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THE ASSOCIATION/COMMUNITY OF SERB MAJORITY MUNICIPALITIES: AN EXCLUSIVE CLUB BASED ON ETHNICITY?

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Introduction

Since it was initially raised in the First Agreement on the Normalisation of Relations between the Governments of Kosovo and Serbia, signed with the facilitation of the European Union on 19 April 2013, The Association/Community of Serb-majority Municipalities (hereafter: Association) has become a buzzword in Kosovo politics. It has taken central stage in the political negotiations between the Government of Kosovo on one side, and Serbia and Kosovo Serb politicians on the other. The Association has also become a crucial topic of contention in the deteriorating political relations within the new Kosovo government, between the Kosovo Albanian majority parties and Srpska lista, which is under the direct control of the Government of Serbia. The Serbian government and the Kosovo Serb political representatives made clear that the latter will not return to the Kosovo government until the conditions of the coalition agreement reached with Kosovo Albanian government parties are fulfilled, including the establishment of the Association.¹

The Government of Kosovo, on the other hand, has argued that, from their side, it would be unreasonable to go ahead with further talks in Brussels (i.e. further discussions on the Association) as long as Serbia does not commit itself fully to implementing the agreements that were already reached. This especially includes the integration of the judiciary in the North; the undoing of parallel Serbian institutions, including Civil Protection, and their integration in the Kosovo institutions; and the freedom of movement, including the removal of all barricades.² All Albanian parties in Kosovo, both those in government and opposition, share the view that the Association should not undermine the constitutional order of Kosovo or become an unmanageable entity that will produce a stalemate in the Kosovo state and society for years to come, much like Republika Srpska has in Bosnia-Herzegovina.

These debates surrounding the establishment of the Association and the implementation of the Brussels Agreements relating to the general integration of the Serb community in Kosovo are leading to an increasingly worrisome political deadlock along fixed Albanian–Serb ethnic lines. This report, which is the second in a series that wants to add content to the discussion about the Community, in line with ECMI Kosovo’s mission and track-record of dealing with complex ethnic

¹ <http://koha.net/?id=27&l=50896>.

² Government of Kosovo, ‘[Brussels Agreements Implementation State of Play](#)’ (23 March 2015), pp.15–16.

issues in Kosovo over the years, warns against such a narrow Albanian–Serb understanding of Kosovo society, and critically assesses the ethnically-based understanding of the Association.

An exclusive club based on ethnicity?

The Association is foreseen to include six Serb-majority municipalities created through the decentralisation process (Novo Brdo/Novobërdë, Mitrovica/Mitrovicë North, Gračanica/Graçanicë, Ranilug/Ranillug, Parteš/Partesh, and Klokot/Kllokot)³ in addition to the four Serb majority municipalities that existed before: Štrpce/Shtërpçë, Zvečan/Zveçan, Leposavić/Leposaviq, and Zubin Potok. According to the First Agreement (Article 1), the membership of the Association will be open to any other municipality provided all the participating municipalities are in agreement. The restriction that the Association will be open to other municipalities only with the unanimous support of the participating municipalities implies that membership to the club will remain rather exclusive, and is unlikely to ever include Albanian majority municipalities. Indicatively, Serb politicians have repeatedly propagated the establishment of new municipalities of Gora and Priluzhje/Prelluzhë and their subsequent inclusion as members of the Association.⁴ Gora would comprise the southern part of the current municipality of Dragash/Dragaš, which is predominantly inhabited by Gorani and Bosniaks. The new municipality of Priluzhje would consist of the Serb villages of Priluzhje and Grace/Gracë in the municipality of Vushtrri/Vučitrn and Plemetina/Plemetin, Babin Most/Babimos and Crkvena Vodica/Caravadicë in the municipality of Obiliq/Obilić.

The creation of new municipalities is possible within the Kosovo legal framework. The Law on Administrative Municipal Boundaries states that the “establishment of new municipalities, merger, separation, alteration of administrative municipal boundaries, and delineation of the name or residency of the municipality shall be effected through a revision or amendment of this Law” but that “the administrative boundaries of municipalities shall not be altered prior to consultation with citizens of municipalities or parts of municipalities affected by such alteration”.⁵ It is particularly stated that “the Government shall engage in consultations with a non-majority Community where that Community makes up at least 75% of the population of a concentrated settlement in one or more adjacent cadastral zones with a minimum total population of 5000 citizens, with a view to establishing other new municipalities”.⁶ The Government of Kosovo has not officially expressed its assent to any new municipalities, and the proposal does not seem to be of top priority for the Serbian side at this stage, so it is likely that the “founding” members of the Association/Community of Serb-majority Municipalities, as the name itself implies, will be the ten above-mentioned Serb majority municipalities in Kosovo.

However, such a narrow ethnic understanding of the Association as a protection mechanism exclusively for the Serb people in Kosovo runs counter to the anti-discrimination spirit of Kosovo law. It also does not align with the multi-ethnic understanding of Kosovo, which goes beyond the narrow Albanian–Serb division currently dominating the political debate, as well as the thinking on the Association. Hence, the Serb nomination will probably have to be dropped from the final naming of the Association. More fundamentally, the reasoning supporting the establishment of the Association will have to be reconsidered. The mere ethnic factor that is mentioned in the First Agreement is not self-explanatory, or sufficient for justifying municipal cooperation. The establishment of an Association/Community of Serb-majority Municipalities should be justified by focussing on how municipal cooperation will allow the municipalities in question to better carry out their functions, in line with the constitutional principles of local self-

³ [Law on Administrative Municipal Boundaries](#) (20 February 2008), Art. 5.

