

## **Część II. Zagadnienia doktrynalno-ustrojowo-prawne**

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## **Status prawny przewodniczącego Zgromadzenia Narodowego Republiki Serbii**

### **ABSTRACT**

#### **Legal Status of the Speaker of the National Assembly of the Republic of Serbia**

This article addresses the question of the legal status of the Speaker of the National Assembly of the Republic of Serbia, taking into account issues related to his general characteristics in the parliamentary system of Serbia, the powers he leases related to the custody of the work of the parliament and the responsibility he bears. It examines the constitutional and legal framework governing the role of the Speaker, highlighting their duties, prerogatives, and limitations within the context of the Serbian political system.

**Słowa kluczowe:** Przewodniczący parlamentu, Zgromadzenie Narodowe Republiki Serbii, kierownictwo wewnętrzne parlamentów

### **1. Overall characteristics of the Speaker of the National Assembly of the Republic of Serbia**

Like other parliaments functioning in democratic countries, the Serbian parliament has a Speaker. Speaker is the key organ of the internal leadership performing systemically momentous functions. Its legal and constitutional position is determined by the provisions of the current Constitution and the Rules of Procedure of the National Assembly. From their content emerges a picture of a powerful organ, equipped with a catalog of tasks of vital importance to the state.

Regulating the legal status of the Speaker, the Constitution stipulates in Article 104 that this body represents the National Assembly and convenes and presides over its sessions. At the same time, it indicates other areas of the Speaker's activity, including joint decision-making -together with the President and the Prime Minister - on introducing a state of emergency or martial law (if the National Assembly cannot convene), promulgating a law passed by the National Assembly (in situations where

the President does not do so)<sup>1</sup>, as well as temporarily acting for the President of the Republic, if the President is unable to perform their duties or if their mandate expires before the end of the term for which they were elected<sup>2</sup>.

The above-mentioned systemic tasks lead the representatives of Serbian constitutional law doctrine to the conclusion about the special role of the Speaker of the National Assembly in the system of organization of state power. Precisely for this reason, they see the Speaker as one of the most important figures in the state system<sup>3</sup>, and given its crucial importance in the field of legislative leadership - also as the "head" of parliament<sup>4</sup>. As Vladan Petrov emphasizes, the Speaker, in terms of formal rank, usually occupies the third or fourth place in the Serbian state hierarchy; however, this is a body that, due to the challenges and difficulties associated with this function, remains under particularly strong political pressure.<sup>5</sup>

The Speaker, as well as his deputy(s), if any, are elected by the National Assembly. This general rule is established by the Constitution, which stipulates that this election by the Assembly is made by a majority of the total number of deputies<sup>6</sup>. More specific provisions are contained in the current Rules of Procedure. According to it, the election of the Speaker and Deputy Speakers takes place at the first session of the chamber<sup>7</sup>. The candidate for Speaker of the National Assembly shall be proposed by a group of at least 30 members of parliament, with the stipulation that each member of parliament may support only one such proposal. The proposal in this regard, which requires written form<sup>8</sup>, must include: the name of the candidate, the name of the electoral list from which he was elected, the name of the applicant's representative, an explanation, a curriculum vitae and the candidate's consent<sup>9</sup>. It is addressed to the eldest member of the Assembly, who then submits to the other deputies all proposals received for candidates for speaker of the National Assembly<sup>10</sup>. A parliamentary debate is held over the submitted proposal, including explanations by the proposer and speeches by other members of the chamber. After the debate, the eldest member determines the list of candidates for Speaker of the National Assembly, in alphabetical order of names<sup>11</sup>. Before proceeding to the election of the Speaker, the National Assembly decides whether to vote by secret

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<sup>1</sup> Constitution of the Republic of Serbia of September 30, 2006, translated from Serbian by E. Bujwid-Kurek, Warsaw 2018, "Official Gazette of the Republic of Serbia", No. 98/2006, art. 113.

<sup>2</sup> *Ibidem*, art. 120.

<sup>3</sup> T. Tepavac, "The Parliament of Serbia" (book chapter), [w:] D. Spasojević, *Undermining Democracy: Processes and Institutions in Serbia 2010-2020*, Belgrad 2021, str. 81

<sup>4</sup> V. Petrov, *Parlamentarno pravo*, Belgrad 2022, s. 95.

<sup>5</sup> V. Petrov, *Parlamentarno...*, dz. cyt., s. 98.

<sup>6</sup> Constitution..., art. 104.

<sup>7</sup> Rules of Procedure of the National Assembly of the Republic of Serbia, "Official Gazette of the Republic of Serbia", No. 20/2012., art. 4.

<sup>8</sup> *Ibidem*, art. 9.

<sup>9</sup> *Ibidem*, art. 8.

<sup>10</sup> *Ibidem*, art. 9.

