# Consociational democracy, citizenship and the role of the EU in Kosovo's contested state-building

Bekim Baliqi
University of Prishtina
bekim.baliqi@uni-pr.edu

**Abstract**
*Consociational democracy has increasingly been adopted as a useful approach for conflict transformation in ethnic and violently divided societies. Its ultimate purpose is to turn former rivals into governing allies by providing power-sharing arrangements. Through theoretically driven process tracing, based on Kosovo as a case study, this article explores whether and how consociationalism has affected peace- and state-building. By examining its application through institutional design, it investigates citizenship policy and the role of the European Union on fostering a multi-ethnic society. The article argues that the existing corporate consociational model has institutionalised ethnicity challenging democracy and statehood, and did not promote a shared identity. Therefore, to overcome ethnic division and strengthen state legitimacy, the paper proposes a modification of consociational democracy into a liberal type promoted by a more persuasive role of the EU.*

**Keywords:** Kosovo, consociationalism, citizenship, European Union, ethnic relations, state-building.

## Introduction

One of the main challenges in post-conflict societies is managing group diversity and rivalry through institutional engineering that improves ethnic relations and produces sustainable peace (Goodwin 2007; Weller 2009). From the theoretical point of view, consociationalism is among the most commonly proposed approaches for settling conflict and managing diversity in divided societies (McGarry and O'Leary 1993; Norris 2008; Taylor 2009). It is known as the power-sharing model, which entails participation and representation of all main ethnic or other groups in the governing institutions and decision-making processes. This theory became prominent, among other scholars, throught the works of the Dutch political scientist Arend Lijphart (1977), who argued that consensual democracy might mitigate ethnic conflict and tensions in multi-ethnic societies in a way that majoritarian democracy might not. As a conflict management model, it has been widely applied in different post-conflict states, and in crucial aspects of peace and state-building efforts (Wolff and Yakinthou 2013; Aitken 2007). The list of post-conflict states with peace agreements that contain consociational features in, and thus in institutional and constitutional arrangements is long; it includes some prominent cases such as Lebanon, Northern Ireland, Sri Lanka, Afghanistan etc. (Schneckener 2002; Sriram 2008; Taylor 2009) Consociationalism is defined by the following characteristics: a proportional electoral system, a grand coalition formed by political leaders of all significant groups, minority veto rights on

government decision-making, and a certain degree of autonomy or self-government for those communities (Norris 2008).

Conceptually, consociationalism as a conflict management model may be attractive; however, the difficulties with the existing power-sharing model are evident in some former Yugoslav and post-conflict states, such as Bosnia and Herzegovina, Macedonia, and Kosovo. While the armed conflicts in these states ceased about two decades ago, ethnic tensions remain, and reconciliation and mutual trust between communities are still missing. Consociationalism, as an approach for conflict resolution and management of diversity, in these cases has not been proven suitable and effective in mitigating ethnic divisions (Simonsen 2005; Tansey 2009; Rossi 2014). Although, Macedonia with the new government in power has achieved significant progress in this manner: solving the name dispute with Greece (named officially North Macedonia); becoming a new NATO member; and successively implementing consociational principles, for example wider use of bilingualism. By comparing the abovementioned cases, Bieber and Keil (2009) assessed the achievements of power-sharing in these states, concluding that there are mixed results and suggesting substantial modifications of the existing provisions. The main criticism consists of the fact that these arrangements have contributed more to power-dividing (strict territorial and ethnic identity boundaries) than to power-sharing, thus hindering the development of multi-ethnic democracy and long-term political stability (Simonsen 2005; Aitken 2007; Landau 2017). The consociational provisions in these states, rather than being the outcome of a political consensus among communities, were primarily imposed by internationally mediated agreements (McCulloch 2014). While this achieved formal participation of rival parties in institution-building, it did not also realise the integration of ethnic groups into a multiethnic society. These negotiated settlements include the Dayton Peace Accord for Bosnia and Herzegovina (1994); the Ohrid Framework Agreement for Macedonia (2001); and the Comprehensive Proposal for Kosovo Status Settlement, known as the Ahtisaari Plan (2007). This agreement is specifically significant for Kosovo's institutional and constitutional architecture, created as a result of an internationally negotiated plan (Weller 2008). This proposal entails power-sharing arrangements, including ethnic quotas in courts, police and state-owned companies, official bilingualism, veto rights and self-government at the local level which were incorporated later into the Constitution of Kosovo and adopted a few months after the Declaration of Independence on 17 February 2008. However, some consociational provisions such as reserved seats in the parliament and guaranteed representation in the central government for non-majority communities had been in place almost from the beginning of the international protectorate in 1999 by the United Nations Interim Administration Mission—UNMIK (Constitutional Framework for Provisional Self-Government 2001).

