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Lustration and Post-Communist Transition: A Comparative Analysis of the Czech Republic and Serbia

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STATEMENT OF ACADEMIC INTEGRITY

I declare that I have adhered to all rules of academic integrity in the submitted thesis. This written work is the result of my own personal effort, is based on my research and relies on the cited literature.

In Belgrade, 5 October 2026

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List of Abbreviations

Abbreviation	Definition
EU	European Union
UN	United Nations
NATO	North Atlantic Treaty Organization
USSR	Union of Soviet Socialist Republics
SFRY	Socialist Federal Republic of Yugoslavia
FRY	Federal Republic of Yugoslavia
ICTY	International Criminal Tribunal for the former Yugoslavia
StB	Státní bezpečnost - Czechoslovak State Security
KDU	Christian and Democratic Union (Křesťanská a demokratická unie), Czech Republic
DOS	Democratic Opposition of Serbia
DS	Democratic Party (Serbia)
DSS	Democratic Party of Serbia
SPS	Socialist Party of Serbia
SRS	Serbian Radical Party
SSJ	Serbian Unity Party
MUP	Ministry of Internal Affairs (Ministarstvo unutrašnjih

	poslova)
RDB	State Security Department (Resor državne bezbednosti)
DB	State Security (Državna bezbednost)
JSO	Special Operations Unit (Jedinica za specijalne operacije), the "Red Berets"
RTS	Radio Television of Serbia
NIN	Weekly informative newspaper (Nedeljne informativne novine)

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I believe that when motivation and discipline run low in life, one should ask "Why?" and return to the original reason for starting the endeavor in the first place.

Table of Contents

1. Introduction **1**

1.1. Research Subject and Aims 1

1.2. Research Question and Hypotheses 3

2. Literature Review **7**

3. Theoretical Framework **10**

4. Methodology **12**

5. Historical and Political Context **14**

6. Case Study: Czech Republic **21**

7. Case Study: Serbia **24**

8. Comparative Analysis **29**

8.1. Lustration Laws 29

8.2. Securitizing Actor and Discourse 31

8.3. Audience and Legitimacy 33

8.4. Context: Reserved Domains as Structural Constraint in Serbian case 36

8.5. Critical Junctures and Path Dependence 38

8.6. Synthesis 39

9. Conclusion and Discussion **40**

Bibliography **45**

Abstract

This master's thesis examines why the institutionalization of lustration succeeded in the Czech Republic (1989-1996) and failed in Serbia (2000-2012), despite the fact that both countries went through peaceful revolutions and faced similar communist and authoritarian legacies. Using the most similar systems design, the paper claims that the key explanatory variable is the discursive securitization of democracy, i.e. the degree to which political actors successfully presented the remnants of the former security apparatus as an existential threat to the new democratic order and to what extent the audience accepted it. This relationship is mediated by political will, broader social consensus and institutional capacity, and limited by the existence of reserved domains, the state of access to security archives and breakpoints during the critical juncture after the revolutions. Drawing on primary sources including the Lustration Law of the Czech Republic and the Law on Responsibility for Human Rights Violations of the Republic of Serbia, parliamentary debates and public statements by key political actors such as Václav Havel, Vojislav Koštunica and Zoran Đinđić, the paper combines securitization theory with path dependency theory to explain the different outcomes of transitional justice in two post-communist states and the impact of outcomes on the consolidation of democracy. Findings indicate that successful lustration depends on a securitizing discourse and substantive buy-in from audiences who, at a critical juncture, have the capacity to implement institutional reform and thereby protect a fragile democracy from an authoritarian communist legacy.

1. Introduction

1.1. **Research Subject and Aims**

The term *lustration* (*lustrātĭo*) appeared in ancient Rome as a ceremony of purification from some evil, purification through sacrifice. The term was revived in the post-communist period, although its meaning differs significantly from the original term (Lewis and Short 1879). Today, by lustration we imply the process of excluding members of the former (communist) regime from public life who were associated with abuse, such as human rights violations or corruption. Lustration represents a form of transitional justice and stipulates that any compromised person is not only removed from their position but also cannot obtain a position in state and public service in the future based on previous abuses (David 2011, 3). Such measures were applied in Eastern Europe after the collapse of communism and involved the screening, often the dismissal of certain individuals and the prohibition of holding public office again.

When analyzing post-communist states in Southeast Europe, many authors agree that the Czech Republic is considered an example of good practice in the implementation of lustration. Lustration laws had different scopes of application in Southeast European countries such as the Czech Republic, Slovakia, Hungary, Macedonia, Albania, Bulgaria, Lithuania, Latvia, Estonia, East Germany, Poland, and Romania. In the literature, many authors agree that the Czech Republic had the most institutionalized lustration and the greatest social consensus around it, which makes it a relevant model, unlike Serbia, which never implemented the Lustration Law that it had adopted. Countries such as Poland and Hungary implemented lustration on a smaller scale, while Romania practically did not institutionalize it (Nalepa 2010, 99).

The event that preceded the change of regime, the beginning of the democratic transition, and the implementation of lustration in the case of the Czech Republic was the “Velvet Revolution.” On November 24, 1989, 50,000 demonstrators gathered in Wenceslas Square, and the Central Committee was faced with the question of whether to use force to stop the daily protests. The Czechoslovak police undoubtedly had the means to do so, but there was no political decision to use force. The Central Committee decided not to use force, after which the number of demonstrators quickly increased. Soon, around half a million people gathered in the streets of Prague, and the communist government fell (Antonić 2020, 50).

The new government that came to power after the "Velvet Revolution" in 1989, led by Marián Čalfa and Václav Havel, quickly responded in order to address the legacy of injustice left by the communist regime. The Lustration Law was adopted on October 4, 1991, and covered more than 100,000 individuals mentioned in the files of the secret police (*Státní bezpečnost*), who were identified as collaborators or informants. Lustration was implemented as a legal obligation of the state authorities under that government. This measure prohibited all those identified in the records of the State Security as "conscious collaborators" from holding a wide range of elected and appointed state positions (Maierean 2013, 51). Public-sector employees in the Czech Republic had to possess a lustration certificate, citizens who had not been collaborators with the secret police could be employed in the public sector.

The Czech Republic is a reference case of institutionalized lustration among former post-communist regimes, and this is the main reason why it is relevant to compare it with Serbia, a country that did not implement lustration, with a country that did. While some countries adopted a judicial approach and sought justice through criminal proceedings, the Czech Republic adopted an extrajudicial, more administrative, and proactive approach to screening. The roots of this approach and determination to confront the previous communist regime can also be found in the historical experience of the communist coup of February 1948, which brought the communists to power through the security sector (Williams 1999). Precisely because of the fragility of democratic institutions and the political order, as was the case after the Second World War, the Czech Republic considered it appropriate to react quickly in this case and prevent the communist regime from returning to power through the security sector.

In the case of Serbia, following the October 5 changes, a revolution that has similarities with the "Velvet Revolution," Vojislav Koštunica became president, and after several months the government was formed by the DOS coalition. Unlike Havel, Koštunica was not an advocate of lustration but rather of legalism, while the newly elected Prime Minister Zoran Đinđić moved in the direction of legitimacy and the perception of the October 5 changes as a historical moment for implementing lustration and establishing a discontinuity with the previous regime. Despite strong obstruction by the opposition, predominantly socialists and radicals at the time, the Law on Responsibility for Human Rights Violations, also known as the Lustration Law, entered into force in May 2003, after the assassination of Prime Minister Đinđić (Ševo, 2025).

How did political elites in the Czech Republic manage to present the former security apparatus as an existential threat to democracy, while political elites in Serbia did not? After the adoption of the Lustration Law in Serbia, the National Assembly of the Republic of Serbia did not elect the members of the commission that was supposed to implement the lustration process, and the question that this thesis aims to analyze is why lustration in the Czech Republic was successful, while the Lustration Law adopted in Serbia was never implemented.

This thesis will focus on comparing the cases of the implementation of lustration in the Czech Republic and Serbia and aims to investigate all the factors that influence its success. The aim of the thesis is not only to analyze the comparison of the lustration processes in the Czech Republic and Serbia (former FRY), but also to examine the claim that lustration affects the quality of democracy in the long term (Nalepa 2010, 99).

The renewed public debate on lustration in Serbia, 23 years after the adoption of the law, shows that this issue remains politically and academically relevant.

1.2. Research Question and Hypotheses

1. Why was lustration successful in the Czech Republic, but not in Serbia?

2. What lessons can be drawn from the Czech Republic's successful lustration and Serbia's failure to implement it, and how are these lessons relevant to Serbia's rule-of-law reforms in the context of EU accession today?

Research Question 1: Why was lustration successful in the Czech Republic, but not in Serbia?

The argumentation concerning the legitimacy of the lustration law in the Czech Republic rests on two fundamental elements. The first argument is that after the "Velvet Revolution," the Czechoslovak parliament enjoyed legitimacy. The second argument, which is connected to the first, is timing, i.e. that the lustration laws were adopted immediately after the Velvet Revolution. Unlike the October 5 changes in Serbia, the lustration law came three years later, while in the Czech Republic legitimacy rests on the moment when it was adopted. The argument, of course, starts from the fact that the Velvet Revolution overthrew an illegitimate regime. In this sense, the

Czech lustration laws were not only an attempt to legitimize the new regime, but also, crucially, to delegitimize the previous one (Killingsworth 2010, 85). In Serbia, according to Đinđić's words, in the period after the October 5 Revolution, the majority that constituted the government at the time wanted legalism, stating that it was certainly not the first time that he had been in the minority, and he agreed to a compromise: "All right, let us find a solution somewhere in between. We will send him to The Hague a little bit, we will respect his laws a little bit and let it be 'one-to-one'" (Đinđić 2002).

The Lustration Law was adopted very quickly through the Federal Assembly of Czechoslovakia in 1991 by a diverse coalition, that is, by the new political elite, which was united by the view that the new democracy was extremely fragile and could easily be overthrown, as had been the case in February 1948. The need to securitize democracy, that is, to question the survival of democracy through the language of national security, was not accidental. This case resembled the doctrine of streitbare demokratie (militant democracy) developed in post-war West Germany. The doctrine implies that a newly established democracy has the right to self-defense because of its vulnerability to internal threats (Williams 2003, 2). According to the Constitutional Court of the Czech Republic, between 1991 and September 5, 2001, the Ministry of the Interior of the Czech Republic issued 366,980 lustration certificates, that is, so many people went through the lustration process itself, of which it is stated that 3.45% were positive, that is, approximately 12,660 certificates were marked as having some form of cooperation with the StB or being functionaries of different levels during the previous communist authorities (Constitutional Court of the Czech Republic 2001).

The hypothesis of this thesis is that lustration is successful when the political elite successfully securitizes the newly established democracy by presenting the security sector and individuals from the former regime who abused their positions of power as an existential threat, while the absence of such a discourse and the existence of reserved domains and lack of political will lead to failure. Lustration must also be institutionalized, from which it draws its legitimacy. The success of the Czech Republic in implementing lustration lies in the fact that the security sector, in addition to the individuals of communist party, was a priority object of lustration, such as the secret police, the former State Security (StB), intelligence structures, the army, and collaborators as well, while in Serbia the reform of this sector was incomplete, partial, and the lustration had not even begun.

