

ELECTORAL RULES AND THE REPRESENTATION OF ETHNIC MINORITIES IN POST-COMMUNIST DEMOCRACIES

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I. INTRODUCTION

The way ethnic minorities are included in the democratic process heavily affects interethnic relations. Electoral rules have a major impact on the inclusion of minorities in political life. Even though electoral systems might seem at first quite similar across all the 20 democracies of Central and Eastern Europe—namely with a steady trend towards more-proportional representation (PR)—they importantly differ with regards to the rules that allow or hinder the representation of parties of ethnic minorities.

How do the electoral rules applied in post-communist countries in Europe affect the representation of ethnic minorities? This article compares this aspect of electoral systems in Central and Eastern Europe during the period of 1990 to 2007 and evaluates their effect on minority representation according to three core criteria:¹ First, it looks at electoral laws with a focus on possibilities or guarantees of the representation of ethnic minority parties in parliament.² Second, it discusses whether

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¹ The analysis includes all post-communist countries in Europe, except for Belarus, that did not have reasonably free and fair elections in the period of investigation. This is namely Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Kosovo, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Poland, Romania, Russia, Serbia, Slovak Republic, Slovenia, Ukraine. The countries of the Federal Republic of Yugoslavia are only included in their democratic period (Kosovo after 2001, Montenegro after 1998, Serbia after 2000). They are considered to be independent democracies, given that there were no more elections to the common federal parliament in this time and they all developed *de facto* their own political system and party system.

² Ethnic minorities are all numeric minorities in a country with an own ethnic identity. The term 'ethnicity' refers here to the self-definition or social definition of social groups that are considered to have common roots in history. Often, ethnic groups are distinguished by common characteristics such as religious beliefs, language, cultural habits or race, even if such characteristics are often socially constructed. Thus, I consider all numeric minorities that consider themselves to have their own ethnic identity, regardless of whether they are officially recognized, as ethnic minority, or not. In the case of Bosnia, all three 'constitutive people' fall under this definition of an ethnic minority, because each of them composes less than 50% of the population.

For the present study, ethnic groups are identified based on data included in national censuses and alternative reports from human rights organizations and academia. Database described in Daniel

these rules require an ethnically based identification of voters, parties or candidates. And third, it sheds light on electoral laws that encourage the election of multiethnic parties.

These three dimensions are particularly salient because they reflect the main conflict points of an ongoing debate about which political systems work best for divided societies. Some scholars argue that each communal group should be guaranteed its own political representation on a proportional basis.³ Others advocate institutions that promote political parties that represent the common interests of all citizens, bridging cultural divides.⁴ Central and Eastern Europe is particularly interesting in this debate because the electoral rules vary widely.

To show the different effects of electoral laws on the inclusion of ethnic minority representatives, I go far beyond the major part of the literature, which reduces electoral rules to PR versus majoritarian systems.⁵ I particularly consider the little-studied aspect of territorial divides and their joint effect with electoral rules. The same electoral rules have different consequences for groups of voters that live in a small area—which is often the case for ethnic minorities—and for groups that are spread throughout a territory. So far, the literature on electoral systems and minority representation has only devoted minor attention to these aspects.⁶

Bochsler, "Electoral engineering and inclusion of ethnic groups. Ethnic minorities in parliaments of Central and Eastern European countries", in *Compass Working Paper* (2006). The inclusion of very heterogeneous sources makes me confident that I have identified the most relevant groups that are associated with an ethnic identity.

³ Arend Lijphart, *The Politics of Accommodation. Pluralism and Democracy in the Netherlands* (University of California Press, Berkeley/Los Angeles, 1968).

⁴ Among others, Donald L. Horowitz, *Ethnic Groups in Conflict* (University of California Press, Berkeley, Los Angeles, London, 1985); Benjamin Reilly, *Democracy in Divided Societies. Electoral Engineering for Conflict Management* (Cambridge University Press, Cambridge, 2001).

⁵ Maurice Duverger, *Les partis politiques* (Colin, Paris, 1951); Douglas W. Rae, *The political consequences of electoral laws* (Yale University Press, New Haven, London, 1967).

⁶ Wilma Rule and Joseph Zimmerman (eds.), *Electoral Systems in Comparative Perspective. Their Impact on Women and Minorities* (Greenwood Press, Westport, 1994); Pippa Norris, *Electoral Engineering. Voting Rules and Political Behaviour* (Cambridge University Press, Cambridge, 2004); Donald L. Horowitz, "Electoral Systems: A Primer for Decision Makers", 14 *Journal of Democracy* (2003), 115–127; Reilly, *op.cit.*, note 4; Matthew Soberg Shugart, "Minorities Represented and Unrepresented", in Wilma Rule and Joseph Zimmerman (eds.), *Electoral Systems in Comparative Perspective. Their Impact on Women and Minorities*, (Greenwood Press, Westport, 1994), 31–41; Pippa Norris, "Ballots Not Bullets: Testing Consociational Theories of Ethnic Conflict, Electoral Systems, and Democratization", in Andrew Reynolds (ed.), *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*, (Oxford University Press, Oxford, 2002), 206–247.

First, I discuss the electoral systems from a theoretical perspective. Then, for the first two criteria, I document my considerations with the success of ethnic minority parties⁷ under electoral laws, which *de jure* and *de facto* allow ethnic minority parties to access parliaments.⁸ or,. In contrast, under electoral systems that exclude minority parties *de facto* from running for office, there is no case in which a minority party has entered parliament (apart from alliances with major parties). However, under an unfavourable electoral law, usually no minority party would even be created, or otherwise it would refrain from running for office, because a non-success can be anticipated.⁹ Finally, I show that the third discussed aspect—incentives for multiethnic parties—is very rare in Central and Eastern Europe.

Despite the salience of ethnic minority inclusion on the political agendas and the institutional variety that can be found in the region, the impact of electoral rules for the inclusion of ethnic minorities in the new democracies in Central and Eastern Europe is a little-studied field. Juberías, Toplak and Moser have argued that different electoral systems might make a major difference in the performance of ethnic minority parties in this region. Kostadinova has shown that, in this particular region, ethnic minority

⁷ The definition of an ethnic minority party relies on Donald L. Horowitz, *op.cit.*, note 4, at 291. This excludes parties that claim to represent the interests of an ethnic minority, but in reality, neither get their votes (or only a small part of the votes) from members of this minority, and furthermore, their main political goal is different from representing such a minority. Such a party has alleged to represent an unknown group of Slav Macedonians in Romania in order to profit from institutional rules that were favourable for ethnic minority parties. The case is described in Ciprian-Calin Alionescu, "Parliamentary Representation of Minorities in Romania", 5 *Southeast European Politics* (2004), 60–75.

Furthermore, the definition does not include parties that appeal to all ethnic groups and have a program that is friendly towards the member of one or several ethnic minorities.

⁸ Further, I look at non-partisan candidates who belong to the relevant ethnic minority group. Especially in special minority districts, often non-partisan candidates are elected to parliament.

⁹ We know, however, that causal inference relies both on positive as well as negative cases of our dependent variable. James Mahoney and Gary Goertz, "The Possibility Principle: Choosing Negative Cases in Comparative Research", 98 *American Political Science Review* (2004), 653–669; Gary King, Robert O. Keohane, and Sidney Verba, *Designing Social Inquiry. Scientific Inference in Qualitative Research* (Princeton University Press, Princeton, NJ, 1994). With regards to political parties, Simon Hug, "Studying the Electoral Success of New Political Parties. A Methodological Note", 6 *Party Politics* (2000), 187–197; Simon Hug, "Selection Bias in Comparative Research: The Case of Incomplete Data Sets", 11 *Political Analysis* (2003), 255–274.

For the research problem addressed in this article, negative cases are usually not directly observable because parties that lack any chance to win mandates in parliament do not even try to compete. Negative cases are those in which minority parties either fail in elections or do even not compete. Accordingly, my hypotheses are confirmed if, under permissive electoral systems, minority parties are created, whereas under restrictive electoral systems, minority parties either fail in elections or do not compete. I illustrate my theoretical expectations about permissive electoral systems with positive cases. All positive cases (*i.e.*, minority parties that won mandates in parliament) are listed in the appendix. My hypotheses can be confirmed if no minority parties win seat in parliament under restrictive electoral systems. For the study on which this article relies on (*op.cit.* Bochsler, note 2), tests of the hypotheses were carried out with a formal testing procedure using Boolean algebra.

parties tend to get fewer mandates under mixed electoral systems compared with PR.¹⁰

I attempt to shed some light on the electoral laws of 20 post-communist countries in Europe, with a particular focus on minority representation. I investigate whether the electoral rules allow the access of minority parties or minority organizations to parliament, whether and how they discriminate (positively) against ethnic minorities, and whether they encourage multiethnic parties, before concluding.