Focusing on the Kosovo state-building process, the central research question raised here is how consociationalism has impacted state legitimacy and ethnic relations. Further, it examines citizenship policy and its impact on shaping shared identity and political unity among all ethnic communities. The central assumption is that the current type of corporate consociationalism in Kosovo, as envisaged by the Ahtisaari Plan, has institutionalised ethnicity as a precondition for political engagement and representation, thus hindering state legitimacy and incentives to build a democratic and multi-ethnic society. In other words, consociationalism may be considered a useful tool for conflict resolution through the accommodation of minority groups, rather than a successful mechanism in fostering overarching state loyalty and a shared identity.

The research follows a theory-guided process based on a single case study, content analysis of relevant reports, and legal acts, and the broad use of a literature review. To accomplish this, it focuses on the ethnic relations between Albanian and Serb communities in Kosovo, traced in a post-conflict context. [1] The consociational provisions will be examined in their four ascribed dimensions: government by a grand coalition of all communities, segmental autonomy as self-government at municipality level, proportional electoral system, and mutual veto right. The next section addresses the citizenship issue, elaborating it in the context of the identity formation process. It does so by discussing on one hand the legal framework and consociational provisions regarding citizenship and how these constitute relations between the state and society and on the other hand examining if these policies have contributed to the emergence of an identity that goes beyond ethnic belonging. In the end, conclusions will be drawn, through a critical review of consociational arrangements and their overall impact on the state-building process.

## Consociationalism in divided societies

The issue of how political settlements are to be adopted in post-conflict and divided societies has received growing attention not only in academia but also by decision-makers (Sriram 2008; Wolff 2011; Cammett and Malesky 2012). Its application also includes the political settlement of Kosovo's final status, where the primary challenge was finding the institutional framework that would effectively manage ethnic diversity and promote long-lasting peace. The most prominent theoretical model for solving this concern was that of consociational democracy, which includes institutional, constitutional, self-governing, and power-sharing arrangements (Jarstad 2008: 105-133). It has found broad application in different societies of mixed ethnicities, nationalities, and religions or post-conflict countries (Taylor 2009: 1-11). The term consociational model of democracy refers to plural and divided communities in which cleavages are reflected in ethnic, religious, racial, cultural and other diversities among members of the society (Norris 2008: 22-27). Or as Andeweg (2000: 520) accurately pointed out: "Consociational democracy is defined by a deeply divided society and by elite cooperation; in other words, both the problem and its solution are part of the definition."

In the ideal case, consociation is a model of democracy which enables peace and stability in deeply divided societies. In his cardinal work 'Democracy in Plural Societies: A comparative exploration' (1977), Arend Lijphart was among the first to promote this model. Although this book focuses mainly on the mitigation of tensions in democratic pluralist societies, the theoretical approach was developed further as an analytical framework, especially for the post-conflict and multi-ethnic societies. In Lijphart's explanatory model, consociational democracy includes various arrangements, containing models of grand coalition governments, in which all ethnic groups participate and are represented, segmental autonomy, an electoral system of proportionality, and minority or mutual veto right (Lijphart 1977: 25-47). The consociational model may involve any of the following types of practices: territorial autonomy and federal or confederal arrangements, communal federations based on ethnic populations, proportional representation in the administration, a proportional electoral system with consensus decision rules, a legal framework that guarantees

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[1] Although Kosovo Albanians constitute the absolute majority of the population, ethnic relations and disputes with the Serb minority continue to determine security, political affairs and state-building in Kosovo.

minority rights (Sisk 1996: 47-67). Regarding post-conflict state-building, it has two major dimensions of institutional design: power-sharing and self-governing (Wolff 2011: 1777-1802). Consociationalism is an approach to democratic development in plural societies with segmental cleavages, emphasising elite cooperation and institutional engineering through the creation of stable multi-ethnic coalition governments and other power-sharing institutions, thus developing a political culture of consensus (Taylor 2009).

Although consociational arrangements can effectively manage conflict and decrease security tensions in the initial phase, in the long-term, they can generate other serious problems (Snyder 2000; Jarstad 2009). One of the most critical voices of the consociational approach is Donald Horowitz (1993: 18-38), who acknowledges that ethnic conflicts may be brought to an end by consociational arrangements, but the durability of those settlements and their accomplishments remain very uncertain. Finlay (2011: 38), another critic of the model, highlights that "the problem with consociational arrangements is that they make ethnicity normative" by institutionalising antagonistic identities and thus hindering reconciliation among former conflicting groups. According to Aitken (2007: 260) "Institutionalizing ethnicity, in a constitutional settlement, freezes ethnic divisions at the moment of greatest tension and limits the possibilities of a later decline in the salience of ethnicity." Particularly in the early state-building process, these rigid power-sharing instruments may adversely influence political stability and democratisation, which "often means deadlock, inefficient governments, and institutionalisation of polarisation in already divided societies" (Jarstad 2009: 42). Additionally, a concern that needs to be considered is if and to what extent consociationalism contributes to citizenship as the basis for shared identity. Concerning identity building and democratisation process, Snyder (2000: 36) argues against those stagnant arrangements.

