

The Case of Jura in Switzerland

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Abstract :

The separation of the northern Jura region from the Canton of Berne and the resulting creation of the Canton of Jura in 1979 is a rare exception to the otherwise remarkably stable territorial structure of Switzerland. The Jura region was strongly determined by overlapping cleavages, as it represented not only a linguistic but also a religious minority in the Canton of Berne. This article examines the demand for territorial autonomy and self-determination of the Jura region that emerged from this distinct cultural and linguistic identity. It examines the reasons that led to the separation of the northern Jura region from the Canton of Berne and how this was organised through a series of plebiscites and referendums on various political levels. The article ends with a look at current developments and ongoing conflicts on the Jura question.

Keywords : self-determination, referendum, plebiscite, case-study, Canton of Jura

Introduction

In this article, we will examine the case of the secession of the Canton of Jura and focus on how separatist efforts and the demand for independence have been addressed within Switzerland's legal framework and mediated through a constitutional process. In a first phase, we will therefore present how the Jura region was incorporated into the Canton of Berne in 1815 and how this led to the first separatist movements, ultimately culminating in the first canton-wide referendum on independence, which was rejected in 1959. In the second phase, we will cover the period from 1967 to 1979. During that time, a procedure of secession was introduced through several referendums and plebiscites on various political levels. The third phase from 1980 on, will deal with the consequences of the creation of the new Canton of Jura. The secessionist procedure did not only bring with it an institutional stabilising dimension but also consolidated the already existing internal division of the Jura region, as the southern part had decided in the plebiscites to remain with the Canton of Berne.

1. The Jura region in the Canton of Berne: A minority in more than one way

1.1 From unwanted incorporation to formal recognition: Developments until 1959

From 1032 on the Jura region had been under the rule of the Prince-Bishopric of Basel which constituted a sovereign state within the Holy Roman Empire¹. Following Napoleon's invasion of Switzerland in 1792, the Prince-Bishopric of Basel then became part of France. When at the

Congress of Vienna in 1814/1815 European powers discussed how to draw the map of Europe anew, the question of the territorial affiliation of the former Prince-Bishopric resurfaced². Since the Canton of Berne had considerably lost territories as a result of Napoleon's Act of Mediation, which enabled Berne's former subject territories Vaud and Aargau to become independent cantons of the Swiss Confederation in 1803, one of the various options under discussion was to hand over the Jura region to the Canton of Berne³. After initial concerns,⁴ willingness to take over the Jura region increased as it became more and more clear that Berne would not be able to reclaim its former subject territories. Eventually, the unification document was signed on 20 March 1815, giving way to the incorporation of the Jura region into the Canton of Berne. The Jura region, therefore, served mostly as a compensation for the two large territories previously belonging to the Canton of Berne and the trade-off was not embraced wholeheartedly either by the population in the Jura region or by the Canton of Berne⁵.

The incorporation caused dissension between the predominantly French-speaking and Roman Catholic Jura region and the mostly German-speaking and Protestant Canton of Berne, triggering a '*Kulturkampf*' that lasted throughout the second half of the 19th century and the beginning of the 20th century⁶. Separatist efforts peaked for the first time after the Second World War when in 1947 the Grand Council of Berne, the cantonal parliament, decided to deny the ministry of public affairs and railways to Georges Moeckli, a representative of the Jura region in the cantonal government⁷. The cantonal parliament argued that the ministry was too important to leave it to a French-speaking politician⁸. This refusal provoked public outrage in the Jura region and about 2'000 persons took the streets in Delémont in protest⁹. This event revealed that even after 130 years a successful political and cultural integration of the Jura region into the Canton of Berne was far from being achieved¹⁰. In order to appease the French-speaking minority, the cantonal government then presented a series of important constitutional amendments such as the recognition of French as an official cantonal language, the creation of a joint parliamentary commission tasked with examining questions of general interest to the relationship between the Jura region and the rest of the Canton of Berne and finally the permanent allocation of two seats in the cantonal government to the Jura region¹¹. Subsequently, these constitutional amendments were put to a vote in a 1950 referendum and accepted by the people of the Canton of Berne¹², constituting for the first time a formal and constitutionally enshrined recognition of the people of Jura as a distinct cultural and historic entity¹³.

1.2 The failed referendum of 1959 and the internal division of the Jura region

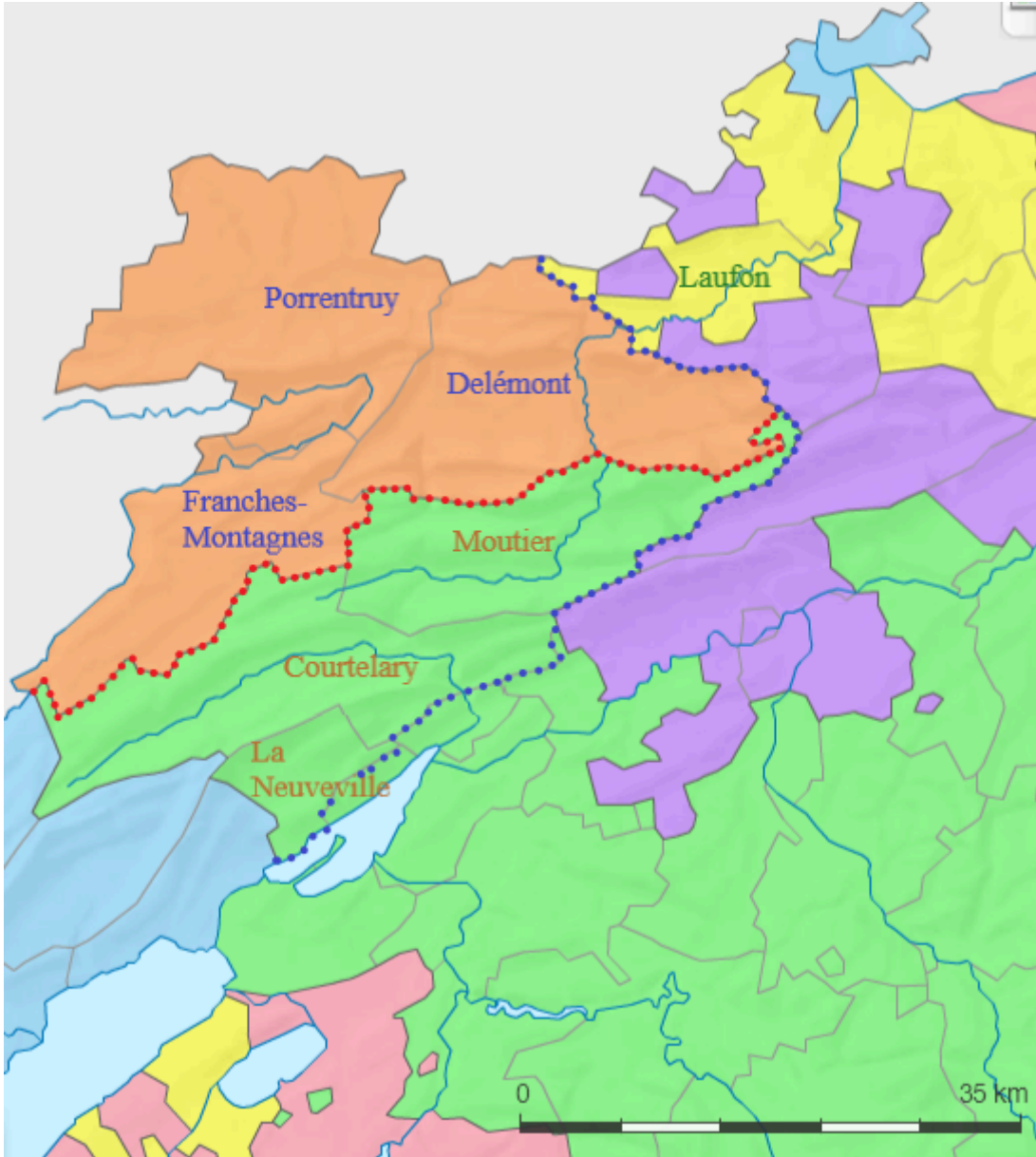
With the formal recognition of the people of Jura and the introduction of increased political participation rights, Berne was reacting to growing separatist tendencies in the Jura region. It was commonly thought that the referendum in 1950 had eased pressures and solved the Jura question¹⁴. However, since there was no real agreement in the Jura itself on its future territorial status, the appeasement efforts of the Berne government had the opposite effect and contributed to polarising the conflict rather than resolving it. While the desire for territorial autonomy was deeply rooted in some predominantly northern regions of the Jura, others defended the cantonal unity and supported increased institutional cooperation with Berne. The conflict, therefore, underwent radicalisation, driven in particular by groups such as the '*Rassemblement jurassien*', which openly advocated for the creation of a new independent canton¹⁵.

