

Territorial Power-Sharing as Possible Model for Democratic Stability of Multicultural European States

(Summary)



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The thesis examines a particular question of European statehood originating from 1) the challenge of mismatching ethnic and state boundaries, 2) the special needs of the population of territories having a majority composed of an ethnic minority group within nation-states, and 3) the wish for exercising power in these states in a democratic¹ way. By presenting the literature and current European practices, the thesis aims to analyse the necessity and the details of the implementation of territorial power-sharing, an institutional solution applicable in such a situation.

I. Hypotheses

Although none of the European states is ethnically homogenous, many of them describes itself as a nation-state. The concept of the nation-state that spread since the 18th century, differs from previous state structures mostly by its centralized nature and ethnic exclusiveness. It aims at economic and social unification of the territory of the state through expansion of the political and economic dominance of the centre. To achieve this, it uses administrative control, and the

¹ Democratic in the sense that it assures majority rule plus rule of law that guarantees minority rights and political freedoms. Albert SOMIT–Steven A. PETERSON: *The Failure of Democratic Nation Building: Ideology Meets Evolution*, Palgrave MacMillan, h.n., 2010, 33.

standardization of the culture to eliminate former legal and linguistic diversity.² During this struggle, attempts to preserve diversity have become seen as manifestations of backwardness impeding progression, while the will to eliminate such dissimilarities are viewed as testimonies of modernization.³

In contemporary European states there are many citizens of minority language and culture, who either live (1) as a majority on a coherent area of the state, forming a majority there, or (2) as members of a community dispersed all over the territory, forming a minority within the local population. While in the first group only autochthonous minorities are present, who have been living on the territory for centuries and became minorities mostly due to the change of state borders, in the second group besides autochthonous minorities could also belong descendants of migrants. This thesis focuses solely on autochthonous minorities because of their longstanding status of citizen of the respective country and due to the territory-related special needs they own.⁴

Strictly applied majority rule even in democratic systems could lead to a situation in which members of a segment of the society, belonging to a minority group, however making up a majority in a part of the state territory, could be subjected to rejection by the overall majority in questions crucial for their future. To respond this challenge, such constitutional and institutional aspirations appeared in the second half of the 20th century that allowed for the social participation of the concerned group and the articulation of their intentions through self-governance. This institutional change provided for respect of ethnic distinctiveness and the maintenance of the unity of the state at the same time.

² Jacob T. LEVY: Language Rights, Literacy, and the Modern State, in. Will Kymlicka-Alan Patten (eds.): *Language Rights and Political Theory*, Oxford University Press, Oxford, 2007, 231–233.

³ BAKK Miklós: Birodalmi kisebbség avagy a modernitás nyelve, *A hét* 1998/44, <http://bakk.adatbank.transindex.ro/belso.php?k=2&p=1738>

⁴ There is an ongoing debate in the literature on whether there is a significant difference between autochthonous minorities and descendants of migrants. Those in favour of the two groups being basically similar say that the members of both communities are citizens born to parents adhering to a minority language and culture within the same state. Thomas W. POGGE: Accomodation Rights for the Hispanics in the United States, in. Will Kymlicka–Alan Patten (eds.): *Language Rights and Political Theory*, Oxford University Press, Oxford, 2007, 108., Boris TSCILEVICH: New Democracies in the Old World: Remarks on Will Kymlicka’s Approach to Nation-building in Post-Communist Europe, in. Will Kymlicka–Magda Opalski (eds.): *Can Liberal Pluralism be Exported? – Western Political Theory and Ethnic Relations in Eastern Europe*, Oxford University Press, Oxford, 2001, 162. From the perspective of the thesis, the most visible difference between the two groups is the strong and traditional connection of the autochthonous communities to a territory, a part of the state, and that they form a local majority there.

