



# Federalism and Constitutional Transition in Bosnia- Herzegovina

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Salzburg  
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# Bosnia today

## **I.4. Movement of Goods. Services. Capital. and Persons.**

There shall be freedom of movement throughout Bosnia and Herzegovina. Bosnia and Herzegovina and the Entities shall not impede full freedom of movement of persons, goods, services, and capital throughout Bosnia and Herzegovina. Neither Entity shall establish controls at the boundary between the Entities. Const. BiH

### **Package of SALT (Tuzla?)**

Limited use: 3 years Federation

Limited use: 2 years RS

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# “Bosnians”?

*States need cohesive ideas and identities to legitimate themselves.* (G. Schoepflin)

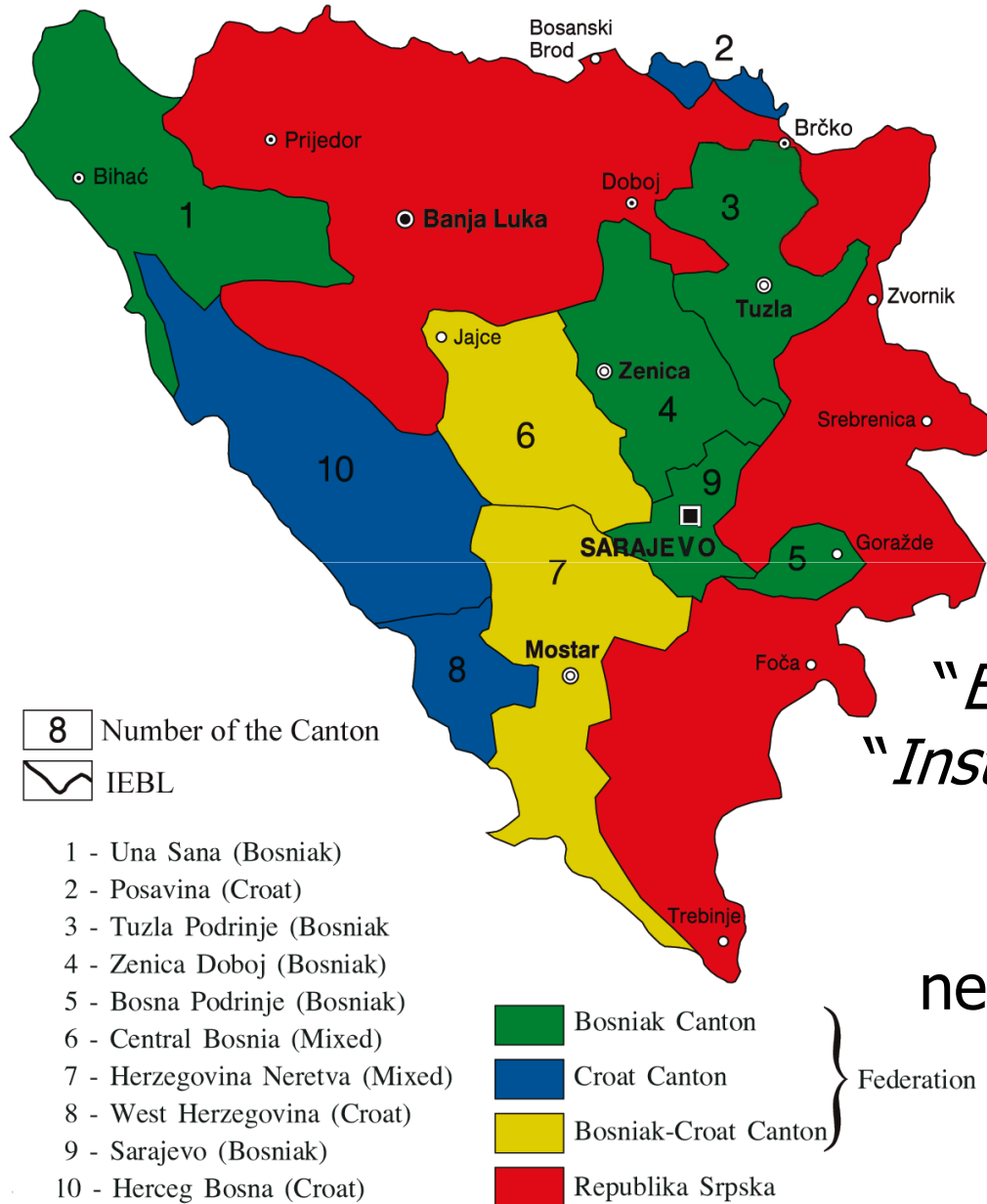
- **Three** Constituent Peoples: “**B-C-S**”
- **Two** Entities
- **One** State?  
*multinational?*



