

How would BiH's governance system change under K-143's model?

BiH's governance would be simplified to having only two layers: municipal and state (hence "municipalization"). Voters would continue to directly elect their mayors (and would begin doing so in Brčko, Mostar, and the City of Sarajevo). But unlike the current system, in which parties assemble lists and voters choose from that list, under the proposed model, each municipality would elect its representatives directly for the state parliamentary assembly. Voters would vote for individuals, not parties. Every one of BiH's 143 municipalities would elect at least one representative; municipalities with a greater number of citizens would get more than one seat.

The state-level government would be assembled around a prime minister who would have to gain a three-fifths majority in parliament. There would be a single president with representative functions only, also elected by the parliament.

A great deal of power and resources would gravitate from the current cantons and entities down to the municipal level. Other functions would gravitate up to the state-level. These include health care, pensions, unemployment insurance, and veterans' benefits. These would be equalized throughout the territory of BiH.

What new state competences are envisioned?

The currently small state apparatus would grow, taking on many competences that are now lodged in entities or cantons, such as pensions, health care, veterans' benefits, and unemployment insurance would be centralized, ensuring equality and efficiency. Many existing ministries and agencies would be strengthened. But new state competences would include a Ministry of Agriculture, a Ministry for Environmental Protection and Tourism, a Ministry of Energy, a Ministry of Health, a Ministry of the Interior (see below), and a Ministry of Education.

What doesn't change?

While the judicial system would be unified under one state umbrella (Ministry of Justice) and the police would be unified under a Ministry of Interior, the current judicial and policing regions (ten in the present-day Federation, five in the RS, and Brčko District) would remain. Each would have a separate budget line in the Ministries' budgets.

Municipal governments would be elected as they are now, though municipal councils would grow in size to handle new competences.

How does such a system prevent any one group from dominating?

K-143's proposed model includes both indirect and direct collective protection mechanisms, at the state and local levels. These mechanisms are also directly elected by citizens, not selected from within the BiH Parliamentary Assembly or Municipal Assemblies.

Indirect Protections: Qualified majority voting for the most sensitive topics (electing or removing governments, passing budgets, changing rules of procedure, etc) would require a three-fifths majority. This would prevent any one group from dominating. In addition, the eight most senior offices in the country (Prime Minister, President, Speaker of the Parliamentary Assembly, Speaker of the Council of Peoples, Chief of the Supreme Court, Chief of the Constitutional Court, Chief Prosecutor, and Chair of the Association of BiH Municipalities) would be evenly distributed among Bosniaks, Croats, Serbs and Others/National Minorities – no group could hold more than two.

Direct Protections: A Council of Peoples, consisting of five of each constituent people and five others/national minorities would be directly elected from a single unit throughout BiH. Each citizen would be able to cast one vote for the member of his/her choosing; the top five finishers will be elected. This body will not legislate. Its role is to act as a watchdog over legislation from the BiH Parliamentary Assembly to

ensure that constitutionally defined Vital National Interests are not infringed. A majority of any single caucus (3 of 5) can raise such an objection. In this case, the two bodies attempt to reconcile the issue within a set period of time. If this is impossible, a specialized panel of the BiH Constitutional Court will decide as a matter of law if the objection is valid.

A similar body, the Council for Intercommunity Relations (CICR), would be elected at the local level, with similar powers. It also will have final recourse to the Constitutional Court.

How can centralization in Sarajevo be prevented?

Government ministries and agencies can be located on a rational basis, including outside the capital. To a certain extent, this has already occurred. This would allow for state government jobs to be located in urban centers throughout BiH.

How does this system ensure equality for Croats?

The municipalization system would increase the leverage of Croat-majority communities, both in their governing powers at the local level, and their representation at the state level. All Croats, regardless of where they live in BiH, would be able to elect MPs to directly represent their local and collective interests in the BiH Parliamentary Assembly. Based on raw census results, municipalities with a Croat majority would elect 15-16% of overall seats. Furthermore, Croats will elect an equal number of members of the Council of Peoples (5) as Bosniak, Serbs, and Others/National Minorities. If a majority – 3/5 – of Croat members of this body object to a piece of legislation emerging from the Parliamentary Assembly based on Vital National Interest provisions, the legislation must be reconciled with the Croat caucus within 45 days. Should this prove impossible, a VNI panel at the Constitutional Court, with equal members of each group, will review the objection and rule, based on

the constitutional definition of Vital National Interest. In sum, it would be impossible to “majorize” Croats on Vital National Interests.

