUSION

When designing an electoral system in one country, there are several factors that govern its establishment – those are historical, external and wider contextual factors, as well as the perception (estimation) of strategic participants in the electoral process. Historical factors relate to the experience of organizing public office and the functioning of institutions that previously existed in a country and affected redemocracy. Concerning the foreign influence and examples, foreign election experts try to publicly model the electoral process in one country and their opinions are more or less carefully considered.

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[4] Provincial Assembly Decision on the Election of Deputies of the Assembly of the Autonomous Province, Official Journal of APV, 23/2014

Furthermore, each state seeks to constitute an electoral system that will be in line with the social and political context in which it operates. Finally, the analysis of the design of the electoral system must include the interests of active participants (Jovanović, 2011: 220-228). The electoral systems are certainly the result of all these factors which are constantly operating with different intensity.

In all the countries of former Yugoslavia, the dominance of proportional electoral systems is nowadays clearly visible. As in most post-communist countries, in the Republic of Serbia and its local self-governments, there is a gradual transition from the majority to the proportional electoral system. Given the range of different solutions and models, it can be said that the proportional system is the most flexible, i.e. best suited for modeling when it comes to desirable effects (Živković, 2017: 108).

It can be noticed that in all former Yugoslavian countries there are the so-called closed lists (or closed blocked lists). The electoral system of Serbia is characterized by two other important features, which are the "one man - one vote" principle, as well as the fact that the Republic of Serbia is defined as one constituency. Constituences are most often organized in accordance with special laws and based on certain criteria, such as the number of inhabitants, existing geographical and administrative units, and the like.

When it comes to local self-government, there is an evident progress of the reform process. Nevertheless, certain areas, such as the introduction of a more suitable electoral system, can still be improved. Some objections can be made to the existing electoral system. For example, the municipal/city council has often been turned into an advisory body of the president of the municipality/mayor. This solution is criticized for its irrationality, since it results in an unnecessary increase in the number of local officials on the payroll (Milosavljević, 2012: 758-760). Also, the creation of a more appropriate electoral system could be a challenge when electing the members of local assemblies. This system could be a combination of a proportional and majority electoral system, so that citizens elect one member for small constituencies.

Bearing this in mind, it can be concluded that the type of the electoral system in local self-government is an important prerequisite for the democratization of local authorities (Đorđević, 2011: 191-192). For this reason, the local electoral system should also be considered in the process of the local-self government reform.

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IZBORNI SISTEMI –
POSEBAN OSVRT NA LOKALNU SAMOUPRAVU U SRBIJI

Izborni sistem je deo šireg izbornog prava, koji u sebi sadrži i izborni obrazac, izborne jedinice, izborno takmičenje, glasanje, metode pretvaranja glasova u mandate, kao i izborni cenzus. Najčešće, izbor modela po kome će se birati članovi predstavničkih tela ima glavne efekte na čitav politički sistem države.

U odnosu na izborni obrazac, izborni sistemi se, kako na nacionalnom, tako i na lokalnom nivou, dele na većinske i proporcionalne, ali postoji i veliki broj „mešovitih" izbornih sistema. Kada je u pitanju Republika Srbija, kao i mnoge druge zemlje Centralne i Istočne Evrope,nakon prvobitne dominacije većinskog izbornog sistema u gotovo svim državama devedesetih godina, usledio je postepen prelazak na proporcionalni izborni sistem.

Lokalna samouprava predstavlja demokratski okvir za učestvovanje građana u upravljanju poslovima od njihovog neposrednog interesa, građani biraju odbornike skupštine opštine, kao najvišeg predstavničkog organa opštine neposredno i tajnim glasanjem. I u slučaju lokalne samouprave se primenjuje D'ontov izborni metod i cenzus od 5%.

Kada su u pitanju izborni sistemi i stranke nacionalnih manjina, zakoni Republike Srbije predviđaju značajne mere kojima ova vrsta političkih organizacija učestvuje u raspodeli mandata, i to po posebnim uslovima, čak i kada dobiju manje od 5% glasova ukupnog broja birača.

Ključne reči: *izborni sistem, izborni modeli, lokalna samouprava*