

Platform for Analysis and Research

Policy brief

The Opportunities for Involvement of Serb Community in the Process of EU Integration of Kosovo

NGO AKTIV and Centre for Peace and Tolerance

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Policy brief

The Opportunities for Involvement of Serb Community in the Process of EU Integration of Kosovo ^{1*}

Summary

After the signing of *First Agreement on Principles of Normalization of Relations*², initialled by Prime Ministers in both Belgrade and Pristina, in April 2013, conditions were met for organised participation of Serbian community in political life, and, consequently, in processes of European Integration of Kosovo. Among other things, the Brussels Agreement envisages the establishment of Association of Serbian Municipalities (ASM) (*Zajednica srpskih opština (ZSO)*). This body should be a functional mechanism for streamlining of positions of Serbian community. Through it, Serbs in Kosovo shall have an opportunity to articulate their attitude regarding all aspects of their lives covered by the agreement, and, among other things, on European Integration of Kosovo. In this way, Serbs in Kosovo will, through ASM, have the possibility to position themselves as active actors in the political life in Kosovo.

Roots of previous reluctance towards participation of the Serbian community in political life in Kosovo are numerous. Kosovo Serbs were, in the first place, dealing with existential issues that included finances, security and sovereignty. Furthermore, reasons to stay on the margins of political developments in Kosovo were present due to political motivations, but it is also a consequence of the lack of a legal framework for their participation. Namely, the first time after 2001 and establishment of Coalition “Returns” (“*Povrataci*”), when the election turnout was quite significant, that Kosovo Serbs had the support from Belgrade for participation in the elections was in 2013, after the signing of the Brussels Agreement. Between 2001 and 2013, Kosovo Serbs were mainly boycotting Kosovo institutions, and the election turnout was poor every time. The Serbian community’s opposing to declaration of Kosovo independence in 2008 was the central reason for boycotting Kosovo institutions, but certain level of participation (albeit modest) still did exist. Nevertheless, boycott of Kosovo institutions resulted in neglecting of a process of EU Integration, and also in restraining from participation in political processes in general. At the same time, the Serbian community channelled its efforts towards the preservation of its status within legal and administrative system of the Republic of Serbia, and was therefore not interested in political processes originating in Pristina. Additionally, there was also a belief that each step of Kosovo towards EU Integration means a step closer to independence³. This further caused significant limitations of Kosovo Serbs’ potential for the latter processes. Be it as it may, Brussels Agreement outlined the both the process of normalization of relations which is tied to the process of EI in Kosovo. In this light, proposals for inclusion of Serbian community into EU integration process are founded on existing and applicable Kosovo’s legal and institutional frameworks.

¹ As stipulated in UN SC Resolution 1244/99 and pursuant to Advisory opinion of International Court of Justice on declaration of independence of Kosovo.

² Also known as the Brussels Agreement. The document is available at: <http://www.kim.gov.rs/p03.php>

³ In fact, there really is an interpretation that the issue of status of Kosovo will have to be resolved through agreement between Kosovo and Serbia, before they join European Union (an informal interview with former high official of EU)

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The intention of this policy brief is to point out to the necessity to change the above-mentioned situation and the need to utilize the existing and create new mechanisms for participation, consultation and awareness of the Serbian community, as well as the possibility for monitoring of implementation of tasks accepted by both parties pertaining to European integrations. In order for process of EU Integration of Kosovo to have positive effects on the Serbian community and to fully implement the Stabilization and Association Agreement⁴ in the territory of whole Kosovo, inclusion and awareness of Serbian community is necessary.

