

Unfortunately, this job has not been finished yet. The underlying reason for this failure is a long-standing lack of political consensus on the nature of ties between the two federal units, Serbia and Montenegro. When this national issue was raised as a legitimate political question after October 2000, it became clear that the preferences of Serbian and Montenegrin relevant political actors covered a broad specter ranging from a federal solution to independence, the latter prevailing in Montenegro. Their low ability to make a compromise would have led to a more permanent constitutional blockade and a physical separation of Serbia and Montenegro hadn't there been for EU mediation. The European Union was interested in keeping at least a minimum of internal state ties and maintaining a union with single international-law subjectivity. The Constitutional Charter of the state union of Serbia and Montenegro, which is to be endorsed soon, contains precisely that minimum of joint coordinating functions in internal relations between the member states and a single foreign policy. This has solved the critical question of a general state framework, which for nearly two and a half years blocked politically a genuine constitutional review in the state union and Serbia and Montenegro individually.

In a typological sense, the Constitutional Charter offers a confederal solution for relations between Serbia and Montenegro in this common political creation. Comparatively speaking, the new constitutional provisions are not typical of modern federal systems. The key ones follow:

- Political constituents of the state union are member states only, not their citizens, individuals, as the holders of inalienable basic rights and freedoms. The corpus of human rights and freedoms is regulated and protected by the member states. Citizenship of the state union is acquired through citizenship of a member state only.
- Competences of a state union are strictly defined by the constitution, without any possibility for its institutions to define new ones (there are no implied powers). The only grounds for their expansion is subsidiary, based on a consensus between the member states.
- The parliament of the state union is unicameral with different number of representatives from Serbia (91) and Montenegro (35), but with a decision-making system conditional on a majority of representatives from both member states. The first election for the new parliament will be indirect (in the parliaments of the member states), and the following will be direct, but with the member states as separate electoral units.
- The parliament has legislative jurisdiction in just a few spheres; in some of them the consent of the parliaments of the member states is also required. Human rights, internal economic relations and economic relations with foreign countries have been excluded from the parliament's jurisdiction.
- The Constitutional Charter normatively recognises the *de facto* situation of two different economic systems, and it only projects (in a characteristic teleological provision) a common market and the responsibility of the member states for its establishment.
- Members of the Council of Ministers (president and five ministers in charge of five departments that fall within the competence of the state union) act to coordinate the policies of the member states in foreign affairs, defence, human rights, internal and foreign economic relations.