- Formally, there is a hierarchy of legal acts between the state union and the member states, but the Court of Serbia and Montenegro has no independent and sole jurisdiction in constitutional reviews or decisions on a conflict of jurisdiction between different levels of power. At such instances, the Court rules together with the constitutional courts of the member states.

Such a constitutional system of the state union of Serbia and Montenegro offers only the possibility of political harmonisation of two original policies pursued by the member states. As such, it cannot guarantee the materialisation of the rule of law on the level of the state union, because it does not provide for sufficient constitutional capacity of autonomy and legal accountability of its institutions. In other words, the common policy is more likely to operate in the milieu of self-created political environment than within a normative and legal framework set by the constitution. This also means that the fate of the system of rule of law will be determined by new constitutional orders in the member states.

III

In the past two and a half years following the October overthrow, it was Serbia, in which it actually happened, that has suffered most from the chaotic constitutional situation. In this period, the country was subjugated to two poor constitutions, unable to change either of them. Serbia could not change the legally older federal constitution without Montenegro, in which separatist passions were running high. This also made the ruling majority in the republic increasingly uninterested in the restructuring of the common state and a change of the federal constitution. The Constitution of Serbia, older time-wise, has not changed because Serbia hoped to reach a political compromise with Montenegro and produce a mutually satisfactory constitutional solution. For the sake of constitutional harmonisation, there was no need to rush into amendments to the legally younger constitution. Meanwhile, both constitutions applied in Serbia, while Montenegro, refusing to recognise either the federal constitutions or decisions made by federal institutions, implemented its own constitution only. Since the Constitution of Serbia, promulgated in 1990, two years before the federal constitution, has never been harmonised with it, Serbia has been in constitutional and political chaos ever since the October change. To make matters worse, a solution involved more than Serbian political actors.

Under such circumstances, the legal and legislative restructuring of Serbia developed without a pre-set constitutional framework. The Yugoslav and Serbian parliaments passed a large number of laws that redefined relations in different spheres of public life, but the implementation of the new legislation, modeled after contemporary European laws, left much to be desired. Apart from the lack of a general constitutional framework for regular legislation, there are a few more factors that hindered efficient implementation of laws, particularly in economy. Particularly important in this context are a sluggish reform of the administrative system, a slow judicial reform, tardy personnel changes in the highest-ranking judicial bodies, supreme and constitutional courts.

In the meantime, the Serbian legislature was coping with a serious crisis. A more than solid two-third majority it had after the 2000 election turned out to be just an illusion. It was composed of 18 parties, with only two of them that could be described as political parties in the proper sense of the word. When the strongest of them left the government, threatening the ruling majority in the Serbian legislature, the parliamentary life turned into an internal political game without a