One of the reasons why lustration failed in Serbia is the creation of reserved domains, which emerged through agreements before, during, and after October 5. During the October 5 changes, the two leaders of the changes, Zoran Đinđić and Vojislav Koštunica, both influenced, in their own ways, the creation of reserved domains. Zoran Đinđić, the future prime minister, met with the commander of the Special Operations Unit (JSO), Milorad Ulemek Legija, on Admirala Geprata Street on the evening before October 5. Luković (Legija) promised that the JSO would not intervene against the demonstrators on the day of the major protest. In return, it is believed that Đinđić promised that he would not take measures against JSO members when he came to power. The fact that the JSO continued to operate long after Milošević's fall suggests that some agreement existed (Ejdus 2016, 45). Đinđić's argument for entering into such compromises was that they were necessary, otherwise, innocent citizens would have suffered casualties on October 5th, and a civil war would have broken out.

Boris Tadić, who served two terms as President of Serbia, believes that the failure of the post-October 5th lustration process stems from the nature of the DOS coalition that came to power. In his view, the problem lies in the fact that four parties and leaders who had either been part of the previous regime or had collaborated with it became part of the DOS coalition (Tadić 2025, 7:50–9:30).

The failure of lustration in Serbia can also be attributed to the lack of securitization of democracy, where the main threat to democracy was the security sector and members of the former regime. In addition to securitization, weak institutional capacities and the lack of political consensus were what discouraged the democratic government from implementing lustration. The discourse in Serbia was not focused on the fact that democracy was under threat either after October 5 or after the assassination of Prime Minister Đinđić, the discourse was exclusively focused on criminal groups and the JSO as threats, excluding the state security sector in a broader sense and parts of the former regime in this case as the main threat to democracy. Also, the importance of Balzacq's theory of the three faces of securitization lies precisely in the importance of the audience, that is, in the case of Serbia, it was necessary for citizens to accept the securitization of democracy because representatives of the former regime were a threat to democracy and the rule of law, in such a way it could be successful and thereby gain legitimacy, as was the case in the Czech Republic in the 1990s (Balzacq 2005, 178).

Research Question 2: What lessons can be drawn from the Czech Republic's successful lustration and Serbia's failure to implement it, and how are these lessons relevant to Serbia's rule-of-law reforms in the context of EU accession today?

The absence of lustration in Serbia has political and institutional consequences, and through lustration in the Czech Republic we can see how lustration affects democratic consolidation through security sector reform. We can also examine lustration and its failure in Serbia through democratic backsliding, through the rise and fall of democracy after October 5 and state capture after 2012 (Pavlović 2020, 205). In the context of the question of Czech success and Serbian failure in implementing lustration and its contemporary relevance, we must bear in mind that Czechia is today considered a free country and a parliamentary democracy in which political rights and civil liberties are generally respected and maintained at a high level (Freedom House 2026, 2). In the long term, for the strategy that has been established and Serbia's path toward accession to the European Union, Chapter 23 is important, as it concerns whether Serbia truly functions as a state governed by the rule of law (European Commission 2023, 21). Lustration, which is considered an act that contributes to the rule of law, can also be seen from the case of the Albanian judicial reform, where the reform was initiated through constitutional amendments and entered a phase of consolidation after the completion of the vetting process, which lasted eight years, and to which the European Commission responded positively.

The hypothesis regarding the second research question is that the European Commission and the EU would welcome reforms of the judicial system in Serbia, and that lustration is one of the steps on that path. There is also no expectation that lustration would be sufficient to close Chapter 23, but that it is certainly a step towards Serbia's membership in the community of democratic EU countries. Lustration would contribute to improving judicial system reform in Serbia. Through previous enlargements, the EU (e.g., Romania and Bulgaria) realized that it was important to implement reform before joining the EU. In fact, Romania and Bulgaria are examples of post-communist states that initiated the implementation of lustration but did not lead to substantive lustration, prohibiting certain individuals from holding office, but rather to their exposure (Horne 2017). These two countries joined the EU in 2007, and geopolitical circumstances influenced this. However, these circumstances are quite different today, and the EU itself would not recognize its

member states as undemocratically consolidated, and one of the factors missing on that path is the rule of law, to which lustration contributes.

It is also important to note the Council of Europe Parliamentary Assembly Resolution 1096, adopted in 1996, which describes how countries that are becoming democracies should implement lustration. Taking this into account, research into the Czech model can contribute to a better understanding of the success of lustration implementation and may be relevant for Serbia today, when the debate on lustration and interest in it has been renewed, although Serbia today is not potentially breaking with the socio-economic political system (communism), as the Czech Republic did, but the current regime that has been in power since 2012 is characterized as a hybrid, often authoritarian regime (Freedom House 2026). Of course, given that both cases that we will analyze in this thesis arose in moments of rupture of political legitimacy, whether the logic of the securitization of democracy can function in the same way beyond such a moment, remains an open question that this thesis will deal with.

2. Literature Review

Although lustration is most often presented as a key mechanism of transitional justice, the literature shows us that the way lustration is implemented greatly affects trust in institutions and the quality of democracy in the long term. The literature review analyzes different models of lustration, factors that influence the institutionalization of lustration, including the institutional capacities of countries, the clarity of legal norms and political will, as well as models of treatment of persons subject to scrutiny. At the very end of the literature review, through the cases of Serbia and the Czech Republic and through the theoretical framework of securitization, it is shown why the existence of factors affects the success or failure of the institutionalization of lustration.

Institutionalization, Trust, and Democratic Quality

Research shows that countries that consistently implemented lustration resulted in greater trust in institutions, while countries that did not have less trust (Horne 2012, 413-414). What is particularly important is the way in which lustration is implemented; if it is not successful and institutionalized, lustration itself can undermine the legitimacy of democratization and the reform of the security

sector (Nalepa 2010, 99). While, as author Nalepa states, if it is implemented in an adequate and institutionalized manner, it affects the quality of democracy in the long term and its consolidation.

Other authors agree with her in the claim that the success of lustration also depends on institutional capacities in different societies, which mostly refers to the judicial system, its strength and independence. The second factor is clearly defined legal norms on the basis of which the judicial system can implement lustration, while, in relation to her work, the new introduction of the most important criteria for the implementation of lustration are social consensus and political will (Maierean 2013, 51). There were different models of lustration and different Lustration Laws that were adopted by 1996 in the Czech Republic, Slovakia, Hungary, Macedonia, Albania, Bulgaria, Lithuania, Latvia, Estonia, Germany, Poland and Romania (Nalepa 2010, 99).

Risks of Unsuccessful or Selective Lustration

Lustration is certainly not always successful. If it is inconsistent or selective, it can often lead to abuse, thereby resulting in a loss of citizens' trust, and citizens may see it as a settlement with the previous regime rather than as a legitimate way to make the new order more just and democratic (Horne 2012, 413-414). Author Horne considers that there is also a symbolic significance of lustration, she sees this symbolic significance in the fact that a message is sent that the country has broken with its corrupt past and that the character of the new order will be pluralistic and democratic. There are also dilemmas and abuses associated with lustration, where something that should contribute to democratization can actually be based on violations of the rule of law, where there is also the problem of retroactivity, and where the new government thereby creates new security risks for itself by dealing with representatives of the former regime who abused their position. What certainly represents a key dilemma is how to actually balance justice and the rule of law (Horne 2017, 428-429).

Models of Treatment for Screened Individuals

While authors such as Monika Nalepa and Cynthia Horne also discuss the different scope of lustration and democratic consolidation after regime change, author Roman David further elaborates on models of treatment of people who have undergone screening, or what he calls personnel policies, through the examples of the Czech Republic, Hungary and Poland. The division

is roughly divided into exclusive, inclusive and reconciliatory. In the case of the exclusive model in the Czech Republic (1991), people who underwent screening could no longer work in public administration. The inclusive model in Hungary (1994) implies that they did not lose their jobs, but that the past of individuals was publicly disclosed. The third model of reconciliation in Poland (1997) implies reconciliation through the admission of cooperation with the previous regime, after which they can continue to work (David 2011, 6-10). When, on the other hand, we talk about the lustration models, we believe that the Serbia Case with Law of Lustration cannot be placed in any of the aforementioned models of lustration that have been applied in post-communist societies. Neither inclusive nor reconciliatory. Due to its stipulation that belonging to the former regime is not treated a priori as a basis for punishment and prohibition from holding office, this model does not even belong to an exclusive model like the one applied in the Czech Republic (Anđelković and Ševo 2026, 65-66).

These models are important to us because the approach that a country takes will largely send a message and establish a discourse about what the previous regime was like, whether and to what extent it was destructive for society and the state. These three countries are interesting to observe because they have a similar history, are part of a similar cultural space, and also all became members of the EU from 2004 onwards (David 2011, 10).

Explaining the Non-Institutionalization of Lustration in Serbia

Lustration in Serbia did not see the light of day, and the adoption of the Lustration Law had no practical implications for the further course of the institutionalization of lustration (Ševo, 2025). Speaking about the attempt at lustration in Serbia, we arrive at the conclusion that security sector reform in Serbia can only be successful if it is an integral part of the democratic reform of the entire society, which also means its institutions, while the reform was partial, selective and insignificant if there was no unified strategy (Hadžić 2008, 13). In Serbia, there was a dilemma as to whether the agency should be reformed or a new one established instead, while the Czech model was considered inapplicable in Serbia because some former socialist countries had to adopt this approach in order to sever all ties between their agencies and former central agencies in other countries where they were located. It was considered that the termination of the existence of the old agencies and lustration according to the Czech model would represent a major challenge and

could make it more difficult to achieve the country's security interests, because precisely the ties between the agency and agencies in other countries would be severed. The reasons for the inconsistency regarding lustration in Serbia were the lack of political will and a common direction of the new government at the beginning of the 2000s, but certainly not the only ones (Milosavljević 2008, 97). However, beyond political will and consensus among the actors, the creation of reserved domains should not be neglected, which is reflected in the compromises that the main political actors made with members of the security sector before, during and after October 5 (Ejdus 2016, 45).

From the reviewed literature, we understand that the success of lustration often depends not only on the mere adoption of the lustration law, but also, in addition to the aforementioned factors, the most important discursive framework through which lustration is presented to the public, which significantly affects the success of the institutionalization of lustration. Which certainly raises the question of whether, in addition to institutional readiness, discursive positioning of lustration as an issue of national importance is also necessary for successful lustration, which was not the case in Serbia.

3. Theoretical Framework

This chapter is focused on the theoretical basis of the work, that is, a mixed/eclectic theoretical framework that combines an interpretivist dimension (theory of securitization) with an historical institutional dimension (path dependency).

The theory of securitization will be the basis for studying how, in the Czech Republic, the discourse of the new government was aimed at breaking with the communist past, and in Serbia, the discourse was aimed at crime and certain parts of the security sector, but it was not aimed at confronting the past and creating a new order. The key thesis is that lustration in Serbia did not happen because a discourse was not created that the threat does not come only from the direction of criminal groups and JSO, but that the discourse is such that the potential threat is aimed at the stability and legitimacy of the democracy, which would mean that the political order is threatened if the security and justice sector is not "cleansed". Through the analysis, we will try to answer the question why the discourse differed, considering the (non)existence of reserved domains. Also,

through a historical institutionalism perspective, this study seeks to examine how the concept of path dependency directly explains why, once Serbia failed to implement lustration in the early phase of the transition (2000–2003), it became institutionally increasingly difficult to do so later (Pierson 2000).