On 1 September 1957 the 'Rassemblement jurassien', launched a popular initiative seeking to create a legal basis for a referendum on independence in the Jura region¹⁶. The referendum turned out to be a major setback for the separatist cause given that on 5 July 1959 the people of the Canton of Berne rejected the cantonal initiative by an overwhelming majority¹⁷. Moreover, to make matters even worse, with a high voter turnout the Jura region narrowly rejected the referendum too. While the northern districts of the Jura region (hereafter *North Jura*) approved the cantonal initiative, the three southern districts (hereafter *South Jura*) as well as Laufen, the only German-speaking district, flatly rejected it¹⁸. This ultimately highlighted an internal split between the population of North and South Jura¹⁹.

1.3 A double minority within the Canton of Berne

In the 19th century and the beginning of the 20th century, clashes between the Jura region and the Canton of Berne were prompted by either linguistic, religious or cultural differences, mirroring the overall conflict between liberal, urban and dominantly Protestant forces and conservative, rural and predominantly Catholic cantons in Switzerland²⁰. While despite these cleavages political integration on a federal level proved to be remarkably successful, the actors involved in the Jura conflict, marked by different linguistic and religious backgrounds, were more confrontational²¹. According to LINDER political and social integration on a federal scale proved to be easier as linguistic, religious or socio-economic cleavages were geographically cross-cutting. Hence, cleavages did not coincide with the cantons' geographical boundaries and therefore most cultural groups were eventually placed in a minority situation. However, the region of Jura was characterised by *overlapping cleavages* as it represented not only a linguistic but also a religious minority within the Canton of Berne²². Through incorporation, the French-speaking and Catholic Jura region became a minority, accounting for only about 15 per cent of the total population in an otherwise German-speaking and Protestant canton²³. In addition, as the Jura region is located along the French border, this peripheral location added up to the feeling that Berne economically neglected the area²⁴. This particular constellation led to an increased potential for conflict given that the people of Jura experienced multiple forms of discrimination at the same time, ultimately affecting the process of social cohesion within the canton²⁵.

Table 1: Districts Canton of Jura (burgundy) Berne (green) and Basel-Landschaft (yellow) in 2019



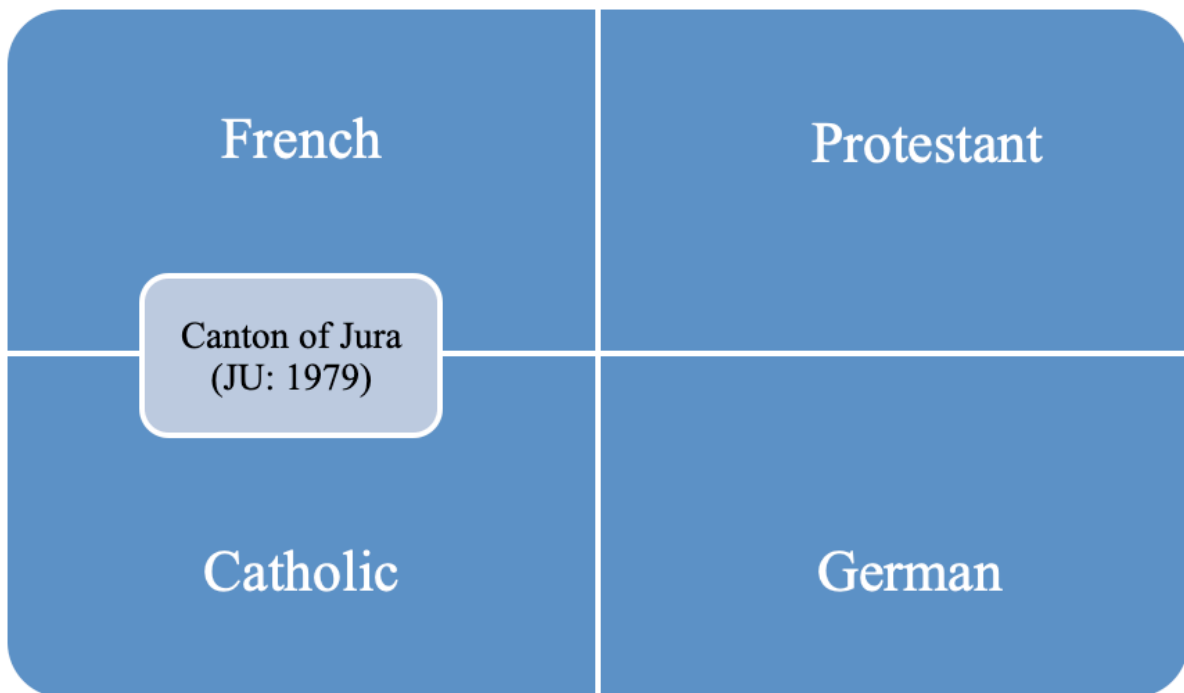
Source: Federal Office for Statistics, Dienst ThemaKart, Statistical Atlas of Switzerland

<https://www.atlas.bfs.admin.ch/maps/13/de/12876_229_228_227/21239.html>

Legend: ••• = religious boundary
••• = linguistic boundary

While the general desire for a secession of the Jura region in the Canton of Berne can be explained by its different religious and linguistic identity, it is more complex to find explanatory patterns that show why the separatist movement was only partially successful in the Jura region itself²⁶. In this context, it is important to note that the overlapping cleavages were not running equally throughout the whole region. The religious gap was stretching along from North to South with the northern districts of Delémont, Porrentruy, Franches-Montagnes and Laufen having a Catholic majority and the economically better off southern districts of Courtelary, Moutier and La Neuveville being predominantly Protestants. Moreover, the six districts of Delémont, Porrentruy, Franches-Montagnes, Courtelary, Moutier, La Neuveville were predominantly French-speaking while Laufen was the only German-speaking district²⁷. This internal fragmentation was for the first time clearly revealed through the failed referendum of 1959, becoming the first deep rift between the different parts of the Jura region. THÜRER argued that while in 1950 with the successful demand for the recognition of the people of Jura, the region shortly appeared united, the cantonal initiative in 1959 effectively put an end to the myth of the indivisible people of Jura. Hence, according to THÜRER, rather than speaking of a single people, it would be more appropriate to speak of three different peoples of Jura: the French-speaking, predominantly Catholic North Jura; the French-speaking, predominantly Protestant South Jura; and the German-speaking and Catholic district of Laufen²⁸. As a result, there was not only a religious and linguistic divide between the Bernese and Jura populations but also a political divide defined by cross-cutting cleavages within the Jura region itself²⁹. This political division and the split of the Jura region into pro- and anti-separatist movements were decisive and marked the following developments for the right to self-determination over the next decades³⁰.