How is this system better for BiH Serbs than the Republika Srpska?

The Republika Srpska is certainly more simply constructed than the Federation. Yet why does it have a lower per capita income than the Federation average, a poorer safety net and public services, and higher per capita debt than the Federation? Why have RS municipalities remained more poorly funded, despite not having cantons to absorb resources, which might otherwise come to them?

The answer is that the RS is no more citizen-centered than the Federation; its centralization without representation allows the leadership to allocate public resources at a whim. To be sure, the Federation has many problems; there are more pockets to fill, for one thing. But the competition among political forces at least leaves citizens more room to maneuver. This is one reason protests against bad governance which erupted in the Federation were not mirrored in the RS, despite even higher levels of popular dissatisfaction.

The municipalization system would ensure that Serbs throughout BiH – including in eastern Bosnia, eastern Herzegovina, and western Bosnia (Drvar, etc) would have direct representation at all levels of government power. Serbs would also benefit from the additional passive ethnic protection mechanism of their mass in the Parliamentary Assembly – 43% of the seats drawn from municipalities in the present-day RS. With qualified majority voting on the most contentious issues, any perceived threat to Serb collective interests could be neutralized before even reaching the Council of Peoples. Municipalization would give communities in the present-day RS an unprecedented level of local authority.

Municipalization, with its unification of the social safety net and many public services, would also benefit today's RS residents a great deal.

Per capita government spending would rise 22% for those living in the RS. Furthermore, there would be equality of service provision for the first time in over two decades.

For those who view the Republika Srpska as a metaphysical good – that it is its own reward – no alternative system will hold any allure. But as a practical matter, in terms of direct political accountability, control, functionality, improved public services, and potential for economic growth, a municipalized BiH would undoubtedly be better for citizens of today's RS than what they have.

How would this system work for Bosniaks?

The current governing system is a perverse sort of asymmetrical ethno-territorialism. So long as this logic remains, there will continue to be gravitation for ethnic separatism and dissolution. Bosniaks are not immune to this; ever since the war there have been those who have advocated (often presenting it as a fallback or defensive move) for a “fildžan Bosnia” or Bosniak national state. State dissolution could not be peaceful. And even were it peaceful, it is more than likely that a nationalist elite would dominate.

A municipalized Bosnia would first and foremost defuse the ethno-territorial disintegrative forces in BiH, ensuring the continuation of a unified country. At the same time, local self-government and collective protections would improve the prospects for public employment of those who wish to live where they are now a minority. The devolution of power to the local level, with adequate resources, would allow municipalities outside the capital to develop more effectively.

What if I am a Bosnian, Herzegovinian, National Minority, or some “Other”? Where do I fit in?

A municipalized BiH would finally guarantee legal and practical equality to all citizens, however they self-identify, including all types of

“Others” – e.g., simply anyone who does not identify as one of the constituent peoples. There would be no more incentive to declare as a member of constituent people, regardless of one’s own identity. All public offices would be open to all citizens. Furthermore, “Others” would have equal collective protections to the constituent peoples. There would be an incentive for all who do not identify as “B, C or S” to align to protect against any efforts to re-ethnify the system.

How would this system change the nature of politics in BiH?

While the municipalization model is designed to appeal the citizens from their current vantage point, and aims to neutralize Serb and Croats fears of domination, the incentives in the system promote interest-based politics and integration. Already in BiH, local governments have cooperated across political and ethnic lines, most recently in the May 2014 flood emergency. Without the jurisdictional and political barriers that attend the Dayton system, this would surely increase, based on rational self-interest. So while the collective protection mechanisms are in place and robust, the logic of the system is such that they would probably be only rarely employed. Interest-based politics would have the edge over ethnic fear mongering, given the solidity of these collective protections.

Furthermore, the lack of intra-party democracy that almost every political party exhibits would be changed by the incentives in the municipalization model. “Democratic centralism” around a single party leader who decides on party lists, etc, would no longer be tenable. Locally elected mayors and MPs would demand greater say in developing party platforms, positions, and choosing party leadership. This would allow BiH's *actual* democratization, moving away from the pseudo-democratic oligarchic system that currently functions.

How easily could a municipalized BiH integrate with the rest of Europe?

