

strategic reform landmark. The cabinet has gradually taken over the role of a moderator of parliamentary life, beginning to control the parliament, even though the process should have taken the opposite direction. However different a general political environment might be, the executive, just like under the former regime, has grown stronger than the legislative and judicial arms of power, beyond any constitutional control. The prevailing balance of political power and *de facto* government system are now a series obstacle to the proper development of rule of law.

The constitutional vacuum that has been swallowing more and more of Serbia's public space is an ideal soil for an unchecked growth of the executive branch. Unless a new constitution is adopted in the foreseeable future, the potentials of the October 2000 democratic revolution will be all but annulled. Luckily, a public consensus has been reached in Serbia that the new constitution should be in place as soon as possible and that a break with the present-day constitution is to be made shortly. There is a provision in the Constitutional Charter stipulating that the constitutions of the member states are to be harmonised with the Charter within six months, which is yet another obligation accelerating the adoption of a new Serbian constitution.

Despite the nearly general consensus on a rapid adoption of Serbia's new constitution, this is not going to be an easy job. There are a few significant constitutional issues that require not only a constitutional consensus, but also a political compromise. The ongoing political disputes have already grown into constitutional concerns, even before the procedure for constitutional change has been initiated. These are the most important ones:

- First - the very procedure for constitutional change. There are two reasons why the procedure provided for by the applicable constitution is not acceptable to key political actors. Firstly, this is a very difficult process, nearly impossible to carry out. The previous constitution maker apparently wanted to immortalise his creation by such a complicated procedure. Namely, once a two-third parliamentary majority has been won, the constitution is to be accepted by an absolute majority of Serbian voters in a referendum. This is a rigid constitutional procedure, which makes it nearly impossible to amend the constitution. The other reason lies in the political symbolism of constitutional discontinuity, which many political actors in Serbia still respect. But the difficult question is how to change the constitution? The ongoing political advocacy is focused on the parliament as the best choice for the job, but it also comes in two versions – one, that the current Serbian parliament should do so by a final decision made by a two-third majority, and, two, that the job should be done by a constituent assembly elected for this purpose.

- When it comes to basic rights and freedoms as the key elements of the rule of law, there are no big differences in opinion. Since the matter will be governed constitutionally and implemented in practice by the member states, the new constitution of Serbia is to regulate the matter in its entirety. There is a general consensus that Serbia must govern the basic rights and freedoms in a modern way, which requires direct constitutional guarantees and effective court protection. Particular attention will be paid to the protection of minority rights. In this entire complex, different comparative, legal and international-law standards will apply. Direct application of international treaties and contracts on human and minority rights the state union will enter into has also been provided for.

- The system of government in Serbia's new constitution will by all means follow the principle of separation of power, but differences in terms of institutional materialisation of this tenet have