Table 2: Linguistic and religious cleavages in the Jura conflict



2. The creation of the Canton of Jura and the secession procedure

2.1 Paving the way for the secession procedure: the 1970 amendment of the cantonal constitution

Only after a partial renewal of the cantonal government in 1966 did separatist efforts take up. The newly elected members of the cantonal government pushed for a policy of dialogue and cooperation which culminated in a declaration issued on 17 March 1967 by the cantonal government, stating that they wished to resolve the Jura conflict through a referendum on independence. Yet, the Swiss Federal Constitution of 1874 did not provide for any procedure for the creation, secession or merger of cantons, but rather protected their autonomy and territory³¹. Nonetheless, territorial modifications of Swiss cantons were possible, provided that a sufficient legal basis on the *cantonal* level existed³². Therefore, prior to a referendum on independence, the Canton of Berne's Constitution had to be amended accordingly, allowing for such a referendum in the first place. On 1 March 1970, the amendment to the cantonal constitution was accepted by 87 per cent of the cantonal population giving way to the right to self-determination for the Jura population³³. The amendment introduced a secession procedure in the cantonal constitution which largely took over the suggestions of the so-called good service commission³⁴. This commission was set up in 1968 upon recommendation and appointment of the federal government and with the task of developing a specific procedure for a potential secession. In order to accommodate the internally divided Jura region, the amendment provided for three plebiscites at the regional, district and municipal levels. In doing so, the political divide within the Jura region itself could be taken into account³⁵.

2.2 The three plebiscites as a means to realise the right to self-determination

The new amendment provided for a three-stage voting procedure. First, the electorate of the Jura region was able to vote on whether to form a new canton³⁶. Depending on the result, a second would take place at the *district* level. If the majority were in favour of the formation of a new canton, the districts voting against breaking away could vote again on whether they wish to remain with the Canton of Berne. However, if the majority would vote against the creation of a new canton, the districts in favour would retain a right to decide again whether they would wish to separate from the Canton of Berne. Finally, the third plebiscite at the *municipal* level was planned. At that stage, only the municipalities bordering on a district that decided to separate or remain with the Canton of Berne could once again vote on their preferred territorial affiliation³⁷.

Voting rights were conferred to Swiss citizens who at the time of voting were legally residing or had lived for at least three months in one of the respective municipalities³⁸. This regional plebiscite could be triggered by an initiative supported by 5'000 people of Jura or a ruling of the cantonal government³⁹. On 23 June 1974, the seven districts of the Jura region voted with a slim majority of 51.94 per cent in favour of forming a new canton⁴⁰. The result was extremely close and while all three districts in North Jura voted in favour of a new Canton of Jura, the three South Jura districts and the German-speaking Laufen were opposed to the idea⁴¹. At this stage, however, this internal division was not final as the plebiscite solely aimed at deciding whether there should be a new canton. The exact territorial boundaries would indeed have to be determined in the following plebiscites on the district and municipal levels⁴².

Table 3: Plebiscite of 23 June 1974, results in the seven districts: A new canton was born

District	Yes	No	Participation
Courtelay	3'123	10'260	90,03%
Delémont	11'070	2'948	92,50%
Franches-Montagnes	3'573	1'058	93,48%
Laufon	1'433	4'113	73,16%
Moutier	7'069	9'330	91,48%
La Neuveville	931	1'776	86,47%
Porrentruy	9'603	4'566	93,62%
Sum total	36'802	34'067	88,67%
	51,94%		

Source: <<http://www.chronologie-jurassienne.ch/fr/008-PROBLEME-JURASSIEN/Ple-biscites/Ple-biscite-JU-1974/Re-sultats.html>>

Given that a slim majority voted in favour of forming a new canton, the districts which were against breaking away from the Canton of Berne retained the right to decide again⁴³. In doing so, the involved political actors hoped to avoid that these districts would feel outnumbered and permanently kept in a minority position⁴⁴. On this level, the plebiscite could be triggered by one-fifth of the population of each previously outnumbered district within six months after the first plebiscite⁴⁵. All three southern districts made use of this possibility and the second plebiscite took place on 16 March 1975. Perhaps unsurprisingly given the prior results, they all spoke out in favour of remaining with the Canton of Berne (hereafter *Bernese Jura*), reinforcing once again the internal fragmentation of the Jura region⁴⁶.

Ultimately, border municipalities which, in the two previous plebiscites, had been outnumbered by the result in their districts, could ask for a final plebiscite on their preference to belong to one or the other canton⁴⁷. This possibility was only granted to municipalities which were directly located on one side or the other of the new provisional cantonal border after the second plebiscite⁴⁸. At this level, the plebiscite could be triggered by a fifth of the residents of each border municipality⁴⁹. A total of fourteen municipalities made use of this third plebiscite that subsequently took place on 7 and 14 September 1975⁵⁰. The votes were accompanied by tension such as in Moutier where the result of the vote provoked violent riots and protests by separatist groups and resulted in over 200 arrests⁵¹. Like the second plebiscite, the third one served to avoid border conflicts and political frustrations due to the fact that these municipalities had been previously outnumbered. It also helped to determine exactly the new cantonal border as it provided for an adjustment all the way down to the municipal level. According to MAGGETTI-WASER and FANG-BÄR this three-stage procedure was '[...] an example [of] how to establish the maximum congruency between those who decide and those who are affected by the decision.'⁵²

As a result of the plebiscites, the German-speaking district of Laufon which decided to remain with the Canton of Berne turned into an exclave. Due to this isolated position, it was given the opportunity to join a neighbouring canton or to stay with Berne. After a long-standing legal dispute which resulted in the repetition of the vote⁵³, Laufon decided to join the Canton of Basel-Land in 1989⁵⁴.

2.3 The new Constitution of Jura (1977) and the subsequent revision of the Swiss Federal Constitution (1978)

After the territory of the new canton had been defined in a three-stage procedure, further requirements of the Federal Constitution had to be fulfilled in order to be recognised as an official new canton. First, all Swiss cantons needed to adopt a constitution that required the approval of the cantonal electorate⁵⁵. Therefore, and shortly after the last plebiscite, a constitutional council started to work on a Constitution of the Canton of Jura. The latter was quickly enacted and accepted by the cantonal electorate on 20 March 1977⁵⁶. Second, the Federal Assembly had to guarantee the new cantonal constitution, as a way to ensure that it was not contrary to prevailing federal law⁵⁷. In this case, the Federal Assembly guaranteed the Constitution in September 1977 with the exception of its article 138. According to the Federal Assembly, the said article provided for the possibility to annex the Bernese Jura to the new Canton of Jura. This was perceived as a unilateral declaration of further territorial claims that disregarded the territorial integrity of the Cantons provided and protected by the Federal Constitution and disturbed the peaceful relations within the federal state⁵⁸.

Finally, changes at the federal level had to be made. On the one hand, the provision which enumerated all the cantons forming Switzerland had to be amended to add the Canton of Jura to the list⁵⁹. On the other hand, the number of members of the second chamber of the Federal Parliament had to be adjusted from 44 to 46⁶⁰. Consequently, a revision of the Swiss Federal Constitution was needed and called for a mandatory federal referendum requiring the double majority of the Swiss people and the cantons⁶¹. The amendments were therefore put to a vote. On 24 September 1978, by a majority of 82.4 per cent of the population and by all cantons, the creation of the Canton of Jura was accepted⁶². With the enactment of the revised constitutional provisions on 1 January 1979, the Canton of Jura was then formally able to exercise its sovereignty⁶³.

