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# **Challenges on Establishing the Association/Community of Serb- majority Municipalities**

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## Introduction

This paper examines barriers encountered on establishing Association/Community of Serb-majority Municipalities in Kosovo. This issue lies at the heart of ongoing tensions between Kosovo and Serbia, following the 2013 Brussels Agreement. The establishment of the ASM, designed to grant limited self-governance to Serb-majority municipalities, has been a focal point of the EU-mediated dialogue between the two countries. Despite its intended role as a compromise to ease ethnic tensions, the ASM has become a highly contested entity, raising significant political, legal, and security concerns.

This paper explores the challenges related to the ASM's formation by analysing key agreements, legal documents, and public sentiment. Among the central issues are the conflicting interpretations of the ASM's role, fears of enhanced autonomy undermining Kosovo's sovereignty, and the constitutional hurdles that have stalled its implementation. The ASM debate reveals deep-rooted ethnic and political divisions within Kosovo, while also highlighting broader geopolitical stakes involving Serbia's influence. This paper delves into these dynamics to better understand why the establishment of the ASM remains unresolved and a source of tension in the region.

## Dialogue between Kosovo and Serbia

After the International Court of Justice (ICJ) issued its advisory opinion on Kosovo's declaration of independence, the United Nations General Assembly, on September 9, 2010, adopted a resolution co-sponsored by the 27 EU member states and Serbia (UN Press, 2010). This resolution sets the stage for the Kosovo-Serbia dialogue, facilitated by the European Union. Approved by consensus, the resolution welcomed the ICJ's opinion and endorsed the EU's readiness to mediate the dialogue, emphasizing its potential to foster peace, security, and stability in the region. The process was intended to promote cooperation, improve the lives of citizens, and

support both countries on their path towards EU integration.

As a result, on March 10, 2011, the Kosovo Assembly passed a resolution authorizing the Government of the Republic of Kosovo to begin technical talks with Serbia, with a mandate to provide regular updates on the progress of these discussions. The resolution also required the government to submit a foundational document outlining the general principles, objectives, and non-negotiable issues of the dialogue (KDI, 2018). In addition to these technical talks, political discussions for the normalization of relations began at the end of 2012. On October 18, 2012, the Kosovo Assembly adopted another resolution supporting the initiation of political dialogue and once again mandated the government to lead the process (KDI, 2018). The dialogue with Serbia has experienced periodic interruptions and delays due to internal tensions and disputes between the two countries.

## The 2013 Agreement

Since October 2012, the Prime Ministers of Kosovo and Serbia, Hashim Thaçi and Ivica Dacic, engaged in ten rounds of meetings aimed at normalizing relations between the two countries. These efforts culminated on April 19, 2013, when they signed the First Agreement of Principles Governing the Normalization of Relations, under the mediation of the EU's High Representative for Foreign Affairs and Security Policy, Baroness Catherine Ashton. The agreement marked a historic step as the first formal and legal arrangement between Kosovo and Serbia.

Kosovo's Assembly ratified the agreement on June 27, 2013, granting it the status of an international agreement from Kosovo's perspective. However, Serbia's Parliament did not ratify it, arguing that it did not constitute an agreement between two sovereign states. A parliamentary group in Serbia even took the matter to the Constitutional Court, which declined to review it, deeming the agreement a political rather than a legal act (KDI,2020)

Known as the "Brussels Agreement," this accord was seen as historic by senior EU officials and seen as a success of EU diplomacy. A central element of the 2013 Brussels Agreement was the creation of the Association/Community of Serb-majority Municipalities (ASM). The ASM was designed to provide a degree of self-governance to municipalities in Kosovo where ethnic Serbs form the majority. This arrangement was seen as a

compromise which would allow these municipalities to coordinate on issues such as economic development, education, healthcare, and urban and rural planning, while still operating within the legal framework of Kosovo.

To implement the agreement, the parties developed a detailed plan in May 2013, outlining six key elements consisting of adaptation of the legal framework, the Association/Community of Serb-Majority Municipalities, police, justice, local elections, and general provisions.