*Forced-together federations* (N. Bormeo)

Federation of BiH

# Static Elements

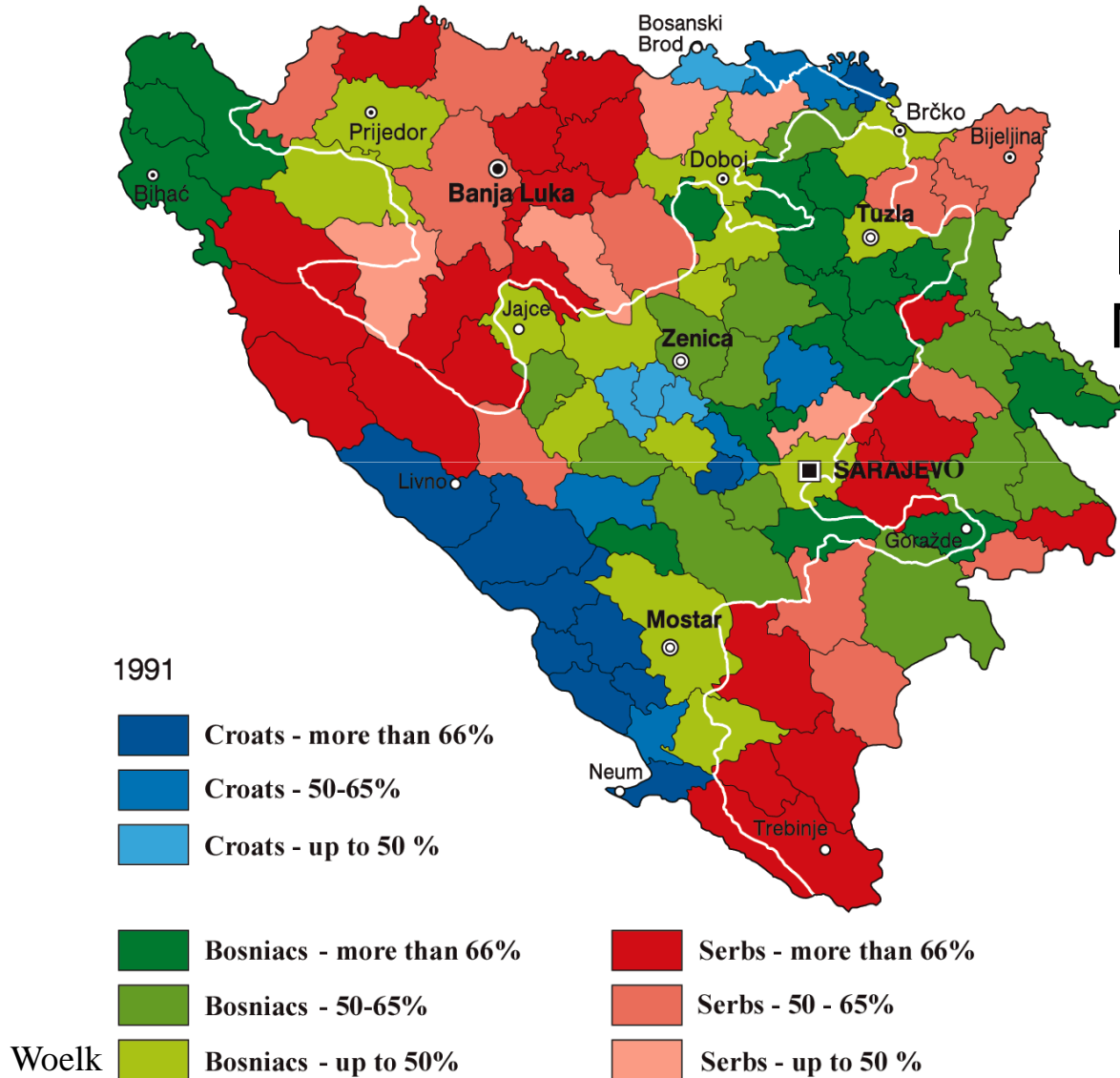


**Territory**  
*"Ethnic federalism"*  
*"Institutional overkill"*

**Power Sharing**  
 negative consensus  
 obstruction

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Ethnic composition before the war in BiH (1991)



# Dynamic Elements

Multiethnic society  
Multi national State  
Entities???

- minority-returns
- Human Rights

later:  
EU accession

# Bonn Powers: Internat.l Protectorate

1) "I have concluded that there are two ways I can make my decisions.

One is with tape measure, measuring the precise equidistant position between three sides.

The other is by **doing what I shall think is right** for the country as a whole.

I prefer the second of these. So when I act, I shall seek to do so in defence of the interests of all *the people of BiH*, putting their priorities first."

2) "Better doing things soon, rather than doing them perfectly."

Lord Paddy Ashdown, HighRep 2002-2006



# Progress?

«However, **lack of consensus** on the main features of State building, frequent challenges to the Dayton/Paris peace agreement, and inflammatory rhetoric have adversely affected the functioning of institutions and slowed down reform [...].

The authorities have **not yet** demonstrated sufficient capacity to take the necessary **political ownership** and responsibility.

The role played by **ethnic identity in politics hampers** the functioning of the **democratic institutions** and the country's **overall governance**.

**No progress** has been made as regards **constitutional reforms**.»

05/11/2008

European Commission COM(2008)674 final,  
*Enlargement Strategy and Main Challenges 2008-2009*