2.4 An institutionalised way of dealing with territorial changes

Having a closer look at the way the procedure was designed, reveals much about the specific democratic context in which the referendums and the plebiscites took place. The formation of the Canton of Jura required first the consent of the cantonal electorate for the constitutional amendment providing for the legal basis of a secession. Subsequently, the population in the Jura region could vote in a three-stage procedure on whether they wish to create a new canton and what the exact territorial border would be. Finally, the revision of the Swiss Constitution required the consent of the Swiss population and the cantons by means of a mandatory federal referendum.

With the enactment of the new Swiss Federal Constitution of 1999, these principles were transposed in a simplified manner into art. 53 Cst.⁶⁴ Art. 53 para. 2 Cst. lays down that any change in the number of cantons requires the consent of the cantons and the citizens concerned together with the consent of the Swiss people and all cantons. It is worth noting that the provision remains silent on who composes the citizens concerned, which – as the plebiscites in the Jura showed – might require several votes on different geographically limited areas⁶⁵. In art. 53 para. 3 Cst. the same procedure is applied for minor territorial changes with the difference that it only requires the approval of the Federal Assembly in the form of a federal decree and not a federal mandatory referendum⁶⁶. This is usually the case when a municipality or a district changes cantonal affiliation without altering the number of cantons. This is a fairly common procedure in Switzerland.

The procedure set up in art. 53 Cst. does not provide for a fully-fledged secession procedure as it effectively limits itself to establish *approval requirements*⁶⁷. Nevertheless, it represents an institutionalised way of dealing with subnational territorial changes, emphasising a consent-based approach that strengthens the democratic legitimacy of the process⁶⁸. In addition, the specific federal structure of Switzerland is also taken into account, as the procedure requires the approval of the actors involved at *all* political levels. It should be noted that the actors on the federal level are formally involved only at the very procedure's end. However, as will be explained later with regards to the tripartite dialogue, in a more informal manner the Federal Government already takes on a mediating role much earlier.

This consent-based approach could at least partly explain why other cantons were not opposed to the formation of a new canton. The Jura region had long unsuccessfully advocated for a unilateral right to secede by highlighting its distinct and cultural homogeneous community⁶⁹. This approach was always met with opposition by Berne. Only after a reorientation based on a democratic demand for independence could the northern Jura region successfully promote the creation of its own canton. This approach ensured that the secession procedure was mediated through a constitutional process that provided for the participation of political actors on all federal levels. It thus gave the process a high degree of democratic legitimacy, which assured that any opposition from other cantons would have been addressed and resolved.

3. Moving towards an institutionalised dialogue

3.1 The inter-Jurassian assembly and the institutional future of the Jura region

Separatist movements did not accept the secession of the northern part of the Jura as a permanent solution and began to work towards the reunification of the northern and southern regions⁷⁰. Territorial disputes, therefore, concentrated on the southern part, which had originally remained with Berne. Several incidents added up to a heated climate and at the beginning of the early 1990s violence reached a new peak with arson attacks, destruction of historical monuments and the death of a separatist caused by his own bomb⁷¹. These tensions were further fuelled by actions on both sides of the cantonal border. On the one hand, in 1984 a scandal has been made public that the cantonal government of Berne had secretly donated around CHF 730'000.- to support anti-separatist movements in the years between 1974 and 1982⁷². The Federal Supreme Court, however, rejected the Canton of Jura's complaint that these financial contributions unduly influenced the results of the plebiscites and its demand to repeat the polls⁷³. On the other hand, the '*Rassemblement jurassien*' launched a popular initiative called '*UNIR*', demanding the reunification of the Bernese Jura with the newly formed Canton of Jura. In response to the decision of the cantonal parliament of Jura, which declared this initiative admissible, Berne's cantonal government filed a complaint at the Federal Supreme Court⁷⁴. In 1992 the Federal Supreme Court declared the popular initiative as being invalid, stating that *unilateral actions* which alter the territorial integrity of other cantons were not permitted regardless whether by way of violence or legislative means⁷⁵.

These ongoing conflicts made it clear that new approaches to reduce tensions had to be developed. For this purpose, both cantonal governments reached out to the Swiss Government and agreed on a tripartite dialogue. In 1994, an agreement between both cantons and under the direction of the Federal Government institutionalised this dialogue and the inter-Jurassian assembly was

established⁷⁶. The latter was composed equally by representatives of both cantons and headed by a president chosen by the Federal Government⁷⁷. These efforts essentially allowed for a transformation of the conflict's nature as they helped to open it up for a future political solution based on dialogue and cooperation⁷⁸. At first, the inter-Jurassian assembly did not produce any significant results and frustration, especially among separatist movements, rose again⁷⁹. In 2003, a popular initiative named '*un seul Jura*' put the institutionalised dialogue at risk by calling on the cantonal parliament of Jura to draw up draft legislation for reunification⁸⁰. However, both governments reacted calmly in deciding not to take any position on it. They emphasised that it is for the inter-Jurassian assembly to discuss the reunification of the Canton of Jura and the Bernese Jura⁸¹. Consequently, in 2005 both governments tasked the inter-Jurassian assembly to conduct a study on the institutional future of the Jura region. Three years later on 4 May 2009, the inter-Jurassian assembly issued a report in which they examined three possible solutions: a new canton consisting of the six North and South Jura districts; a direct partnership with increased inter-cantonal collaboration and a so-called status quo plus approach⁸².

3.2 The final rejection of a united Canton of Jura (2013)

Both cantonal governments agreed in a declaration of intent on 20 February 2012 to organise a new plebiscite on the institutional future of the Jura region⁸³. The new plebiscite had to meet the requirements set out in art. 53 para. 2 Cst. and which were developed during the creation of the Canton of Jura. Therefore, the plebiscites were organised in a similar way consisting of two stages this time⁸⁴. First, *two simultaneously held plebiscites in the Canton of Jura and in the Bernese Jura* would take place regarding whether the two cantonal governments should be mandated with initiating a procedure to form a reunited canton⁸⁵. The plebiscites took place on 24 November 2013 and the results confirmed once again the internal fragmentation of the Jura region⁸⁶. While the Canton of Jura voted in favour with a majority of 76.57 per cent, the Bernese Jura rejected the plebiscite by 71.84 per cent⁸⁷. Within Bernese Jura, only Moutier accepted the creation of a united canton with 55.36 per cent. The declaration of intent provided that in case the plebiscites were either rejected by the Canton of Jura, the Bernese Jura or by both, the idea of creating a united canton would be abandoned once and for all⁸⁸. Accordingly, the cantonal government of Jura officially recognised the result and declared that the creation of a historical unity of the Jura region is no longer a political objective⁸⁹. In case of a rejection the agreed procedure provided for *a second plebiscite for the municipalities located in the Bernese Jura*⁹⁰. They could vote again on their preferred cantonal affiliation. Unlike the municipal plebiscite in 1975, the vote was not confined only to border municipalities⁹¹.