## General Principles for the ASM

Two years later, another agreement was reached on what are known as the principles for the association, signed in 2015 by the then prime ministers of Kosovo and Serbia, Isa Mustafa and Alexander Vucic.

The agreement contained the objectives, organizational structures and other elements for the association. According to this agreement, the ASM was intended to have an assembly as its supreme authority (2015 Agreement). This assembly would be composed of representatives appointed by members elected through the assemblies of the participating municipalities. The Association would also have a President, who would represent the Community/Association, including to the central authorities and outside Kosovo, a council as an advisory body, the board consisting of 7 members. Additionally, the ASM was planned to have its own budget, which would be managed in accordance with principles of transparency and accountability, as well as the provisions of the Law on Public Procurement.

These detailed principles for the ASM, this agreement then became a source of problems. In 2015, Kosovo's President Atifete Jahjaga referred the agreement on establishing an Association of Serbian-majority municipalities to the Constitutional Court for review (Fehmiu, 2015). The agreement, signed by Kosovo and Serbia on August 25, 2015, in Brussels, was submitted to the Court on October 30, 2015, as confirmed by Selim Selimi, the president's legal adviser, in a statement to Anadolu Agency (AA).

President Jahjaga requested the Court to evaluate whether the principles underlying the Association's establishment align with the Constitution of the Republic of Kosovo.

## Unconstitutionality

In the session held on December 21, 2015, the Constitutional Court of Kosovo had found that “the principles as elaborated in the "Association/Community of municipalities with a Serbian majority in Kosovo - General principles/Main elements", are not completely compatible with the spirit of the Constitution, with Article 3 [Equality before the Law], paragraph 1, with Chapter II [On Fundamental Rights and Freedoms] and with Chapter III [On the Rights of Communities and their Members] of the Constitution of the Republic of Kosovo” (2015). This finding of the court has contributed to the fact that the case of ASM remains pending even today.

The opposition of that time in Kosovo had strongly contested the association since the agreement was signed. And so, for many years the court's decision was used to not take concrete steps regarding the establishment of the association because the "mono-ethnic association" is against the Constitution.

What is not mentioned much in the public opinion is that in the court's decision it is stated that “ASM will be established as foreseen by the First Agreement, ratified by the Assembly of the Republic of Kosovo and promulgated by the President of the Republic of Kosovo” (Gjykata Kushtetuese e Republikës së Kosovës, 2015). So the proclamation of the association as a whole as unconstitutional continues to have its own consequences. The court approved the establishment of the ASM, it required adjustments to ensure it does not infringe on Kosovo's sovereignty and functionality as a unitary state. However, this ruling left room for interpretation and remains a point of tension.

## Fears of Increased Autonomy

One of the most significant concerns surrounding the ASM is that it could create a highly autonomous structure within Kosovo that would weaken the central government's authority over the Serb-majority areas. This fear is fuelled by the potential for the ASM to exercise substantial powers. If given extensive authority, the ASM could function almost independently, undermining the central government's ability to ensure uniform governance and law enforcement across the country (Ker-Lindsay, 2019).

The example of Republika Srpska in Bosnia and Herzegovina (BiH) serves as

a warning to many Kosovo Albanians. Republika Srpska is an autonomous entity within BiH that has, in practice, significantly limited the central government's effectiveness, leading to a fragmented and dysfunctional state. Many in Kosovo fear that the creation of the ASM could replicate this model, leading to political paralysis and ethnic divisions that would be difficult to overcome. Such an arrangement would compromise Kosovo's ability to function as a cohesive state, jeopardizing its sovereignty and weakening its institutional integrity.

The potential for the ASM to enable Serb-majority municipalities to operate with considerable autonomy is seen as a direct challenge to the sovereignty that Kosovo achieved after years of struggle. Kosovo Albanians, who form over 90% of the population, view the proposal as an unacceptable compromise that could reward Serbia and its influence in Kosovo's internal affairs. The fear is that increased autonomy would solidify Serbia's presence in Kosovo, allowing it to maintain a foothold through the ASM, thereby perpetuating ethnic tensions and division.

Moreover, the historical backdrop of the Kosovo War and the resulting trauma still heavily influences perceptions on both sides. The idea of granting any form of special status to the Serb minority is viewed with suspicion by many Kosovo Albanians.

