Power-Sharing as a European Formula for Political Stability? Recommendations for Bosnia and Herzegovina

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Introduction

What does a "European formula" of power-sharing stand for? Is there anything special about European political practices that we can speak of a special "European formula"?[1] In this short piece, I will try to answer these questions by defining firstly what the concepts of "federation" and "power-sharing" mean. Then I will make a short *tour d'Europe* and discuss the main challenges and solutions for power-sharing and political stability in deeply divided societies in the European context. Finally, I will try to make three recommendations to all of those assisting Bosnia and Herzegovina to become a more politically stable country.

Federations and Power-Sharing

A federation is a political entity in which two or more smaller political units, such as states or provinces, are united under a central government. Federations of a single *Staatsvolk*, in which the constituent states or provinces share a single ethno-national group, tend to be more stable and resistant to dissolutions than multi-ethnic federations (as suggested by O'Leary, 2001). An example is modern Germany, where the term *das Deutsche Volk* is often used to refer to the collective identity of the German people. The U.S. federation has survived for 235 years, since its invention in Philadelphia in 1787, with federal and state levels having separate powers.

On the contrary, multi-ethnic federations, with multiple *Staatsvölker*, in order to survive, have developed and applied what we call "power-sharing mechanisms" that protect the interests of all the main ethno-national groups and discourage secession(ism). And this is the great mark "made in Europe."

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[1] This text was originally part of a presentation given at the conference *Modern Federalism: A European Formula for Stability and Power-Sharing*, held at the European Parliament on 29 November 2022. The conference was organized by the office of MEP Željana Zovko (EPP).

But, what is power-sharing? Generally, we associate this concept with the work of the Dutch political scientist Arend Lijphart. Lijphart promotes four principles that might be applied to accommodate ethno-national groups within a single country: 1) a grand governmental coalition, 2) veto power, 3) autonomy that respects different ethno-national interests, cultures and traditions, and 4) fair proportionality in resource allocation and representation.

Power-Sharing in Europe

Power-sharing arrangements are among the most widespread conflict resolution approaches. Europeans have had many wars and political conflicts, but we also invented peace among nations based on democratic values. The power-sharing system is Europe's great vision.

Many of the peace treaties in Europe are based on power-sharing between communities, nations and countries. The 1946 *Gruber-De Gasperi Agreement* between Austria and Italy (*Paris Treaty*) has shaped the politics of South Tyrol in Italy, where the German-speaking majority shares power with Italian and Ladin communities. Austria and Italy have even recently discussed the most important aspects to preserve peace and political stability in South Tyrol (cf. Euronews.com, 2018). This might be considered as a positive example on how inter-state relations should work.

The power-sharing system is Europe's great vision

Catholics, Protestants, Socialists, and Liberals shared power in the Netherlands from the 1917 Great Pacification until the 1960s. The Netherlands was the first EU member state – even before Belgium – to apply this power-sharing system that has prevented internal conflicts and has been the base for longstanding Dutch accommodationist politics (Andeweg, 2019).

There are challenges for power-sharing democracies, but with imagination, these can be overcome. One challenge is the relation between human rights and power-sharing. Human rights courts, including the European Court of Human Rights, and various international commissions have often challenged power-sharing mechanisms as a breach of individual rights. Courts have also criticized power-sharing settlements, arguing that they lock people into predetermined groups, or that power-sharing marginalizes or excludes minorities and all those who do not belong to the main ethno-national groups.

In Bosnia and Herzegovina, Roma, Jews, and other minorities cannot run for elections in the tripartite Presidency, which shall be filled by a Bosniak, a Croat, and a Serb. For this reason, the European Court of Human Rights ruled in its famous Sejdić and Finci group of rulings, that Bosnia and Herzegovina violates the *European Convention on Human Rights*. In Northern Ireland, certain key decisions require cross-community voting arrangements, including the election of the dual premiership (First Minister and Deputy First Minister). In Belgium, elites have continued to resolve crises between the two language communities, and Belgium still exists. In Brussels, ministers from each language group in the Government of the Brussels-Capital-Region are elected by a majority vote of their own language group. A parliamentary candidate in the Brussels-Capital-Region must formally declare his or her language in order to register for elections, and this declaration is irrevocable for all subsequent elections. For example, a French-speaking candidate will forever run as a French-speaking candidate. Does this requirement violate the *European Convention on Human Rights*? It might, but we will never

know, because – contrary to Bosnia and Herzegovina – Belgium won a wide margin of approval by the Court and has not ratified *Protocol No. 12* of the *European Convention on Human Rights*. The European Court for Human Rights has dismissed the claims of Mathieu-Mohin and Clerfayt, who complained that French-speakers in Flemish territory "would have neither proper representation in parliament, nor in the French Community Council" (Graziadei, 2016, p. 60).

The system of South Tyrol equally raises questions of compatibility with European human rights standards. The South Tyrol presidency rotates every half term between German and Italian speakers, to the exclusion of others. All public jobs have been distributed according to an ethno-linguistic key. However, South Tyrol made a remarkable change three decades ago by allowing candidates to "aggregate" to either the Italian or German community. Candidates do not need to be linguistically affiliated/members of one of the two communities, but simply to aggregate to one of them. This has allowed non-German and non-Italian members to run for provincial offices and jobs.

