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FOR AN INCLUSIVE DISCUSSION ON THE ASSOCIATION/COMMUNITY OF SERB MAJORITY MUNICIPALITIES

The agreement on the Association/Community of Serb-majority Municipalities of 25 August is the subject of increasing polarisation between Kosovo Albanian political parties in government and opposition. The opposition parties, led by Vetëvendosje, have staged various protests and organised a petition "No against the Association and the Demarcation with Montenegro", which has gathered over 100,000 signatures by now. In addition, the opposition parties have blocked two consecutive parliamentary debates on the Association and seem determined to prevent the Assembly from functioning until the government withdraws the Agreement of 25 August on the Association. For its part, the Government and Prime Minister Mustafa have made it clear that these are international agreements and that the Government will not withdraw from them.

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While the physical blocking of the Assembly is a non-legitimate act, the stalemate does lay bare a crucial shortcoming in the Agreement of 25 August. The Agreement foresees involvement from the Management Team, consisting of representatives from the four northern municipalities, the High-level Dialogue mediated by the European Union, the Kosovo Government, the Constitutional Court, and, finally, a constituent assembly composed of voted members and the assemblies of the participating municipalities. It does not envisage a political process which involves ratification or debate in the Kosovo Assembly.[1]

Is the Agreement of 25 August a new international agreement?

According to the Constitution, international agreements should be ratified by two thirds vote of all deputies of the Assembly.[2] The First Agreement of 19 April 2013 was indeed ratified by the Assembly.[3] The question should be posed, however, whether the Agreement of 25 August and, more importantly, the eventual Statute of the Association which will be approved by the Dialogue, are

[1] ECMI Kosovo. 'The New Agreement on the Association/Community of Serb Majority Municipalities: An Important Step Forward, But Not the Final Word' (7 September 2015), pp. 2–3.
[2] *Constitution of the Republic of Kosovo*, Article 18.
[3] Law no. 03/L-199 on Ratification of the First International Agreement of Principles Governing the Normalisation of Relations Between the Republic of Kosovo and the Republic of Serbia (27 June 2013).

a new international agreement – which should subsequently be ratified by the Assembly – or should be considered a mere elaboration of the principles set out in the First Agreement.

Regardless of the answer to that question, bypassing the Assembly in the establishment of the Association is a wrong calculation. The Assembly should be involved in issues like this, which could potentially affect the principles of the multi-ethnic organisation of Kosovo. Moreover, involvement of the Assembly would contribute to the long-term sustainability of the Association. If the aim is to install a mechanism that will facilitate local self-government in Serb-majority municipalities in Kosovo and bring an end to parallel local self-government structures, while not complicating the functioning of central-level institutions nor being questioned or delegitimised on every occasion, Albanian cross-party consensus is imperative.

As a consequence of the stalemate, the discussion on the Association does not touch on the core of the matter.

As a consequence of the current stalemate, discussions on the Association do not touch on the contents or the core of the matter, but remain restricted to superficial slogans *pro* or *contra*. The Government argues that the agreement on the Association does not violate the Kosovo legal framework, is the result of decisions taken at the First Agreement of 19 April 2013 and approved by the Assembly, and is supported by international actors. It has not and does not seem to plan to explain why the Association might be a good step toward an inclusive, multi-ethnic Kosovo, across ethnic divisions. Once more, it seems like affirmative measures to protect the rights of non-majority communities and especially the Kosovo Serb community are a necessary evil, instead of an opportunity to establish an inclusive multi-ethnic society in Kosovo.

Superficial slogans lead to the impression that non-majority communities are a burden to the functioning of Kosovo

The opposition, on the other hand, sticks to unfounded doom scenarios that the Association will block the functioning of Kosovo central government.[4] It has, however, not explained how the Association clashes with the legal right firmly established in Kosovo law for municipalities to establish inter-municipal cooperation.[5] The opposition also refrains from presenting legitimate alternatives for promoting the rights of non-majority communities in Kosovo, again giving the impression that non-majority communities, and especially the Kosovo Serb community, are a burden to the functioning of the Kosovo state. The opposition's persistent usage of the Serbian term 'Zajednica' when speaking about the Association strengthens this impression.