According to my hypothesis, this self-governance, the *territorial power-sharing*, could assure the proper exercising of power and maintaining the territorial integrity of the state at the same time if it

- is the result of a political compromise and regulated in the constitution or fundamental laws of the state
- provides regulating and executive competences in social, economic and cultural spheres for the population of the region
- does not allow the local majority to restrain the rights of local minorities, were they belonging to the national majority or other minorities
- provides legal protection of the institutions of the autonomy and the state
- provides a politically neutral channel between the autonomy and the state to professionally discuss the possible revision of the compromise
- excludes unilateral modification and abolition

II. Applied methodology, description of the analysis

Methodically, my work leans on two pillars: the evaluation of the existing practice from the perspective of International and Constitutional Law, and the analyses of certain historical and contemporary examples of applied territorial power-sharing. I intend to prove the applicability of my hypothesis, and to identify the criteria of the successful application by these investigations.

The thesis begins by presenting definitions such as *nation-state* and *minority* in order to specify the field of investigation. After this, I examine the methods nation-states could have in terms of assimilation and integration of minority communities, putting a special accent to the reasons of changes in state organisation and the application of territorial power-sharing in Western European states after 1945. This latter is of great importance, since these changes, especially in the case of regions having a majority population made of a minority, often resulted in the questioning of the established explanations of national integration in many countries.⁵

The other direction of examination starts from minority protection, separating the instruments used to protect persons and the whole population of specified territories. I examine the latter,

⁵ Michael KEATING: Többnemzetiségű demokráciák a szuverenitás utáni világrendben, *Pro Minoritate* 2004/nyár, 21., Stein Rokkan–Derek W. Urwin (eds.): *The Politics of Territorial Identity*, Sage Publications, London-Beverly Hills-New Delhi, 1982, 3–8.

meaning minority protection and self-governance exercised by the entire population of the territory at the same time. The thesis also presents the development of minority protection on international level, focusing again on documents dealing with territory-related protection. I present not only global, but European regional documents to highlight the approach they suggest with regards to the implementation of territorial power-sharing.

Detailing the legal framework is not only important to put the analysis into context and present the main characteristics of the development of the regulations, but also to highlight the fact that there is no binding legislation in international law on territorial power-sharing. Despite the application of the institution could turn to be fruitful for the stability of the states, and the thesis argues for this, current international law provides not more than soft law regulation.

More institutions could serve as guarantees assuring the functionality and sustainability of territorial, regional or federal, self-governance. According to my findings, the institutions reflect local characteristics in each territory; therefore they differ from each other to some extent. By analysing in detail the models applied in Belgium, Finland, Italy and Spain, and to a lesser extent such examples like the ones of the United Kingdom, Denmark or Serbia, I am aiming at not only presenting these solutions but also to describe the experiences of their application. This could be possible as there are similarities between the models that allow for drawing a general conclusion on necessity of the application. This is much needed, since there is no binding international regulation in terms of the application of territorial power-sharing, but practice clearly shows the necessity of the implementation of such institutions.

I analyse both the legal framework and the literature in the case of each model in order to compare the regulations and the solutions applied, and outline more general conclusions in terms of the application of such territorial power-sharing.

In terms of the secondary sources, I intend to cover the broadest spectrum possible. Therefore I use not only English and Hungarian language literature, but also Catalan, French, German, Spanish and Romanian. These sources mostly target the concerned community itself allowing me to discover also the emotional components connected to the application of territorial power-sharing. Emotional components shall not be disregarded; the success of the implementation could depend on questions of symbolic importance.

III. Analyses of the institutions of and the practical questions related to territorial power-sharing

The third part of the thesis examines the details of territorial power-sharing according to the hypothesis and the experiences of certain models applied in Europe. These models are widely different: the Belgian model functions in a federal state, the Finnish one mixes territorial power-sharing and official bilingualism, Spain operates a system of autonomous communities, however the country is not a federal state, while Italy applies asymmetrical autonomy in a unitary state.