> Purported solutions to ethnic conflict that take predemocratic identities as fixed, such as, ethno-federalism, ethnic power-sharing, and the granting of group rights, may needlessly lock in mutually exclusive, inimical national identities. In contrast, creating an institutional setting for democratisation that de-emphasises ethnicity might turn these identities towards more inclusive, civic self-conceptions.

The present situation in Kosovo and particularly in Bosnia and Herzegovina has revealed similar impasses, namely, instead of promoting political and social inclusion, the use of power-sharing has contributed to the reinforcement of ethnic divisions. By examining diverse case studies (Sri Lanka, Sudan and Colombia) Sriram (2008: vi) raises similar concerns, stating that power-sharing arrangements can impose habits of ethnic competition and mistrust into newly emerging institutions that cannot efficiently if at all, manage conflict. That means ethnic groups might freeze animosities and achieve short-term peace but do not engage actively and truthfully to overcome divisions in society and to solve the conflict entirely. Even though the idea of consociational democracy is to encourage cooperation, beginning with the political elites and moving across all levels of a community, identity politics is mostly neglected. By focusing primarily on reaching short-term peace through institutional and constitutional arrangements, it takes identities as fixed and given and offers no model or indication how to provide and enhance long-term cross-cultural and multi-ethnic incentives to build a shared society. Nevertheless, scholars of consociational theory,

like John McGarry and Brendan O'Leary (2009), and McCulloch (2014) pay more attention to the identity issue. In this context, they distinguish between corporate and liberal consociationalism. The first derives primarily from peace accords, political settlements, plans or other forms of internationally negotiated agreements. This type describes what Lijphart (1977) has regarded as 'centrifugal democracy', where societies remain fragmented through ethnic or other cleavages. This model does not primarily treat citizens as individuals but only as members of the ethnic group, through institutional and constitutional entrenchment of group representation (McCulloch 2014). On the other hand, liberal consociationalism is grounded in the deliberative or consensual forms between diverse groups and segments within that society. This form does not determine in advance the ones who share power, leaving that to the voters, who can decide about political identities and group representation (McCulloch 2014). The main difference between these two types is that corporate consociation accommodates groups according to specific and predetermined criteria, and rests on the assumption that group identities are fixed.

Contrary to that, liberal consociationalism is based on the idea that political identity is expressed in democratic elections, no matter whether these identities are bound to ethnic groups or any other form of belonging or not (McGarry and O'Leary 2009). Liberal consociation empowers citizens, not only political elites, through democratic elections, to influence consociational institutions and arrangements. Unlike the corporate model, which contains the constitutional embedding of community representation "liberal consociationalism avoids constitutionally entrenching group representation by leaving the question of who shares power in the hands of voters" (McCulloch 2014: 503). The corporate-liberal differences are additionally relevant for the academic debates on consociationalism since they represent:

> an essential modification to a consociational theory that addresses one of its more profound, and empirically more valid, criticisms, namely that (corporate) consociations further entrench and institutionalise preexisting, and often conflict-hardened, ethnic identities, thus decreasing the incentives for elites to moderate (Wolff 2011: 1783).

As McCulloch (2014) also explained the liberal type of consociationalism, as a long-term solution for divided societies, in any of the above categories, is challenging to implement in reality. The challenges encountered in the implementation of both approaches include the ability to manage the complexities of the particular situation which may include any of the following factors: demographic constellation of the population, loyalty of the groups to the state, the role of domestic political elites, and the impact of international actors as third parties in reaching settlements and completing their implementation. These issues are significant in the case of Kosovo as well, where the corporate consociation model is in place. Therefore, the application of existing arrangements is highly complicated, posing serious challenges to the legitimacy of the state (Landau 2017; Rossi 2014). Therefore, the modification of consociationalism from the corporate model into the liberal type may offer better chances for representative democracy, serving the interest of the entire citizenry rather than ethnic elites, as a precondition to overcome ethnic separation.

## Consociational democracy in Kosovo

Similarly to other state-building missions, the international community in Kosovo has shown more interest in temporary political stability and security than in genuine democratisation and reconciliation of conflicting groups (Chesterman 2004; Tansey 2009: 109-151). After nearly a decade of international administration and failed negotiations between Kosovo and Serbia to find a long-term peaceful solution for political status, the UN Office of the Special Envoy for Kosovo came up with a comprehensive proposal of 'supervised independence' for Kosovo (Weller 2009). The plan for the future status of Kosovo contained power-sharing arrangements, as part of a broader strategy of peace-building efforts. Some basic power-sharing instruments were taken into consideration and, to a certain extent, implemented during the UNMIK protectorate (Taylor 2005). As Bieber and Keil (2009: 344) put it: "the UN introduced in 2001 a constitutional framework for Kosovo, which included power-sharing elements, such as minority representation." Therefore, the experience of Kosovo in power-sharing arrangements is a useful example to evaluate the overall impact of consociationalism in the state-building process.