## Different perspectives

In 2019, in a survey in Kosovo, 63% of citizens see the ASM as dangerous for Kosovo, while in 2020 (Berisha, Politika Ndërkombëtare, 2019), citizens were asked if they support the establishment of the association and 85% of citizens declared that they are against it (Berisha.2020). Here we can see an increase in skepticism regarding ASM on the part of the citizens of Kosovo. According to the same survey in 2020, the majority of the Serbian community in Kosovo thinks that the establishment of ASM does not represent any harm to Kosovo. This shift highlights growing concerns and distrust among the citizens. Additionally, the contrast with the Serbian community's views, which do not perceive the ASM as harmful, emphasizes the differing perspectives within Kosovo, reflecting the complexity of the issue.

Kosovo Serbs have different and often contradictory expectations of what this association should represent. Some see it as an opportunity for partial



autonomy from the central institutions of Kosovo, others as an advisory mechanism for laws affecting the Serbian community, or as a structure that maintains special ties with Serbia (BPRG, 2017).

After all, even the Serbs themselves are aware of the limitations that this association will have in reality and understand that it will not have the level of executive power that some would like. These different and often polarized attitudes reflect the complexity of the situation and the lack of a clear consensus on the role and nature of the Association in the future.

The diverging interpretations of the ASM by not only the citizens of both communities in Kosovo, but also official stances of Kosovo and Serbia underscore the deep divisions that continue to impede the normalization process. While Kosovo views the ASM as a limited coordination body within its constitutional framework, Serbia envisions it as a robust autonomous entity with significant executive powers. These opposing perspectives reflect broader nationalistic and political tensions that have yet to be resolved. Finding a middle ground will require both sides to make difficult compromises, but until that happens, the ASM will remain a significant obstacle to peace and stability in the Western Balkans

## Conclusions and recommendations

The establishment of the Association of Serb Majority Municipalities (ASM) in Kosovo remains a deeply contentious issue, reflecting broader challenges in the Kosovo-Serbia normalization process. Despite being envisioned as a mechanism to improve local governance and promote ethnic coexistence, the ASM has instead become a symbol of persistent ethnic divisions and political deadlock. This paper highlights several key barriers: conflicting interpretations of the ASM's role, concerns about potential threats to Kosovo's sovereignty, and unresolved legal issues following the Constitutional Court's ruling on the ASM's partial unconstitutionality.

Kosovo's political and legal commitments to establish the ASM underscore the need for a balanced approach that respects both the country's sovereignty and the agreements made with Serbia. Addressing these challenges requires a renewed focus on dialogue and compromise. To this end, it is crucial for the government to strengthen its integration efforts by ensuring that northern municipalities are fully incorporated into the national framework and aligning them with Kosovo's legal and administrative structures. This includes addressing the issue of Serbian parallel institutions in coordination with Serbia to achieve a unified governance approach.

Moreover, enhancing transparency and inclusivity in the internal dialogue is essential. The government should establish clear channels for consultation that involve all parliamentary parties and other relevant stakeholders. Broadening this dialogue to include civil society organizations and the Serbian community in Kosovo will ensure that all perspectives are considered and addressed.

A comprehensive roadmap for the ASM's implementation should be developed and communicated clearly. This plan should outline the process, timelines, and mechanisms for stakeholder input, guiding the establishment of the ASM and fostering trust between the Kosovo government and its Serb community.

Additionally, the integration of Serbian resources and personnel into Kosovo's administrative system needs careful planning. Joint efforts between Kosovo's Ministry of Local Government Administration and the Serbian Office for Kosovo should focus on preparing a detailed list of resources and roles for integration. Furthermore, Belgrade should present a plan for the withdrawal of Serbian administrative structures and financial operations from Kosovo to ensure a smooth transition.

Finally, the functionalization of the ASM must be approached as part of a broader strategy for normalizing relations between Kosovo and Serbia. Future dialogues should prioritize resolving fundamental differences and advancing bilateral normalization, placing these efforts at the forefront of the peace process. Without addressing these key issues, the ASM will remain a significant obstacle to achieving long-term stability in the region.

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