II. RULES THAT MATTER: THE TOOLBOX FOR ELECTORAL ENGINEERING

There is a wide consensus that the inclusion of minorities in political responsibility can help to prevent the fuelling of ethnic conflicts.¹¹ Several ways and arenas exist in which ethnic minorities can be included in political processes. The view prevails that only comprehensive solutions can guarantee minorities autonomy and political impact at different levels and reduce the potential for conflicts in divided countries:

The successful establishment of democratic government in divided societies requires two key elements: power sharing and group autonomy. Power sharing denotes the participation of representatives of all significant communal groups in political decision making, especially at the executive level; group autonomy means that these groups have authority to run their own internal affairs, especially in the areas of education and culture.¹²

Although *group autonomy* might be implemented as territorial autonomy (if minorities live in concentrated areas) or cultural autonomy (if they live spread out), this article will concentrate on the first aspect, the inclusive form of decision making, and focus on the *national parliaments*. Even in countries that have accorded their minorities certain possibilities of self-determination, this does not eliminate the

¹⁰ Carlos Flores Juberías, "Post-Communist Electoral Systems and National Minorities: A Dilemma in Five Paradigms", in Jonathan P. Stein (ed.), *The Politics of National Minority Participation in Post-communist Europe*, (M.E. Sharpe, Armonk, 2000), 31–64; Jurij Toplak, *Impact of Electoral System on Ethnic Minority Representation* (2001), at <www2.arnes.si/~ljinv16/pakt/inputs/014.htm>; Robert G. Moser, "Ethnicity, Elections, and Party Systems in Postcommunist States", in Zoltan Barany and Robert G. Moser (eds.), *Ethnic Politics after Communism*, (Cornell University Press, Ithaca, NY, 2005), 108–139; Tatiana Kostadinova, "Ethnic and women's representation under mixed election systems", 26 *Electoral Studies* (2007), 418–431.

¹¹ Among others, Arend Lijphart, "Constitutional Design for Divided Societies", 15 *Journal of Democracy* (2004), 96–109; Arend Lijphart, *Patterns of Democracy. Government Forms and Performance in Thirty-Six Countries* (Yale University Press, New Haven, 1999); Norris, "Ballots Not Bullets: Testing Consociational Theories of Ethnic Conflict, Electoral Systems, and Democratization"; Horowitz, *op.cit.*, note 4; Larry Jay Diamond, *Developing Democracy: Toward Consolidation* (John Hopkins University Press, Baltimore, 1999).

¹² Lijphart, *op.cit.*, note 11, at 97.

demand to be represented as well in the ordinary, non-ethnically based, national institutions. This is where the electoral system used for national parliamentary elections makes a crucial difference. However, it is debatable what the best-suited electoral system for this is.

The power-sharing school advises the use of *permissive* electoral institutions, such as PR with large electoral districts. They enable all significant ethnic groups in a country to win seats in parliament, at least proportionally to their electoral strength in the country. Majoritarian systems are seen as not appropriate.¹³

If any generalization about institutional design is sustainable, given the bloody outcomes of countless political systems that appeared to exclude major cleavage groups from power, it is that majoritarian systems are ill-advised for countries with deep ethnic, regional, religious, or other emotional and polarizing divisions.¹⁴

Contrasting this simplified view, I argue that electoral engineers rely on a much wider toolbox than the commonly discussed duality of PR versus majoritarian systems. Many elements specifically allow the inclusion of small parties of ethnic minorities. For instance, ethnic quotas guarantee ethnic minorities the access on electoral lists, or they sort out mandates that are reserved for minorities. Other tools of electoral engineering are lowered electoral thresholds for parties or organizations that represent ethnic minorities or special, non-territorially-defined electoral districts in which voters who declare to belong to a certain ethnic group can vote.¹⁵ Specific rules that make the electoral system for minority parties more permissive have been applied in many different forms and are also used in different countries of investigation (they will be presented more in detail below).

¹³ Actually, in contexts where minority groups live strongly concentrated in a small area, they would easily get access to parliament under majoritarian rules too (see discussion below). Nevertheless, most power-sharing scholars stick to PR.

This view would be supported by Taagepera, who argues that even if an ethnic minority would win seats in parliament in a majoritarian system, due to its numeric dominance in one or several electoral districts, this still allows it to participate in government, namely, because in majoritarian systems, often one only party, representing the ethnic majority, controls a majority of seats in parliament, and they do not need any junior partner. Rein Taagepera, "Beating the Law of Minority Attrition", in Wilma Rule and Joseph Zimmerman, F. (eds.), *Electoral Systems in Comparative Perspective. Their Impact on Women and Minorities*, (Greenwood Press, Westport, 1994), 235–245.

¹⁴ Diamond, *op.cit.*, note 11, at 104.

¹⁵ One of the best overviews over special rules for the election of ethnic minorities is given by Arend Lijphart, "Proportionality by Non-PR Methods: Ethnic Representation in Belgium, Cyprus, Lebanon, New Zealand, West Germany and Zimbabwe", in Bernard Grofman and Arend Lijphart (eds.), *Electoral Laws and Their Political Consequences*, (Agathon Press, New York, 1986), 113–123.

Permissive electoral systems will allow the expression of all major cleavages, and they guarantee the representation of ethnic minorities corresponding to their share of the population if they vote for their own parties (descriptive representation). The entry of minority parties into parliament does not yet guarantee their inclusion in decision making, but at least it enables them to engage in parliamentary debates. In some occasions, they might be included in governmental coalitions, either based on rules that guarantee the inclusion of minority parties into cabinets, or because minority parties might be needed in order to build a parliamentary majority.

The literature of political science is, however, quite controversial on the question of whether ethnically based parties are good for democracy or whether they lead to elections that rather resemble ethnic censuses. Instead of all-inclusive solutions that are good for all communal groups, democracy is based on ethnic sectarianism, where the ethnic conflict is resolved through quotas. This is why the concept has not remained undisputed:

[...] some systems place a premium on hostile, ethnically chauvinistic appeals for votes, while others advantage those parties that take an accommodating, multi-ethnic stance. If sensitivity to context is maintained, the electoral system can be crafted to minimize the polarization of politics along communal lines and to encourage multi-ethnic movements that include minorities as substantive elements. At the very least, the electoral system should not accentuate religious, language, regional or cultural divides.¹⁶

As an alternative to the idea of proportionality and quota, a number of scholars advocate a model that—as they expect—might reduce the potential for elections solely on ethnic grounds. Instead, it helps to elect moderate candidates that address the interests and needs of the whole society and contribute to interethnic conciliation.¹⁷ Their proposition is mainly built around the alternative vote (AV). Compared with often-used electoral systems such as PR or to the plurality vote, AV provide candidates at the centre of the political spectrum a better chance of being elected. It is a special form of the majority vote in single-seat districts. Instead of only indicating their favourite candidate, voters rank the candidates according to their relative

¹⁶ Andrew Reynolds, "Electoral systems and the protection and participation of minorities", (Minority Rights Group International, 2006), 4. A reconsideration of this argument is suggested by John Ishiyama, "Do Ethnic Parties Promote Minority Ethnic Conflict?" 15(1) *Nationalism and Ethnic Politics* (2009), 56-83.

¹⁷ Reilly; Horowitz, *op.cit.*, note 4; Reynolds; Horowitz, *op.cit.*, note 6.

preferences. If none of the candidates reaches 50% of the first preferences, then the candidate with the lowest number of votes drops out, and her votes are re-allocated to the second preference of her voters. This procedure is iterated until a candidate obtains a majority of the votes. Whereas PR, candidates will often try to attract a maximum of votes from their own ethnic group, candidates might be incited under AV to strive for second-choice votes. Moderate candidates might collect second preferences of radical voters, so that candidates might move towards the centre.¹⁸ Alternatively, the single-transferable vote is recommended. It is the PR version of a preferential voting system, similar to the AV.¹⁹

Recent work has proposed new solutions for ethnically divided societies, such as the power-division concept. In institutional key aspects, it resembles the power-sharing approach, relying on many veto points and the decentralization of power at the regional level and with agencies, and advocates limited government, a strong civil society and civil rights protection, however not addressing the electoral system directly.²⁰ Chandra argues that democracy is destabilized by institutions that restrict ethnicity to a single ethnic dimension, whereas party systems with multiple dimensions of ethnic identities—as in the case of India—allow alliances across cleavages.²¹

II. *The Basic Electoral Systems in Central and Eastern Europe*

Although the rules that are relevant for the election of ethnic minority representatives vary widely among the 20 post-communist democracies in Europe, as will be shown

¹⁸ Benjamin Reilly, "The Global Spread of Preferential Voting: Australian Institutional Imperialism", 39(2) *Australian Journal of Political Science* (2004), 253–266; Andrew Reynolds, Ben Reilly, and Andrew Ellis, *Electoral System Design: The New International IDEA Handbook*. (IDEA, Stockholm, 2005), 47–51. For limits of the approach, see among others Jon Fraenkel and Bernard Grofman, "A neo-Downsian model of the alternative vote as a mechanism for mitigating ethnic conflict in plural societies", 121(3–4) *Public Choice* (2004), 487–506; Jon Fraenkel and Bernard Grofman, "Does the Alternative Vote Foster Moderation in Ethnically Divided Societies? The Case of Fiji", 39(5) *Comparative Political Studies* (2006), 623–651; Jon Fraenkel and Bernard Grofman, "The Failure of the Alternative Vote as a Tool for Ethnic Moderation in Fiji. A Rejoinder to Horowitz", 39(5) *Comparative Political Studies* (2006), 663–666; and replies in Donald L. Horowitz, "The alternative vote and interethnic moderation: A reply to Fraenkel and Grofman", 121(3–4) *Public Choice* (2004), 507–516; Donald L. Horowitz, "Strategy Takes a Holiday. Fraenkel and Grofman on the Alternative Vote", 39(5) *Comparative Political Studies* (2006), 652–662.