When applying securitization as a theoretical framework during the lustration process itself, authors such as Williams agree that Czech lustration was institutionalized precisely because of the securitization of democracy. The political sector, as one of the key security sectors, unlike military, economic and social issues, is focused on the stability of the entire political system (Buzan, Waever, de Wilde 1998, 141-143). However, unlike his predecessors, the author Balzacq does not consider securitization only as a "speech act", but as a broader social process. According to him, there are 3 faces of securitization: the first is the political actor (agency), the second is the context and the third is the audience (Balzacq 2005, 171-172). In the case of the Czech Republic, the need for securitization of democracy, or for questioning the survival of democracy through the language of national security, is not accidental. The case of the Czech Republic reminded us of the doctrine of "streitbare Demokratie" (militant democracy) developed in post-war West Germany. The doctrine implies that a newly established democracy has the right to self-defense due to its vulnerability to internal threats (Williams 2003, 2). There are also criticisms of militant democracy in the literature, where it is considered that the use of mechanisms of militant democracy can pose a serious danger to democracy itself, because these mechanisms are based on the permanent or temporary suspension of political rights for certain individuals, groups and demands. According to critics, militant democracy can threaten the values on which democracy rests, such as equality and freedom. This leads us to a new concept of non-militant democracy, which justifies the exclusive temporary limitation of freedoms and rights in the name of protecting democracy (Anđelković and Ševo 2026, 54-55). Also, through a historical institutionalism perspective, Pierson examines how, the concept of path dependency directly explains earlier institutional and political decisions strongly influence later opportunities, even when circumstances later change. In fact, it is being investigated how the choices we make create mechanisms that make it difficult to abandon the chosen path, which is very significant in the case of Serbia and the failure to adopt a Lustration Law immediately after October 5th and the change of government (Pierson 2000). The concept of "critical junctures" is a key element of historical institutionalism, representing moments when structural constraints on political decision-making are temporarily loosened, creating a choice

between two paths or institutional options. Crucially, the decision made exerts a lasting influence on path dependency (Capoccia and Kelemen 2007, 341).

Contingency, as a central characteristic of a critical juncture, indicates that the outcome is not determined by structural factors but rather depends on political decisions and interactions among actors. Critical junctures are not synonymous with change; in fact, the outcome of a critical juncture can be either change or a return to the status quo that existed prior to the juncture (Capoccia and Kelemen 2007, 352).

4. Methodology

This thesis adopts a qualitative comparative case study design based on a wide variety of system designs. In this paper, I will employ the "most similar systems design" method specifically, the best-known method of "controlled comparison" (George and Bennett 2005, 81). These two cases share numerous similarities regarding the revolution, the new democratic government, the establishment of democracy, and the enactment of lustration laws, yet they yielded different outcomes. While the preconditions and contexts are similar though they vary in certain respects, no two countries share an identical history. Both cases involve mass nonviolent democratic demonstrations against authoritarian regimes, the post-communist transition, and the challenge of dealing with authoritarian legacies. The key difference lies in the outcome. The Czech Republic as a primary example of institutionalized lustration, and for additional insight, the paper includes a comparison with Serbia as a case where lustration was not systematically implemented, and there was not a single recorded instance of the law being applied.

The time period is different in both countries, it includes the Czech Republic (1989-1996) and Serbia (2000-2012). These periods include the enactment of laws and the implementation of lustration policies in each country. The dependent variable is the successful implementation of lustration while, the independent variable is the discursive securitization of democracy, whereby the former security apparatus is presented as an existential threat to the new democratic order. The mediating variables are the political will and institutional capacity through which this securitizing discourse is translated into concrete legal and institutional outcomes, while the presence of reserved domains and the state of access to and governance of security archives are treated as

structural constraints that shape whether and how successfully such a securitizing discourse can emerge and be sustained. Why does lustration as an instrument of transitional justice lead to successful democratic consolidation in some cases and fail in others? Democratic consolidation is analyzed as a broader outcome associated with successful or unsuccessful lustration.

Following the logic of most similar system designs, this thesis compares cases that share in many contextual features but differ markedly in the outcome of interest (Przeworski and Teune 1970, 32). Comparative methods are used in political science to identify patterns and causal relationships by systematically comparing a limited number of cases. Comparison is a valuable methodological strategy when experimental methods are not possible in the political sciences or in the social sciences in general (Lijphart 1971, 682).

The primary sources that will be used during the comparative analysis of these two cases will certainly be the literature dealing with lustration, transitional justice, the implications of unsuccessful lustrations for young democracies, the democratization process, the Czech Law on Lustration (Act No. 451/1991 Coll.), the Serbian Law on Responsibility for Human Rights Violations (2003) (Republic of Serbia 2003, art. 2), Council of Europe Parliamentary Assembly Resolution 1096 (1996) (Council of Europe 1996), Amendments to the Law on the Police and the Law on the Serbian Armed Forces, European Commission reports and Freedom House reports (Federal Republic of Yugoslavia 1994, Republic of Serbia 2005, European Commission 2003, 2023, Freedom House 2003, 2026). Secondary sources will be political discourse that will be reconstructed through speeches through parliamentary debates, newspapers, official announcements, and presidential speeches. All translations from Serbian and Czech primary sources are my own unless otherwise noted. The sources that will be considered relevant are the Archive of Vreme, B92, official statements of President Koštunica and key actors in the early 2000s, as well as reports of civil society organizations such as the Belgrade Center for Security Policy, also speeches and public addresses of Czech authorities Marián Čalfa and Václav Havel on the legacy of the communist regime and the necessity of conducting lustration, available through his online library, as well as transcripts of parliamentary debates on the adoption of the Law on Lustration. It is very useful to view archival documents as a form of purposeful communication in this instance, from elected representatives to citizens. When interpreting their meaning, it is crucial to consider who is speaking, who is being addressed, for what purpose, and

under what circumstances (George and Bennett 2005, 99). The limitations of this approach are that it only compares two cases. Perhaps a comparison of several cases would provide better insight into the implementation of lustration in post-communist countries. On the other hand, there are restrictions in the form of archival documents that were destroyed in Serbia, and which concern the security services. Also, media sources can be biased and directed towards a certain narrative. Although considered the most successful in Central and Eastern Europe, the lustration case in the Czech Republic certainly had serious legal and political dilemmas, which actually means that perhaps the files of the secret police were not completely or somewhat accurate. The question arises: are all the people who are lustrated guilty? This is where the moral and ethical issues of lustration arise, which will be discussed in this thesis.

5. Historical and Political Context

The key years of Czechoslovak communism are considered to be 1948, the communist coming to power, the Prague Spring in 1968, and 1989, the fall of the regime. When we talk about democratic tendencies and the choice of Czechoslovakia for lustration and defense of democracy, it is very important for us to keep in mind the year 1968. The Prague Spring was an attempt of reformation under the slogan "socialism with a human face" of Czechoslovak reformist communists to democratize, modernize and thereby legitimize the existing system. The goals of the Prague Spring had limitations, they represented precisely the "democratization" of the existing system, not the path to full "democracy" and transition. Their architects, after all, were communists, who were looking for a third way, i.e. democratic socialism in the current state of the world in 1968. The leader who marks this period in Czechoslovak history is Alexander Dubček, the first secretary of the Communist Party of Czechoslovakia to be appointed January 5, 1968. (McDermott and Stibbe 2022, 11).

Eight months after Dubček came to power, the reforms entailed the abolition of primary mass media censorship, which in practice meant that state television, radio and newspapers began to discuss many topics that were censored until then, proposals that were then considered radical for the introduction of a multi-party system, also during the reforms, political groups that were not communist were founded, the replacement of loyal pro-Soviet party, state and security officials

with reformers, the likelihood of formal recognition the rights of minority factions within the Communist Party of Czechoslovakia, as well as moves to limit the vast powers of the secret services.

The main idea of the communists at that time was how to democratize public life and involve citizens in the governance of the state, without jeopardizing the party's monopoly on power, so the goal of the reforms was not to introduce multiple parties or a change of government. This reform was interrupted by the fact that Warsaw Pact tanks led by the Soviet leadership decided to intervene militarily on the night of August 20-21, 1968 (McDermott and Stibbe 2022, 12). Looking at the history of Czechoslovakia, we can notice the desire for democratization even 21 years before the Velvet Revolution itself, and we can understand the determination to defend democracy after the revolution itself in 1989.

What is interesting is that Yugoslavia strongly criticized the Soviet invasion, showed that it stood firmly on the side of Czechoslovakia and attempted reforms. The similarity between these two countries can also be seen in the fact that in 1968 neither of them wanted a close relationship with the Soviet Union, but neither of them wanted liberal democracy. The support of the then Czechoslovak leadership and Dubček by the resolution of the Yugoslav League of Communists should be viewed in several ways. Freedom of choice and the sovereignty of Czechoslovakia are the main reasons why the authorities in Belgrade called a demonstration in support of Czechoslovakia, which is thought to have been attended by around 250,000 people. Similar protests were also held in several cities throughout Yugoslavia (McDermott and Stibbe 2022, 314). Despite the fact that Tito supported Czechoslovakia to independently develop its socialist system, just as Yugoslavia had its own, the question remains whether the support was solely due to the Soviet invasion and Yugoslavia's foreign policy message, or whether the support for democratization was something in which Yugoslavia also saw its future. We must also bear in mind the student protests that preceded in Yugoslavia two months before the invasion in 1968, which ended with Tito's famous sentence "Students are right". The fact that Yugoslav students were in favor of "socialism with a human face" in 1968 also inspired the Yugoslav government to strongly support the Czechoslovak reform and Dubček (McDermott and Stibbe 2022, 314). The support went to the extent that Tito visited Dubček just before the invasion in August, demonstrating his official support for the reforms of the Prague Spring. While it is stated that his

communication with the public during that period of the visit was restrained so as not to provoke the Soviets or cause additional problems for Czechoslovakia on the internal level (U.S. Department of State 1968). This did not work, as a “Soviet note sent to Tito on August 30 accused Yugoslavia of joining the ranks of nations actively promoting the subversion of the socialist bloc.” While Tito himself was denounced in the Soviet press as a ‘lover’ of counter-revolution (Craig and Gillespie 1977, 235). The Prague Spring shows us that there was a crisis of the socialist system and that during the communist regime in Czechoslovakia from 1948-1989. the socialist model needed to change towards democratization, while the Soviet intervention temporarily suppressed that need, in 1989, and the attitude of the new government towards the communist regime shows us what was the attitude of the citizens towards the period that followed the unsuccessful Prague Spring.

Many Czechs and Slovaks left the country after the Prague Spring in the 1970s and supported dissidents who remained in the country from abroad. However, in the period following the Prague Spring, the dissident movement was very small precisely because of the repression and the consequences that could occur, such as losing their jobs, or if citizens signed a dissident petition, their children were banned from higher education, and there were citizens who were imprisoned or forced into exile. Protest movements remained small precisely because of the harsh response to any opposition activity (Cashman 2008, 1654).

After the interrupted reforms in 1968, the regime that succeeded Dubček was harsh, orthodox and allowed little room for dissent. Authors like Linz and Stepan characterize it as "frozen post-totalitarianism", and Kitschelt a "bureaucratic-authoritarian" regime that did not allow criticism. Until it collapsed under the pressure of protests in 1989 (Williams, Fowler, and Szczerbiak 2005, 24).