⁴ http://www.b92.net/info/vesti/index.php?yyyy=2014&mm=11&dd=10&nav_id=922041

⁵ [Law on Administrative Municipal Boundaries](#) (20 February 2008), Art. 9.

⁶ [Law on Administrative Municipal Boundaries](#) (20 February 2008), Art. 12.

government: “good governance, transparency, efficiency and effectiveness in providing public services”.⁷ The Law on Inter-Municipal Cooperation states that this cooperation should be based on mutual local interest, joint performance of one or more municipal competences, the free will of municipalities, the sharing of roles and responsibilities and joining municipal resources, and the improvement of economy and efficiency of municipal services on behalf of the citizens.⁸

With regard to education, health care, and cultural affairs,⁹ municipal cooperation between Serb majority municipalities will enhance the provision of services to the citizenry, because these are competences that are closely connected to the language, culture, and history of the Kosovo Serb community. With regard to urban and rural planning, and economic development, the other competences mentioned in the First Agreement, the rationale is less obvious: these are areas that are not directly connected to national identity, but rather to geographical factors at the regional and local level, while the Serb-majority municipalities are regionally disconnected.¹⁰ In other words, it would be hard to justify why the Municipality of Štrpce/Shtërpçë would cooperate in economic development, or rural and urban planning, with the Municipality of Zvečan/Zveçan, rather than with Municipality of Ferizaj/Uroševac or Prizren.

The ethnically-based understanding of the Association also challenges the multi-ethnic character of Kosovo municipalities. The Constitution of the Republic of Kosovo states that local self-government shall have “due regard for the specific needs and interests of the Communities not in the majority and their members”.¹¹ All ten Serb-majority municipalities have non-Serb communities among their population, in some cases these are substantial, such as Albanians in all ten municipalities and Novo Brdo/Novobërdë, Štrpce/Shtërpçë, Mitrovica/Mitrovicë North, Klokot/Klllokot, and Gračanica/Gračanicë in particular, Roma in Gračanica/Gračanicë and the North of Kosovo, as well as Gorani and Bosniaks in Mitrovica/Mitrovicë North. A number of affirmative measures protect and promote the rights of these non-majority communities at the municipal level, including representation in the municipal organs, the right to use their language, the right to education in their language, et cetera. Particularly important within the municipal organs are:

- The Communities Committee, which includes representatives of all communities in the municipalities, and members of the Municipal Assembly, with the former forming the majority. The Committee is responsible for reviewing all municipal policies, practices, and activities, and to make recommendations to the Municipal Assembly with the aim to promote and protect the rights of all communities within the municipalities.¹²
- In municipalities where at least 10% of the citizens belong to communities not in the majority within the municipality, a Deputy Chairperson of the Municipal Assembly for the Communities and a Deputy Mayor for the Communities are appointed.
 - The post of Deputy Chairperson of the Municipal Assembly for the Communities is reserved to the non-majority community’s candidate who received the most votes at the municipal elections. The Deputy Chairperson promotes inter-community

⁷ [Constitution of the Republic of Kosovo](#), Art. 123.4.

⁸ [Law on Inter-Municipal Cooperation](#) (21 July 2011), Art. 5.

⁹ The latter is remarkably enough not mentioned in the list of areas the Association will have full overview, according to the First Agreement (Art. 4), although it is an enhanced competence of all Serb majority municipalities and could greatly benefit from inter-municipal cooperation. See [Law on Local Self-Government](#) (20 February 2008), Art. 22.

¹⁰ Balkans Policy Research Group, ‘Serb Integration in Kosovo after the Brussels Agreement’, unpublished policy report (19 March 2015), p.35.

¹¹ [Constitution of the Republic of Kosovo](#), Art. 123.4.

¹² [Law on Local Self-Government](#) (20 February 2008), Art. 53.

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dialogue and serves as formal focal point for addressing non-majority communities' concerns and interests in the Municipal Assembly.¹³

- The Deputy Mayor for the Communities is appointed on the proposal by the Mayor and the approval by the Municipal Assembly. The Deputy Mayor assists the Mayor and provides guidance on issues related to non-majority communities.¹⁴

Establishing any kind of institution on ethnic basis, and seemingly excluding other communities, runs counter to the multi-ethnic principles of the Kosovo Constitution and legal framework, including the affirmative measures for minority representation at the municipal level. Different wording, and reasoning, needs to be used in the debates on the Association and in its final statute if the Association is to reflect this spirit of Kosovo's multi-ethnic principles.

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¹³ [Law on Local Self-Government](#) (20 February 2008), Arts 54–55.

¹⁴ [Law on Local Self-Government](#) (20 February 2008), Art. 61.

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About ECMI Kosovo

ECMI Kosovo is the principal non-governmental organisation engaged with minority issues in Kosovo, with the overarching aim to develop inclusive, representative, community-sensitive institutions that support a stable multi-ethnic Kosovo. ECMI Kosovo contributes to the developing, strengthening and implementation of relevant legislation, supports the institutionalisation of communities-related governmental bodies, and enhances the capacity of civil society actors and the government to engage with one another in a constructive and sustainable way.