¹⁹ Reilly, *op.cit.*, note 4.

²⁰ Philip G. Roeder, "Power Dividing as an Alternative to Ethnic Power Sharing", in Philip G. Roeder and Donald Rothchild (eds.), *Sustainable Peace. Power and Democracy After Civil Wars*, (Cornell University Press, Ithaca, NY, London, 2005), 51–82.

²¹ Kanchan Chandra, "Ethnic Parties and Democratic Stability", 3(2) *Perspectives on Politics* (2005), 235–252.

below, the basic aspects of the electoral systems are fairly similar.²² After some countries had used majoritarian rules in the first years of their transition to democracy, all countries switched to PR for all, or at least for a substantial part of their parliamentary seats. They apply medium-sized or large electoral districts, and in some cases, seats are even allocated in a single, nationwide district, or with *de facto* equivalent rules.²³ In many cases, a legal electoral threshold between 2.5% (Albania) and 7% (Russia) requires parties to win a minimal share of the national total of votes to be included in the seat-allocation process. In the mixed electoral systems applied in a few countries (Albania, Hungary, Lithuania, and earlier applied in Bulgaria, Croatia, Macedonia, Russia and Ukraine), one part of the parliamentary seats is allocated in single-seat districts, whereas the other part is accorded by PR. Albania applies a German-style quasi-proportional mixed system, in which 70% of the seats are allocated in single-seat districts, but the other 30% should compensate for (small) parties that do not win a proportional seat share in the single-seat district part.

In the following sections of this article, I will analyze the effect of electoral rules on the representation of ethnic minorities and explain more-accurately particular aspects of electoral systems that are important in regard to this question. The analysis is structured around the three criteria that have been outlined above; namely, whether electoral rules allow minority parties to get access to parliament; the ethnic identification of voters, candidates or parties; and finally, the incentives for multi-ethnic parties.

III. ACCESS OF MINORITY PARTIES TO PARLIAMENT

The first criterion is closely linked to the idea of the power-sharing school of thought of including ethnic minorities in all relevant political authorities, also into legislative bodies. Power sharing does not prescribe, however, a clearly predefined institutional order; on the contrary, Lijphart himself stresses that power-sharing solutions “show enormous variation”.²⁴

For the discussion of the first aspect of this study, I analyze the main instruments of electoral systems that are relevant for the representation of ethnic minorities, and their

²² For details, see Sarah Birch *et al.*, *Embodying Democracy. Electoral System Design in Post-Communist Europe* (Palgrave, Houndmills, Basingstoke, 2002).

²³ In Bulgaria and Romania, electoral districts exist on the paper, but for the seat allocation, votes are summed up nationally, and the number of seats allocated to a political party is proportional to its national vote share. Bosnia has similar rules, but the seat allocation occurs *de facto* at the level of the two entities. Other countries applied similar systems earlier.

²⁴ Lijphart, *op.cit.*, note 11, at 99.

consequences. Although the arguments have been tested systematically on empirical data in an earlier study, I aim to show the impact of electoral systems theoretically and analyze the electoral systems applied in Central and Eastern Europe, based on my database.²⁵ Table 1 gives an overview of the regulations discussed in this section, classifying the rules that apply in the 20 democracies in Central and Eastern Europe and how they affect the possibilities of ethnic minority parties getting elected to the first chamber of the national parliaments.

Table 1: Electoral laws and the possibility of ethnic minorities getting represented by their own parties²⁶

Type	Countries (election years)
Countries with a legal ban on minority parties	Albania, Bulgaria
Countries in which (some) minorities are <i>de facto</i> excluded from their own representation because the legal national threshold is too large to pass	Czech Republic, Estonia, Latvia, Montenegro, Moldova, Serbia (–2003), Slovakia, Ukraine (2006), Russia (2007) Only for PR mandates: Hungary, Lithuania, Russia (1993–2003), Ukraine (1998, 2002), Macedonia (only in 1998)
Countries in which (some) minorities are <i>de facto</i> excluded from their own representation because the districts are too small for (some) non-concentrated minority groups	Croatia, Macedonia, Slovenia Only for single-seat district mandates: Hungary, Lithuania, Russia (1993–2003), Ukraine (1994–2002), Macedonia (only in 1998)
Countries with special rules providing for representation of some minorities	Croatia, Montenegro, Slovenia
Countries with special rules providing for representation of all relevant minorities with their own representatives	Kosovo, Romania
Countries that do not apply any thresholds for parties representing minorities	Poland, Serbia (2007–)
Countries that allow the representation of all minority groups without application of special rules	Bosnia

Note. First democratic multiparty elections are not considered.

²⁵ Bochsler, *op.cit.*, note 2.

²⁶ Source: Database Bochsler, *op.cit.*, note 11.

A. *Proportional Representation, Majority Vote, Electoral Districts, and the Geographical Structure of Ethnic Groups*

Research on electoral systems identifies a few central aspects of electoral laws that make a crucial difference in the development of party systems. The initially studied dichotomy of PR versus majoritarian systems²⁸ has later evolved in a more comprehensive view on the impact of the number and size of electoral districts. Still, the main focus is on the distinction between *permissive* and *restrictive electoral systems*. Permissive systems, namely PR with large electoral districts, allow descriptive representation of all relevant political groups of a country. Under restrictive systems, such as plurality or majority vote (“winner takes it all”), only large parties can survive, and the party system usually consists only of two (or very few) parties. Many of the contributions on the consequences of electoral systems for ethnic minorities and their parties have relied on the distinction between more-*restrictive* and more-*permissive* systems.²⁹ This appears not unproblematic. Although the typical elements of the permissiveness of electoral systems—the electoral formula, number of districts and magnitude—seem to apply to the chances of many other social divisions of getting represented in the party system, this is not necessarily said in the peculiar case of ethnic minorities.

In many countries, ethnic groups are at least in parts territorially segregated, and ethnic minority groups often live in rather small areas. The territorial structure of the vote, however, plays a crucial role for the political effect of electoral systems. Plurality and majority systems and PR with small districts are considered as restrictive, because they reduce the number of serious competitors to two or very few parties *within electoral districts*. In a plurality or majority system, a party needs up to half of the votes in order to win a seat. In PR systems with small districts, only the largest parties have a chance to win seats. As a consequence, such restrictive electoral rules exclude small social groups and their parties, which do not have enough supporters to pass the *de facto* threshold of up to half the votes, from parliamentary representation.³⁰

²⁸ Duverger, *op.cit.*, note 5.

²⁹ Wilma Rule and Joseph Zimmerman; Pippa Norris; Donald L. Horowitz; and Benjamin Reilly, *op.cit.*, note 6.

³⁰ For this reason, restrictive electoral systems hinder new social conflicts from getting manifested in the party system. It is thus no wonder that, different from other European countries, Green parties in European democracies with majoritarian electoral systems have remained marginal. If they had

Parties of ethnic minorities (usually) underlie the same electoral rules as other small parties, but they often have the advantage that their electorate is concentrated in a small territory. This makes a crucial difference. In this case, the party wins (almost) all its votes in one or a few electoral districts. Even if the party's national vote share is low, the party's voting potential is large in a few districts, and it might even win a majority of the votes in the districts in which its voters reside.³¹ This allows parties with a territorially concentrated electorate to win seats even in restrictive electoral systems, such as plurality or majority vote or PR with small districts (Table 2).³²

The Macedonian parliament, for instance, is elected in six territorial PR districts of 20 seats each. This system is quite permissive for the election of small parties of the Albanian minority, namely because the Albanian community resides mainly in the northwestern parts of the country, mostly in one electoral district. Three other electoral districts include a strong Albanian minority. Accordingly, the Albanian minority is represented with several parties (see Appendix). Other minorities, such as Roma or ethnic Turks, are not only smaller than the Albanian community in Macedonia, but even more importantly, they live spread throughout the country. This is the reason why their own minority parties would have a hard time winning their own seat in parliament. Roma and Turks could win seats in a few isolated districts in 1994, when the parliament was elected in a single-seat district system.³³

Other countries organizing elections in electoral districts are Bosnia, Croatia and Slovenia. In the case of Bosnia, both districts (which correspond to the two entities in Bosnia) are, with 14 and 28 seats, large enough to allow the three constituent peoples³⁴ to elect their own representatives, at least in one of the twodistricts, and

competed in elections, they would hardly have been able to win seats under majoritarian systems. See as well Bonnie M. Meguid, "Competition Between Unequals: The Role of Mainstream Party Strategy in Niche Party Success", 99(3) *American Political Science Review* (2005), 347–359; Robert Harmel and John D. Robertson, "Formation and Success of New Parties. A Cross-National Analysis", 6(4) *International Political Science Review* (1985), 501–523; Margit Tavits, "Party System Change. Testing a Model of New Party Entry", 12(1) *Party Politics* (2006), 99–119, etc.