With the fall of the Iron Curtain and the Berlin Wall, the survival of all other socialist regimes in Eastern and Central Europe was in question. While countries like Bulgaria immediately decided to go the route of elections, the regimes in Czechoslovakia and Romania did not choose that path at the very beginning of November. What contributed to the fall of the Czechoslovak regime were the large demonstrations in Prague on November 17, but it was soon overwhelmed by a new wave of even more massive demonstrations of hundreds of thousands of people in Prague and other cities, initiated by networks of young people (Kalb 2013, 1369).

On November 17, 1989, student protests in Prague were violently suppressed. This sparked mass protests across the country. The demonstrations that followed were peaceful in Czechoslovakia in November 1989, which gave rise to the name "Velvet Revolution", and three weeks later the communist regime in Prague fell (Kalb 2013, 1365). The protests became increasingly massive after November 17, general strikes followed, and the Communist Party began to lose its monopoly on power. On December 10, a new non-communist government was formed.

Through these protests and the Velvet Revolution, opposition thinkers like Václav Havel naturally rose to positions of "people's representatives" and were considered as the new national leadership. Before the end of November, the communist regime was negotiating the date of the elections (Kalb 2013, 1369). Although the collapse of the regime in 1989 is considered to be a domino effect of the collapse of communism around the world and Gorbachev's refusal to intervene. However, the scale and mass protests on the streets in November 1989 echoed demonstrations 21 years earlier. While this time the reform of the system was not enough, socialism was rejected for the sake of democracy (Cashman 2008, 1655). Havel as the leader of the Civic Forum became President of Czechoslovakia by a unanimous vote of the Federal Assembly on December 29, 1989. The opposition movements Civic Forum and Public against Violence then achieved a convincing victory in the first free elections in June 1990 (Williams, Fowler, and Szczerbiak 2005, 24).

The Velvet Revolution certainly led to the most peaceful and decisive collapse of communism and the transition from state socialism to a free market economy and democracy. Former "enemies of the people", as the previous government often called them, or rather intellectuals of various orientations, quickly organized a democratic form of government. At the head of the Civic Forum was Václav Havel, the newly elected president of Czechoslovakia. As a dissident who had been imprisoned several times by the communist regime, Havel spoke during his term of office about the sad legacy of communism, and often about the "moral contamination" of the country. Havel thought that the Czechs as victims and perpetrators of the previous system, had become selfish, narrow-minded and incapable of thinking in terms of the common good, he believed that their main enemy in the 1990s was their own bad qualities and the main struggle will have to be waged in this field. Self-criticism was in line with Havel's philosophy of "living in truth" (Bryant 2000, 30). After the change of government and the beginning of democratization, Lustration and the law that was passed in Czechoslovakia came in 1991. In contrast to Czechoslovakia, which split

peacefully, Yugoslavia had a rather tragic end, which included wars, sanctions, economic crises and international isolation. In order to understand the nature of the regime before democracy, which can be said to have started in 2000, we must go back to 1987 and the coming to power of Slobodan Milošević.

Slobodan Milošević is one of the 5 leaders who from being part of Communist Party continued to rule their republics in a multi-party system in a new form of party SPS. The threat to the survival of old elites can manifest itself through ideological shifts from international communism to ethnic nationalism, as well as through the subsequent wars in the former Yugoslavia and certain republics of the former Soviet Union (Přibáň 2007, 319). It is considered that Milošević quickly rose to power, enjoying huge support at the very beginning, but during the 90s he tried to maintain the authority he had gained through violence, xenophobic propaganda, suppression of the media and clientelism. His period of rule is characterized by the disintegration of Yugoslavia into separate nations, through four wars and the NATO bombing in 1999, which pitted his regime against the West (Jennings 2009, 3). The protests that consolidated his power were often called the "anti-bureaucratic revolution." In 1989, while Czechoslovakia was ending its communist era through the Velvet Revolution, protests were also taking place in Serbia, often called the "anti-bureaucratic revolution," which were directed against party leaders and their "bureaucracy" in Kosovo, Vojvodina, and Montenegro. Protests in Yugoslavia were certainly not, unlike Czechoslovakia, inspired by liberal democracy, but by nature they were inspired a mixture of nationalism and statism until the period before 1991. While Czechoslovakia was turning to liberal democracy, in 1989 Serbia under Slobodan Milošević protested and demanded the unification of Serbia into an indivisible republic instead of having two provinces. The anti-bureaucratic revolution is considered to have been a populist event that linked workers' dissatisfaction with the economic crisis and Serbs in Kosovo to help fight marginalization (Jović 2022, 200). Serbia did not embark on the path of true democratization, but in 1990, Serbia moved from the communist regime to a new form of authoritarianism, often called competitive authoritarianism. This type of regime throughout the 90s is characterized by democratic procedures but unfair and unfair elections, as well as the elimination or attempted elimination of political opponents. While the governments were changing in the Eastern part of Europe, Milošević was dominantly defeating the opposition parties and essentially the government could not change in the elections. Nevertheless, the

opposition had room to organize and build infrastructure, which 10 years after the first multi-party elections will lead to the removal of Milošević from power (Vladisavljević 2010, 16).

Unlike Czechoslovakia, there were never federal multiparty elections in the SFRY, in 1990 there were multiparty elections, but only at the republican level throughout Yugoslavia. The introduction of democracy and multi-party politics introduced instability in Yugoslavia, where people believed that because each nation was a minority, there was always the option that they would be overpowered by some other unprincipled coalition. The fact that all citizens in Yugoslavia were in the minority according to ethnicity made the situation significantly different from that in the USSR or Czechoslovakia, where Russians and Czechs were the majority. As Jović states, "Serbs were neither Russians nor Czechs of Yugoslavia" (Jović 2022, 211). Although I would add that the regime of Slobodan Milošević thought that they were.

During the war in the 1990s, there were extremely nationalist political parties in Serbia, such as the Serbian Radical Party (SRS) and the Serbian Unity Party (SSJ), which had ties to paramilitary formations during the war in Bosnia and Kosovo and which "openly advocated the use of force against other peoples in Yugoslavia and neighboring countries" (Bieber 2003, 41). Also, paramilitary groups and forces under the control of the government, namely the Serbian Radical Party, targeted social groups outside the war zones and had a direct influence during the war. Like the expulsion of Croats from the Vojvodina village of Hrtkovci in 1992, organized by the SRS paramilitary organization (Bieber 2003, 44).

The state disintegrated in the years that followed, with the logic that prevailed being that democracy became acceptable only in situations where it was believed that ethnic "ours" were in a position to make decisions without any fear of supremacy from hostile others. While in Czechoslovakia they dealt with communism and then, as it is euphemistically put, had a velvety divorce. In Yugoslavia the confrontation with communism was actually replaced by nationalism, and “five out of six new leaders of the post-1989 Yugoslav republics were former members of the party, some of them even up until its end in 1990, and about 80% of secret services personnel switched their loyalty from Yugoslavia to new states” (Jović 2022, 199).

Milošević had the support of the West until 1997. Primarily because of the Dayton Agreement of 1995, he was seen as a guarantor of stability and security. After 1997, America and the West

increasingly began to notice authoritarian tendencies and a crackdown on political dissenters in Serbia, as well as anyone who represented opposition to Milošević (Jennings 2009, 13).

The fall of Slobodan Milošević in 2000 took place under the influence of numerous factors, but what we can claim is the victory of the presidential candidate Vojislav Koštunica in the first round of the presidential elections held on September 24. Milošević stole the election, which was determined by parallel counting of votes, and lost to the rival candidate of the Democratic Opposition of Serbia (DOS), Vojislav Koštunica (Jennings 2009, 3). Milošević refused to admit defeat, after which there was a wave of protests and strikes that culminated on October 5, the event that caused the collapse of Slobodan Milošević's government. The state apparatus of force refused to intervene against the citizens and thereby cause a civil war, with which Koštunica and DOS took over power and with which one stage of competitive authoritarianism in Serbia was completed (Vladisavljević 2010, 16). In the evening of October 5, Chief of the General Staff Pavković moved the tanks from Bubanj Potok to the barracks in Voždovac. "That evening, three generals Đaković, Krga and Vasiljević came to him and told him that it must not occur to him to take tanks into the streets. Pavković did not do that" (Pešić 2010, 29).

His defeat was welcomed by the West, America as the most important country in the then unipolar world. While the actors who played key roles in the 2000 revolution are not characterized by the subsequent consolidation of democracy after Milošević's defeat. (Jennings 2009, 3). Koštunica and newly elected Prime Minister Zoran Đinđić had very different views on how the country should be run. What is relevant for this thesis is what was their attitude towards lustration and why was the law passed after the Prime Minister's assassination never implemented?

October 5 is a revolution that was reckoned with the authoritarianism of Slobodan Milošević, while the Velvet Revolution is a revolution that was reckoned with communism. What Serbia, unlike the Czech Republic, has skipped is the reckoning with communism. For this reason, the Socialist Party of Serbia, the former Union of Communists of Yugoslavia, was very quickly rehabilitated through support for the minority government in Koštunica in 2004, and in that way returned to power, perhaps not in the formal sense of ministerial posts, but a coalition in the form of support was created and that party is still in power until 2026 through various coalitions.

6. Case Study: Czech Republic

The new Czechoslovak regime led by President Havel and the government formed by the Civic Forum and Public against Violence showed its interest in lustration and adopted its considered radical version. The Czechoslovak Lustration Law was passed on October 4, 1991 and combined elements of vetting and exclusion from certain public offices for secret service officials and Communist Party officials. (Williams, Fowler, and Szczerbiak 2005, 24).

In addition to covering security service personnel and Communist Party officials, the lustration law also encompassed collaborators and informants, numbering over 100,000 individuals, listed in the secret police (Státní bezpečnost) files. Lustration was implemented as a legal obligation of the state authorities under that government. This measure prohibited all those identified in the records of the State Security as “conscious collaborators” from holding a wide range of elected and appointed state positions (Maierean 2013, 51).

After the fall of the communist regime, all officers and agents of the communist security services or party functionaries were automatically excluded from about 9,000 positions in the government and public administration, as well as in the army, security services, judiciary, state enterprises and state media. After the breakup of Czechoslovakia into the Czech Republic and Slovakia, lustration was applied after 1993 only in the Czech Republic, the law was extended after 1995 for another 5 years, and then in 2000 for an indefinite period. The result of this law is that "more than 400,000 people were checked, and about 3% were told that their names were on lists of informants who were also screened” (Williams, Fowler, and Szczerbiak 2005, 25).

Following the disbanding of the security sector three months after the Velvet Revolution, individuals wishing to retain their positions in state-owned enterprises and judicial institutions were required to submit a written declaration stating that they had not performed prohibited duties, abused their positions, or violated human rights. An exception was made for the StB (State Security) and collaborators with these secret police force, individuals appearing on those lists were barred from working in the public sector or leading certain institutions, yet paradoxically were not prohibited from serving as Members of Parliament (Williams 2003, 15). The Ministry of the Interior verified names against its lists and issued certificates accordingly. As will be discussed later, public disclosure regarding who had been subjected to lustration or who had been denied

employment eligibility for these positions or institutions was prohibited. Violating this ban carried a penalty of up to three years in prison. Trade unions were excluded from the consultation process regarding dismissals and terminations in these cases. The entire lustration process spanned approximately three months, from the submission of the written declaration to dismissal in the event of a dishonest response (Williams 2003, 16).