I define the main models and I analyse in depth according to multiple criteria, such as the existence of consolidated institutions, different processes how they became to be, the existence or lack of a kin-state, and the degree of its involvement into the conflict resolution if that is the case, and the possibility of the modification of the compromise. I chose this approach to investigate the content of the hypothesis from the more angles possible. Yet, I had to limit the number of the main models in order to keep the structure of the thesis solid.

The thesis continues with the presentation of *autonomy* and *federalism* since the application of these can result in territorial power-sharing. In connection to powers, my attention focuses on whether the compromise matches the expectations and the needs of the state, the territory and its population. Detailing historical background of each model explains the differences between the models in the extent of devolved powers: It also contributes to understanding how, if at all, changes could be achieved in terms of the content of power-sharing. The notion of *national interest*, a tool to limit the exercise of already conferred powers, is also presented here.

Social and technical progress could create a need for the modification of the content of the compromise that created the territorial power-sharing. In connection to this, I investigate whether there is a regulated way for the parties to re-negotiate the deal in the examined models. If there is, I focus on how it could be exercised, and if there is not, I try to point out what the consequence is.

Institutions assuring cooperation are investigated both within the self-governing territory and between the territory and the state. Attitudes and methods providing tools to counterbalance centrifugal forces deriving from the heterogeneity of a multicultural society and to ensure the

cooperation between the leaders of various social groups are called *consociation*.⁶ Institutions creating a framework for aiming these goals could be grand coalition, proportionality or right to veto. These institutions mostly, but not by all means, are present together in the models examined in the thesis. They promote cooperation between different groups, in the case of the thesis ethnic groups, of the society, and create proper environment to flourish pluralism within the groups.⁷ These institutions allow the smaller group to conduct debates, for instance political ones, within the group by guarantying participation within the legislation or the financing of their institutions by proportionality, avoiding outvoting by the right to veto, and involvement into decision-making by grand coalition.⁸

Practice shows that the application of consociational institutions can only be successful if there is trust between the parties, both within the territory and in the cooperation between the territory and the state. If the parties do not trust in each other, grand coalition can turn to inoperable, as it happened in Northern Ireland in 2017, while the right of veto could lead to the paralysis of the state, as it happened in Cyprus in the early 1960s.⁹

Besides such questions as operation, revision and guarantees, I pay a special attention to territorial integrity. The main fear attached to territorial power-sharing is the possible harm of the state territory as territorial power-sharing delimitates a geographical area, which, by referring to its distinctive collective identity, could secede from the country or appeal for such a right more easily. According to the findings of the thesis, this danger is not peremptory, as the territory receives such special powers due to its majority of different ethnicity in order to be capable to preserve that feature, which might not been achievable in a country where the same ethnic group forms majority. In the case of territories without a kin-state, such as that of Catalonia, maintaining status quo, i.e. a special status within the state instead of independence, could be motivated by economic reasons, such as access to a bigger market.

⁶ Arend LIJPHART: *Democracy in Plural Societies, A Comparative Exploration*, Yale University Press, New Haven–London, 1977, 1.

⁷ Susan BRIDGE: Some Causes of Political Change in Modern Yugoslavia, in: Milton J. Esman (ed.): *Ethnic Conflict in the Western World*, Cornell University Press, Ithaca–London, 1979, 367.

⁸ Donald L. HOROWITZ: Conciliatory Institutions and Constitutional Processes in Post-Conflict States, *William and Mary Law Review* 49(4) 2008, 1216.

⁹ BIBÓ István: *A nemzetközi államközösség bénultsága nemzetközi viták megoldásában*, Összegyűjtött munkái 4., Európai Protestáns Magyar Szabadegyetem kiadása, Bern, 1984, 1110. Michael STEPHEN: *The Cyprus Question*, Northgate Publications, London, 2001, 21.