³¹ For similar statements, see Taagepera, *op.cit.*, note 13, at 237; Reynolds, *op.cit.*, note 16.

³² Kostadinova looks at the effect of group concentration, finding that only large ethnic minority groups profit from concentration. She does not explain why such an effect emerges only for large ethnic groups and the effect is not related to any type of electoral systems, but operationalized as a general effect. Indeed, as argued here, any group, no matter its size, should more easily be represented in parliament if it is territorially concentrated, but this should only apply for district-based electoral systems. Kostadinova, *op.cit.*, note 10, at 425.

³³ Eben Friedman, "Electoral System Design and Minority Representation in Slovakia and Macedonia", 4(4) *Ethnopolitics* (2005), 381–396.

³⁴ In Bosnia, no ethnic group constitutes a majority of the population. The official denomination of the three largest ethnic groups is *constituent peoples*, whereas smaller groups are denominated as ethnic

ethnically defined parties of each constituent people have constantly been represented. This is not so in the two other countries. PR districts in Slovenia, counting 11 seats, are too small for the mainly non-concentrated minorities³⁵ to elect their own representatives. The 14-seat PR districts in Croatia would allow only the Serbian community (4% of the population) to win representation in the areas in which it is concentrated. However, Serbian parties are only represented in special districts. Special non-territorial districts are applied both in Croatia and Slovenia for certain ethnic groups (see below).

Table 2: The joint impact of the electoral system and the degree of territorial concentration (theoretical model)

	Concentrated Group	Spread-Out Group
PR with small districts or majoritarian systems	Yes (in stronghold)	No
PR with large districts	Yes	Yes
PR with high national legal thresholds	No	No

B. *Comparison of Electoral Districts with National Legal Electoral Thresholds*

Comparative research on electoral system has routinely assumed that the effect of national legal electoral thresholds is similar to small electoral districts. Both establish a minimal vote share that parties need to win to get represented in parliament. Typically, legal electoral thresholds used in electoral systems amount to some 5% of the national vote share.³⁶ Often, parties of ethnic minorities are fairly small, so legal thresholds or small districts can affect their success. Electoral districts of 15 to 20 seats, which impose a similar natural threshold of roughly 5% of the votes for the entry of political parties, will however have genuinely different effect on ethnic minority parties. Given that they get most their votes often from one part of the

minorities. In this article, however, I follow a numerical definition of a minority, according to which every ethnic group that accounts for less than half of the population is a minority.

³⁵ Apart from the Hungarian and Italian minority, 6% to 7% of the Slovenian population declare themselves to belong to an ethnic group that has its origins within the former Yugoslavia (Census 2002).

³⁶ Dieter Nohlen, *Wahlrecht und Parteiensystem* (Leske+Budrich, Opladen, 2004), 103.

country only, even very small parties might succeed in winning a seat in a 15-seat district in their stronghold with 5% of the votes in the relevant electoral district. However, such a local vote share corresponds to a much lower vote share at the national level.

As a consequence, ethnic minorities, if they are concentrated, are much more sensitive to national legal thresholds than to PR district systems. The Gagauz minority in the southern part of Moldova is only one of many groups that *de facto* are excluded through national legal thresholds from entering parliament with their own party. The 6% threshold (until 1998, 4%) rules out any attempts to form a party of the Gagauz, who account for only 4.4% of the national population. (Only massively higher turnout among Gagauz voters than among other voters would increase their vote share to 6%.) If Moldova would apply small electoral districts instead of a national legal threshold, this would allow the successful creation of a Gagauz party. In Moldova, no party of an ethnic minority has ever won any seats in the national parliament.³⁷

Probably one of the most illustrative cases for the functioning of small electoral districts and of high national legal electoral thresholds is Lithuania. Out of the 141 seats in parliament, 71 seats are elected by majority vote in single-seat districts; according to common formulas, this is equal to a *natural threshold* of 35% to 38% of the votes. The other 70 seats are elected by PR, in a single country-wide district with a 5% legal threshold. Even if the eastern Slavs as a whole (11%)—and among the eastern Slavs their largest community, the Russians (8%)—outdo the Polish minority (7%) in numbers, only the Union of the Lithuanian Poles has managed to be present in the Lithuanian parliament. This is due to the fact that almost all Lithuanian Poles live geographically concentrated in two single-seat districts in the outskirts of the capital, Vilnius. In these two districts, regularly two Poles get elected (apart from 1996, when the Polish minority organization won only in one district). In contrast, the Russian minority and the other eastern Slav communities (i.e., Belarusians, Ukrainians) live spread out, so that there is no single electoral district in which they compose the majority and from which they might elect their own representative.³⁸ Ironically, under

³⁷ This is why the OSCE ODIHR recommended to abolish or reduce the Moldovan electoral threshold or to switch to a different electoral system. OSCE ODIHR, "Republic of Moldova. Parliamentary Elections 25 February 2001", in *Final Report* (OSCE/ODIHR, Warsaw, 2001).

³⁸ There is only one town in Lithuania with a Russian majority, Visaginas. However, the electoral districts are drawn such that Visaginas forms a common electoral district with the predominately ethnic Lithuanian district Zarasai, so that there is no predominately Russian-speaking district in all of

the PR part of the electoral system, usually related to descriptive representation of all parties, no minority parties are elected to parliament. They fail to pass the 5% threshold. Minority groups of 7% or 8% to 11% would need to vote fairly uniformly for the largest minority party to pass the threshold, but they rather split their votes on several parties. In the 2004 elections, the Union of the Lithuanian Poles accounted for only 4% of the national votes; in 2008, the union failed narrowly with 4.8% of the votes. Only in 1992, when the threshold was lowered to 2% for minority parties, did the union win two seats in the PR part of the system.

Similarly to Lithuania, Hungary applies a mixed electoral system that combines PR with a 5% threshold (1990, 4%) for one part of the seats, and single-seat districts for the other part. Minorities in Hungary are, according to census numbers,³⁹ too small and not concentrated enough to pass any of the two hurdles. Ukraine and Russia used a mixed electoral system until 2002/2003. In Albania, where a mixed electoral system is also in use, the Greek Unity for Human Rights Party can easily pass the 2.5% electoral threshold and, apart from that, win seats in the single-seat districts.

There are plenty more countries that use PR electoral systems with high legal thresholds that prevent their ethnic minorities from accessing national parliament with their own parties: the Czech Republic (5% threshold), Russia (7%), and until 2003 Serbia (5%). In Estonia (5%),⁴⁰ Latvia (5%), Moldova (6%), and Ukraine (3%), only the Russian minorities (in Moldova along with ethnic Ukrainians) could numerically surpass the thresholds.⁴¹ Several Russian minority parties were only successful at winning parliamentary seats in Latvia, and in two elections in Estonia (see appendix), but were not successful in Moldova or Ukraine. Substantial parts of the eastern Slavic

Lithuania. Source: database Allan Sikk and Daniel Bochsler, "Impact of ethnic heterogeneity on party nationalisation in the Baltic states", paper presented at the ECPR Joint Sessions, 12-16 April 2008, Rennes, France.

³⁹ According to other counts, the Roma minority might be larger than 5%. However, not all Roma members are reached in the census or declared as Roma. It is hardly plausible that persons who are not contacted in the census have voting rights and exercise them or that citizens who do not declare belonging to an ethnic minority will vote for its representatives. Generally, the numbers on ethnic groups employed for this study were cross-validated with other, alternative sources, namely to also catch minority groups that were not included in census counts.

⁴⁰ In Estonia, exceptions from the 5% threshold exist for candidates that win as many votes as would proportionally be needed in 1 of the 12 electoral districts to win a seat in parliament. However, the rule is more attractive for single, independent candidates than for political parties, because all votes need to be concentrated on potentially successful candidates. The rule has so far never helped any candidate to be elected in parliament. Evald Mikkel, "Patterns of party formation in Estonia: consolidation unaccomplished", in Susanne Jungerstam-Mulders (ed.), *Post-communist EU Member States: Parties and Party Systems*, (Ashgate, Aldershot, 2006), 23–49.