The lustration law in Czechoslovakia was controversial from the moment of its adoption and specifically during 1992. The initial debate centered largely on whether the law amounted to a purge of political dissenters. Jeri Laber of Helsinki Watch described it in the New York Review of Books as a "witch hunt" targeting former communists. In contrast, Christine Stone and Mark Almond of the British Helsinki Human Rights Group held a completely different view of the law and events in Czechoslovakia; having studied the law's implementation in Prague, they rejected Laber's interpretation in a published response. They argued that the law was narrower in scope than critics like Laber suggested, noting that it barred only high-ranking party officials and members of the repressive apparatus from public office for a five-year period, while individuals identified as informants were reassigned to less influential positions rather than being dismissed (Stone and Almond 1992). Furthermore, their prior employment did not result in punitive measures such as the denial of pension rights or other similarly drastic actions. In the same issue, Jerry Laber responded that the law encompasses groups such as the People's Militia, that International Labour Organization estimates indicate the number of affected individuals is far higher, reaching up to a million, and that she considered a law whose fairness depends on the goodwill of those enforcing it to be problematic (Stone and Almond 1992).

There was also an appeals commission established in the interest of fairness, comprising "prominent citizens appointed by the legislative bodies of the federation and the two constituent republics, as well as the ministers of the interior of the federation and both republics, the minister of defense, and the director of the federal security and intelligence service." The system was structured in such a way that the commission was not independent of traditional state institutions. On the contrary, an individual subject to lustration could lodge an appeal with a court, the deadline for doing so was two months from the receipt of the commission’s findings or from the time of dismissal from employment (Williams 2003, 16).

The Constitutional Court itself issued a ruling in 2001 stating that the Lustration Law pursued a legitimate aim, which was the protection of the democratic state and that the threat identified in the ruling was the "insufficiently loyal and unreliable public services" (Duthie 2007, 30).

Regarding the current situation, specifically Serbia's position as an EU candidate country it is significant that the Parliamentary Assembly of the Council of Europe "recognized the compatibility of the lustration law with the democratic rule of law, provided that its aim was the protection of the state rather than the punishment of individuals" (Přibáň 2007, 330). Thirteen years later, on May 1, 2004, the Czech Republic became part of the EU. The EU acknowledged and welcomed the distinction made between discrimination and punishment. This is precisely what lustration in Czechoslovakia entailed, not punishment, but rather discrimination based on the abuse of office. On the other hand, however, the European Commission expressed concern regarding the continued application of the law, given its extension for an indefinite period (Přibáň 2007, 330). President Havel shared this view, criticizing the extension of the law on the grounds that its primary function was that of a “revolutionary measure restricted to the early post-communist period and unsuitable for a stabilized democratic legal system”. In 1995, Havel exercised his veto, but the assembly overrode it and extended the law until 2000, and subsequently for an indefinite period (Přibáň 2007, 315).

Stone and Almond defended this law based on its primary function the protection of democracy rather than viewing it as a punitive measure. A key argument for the importance of protecting democracy was that officials with a background in the secret police, as well as their collaborators and informants, were vulnerable to blackmail by those aware of their past, consequently, the fragile democracy should not retain such individuals in their positions (Stone and Almond 1992). This is a security-based argument precisely the kind of perspective one would expect given the securitization theoretical framework applied in this thesis. However, this should be interpreted as the position of the law's proponents rather than a neutral account of its effects; it is certainly necessary to acknowledge criticisms raised by Laber, who argued that the law treats entire categories of people as guilty until proven innocent, a stance that may conflict with fundamental legal principles, such as the presumption of innocence (Stone and Almond 1992).

7. Case Study: Serbia

The Law on Responsibility for Human Rights Violations, also known as the Lustration Law, was adopted by the National Assembly on May 30, 2003, despite obstruction by the opposition, specifically the SPS and SRS (Ševo, 2025). The enactment of this law must be viewed within the context of the time, it followed the assassination of Prime Minister Đinđić on March 12 and the conclusion of the official police operation "Saber" (Sablja), which lasted until April 22, 2003. Ultimately, the law was never effectively implemented. This chapter examines the reasons why it was never put into force, beginning with an analysis of the events that preceded its adoption.

After the passing of the law, the National Assembly appointed 8 out of 9 members of the Commission for Investigating Responsibility for Violation of Human Rights, and this is considered the only step that was partially taken when it comes to lustration in Serbia. However, the same Commission never started its work (Pavlović 2010, 89). One of the members of the commission, Vesna Rakic-Vodinelić, believes that the main reason why the Commission was never completed is that "the opposition at that time, that is, SPS and SRS, did not want to propose their members" (Vreme 2026b). She also states that "they did not have any support from the state, or cooperation with the security services. The public was not very interested. That is why we resigned collectively" (Vreme 2026b).

Lustration is a very sensitive instrument of transitional justice and the Serbian Law from 2003 was written in imitation of the Hungarian one. It was considered that Hungary carried out the lustration in an adequate manner (Vreme 2026b). However, I would add that it was not for a long time considering the Orbán regime that followed, which cannot be defined as democratic.

One of the arguments for the unsuccessful implementation of lustration is the lack of social consensus and political will, but what is hidden behind the political will are, reserved domains. In order for the October 5 revolution to happen, various compromises were made with the security sector by both Koštunica and Đinđić. The first contact made by Đinđić with Milorad Ulemek Legija before September 24 was through an intermediary, where the goal was to find out if the JSO would have any action to disrupt the election, on election day (Pešić 2010, 29). Đinđić himself states that the key for him was the contact with Legija, the head of the Red Berets, which, in Milošević's strategy, were intended for the last defense. He believed that it was about 1,200 men

of the Red Berets who were trained to fight in the city, and who could, without any problems, deal with 20,000 civilians. As a responsible politician, he believed that a civil war on October 5 should be avoided at all costs. His task was to make that contact. He went to that meeting (Mališić 2004, 43).

What distinguished Đinđić's philosophy of political action was that in politics for the sake of efficiency it is sometimes necessary to "get your hands dirty" and that those who have morals should go to church, that they have no place in politics. Such a compromise with Legija or, as Dimitrijević states, "a kind of pact with the devil". Đinđić himself believed that the October 5 revolution would not have been possible without the compromises that were made (Dimitrijević 2023, 370). After October 5, the DOS government did not establish a legitimate monopoly over the apparatus of force. Although, as he states, Đinđić was in favor of dismissing all the judges and all the people from the police on October 6, he was not in the majority, and even later when the Government was elected, there was no reckoning with the previous regime, but the apparatuses of power that betrayed Milošević offered themselves to the new government and thus preserved their positions and power, the changes were often pro forma (Pešić 2010, 28).

What certainly was a challenge was the real absence of any lever of power available to Đinđić so that he could reform the MUP, RDB and JSO. There was simply no unit capable of disarming and disbanding the JSO, arresting people from the DB and thus removing the danger of the deep state. The only such lever of power could be the army, however, it was under the authority of Koštunica, who strongly opposed it. (Dimitrijević 2023, 372).

It is believed that members of the security sector, the JSO and their connection with crime also had their own media, through which they spread news long before the assassination of the prime minister, which in some way prepared the ground. Specifically, on the day of the murder of the prime minister, the weekly Identitet already had the news "Đinđić target of free shooter, Hague Serbs ordered assassination" on its front page (Švarm and Ćebić 2008, 6:10).

And from the announcements of the MUP, at least when it comes to the weekly "Identitet", it is clear that it is financed with money from the Zemun clan (NIN 2003). It is often said that before the assassination of the prime minister, Đinđić himself was unpopular due to his unpopular decisions, which again spoke of the fact that he was always in the minority because of his views.

For this reason, the DOS coalition was not successful, the lustration was not carried out even though Đinđić himself advocated for it, it was not approved by the coalition partners. The very power of the connection between the state and crime was extremely strong, bearing in mind the previous decade, in which, unfortunately, certain political parties, war criminals, and security services did not differentiate themselves excessively, and in some ways, they cooperated closely with each other.

The foundations of Đinđić's conflict with the deep state and the state apparatus of power can be traced to his early youth. The state marked him as an enemy from the age of seventeen, when he sent a proposal to delete the name of Josip Broz Tito from the Constitution of the SFRY when he was arrested. He was a dissident who did not look kindly on the security sectors and is considered to be keeping an eye on the deep state. From his student days until the assassination on March 12, he was in front of the Government of Serbia. "That was the day of turning the wheel of Serbian history backwards" (Orlović 2023, 411).

The consequences of the reserved domains and the compromises that were made greatly influenced the reforms and the new government, which was extremely fragile. The same rules of the game were retained, the constitution was not changed until 2006. And thanks to the newly elected President Vojislav Koštunica, there were no policies that characterized a break with the old regime. What Koštunica himself opposed were lustration, denationalization, rehabilitation of victims and condemnation of the main protagonists of the communist regime (Prokopijević 2010, 78). Legalism and continuity won out. All the interest groups that functioned during Milošević's regime survived, including those around inefficient companies, an oversized state, secret police and criminals. Serbia remained a country of "crime and corruption" (Prokopijević 2010, 79).

Concept of "hijacked justice" used by Subotić, where when states use transitional justice to get rid of domestic political opponents, gain international material benefits, they actually abuse the domestic use of transitional justice norms not for the sake of a new beginning, but for the sake of personal interests and benefits (Subotić 2009, 6). The assassination of Serbian reformist Prime Minister Zoran Đinđić in 2003 was the most profound political upheaval in Serbia, which was carried out by a group of organized gangs of so-called "anti-Hague patriots". In the period from 2000-2003, the new government had in front of it the choices of access to transitional justice

instead of lustration, it went through the mechanisms of international trials, the truth commission and domestic trials (Subotić 2009, 31).

Before the passing of the lustration law itself, the assassination of the prime minister had the effect of securitizing public order and the legal order, while the goal was to catch the murderers and accomplices. Nataša Mićić, at the proposal of the Government, made the decision to introduce a state of emergency immediately after the assassination on the territory of the Republic of Serbia on March 12, which lasted until April 22, 2003 (Vlada Republike Srbije 2003).

During state of emergency and Saber action, public order and peace and the rule of law were securitized, which is rather narrower than the securitization of the state or democracy as in the case of Czechoslovakia. The problem with passing the Lustration law is once again the timing, instead of the law being passed during the duration of the state of emergency, the law was passed when the discourse returned to the normal course of politics. Which is justified by the fact that many people were arrested during Operation Saber and JSO was disbanded ("Udari kako znaš" 2003).

That the RDB was in connection with crime and war criminals is best illustrated by the example of Jovica Stanišić, Milošević's right-hand man who was the head of the RDB from 1991-1998. During the operation, Saber Stanišić was arrested the day after the assassination of Prime Minister Đinđić on March 13, 2003, and handed over to the ICTY on June 11, 2003 (International Criminal Tribunal for the former Yugoslavia 2003). On May 31, 2023, the final judgment of the Appeals Chamber of the Mechanism rejected Stanišić's appeals and annulled the acquittals for the joint criminal enterprise and increased the sentence to another 15 years in prison. The specific verdict referred to "crimes committed by various Serb forces in 1992 in Bosnia and Herzegovina, in Bijeljina, Zvornik, Bosanski Šamac, Doboj and Sanski Most, and for crimes committed in 1995 in Trnovo and Sanski Most. They were also declared responsible for a murder committed in Daljska Planina in Croatia in June 1992" (International Residual Mechanism for Criminal Tribunals 2023b). Stanišić requested to be released early as he had served 2/3 of his sentence, however, all seven judges agreed that the request was rejected (Vreme 2026a).