<sup>11</sup> *Ibidem*.

ballot or open ballot. If the National Assembly decides on an open vote, it shall be held by roll call vote<sup>12</sup>. A secret ballot on the election of the Speaker of the National Assembly shall be conducted by the eldest member of the National Assembly at a meeting of the National Assembly. A candidate for Speaker of the National Assembly may not direct or assist in the administration of the vote<sup>13</sup>. A Member of Parliament has the right to vote for only one candidate for Speaker of the National Assembly<sup>14</sup>. If two candidates are put forward and none of them obtains the required majority, the election procedure is repeated. If, on the other hand, more than two candidates are put forward and also none of them obtains the required majority, then there is another round, in which the candidates with the most support take part. Between them it is ultimately decided who will be Speaker, unless none of them achieves the required majority and there is, as the regulations demand in such a situation, a repetition of the entire procedure<sup>15</sup>.

The speaker of the National Assembly shall cease to hold office as a result of the resignation, removal or termination of a member of the House of Representatives. He shall submit his resignation in writing or orally at a meeting of the National Assembly. Its effect is to terminate his office following the date and time of its announcement. The rules of procedure stipulate that over the resignation submitted, the chamber does not initiate a debate or make any additional decision, but only determines on this basis the moment of the resignation from office<sup>16</sup>. On the other hand, the dismissal of the Speaker, if it occurs, is carried out by the power of resolution of the National Assembly. The procedure for the election of this body applies in this case, respectively. Thus, the legislator introduces an analogous mechanism of action in this area<sup>17</sup>.

In the event that the Speaker ceases to hold office, the National Assembly elects his successor, as a rule at the same session, but no later than the next session. If the Speaker of the National Assembly ceases to hold office, then - until a new Speaker is elected - the office shall be held by the oldest Deputy Speaker, and if for some reason he too is unable or refuses to perform the duties of the Speaker, the office shall pass to the next oldest Deputy Speaker of the National Assembly. The essential duty of such a deputy is to promptly - no later than seven days after the Speaker of the National Assembly ceases to hold office - convene a sitting at which a new head of the chamber is to be elected<sup>18</sup>. In addition to this, the Serbian Rules of Procedure provide for the possibility of establishing a replacement in the event of the temporary incapacity or absence of the Speaker of the National Assembly. As can be derived from Article 32 contained therein, this deputation is performed

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<sup>12</sup> *Ibidem*, art. 10.

<sup>13</sup> *Ibidem*, art. 11.

<sup>14</sup> *Ibidem*, art. 12.

<sup>15</sup> *Ibidem*, art. 13.

<sup>16</sup> *Ibidem*, art. 29.

<sup>17</sup> *Ibidem*, art. 30.

<sup>18</sup> *Ibidem*, art. 31.

by one of the Deputy Speakers of the National Assembly designated by the Speaker. The Speaker, when taking this action, shall inform all Deputy Speakers and the Secretary General of the National Assembly of his intention in writing. If the Speaker of the National Assembly does not specify which Deputy Speaker will replace him, then the replacement shall become, by operation of law, the oldest Deputy Speaker. The Deputy Speaker of the National Assembly who replaces the President at a meeting of the National Assembly shall have the powers of the Speaker of the National Assembly to preside, in accordance with these Rules of Procedure<sup>19</sup>.

## **2. Internal competences of the Speaker of the National Assembly**

The speaker has, of course, the typical competences associated with the internal parliamentary procedure of the Skupstina<sup>20</sup>. These competences are set out in detail in the Rules of Procedure of the National Assembly and the Law on the National Assembly and relate to several core areas: organization of parliamentary work, presiding over sessions, maintaining the order<sup>21</sup>, supervise the voting process<sup>22</sup> and resolving procedural issues<sup>23</sup>.

At the forefront are the organizational powers<sup>24</sup>, which enable the Speaker of the National Assembly to prepare and organize parliamentary sessions. In this group, we should point out, in particular, the establishment of the annual program of the work of the chamber, the proposal of a specific agenda, and the convening, opening, closing and adjournment of sittings<sup>25</sup>.

Determination by the Speaker of the National Assembly of the annual work program of the National Assembly is carried out after consultation at a meeting of the Collegium of the National Assembly, taking into account the duties incumbent on the National Assembly under the law, as well as the annual program of the Government. The speaker of the National Assembly so prepared shall submit the program to all deputies<sup>26</sup>.

On the other hand, the power to propose an agenda is exercised each time before the scheduled session. In making such a proposal, the Speaker shall include only those bills that have been submitted in accordance with the Constitution, the law and these Regulations<sup>27</sup>. The final decision on the proposed order is made by the chamber<sup>28</sup>. It should be noted that deputies, the government and other

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<sup>19</sup> *Ibidem*, art. 32.

<sup>20</sup> D. Simović, V. Petrov, *Ustavno pravo*, Belgrad 2018, p. 215.

<sup>21</sup> Rules of Procedure..., art. 108.