⁴¹ In Russia, a 5% threshold was in use in the PR part of the electoral system until 2003. Latvia applied a 4% threshold in 1993; Moldova, 4% until 1998; and Ukraine, 4% until 2002.

minorities (Russians, Ukrainians, and Belarusians) in all the above mentioned countries seem either to vote for mainstream parties that are friendly towards minorities, or to abstain.⁴² All other minorities, however, can not pass the threshold out of their own force. In Slovakia, only the Party of the Hungarian Coalition can pass the 5% threshold, whereas other minority groups fall below the threshold. In Montenegro, parties underlie a 3% threshold. This hurts all minorities apart from the large Serbian community (32% of the population), which in the 2006 elections was for a first time represented through the Serbian List. For the Albanian minority, a special rule applies.

*C. Special Legal Provisions for Ethnic
Minorities and Their Political Organizations*

Lithuania is not the only country that (in 1992) applied special legal provisions for ethnic minorities or their political organizations. The reduced 2% threshold for minority parties in Lithuania in 1992 (4% for other parties) is just one possibility of how parties of ethnic minorities (or ethnic minority voters) can be advantaged. Accordingly, the Polish minority party could win a few seats in the PR part of the Lithuanian electoral system. Many of the instruments of electoral legislation allowing the special status of ethnic minorities or their political parties are applied in one of the countries under study. Apart from the threshold exception, there might be ethnic quotas (at the candidate or party level), guaranteed seats or non-territorial electoral districts in which members of ethnic minorities cast their votes.⁴³ Any positive discrimination requires, however, the definition of what an ethnic minority is, who belongs to it, or who is allowed to (claim to) represent it. While Table 1 presents the special electoral rules, they will be discussed more in detail in the next section, along with an analysis of the question on which grounds the distinction of ethnic groups is made.

⁴² Neil J. Melvin, "Post-imperial ethnocracy and the Russophone minorities of Estonia and Latvia", in Jonathan P. Stein (ed.), *The Politics of National Minority Participation in Post-Communist Europe. State-Building, Democracy, and Ethnic Mobilization*, (M.E. Sharpe, Armonk, 2000), 129–166.

⁴³ See as well Lijphart, *op.cit.*, note 15, and Andrew Reynolds, "Reserved Seats in National Legislatures: A Research Note", 30(2) *Legislative Studies Quarterly* (2005), 301–310.

D. *Ban on Ethnic Parties*

The seemingly clearest regulations of minority representation apply in Albania and Bulgaria, where parties on ethnic grounds are illegal.⁴⁴ Both countries would thus prevent any ethnic minority party from running and winning seats in parliament, and ethnic minority candidates can either run on the lists of a mainstream party or try their luck as independent candidates. But the reality looks far more complicated: in both countries, one minority party has played an important role throughout the post-communist period. The Movement for Rights and Freedom is, *de facto*, the Turkish minority party in Bulgaria; the Union for Human Rights party is the successor of the Greek minority party Omonia in Albania. Both are tolerated under seemingly nonethnic labels.⁴⁵ These parties are very similar to other studied cases in Central and Eastern Europe, and they clearly belong to the type of minority parties. Bosnia and Herzegovina introduced a similar rule in 1990, but it was cancelled by court even before it might have been applied in the first parliamentary elections.

IV. AFFIRMATIVE ACTION FOR ETHNIC MINORITIES AND THEIR REPRESENTATIVES

Having discussed the consequences of common rules in electoral systems for ethnic minority parties, and specific party bans, this section is devoted to countries that apply special electoral rules that facilitate the election of candidates or parties that represent ethnic minority groups.

A. *Problems of Discrimination*

There are inherent problems in creating regulations that give an advantage to voters or candidates who belong to a certain ethnic group, or to minority parties or organizations. At a certain instance, voters or candidates who belong to ethnic minorities or their parties need to be distinguish from non-minorities. I discuss four solutions for affirmative action for ethnic minorities or their representatives (see Table 3 for an overview), and the challenges of distinction or self-declaration of minorities.

⁴⁴ Juberías, *op.cit.*, note 10, at 36–39; Cesid, "Izborni zakon i nacionalne manjine", (Cesid, Beograd, 2002).

⁴⁵ In Albania, the Greek minority party 'Omonia', after it got banned from elections in 1992, has been competing under the label 'Human Rights Union Party'; see Commission on Security and Cooperation in Europe, "Albania's Second Multi-Party Elections. March 22 and 29, 1992", (Commission on Security and Cooperation in Europe, Washington, DC, 1992).

In Bulgaria, the party of Bulgarian Turks is called 'Movement of Rights and Freedom', but solely on the grounds that it is formally "open to all Bulgarians". National Democratic Institute for International Affairs (NDI) and International Republican Institute (IRI), "The October 13, 1991 legislative and municipal elections in Bulgaria", (NDI, Washington, DC, 1992), 26. The party has been perceived as representative of the Turkish minority since then.

Table 3: Different way ethnic minorities can be identified and profit from affirmative action⁴⁶

Type of positive discrimination	Country
Indirect identification based on the residential area of minorities	Montenegro
Voters are treated differently based on their ethnicity	Slovenia, Croatia
Parties are treated differently if they claim to represent minority interests	Lithuania (in 1992) Kosovo, Poland, Romania, Serbia (since 2007)
Candidates are treated differently based on their ethnicity	Bosnia (entities)

B. Affirmative Action for Minority Parties or Minority Organizations

Party-based rules (or more exactly, rules that address electoral lists⁴⁸) either exempt parties declaring to represent an ethnic minority from an electoral threshold (Lithuania in 1992, Poland and Serbia since 2007) or they guarantee seats for minority parties or minority organizations (Kosovo, Romania), giving them advantages over lists of the ethnic majority and over multiethnic electoral lists (see next section). This has been criticized as an institutional incentive for elections on a solely ethnic basis instead of the promotion of multiethnic and conciliating parties, and it further requires an identification of a party's ethnicity, which is not always unproblematic.

Poland, Romania, and Serbia generally apply national thresholds of 5%. Such thresholds would by default exclude all parties that represent ethnic minorities, apart from the Hungarian minority organization in Romania, which represents the 8% Hungarian minority. (Hypothetically, the 6% Roma minority could as well pass the threshold.) To nevertheless include minority parties and organizations, these countries have introduced special rules for them. In Poland and, since the 2007 elections, in Serbia, minority parties are exempted from the threshold. This allowed the 'German

⁴⁶ Source: Database Bochsler.

⁴⁸ For the sake of simplicity, I do not distinguish between different forms of electoral lists under PR. Occasionally, other organizations and independent or non-partisan candidates are also allowed to run with their list under PR. In Romania, most minorities are represented through non-partisan minority organizations. Functionally, these candidatures are similar to lists of political parties in elections.

Minority' party in Poland to be represented in parliament, while in Serbia, after 2007, up to five minority parties won parliamentary mandates. (Before, two Bosniak and one Hungarian party were punctually running in coalitions with mainstream parties.) Lithuania applied a lower threshold for its minorities in 1992.

Romania has possibly one of the most complex rules for ethnic minority parties and ethnic minority organizations, with a legally non-partisan character (which are frequent in Romania). The electoral system is not very favourable to the two largest minority groups, the ethnic Hungarians (8%) and the Roma (6%), and it counter-balances their representation in parliament with deputies of 17 smaller minority groups.⁴⁹ The Democratic Union of Hungarians in Romania (UDMR) is so far the only minority that has ever passed the 5% national threshold (3% in 1992 and 1996). The threshold guarantees the UDMR an electoral monopoly for the representation of Hungarians: if several Hungarian minority parties compete, then all—or all but one—Hungarian parties would fail, and their votes would be wasted. Roma parties have never passed the 3%/5% threshold. Many Roma lack documents, do not vote, or do not vote uniformly enough for one party. As a consequence, in the Romanian parliament of 346 deputies, only one is the representative of a Roma organization, elected to one of the 18 minority seats. (The 18 minority lists with most votes win these seats, maximally one per ethnic group.)

Finally, Kosovo applies ethnic quota. They rely on the ethnic affiliation of political parties. Until 2007, the quota system has guaranteed extra seats for parties of ethnic minorities: the Serbs received 10 bonus seats, the Roma/Ashkali/Egyptian minority four seats (at least one for each community), the Bosnians three, the Turks two, and the Gorani one seat (see appendix for a list of minority parties in parliament). Apart from that, the minority parties took part in the seat allocation of the regular 100 seats. The constitution of 2008 has changed the nature of these seats into guaranteed seats. Henceforth, minority parties win regular seats only if their vote share is large enough that they would have won more than the guaranteed seats.