Concerning electoral arrangements, Kosovo applies the proportional electoral system by open-list within a single constituency and a 5% threshold that enables representation of ethnic groups in parliament in proportion to their numbers (Law on General Elections in the Republic of Kosovo 2008). Non-majority communities (Serbs, Bosnians, Turks, Gorani and Roma-Ashkali-Egyptian [RAE] communities) have additional guarantees and an over-proportional number of twenty seats in the Assembly of Kosovo (Constitution of the Republic of Kosovo 2008: Chapter VI. Art. 63.). Furthermore, Article 64 of the Constitution states that "twenty (20) of the one hundred twenty (120) seats are guaranteed for representation of communities that are not in the majority in Kosovo".

This electoral design leaves neither space for incentives in creating multi-ethnic parties nor encourages moderate political elites oriented towards reconciliation and inter-ethnic cooperation (Cammett and Malesky 2012). On the contrary, it only reinforces ethnic division through institutionalising and consequently cementing political differences. Wise and Agarin (2017: 99-124) support this argument by examining the 2013 local and the 2014 national election in Kosovo, concluding that voting of the electorate and political parties continue to be dominated by ethnic belonging. In the first place existing political elites act as ethnic entrepreneurs, gaining legitimacy mainly from the previous conflict; secondly because the political discourse is shaped by one-sided collective memory, narratives and commemoration of the war, communities have completely opposite political goals. This results in political parties mobilising voters only among their 'own' ethnicity (Baliqi 2018; Wise and Agarin 2017).

In addition to the electoral system, the Constitution provides significant veto power to the representatives of the minority ethnic groups in Kosovo's Parliament in the constitutional amendment procedure, and in regards to vital interests of communities such as language, education and community symbols. Every amendment of the Constitution requires the approval by two-thirds of all deputies of the Assembly including two-thirds of all deputies of the non-majority communities (Constitution of the Republic of Kosovo 2008: Art. 144). Nevertheless, veto power over important decisions may undermine governance functionality and efficiency. A case in point here could be the postponement of the recent draft law on the transformation of the Kosovo Security Force into the Kosovo Army, and the new law on Higher Education, which also

requires the vote of two-thirds of the non-majority communities. Drafted in 2016 it has not yet proceeded to Parliament because of the Kosovo-Serb MPs threat of using their veto power against the amendments. The main reason behind this refusal is the dispute concerning the future status of the University of North Mitrovica, which is compatible with Serbian and but not the Kosovo higher education system (den Boer and van der Borgh 2011).

The Grand Coalition principle of consociationalism has applied to the composition of Kosovo's executive over nearly the past two decades. The Kosovo-Serbs and other ethnic group parties are commonly part of government coalitions. Since the first parliamentary elections in post-conflict Kosovo, held in November 2001, government was formed by a 'broad coalition' between different political parties, including Albanian, Serb and other community parties (Wise and Agarin 2017). As a consequence, voting occurs mainly based on ethnicity, and political representation continues to be based not on issues but merely on ethnicity (Mjekiqi & Gallagher 2015). In this context, an unintended consequence of the power-sharing arrangements is voter segregation rather than their integration, thus hindering democratisation of the party system.

Segmental autonomy, as one of the core features of consociationalism, has been applied in Kosovo partially through decentralisation and self-government at the local level (Wolff 2011). Kosovo's Constitution and the respective legal framework grants a high degree of autonomy to local governments, in different aspects of social, economic, cultural, and religious life (Bieber and Keil 2009). The municipalities in Kosovo have a wide range of authority, such as local economic development, primary health care, as well as primary and secondary education. Serb-majority municipalities were awarded 'enhanced authority' giving them new self-governing decision making power at the local level in the area of cultural heritage, higher education, and the appointment of the Police Station Commander (Burema 2013). However, instead of constituting local autonomy and self-government, the decentralisation process reinforced marginalisation of the local ethnic communities, leading to enclavisation and isolation of local populations (Dahlman and Williams 2010: 424). Segmental autonomy as territorial self-government of communities, as the case of the possibility of an establishment of the Association of Serb Majority Municipalties shows, raises several concerns including the dilemma of loyalty to the state authority; how the division of authority between central and self-government local institutions is to be regulated; and the paradox of whether this territorial accommodation is secession-inducing or secession-preventing (Cornell 2002). Other critics argue that territorial arrangements may undermine legitimacy and commitment to the state, thus exacerbating ethnic division (Erk and Anderson 2009; Mozaffar and Scarritt, 1999). However, self-government at the local level and the possibility of horizontal links between municipalities do not necessarily contravene the consociational principle. Moreover, it has been taken into account in the Ahtisaari Proposal and Kosovo Constitution (Wolff 2009). However, the extent of the authority and mandate of this eventual 'Association' and how it might affect state unity and legitimacy in the long term remain unclear.

