

# THE 1974 CONSTITUTION OF SFR YUGOSLAVIA: CERTAIN CONTENT ASPECTS

Popovych Tereziia, Topolnytska Mariana, Telep Yuliia

**Annotation.** *The aim of the work is to study and analyze the main provisions of the 1974 Constitution of SFR Yugoslavia.*

*The methodological basis of the study is a system of methods, scientific approaches, techniques and principles that were aimed at achieving the study objectives. Universal, general scientific and special legal methods were used. Thus, for example, the methods of analysis, synthesis, induction and deduction allowed to generalize the acquired knowledge, which became the basis of scientific intelligence.*

*Results. The authors focus on Constitution role in the legal acts hierarchy of the former Yugoslavia. The study identifies the structure and provisions content of the Basic Law. As part of the analysis of this document, the authors delineate the spheres of competence between the federation and its constituent entities, and also pay attention to state apparatus functioning and the powers of individual governmental institutions.*

*Conclusions. The article outlines a scheme for analyzing the 1974 SFRY Constitution. It should be emphasized that the Constitution made serious changes to all spheres of life in Yugoslav society. The SFRY Constitution was at the top of Yugoslav legal acts hierarchy. The constitutions of the union republics, union laws and all other regulations and joint acts had to comply with it, but in case of non-compliance, they continued to be in force until the CCJ decision. The working class as the main component of the socialist system was the SFRY law source. As a result of the 1974 Constitution adoption, Yugoslavia acquired a lot of confederal system features, transforming from a partial union state into a union of states. The vertical links between the subjects were more formal, defining Yugoslavia as a voluntary union of peoples. The legislators' attempts to ensure the principle of equality among peoples and nations in Yugoslavia led to the spread of centrifugal tendencies and sentiments in the union republics, creating the basis for the possibility of national entities independent functioning and, as a result, led to the collapse of the union state.*

**Key words:** *Yugoslavia, federation, subjects of the federation, authorities, spheres of competence, sources of law.*

## 1. Introduction.

The study of the normative component of the former Yugoslavia legal system is an urgent issue as this State united the legal systems of different peoples and nations, ensuring their peaceful coexistence for decades. When studying this issue, attention should also be paid to those SFRY Basic Law provisions that, in our opinion, contributed to centrifugal tendencies in that state, which in turn eventually led to its collapse.

## 2. Analysis of scientific publications.

The issues of Yugoslav statehood, the legal status of its subjects, and the reasons for its collapse were considered in the scientific works of Nahirnyi M.Z., Ruban I.V., Nikiforov K.V., Rachkov I.V., Guskova E.Y., Barenboim A.G., and others.

### 3. The aim of the work.

The Constitution of 1974 was the constitutional basis for the life of Yugoslav society, and contained the most important principles that ensured the existence of a multinational state, that is why the aim of this article is to study its main provisions.

### 4. Review and discussion.

First of all, it should be noted that in 1974, Yugoslavia completed its constitutional reform and adopted a Constitution that satisfied the republics' demands for greater decentralisation. It practically defined not only real federalism, but also confederalism during the period of the party's rule. The Constitution of 1974 considered the Yugoslav Federation as a "state commonwealth of voluntarily united peoples and their socialist republics" (Article 1). At the same time, it was noted that the federation "is an association of citizens, peoples and nationalities in which they secure their historical direct interests through joint democratic agreement" (Article 224) [1].

It should be emphasized that the Constitution made such serious changes to all spheres of life in Yugoslav society that some researchers even called the state that functioned from 1974 to 1990s Kardel's Yugoslavia (on behalf of the leading document developer, E. Kardel) [2, p. 137].

Let's take a closer look at the content of this act. Part One contains provisions defining the form of Yugoslavia as a union state and as a socialist self-governing democratic community of workers, citizens and equal peoples and nationalities.

The second part is dedicated to the country's social system. The next part is aimed at establishing a delineation of the federation and the republics competence spheres. For example, the Constitution contains virtually no provisions on the federation functions in the fields of education, science, culture, healthcare, social security, etc., which means that the vast majority of these functions are transferred to the republics and territories. In the economic sphere, the federation's functions are almost entirely confined to ensuring the unity of the Yugoslav market, for which the federation's bodies are endowed with a wide-ranging mechanism for influencing market processes. The federation is responsible for protecting the country's sovereignty, independence and territorial integrity, maintaining international relations, ensuring security, the unity of the socio-economic and political systems, human and civil rights and freedoms, and other common interests.