C. *Affirmative Action at the Candidate Level*

Whereas the Kosovo quota system works on the basis of electoral lists (and accordingly, if members of a minority were elected on the list of a multiethnic party, they would not count under the quota), other quotas are related to candidates. None of the

⁴⁹ Alionescu, *op.cit.*, note 7, at 63.

countries under study apply such quotas for the election to the first chamber of the national parliament, but Bosnia and Herzegovina uses such quotas for the election to the upper house of parliament and to the assemblies of the two federal entities. Under candidate-based quotas, all deputies who belong to an ethnic minority are accounted for, no matter if they were elected from solely ethnic party lists or from the lists of multiethnic parties. In the Bosnian upper house (House of Peoples), each of the three constituent ethnic groups, Croats, Serbs, and Bosniaks (Muslims), gets five members. And in the assemblies of the two entities, counting 98 or 83 members, at least four members need to belong to each of the three constituent ethnic groups. The quota for the parliament of the entities is particularly effective because after the ethnic cleansing during the Bosnian war, the ethnic groups live concentrated. Accordingly, it is plausible that without quotas, the Serbs (31% of the population, most whom live today in the northeastern entity, the 'Republika Srpska') or the Croats (17%, most of whom live in the central entity, the 'Federation') would not, or only marginally, be represented in one of the entity assemblies. The quotas leave, however, smaller minority groups out, such as Roma or Jews. Ukraine employed ethnic quotas for minorities in the elections for the regional parliament of Crimea, but abolished them in 1998.⁵⁰

D. Special Treatment of Voters Who Belong to an Ethnic Minority

Countries providing special electoral districts for minority voters need to make a distinction between voters according to their ethnic identity. This is the case in Croatia and in Slovenia. Furthermore, in Bosnia, voters vote by ethnic groups for the election of the three-member presidency. One member is elected by Bosniaks, Croats and Serbs each.

Croatia applies special, non-territorially based electoral districts for all ethnic minorities, but given that there are joint districts for several minorities, not all of them are each represented on their own. The special districts have allowed the Serbian, the Bosniak, the Hungarian and the Roma community to be represented by their own parties (see appendix). Other communities have partly elected independent candidates, or such that belong to mainstream parties.

The two officially 'autochthonous' minorities (Hungarians, Italians) in Slovenia profit from special electoral districts too. Members of these communities can vote twice, once for the regular seats, and once for the special seats. This gives them more impact on the composition of parliament than it does citizens who do not belong to these

⁵⁰ OSCE ODIHR, "Republic of Ukraine. Parliamentary elections 29 March 1998. Final Report", (OSCE ODIHR, Warsaw, 1998), 5.

groups. The two special seats have constantly been occupied by non-partisan, independent candidates. Other minorities from the former Yugoslavia, who mainly migrated to Slovenia during the existence of the common state, do not have similar privileges.⁵¹

Any identification of voters on the basis of ethnicity can, however, put citizens with an unclear or mixed identity or belonging to a non-recognized minority in a difficult situation, because they are forced to choose one of the officially recognized ethnic identities. In the Croatian and the Slovenian case, this is certainly less problematic, because, even if there are special districts for certain minority groups, the ordinary mandates in parliament are not explicitly understood as belonging to the titular nation, so that voters that do not identify with one of the official ethnic categories can vote for the ordinary mandates.⁵² A second problem of identification might emerge if a country—as it is the case for Slovenia—requires candidates in special minority districts to belong to the ethnic group to which the district is assigned. (Such a restriction, however, seems not to be needed if districts are assigned to ethnic minority voters.)

Differently, the affirmative action for the Albanian minority in Montenegro profits from the strong concentration of Albanians in a few areas, allowing for the constitution of a special electoral district on a territorial basis.

E. Distinction Linked to Settlement

The special electoral district in Montenegro encompasses the predominately Albanian populated municipality of Ulcinj in the very south of the country and a few other neighbourhoods. The national threshold of 3% does not apply for this district. This allows for several Albanian minority parties to be constantly represented in parliament. The solution for the Albanian minority has the advantage that it does not

⁵¹ Alionescu, *op.cit.*, note 7, at 62.

⁵² In Croatia, the possibility of voting for the general, nonethnic seats was also frequently used by minority members, as the numbers of the OSCE ODIHR reveal. This might, however, be also due to the fact that the Serbs in the 2000 elections had only one guaranteed seat—far below their population share—so that voting in the minority districts was not very attractive. OSCE Office for Democratic Institutions and Human Rights (ODIHR), "Republic of Croatia. Parliamentary Elections (House of Representatives), 2 and 3 January 2000, Final Report", (ODIHR, Warsaw, 2000), 24; ODIHR, "Republic of Croatia. Parliamentary Elections, 23 November 2003. OSCE/ODIHR Election Observation Mission Report", (ODIHR, Warsaw, 2004), 8.

The process of registering as a minority member or changing the ethnic registration has further been described as administratively burdensome, intimidating and prejudicial in the case of Croatia. International Republican Institute (IRI), "Republic of Croatia, Parliamentary Election, January 3, 2000. Election Observation Mission Report and Recommendations", (IRI, Washington, DC, 2000), 20; OSCE Office for Democratic Institutions and Human Rights (ODIHR), "Republic of Croatia. Parliamentary Elections (House of Representatives), 2 and 3 January 2000, Final Report", 8.

require the direct identification of voters or of parties or candidates with any ethnic group. However, it only works for groups that are mainly concentrated in a small area in which they predominately live. Montenegro does not use any similar rule for other minorities who do not live similarly concentrated.⁵³ For the largest minority in Montenegro, the 32% Serbs, no special rules are needed, and they have elected their own electoral list in 2006. Other minorities fail to pass the threshold.

E. Definition Problem of Positive Discrimination Rules

Apart from the Montenegrin model, all solutions of positive discrimination require identification on the basis of ethnicity. The implementation of such rules is challenging, given the difficulty in distinguishing citizens (voters, candidates) or parties by their ethnic identity. In Croatia, voters need to register as belonging to an ethnic minority to vote in the special, non-territorial minority districts. In other cases, however, rules for the identification of ethnic groups are vague or non-existent. When Serbia introduced the exception of ethnic minority parties from the national legal threshold in 2007, it did not define how the Electoral Commission should judge whether a party represents an ethnic minority or whether the party only claims to do so. Abuse of positive discrimination rules might be particularly fruitful in Kosovo, where ethnic Serbian parties—due to a widespread boycott of elections by the Serbian minority—win each of their 10 guaranteed seats with only few hundred votes, whereas ethnic Albanian parties need 5000 to 7000 votes for a seat. A party winning with a (mostly) ethnic-Albanian electorate, but running as a ‘Serbian’ party with Serbian candidates who are loyal to the Albanian majority, might in the 2004 elections have hijacked guaranteed ‘Serbian’ seats with 50 times fewer votes than are needed for each of the nonethnic seats in parliament.⁵⁴

However, there are only few accounts of attempts to abuse rules of positive discrimination against minorities. The prime example of abuse comes from Romania, where Vasile Savu, a leader of a coal miners’ syndicate, won a seat with the Union of

⁵³ To avoid minority voters who do not vote in the special electoral district from not having the same possibility of voting for a minority parties, all votes cast for parties that pass the legal threshold in the special electoral district, but not so in the remaining part of the country, are accounted for in the special electoral district (Zakon o izboru odbornika i poslanika, in Sl. list RCG, no. 4/98, 5/98, 17/98, 14/00, 9/01, 41/02 i 46/02).

⁵⁴ The new system, adopted in 2008, creates an additional paradoxical situation that might be (ab)used by minority parties. A politically united ethnic minority (assumption: only one minority party) might increase its representation through a strategic cheat: given that a minority can win its guaranteed seats with only one vote, all other votes might be used for other aims. Accordingly, a minority might run with two parties, one declares its ethnic affiliation, winning only one or very few votes, and winning all guaranteed seats. The remaining votes are devoted to a second party, which does not declare any ethnic affiliation, and competes thus for the general seats.

Slav Macedonians in the 2000 elections, claiming to represent a minority that was not known by that time and that even lead to a reaction of the Macedonian embassy in Romania. It can be assumed that Savu was elected mainly by voters who do not identify with any Macedonian identity, profiting from guaranteed minority seats that rely on much fewer votes than ordinary seats in parliament.⁵⁵ In Bosnia, where the state presidency comprises three members representing the Bosniaks, Serbs and Croats, some members of the largest ethnic group, the Bosniaks, have allegedly occasionally voted for members of the Croatian minority. This enabled the election of Croatian candidates who were more to the likes of the Bosniaks. These cases show that the discussion about the definition of ethnicity in the context of positive discrimination rules is not a solely academic one and that privileges of certain minority groups that are difficult to identify are very vulnerable to abuse.

