IS THERE A SOUTH TYROLEAN ‘MODEL’ OF CONFLICT RESOLUTION TO BE EXPORTED?

Joseph Marko

I. Segregation or Integration? The Main Issues Surrounding the Regulation of Conflict in the Balkans

Can South Tyrol provide a ‘model’ for the solution of ethnic conflicts? Or, put differently, what are the case-specific features to be distinguished from the more general lessons that can be learned and applied to other situations? An analysis of the South Tyrolean experiences that have accrued from decades of implementation and working autonomy might provide valuable insights beyond the state and evolution of this specific case regarding the general tendencies, potential and limits of the development of minority protection and territorial autonomy. These insights might be useful to consider with a view to the processes of transformation under way in Southeastern Europe.

The wars in the Balkans between 1991 and 2001 have generally been perceived as violent ethnic conflicts. Both the wars in Bosnia and Herzegovina (BiH) and in Kosovo could only be stopped by the armed intervention of NATO forces in 1995 and 1999, respectively. Conflict settlement devices in the case of BiH were laid down in the Dayton Framework Agreement on Peace, including in Annex 4 the ‘Constitution’ of BiH with the institutional arrangements for reconstruction and reconciliation of the war-torn state, society and economy under the supervision of both an international military presence (SFOR) and an international civil administration, the High Representative and his Office (OHR), which had to be established according to Annex 10 of the Dayton Agreement. Conflict settlement devices in the case of Kosovo were based on UN Security Council Resolution 1244, establishing full military and civilian power through an international military presence (KFOR) and the United Nations Mission in Kosovo (UNMIK) under the leadership of the Special Representative of the UN Secretary-General (SRSRG). In stark contrast to this reactive crisis management following from the military and diplomatic initiatives of the US, the outbreak of a fully-fledged war in Macedonia in 2001 was successfully prevented through the mediation of EU and US envoys and the conclusion of the Ohrid Agreement, as well as a Stabilisation and Association Agreement with the EU based upon the promise of future full membership in the EU.1

1 For an overview on these events and conflict settlement agreements in the Balkans, see Joseph
A closer look into the external and internal factors and processes of conflict resolution in the Balkans reveals a double learning curve on the part of both international and domestic political elites. First, reactive crisis management became replaced in 1999 and 2000 through the creation of the Stabilisation and Association Process (SAP) and the prospect of full membership in the EU at the European Council in Feira for the conflict-ridden societies of the now so-called ‘Western Balkan’ countries. Secondly, the treaties for conflict settlement as well as national constitutional and legal arrangements for BiH and Kosovo were inspired by Lijphart’s ‘model’ of consociational democracy through power-sharing with strict, predetermined ethnic representation of ethnic groups in the legislature and executive combined with mutual veto powers in the political decision-making processes and segmental autonomy. In contrast, the Ohrid Agreement of 2001 and the following constitutional amendments did not closely follow this pattern. Instead of ethnically predetermined, fixed political representation and veto power, there is no such constitutionally prescribed ethnic key for parliamentary seats in Macedonia but ‘only’ for the civil service and, instead of absolute veto power, only the requirement of ‘double majorities’ for certain matters of legislation that affect the linguistic and cultural identity of the ethnic communities.

It is obvious that the institutional designers of the Ohrid Agreement tried to avoid the pitfalls of strict ethnic quotas and absolute veto power, which had already become clear from the implementation of the Dayton Agreement. Instead of providing for an elite consensus to cooperate through power sharing at the state level, the strict ethnic quota system and absolute veto power for ‘constituent peoples’ in BiH ended in a blockage of the legislature that forced the High Representatives to intervene and decree the necessary laws instead of the parliament. Thus, power sharing could not establish trust and provide the necessary ‘willingness’ of political elites to cooperate or to search for a compromise, the ‘essence’ of any democratic process. Quite to the contrary, the ethno-national elites were strengthened in their attitude of ‘divide and rule’ and became more and more democratically legitimized general election after general election, since they could blame in election campaigns ‘the’ international community or the High Representative for having taken decisions that ran contrary to their electorate’s ‘national’ interests and thus present themselves as staunch defenders of the respective Serb, Croat or Bosniac peoples. It is no wonder, therefore, that the


2 See Arend Lijphart, Patterns of Democracy. Government Forms in Performance in Thirty-Six Countries (Yale University Press, New Haven, 1999); and Stefan Wolff’s analysis of the development of power-sharing models in this volume.