Reconciliation, however it might seem to fall beyond the legal and political questions examined in the thesis, becomes a subject of interest as it could create a renewed base for social cooperation between majority and minority. Recognition of the sins committed in the past and the elaboration of new, mutually acceptable narratives for social cohesion could facilitate citizens to accept territorial power-sharing and thus provide for a solid environment for a long-term application of the institution.

In the fourth part of the thesis, I analyse a case study, Romania, that has a special Hungarian connection. Presenting the Romanian example has multiple reasons. First, although the country perfectly fits into the category of a state having a region where a minority population forms local majority, it describe herself a nation state. Second, the local Hungarian minority, especially the part living in the Székely Land, has a strong desire for autonomy and territorial power-sharing. Third, the country rejects such initiatives and opposes them in every possible way.

Romania opposes territorial power-sharing due to the experiences of the Romanian minority living in Hungary prior to 1918, when the expected restoration of the autonomy of Transylvania was considered the first step of separation from the Hungarian state.¹⁰ Thus, as a consequence of the social and political importance of the Hungarian community living in Romania after 1920, the Romanian governments preferred such agreements, like the ones in 1923, in 1945 and the years after, and in 1993, which allowed for the political representatives of the community to participate in Romanian politics, nevertheless, without territorial power-sharing or the formal application of the institutions of consociation.

The sole, but not genuine, exemption to this rule was the creation of the Hungarian Autonomous Region (HAR) in 1952. The HAR did not come into being due to either significant developments in Romanian minority policy or a will to achieve territorial power-sharing, but because of Soviet demand.¹¹ Its base was *korenizatsiya* (“putting down roots”), an early policy of the Soviet Union aiming at the non-Russian nationalities by letting the territorial principle to prevail to the smallest possible administrative unit in order to avoid ethnic tensions during the process of integration into the socialist state structures of minority groups forming language

¹⁰ JANCSÓ Benedek: *A román irredentista mozgalmak története*, Attraktor, Máriabesenyő–Gödöllő, 2004, 359.

¹¹ Stefano BOTTONI: A sztálini „kis Magyarország” megalakítása, 1952, in. Bárdi Nándor (szerk.): *Autónóm magyarok? Székelyföld változása az „ötvenes” években*, Pro-Print, Csíkszereda, 2005, 314.

islands within the country.¹² Gradually, the strengthened Romanian political centre managed to liquidate the administrative unit, first with modifying the boundaries and reducing thus the ratio of Hungarians in 1960, and later with eliminating the HAR completely during the re-introducing of the county system in 1968.

The chapter intends to show the deeper reasons of the failure of the initiatives for autonomy besides the rejection of Romania. It also wishes to provide an example comparable with the creation of the models of territorial power-sharing examined in the previous chapters.

IV. Results and conclusions

After the exhaustive examination of territorial power-sharing, a new approach outlines which could have the ability to renew the structures of and the community within the nation-state by creating a new way for a minority ethnic community forming a linguistic island in the state to connect to the state structure. Institutionalization of how these communities are able to enforce their special needs within a nation-state is important since proper minority rights are ensured not as the sum of individual rights of people belonging to minorities but by such collective rights of the community which allows the members of the group to enjoy the rights they need to maintain their ethnic peculiarities if they want to.¹³

Geographical delimitation is always a central question when applying territorial power-sharing, especially if there is no clear area or mutually accepted, for instance historical, border coinciding with the ethnic boundary. Demarcation should be made according to the will of the local population whose decision could also give a strong democratic legitimation to the new administrative boundary.

During the implementation of territorial power-sharing, powers related to culture and education shall be given to ethnic communities, while economic powers to the institutions covering the whole population of the territory. With this differentiation, first, ethnic groups are separated, but they also could feel safe while managing affairs central to their identity, and second, equal economic opportunities are granted for every inhabitant regardless of ethnicity. Financing

¹² The term *korenizatsiya* was introduced later, first the official term had been *nationalizatsiya* meaning 'nation building.' Terry Dean MARTIN: *The Affirmative Action Empire: Nations and Nationalism in the Soviet Union, 1923-1939*, Cornell University Press, h.n. 2001, 12., 25.