The moment Stanišić was arrested spoke of the fact that there was no substantive cooperation with the ICTY from October 5 to March 12, 2003. For each extradition to The Hague, the consequences were weighed and the material gain was considered, if it would be denied, as in the case of

American financial in return for the extradition of Milošević, the decision was not to cooperate with the Hague Tribunal. The very form of cooperation with the ICTY is quite controversial, neither the political leaders strongly supported the cooperation, except for President Boris Tadić, nor did the citizens fully accept the cooperation. In this way, the form of transitional justice that was chosen was not overly effective from the point of view of society's confrontation with the past, and I certainly see the political leaders of Serbia responsible for that. The effects of such a reckoning with the past are best illustrated by the celebration of war criminals in Serbia 2026 (Radio Slobodna Evropa 2026). The problem that remains is how many people in the state security or police who were collaborators of the JSO or the Zemun clan remained in their jobs after Saber action. It was necessary to deal with this problem systematically and institutionally through the faithful implementation of the Lustration Law.

The securitization that was carried out during action Saber involved a narrower referent object than that of Czechoslovakia and a more limited scope of threat, specifically, the threat during Operation Saber was posed by Zoran Đinđić's assassins, the JSO, and the Zemun Clan, while the broader security sector was excluded, with the exception of Jovica Stanišić and Franko Simatović "Frenki," who had also been involved in various assassination attempts during the 1990s.

According to David's previously mentioned categorization of types of lustration into exclusive, inclusive and reconciliatory (David 2011, 6). Serbia does not belong to exclusive, inclusive and reconciliatory, but neither to the "silent lustration" introduced by Horne (Horne 2015). When we talk about the exclusive or Czech model, we see that Art. 12(2) of the Serbian Lustration Law explicitly excludes party affiliation as a basis (Law on Responsibility for Human Rights Violations 2003, Art. 12), unlike the Czech model which does exactly that (Zákon č. 451/1991 Sb., Art. 2). When we analyze the inclusive model, by which we mean the Hungarian model (Zabyelina 2017, Table 1), it offers exposed officials the opportunity to remain in office with a declaration of loyalty, while the Serbian law does not have such a "second chance" mechanism. When we analyze the reconciliatory model, i.e. the Polish model (Zabyelina 2017, 57–58), we can see that it requires recognition and a formal "truth exchange", while the Serbian law does not have a forgiveness mechanism. Also, "silent lustration," the informal fourth model, implies a mechanism of public disclosure without a legal basis (Zabyelina 2017, 57), while the Serbian attempt was actually the exact opposite of a formal legal act (Law on Responsibility for Human Rights Violations 2003).

Thus, the Serbian model represents an attempt that does not follow any known successful or partially successful model from the region of post-communist countries, which is yet another reason for its failure (Anđelković and Ševo 2026).

8. Comparative Analysis

Introduction

What distinguishes Serbia and the Czech Republic is the way in which the countries that previously belonged to these two states, Yugoslavia and Czechoslovakia, disintegrated. Yugoslavia at war, Czechoslovakia at peace. The way in which the states disintegrated significantly affects the type of transitional justice and the way of dealing with the past after the change of communist regimes and the disintegration of states. As a consequence of the war actions of the SR Yugoslavia, it had to cooperate with the ICTY (International Criminal Tribunal for the former Yugoslavia), which was established by UN Security Council Resolution no. 827 of May 25, 1993 (United Nations Security Council 1993). One of the arguments why the lustration was lightly skipped after October 5, 2000, to 2003 is precisely the reason that the country had to face and start cooperating with the tribunal and thus enable economic reforms that were conditioned by the international community. While in the case of Czechoslovakia there was no war and there was no need to cooperate with the international court, the country independently chose its own way of dealing with the past in the form of lustration and securitization of its own democracy. It should certainly be borne in mind that the law on lustration and the Czechoslovak will to break the continuity with the former regime came even before the actual disintegration of the country that followed in 1993.

8.1. Lustration Laws

When comparing the Czechoslovak and Serbian lustration laws, one must begin with the timeframes they cover. In the case of Czechoslovakia, the period spans from February 25, 1948, to November 17, 1989 (Act No. 451/1991 Coll., Art. 2), whereas the Serbian law addresses human rights violations committed after a specific starting point, without a clearly defined end date (Law on Responsibility for Human Rights Violations 2003, Art. 4). While the Czech law is clearly

limited to a single regime and a 41-year period, targeting specific categories such as StB agents, Communist Party officials, and the People's Militia (Act No. 451/1991 Coll., Art. 2), the Serbian law lacks a clear temporal limit. Furthermore, the Serbian law potentially encompasses individuals from three distinct regimes: the Tito era, the Milošević era, and the post-2000 period. This scope has led to the emergence of various groups opposing the law and created an atmosphere that significantly complicates its implementation. Article 2 of the Czechoslovak law reveals that the direct targets of lustration are security sector and Communist Party officials (Act No. 451/1991 Coll., Art. 2(1)(a)–(e)). In contrast, the Serbian law makes no mention of the RDB, referring instead to "officials and authorized officers of the Security Information Agency, or a predecessor or other corresponding service" (Law on Responsibility for Human Rights Violations 2003, Art. 10, Item 18; Art. 6, Para. 1). This brings us to the crux of the problem: the legislator avoids directly naming the institution that served as the primary instrument of repression during the Milošević regime. This serves as further confirmation of the complete lack of political will, both on the part of the then-president Vojislav Koštunica and the broader DOS coalition, to implement lustration.

Under Article 19, Czech law treats lustration as a private administrative check; publicly disclosing the certificate's findings, or whether an individual has undergone lustration, without the citizen's written consent is prohibited. This protects the right to privacy and renders the process less susceptible to political and media pressure: "Disclosure of the facts stated in the certificate or in the finding or publication of the certificate itself or the finding, as well as the publication of any documents for their preparation, is prohibited without the prior written consent of the citizen" (Act No. 451/1991 Coll., Art. 19).

In contrast, Serbian law entails the publication of human rights violations in the “Official Gazette” if the individual does not voluntarily step down from their position: "The Commission shall publish a statement in mass media outlets of its own choosing and invariably in the “Official Gazette of the Republic of Serbia” detailing the human rights violations committed by the person referred to in Article 10 of this Law" (Law on Responsibility for Human Rights Violations 2003, Art. 32). While the Czech law entails immediate dismissal, just like being fired in the modern corporate world, and bars re-entry into the system following a negative certificate, the Serbian law prescribes a multi-stage procedure that is far more complex. It begins with a determination of facts, followed by an opportunity for the official to withdraw themselves, if they fail to do so, a public

announcement follows, and only then is a five-year ban on holding office imposed (Law on Responsibility for Human Rights Violations 2003, Art. 33).

Although the Serbian law itself is more complex and considered "less harsh" than the Czech law, it was already made according to the Hungarian model, it is believed that the Czech law is simpler, more concrete for application in practice. It is certain that the written word is also very important and that the word of mouth that accompanied it by state officials is crucial to the securitization of any security issue. In this connection, we still concluded that the problem was not the legal design of the lustration, but the political will to initiate the process itself in the Serbian case. Furthermore, Vojislav Koštunica's political will cannot be the sole factor explaining the failure to implement the lustration law in Serbia; the target audience is certainly another contributing factor.

8.2. Securitizing Actor and Discourse

A case can be termed securitization only when a political actor employs the rhetoric of an existential threat, thereby shifting a specific issue outside the framework of what is considered "normal politics" under the given circumstances (Buzan, Waever, de Wilde 1998, 24).

The actor of securitization in Czechoslovakia is Václav Havel and the Civic Forum with the new revolutionary government/Federal Assembly of Czechoslovakia which passed the law in 1991. The discourse in Czechoslovakia after the revolution was clear and unified, but not immediately at the same moment when they took power, Czechoslovakia also needed 2 years to enact a law. Havel named the threat that would be the return of communists to power through the security apparatus and the impossibility of real reform and successful democratization, named the reference object that needs to be protected, which is a fragile democracy, and asked for extraordinary measures, i.e. the exclusion from public functions of communist officials and StB. In the Czech case after the passing of the law, President Václav Havel said and thus securitized democracy as follows:

> I am very concerned by something that I have been hearing for two years: that various nomenklatura clans, including members of the former State Security, still control many enterprises and offices, continue to enrich themselves illegally, continue to invest stolen money, and continue happily to rule over those who have always lived honest lives. Those

> people take advantage of the fact that we have not managed early enough and with enough emphasis to part ways with the past and to restrict the influence of all those who actively co-created that past. (Havel, quoted in Weigel 1992)

Václav Benda, former political prisoner of the communist regime, and founder and first chairman of the Christian Democratic Party, proposed in parliament on January 8 that the issue of lustration be put on the agenda in parliament. In his address, Benda presented the problem of former employees of StB as a threat to the stability of the state:

> Recently, more and more, in a disturbing way, it has been revealed that the central organs of this country are to a very large extent infiltrated by former collaborators of the StB. This ceases to be a moral problem, it becomes a very current and acute political problem, a problem of the very stability and security of this country. (Federal Assembly of the Czech and Slovak Federative Republic 1991a)

Following on from Benda, MP Petr Uhl member of the Civic Forum (representative of the committee for the defense of the unjustly prosecuted) explicitly rejects revenge as a motive while emphasizing the stabilization of democracy. Petr Uhl said:

> I would like to add one sentence, we don't care about revenge, we don't care about scandalizing, we care about stabilizing this democratic system (Federal Assembly of the Czech and Slovak Federative Republic 1991a).

Through these words, the securitizing actors presented a threat to the former security sector of StB and their informants, while the reference object in the first case is the state and in the second case democracy.

After October 5, the two main actors, Đinđić and Koštunica, had a completely different view of lustration. While Đinđić had a securitizing speech act, he himself stated that he was in the minority and that he had no support for such a thing:

> On October 6, I was in favor of firing all the judges, firing all RTS journalists, firing everyone from the police. And then on October 7, a competition was announced and everyone who wanted to apply and be accepted within ten days under certain criteria. And then we would have television and the judiciary and the police, where at least we wouldn't have the worst ones from the former regime. (Mandić 2004)

While Havel was a securitizing actor in Czechoslovakia, Koštunica was an audience in Serbia case that did not accept the substantive Lustration Law. In contrast to Czechoslovakia, where the main actor was Václav Havel. When passing the law on lustration, no actor like Vojislav Koštunica or Zoran Đinđić, who was killed at the time, participated in proposing or passing this law. Vice-President of the Civic Alliance of Serbia and deputy of the DOS, Ivan Andrić, is one of the securitizing actors from whom the idea of passing the law on lustration originates and who brought this law to the agenda in 2003. Ivan Andrić said:

> First of all, the President of the Assembly Nataša Micić, Prime Minister of Serbia Zoran Živković, all ministers, assistant ministers, mayors of municipalities, judges and us - us 250 deputies of the Republic Assembly - will be subject to this law. This law applies to us and therefore it is pointless to talk about revanchism. (National Assembly of the Republic of Serbia 2003, 8th Session)

At the end you his speech he added:

> Finally, I would like to say that this law is a model of soft lustration. We proposed this model bearing in mind that in our country human rights were not violated at the level that was violated in some other communist countries. We still stand by this decision and this opinion. (National Assembly of the Republic of Serbia 2003)

The problem is that in order for this kind of law to have full legitimacy, even though it was formally passed, it is necessary for the public to securitize democracy through the act of speaking and support the passing of the law, it is necessary to come from people who are at the top of the government to be “ambassadors” of the Lustration Law, which was not the case in Serbia.