<sup>22</sup> The Law on the National Assembly of the Republic of Serbia, art. 19.

<sup>23</sup> S. Orlović, *Narodna Skupstina Srbije i Europski Parlament – Jedno Ustavno Pravno Poređenje*, Zbornik radova Pravnog fakulteta u Novom Sadu, 3/2011, s. 505

<sup>24</sup> V. Petrov, *Parlamentarno...*, dz. cyt., s. 98.

<sup>25</sup> Law on the National Assembly, "Official Gazette of the Republic of Serbia", No. 9/2010. art. 102.

<sup>26</sup> Rules of Procedure..., art. 28.

<sup>27</sup> *Ibidem*, art. 85.

<sup>28</sup> *Ibidem*, art. 92.

authorized applicants may request: to withdraw individual items from the proposed agenda, to add to the proposed agenda, to merge discussions, to conduct a detailed debate immediately after the conclusion of the general debate on a particular bill, and to change the order of individual items on the proposed agenda; in addition, a deputy has the right to propose shortening the discussion time on a proposal for a particular act. Such proposals shall be submitted to the Speaker of the National Assembly in writing no later than 24 hours before the hour set for the start of the National Assembly session. On proposed amendments and additions to the agenda, a discussion shall be held, in which only: 1) the proposer of the agenda amendment or the authorized representative of the proposer; 2) the proposer of the act to be amended or the authorized representative of the proposer of the act if it is proposed to withdraw the act from the proposed agenda. Participation in the discussion of proposed amendments and additions to the agenda may last up to three minutes. Finally, the Assembly considers and votes on the submitted proposals. This does not apply only to proposals that have not been submitted in accordance with the provisions of these rules<sup>29</sup>.

The convening of a meeting of the National Assembly shall be done by the Speaker in writing, at least seven days before the date set for the beginning of the meeting. It is also permissible to convene on a shorter date, provided, however, that the Speaker justifies such action at the beginning of the meeting. When deciding on this issue, it is incumbent on the Speaker to specify the day, time, place of the meeting and propose an agenda. However, the Rules of Procedure allow him to postpone the time or day of the start of the meeting, provided he notifies the members of the chamber and justifies his decision at the beginning of the meeting<sup>30</sup>. The procedure for holding sittings is subject to rigid rules of procedure. As a rule, sittings of the National Assembly are held on Tuesdays, Wednesdays and Thursdays from 10 a.m. to 6 p.m. with an hour break. However, the Speaker, provided there are legitimate reasons for this, has the right to decide that a given session will be held on other days than those prescribed by the rules and also that parliamentary work will exceed the one-hour limit (it will be allowed to continue after 6 pm). The decision on the extension, communicated in advance to deputies, must be made no later than 4 p.m. that day. It may also concern the possibility of voting on completed agenda items, possibly setting the day of voting (with the understanding that the Speaker has the right to order that the day of voting on the bill be set immediately after the conclusion of the debate on the bill. In addition, during the course of the session, the Speaker of the National Assembly may decide to hold part of the session at another location, of which he must inform the deputies, by all means, no later than 24 hours before the start of work at that location<sup>31</sup>.

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<sup>29</sup> *Ibidem*.

<sup>30</sup> *Ibidem*, art. 86.

<sup>31</sup> *Ibidem*, art. 88.

As a side note, it should be noted that the speaker of the National Assembly has the right to convene a meeting of the Assembly on an emergency basis. However, such an option comes into play only in certain cases. It specifically concerns the convening of a session for: 1) to pass a draft Constitution an extraordinary session is convened; 2) to promulgate the Constitution and the Constitutional Law for the implementation of the Constitution; 3) to administer the oath of office from the President of the Republic; 4) to present a program and propose the composition of the government by the candidate for Prime Minister; 5) the appointment of the government and the taking of the oath of office by the Prime Minister and the members of the Government; 6) the taking of the oath of office from the elected persons who legally take the oath of office before the National Assembly; 7) the hearing of a speech by the President, a representative of a foreign country, a representative of the parliament of a foreign country, or a representative of an international organization<sup>32</sup>. Moreover, the Speaker may convene a solemn session on the occasion of national and international holidays, inviting the President of the Republic, the Prime Minister, representatives of other national and international bodies and organizations to address the National Assembly<sup>33</sup>.