Quite easily, if that is what citizens of BiH want. The municipalization model was designed to be fully compatible with BiH's standing international obligations as a member of the Council of Europe and OSCE, as well as its avowed aspiration to join the European Union and NATO. Current hurdles, such as the need to comply with the European Court of Human Rights' Sejdić-Finci ruling of 2009 and the EU's demand for a "coordination mechanism" to ensure BiH could "speak with one voice" in its dealings with Brussels would be obviated – those solutions are built-in. The "European path," long stalled because BiH politicians really do not want to have to meet EU standards for their own personal and political interests, would finally be clear again. Once the system is in place, the process could finally move forward steadily, and BiH can begin to make up for lost time. In addition, the model would finally allow BiH to comply with the Council of Europe's requirements for adherence to the Charter on Local Self-Government, and for the OSCE's demand that votes be of equal weight throughout BiH.

What does this system mean to me as a taxpayer?

Presently, the multiple layers of governance and high levels of taxation deliver little value for money and considerable opportunities for corruption and misuse of public funds for private gain. The political accountability built into a municipalized governance system would give taxpayers unprecedented leverage over decisions over allocation of public resources, levels of taxation, where to direct public investment, and so on.

What does this system offer me as an entrepreneur or business owner?

The current political system relies on patronage and extortion from businesses through arbitrary regulation, licensing, etc. Under municipalization, BiH would be unified as a single economic space. The ability of political leaders to extort support (even membership) from

businesses under pain of punitive taxes or regulation would be radically reduced. The political accountability built into the system would support investment, growth, and job creation.

What does this mean for public services?

Public services now are subdivided into small jurisdictions without the benefit of economies of scale. Furthermore, there are gross disparities between jurisdictions in BiH in terms of these services. The municipalization model would ameliorate these differences, allowing for improved public services as well as equality among citizens.

There is nothing in here for the current political elites. How can we make it happen?

There is no question that the BiH political establishment and many of those employed in administration will see this model as a threat to their interests. K-143 aims to generate a popular constituency – a critical mass of citizens drawn from each self-defined group of people in society – to advocate municipalization as a solution. Only then – with concerted popular pressure from below and external pressure and support from outside – is this goal possible to achieve. Recognition of this reality is why K-143 is approaching citizens directly, rather than attempting to convince politicians.

Could current politicians adapt? How about those employed in public administration?

It is hard to imagine many of the current political party leaders taming their egos and ambitions to run for parliament in their local communities, though they certainly could. However, many of those in political parties, even political office, whose ambitions have been stifled by the current system would find avenues open to try to attract voter support as representative politicians. Above the mayoral level, this is impossible in the current system. Even more importantly, many

upstanding citizens who have avoided political engagement because they have concluded that it is inherently corrupt (and corrupting), might be enticed to enter to public arena.

The same goes for those currently employed in what in the current system can only be euphemistically called “public service.” While entity and cantonal offices would close, their competences will shift either to the local or state level. The services and duties of government will continue, there will be many new positions opened for hiring. People will have to apply for positions in new or expanded public authorities. This is an opportunity for the BiH public and taxpayers to ensure that public servants are qualified for their jobs – a task impossible under the current order.

The main resisters of change will be those who have grown all too comfortable in the current system.

Where did the municipalization idea come from? Who is K-143?

Contrary to the attempts to scare citizens which will surely emerge, this model is not the product of a foreign plot, nor can it be imposed from the outside. The only way it will ever be adopted is if a majority of each self-defined group of BiH citizens decides it would work for them and actively supports it in the public arena.

The municipalization model was inspired by ideas emerging from mayors in BiH who saw the 2005-6 discussion about constitutional reform as an opportunity to ensure greater local self-government and control. The authors of the model, the Democratization Policy Council’s Kurt Bassuener (US) and Bodo Weber (Germany), undertook a wide-ranging research effort to inform their development of a governance model which they believe can attract wide public support throughout BiH, as well as meet the country’s aspirations to reintegrate with Europe.

Coalition 143 (K-143), so-named because BiH has 143 municipalities, is the culmination of an effort to develop a civic advocacy cadre for the municipalization concept. It is led by the Center for Civic Cooperation in Livno (CGS), and also includes the new Center for Constitutional and Governance Studies (CUUS), the European Research Center (EIC) and the Public Interest Advocacy Center (CPI).

K-143 aims in the coming year to build a broad popular coalition of individuals and organizations to advocate municipalization as a solution for BiH's disempowered citizens, allowing the people of BiH for the first time to assert popular control over their destiny.



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