Table 4: Plebiscite of 24 November 2013

Canton (districts)	Yes	No	Participation
Berne, Bernese Jura (Moutier, La Neuveville, Courtelary)	7'377 (28,2%)	18'823 (71,8%)	74,1%
Jura (Delémont, Franches-Montagnes, Porrentruy)	24'532 (76,57%)	7'505 (23,43%)	64,23%

Source: <<https://www.jura.ch/CHA/SCH/Votations/2013/Votations-du-24-novembre-2013/Modification-du-27-fevrier-de-la-Constitution-processus-tendant-a-la-creation-d-un-nouveau-Canton.html>> and <<https://www.sta.be.ch/sta/de/index/wahlen-abstimmungen/wahlen->

[abstimmungen/abstimmungen/ergebnisse_abstimmungen/2013.html#anker-anchor-1>](#)

3.3 Moutier's vote and its annulment (2017)

Since Moutier was outnumbered in the first plebiscite, it was the first municipality that submitted a formal request to the cantonal government of Berne requesting them to create a legal basis for a future vote on Moutier's cantonal affiliation⁹². On 26 January 2016, the cantonal parliament passed the law on the conduct of voting on the cantonal affiliation of the municipalities in the Bernese Jura⁹³. On 18 June 2017, the city of Moutier voted with a narrow majority of 51.7 per cent, constituting only a difference of 137 votes, in favour of leaving the Canton of Berne and joining the Canton of Jura⁹⁴. Following the vote, the government of the Canton of Berne declared that they recognise the result and according to the declaration of intent considered the Jura question as being formally closed with this vote⁹⁵. Consequently, the services provided by the inter-Jurassian assembly were no longer required and both cantonal governments jointly with the Federal Government decided to dissolve the assembly with effect from 31 December 2017⁹⁶.

However, Moutier has not yet changed its cantonal affiliation. According to the law on the conduct of voting on the cantonal affiliation of the municipalities in the Bernese Jura, the details of the change have first to be laid down in an inter-cantonal agreement concluded between the cantonal government of Berne and the Canton of Jura⁹⁷. Subsequently, the inter-cantonal agreement would need the approval of both cantonal parliaments as well as both cantonal populations. In addition, the amendment would then require the approval of the Federal Assembly in accordance with art. 53 para. 3 Cst., as it represents only a minor territorial modification.

The procedure has been brought to a halt as several complaints against the vote have been filed. The complaints alleged facts that have never, or rarely, been examined by courts in Switzerland such as voting tourism, vote-buying and irregularities in the electoral register. Consequently, the two cantonal governments will only continue with preparatory work for the drafting of the inter-cantonal agreement when the governing body of the Bernese Jura has decided on and rejected the appeals⁹⁸. In the meantime, the governments of the Cantons of Berne and Jura have adopted within the framework of the tripartite conferences on Jura a '*Charter for Moutier*' under the auspices of the Federal Government, reaffirming their commitment that the procedure for dealing with the complaints would be carried out in a peaceful manner and with dignity⁹⁹.

On 5 November 2018, the responsible prefect decided that six out of seven legal complaints about misleading propaganda by authorities and organisational deficiencies were justified. The misleading propaganda concerned the city mayor of Moutier: He has sent letters in advance of the vote, for example to schools, reassuring that they would certainly continue to exist if a transfer to the Canton of Jura will take place¹⁰⁰. The jurisprudence of the Federal Supreme Court on misleading propaganda of authorities is clear: the opinion-formation in the run-up to votes is primarily reserved for social groups and political parties. Only in exceptional cases, when there are good reasons to do so, may authorities intervene: for example, in order to correct obviously false information from private sources. In doing so, the authorities would have to limit themselves to an information activity oriented towards objectivity and proportionality¹⁰¹. According to the Federal Supreme Court's jurisprudence, authorities are only allowed to recommend to citizens the acceptance of a project submitted to a vote and send them an explanatory message, provided that it respects its duty to provide objective information and does not give false indications on the purpose or scope of the project¹⁰².

The organisational deficiencies concerned on the one hand the electoral register as Moutier should have delivered its electoral register to the cantonal and federal government before the vote in June 2017. On the other hand, the verification of the identity of voters has been questioned since the municipal authorities refrained from checking identity cards. The prefect, therefore, annulled the vote and Moutier's transference to the Canton of Jura¹⁰³.

This decision was taken to court and the Berne Administrative Court confirmed in its judgement the prefect's decision and declared the vote invalid on 23 August 2019. The Berne Administrative Court identified serious irregularities as it seemed that people had registered themselves as eligible voters without actually residing in Moutier. The possibility of casting inadmissible ballots might have influenced the outcome of an already tight vote. In addition to these irregularities, the Berne Administrative Court also found that misleading propaganda by authorities and officials, such as the mayor, had taken place in violation of the freedom to vote¹⁰⁴. At this stage, it appears that the judgement will not be referred to the Federal Supreme Court, as the parties involved are in favour of repeating the annulled vote as soon as possible.

This vote should have put an end to a long-running subnational territorial conflict. Instead, many actors on different political levels such as the concerned authorities of Moutier, the cantonal governments of Jura and Berne as well as the Federal Government as a mediator are challenged once again to find a way to settle the issue in a peaceful manner, respecting simultaneously the democratic process and the constitutional requirements.

Conclusion

In the first part, the article focused on how the Jura region was incorporated into the Canton of Berne in 1815. This period is particularly revealing, as it sheds some lights on the question of why the Jura community mobilised for holding several referendums on self-determination. It demonstrates how closely the attempts for political and territorial secession resulted from an overlapping minority status of the population in the Jura region, which was a predominantly French-speaking and Catholic minority in a German-speaking and Protestant canton. In a multicultural society, questions of independence are closely related to territorially-based minority rights and while a claim for increased institutional cooperation between Berne and Jura was successful in 1950, the push for secession was overwhelmingly rejected in the 1959 referendum.

The second part examined how the creation of the Canton of Jura and its secession from the Canton of Berne through a series of referendums and plebiscites on different political levels happened. In doing so, it deals with a specific type of self-determination referendum as it accounts for a departure of a regional entity in order to form a new subnational entity within a state (*type 5 of self-determination referendums*)¹⁰⁵. As shown, the developed procedure, which was later transposed into the Swiss Constitution, can be closely linked to Switzerland's democratic and federal structure. On the one hand, it establishes approval requirements from different political entities and on the other hand, it involves all three political levels, ultimately favouring local self-determination and regional political association over territorial unity.

From 1959 on, all referendums showed that there was a clear rift between the voting patterns of the North and South Jura. This not only led to the forming of the Canton of Jura, consisting only of the North Jura, but also to the 2013 rejection of a united canton¹⁰⁶. The 2013 referendum represented another specific type of self-determination referendum as it was concerned with the departure of a

part of a subnational entity in order to join another subnational entity within a state (*type 6 of self-determination referendums*)¹⁰⁷. While the first type makes for the forming of a new subnational entity, the second one affects the altering of the territorial unit of two subnational entities. The need of the 2013 referendum and the subsequent plebiscite on Moutier's cantonal affiliation in 2018 highlighted that not all conflicts could be solved through the democratically addressed secession procedure developed in the 1980s. It thus also showed the limits, or rather challenges, a consent-based approach is facing. While the importance of the referendums and plebiscites were crucial as they allowed for the concerned population to express their opinion, they also reproduced and consolidated the historical fragmentation of the Jura region.

Holding referendums or plebiscites consist in determining first on which territory - or territories - they would be organised and second, who would be entitled to vote. According to MANCINI there is rarely 'a complete overlap between the territorial unit and the historical tradition that links a given group to the territory'¹⁰⁸. In the case at hand, this was not only true for the predominantly French-speaking and Catholic Jura region within the German-speaking and Protestant Canton of Berne but also within the Jura region itself. This internal division was once again clearly revealed by the question of Moutier's future territorial affiliation, and it remains to be seen how the authorities concerned will deal with it on all political levels.