The opening of the National Assembly session is based on the official attendance records of deputies. If the Speaker determines that at least 84 deputies are not present in the chamber at the beginning of the business day, the start of business shall be postponed for one hour. If still no *quorum* is reached, the meeting shall be adjourned to the next business day. If an authorized representative of a parliamentary group expresses doubts about the existence of a *quorum* established using the electronic voting system, the Speaker of the National Assembly shall make available an extract from the statement of the presence of deputies, and if this is not possible, due to the failure of the electronic voting system or for other reasons deemed by the President, the *quorum* shall be established by counting the deputies. If the President, i.e., an authorized representative of a parliamentary group, expresses doubts about the existence of a quorum established by counting the votes of deputies, he may request that a *quorum* be established by summoning deputies, which the National Assembly shall decide without holding a hearing<sup>34</sup>. After all items on the agenda have been considered and decided upon, there is a closing of the National Assembly session by the Speaker<sup>35</sup>, who may also decide to adjourn the meeting effectively called<sup>36</sup>. The Speaker retains full authority to adjourn the session and order a recess in the National Assembly. In the latter case, he acts to conduct the necessary consultations or obtain opinions. In addition, the Speaker also has the right to decide to suspend the

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<sup>32</sup> *Ibidem*, art. 119.

<sup>33</sup> *Ibidem*, art. 120.

<sup>34</sup> *Ibidem*, art. 88.

<sup>35</sup> *Ibidem*, art. 102.

<sup>36</sup> *Ibidem*, art. 103.

work of the National Assembly on the day of voting. However, he can only exercise this right if the chamber's session is found to lack the required quorum<sup>37</sup>.

A separate group of powers of the Speaker is formed by the powers related to his function of presiding over the proceedings of the chamber. The current legislation treats the Speaker's involvement in this field as a priority, equipping him with a whole range of legal instruments. The Speaker's presiding over sessions of the Skupstina is mentioned in Article 104 of the Constitution, Article 19 of the Law on the National Assembly and also Article 27 of the Rules of Procedure of the National Assembly. Detailed solutions in this regard are contained in the last mentioned act.

In the first sitting of the National Assembly, the Assembly is presided over by the oldest member of parliament until the election of the President. If the eldest member of parliament is unable or unwilling to preside over a meeting of the National Assembly, then the task falls to the next most senior member of parliament present<sup>38</sup>.

The Speaker of the National Assembly shall give the floor to deputies in accordance with the order submitted by the parliamentary group in question and until the total debate time designated for the parliamentary group in question has elapsed. If deputies from more than one parliamentary group are proposed for debate, the speaker of the National Assembly shall give the floor to them alternately, so that the deputy belonging to the smallest parliamentary group takes the floor first and the deputy belonging to the largest parliamentary group takes the floor, as long as speakers are registered. The allotted speaking time, however, does not have to be fully used. If it is determined that there are no more speakers, i.e., after the time allotted for the hearing has expired, the speaker of the National Assembly closes the discussion<sup>39</sup>. By the way, the head of the chamber remains entitled to take part in the debate in person. There is no obstacle to him speaking while presiding over the session. In this situation, however, it is necessary to transfer the speakership to one of the Deputy Speakers of the National Assembly<sup>40</sup>.

A Member shall speak from his or her seat in the National Assembly chamber after receiving the floor from the Speaker of the National Assembly, except as provided in these Regulations. The President of the Republic, the Prime Minister and others, with the approval of the Speaker of the National Assembly, may speak from the rostrum in the National Assembly hall. No one may speak until approved by the Speaker of the National Assembly<sup>41</sup>. A Speaker may only speak on the agenda item under discussion. No one has the right to interrupt or admonish the Speaker, except the Speaker of the National Assembly. During the speeches of deputies or other participants in the hearing, it is

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<sup>37</sup> *Ibidem*.

<sup>38</sup> *Ibidem*, art. 3.

<sup>39</sup> *Ibidem*, art. 98.

<sup>40</sup> *Ibidem*, art. 100.

<sup>41</sup> *Ibidem*, art. 106.

forbidden to interfere with the Speaker in any other way, as well as to perform any other actions that threaten freedom of speech<sup>42</sup>.

The Speaker may adjourn the session, justifying this decision to the members of the chamber<sup>43</sup>. As a rule, after all items on the agenda have been considered and decided upon, the Speaker closes the session of the National Assembly<sup>44</sup>.

The Speaker may order a recess of the National Assembly for the purpose of holding the necessary consultations or obtaining opinions. On the other hand, he is obliged to suspend the work of the National Assembly on the day of the vote if he finds that the required quorum is not present at the National Assembly meeting, until a quorum is assured. Suspension of work also comes into play in other cases, but only if the National Assembly so decides<sup>45</sup>.

The presiding of a chamber meeting involves the exercise of powers designed to maintain order and dignity in the chamber. The President has certain legal tools at his disposal in this regard. Thus, he supervises the rectification of erroneous or offensive statements. Article to Rule 104 of the Rules of Procedure of the National Assembly, if a Member, in his or her speech in the chamber, makes an offensive statement about a Member who is not a member of the same parliamentary group, mentioning his or her name or function, or misinterprets his or her speech, the Member to whom the presentation refers is entitled to reply. If the offending language refers to a parliamentary group, i.e. a political party whose Members belong to that parliamentary group, on behalf of the parliamentary group, the Speaker of the parliamentary group shall have the right of reply; such reply shall not exceed 2 minutes.