Political representatives of Kosovo Serbs, finally, have stood completely on the sidelines in the debate, taking the role of mouthpiece of the Government of the Republic of Serbia who comment on the stalemate from the side instead of being active and constructive participants in the internal Kosovo debate on the matter and explaining how the Association will strengthen the position of the Kosovo Serb community. Such an approach would be in the interest of Kosovo

[4] For more information on the provision in the 25 August agreement regulating relations between the Association and central authorities, see ECMI Kosovo: 'The New Agreement', pp. 6–7.
[5] ECMI Kosovo. 'The Association/Community of Serb Majority Municipalities: What Is (Im)Possible Within the Legal Framework?' (16 April 2015), pp.4–6.

Serb political representatives as well, as it would ensure a more efficient process and a more sustainable basis for the functioning of the Association.

The rights solution out of the deadlock should come through involvement of the Assembly in drafting and approving the statute of the Association.

The right solution out of the deadlock should come through negotiations with the opposition and representatives of non-majority communities for the need and form of involvement of the Assembly in drafting and approving the statute of the Association. The Assembly could be included by passing the statute of the Association in the form of an additional law on local self-government in Kosovo or in the form of an Assembly resolution supporting the statute of the Association.

Such a parliamentary discussion would add much-needed contents to the discussion and political debate on the Association of Serb Majority Municipalities, involving the whole spectrum of Kosovo Albanian political parties, as well as political representatives of non-majority communities in Kosovo. To be sure, the Agreement of 25 August is not the final word on the Association and many points remain open for discussion. Such points include the relations between participating municipalities and bodies of the Association, the procedures for support by the Republic of Serbia, and the persistently mono-ethnic character of the Association, which clashes with the multi-ethnic foundations of Kosovo's central and local government structures.[6]

If the Association is to become functional, it should be approached as a matter of interest for all citizens of Kosovo. There is no better place to generate such an approach than the Assembly.

It should not be expected that the Assembly will agree in full harmony on the Association. However, if the statute of the Association would pass the Assembly, the Government, and the Constitutional Court, it would gain the legitimacy it needs for its sustainable functioning. If the Association is to become functional, it should be approached as a matter of interest for all citizens of Kosovo. This applies not only to the preparatory stage of drafting the statute but also to the actual functioning of the Association after its establishment. As we have argued earlier, how the Association shall function for a large part depends on political will and intentions. There is no better place to generate such an approach than the Assembly.

*Through the **Kosovo Communities Issues Monitor**, ECMI Kosovo monitors, analyses, and provides recommendations on developments and concerns related to the position of minority communities in Kosovo, within the framework of international and domestic minority rights legislation. The analyses presented in the Monitor rely on close monitoring of media and interviews with relative stakeholders. While ECMI Kosovo strives at all times to provide accurate and nuanced information and to present the views and perceptions of all sides, the objective of the Monitor is not to provide journalist or factual coverage, but to offer an additional analytical element to the debate, reflecting ECMI Kosovo's longstanding experience with communities issues in Kosovo and the domestic and international legal framework in place.*

[6] For more details, see ECMI Kosovo: 'The New Agreement', pp. 6–7; ECMI Kosovo. 'The Legal Framework'; ECMI Kosovo. 'The Association/Community of Serb Majority Municipalities: An Exclusive Club Based on Ethnicity?' (31 March 2015).

Further reports and political analysis:

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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.

Str. NënaTerezë Nr. 41, Apt. 29,10000Prishtinë/Priština, Kosovo, Tel. +381 (0) 38 224 473
Str. CikaJovina Nr. 3, 1st Fl, 38220 Mitrovica/Mitrovicë North, Kosovo, Tel. +381 (0) 64 00 55 488
ecmikosova.org, info@ecmikosova.org