8.3. Audience and Legitimacy

While a discourse may frame something as an existential threat to a referent object, constituting what is known as a "securitizing move" the issue itself", in this case, democracy, becomes securitized only if and when the audience accepts it as such (Buzan, Waever, de Wilde 1998, 25). A key factor for the success of securitization is a consenting audience. If the actor presents something as a security threat and the audience does not accept it, the actor will not successfully securitize the particular problem (Balzacq, Léonard, and Ruzicka 2016, 499). Consider the

example of the British government's decision to invade Iraq in 2003. The authors point out that while Tony Blair lacked the support of public opinion of one type of audience he nonetheless secured the formal consent of Parliament (another audience), which proved sufficient (Balzacq, Léonard, and Ruzicka 2016, 500). Thus, the concept of an "audience" can encompass multiple groups. In contrast to the Czechoslovak case, where there was both moral support from citizens and formal backing from parliament, the situation in Serbia was different: following the assassination of the Prime Minister, public morale had declined significantly, and citizens held few hopes or expectations meaning there was no moral support for lustration, unlike the period immediately following October 5th, and even formal parliamentary support was insufficient to establish a commission.

In Czechoslovakia, when we analyze the audience, not every member of parliament accepted and agreed with the proposed law on lustration, some thought that the new regime would actually become "totalitarian" like the previous one, and for example Tomáš Hradílek confirmed this in his speech on October 3rd in the parliament:

> The uncompromising attitude of some colleagues directly scares me. We will not create a just society by consciously creating conditions for the emergence of new injustices. The slogan 'when the forest is cut down, splinters fly' should not be inherent, when we said that we are not like them. (Federal Assembly of the Czech and Slovak Federative Republic 1991b)

The majority in the parliament was for the likes of Josef Lux (KDU) who quoted Margaret Thatcher: "Czechs and Slovaks existed before communism and will exist long after it". While MPs like Ladislav Roman vote for it but warn of a "witch hunt"(Federal Assembly of the Czech and Slovak Federative Republic 1991b).

The audience in this case of lustration in Serbia is the National Assembly and the deputies who pass or reject the act. Majority part accepts but strong part rejects SPS/SRS. The secondary audience is the citizens who are influenced by the securitizing actor Koštunica, who does not convince his fellow deputies in the hall, but convinces the public that the whole enterprise is hypocritical.

Koštunica and DSS were fundamentally opposed to lustration as a mechanism of transitional justice. In Serbia, on the day of the passing of the law on lustration on May 30, Koštunica

introduces a counter-discourse in relation to the securitizing speech act with his question "who will lustrate the lustraters", by which he implies that the DOS and DS itself is hypocritical, because it demands responsibility from others while avoiding responsibility for its own enrichment and the MUP's failures (B92 2003). Zagorka Golubović, the founder of social anthropology in Serbia, an anti-war activist and a fierce opponent of the regime of Slobodan Milošević on the subject of lustration, believed that:

> Yes, Koštunica stopped the main thing, but it was very difficult in the DOS to come to a solution to carry out the lustration. We in the Council for the fight against corruption discovered several cases among ministers who were not very clean during the years and who were constantly in a conflict of interests. This was already the reason that they could not be in the ninety's official positions. (Grabež 2010)

Therefore, the new government that was formed, that is, the DOS coalition itself, succeeded in overthrowing Milošević, but it did not manage to remain clean in terms of personnel without people who flew over from the SPS or participated in the government together with the SPS. While MPs from the SPS, like Žarko Obradović, strongly opposed it:

> Dear fellow MPs, the SPS parliamentary group will not support the law on lustration, they will vote against this law, because it is a political law of par excellence, an act of revenge directed against political opponents, for the purpose of eliminating people, under the guise of protecting human rights, but in fact with the obvious intention of violating human rights, without a court decision, with the aim of preventing representatives of the opposition from participating in elections and public life. (National Assembly of the Republic of Serbia 2003)

Gordana Pop-Lazić from Serbian Radical Party stated:

> Ladies and gentlemen, let me remind you that today is May 29. What irony! 100 years ago on this day, a royal couple was killed, and today you obviously want to kill political opponents, to commit political murder or maybe it will lead to political suicide. (National Assembly of the Republic of Serbia 2003)

The DOS coalition defended the law, but the direction of the discourse was not in the direction of the securitization of democracy, but about reforms and human rights. Bojan Pajtić said that:

> What is very important to us and why this law is more prevention, much, much more prevention than sanctions, the one who decides against this law is the one who initially agrees that the times in which it was natural to persecute political dissidents, to expel university professors from the faculty just because they think in a different way, to persecute each other, completely unconstitutionally and illegally and against all possible international norms, can be repeated. (National Assembly of the Republic of Serbia 2003).

From the attached we can see that the failure of securitization in Serbia is a consequence of the insufficiently strong support of a political figure who will contribute to the securitization of democracy through his oratory act. The proponents were not that well known in the public or popular, and the main actors who had the capacity like Koštunica simply did not want it and did not see lustration as a good path for Serbia.

This brings us to the key factor highlighted by the fact why Serbia did not implement lustration. The audience, in this instance, the pivotal DOS coalition, did not fundamentally accept securitization of democracy and lustration, despite having adopted the relevant legislation, this was partly because the coalition itself was composed of elements from the former regime, spanning both the political and security sectors.

8.4. Context: Reserved Domains as Structural Constraint in Serbian case

While "reserved domains" were being created and compromises made with the security sector in Serbia to maintain continuity, the internal security sector in Czechoslovakia, three months after the 1989 revolution collapsed, or rather, entered a process of reform. By Order No. 16 of the Federal Minister of the Interior, all operational directorates of the State Security Service were abolished on January 31, 1990 (with the exception of the military counter-intelligence service), and new state security services were established as early as February 1 (Pokorný and Michálek 2019, 69).

As previously established in Chapter 5, informal agreements between Đinđić and Legija created reserved domains, likewise, Koštunica’s informal agreements cemented his "legalist" approach, specifically, a refusal to confront the past through the implementation of Lustration Law. The newly elected President Vojislav Koštunica also made informal agreements with the security

structures. He opposed the dismissal and arrest of Milošević's security officials, such as Radomir Marković and Nebojša Pavković (Ejdus 2016, 45). It is also believed that Koštunica maintained close relations with the head of the Military Security Service, Aco Tomić, who was not dismissed from his position until the assassination of Prime Minister Đinđić in March 2003. While Đinđić wanted to make a radical break with the previous regime and advocated rapid changes, Koštunica, on the other hand, partly because of the agreements and partly because of his own beliefs and legalistic approach, opposed initiatives for a radical break with the previous regime, which influenced the future course of security sector reform and lustration (Ejdus 2016, 46).

The price of such compromises was the retention of many members of the previous regime within the security institutions and their protection from political and criminal accountability. This prevented radical institutional discontinuity and the implementation of lustration. Reserved domains, as well as the role of the JSO and Legija, Milorad Ulemek, the deep state, and military security services, were all considered reserved domains, and these structures remained intact. What additionally slowed down and prevented the implementation of the lustration process were issues concerning personnel files, which are considered crucial for the reform process. When the RDB headquarters in Belgrade, through the RDB leadership, made an illegal decision, which destroyed 11,490 documents, including microfilms, and the documentation was destroyed in RDB centers throughout Serbia, where a total of 363,638 documents were burned. In Serbia, most of the files were destroyed (Impunity Watch 2008, 20). The reserved domains that were created by both Đinđić and Koštunica were strong enough that lustration or essential reform of the security sector would not succeed. Despite the compromises they made, Đinđić wanted to deal with organized crime, corrupt individuals and the security sector, while Koštunica believed that these were issues for the police, the judiciary and the prosecution and he did not want to have anything to do with it.

Boris Tadić, the former president of Serbia for two terms, believes, that the problem lies in the DOS coalition which came to power itself, which, in addition to New Democracy, headed by Dušan Mihajlović, who was in power with Slobodan Milošević during 90s, included other people who formed new parties and were part of the previous communist establishment, such as General Vuk Obradović, who formed the Social Democracy party, who was a member of the League of Communists, spokesman for the General Staff of the Yugoslav Army, and head of the Department for Moral Education of the Federal Secretariat for National Defense, as well as the Democratic

Alternative of Nebojša Čović, a man who was a high-ranking official of the SPS until he was expelled in 1997, and the Movement for a Democratic Serbia of Momčilo Perišić, a man who was the Chief of the General Staff of the Yugoslav Army during the time of Slobodan Milošević. According to Boris Tadić's thinking, it was naive to expect that some of these people would vote for their own lustration, and that democratic parties or parties that had no ties to the previous government in Serbia have never actually had a majority on their own (Tadić 2025, 7:50–9:30).

8.5. Critical Junctures and Path Dependence

According to the theory of historical institutionalism a key element is the concept of "critical junctures." Institutional development has a dual nature: it consists of long periods of "stability" characterized by consistent institutional dynamics and periods of institutional instability, or critical junctures (Capoccia and Kelemen 2007, 341). What makes them "critical" is that, once an option is chosen, it becomes increasingly difficult to return to the starting point where alternatives still existed (Mahoney 2000, 513). In the cases of the Czech Republic and Serbia, we will analyze precisely these periods of critical junctures specifically, the times following revolutions or the ousting of communist or socialist (successor to the communist) regimes. During these periods, both countries enacted lustration laws that influenced the institutional trajectories that followed these critical junctures that led to certain path dependence. Critical junctures serve as starting points for many path-dependent processes, path dependence being a key causal mechanism for historical institutionalists. (Capoccia and Kelemen 2007, 342).

The critical juncture in Serbia in this analysis represents the period between 2000-2004. And during these critical junctures there are 4 breakpoints. First, decisions made during this period influenced the creation of reserved domains. Second, mutual disagreement of the coalition between Đinđić and Koštunica regarding lustration. Third, Đinđić's assassination and the non-implementation of the Lustration Law in 2003. Fourth, the elections on December 28, 2003, which resulted in the formation of a coalition that rehabilitated the SPS with their support for the minority government. Through these 4 breakpoints, a window of institutional openness was definitely closed in the direction of continuity with the period from the 90s, and in a way opened the possibility for a return to authoritarianism in Serbia.

In the case of Czechoslovakia, the critical juncture spanned the years 1989 to 1992. It began with the revolution, the transfer of power, and the choice of a model for confronting the past and safeguarding the new democracy. The moment the choice was made to adopt lustration (exclusion), rather than a model like a truth and reconciliation commission marked the beginning of the critical juncture's closure; the subsequent implementation of that law effectively sealed it. The period from 1992 to 2000 then ushered in a path of path dependency from which Czechoslovakia did not deviate.