On the grounds of a breach of order during a sitting of the Chamber, the Speaker, who is obliged to maintain that order, may impose disciplinary measures: warning, exclusion from the floor or removal from the Chamber<sup>46</sup>. A warning is imposed on a Member who: 1) approaches the rostrum without the permission of the Speaker of the National Assembly, 2) speaks before being allowed to speak, 3) despite the warning of the Speaker of the National Assembly, speaks on a subject that is not on the agenda, 4) interrupts or obstructs a speaker, or otherwise interferes with the speaker's freedom of speech, 5) addresses another Member directly, 6) uses swearing or offensive expressions, 7) states facts and assessments concerning the private life of others, 8) by other behaviour disrupts the order of the session or acts contrary to the provisions of these rules<sup>47</sup>. On the other hand, the measure of deprivation of the floor shall be applied to a Member who has previously been given two warnings

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<sup>42</sup> *Ibidem*.

<sup>43</sup> *Ibidem*, art. 10.

<sup>44</sup> *Ibidem*, art., 102.

<sup>45</sup> *Ibidem*.

<sup>46</sup> *Ibidem*, art. 108.

<sup>47</sup> *Ibidem*, art. 109.

and who nevertheless continues to disrupt the order of the session or acts contrary to the provisions of these Rules. As an *ultima ratio*, in the event that the designated Member does not interrupt his or her speech, the Speaker of the National Assembly shall switch off the sound system and, if necessary, order a break<sup>48</sup>. Lastly, removal from the Chamber shall be imposed on a Member who, despite the imposition of a disqualification measure, continues to disrupt or obstruct the proceedings of the session, fails to comply with the decision of the President of the National Assembly to impose a disqualification measure, or continues to commit other violations referred to in Rule 109 of these Rules of Procedure, as well as in other cases specified in these Rules of Procedure.

Removal from the sitting chamber is used in the event of a physical attack on another person in the National Assembly building. The Member subject to this measure is required to leave the meeting room immediately. If the Member refuses to comply and does not leave the meeting room, the President orders the service responsible for maintaining order in the National Assembly building to remove him or her immediately and orders a recess until the removal measure is carried out<sup>49</sup>.

If the Speaker of the National Assembly is unable to maintain order in the session by ordinary means, he shall order a recess until order is restored<sup>50</sup>.

Presiding duties also include overseeing the voting process by the Speaker. As a general rule, when electronic equipment is used, the Speaker initiates the vote, then, upon its conclusion, closes the voting and announces the results. A decision is considered adopted when the Speaker confirms that the majority required by the Constitution, law, and these Rules of Procedure has voted in favor of the motion<sup>51</sup>. The Rules of Procedure also allow for roll-call voting, which likewise involves the Speaker. According to Article 131 of these Rules, if the National Assembly decides on roll-call voting, the Secretary-General of the National Assembly calls deputies in alphabetical order of their surnames, and each deputy, when called, states "in favor," "against," or "abstain." The Speaker repeats the deputy's name and statement or declares them absent or unwilling to vote. The Secretary-General records the deputy's statement or absence next to their name on the list. A decision is considered adopted when the Speaker of the National Assembly confirms that the majority required by the Constitution, law, and these Rules of Procedure has voted in favor of the motion. Finally, secret voting is also possible, as stipulated by Article 135 of the Rules of Procedure, and is managed by the Speaker, assisted by the Deputy Speakers of the National Assembly and the Secretary-General of the National Assembly (referred to as the "Electoral Committee"). In this process, deputies are issued a ballot when called to the President's desk. The Speaker of the National Assembly hands the ballot to the deputy,

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<sup>48</sup> *Ibidem*, art. 110.

<sup>49</sup> *Ibidem*, art. 112.

<sup>50</sup> *Ibidem*.

<sup>51</sup> *Ibidem*, art. 130.

and the Secretary-General of the National Assembly marks on the list, next to the deputy's name, that the ballot has been issued. Before voting begins, the Speaker specifies the voting duration. The ballot box must be empty and made of transparent material. After completing the ballot, the deputy approaches the location of the ballot box and deposits the ballot, while the Secretary-General of the National Assembly records that the deputy has voted next to their name on the list. Finally, the Speaker of the National Assembly closes the voting<sup>52</sup>.

As a rule, after the voting results are determined, a protocol is prepared and signed by all members of the voting committee. The Speaker of the National Assembly announces the voting results during the session of the National Assembly (Article 140 of the Rules of Procedure of the National Assembly).

The President also has a number of other powers to resolve various procedural issues.