Notes

¹ PICHARD (A.), 2004: *La question jurassienne - avant et après la naissance du 23e canton suisse*, Lausanne, PPUR, collection: Savoir suisse, 2004, p. 12; HÄNNI (P.) and ISELI (T.), 'Territoriale Veränderung im Bundesstaat: Das Beispiel des Kantons Jura', *Jahrbuch für Föderalismus 2014*, Tübingen, Nomos, 2014, p. 344.

² BASSAND (M.), 'The Jura Problem', *Journal of Peace Research*, Volume 12 Issue 2, 1975, p. 140.

³ Back at that time, the possibility to create an independent Canton of Jura was never on the table, see HÄNNI (P.) and ISELI (T.), *op.cit.*, p. 344.

⁴ A report of the Secret Council of Berne issued only a few days before the initial rejection of the offer highlighted that the population of the Jura region would differ considerably according to their way of thinking and tradition. The report concluded that a possible incorporation could lead to dissatisfaction and unrest, see KÖLZ (A.), *Neuere Schweizerische Verfassungsgeschichte, Ihre Grundlinien in Bund und Kantonen seit 1848*, Bern, Stämpfli Verlag, 2004, pp. 455-456.

⁵ MAGGETTI-WASER (M.) and FANG-BÄR (A.), 'The Birth of a New Canton: An Example for the Implementation of the Right to Self-determination', in BELSER (E. M.) *et al.*, *States Falling Apart?, Secessionist and Autonomy Movements in Europe*, Bern, Stämpfli Verlag, 2015, p. 341; PICHARD (A.), *op.cit.*, pp. 14-15.

⁶ HÄNNI (P.) and ISELI (T.), *op.cit.*, p. 344; It is, however, disputed to what extent separatist movements are rooted in these early conflicts or whether this is only a 'politicization of historical interpretation', see VOLMERT (A.), 'The Reinterpretation of Political Tradition: The Catholic Roots of Jurassian Nationalism', *Nationalism and Ethnic Politics*, vol. 14, n°3, 2008, p. 401 and pp. 407-410.

⁷ Two economic recessions that hit the local watch-making industry in the inter-war years and the

following Second World War pushed separatist aspirations temporarily into the background, see KÖLZ (A.), op.cit., p. 458; MAGGETTI-WASER (M.) and FANG-BÄR (A.), op.cit., p. 342.

8 See e.g., GASSER (A.), *Berne et le Jura (1815-1977)*, Bern, Imprimerie Fédérative, 1978, p. 52; MUELLER (S.), 'Conflicting Cantonalisms, Disputed Sub-national Territorial Identities in Switzerland', *L'Europe en Formation*, vol. 3, n°369, 2013, p. 95.

9 KÖLZ (A.), op.cit., p. 458.

10 THÜRER (D.), *Das Selbstbestimmungsrecht der Völker, Mit einem Exkurs zur Jurafrage*, Bern, Stämpfli Verlag, 1976, p. 209.

11 KÖLZ (A.), op.cit., p. 459; GASSER (A.), op.cit., p. 34; PICHARD (A.), op.cit., pp. 37-38; Leaving to seat in the cantonal government to the Jura region had largely already been common practice since 1846. Yet, the constitutional revision enshrined this principle as a legal minimum guarantee, see MAGGETTI-WASER (M.) and FANG-BÄR (A.), op.cit., p. 345.

12 A large majority of 69'089 against 7'289 votes decided in favour of the constitutional amendment. In the Jura region the result was 20'526 against 1'260 votes, see KÖLZ (A.), op.cit., p. 456.

13 Message of Swiss Government of 22 December 1950 [*Botschaft des Bundesrates an die Bundesversammlung über die Gewährleistung der abgeänderten Artikel 1, 2, 17, 26, 33 und 34 der Staatsverfassung des Kantons Bern*], BBl 1950 III 745, p. 747; THÜRER (D.), op.cit., p. 210; MAGGETTI-WASER (M.) and FANG-BÄR (A.), op.cit., p. 345.

14 PICHARD (A.), op.cit., p. 51; MAGGETTI-WASER (M.) and FANG-BÄR (A.), op.cit., p. 345.

15 HAUSER (C.), *L'aventure du Jura - cultures politiques et identité régionale du Xxe siècle*, Lausanne, éditions antipodes, 2004, p. 85.

16 NUSPLIGER (K.) and MÄDER (J.), *Bernisches Staatsrecht*, Bern, Stämpfli Verlag, 2012, 4th edition, p. 83.

17 NUSPLIGER (K.) and MÄDER (J.), op.cit., p. 83; KÖLZ (A.), op.cit., p. 460; THÜRER (D.), op.cit., p. 211.

18 Message of Swiss Government of 16 November 1977 [*Botschaft über die Gründung des Kantons Jura*], BBl 1977 III 767, p. 779.

19 MAGGETTI-WASER (M.) and FANG-BÄR (A.), op.cit., p. 346.

20 The Jura region feared a gradual Germanisation and fought for the recognition of French as a native language or the reintroduction of the French laws. Other conflicts were due to religious frictions such as the declaration of Berne's liberal government to support efforts to place the Roman Catholic Church largely under state supervision or the removal of 97 priest loyal to the pope in North Jura, see KÖLZ (A.), op.cit., pp. 456-457; VOLMERT (A.), op.cit., p. 401.

21 LINDER (W.), *Swiss Democracy, Possible Solutions to Conflict in Multicultural Societies*, Basingstoke, Palgrave Macmillan, 2010, 3rd edition, p. 40; JENKINS (J.R.G.), *Jura separatism in*

Switzerland, Oxford, Clarendon-Press, 1986, p. 5.

22 LINDER (W.), op.cit., pp. 28-29; similar also JENKINS (J.R.G.), op.cit., pp. 12-14; see for further information HARDER (H.-J.), *Der Kanton Jura, Ursachen und Schritte zur Lösung eines Schweizer Minderheitenproblems*, Frankfurt am Main, Verlag Peter Lang GmbH, 1978; GANGUILLET (G.), *Le conflit jurassien: un cas de mobilisation ethno-régionale en Suisse*, Zurich, Institut de sociologie de l'Université de Zurich, 1986, 2nd edition.

23 BASSAND (M.), op.cit., p. 140.

24 BASSAND (M.), op.cit., pp. 145-148; see also MUELLER (S.), op.cit., p. 88, who argues that socio-economic factors were less important in Jura; similar VOLMERT (A.), op.cit., pp. 404-405.

25 LINDER (W.), op.cit., pp. 29-30.

26 VOLMERT (A.), op.cit., p. 396.

27 MAGGETTI-WASER (M.) and FANG-BÄR (A.), op.cit., p. 340.

28 THÜRER (D.), op.cit., p. 210-211.

29 Cf. VOLMERT (A.), op.cit., pp. 407-422 or also SIROKY (D. S.), MUELLER (S.) and HECHTER (M.), 'Cultural legacies and political preferences', *European Political Science Review*, vol. 9, n°2, 2017, pp. 313-319, who are analysing this question in light of the 2013 referendum.

30 NUSPLIGER (K.) and MÄDER (J.), op.cit., p. 83; LINDER (W.), p. 30.

31 Art. 5 Swiss Federal Constitution of 1874.

32 MAGGETTI-WASER (M.) and FANG-BÄR (A.), op.cit., p. 349.

33 BBl 1977 III 767, op.cit., p. 782-783; Thürer (D.), op.cit., p. 213.

34 The commission was composed of former members of the Swiss government and members of the Swiss parliament.

35 Message of Swiss Government of 26 August 1970 [*Botschaft des Bundesrates an die Bundesversammlung über die Gewährleistung des Zusatzes zur Staatsverfassung des Kantons Bern hinsichtlich des jurassischen Landesteiles*], BBl 1970 II 549, p. 553; NUSPLIGER (K.) and MÄDER (J.), op.cit., p. 84.