Author Mahoney introduces the concept of "breakpoints", which are moments that could not have been predicted. These are contingent points that could not have been foreseen, but they significantly influenced the series of events that followed. Those are the moments when the path could have gone the other way (Mahoney 2000, 527). In the case of Serbia, we can see that the elections or the assassination of Prime Minister Đinđić were just contingent breakpoints. Likewise, for Czechoslovakia, the contingent breakpoint is the moment when Havel and the Civic Forum chose the exclusionary model instead of the truth commission in 1991. All these critical points have influenced what path dependence will be for both countries.

8.6. Synthesis

Czechoslovakia and Serbia had a different transition context. While in Czechoslovakia there was a peaceful revolution and a peaceful breakup into the Czech Republic and Slovakia, Serbia came to its peaceful revolution after a decade of war-torn country, bombings and mass demonstrations starting from '91 to '96/7 to 2000. The very existence of the obligation to cooperate with the Hague Tribunal for Serbia has already determined the direction of dealing with the past and reduced the possibility of lustration. Also, crime has joined forces with war veterans and services that are part of Serbia's security precisely because of the wars that preceded it and high levels of corruption.

The history of the Czech Republic shows that it always had a libertarian and pro-Western oriented population, while fear and force were kept under the auspices of the Soviet Union after 1968. Until the inhabitants of Serbia in the early 2000s did not fully accept the changed foreign policy course towards the West, as we can see in the difficult cooperation with the Hague Tribunal, the decisions of cooperation were quite unpopular. Instead of there being no collective guilt but individual guilt,

which is limited to people from the top of the regime and Slobodan Milošević himself for the state the country was in during the 90s, the people often blamed the whole world and the international community. The Czech Republic securitized democracy, while Serbia did not. Havel spoke about the stability and security of the state and the necessity of reforming the security sector and breaking up the clans that were created earlier. While Koštunica welcomed the blockade of the highway from the JSO station due to the state's cooperation with The Hague. In the Czech Republic, the audience fully accepted lustration as a mechanism of securitization of democracy, while in Serbia the law itself barely passed the parliament with proposals and advocates of that law from a small number of not so popular and key actors. We come to the key argument, lustration was possible in the Czech Republic because the security sector disbanded 3 months after the revolution, while in Serbia reserved domains affected the security sector to have some symbolic changes after October 5, but not real personnel changes. As such, the security sector continued to function in a similar manner for years after 5 October. Through lustration, the Czechs reckoned with the authoritarian legacy of the communist regime, while in Serbia the emphasis was on economic reforms and privatization and insincere cooperation with the Hague Tribunal.

9. Conclusion and Discussion

The Czech Republic was created peacefully, unlike Serbia (FRY). The Czech Republic has historically had liberal tendencies and a part of the population that is pro-Western. We can see the foundations of that in Dubček's reforms, but the way in which they were suppressed is the reason that kept the communist government in power, which was fear and force. The majority of the citizens of Czechoslovakia took to the streets of Prague in 1989 and the communist government fell. Havel as the new president whose slogan and philosophical thought is to live life in truth supported the confrontation with the past and together with the intellectuals who were part of the Civic Forum took power and started to build democracy. Since the reforms did not proceed quickly in the very beginning, the citizens and Havel himself noticed that the security sector and the nomenclature clans, as he calls them, are slowing down the reforms and negatively affecting democracy. The fear of the return to power of the communists and their authoritarianism influenced the new government to securitize democracy, pass the law on lustration and implement it. Exclusion is the model that they adopted and harshly confronted the security sector but also the

officials of the communist party who cooperated with the secret police. In this way, it was possible to reduce threats to democracy and for democracy to start its long path towards consolidation. It was path dependency based on the choices they made during the critical juncture after the Velvet Revolution.

The arguments why lustration failed in Serbia are multiple. When we look at the period after the October 5th Revolution until March 12th, 2003, we can conclude that the coalition was not strong enough in the decision to proceed with the passing of the law on lustration and its implementation. The DOS coalition itself was problematic and made up of factions that were important to bring down Milošević but had a negative impact on the changes and opportunities that came after October 5 precisely because they were part of the previous SPS government like Nebojša Čović. The impossibility of carrying out lustration and disbanding the security sector completely as in the Czech Republic was mostly influenced by the reserved domains that were created by compromises made between the main political leaders Koštunica and Đinđić with Milošević's security sector. The leaders themselves have tacitly or publicly emphasized that October 5 itself would not have been possible if there had not been such compromises. Those reserved domains made it impossible to deal with organized crime and corrupt individuals in the security sector. Đinđić was more willing than Koštunica to move in that direction, but he did not have wider support neither in the coalition itself nor in the levers and security sectors in order to be able to deal with the remnants of the Milošević regime. The beginning of the cooperation with the Hague Tribunal contributed to not taking the path of lustration, but it is certainly the country's obligation to face its past on the international level in this way due to its participation in the wars of the 90s. After the assassination of Prime Minister Đinđić, a state of emergency was declared and public order and peace and the rule of law were securitized in order to find those responsible for such a thing. When the state of emergency came out of the course of normal politics, the individuals who proposed such a law in the parliament did not have any excessive importance and influence and the securitizing actor in this case was not strong enough, and the audience that apparently accepted it, formally in the parliament, did not fundamentally accept it. This is where we come to the argument that there was no political will, and that went from Koštunica to Šešelj and Dačić, while the audience of the Democratic Party was not strong enough to convince the other members of the audience why it is important to implement this law and form a commission in its entirety. This entire period represents a critical juncture in which every move had a significant role in the choice of the institutional path

to be followed and what path dependence will be. The circle closes with the support of the SPS to Koštunica's government, which was formed after the elections held in 2003. The SPS did not have its own ministers, but in that way, it returned to political life and a few years later and to power, from which it has not stepped down to this day.

After the return to power of the SPS and the fall of the Democrats that followed in 2012, parties that strongly opposed lustration came to power. Often called the red-black coalition that ruled together from 1997-2000. years before October 5. After the return of that coalition, in the numerous reports mentioned, Serbia recorded a democratic regression and a return to competitive authoritarianism. Elections have been held for more than a decade, but without a real possibility of a change of government. On the European road, Serbia is at the back with Bosnia and Herzegovina and North Macedonia, while countries like Montenegro and Albania are rapidly closing chapters and moving towards full membership in the EU (European Western Balkans 2025).

While Freedom House views Serbia as experiencing a democratic decline, characterized by the emergence of hybrid regimes and "partly free" states since 2012, authors Kmezić and Bieber examine the situation through a different lens. They analyze the rise of regional "stabilitocracy," observing weak democracies in the Western Balkans led by autocratically inclined rulers who govern while claiming to ensure pro-Western stability in the region (Bieber and Kmezić 2017, 95). Consequently, the EU paradoxically tolerates the democratic backsliding of these countries by prioritizing regional stability over democracy. Independent media and strong institutions fail to take root in Western Balkan regimes, while clientelism binds many citizens to ruling elites through cooperation, corrupt deals, and coercion. There is a fear of word lustration in Serbia, and the term is often maliciously equated with acts of revenge and "witch hunts." However, if institutionalized and implemented through a mechanism that is clear to citizens, lustration could actually represent a significant step toward judicial reform in Serbia today. Conceptually, the rule of law is a fundamental element of democracy, one that encompasses human rights. Anyone who violates or abuses these rights for personal gain or political objectives thereby undermines democracy itself.

What lessons can be drawn from this comparison regarding Serbia’s current judicial reform and EU integration? The EU will never explicitly demand that a specific state implement lustration, however, it will implicitly expect the state to put its institutions in order and ensure a more

functional democracy. While in the original draft law in Czechoslovakia from September 9, 1991, the judiciary was covered as a general category. In the final version of the law on October 4, 1991, lustration was expanded and state notaries, state arbitrators, constitutional courts, supreme courts, which are covered by this law, were appointed after the amendment (Williams 2003, 13). The Czech case demonstrates that when there is broad societal consensus and the political will of key actors, lustration can serve as a foundation for both the early protection and the consolidation of democracy. The Serbian case illustrates the exact opposite, although a law was formally adopted, the lack of political will, the existence of "reserved domains," and the failure to securitize democracy as a vital security imperative, rendered the law a dead letter for a full decade after its enactment. Skipping the step of lustration and failing to break the continuity of personnel from the Slobodan Milošević regime inevitably led to the return of the SPS to power, resulting in democratic backsliding and a failure to consolidate democracy.

The post-October 5th privatization model in Serbia has also frequently been criticized. It is widely believed that social capital and political connections enabled certain actors to acquire state-owned enterprises at below-market prices. As Hellman notes, "if the winners from partial reforms have veto power over policy, then the transition should result in a partial reform equilibrium that concentrates gains among the winners at a high social cost" (Hellman 1998, 228). Precisely because lustration was not implemented within the security sector, which had been in league with criminal groups like the Zemun and Surčin clans, and because certain members of the DOS coalition itself had been part of the previous regime, all these actors steered the state toward a state of "partial reform" that served their own interests. It is not necessarily the case that members of the security sector or the political elite consciously followed this logic, yet their behavior and the fundamental obstruction of reforms were consistent with it. Individuals protected by "reserved domains" and the compromises that had been struck, acted rationally from their own perspective, to ensure that lustration was not implemented. This one of the reasons why the lustration law was not enacted immediately after October 5th, but rather only after the assassination of Prime Minister Đinđić.

The states fitting into these three models of lustration: exclusive, inclusive and reconciliatory are all EU members (David 2011, 6). Each model involved "breakpoints" that marked critical junctures in countries such as Poland, Hungary, and the Czech Republic. These decisions significantly

influenced path dependency, for instance, the Hungarian example of inclusive model illustrates how the specific method of implementing lustration profoundly affects the quality of democracy or, in Hungary's case, contributes to a lack of democratic consolidation in the years that followed. For Serbia's current EU accession process, this comparison offers no ready-made solution, but rather a cautionary lesson. When a country transitions from autocracy to democracy, it must carefully consider the measures it implements to reform its institutions internally. While the EU will not necessarily reward such efforts with accelerated membership, given that foreign policy circumstances also play a role in the process, it is certainly a step toward the kind of democratic consolidation that EU membership ultimately requires.

The hypotheses in the introduction were confirmed in this paper. A comparative analysis between the Czech Republic and Serbia helps us to understand that in the case of the Czech Republic, there was a strong discourse of securitization, which is legitimacy, and in that it came from President Havel, the audience also responded favorably to the speech act, namely the parliament and the citizens. The decisions made during the critical turning point were strongly in the direction of lustration and an exclusionary model, which led to discontinuity with the old regime and paved the way for the consolidation of democracy. While in Serbia there were strong opponents of lustration in the parliament and the public fundamentally did not accept lustration. The main reason for this is the missed moment of passing the law on lustration. It was interesting to analyze whether immediately after October 5th would be a better time or during the Saber action when the state was in a state of emergency, which could be the subject of some other analysis. In the case that happened, the law lost momentum and lacked the support of key political figures for its implementation. The second part of the hypothesis was also confirmed. We learn from the Czech survey that in order for lustration to be successful, it is necessary to securitize democracy. As such, lustration is a good tool for reforming institutions that will function in accordance with the rule of law. Such a reformed judiciary, democratized security sector, strengthened structures of internal controls in the police would lead to a faster closing of the chapter for EU membership, which is the foreign policy strategy of this country.

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