## The role of the EU in peace and state-building

The consociational principles above discussed are also crucial components in Kosovo's state-building process. Moreover, the constitutional design is also in the spirit of consociational democracy, whereby the Republic of Kosovo is defined as a multi-ethnic

state and provides specific rights for non-majority communities. Among these accommodations provided by the Constitution is the provision that Kosovo is bilingual, Albanian and Serbian being official languages. On the other hand, the success of the abovementioned consociational features in integrating all segments in deeply divided societies depends on the democratic quality of representation rather than merely formal and institutional presence. In the past, UNMIK administration made the Serbian government in Belgrade the chief advocate for Kosovo Serbs interests, thus undermining internal dialogue and political cooperation between the Albanian and Serb communities in Kosovo. The international community tolerated this patronage of Belgrade because it was not interested in provoking open confrontation with Serbia and its allied states like Russia, China, Greece etc. The involvement of the Serbian government in the Serb-populated areas of Kosovo has effectively imposed it as negotiation power. Other factors are strong financial, social and historical dependence of local Serb communities on their kin 'homeland' as an exclusive political representative of their interests, leaving almost no room for UNMIK to overcome the Serbian role in decision-making processes about community issues. For instance, education and healthcare systems provided for the Serb population continue to be financed by and operated under authority of the Serbian government as 'parallel systems'. According to van der Borgh (2012: 37) the purpose of these institutions is not only administrative or to provide public services for local Serbs, but mostly "to strengthen the Serbian state's presence in Kosovo and to counter the international statebuilding project."

Also, this hampers Kosovo-Serbs attempts to develop their own political elites independent of the Serbian government. Even the negotiations between Kosovo and Serbia, started in 2011 through the European Union (EU) mediation and known as 'dialogue between Belgrade and Pristina,' have not significantly improved interethnic relations.[2] The reason for this lack of improvement can be found in the uncertainties produced in the negotiation process and the fact that most of the agreements are being implemented only partially, if at all (Bieber 2015). Further, both sides constantly blame each other for being destructive, followed by populist rhetoric and fearmongering about potential aggression, territorial secession or even open conflict. Meanwhile, inter-ethnic dialogue and real concerns about socio-economic conditions of local communities are ignored. According to the last survey on the Kosovo- Serbia dialogue, 76% of Albanians were dissatisfied with this process, and only 11.3% of Serbs in Kosovo claimed to be satisfied (Kosovo Democratic Institute 2018). Nevertheless, these negotiations, through EU conditionality and ongoing diplomatic pressure, have managed to dissolve Serbian 'parallel' judiciary and security systems and achieved the integration of these systems in Kosovar institutions. Further, the dialogue achieved an increase in Serb participation in local and national elections, creating premises for better integration of the Serb community in other institutions and domains of everyday life. The final results of the negotiations will determine the outcome and directions of the consociational democracy. These negotiations could significantly change interethnic relations in a positive way if an agreement is reached by opening the perspective for a truly multi-ethnic society and state legitimisation. However, if the agreement and broad political consensus fail, it might further deepen ethnic division,

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[2] The Brussels Negotiations resulted in a series of agreements, including the 'First Agreement of Principles Governing the Normalization of Relations' of April 2013 signed by Prime Ministers of both countries. This 15-points plan foresaw the disbandment of the parallel Serbian structures and incorporation into Kosovo institutions, and the creation of the Association/Community of Serb Municipalities. However, most of these agreements are being implemented partially only, if at all.

making existing consociational arrangements obsolete. In this context, the role of the EU and their enlargement policy toward the Western Balkans is crucial, not only in influencing the Serbia-Kosovo relationships but also in shaping their democratisation processes. As one of the key actor, the EU largely influences the institutional design, and thus consociational democracy in Kosovo. This is achieved by adapting Kosovo's legislation and policies in relation to communities, in harmonisation with EU standards, but also acting as an agent of Europeanisation through enlargement policies and conditionality (Potter 2017). In this sense, the consociationalism in Kosovo is affected by the role of the EU, first through their direct involvement in state-building and democratisation processes; second, through diplomatic and political pressure in the implementation of the power-sharing provisions and; finally by mediating between both communities through the Brussels negotiations.