One can mention, for instance, the powers related to the legislative process. In this regard, the head of the chamber, immediately upon receiving a draft law, submits it to the National Assembly, deputies, the competent committee, and the government if the latter is not the initiator. The draft law is also forwarded to the Ombudsman and the National Bank of Serbia if it pertains to matters within their jurisdiction<sup>53</sup>. If the draft law does not meet formal requirements, the Speaker of the National Assembly requests the initiator to align it with the provisions of the Rules, specifying the discrepancies. The initiator has 15 days to address the formal deficiencies or, if disagreeing with the Speaker's opinion, to appeal in writing to the National Assembly for its stance on the matter. However, if the initiator takes no action within this period, the draft law is considered withdrawn<sup>54</sup>. Amendments to the draft law under consideration by the chamber can be proposed. According to Article 161 of the Rules of Procedure, amendments may be submitted by a body authorized to propose laws under the Constitution, as well as the competent committee of the National Assembly in accordance with these Rules. Amendments are submitted to the Speaker of the National Assembly in writing or electronically from the day the draft law is received by the National Assembly, typically no later than three days before the session during which the draft law is scheduled to be discussed. Amendments submitted within the deadline are forwarded by the Speaker to the law's initiator, deputies, the competent committee, and the government<sup>55</sup>. The Speaker then distributes the draft law to deputies in the prescribed manner<sup>56</sup>, thus making it a subject of debate and voting.

The Speaker's powers related to overseeing the government's accountability to the National Assembly also deserve attention. The Speaker forwards written questions posed by a deputy to

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<sup>52</sup> *Ibidem*, art. 136.

<sup>53</sup> *Ibidem*, art. 152.

<sup>54</sup> *Ibidem*, art. 153.

<sup>55</sup> *Ibidem*, art. 163.

<sup>56</sup> *Ibidem*, art. 168 i 186.

a minister or the government between two sessions of the National Assembly<sup>57</sup>. At the request of a parliamentary group, the Speaker designates, at least once a month, a day for individual ministers to answer deputies' questions on current issues<sup>58</sup>. A parliamentary group's request, submitted to the Speaker in writing, must specify the current topic to which the questions will pertain, the name of the relevant minister, or the function of another responsible individual who will respond to the questions. If the request lacks any of these elements, the Speaker asks the applicant to supplement the request appropriately. If the applicant fails to correct the request within three days, the procedure cannot continue. In such a case, the Speaker is not obliged to summon the minister. A correctly formulated request is immediately forwarded by the Speaker to the deputies and the relevant minister<sup>59</sup>. If multiple requests are submitted by different parliamentary groups, the Speaker determines the order of topics based on the date of receipt of properly submitted requests<sup>60</sup>. Ministers have up to 180 minutes to respond to deputies' questions, regardless of how many deputies are present in the chamber. If time runs out before all questions are answered, the Speaker may schedule an additional day for the minister to address the remaining queries<sup>61</sup>.

The Speaker also accepts motions concerning a vote of no confidence against the government or its individual members. Such a motion must be submitted in writing by a group of at least 60 deputies, specifying the reason for proposing the vote. The motion must also designate a representative for the proposers. If no representative is named, the first signatory to the motion is considered the representative. The Speaker of the National Assembly immediately forwards the motion to the Prime Minister or the relevant government member, as well as to the other deputies<sup>62</sup>. If the National Assembly adopts a vote of no confidence against the government, the Speaker promptly informs the President of the Republic. In the case of a vote of no confidence against a member of the government, the Speaker immediately notifies the Prime Minister<sup>63</sup>.

Finally, an interpellation concerning the activities of the government or its individual members is submitted to the Speaker of the National Assembly. Such an interpellation, which must be in written form, requires the signatures of a group of fifty deputies<sup>64</sup>. It must include a clearly and concisely formulated question to be addressed, a justification of no more than two pages, the name of the authorized representative of the proposers, and the signatures of all deputies who

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<sup>57</sup> *Ibidem*, art. 204.

<sup>58</sup> *Ibidem*, art. 209.

<sup>59</sup> *Ibidem*, art. 210.

<sup>60</sup> *Ibidem*, art. 211.

<sup>61</sup> *Ibidem*, art. 212.

<sup>62</sup> *Ibidem*, art. 217.

<sup>63</sup> *Ibidem*, art. 219.

<sup>64</sup> *Ibidem*, art. 220.

submitted it<sup>65</sup>. The interpellation must comply with the provisions of the Rules of Procedure. Therefore, the Speaker of the National Assembly immediately forwards the interpellation to the relevant committee to determine its compliance. If the text of the interpellation does not comply with the rules or contains offensive or inappropriate expressions for the National Assembly and its deputies, the relevant committee will request the proposer to adjust the text within 15 days. If the proposer fails to amend the interpellation within the specified timeframe, it is considered withdrawn. Upon receiving the committee's report, the Speaker forwards the interpellation to the deputies and the Prime Minister<sup>66</sup>. The government or the government member in question provides a response to the interpellation to the Speaker of the National Assembly no later than 30 days after receiving it. The Speaker promptly distributes the government's response to the deputies<sup>67</sup>. The response to the interpellation is included on the agenda of the next session of the National Assembly, which must take place no later than 15 days after the response is delivered. The Speaker may propose adding the response to the agenda of the current session of the National Assembly as the last item, with the National Assembly deciding on this matter without debate. The National Assembly may also choose to discuss the response to the interpellation during a special session<sup>68</sup>.