¹³ BALOGH Artúr: *Jogállam és kisebbség*, Kriterion Könyvkiadó, Bukarest-Kolozsvár, 1997, 290.

institutions and taxation could also be of great importance and might lead to tensions between the state and the territory.

Creating institutions and methods for cooperation between the state and the territory, and between the communities within the territory is a central issue for the implementation of territorial power-sharing. Institutions like grand coalition, right to veto and proportionality could serve this aim. These institutions are usually applied simultaneously and their success depends on the will of the parties and the level of trust between them.

The conclusion of the thesis is that territorial power-sharing created due to ethnic reasons is an institution, which has certain almost permanent elements, such as educational and cultural self-governance provided for ethnic communities, and institutions aiming cooperation between the concerned communities; however, there is not an exclusive model of it. The reason behind this is that every society is different, they face various challenges in time and space, and they could have dissimilar historical heritage and experience, including traumas. Applied territorial power-sharing has to address these complex challenges according to local specialties.

Separating law and politics could be complicated while implementing territorial power-sharing: on the surface the institution is created and operated through legal documents, however, the content and any change of this legal framework is a consequence of political struggles. Stressing this is important, as territorial power-sharing does not come into being by application of legal principles. This has also been proven by the examples of Romania and Székely Land.

However minority rights and (territorial) autonomy are topics frequently examined in Hungarian literature, I intended to analyse these questions and their correlation from a new perspective. According to my intentions, the information presented in the thesis can be used by both professionals working with minority issues and Hungarian diplomats and national policy experts. The thesis aims to facilitate understanding how the presented models came into being and function, and how their experiences could be useful for supporting the initiatives of the Hungarian communities attempting to apply territorial power-sharing in the neighbouring countries.

V. Publications of the author related to the thesis

- *Social Cohesion for Parallel Societies? – Integrating Estonia’s Russian-speaking Population* – Észt Köztársaság: 100 év innováció (co-edited by Tamm Anne and Tolnai Ágnes, Studia Caroliensia, under publication)
- *Minority SafePack – Esély az EU-s kisebbségvédelemre?* (társszerző: Vincze Loránt) – Pro Minoritate 2017/2.
- *Nemzetiségi többségű régiók és az Európai Unió, avagy a Brexit egyik lehetséges politikai következménye* – Külügyi Szemle 2016/4.
- *A területi elven innen és túl – a nemzetiségi öngazgatás alkalmazható mintái Európában* – (társszerző: Törő Csaba) – Állam- és Jogtudomány 2016/3.
- *A föderális belga állam, avagy a vallon-flamand együttélés sarokpontjai* – Pro Minoritate, 2016/tavaszi
- *Kisebbségi nyelv, kultúra és identitás a nemzetállamban* – Studia Caroliensia Évkönyv 2015
- *Az önkormányzatiság igénye a magyarországi kisebbségeknél és annak magyar fogadtatása az 1848-1867 közötti időszakban* – Jogtörténeti Szemle 2015/2
- *Lőrincz Csaba: A mérték (recenzió)* – Külügyi Szemle 2011/1
- *Az ortodox egyház a magyar nemzeti célok szolgálatában?* – Regio 2010/3
- *Alkotmány és Katalónia – Küzdelem Spanyolországért?* – (társszerző: Kovács Barnabás) – Gazdasági Élet és Társadalom 2010/I-II.
- *A 2009-es európai parlamenti választások Spanyolországban, különös tekintettel Katalóniára és Baszkföldre* – (társszerző: Kovács Barnabás) – Pro Minoritate 2009/ősz
- *Katalónia bővülő autonómiája Spanyolországon belül* – (társszerző: Kovács Barnabás) – Debreceni Szemle 2008/1