By being present since 1999 in the international administration as one of the main pillars of UNMIK, the EU has significantly influenced post-conflict recovery and institution-building in Kosovo. Through 'Standards before Status' policy, the UN mission set European benchmarks that Kosovo must fulfil before resolving its political status, whereby multi-ethnic society and accommodation of the Serb community became one of the foremost priorities (Weller 2009). Also during the negotiations on future status, an institutionalisation of multi-ethnic society through the principles of consociational democracy appeared to be the central issue among the European mediators, led by former Finnish President Marti Ahtisaari and his deputy, Austrian diplomat Albert Rohan. The international community and primarily the EU were determined to demonstrate that it is a key actor in peace-building and is capable of contributing to conflict resolution. Or as Hehir (2007: 138) succinctly put it: "It seems therefore that Kosovo's status is too significant for the reputation of the UN and the EU to be left to Kosovars to determine." In this sense, consociationalism corresponded with European values of minority rights, multi-ethnic and democratic society, therefore it was a guideline of sorts for a status proposal. And as we already emphasised the Comprehensive Proposal for Kosovo Status Settlement included all main characteristics of power-sharing arrangements.

After the proclamation of Kosovo independence, the EU launched its largest civilian operation and Rule of Law mission, EULEX, with the main goal of developing an independent and multi-ethnic justice system, police and customs service. Moreover, the European Union also supported other Kosovo institutions and monitored implementation of consociational provisions, especially in respecting representation of non-majority communities (Bargués-Pedreny 2016). The EU followed an institution-building approach aimed at consensual settlements over the enforcement of the majoritarian principle, with the intention to develop a peaceful and multi-ethnic society that reflects European values. In other words, the European Union acts not only as a promoter and supervisor of consociational democracy but by offering integration opportunities for Kosovo also as a norm-oriented actor.

While consociationalism in its liberal version supports incentives in inventing and developing a shared identity, it does not clarify what kind of identity politics should replace the prevalent ethnic power-sharing settlements. It is also unclear to what extent these arrangements diminish ethnic cleavages and establish a collective identity. More specifically, there is a growing concern that the institutionalisation of differences can only freeze ethnic conflict. Moreover, power-sharing leaves almost no opportunity for a shared identity and the emergence of a real sense of state unity (O'

Flynn and Russel 2005). Thus, to explore identity issues and ethnic relations, the paper will elaborate on the citizenship policy in Kosovo.

## Citizenship and identity building

Under the authority of the UN Security Council Resolution 1244, Kosovo gradually began to build governing institutions, while not dealing with the legal status of the country and its citizens. Because of Kosovo's unresolved political status, during the UNMIK administration, there was no interest or incentives to regulate the citizenship issue. One of the main reasons for the neglect of this policy was UNMIK's mandate as transitional administration, leaving the political future of Kosovo unresolved. All documents issued by UNMIK have defined Kosovars only as 'residents' not as 'citizens' of Kosovo. Therefore, the citizenship issue was related to the final status and became one of the highest priorities for Kosovo policymakers. As Krasniqi (2012: 363) remarks: "Citizenship, understood as status, right, and identity, has been central to the negotiation process and the overall political and constitutional settlement in Kosovo and the state-building process since 2008."

Immediately after the declaration of independence, the Kosovo Assembly adopted the Law on Citizenship, which allows dual and multiple citizenships and does not include any ethnic, religious, or racial requirements. The Law is based on a multicultural or pluralist model that aspires to political and legal integration of diverse ethnic communities in conformity with the constitution (Van Gunsteren 1998). In line with this approach, it refers to 'communities' to include not only larger ethnic groups but also smaller and other groups, defining minorities as 'non-majority' communities. Indeed, the Kosovo Law on Citizenship regarding ethnicity is neutral, addressing only the issue of citizenship (*shtetësia, državljanstvo*). According to some constitutionalists, this policy is in the spirit of the Ahtisaari Plan for an inclusive society and reflects attempts of the international community to build a democratic and multi-ethnic state (Doli and Korenica 2013). However, its controversy lies in the fact that it defines citizens based exclusively on ethnic belonging rather than on political or civic affiliation. For instance, this legislation does not use the term Kosovar as a common denominator for all Kosovo citizens in any of its provisions. The basic provisions of the Constitution of the Republic of Kosovo (Chap. 1, Art.3) states the following: "The Republic of Kosovo is a multi-ethnic society consisting of Albanian and other Communities, governed democratically with full respect for the rule of law through its legislative, executive and judicial institutions."

On the one hand, there is a constitutional formulation that proclaims the civic character of the state. Moreover, participation and representation in political life are possible only as a member of a particular ethnicity. This inconsistency does not provide incentives by encouraging citizenship as membership or sense of belonging to the state, especially among 'non-majority' communities. Besides these conceptual ambiguities, the focal challenge to the citizenship policy is related to a citizen's commitment to Kosovo sovereignty. The lack of commitment among the Serb population, inhabiting mostly the northern part of the country, due to their contestation of the Kosovo state, is very problematic. In this context, citizenship policy and power-sharing provisions seem to be insufficient incentives for Serb social and cultural integration into Kosovo.