# Constitutional Reform?

## Venice-Commission 2005

Analysis: neither rational, nor efficient or sustainable, in particular:

- weakness of State level
- definition and limitation of "vital interest"-veto
- link between territorial structure and ethnicity
- composition Presidency and House of Peoples

## April Package 2006

- Confirmation of transferred powers
- Abolition of perfect bicameralism; definition of "vital interests"
- 1 Pres., 2 Vice-Pres.
- Council of Ministers
- Integration clause (EU)

*Failed, one vote!*

**Balances:** individual-collective; ethnic-territorial

«[...] in the early days of the siege of Sarajevo in the mid-1990s, a photo of a half-ruined post office with three items of graffiti written on its wall captured the imagination of the world.

The first graffito read "**This is Serbia!**"; the second stated "**This is Bosnia**".

And someone scrawled underneath, "No, you idiots, it's a post office!"

But a European historian of the present [Timothy Garton Ash] added a line of his own, "**This is Europe**"».

«It is in Sarajevo in the summer of 2014 that Europe should demonstrate that a new European century has arrived.»

International Commission on the Balkans,  
*The Balkans in Europe's Future* (April 2005), p. 6

# Bosnia Herzegovina (BiH)

**Population:** 4 million

## **Three "Constituent Peoples":**

- Bosniaks/Muslims (43,7%);
- Croats (17,3%);
- Serbs (31,3%);
- + "Others", Minorities (5,5%)
- + "Yugoslavs" (2,2)

## **Religions:**

Islam (40%); Orthodox(31%);  
Catholic (15%); Protestant (4%);  
Jewish, other (10%)

## **Official languages:**

Bosniak, Croat and Serbian ("B-C-S")

## **Federal system:** *State* - two Entities

- Republika Srpska (RS)
- Federation of Bosnia-Herzegovina (FBiH): 10 Cantons  
plus autonomous district of Brčko