36 Art. 2 (1) constitutional amendment, see BBl 1970 II 549, op.cit.

37 See BBl 1970 II 549 et seqq., op.cit.; KÖLZ (A.), op.cit. 464.

38 Art. 8 constitutional amendment, see BBl 1970 II 549, op.cit.

39 In the present case, the plebiscite was triggered by a decision of the cantonal government which by doing so responded to a letter by the *Rassemblement jurassien* calling for a referendum, see Message of Swiss Government of 20 April 1977 [*Botschaft über die Gewährleistung der Verfassung des künftigen Kantons Jura*], BBl 1977 II 264, p. 788 and KÖLZ (A.), op.cit., p. 464.

40 BBl 1977 II 264, op.cit., p. 788.

41 KÖLZ (A.), op.cit., p. 466.

42 MAGGETTI-WASER (M.) and FANG-BÄR (A.), op.cit., p. 351.

43 Art. 3 (2) constitutional amendment, see BBl 1970 II 549, op.cit.

44 KÖLZ (A.), op.cit., p. 464.

45 Art. 3 (2) constitutional amendment, see BBl 1970 II 549, op.cit.

46 With a high voter turnout of 94 percent, the districts of Courtelary with 76 percent, La Neuveville with 65 percent and Moutier with 54 percent were in favour of remaining with the Canton of Berne, see BBl 1977 II 264, op.cit., p. 266; KÖLZ (A.), op.cit., p. 466.

47 Art. 4 (1) constitutional amendment, see BBl 1970 II 549, op.cit.; KÖLZ (A.), op.cit., p. 464.

48 Art. 4 (1) constitutional amendment, see BBl 1970 II 549, op.cit.; MAGGETTI-WASER (M.) and FANG-BÄR (A.), op.cit., p. 350.

49 Art. 4 (3) constitutional amendment, see BBl 1970 II 549, op.cit.; KÖLZ (A.), op.cit., p. 464.

50 Eight Catholic municipalities in the district of Moutier opted for a move to the new canton, while four predominantly Protestant municipalities belonging to Moutier and two municipalities belonging to the district of Delémont decided to remain with the Canton of Berne, see BBl 1977 III 767, p. 790.

51 PICHARD (A.), op.cit., p. 84.

52 MAGGETTI-WASER (M.) and FANG-BÄR (A.), op.cit., p. 350.

53 Decision of the Swiss Federal Supreme Court, BGE 114 Ia 427.

54 On 1 January 1994 Laufen officially became part of the Canton of Basel-Landschaft after the people and the cantons agreed to the change of canton, cf. Message of Swiss Government of 27 January 1993 [*Botschaft über den Anschluss des bernischen Amtsbezirks Laufen an den Kanton Basel-Landschaft sowie über die Gewährleistung der geänderten Verfassung des Kantons Basel-Landschaft*], BBl 1993 I 1029, p. 1033-1034; WILDHABER (L.), 'Ederswiler und Vellerat - zur Gebietsveränderung im Bundesstaat', in EICHENBERGER (K.), *Recht als Prozess und Gefüge, Festschrift für Hans Huber zum 80. Geburtstag*, Bern, Stämpfli Verlag, 1981, pp. 343-349.

55 Art. 51 (1) Swiss Federal Constitution.

56 TIEFENTHAL (J. M.), 'Kantonsgründung, Sezession und Inkorporation im Bundesstaat', *recht*, n° 2, 2017, p. 70.

57 Art. 6 (2) and Art. 85 (7) Swiss Federal Constitution of 1874 for the time of enacting of the Constitution of Jura or nowadays Art. 51 (2) and Art. 172 (2) Swiss Federal Constitution.

58 Art. 1 Federal Council's decision of 28 September 1977 [*Bundesbeschluss über die Gewährleistung der Verfassung des künftigen Kantons Jura*], BBl 1977 III 256, p. 256, BBl 1977 II

264, *op.cit.*, p. 273-274; PICHARD (A.), *op.cit.*, p. 94.

59 Art. 1 Swiss Federal Constitution of 1874; It was never seriously considered to create two half cantons from the existing canton of Berne. In particular, there is no provision in the Constitution for the creation of two half cantons in the event of the division of a canton. The status of the six existing half cantons cannot serve as a basis of comparison as they all have been created before the founding of the federal state due to various historical reasons. The unequal treatment of the existing half cantons can hardly be justified any more. The main reason why these half-cantons have not been upgraded is that it would reinforce the already existing predominance of the German-speaking cantons over the French- and Italian-speaking ones. Moreover, the size and importance of the Canton of Berne would have stood in the way of such a solution. Accordingly, the Canton of Berne already stated in 1970 that it would remain a full canton even in the event of a separation of the Jura region or some parts of it, cf. BBl 1977 III 767, *op.cit.*, p. 795 f.; JAAG (T.), 'Die Rechtsstellung der Kantone in der Bundesverfassung', in THÜRER (D.), AUBERT (J.-F.) and MÜLLER (J.-P.), *Verfassungsrecht der Schweiz*, Zürich, Schulthess Verlag, 2001, pp. 473-489, n°4-5.

60 Art. 80 Swiss Federal Constitution of 1874; MAGGETTI-WASER (M.) and FANG-BÄR (A.), *op.cit.*, p. 353.

61 Art. 123 (1) Swiss Federal Constitution of 1874.

62 Art. 1 Federal Council's decision of 25 October 1978 [*Bundesratsbeschluss über das Ergebnis der Volksabstimmung vom 24. September 1978 (Gründung des Kantons Jura)*], BBl 1978 II 1222.

63 Art. 3 Swiss Federal Constitution; Jenkins (J.R.G.), *op.cit.*, p. 1; Hänni (P.) and Iseli (T.), *op.cit.*, p. 348.

64 BIAGGINI (G.), *BV Kommentar, Bundesverfassung der Schweizerischen Eidgenossenschaft*, Zurich, orell füssli Verlag, 2017, 2nd edition., Art. 53 n°8; TIEFENTHAL (J. M.), *op.cit.*, pp. 68-69.

65 BIAGGINI (G.), *op.cit.*, Art. 53 n° 8.

66 A federal decree is subject to an optional referendum, see art. 163 (2) Swiss Federal Constitution in conjunction with art. 141 (1(c)) Swiss Federal Constitution.

67 BIAGGINI (G.), *op.cit.*, Art. 53 n° 8-9.

68 MANCINI (S.), 'Secession and Self-Determination', in ROSENFELD (M.) and SAJÓ (A.), *The Oxford Handbook of Comparative Constitutional Law*, Oxford, Oxford University Press, 2012, p. 485.

69 See for nationalistic theories of secession MANCINI (S.), *op.cit.*, p. 484.

70 HÄNNI (P.) and ISELI (T.), *op.cit.*, p. 348.

71 PICHARD (A.), *op.cit.*, p. 122; Hänni (P.) and Iseli (T.), *op.cit.*, p. 350.

72 MAGGETTI-WASER (M.) and FANG-BÄR (A.), *op.cit.*, p. 355.

73 Decision of the Swiss Federal Supreme Court, BGE 117 Ia 233, consid. 4 p. 237.

74 Decision of the Swiss Federal Supreme Court, BGE 118 Ia 195, Berne argued that the initiative

violated its territorial integrity and endangered the peaceful relations between the members of the Swiss Confederation, both guaranteed and protected under the Federal Constitution.