The Speaker of the National Assembly holds various other competencies, including, in particular: 1) receiving reports from the government on its activities, specifically on the implementation of policies, laws, and other general acts, as well as the execution of spatial development plans and the budget of the Republic<sup>69</sup>; 2) accepting motions from at least one-third of deputies to include in the agenda of the National Assembly proceedings the initiation of a procedure for the removal of the President of the Republic, accompanied by a written explanation of why they believe the President has violated the Constitution<sup>70</sup>; 3) submitting to the Constitutional Court, on behalf of the National Assembly, a decision to initiate the procedure for the removal of the President of the Republic<sup>71</sup>; 4) receiving the Constitutional Court's ruling confirming that the President has violated the Constitution, promptly forwarding it to the deputies, and convening a session of the National Assembly to decide on the removal of the President no later than 15 days after receiving the ruling<sup>72</sup>; 5) forwarding reports submitted by organs, organizations, and state authorities as mandated by law to the National Assembly, deputies, and the relevant committee<sup>73</sup>; 6) presenting to the relevant

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<sup>65</sup> *Ibidem*, art. 221.

<sup>66</sup> *Ibidem*, art. 222.

<sup>67</sup> *Ibidem*, art. 223.

<sup>68</sup> *Ibidem*, art. 224.

<sup>69</sup> *Ibidem*, art. 228.

<sup>70</sup> *Ibidem*, art. 234.

<sup>71</sup> *Ibidem*, art. 24.

<sup>72</sup> *Ibidem*, art. 236.

<sup>73</sup> *Ibidem*, art. 237.

committee a motion from an authorized initiator and a decision to assess the constitutionality of a law or the constitutionality and legality of another general act adopted by the National Assembly, which the Speaker may also submit to the government for its opinion<sup>74</sup>; 7) determining, in the event of a declaration of a state of emergency or war, the time and place for a session of the National Assembly, specifying how and when materials for such a session are to be submitted, and, if necessary, deciding on special procedures for conducting, recording, and storing stenographic notes and minutes of the sessions of the National Assembly and its committees; issuing a resolution that legislative drafts, general acts, and other materials shall not be made available to the media until the National Assembly decides otherwise; notifying the President of the Republic and the Prime Minister of the inability to hold a session of the National Assembly; and deciding on the working arrangements and task implementation of the National Assembly's Secretariat<sup>75</sup>; 8) submitting to deputies and the government a motion to convene an extraordinary session of the National Assembly and setting the date for such a session<sup>76</sup>; 9) receiving motions requesting permission to detain a Member of the European Parliament or to initiate criminal or other proceedings that could result in imprisonment, and forwarding these to the Committee on Administrative, Budgetary, Mandate, and Immunity Matters<sup>77</sup>; 10) preparing press releases and granting permission for deputies or others to hold press conferences<sup>78</sup>; 11) receiving from the President a proposal for the candidate for Prime Minister, accompanied by a justification<sup>79</sup>, as well as a list of candidates for Constitutional Court judges, also with justifications<sup>80</sup>; 12) submitting a law adopted by the National Assembly to the President no later than two days after its passage, and if vetoed by the President, resubmitting it to the deputies<sup>81</sup>; 13) immediately notifying deputies of the vacancy of the President's office<sup>82</sup>; 14) promptly submitting to deputies a proposal for a candidate for Prime Minister upon receipt<sup>83</sup>; 15) administering the oath of office to members of the<sup>84</sup>; 16) informing the President of the Republic of the failure to grant a vote of confidence to the government<sup>85</sup>; 17) accepting the resignation of the Prime Minister<sup>86</sup>; 18) recording a deputy's notification of absence and informing the National Assembly accordingly<sup>87</sup>;

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<sup>74</sup> *Ibidem*, art. 242.

<sup>75</sup> *Ibidem*, art. 244.

<sup>76</sup> *Ibidem*, art. 249.

<sup>77</sup> *Ibidem*, art. 252.

<sup>78</sup> *Ibidem*, art. 261.

<sup>79</sup> *Ibidem*, art. 263.

<sup>80</sup> *Ibidem*, art. 264.

<sup>81</sup> *Ibidem*, art. 265.

<sup>82</sup> *Ibidem*, art. 267.

<sup>83</sup> *Ibidem*, art. 268.

<sup>84</sup> *Ibidem*, art. 271.

<sup>85</sup> *Ibidem*, art. 277.

<sup>86</sup> *Ibidem*, art. 278.

<sup>87</sup> *Ibidem*, art. 284.