The fourth part establishes the federation organization, primarily the composition and competence of its supreme bodies. The Union Assembly was renamed the SFRY Assembly, and its structure was again significantly changed, now resembling the bicameral people's parliament of the first years.

Following the Amendments XXXVI and XXXVII to the 1963 SFRY Constitution, the new Constitution establishes two bodies with the head state functions: The Presidium of the SFRY and the President of the Republic, who is the SFRY Presidium Chairman. However, the Constitution itself provided for the temporary nature of this situation, as only Josip Broz Tito could be (and was) elected President of the Republic. After his death in 1980, the SFRY Presidium has been fully in charge of the state head functions, with broad powers in the areas of foreign and domestic policy, especially in ensuring equality of peoples and nationalities, leadership of the Armed Forces, and personnel policy. The SFRY Presidium consists of one representative from each republic and autonomous region, as well as the SJC chairman. Members of the Presidium are elected for one term only (five years), with the mandate of the Presidium Chairman and his deputy valid for one year.

According to the Constitution, executive power is exercised by the Union Executive Vich as the executive body of the SFRY Assembly, and the management functions are performed by the Union Secretariats. The chairman and members of the Union Executive Veche, as well as the heads of the union secretariats, are elected by the SFRY Assembly.

Laws and other regulatory acts are the main sources of law. All legislation is divided into federal (union) and republican legislation. The SFRY Constitution is the main document in the legal acts hierarchy. The Union republics constitutions, laws and all other regulations and joint acts shall be consistent with it. Laws, other

regulations and joint acts issued in the Union republics shall be consistent with Union laws. According to the SFRY Constitution, international treaties ratified and published in accordance with the Constitution are part of domestic law [3].

It is worth noting that the Constitution does not clearly define the vertical relationship between the union authorities and the subject federation authorities. For example, Article 273 states that relations between the union bodies and bodies in the republics and autonomous territories regarding the implementation of these laws and other regulations and general acts shall be based on mutual cooperation, exchange of information and agreements. One can notice here the absence of formulation strictness and the irresponsibility of republics and autonomous territories in case of violation of union laws and other regulations. If the authorities in the republics or autonomous territories do not comply with the Union laws or other joint acts for which they are responsible, the Union Executive Veche will draw the Executive Veche attention to this fact and demand that the necessary measures be taken to implement the Union laws, other regulations and general acts [4, p. 333].

The absence of a vertical power regulation was also clearly evident in Serbia, which, as a federal subject, was in many cases dependent on other federal subjects – the autonomous provinces that were part of it. Serbia could not solve many issues without the approval of the autonomous provinces, and they, in turn, could not take into account the opinion of the Serbian leadership on internal governance issues [5, p. 19].

The Constitution defined Yugoslavia as «a state commonwealth of voluntarily united peoples and their socialist republics, as well as the socialist autonomous provinces of Vojvodina and Kosovo». The statehood of the republics and provinces was confirmed, and they were now to perform many of the federation functions on the basis of mutual agreements. The republican bodies were given the main role in resolving most economic and personnel issues. No federal act concerning the internal structure of the country could be adopted without their consent [6, p. 19].

According to the 1974 Constitution, the Federation had broad powers, in particular, it was responsible for ensuring the independence and territorial integrity of the SFRY; regulation the fundamental rights of workers in the field of united labour; regulation of the national defence system foundations and taking care of its implementation; regulation of citizens fundamental rights and obligations; implementation of the state's foreign policy; citizenship issues; protection of the constitution and others.

With regard to the SFRY sovereignty and territorial integrity protection, Art. 237 of the 1974 Constitution stated: «it is the inviolable and inalienable right and duty of the peoples and nationalities of Yugoslavia, workers and citizens to protect and defend the independence, sovereignty, territorial integrity and social order of the Socialist Yugoslavia Federal Republic established by the Constitution of the SFRY. The following Article 238 states that no one has the right to recognise or sign a surrender or to accept or acknowledge the occupation of the Socialist Federal Republic of Yugoslavia, or any part of it. No one has the right to prevent citizens of the Yugoslavia Socialist Federal Republic from fighting against an enemy who has attacked the country. Such actions are unconstitutional and punishable as a treason [1].