75 Decision of the Swiss Federal Supreme Court, BGE 118 Ia 195, consid. 5d.

76 Agreement of 25 March 1994 [*Accord entre le conseil fédéral, le conseil-exécutif du Canton de Berne et le gouvernement de la république et Canton du Jura relatif à l'institutionnalisation du dialogue interjurassien et à la création de l'assemblée interjurassien*]; The inter-Jurassian assembly was tasked with promoting a dialogue, reinforce collaboration between both cantons and develop means of collaboration. It might also assess the reunification of the Jura region. However, this was only seen as a possibility and not the main task; see HÄNNI (P.) and ISELI (T.), op.cit., p. 351.

77 Art. 2 (1) regulations of the inter-Jurassian assembly of 23 August 1994.

78 BUECHI (R.), 'Use of Direct Democracy in the Jura Conflict', in Marxer (W.), *Direct Democracy and Minorities*, Wiesbaden, Springer Verlag, 2012, p. 192.

79 PICHARD (A.), op.cit., p. 134; MAGGETTI-WASER (M.) and FANG-BÄR (A.), op.cit., p. 358.

80 HÄNNI (P.) and ISELI (T.), op.cit., p. 352.

81 PICHARD (A.), op.cit., p. 135; MAGGETTI-WASER (M.) and FANG-BÄR (A.), op.cit., p. 358; HÄNNI (P.) and ISELI (T.), op.cit., p. 353.

82 Final report of the inter-Jurassian assembly of 22 April 2009 [*Studie über die institutionelle Zukunft der interjurassischen Region, Schlussbericht der Interjurassischen Versammlung (IJV)*], <https://www.rr.be.ch/rr/de/index/dossiers/dossiers/berner_jura/dokumentation.assetref/dam/documents/RR/Regierungsrat/de/IJV-Schlussbericht-April-2009.pdf>; MUELLER (S.), op.cit., pp. 97-98.

83 Declaration of intent of 20 February 2012 [*Déclaration d'intention portant sur l'organisation de votations populaires dans la république et Canton du Jura et le Jura bernois concernant l'avenir institutionnel de la région*], <<http://www.maj.ch/uploads/declaration-20-fevrier-2012.pdf>>.

84 Cf. for a schematic overview of the procedure, Message of the Government Council of the Canton of Berne of 24. November 2013 [*Botschaft des Regierungsrates des Kantons Bern an die Stimmberechtigten des Berner Juras - Regionalen Volksabstimmung vom 24.11.2013*], <https://www.rr.be.ch/rr/de/index/dossiers/dossiers/berner_jura/dokumentation.assetref/dam/documents/STA/AZD/de/abstimmungen/botschaft/2013-09-12-abstimmungsbotschaft-de.pdf>, p. 8.

85 Art. 3 and art. 5 declaration of intent, op.cit.

86 HÄNNI (P.) and ISELI (T.), op.cit., p. 358.

87 Government report of 27 May 2014 [*Rapport du Gouvernement au Parlement sur la reconstitution de l'unité du Jura*], p. 6, <<https://www.jura.ch/Htdocs/Files/v/16139.pdf>/Departements/CHA/CHA/Question_JU_NEU/2014_Rapport_unite_Jura.pdf?download=1>.

88 Art. 10 declaration of intent, op.cit.

89 Government report, op.cit., p. 10, 14.

90 Art. 10 declaration of intent, op.cit.

91 MUELLER (S.), op.cit., p. 98.

92 See Press release of the State Chancellery of the Canton of Berne of 15 April 2014 [*Medienmitteilung der Staatskanzlei des Kantons Bern: Gemeindeabstimmung über allfälligen Kantonswechsel in Moutier: Kanton erarbeitet die nötigen gesetzlichen Grundlagen*], <https://www.sta.be.ch/sta/de/index/staatskanzlei/staatskanzlei/aktuell.meldungNeu.aktuellBox.html/portal/fr/meldungen/mm/2014/04/20140414_1349_kanton_erarbeitetdienoetigengesetzlichengrundlagen>.

93 Art. 1 Law on the conduct of voting on the cantonal affiliation of 26 January 2016 [*Gesetz betreffend die Durchführung von Abstimmungen über die Kantonszugehörigkeit bernjurassischer Gemeinden*].

94 See for the voting result in Moutier: <<https://www.jura.ch/fr/Autorites/Moutier/Votation-du-18-juin-2017.html>>, accessed on 08.11.2018.

95 Declaration of the Government of 18 June 2017 [*Erklärung des Regierungsrates zur Abstimmung über die Kantonszugehörigkeit der Stadt Moutier*], <<https://www.be.ch/dam/documents/portal/Medienmitteilungen/de/2017/06/2017-06-18-moutier-rr-erklaerung-de-j.pdf>>.

96 Termination of the agreement on the establishment of the inter-Jurassian assembly of 10 November 2017 [*Kündigung der Vereinbarung vom 25. März 1994 betreffend die Institutionalisierung des interjurassischen Dialogs und die Bildung der Interjurassischen Versammlung*], <https://www.sta.be.ch/sta/de/index/ein_kanton-zwei_sprachen/ein_kanton-zwei_sprachen/sonderstatut/interjurassischeversammlung.assetref/dam/documents/STA/ASR/de/Texte/2017-11-10_Acte_de_denonciation-de.pdf>.

97 Art. 10 Law on the conduct of voting on the cantonal affiliation, op.cit.

98 See Press release of the State Chancellery of the Canton of Berne on 29 March 2018 [*Medienmitteilung der Staatskanzlei des Kantons Bern: Vorbereitungstreffen zum Kantonswechsel von Moutier*], <https://www.sta.be.ch/sta/de/index/staatskanzlei/staatskanzlei/aktuell.meldungNeu.aktuellBox.html/portal/fr/meldungen/mm/2018/03/20180329_1425_vorbereitungstreffenzumkantonswechselvonmoutier>.

99 Charter of Moutier, <<https://www.bj.admin.ch/dam/data/bj/staat/juradossier/charta-moutier-d.pdf>>, accessed on 07.11.2018.

100 Cf. GLASER (A.) and LEHNER (I.), 'Moutier, quo vadis? Die Aufhebung der Volksabstimmung über den Kantonswechsel', *Aktuelle Juristische Praxis (AJP)*, 2019, pp. 456 and 459.

101 Federal Supreme Court, BGE 130 I 290, consid. 3.2 p. 294; GLASER (A.) and LEHNER (I.),

op.cit., p. 456.

102 See for example decision of the Federal Supreme Court, BGE 132 I 104, consid. 4.1 p. 112; cf. also PIRKER (B.), 'Behördliche Interventionen in Abstimmungskämpfe', *Aktuelle Juristische Praxis*, 2017, p. 1369.

103 Decision of the prefect of the Bernese Jura of 2 November 2018 (PMC nr. 7 - 2017); cf. GLASER (A.) and LEHNER (I.), op.cit., op. 457-458.

104 Judgement of the Court of Administrative Law of Berne of 23 August 2019 (VGE 100 2018 388).

105 Cf. the taxonomy developed in the introduction to this special issue, NIESSEN (C.), 'Understanding the Occurrence and Outcome of Self-Determination Referenda in Europe: a Conceptual and Methodological Introduction', *Fédéralisme-Régionalisme*, 2019: <https://popups.uliege.be/1374-3864/index.php?id=1889>, accessed October 2019.

106 See for theories of why North and South Jura voted differently, VOLMERT (A.), op.cit., p. 407 or SIROKY (D. S.), MUELLER (S.) and HECHTER (M.), op.cit., pp. 309-312.

107 NIESSEN (Ch.), op.cit.

108 MANCINI (S.), op.cit., p. 486.

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