19) convening the College of the National Assembly<sup>88</sup>; 20) submitting a motion to the chamber to appoint the Secretary of the National Assembly<sup>89</sup>; 21) receiving notifications regarding the reasons for the termination of a deputy's mandate<sup>90</sup>; 22) granting approval for the suspension, delay, or limitation of the implementation of the National Assembly's budget<sup>91</sup>.

### **3. External competences of the Speaker of the National Assembly**

The Speaker of the National Assembly also exercises such powers, which are not related to parliamentary procedure and allow him or her to act in a wider arena than that of parliament. This circumstance underlines the special systemic role of this body, which cannot be regarded merely as an internal institution of the Assembly. The entrustment of the indicated powers to the Speaker is related to the necessity of fulfilling his function as a representative of the Serbian legislature.

At the forefront here is the constitutional empowerment of the President to replace the President during the period of his inability to exercise his office. This is regulated by Article 120 of the Constitution, which states that if the President of the Republic is unable to exercise his office or if his mandate expires before the end of the term for which he was elected, he shall be replaced by the President of the National Assembly. The President of the National Assembly may replace the President of the Republic for a maximum period of three months.

Against the backdrop of this regulation, several fundamental conclusions emerge. Firstly, it is evident that the Serbian constitutional framework entrusts the role of substitute exclusively to the Speaker of Parliament, thereby risking a scenario - admittedly unlikely - where the procedure for substitution cannot be initiated. This could occur if, at the same time, both the President and the Speaker are unable to perform their duties, leaving the state without this crucial safeguard for its functioning. Secondly, it is noticeable that the Serbian regulation clearly differentiates between substitution *sede plena* and *sede vacante*. The Speaker therefore fulfills this role during the temporary inability of the head of state to perform their duties as well as during a vacancy in the office. Thirdly, the adopted provision indicates that the Speaker's role is explicitly time-limited, as it can only be exercised for a maximum period of three months. This stands in contrast to some other countries where such a mandate is not subject to time restrictions. Fourthly, the Constitution imposes no substantive restrictions on the competencies exercised while performing the substitution role. This implies that the acting president can wield all the powers of the head of state, regardless of any potential conflict of roles arising from their structural affiliation with the legislature.

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<sup>88</sup> *Ibidem*, art. 26.

<sup>89</sup> *Ibidem*, art. 33.

<sup>90</sup> *Ibidem*, art. 244.

<sup>91</sup> *Ibidem*, art. 64.

Another competence is linked to the involvement of the Speaker of the National Assembly under the constitutional mechanism for declaring a state of emergency and martial law<sup>92</sup>. It consists in the fact that the Speaker, together with the President and the Prime Minister, decides to declare a state of emergency or martial law, if the resolutions of the National Assembly, which has priority competence in this respect, cannot convene. The doctrine points to the high rank of the power in question and at the same time emphasises that the same three - in the absence of clear constitutional resolutions - further prejudice the fact that the National Assembly cannot convene<sup>93</sup>. It can be seen from this that the constitutional role of the Speaker, appearing in the present case alongside the President and the Prime Minister, clearly goes beyond the framework of intra-parliamentary organisational activity and gives him the capacity to influence the sphere of constitutional rights and freedoms of the individual.

Lastly, the Constitution includes the President in the mechanism for overseeing the legislative process. This is specifically determined by Article 113 of the Constitution, according to which, if the President fails to promulgate a law within a certain period of time, it is the President of the National Assembly who decides to do so. The indicated power emphasises the role of the President as the key link in the legislative process, ensuring that laws can be formally promulgated even in the event of delays on the part of the President. In essence, this is a solution establishing a *sui generis* substitute for a head of state unable or unwilling to implement the will of parliament - in this case, the effective promulgation of a law.

#### **4. Conclusions**

From the considerations presented, it is clear that the President of the Assembly holds a high position in the hierarchy of state authorities and is a body with extensive competences. His role is clearly marked within the process of organising and animating the work of parliament, but also in the area of extra-parliamentary activity. This entitles one to conclude that we are dealing with a body of key importance when it comes to the model of internal leadership of the National Assembly and, at the same time, one of the most important holders of state authority in the Serbian constitutional system.

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<sup>92</sup> Constitution..., art. 200 and 201.

<sup>93</sup> M. Pajvančić, *Komentar Ustava Republike Srbije*, Belgrad 2009, p. 260

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#### **ABSTRAKT**

Niniejszy artykuł porusza kwestię statusu prawnego Przewodniczącego Zgromadzenia Narodowego Republiki Serbii, biorąc pod uwagę kwestie związane z jego ogólną charakterystyką w systemie parlamentarnym Serbii, dzierzonymi przez niego uprawnieniami związanymi z opieką nad pracami parlamentu oraz ponoszona przez niego odpowiedzialnością. Analizuje ramy konstytucyjne i prawne regulujące rolę marszałka, podkreślając jego obowiązki, prerogatywy i ograniczenia w kontekście serbskiego systemu politycznego.

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