The actions of the federal authorities aimed at maintaining the republics and autonomous territories within the SFRY were in line with Article 281(1) of the Constitution: «The Federation, through its union bodies, shall ensure the independence and territorial integrity of the SFRY». The change of the Yugoslavia borders, combined with the Union Republic secession, in accordance with the Constitution provisions, was to be carried out by the decision of the SFRY Assembly and the Union Vich (Article 283(4), Article 285(6)) [4, p.342].

The 1974 SFRY Constitution finally enshrined the self-government principles inclusion in all spheres of public life. The federation assemblies and its subjects finally ceased to be formed on the basis of direct and universal suffrage. Now they are composed exclusively of delegates from certain self-governing organisations. Thus, the assemblies of all levels, except the federal level, consisted of three chambers. The first, the Veche of United Labour, consisted of delegates from the main United Labour Organizations and similar self-governing bodies. The second, the Veche of Local Communities, was formed from delegates of individual communities and settlements. And third, the Socio-Political Veche consisted of delegates from socio-political organizations (LCU, SSTNU, trade unions, etc.) [1].

According to the Constitution, all decisions of the Union Assembly had to be made unanimously, which led to significant delays in the laws adoption and the growth of nationalism in the constituent entities of the

federation. In fact, giving the extremely high level of autonomy to local authorities, the SFRY was transformed into a confederation [7].

The 1974 SFRY Constitution granted the republics and autonomous provinces almost complete freedom to conduct their own foreign policy. According to paragraph 7 of Article 281 of this Constitution, the Federation was responsible only for the SFRY foreign policy approval, the development and promotion of cooperation with developing countries, ratification and enforcement, and some other general functions. At the same time, Article 271 of the 1974 SFRY Constitution granted the republics and autonomous territories the right to independently maintain cooperation with bodies and organisations of other states and international organisations within the framework of the established SFRY foreign policy and international treaties. In addition, according to the same article, these treaties themselves had to be ratified by the assemblies of all the federation subjects and autonomies in order to enter into force. And even given this freedom, some contemporary Slovenian authors claim that the republics and autonomous provinces principle of equality and independence in international relations was not fully implemented, as the federation retained overall control over their foreign policy.

The republics and autonomous regions could now pass laws in each of the areas within their competence, regardless of whether there was a federal law regulating the same issues or not. The same trend was observed in the field of constitutional law. Whereas earlier the constituent entities of the Federation sought to regulate in their constitutions only those issues that were not covered by the national Constitutional Law, since 1974 they have sought to cover all areas normally regulated by constitutional law without fear of federal constitutional law duplication. The only requirement was that such legislation comply with the federal law and the Constitution [8, p. 334].

The state could not function effectively due to the fact that the central government was almost completely dependent on the republics and territories. On 25 November 1988, the SFRY Assembly adopted amendments to the Constitution designed to neutralise centrifugal tendencies. The Union government was empowered to intervene in the republics and territories activities if they failed to comply with Union laws. The federation was given the right to resolve conflicts between the republics and its territories laws. The provinces, in turn, were significantly deprived of their autonomy [9, p. 193].

However, despite this, the federal government's inability to reconcile the interests of the national autonomous republics and the lack of effective mechanisms to control regional authorities led to the SFRY collapse, which was accompanied by a series of the armed conflicts [7].

## 5. Conclusions.

Thus, having studied the certain content aspects of the 1974 SFRY Constitution, the following conclusions can be drawn:

1. In 1974 Yugoslavia completed its constitutional reform and adopted a Constitution that satisfied the republics' demands for greater decentralisation. The Constitution of 1974 considered the Yugoslav Federation as a state commonwealth of voluntarily united peoples and their socialist republics, in which they secure their historical direct interests through joint democratic agreement.
2. As a result of the 1974 Constitution adoption, Yugoslavia acquired a lot of confederal system features, transforming from a partial union state into a union of states. The vertical links between the subjects were more formal, defining Yugoslavia as a voluntary union of peoples.
3. The legislators' attempts to ensure the principle of equality among peoples and nations in Yugoslavia led to the spread of centrifugal tendencies and sentiments in the union republics, creating the basis for the possibility of national entities independent functioning and, as a result, led to the collapse of the union state.
4. At the top of Yugoslav legal acts hierarchy was the SFRY Constitution. The constitutions of the union republics, union laws and all other regulations and joint acts had to comply with it, but in case of non-compliance, they continued to be in force until the decision of the Constitutional Court of Yugoslavia.