On the other hand, the ongoing challenge for this citizenship regime also comes from increasing ethno-nationalistic tendencies among some Albanian political forces,

opposing negotiations with Serbia, criticising the "Ahtisaarian" model of the multi-ethnic state and proposing unification of Kosovo with Albania (Landau 2017: 10-17; Krasniqi 2012: 361-364). The citizenship and identity politics in Kosovo, resulting from existing consociational provisions, do not stimulate the development of a shared identity or political community. The lack of state-centred and inclusive citizenship politics only reinforces the loyalty of citizens to their respective ethnic groups, leading to a political system which, rather than promoting diversity, has just cemented ethnocracy.

Transitional justice, dealing with the past, social cohesion, and civic education are all crucial aspects of post-conflict transformation. In this sense, moving from the ethnicity as a rigid and primordial determinant of belonging to a more open and multi-layered shared identity is not only a constitutive element of the state but also a profound contribution to the peace and democratisation process. Under existing ethnic relations and corporate consociationalism, the Kosovar society may share common citizenship, but as Smooha (2002: 424) argues, these relationships might "constitute a community, [but] lack common goals, do not feel solidarity with fellow citizens and do not have a moral commitment to the state." In other words, in a deeply divided society, it seems that the way consociational arrangements have been established is less important than whether the state can be legitimised for all communities or not. Accordingly, citizenship is a necessary link between state and society, whereby obtaining citizenship is fundamental to the state legitimacy. The citizenry, as a promoter of state identity, is not supposed to replace ethnic belonging. Its purpose is, instead, in finding common ground for communities, to manage diversity within a state and hold the society together (Kymlicka 1995). In line with liberal consociational efforts, the citizens of Kosovo may have the opportunity to develop better state-society relations. Thus citizenship raises the question of the socio-political integration and motivation of the 'we' feeling among Kosovar citizens. In this sense, Simonsen (2004: 291) recognised that:

> Nation building in Kosovo that encompasses not only the Albanians (inclusive nation-building) may seem far-fetched since majority, and minority members barely come close enough to talk anymore. However, it is useful to see nation-building as a full span of processes than what usually occurs. In such a perspective, a sense of community among citizens may be virtually absent, but there may nevertheless be structures and policies at play facilitating its development.

Concerning citizenship, citizens of Kosovo have a legal status, identification documents that facilitate international travel and representing their state when abroad, but these factors are insufficient to build strong ties between citizens and the state. Bearing in mind the *de facto* statelessness during the period of the 'parallel system' in the 1990s and *de jure* statelessness during the UNMIK administration until 2008, the citizenship regime, in the newly independent state, provides an opportunity to develop a common political body and state unity. However, it remains questionable if the citizenship policy is sufficiently effective to build and consolidate a common identity. Moreover, it is a complex process that depends on political unity, ethnic relations, social cohesion, economic perspective and other external factors. In his study on citizenship regimes, Krasniqi (2012: 360) has argued that Kosovo lacks the necessary integrative ideology to promote a certain identity within its citizenry. Thus the sense of identification with the state and its symbols is also lacking. Similar to the controversies about citizenship,

the debate about state symbols such as the flag, the coat of arms, and the anthem are politically very complex issues. The Ahtisaari Plan for Kosovo provides the following proposal, "Kosovo shall have its own distinct, national symbols, including a flag, seal and anthem, reflecting its multi-ethnic character." (Comprehensive Proposal for Kosovo Status Settlement 2007: Article 1.7). The Assembly adopted the flag immediately after the declaration of independence of Kosovo. It has a blue background, charged with a projection of Kosovo's territory and six stars above. The stars are officially meant to symbolise Kosovo's six major ethnic groups and the multi-ethnic character of the state, as defined by the Constitution (Constitution of the Republic of Kosovo 2008: Chap. I, Art. 6). The State anthem of Kosovo, titled 'Europe', was adopted by the Assembly on 11 June 2008. It has no lyrics and contains no references to any specific ethnic group, with the intention to avoid possible misinterpretations or discrimination of any community.

Contested ethnopolitical relations are often manifested in cultural and social contestation of state symbolic settings, reproducing ambiguity toward citizenship. Thus, ethnic relations and attitudes toward symbols are characterised by opposing and antagonistic views. Although Kosovo's state-building has followed an approach of multi-ethnicity and provided an inclusive citizenship policy, it is neither a nation-state of the overwhelming Albanian majority nor a civic state of all its citizens. Instead, as Landau (2017: 14-17) describes it, it is as a 'state of communities' which remains contested, and for different reasons continues to challenge the legitimacy of the state. The construction of a shared identity and enhancement of state legitimacy requires changes in the consociational framework. In the words of McGarry and O'Leary (1993: 34-5)

> Not only does the division of powers need to be renegotiated continuously as a result of technological advances, economic transformations and judicial interventions, but to maintain stability supplemental consociational practices are often required at the federal and sub-central levels of government.