European countries and regions have invented solutions to overcome human rights challenges. A second challenge to power-sharing comes from majoritarian attempts to subvert or eliminate power-sharing. Demographic majorities in multi-ethnic states will often prefer majoritarian democracy over power-sharing mechanisms. Majorities often will not see any incentive to accept a proposal to share power with minority groups. This could lead to potential tensions and state dissolution. In Cyprus, Greek Cypriot leaders were not supportive of power-sharing settlements established in 1960. Greek Cypriots perceived power-sharing partnership with Turkish Cypriots as an injustice that strengthened the power of Turkish Cypriots in the Republic of Cyprus. In 1963, Greek Cypriot representatives sought to unilaterally amend the constitution (cf. *Thirteen Amendments*), establish a unitary state based on majoritarian rules, and abolish power-sharing mechanisms (Pepić & Kasapović, 2019).

In Switzerland, the "Jurassic question" has threatened stability and peace between French- and German-speaking groups in the Swiss canton of Bern (Pepić & Kasapović, 2023). The Jura region – a predominantly French-speaking and Catholic/Protestant region – became part of the predominantly German-speaking and Protestant canton of Bern. The French-speaking Jura had been particularly troubled by (majoritarian) decisions taken by the German-speaking rulers in the canton of Bern. Dissatisfaction led to violence in the 1950s, which forced Bernese authorities to take several decisions in order to pacify autonomist movements, including amendments to the constitution that allowed a series of popular votes on the breakup of the canton of Bern and the creation of a new French-speaking (and predominantly Catholic) canton of Jura. This second type of threat can be met only if demographically dominant ethno-national segments have strong incentives to replace their majority advantage with power-sharing arrangements with minority groups.

As a reaction to majoritarian trends, Brussels introduced a special law in 1989 in response to the "fake Flemings" case of 1971, when the French-speaking group outvoted the voters from the Dutch-speaking group by electing nominal Dutch representatives, but who in fact were token candidates from the French-speaking community representing French interests (Dumont & Van Drooghenbroeck, 2011). The law was amended almost two decades after the "fake Flemings" case, to protect the interests of the Dutch-speaking minority in the Brussels-Capital Region.

In the Swiss canton of Bern, Swiss Germans and Swiss French voted at a referendum in favor of an electoral law allowing the Swiss French to elect their own representative from the canton of Bern's

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French-speaking Jura region,[2] without interference of Swiss Germans. This arrangement was motivated by the incentive that autonomy in the minority French-speaking Bernese Jura is far preferable to secession and breakup of the canton.

In the European Union, Maltese ministers have parity and equal rights with German ministers, despite a huge demographic difference (Grbavac, 2022). If Germans had insisted on majoritarian democracy within the European Union, the European Union would never have come into existence.

There are many tested and practicable solutions in European countries and regions that demonstrate the effectiveness of overcoming majoritarian threats to power-sharing democracy.

Recommendations for Bosnia and Herzegovina

In this short piece, we presented some examples of power-sharing in Europe and its role for the perservation of peace and stability. Also, we mentioned the main challenges to power-sharing practices. Finally, in light of our understanding of political power-sharing as a laudable European invention, we shall conclude with three recommendations that ought to be made in the case of Bosnia and Herzegovina.

1. Be aware of the existence and success of European federal power-sharing models. Do not reinvent the wheel to achieve stability in multi-ethnic countries. Europeans have made peace possible – within and among states – by inventing many power-sharing agreements among different religious, ethnic, national and linguistic groups. There are many European power-sharing provisions, laws, and electoral mechanisms that can be selected from to fit Bosnia and Herzegovina, and move the country to a position of political stability.

2. Support reform of the electoral system to resolve the European Court of Human Rights' Sejdić-Finci ruling and prevent imposing the outcome of election results on any constituent peoples. Resolving human rights problems does not automatically mean that ethno-national labels should be eliminated from the constitution and laws. A case in point is South Tyrol's "aggregation" system, which allows candidates to aggregate to either German- or Italian-speakers and represent them in executive institutions.

3. Use the existing geopolitical moment to set the roadmap in Bosnia and Herzegovina. American foreign policy understood the moment and probably has again moved faster than European Union foreign policy. Majoritarian trends should be abolished in favor of parity between Bosniaks and Croats as one of the key power-sharing elements. With appropriate incentives, Serb elites will follow this positive trend and see it in their self-interest to begin cooperation. Parity functioned under the 1994 *Washington Agreement* with the establishment of the Bosniak-Croat Federation, and under the 1995 *Dayton Agreement*.

One should take advantage of this (geopolitical) moment and work to achieve a European system of power-sharing in Bosnia and Herzegovina, so that the country can enjoy stability, and thereby become able to achieve European Union membership.

[2] French-speaking and predominantly Catholic Jurassians in the districts of the North Jura voted in 1974 in favor of a new canton of Jura, whereas French-speaking and predominantly Protestant Jurassians in the districts of the South Jura rejected the initiatives and opted for remaining in the canton of Bern, forming the region called the Bernese Jura (*Jura bernois*).

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