V. INSTITUTIONAL INCENTIVES FOR MULTIETHNIC PARTIES

Political scientists have been concerned about the question of which institution is the most suitable solution for divided societies' allowing the participation of all communal groups and avoiding the fuelling of ethnic conflicts. The first two aspects discussed in this article shed light on aspects that are part of power-sharing concepts⁵⁶: ethnic minorities should be guaranteed representation, if necessary even a certain over-representation, and if they want, they should be able to elect their own organizations or political parties. The third aspect, however, puts the accent on an opposed concept, borrowed from the centripetalist school—the advocating of electoral institutions that encourage the formation and the vote for civic-oriented and multiethnic parties and conciliating, moderate candidates.⁵⁷ Centripetalists recommend voting systems from the family of the majority vote, possibly with preferential ranking of candidates, namely the AV. In their view, this might help moderate politicians to get many second- or third-preference votes. But in parliamentary elections in Central and Eastern Europe, the application of the majoritarian idea has remained scarce, let alone the AV (Table 4).⁵⁸

⁵⁵ Alionescu, *op.cit.*, note 7, at 69.

⁵⁶ Lijphart, *op.cit.*, note 3; Diamond, *op.cit.*, note 11, at 104–105.

⁵⁷ Horowitz, *op.cit.*, note 4; Horowitz, *op.cit.*, note 6.

⁵⁸ Estonia applied the Single Transferable Vote, a preferential vote system with PR, in its initial elections in 1990. Rein Taagepera, "STV in transitional Estonia", 34(1) *Representation* (1996), 29–36.

Table 4: Majoritarian elements in electoral systems (first democratic multiparty elections not considered)⁵⁹

Type of majoritarian election	Country (year)
Parliamentary elections: fully majoritarian	Macedonia (1994), Ukraine (1994)
Parliamentary elections with mixed electoral systems, a part of the seats elected by majority vote ^a	Albania (1992-2001), Hungary (1990-2006), Lithuania (1992, 1996, 2004), Macedonia (1998), Ukraine (1998)
Presidential elections by majority vote ^b	Bulgaria, Croatia, Lithuania, Macedonia, Moldova (1996), Poland, Romania, Russia, Serbia, Slovakia (1999, 2004), Slovenia, Ukraine
Presidential elections by AV	“Republika Srpska” in Bosnia and Herzegovina (2000)

^a Elections in which only a simple plurality of the vote is sufficient for a victory are not considered.

^b Elections to the three-member presidency of Bosnia and Herzegovina not included because the members of the presidency are elected on ethnic grounds (see text).

Apart from the very first multi-party elections, held in many countries under rules inherited from the Communist regime in 1990 and still in the context of very fluid party systems, majoritarian rules were only applied in a few elections in Ukraine and in Macedonia. We need to consider, however, that the moderating effect of centripetal institutions that is expected by the centripetalist school applies only in sufficiently heterogeneous electoral districts. This is why it might apply neither in Ukraine nor in Macedonia. Both are divided along ethnic lines, but in both countries, the ethnic communities mainly live territorially separated.⁶¹

⁵⁹ Source for parliamentary electoral systems: Bochsler, *op.cit.*, note 2. For presidential electoral systems: Klaus Armingeon and Romana Careja, *Comparative Data Set for 28 Post-Communist Countries, 1989-2007*, (Institute of Political Science, University of Berne, Berne, 2007).

⁶¹ The Macedonian 1994 elections ended in a boycott of the second round through the Macedonian nationalists (Internal Macedonian Revolutionary Organisation–VMRO) party, that was motivated rather in their bad scores in the first round in pure Macedonian areas, and that has not been claimed to be a result of a moderating effect. The VMRO claimed the reason for the boycott was the unfair handling of the elections—but international observers reported that such claims were hardly credible. International Republican Institute (IRI), "IRI Election Observation Mission Macedonia. October 30, 1994", (IRI, Washington, DC, 1994), 10.

More cases of application can be found in direct presidential elections that were held regularly in a number of countries in the region. In all countries in Central and Eastern Europe in which presidents are elected in a direct vote, the two-round majority vote is the rule. However, in most of these cases, the share of ethnic minorities among the national electorate is fairly small, so that—apart from Macedonia and Ukraine with very large minority groups—their votes can only have a minor impact on the final result.⁶² The most discussed example of direct presidential elections in a multiethnic country is probably Bosnia and Herzegovina. No moderating effect can be expected from the elections of the state presidency: it consists of three members, one for each constituent ethnicity, and each member is elected separately by its own ethnic group, so that there is no premium for moderate candidates that might attract votes from several communities.⁶³ The situation looks different, however, on the entity level, where the AV was used for the elections of the presidency of the ‘Republika Srpska’, a subnational entity in Bosnia and Herzegovina, in 2000.⁶⁴ Even if the AV is praised to be the most conciliating of all electoral systems, the lead of the nationalist candidate in public opinion was too clear, so that the electoral system could not make any difference. In presidential elections by two-round majority vote in Romania, the Hungarian minority repeatedly helped the more moderate candidates to win the race over Romanian nationalists in the runoff.

VI. CONCLUSIONS: BETWEEN POWER SHARING AND POLITICAL EXCLUSION

The young democracies in Central and Eastern Europe have adopted a variety of electoral rules for the inclusion (or exclusion) of their minorities from political life.

⁶² The majoritarian school supposed that the effect may even work in districts with an ethnic majority of up to 90%. Although such an explicit value was not stated directly by Horowitz, he expected centripetal institutions to mitigate tensions in a hypothetical Sri Lankan election—where the Tamil minority counts as 10% to 12% of the population, Fraenkel and Grofman, *op.cit.*, note 18, "Does the Alternative Vote Foster Moderation in Ethnically Divided Societies? The Case of Fiji", at 627. The Fiji's Constitutional Review Commission spoke of a threshold of 10% to 15% that an ethnic minority has to count, P. Reeves, T. R. Vakatora, and B. V. Lal, "The Fiji Islands: Towards a United Future", in *Rep. Of the Fiji Constitutional Review Commission, Parliament of Fiji, Parliamentary Paper No. 34* (Government Printer, Suva, Fiji, 1996), 315, cited in Fraenkel and Grofman, *op.cit.*, note 18, "Does the Alternative Vote Foster Moderation in Ethnically Divided Societies? The Case of Fiji". It might thus be taken for granted that in societies with more than 20% ethnic minority voters, the centripetal effect should work—according to the centripetal school.

⁶³ However, voters can vote for the candidates of a different ethnicity, and this might have occurred in the 2006 elections, when many Bosniak voters seem to have voted for a moderate Croat candidate instead of a hardliner that would have rather been elected by the Croat votes. Freedom House, "Freedom in the World—Bosnia-Herzegovina (2007)", (Freedom House, 2008).

⁶⁴ Lijphart, *op.cit.*, note 11, at 108.

For the goal of the political inclusion of ethnic minorities, different concepts are discussed in the literature. The power-sharing school⁶⁵ advocates a number of institutional pillars that enable the full inclusion of all social groups into political responsibility. In the post-communist countries of Europe, two electoral systems correspond mostly to the ideal of the power-sharing type. It might not be an accident that these are Bosnia and Herzegovina and Kosovo, both with political systems that have been set up with the substantial involvement of the international community. But certain inclusive elements of electoral-system design are also applied in the remaining countries of the former Yugoslavia: Croatia introduced special districts for its ethnic minorities. Serbia has removed the national legal threshold for minority parties by 2007, when the Serbian minority policies were a sensitive issue in European institutions. Macedonia and Montenegro have both introduced electoral systems helping their Albanian-speaking communities to get represented in parliament. Slovenia, a country that has not experienced any substantial ethnic tensions, allows descriptive representation only for its historic Hungarian and Italian community, but not for more-recently migrated minorities from the former Yugoslavia. Elements of power-sharing solutions can also be found in the electoral system of Poland and Romania, although the latter has a mixed record, since it is not very favourable to all minorities. In several countries, the question of whether the electoral system is friendly towards ethnic minority parties differs among ethnic groups. Whereas Slovenia restricts its positive discrimination explicitly to certain minorities, and Romania applies a very particular combination of thresholds and guaranteed seats, in other cases, group size and the geographical structure of ethnic minorities are closely linked to the potential chances of minorities getting represented. Group size is particularly relevant in electoral systems that impose high national thresholds. In district-based electoral systems, however, minorities that are geographically concentrated can, with the same number of votes, win many more seats than others that are spread throughout the country.