Therefore, consociationalism in Kosovo based on liberal values might promote integration and empowers citizens to decide about their political representatives and institutions. One of the incentives to bridge ethnic division and to stimulate a shared community is the development of appropriate school curricula, unbiased textbooks, teacher training and student civic engagements to build trust, cooperation and to establish an inclusive and unitary educational system in Kosovo. Further, it should involve collaboration among universities in Albanian and Serb languages, faculties and study programs, exchange of academic staff and students. Other areas where communities may increasingly cooperate are in youth and civil society activities, sports, culture, media associations, and related sectors which might contribute to civic values and mutual trust, as a precondition for democracy and state legitimacy. These incentives, however, could be fruitful only if they are followed by modification of current power-sharing provisions to a more liberal and integrative model of consociational democracy.

## Conclusion

According to consociationalism, institutional representation of main ethnic groups, together with other power-sharing mechanisms, significantly reduces the conflict potential in divided societies. The consociational democracy offers, in the initial post-

conflict phase, a solid basis for the necessary cooperation between the political elites from different ethnic groups. However, broader and successive cooperation and confidence building at other social segments require more than power-sharing institutions. Consociational arrangements in Kosovo, through accommodation of the minorities, have initially solved the security dilemma, but in the long-term have created new problems in the consolidation of statehood and democracy. These problems are related to a fundamental democratic principle that it is communities and not only their elites which must share common political goals and values, since beyond political elites in Kosovo, there is little or no cooperation among Albanian and Serb communities.

As illustrated in this case study, consociationalism through institutional engineering and political arrangements contributes to reducing ethnic tensions, but it is not very helpful in overcoming contested identities or in the consolidation of a multi-ethnic society. By analysing the critical features of consociational democracy, this research concludes that power-sharing arrangements have managed conflict and successively achieved institutionalisation of political disputes of ethnic groups. However, in its current constellation, it has failed to promote inter-ethnic cooperation, reconciliation and to foster trust among communities. Consequently, it has offered limited incentives to overcome ethnic divisions and develop a shared identity through inclusive citizenship. Findings of the article indicate that the outcomes of consociational provisions to state-building and ethnic relations are significantly challenged by contesting statehood, primarily by Serbia and Kosovo-Serb thus affecting the functionality of power-sharing governance, sovereignty and deepening mistrust among ethnic communities. The involvement of neighbouring countries in domestic politics and in power-sharing arrangements seriously challenges functionality and effectiveness of consociationalism. Furthermore, ongoing negotiations between Belgrade and Prishtina have triggered ethno-nationalistic sentiments, leaving little space for a genuine multi-ethnic society and reliance on consociational democracy. In contrast to other constituent communities, participation and representation of Serbs are concentrated strictly in the political elite, with an insufficient portion at the community level. Consequently, this has hindered the development of an inclusive citizenship policy as a bond between the state and its citizens. Other weaknesses of the consociational approach include negligence in addressing the role and involvement of external actors in internal political affairs, in our case Serbia's impact on Kosovo.

This article has shown that despite implementation of consociational power-sharing arrangements, state legitimacy and citizenship remain ineffective in promoting shared identity. Instead of the pluralism of identities- in the name of multi-ethnicity, it has led to the institutionalisation of ethnic differences. As a consequence, mitigation of ethnic division was unsuccessful, and the political community has little chance to be constituted. The capability of corporate consociationalism to transform ethnic cleavages was also diminished by pre-determination of group identities through institutional accommodation, thus rewarding ethnopolitical hardliners and disincentivising cross-community cohesion and overarching identity formation. Furthermore, this article emphasises that in the long term, in contrast to the corporate type, the liberal consociationalism model has better chances of increasing state legitimacy and promoting democracy in ethnically divided societies. In the liberal consociational model, the constituent groups of society are self-determined, with identities formed as constructive and contingent. Therefore the liberal type of consociationalism, which promotes the idea that political identity should be

encouraged as an outcome of democratic processes, has a higher potential to overcome ethnic divisions and create incentives for a civic-based identity. Without long-term and comprehensive efforts to promote a shared identity, the state building process cannot be completed. A crucial role in these efforts can be played by the European Union, through a more active mediation of Serbia-Kosovo disputes but also through the enlargement and Europeanisation process. In other words, the European Union should speak with one voice and act beyond its actual normative power approach. It should use not only a 'stick and carrot' approach and diplomatic pressure to encourage political leaders of both parties to find a compromise for the final agreement but also promote business community, civil society, academic and non-governmental incentives to improve relations and trust among all communities, in the areas of economy, education, art, culture etc. Further, the EU should offer a clear membership perspective by providing extensive support for political, juridical and economic reform for all Western Balkan states through pre-accession programmes and donor projects known also as the Berlin Process. Without EU active enlargement policies for this region and concrete efforts for structural reforms and socio-economic improvements, destabilisation or even conflicts might escalate, with dramatic consequences for the whole region and the EU itself.

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