**References:**

1. Konstytutsiia SFRLu [Constitution of Yugoslavia]. URL: [www.sovetika.ru/sfrj/konst024.htm](http://www.sovetika.ru/sfrj/konst024.htm) [in Russian].
2. Jović D. (2003) Jugoslavija: država koja odumrla. Uspon, krizai pad Kardeljeve Jugoslavije (1974–1990) [Yugoslavia: the state that died. The rise, crisis and fall of Kardeljeva Yugoslavia (1974–1990)]. Zagreb [in Croatian].
3. Pravova systema. Zahalna kharakterystyka [Legal System. General characteristics]. URL: <http://leksika.com.ua/19980614/legal/http://www.zen.in.ua/ru/yugoslav%D1%96ya-soyuzna-respubl%D1%96ka-yugoslav%D1%96ya/pravova-sistema-zagalna-xarakteristika> [in Ukrainian].
4. Konstitutsii sotsialisticheskikh gosudarstv [Constitutions of the socialist states] (1987): Sbornik v 2-kh tomakh. T.2 / Pod red. B.A.Strashuna, B.N.Topornina, G.Kh.Shakhnazarova. M.: Yuridicheskaya literatura. 384 p. [in Russian].
5. Skvoznikov A.N. (2011) Kosovskaya problema: istoriko-pravovie aspekti [Kosovo problem: historical and legal aspects]. Vestnik Samarskoi gumanitarnoi akademii. Seriya «Pravo». №1 (9). P. 17–26. [in Russian].
6. Nikiforov K.V. (2012) Serbiya na Balkanakh. XX vek [Serbia in the Balkans 20th century]. M.: «Indrik». 176 p. [in Russian].
7. Ruban I.V. Pravovi peredumovy rozpadu SFRLu [Legal requirements for the dissolution of the SFRJ]. URL: <http://intkonf.org/ruban-iv-pravovi-peredumovi-rozpadu-sfryu> [in Ukrainian].
8. Cacinovic R. (1995) Vloga Slovenije v zunajni politiki jugoslovanske federacije [The role of Slovenia in the foreign policy of the Yugoslav Federation]. Slovenci in drzava. Ljubljana: DZS, 1995. S. 334 [in Croatian].
9. Sosenkov F.S. (2015) O konstitutsionno-pravovikh mekhanizmaxh protivodeistviya separatizmu v Sotsialisticheskoi Federativnoi Respublike Jugoslaviya [About constitutional and legal mechanisms for countering separatism in the Socialist Federal Republic of Yugoslavia]. Genesis: istoricheskie issledovaniya. № 5. P.193-211. DOI: 10.7256/2409-868X.2015.5.15031. URL: [http://e-notabene.ru/hr/article\\_15031.html](http://e-notabene.ru/hr/article_15031.html). [in Russian].

**Tereziia Popovych,***Candidate of Law, Associate Professor**Associate Professor of the Department of Theory and History of State and Law,**Faculty of Law,**Uzhhorod National University.**E-mail: [terezia.popovych@uzhnu.edu.ua](mailto:terezia.popovych@uzhnu.edu.ua)**ORCID ID: <https://orcid.org/0000-0002-8333-3921>***Mariana Topolnytska,***Senior Police Lieutenant**Inspector of the 2nd Company of the 2nd Battalion of the Department of the Patrol Police  
in the Transcarpathian region.**E-mail: [marianatopolnytska@gmail.com](mailto:marianatopolnytska@gmail.com)***Yuliia Telep,***Assistant of the Department  
of Theory and History of State and Law,  
Faculty of Law,**Uzhhorod National University.**E-mail: [yuliia.telep@uzhnu.edu.ua](mailto:yuliia.telep@uzhnu.edu.ua)**ORCID ID: <https://orcid.org/0000-0002-8045-068X>*