Whereas descriptive representation is one criterion to evaluate representation in ethnically divided countries, there are other relevant concepts and aspects too, such as incentives given to moderate, multiethnic parties. Both aspects might often be in opposition to each other. The incentives given to ethnic minority parties might favour them over multiethnic parties and thus promote a party system that is mainly organized on ethnic grounds. Institutional solutions that might supposedly favour a

⁶⁵ Lijphart, *op.cit.*, note 3; Lijphart, *op.cit.*, note 15.

more conciliating party configuration and support moderate voices, such as majoritarian solutions and preferential voting, are rare in Central and Eastern Europe. Apart from a single subnational presidential election under the AV in Bosnia and the parliamentary election by the Single Transferable Vote in Estonia in 1990, there is no example of an electoral system that follows the advice of the *centripetalist school*. Possibly, the reservations about the wonderful healing effect of centripetal institutions are particularly convincing. Or, the lawmakers did not want to apply institutional solutions that have not greatly been tested before⁶⁶ and instead favour institutional designs that at least partly resemble Western European models.

Most countries that do not apply the *consociational* model of guaranteeing minority parties a proportional representation in parliament follow a third way, escaping the advice of institutional engineers like Lijphart, Horowitz or their colleagues. Their electoral system is not adapted to the emergence of an ethnic divide within the party system. Neither do they provide the tools for the inclusion of ethnic minority parties into the state institutions, nor any institutional incentives for conciliated parties that are moderate on ethnic questions. Either they have explicit bans on ethnic minority parties (Albania, Bulgaria), or they impose high national thresholds that—if at all—can only be passed by parties of some of the minority groups. As a consequence, the representation of minorities depends very much on the ability of their members to get included on the lists of mainstream parties and to affect their policies.

In sum, even if the electoral systems in the new democracies in Central and Eastern Europe—all of whom are at least partially based on PR—might generally look fairly similar, the concept of ethnic minority representation varies greatly from country to country. As a whole, the region looks like a laboratory in which a variety of institutional solutions are being tested.

⁶⁶ Apart from Australia and Fiji, there are hardly any applications of the Alternative Vote, and the Fiji experience is not a particularly positive one. Fraenkel and Grofman, *op.cit.*, all, note 18.

APPENDIX A: ETHNIC MINORITY PARTIES IN CENTRAL AND EASTERN EUROPE

Table: Parties of ethnic minorities that were elected in national parliament, and the period in which they were represented in parliament. (Author's classification of parties)

Country	Party name, and periods of representation	Minority group	Elections
Albania	Partia Bashkimi për të Drejtat e Njeriut (Unity for Human Rights Party, PBDNJ), earlier called 'Omonia'	Greeks	Since 1991
Bosnia	Apart from a few exceptions (most notably the Socijaldemokratska Partija Bosne i Hercegovine, Social Democratic Party of Bosnia and Herzegovina, SDP), all parties identify with one of the three constituent peoples, and each of the three people was represented at least with one party, from the first post-Dayton Accord elections in 1996.		
Bulgaria	Движение за права и слободи (Movement for Rights and Freedom DPS)	Turkish	Since 1990
Croatia	Srpska Demokratska Stranka (Serbian Democratic Party, SDS)	Serbs	1990
	Srpska Narodna Stranka (Serbian People's Party, SNS)	Serbs	1992, 1995, 2000
	Samostalna Demokratska Srpska Stranka (Serbian Independent Democratic Party, SDSS)	Serbs	2003, 2007
	Demokratska zajednica Mađara Hrvatske (Democratic Union of Hungarians in Croatia, DZMH)	Hungarians	2000, 2003
	Savez Mađarskih Udruga (Union of Hungarian communities)	Hungarians	2007
	Stranka Demokratske Akcije (Party of Democratic Action, SDA)	Bosniaks	2003, 2007
	Mreža Romskih Udruga Hrvatske (Union of Roma Communities, MRUH)	Roma	2007
	Independent candidates of other ethnic minorities, elected on guaranteed seats		
Estonia	Eestimaa Ühendatud Rahvapartei (Estonian United People's Party) [1995 in coalition as Meie Kodu on Eestimaa! (Our Home is Estonia!)]	Russians	1995, 1999
Kosovo	Koalicija povratak (Return Coalition)	Serbs	2001
	Građanska Inicijativa Srbija (Serbian Civic Initiative)	Serbs	2004
	Srpska lista za Kosovo i Metohiju (Serbian List for Kosovo and Metohija)	Serbs	2004
	Savez nezavisnih socijaldemokrata Kosova i Metohije (Union of independent Social Democrats, SNSDKiM)	Serbs	2007
	Srpska narodna stranka (Serbian People's Party, SNS)	Serbs	2007
	Srpska Kosovsko Metohijska stranka (Serbian Kosovo and Metohija Party, SKMS)	Serbs	2007
	Srpska demokratska stranka Kosova i Metohije (Serbian Democratic Party of Kosovo and Metohija, SDSKiM)	Serbs	2007
	Samostalna liberalna stranka (Independent Liberal Party, SLS),	Serbs	2007
	Nova Demokratija (New Democracy)	Serbs	2007
	Kosova Demokratik Türk Partisi (Turkish Democratic Party of Kosovo, KDTP)	Turks	Since 2001
Inicijativa e Re Demokratike e Kosovës (New Democratic Initiative of Kosovo)	Egyptians	Since 2001	
Partia Rome e Bashkuar e Kosovës (United Roma Party, PREBK)	Roma	Since 2001	
Građanska Inicijativa Gore (Civic Gorani Initiative, GIG)	Gorani	2004, 2007	

	Stranka Demokratske Akcije (Party of Democratic Action, SDA) [2001 as Bošnjačka Stranka Demokratske Akcije Kosova]	Bosniaks	Since 2001
	Koalicija Vakati (Vakat coalition)	Bosniaks	Since 2001
	Partia Demokratike e Ashkanlive të Kosovës (Democratic Ashkali Party in Kosovo, PDAK)	Ashkali	Since 2001
Latvia	Par cilvēka tiesībām vienotā Latvijā (For Human Rights in a United Latvia; PCTVL) [1995–1998 as Tautas Saskaņas Partija (National Harmony Party)]	Russians	1993–2006
	Līdztiesība (Equal Rights)	Russians	1993
	Latvijas Sociālistiskā Partija (Latvian Socialist Party)	Russians	1995
	Saskaņas Centrs (Harmony Centre)	Russians	2006
Lithuania	Lietuvos lenku sąjunga (Union of Lithuanian Poles)	Poles	Since 1992
Macedonia	Демократска партија на Албанците (Democratic Party of Albanians)	Albanians	2002, 2006, 2008
	Демократска унија за интеграција (Democratic Union for Integration DUI) [in 2006 in coalition with the Party of Democratic Prosperity]	Albanians	2002, 2006, 2008
	Партија за демократски просперитет (Party for Democratic Prosperity, PDP)	Albanians	1994, 1998
	Партија за демократски просперитет – Национална демократска партија (Party of Democratic Prosperity–National Democratic Party, NDP)	Albanians	1994
	Демократска партија на Турците (Democratic Party of Turks, DPT)	Turks	1994
	Partija za celosna emancipacija na Romite od Makedonija (Party for the full emancipation of Macedonian Roma)	Roma	1994
Montenegro	Demokratska unija Albanaca (Democratic Union of Albanians, DUA)	Albanians	Since 1998 ^a
	Demokratski savez u Crnoj Gori (Democratic Alliance in Montenegro, DSuCG) [in 2006, in coalition with the Party for Democratic Prosperity]	Albanians	1998, 2001, 2002, ^a 2006
	Albanska Alternativa (Albanian Alternative)	Albanians	2006
	Srpska lista (Serbian list)	Serbs	2006
Poland	Mniejszość Niemiecka (German minority)	Germans	Since 1991
Romania	Uniunea Democratica Maghiara din România (Hungarian Democratic Union of Romania; UDMR)	Hungarians	Since 1990
	17 minority organizations of other minorities		
Serbia	Savez vojvođanskih Mađara (Union of the Vojvodina Hungarians, SVM) [in 2008 as Hungarian coalition, jointly with minor Hungarian minority parties]	Hungarians	2007, 2008
	Lista za Sandžak (Coalition for Sandžak) [2003 in coalition with DS, 2007, 2008 independently]	Bosniaks	(2003) ^b 2007, 2008
	Sandžačka demokratska partija (Sandžak Democratic Party, SDP) [in coalition with DOS/DS]	Bosniaks	(2000, 2007, 2008) ^b
	Unija Roma Srbije (Union of Serbian Romas)	Roma	2007
	Romska partija (Roma party)	Roma	2007
	Koalicija Albanaca preševske doline (Coalition of Albanians in the Preševo valley)	Albanians	2007, 2008
Slovakia	Strana maďarskej koalície—Magyar Koalíció Pártja (Party of the Hungarian Coalition, SMK-MKP) [In 1994, several parties competed as the ‘Hungarian coalition’; they merged in 1998]	Hungarians	Since 1994
Slovenia	Independent MPs	Italians, Hungarians	Since 1990

^a In 2002, the Albanian minority parties in Montenegro competed in a coalition.

^b Parentheses mean they were in coalition with a mainstream party

Source: Official election results.

APPENDIX B: SOURCES FOR ELECTORAL LAWS

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