Introduction

Around the end of the last decade of the previous century, which proved turbulent for this region, the European Union started developing mechanisms for the European perspective of Western Balkans. Regional approach to Western Balkans⁵ set out in 1997, and two years later, the European Union published, in its Communiqué, Principles of the Process of Stabilization and Association (PSA). At the Zagreb Summit in 2000, instruments of PSA were formulated. After the end of conflict in the Balkans, EU Member States adopted the “Thessaloniki Agenda for Western Balkans” at the summit in Greece in 2003⁶. This document guarantees the European path to the countries in the region, including Kosovo under the UN Secretary General Resolution 1244/99. The Thessaloniki Agenda envisages the process of stabilization and association, as well as a set of instruments and forms of cooperation between EU and Western Balkans’ countries.

Kosovo is in the dialog process with EU since 2002. when the Stabilization Tracking Mechanism for Kosovo (STM) was established. Within this mechanism, there were high level plenary and sectorial meetings, organized with the aim for potential candidates to harmonize their legislation with the EU Acquis. Subsequently, in 2004, then 2006 and 2008, European Commission (EC) submitted to the Government of Kosovo three documents related to European Partnership, and the Action Plan for Implementation of European Partnership for Kosovo was adopted in 2010.⁷ The majority of suggested activities in this Action Plan, is related to the improvement of the status and increase of participation of non-majority communities.⁸

After publication of the Communiqué “Kosovo – Realization of European Perspective”, STM grew into Dialog on Stabilization and Association (DSA), which is being implemented since 2010. Within the DSA, the institutional mechanism is established, consisting of: Ministry for EU Integration, line Ministries and bodies, and Parliamentary Committee for EU Integration⁹. Also, a mechanism for

⁴ Stabilization and Association Agreement signed in October 2015. <http://www.consilium.europa.eu/en/press/press-releases/2015/10/27-kosovo-eu-stabilisation-association-agreement/>

⁵ http://eeas.europa.eu/delegations/kosovo/eu_kosovo/political_relations/stabilisation_and_association_process/index_en.htm

⁶ http://europa.eu/rapid/press-release_PRES-03-163_en.htm

⁷ http://www.kryeministri-ks.net/zck/repository/docs/APEP_2010_Konacni_SRP.pdf

⁸ Among other: Provide for effective functioning of the Assembly and its Boards, the Government and Municipalities, including full respect of respective Rules of Procedures and Codes of Ethics, as well as rights and interests of all communities. Improvement of quality and accessibility of basic public services for all communities, including contribution for decrease of number of requests for services provided by parallel structures.

Completing the legal framework and advancement of respect for mechanisms for protection of human and minority rights in accordance with recommendations of Council of Europe (CoE). Adoption and implementation of the Comprehensive Strategy for Human Rights.

⁹ The only representative of Serbs in this Committee is Deputy Speaker of Kosovo Assembly and deputy Chairman of the Assembly Committee for European Integrations Slobodan Petrović.



inclusion and dialog with civil society representatives was in existence since 2012, as Task Force for EU Integration.

Big step forward towards EI was made with the signing of Brussels Agreement in 2013. With Point 14 of this Agreement, both Kosovo and Serbia agreed that they shall not impede each other on their respective EU paths. As for Serbia, the normalization of relations with Kosovo is also within the framework of negotiations under the Chapter 35, which is usually (during accession negotiations) reserved for “any other” issues. In the process of negotiations of Serbia with European Union (EU), this Chapter is in its content related to implementation of the Brussels Agreement.

From Kosovo’s perspective, normalization of relations with Serbia became increasingly important for EU Integration of Kosovo through the signing of the Stabilization and Association Agreement (SAA) with the EU. In October 2015, after the signing of the second set of Brussels Agreements¹⁰, Kosovo concluded this Agreement, which is a significant part of the wider process of stabilization and association. In SAA, inter alia, Kosovo took the task to fulfil the obligations accepted by signing the set of the agreements with Serbia.

However, even though the Brussels Agreements were difficult, Serbia was negotiating the implementation of the Brussels Agreement without meaningful inclusion of Kosovo Serb representatives into the negotiating process. So, these political and legislative processes leave Kosovo Serbian community at the margins of key political and integration processes. Ultimately, EI processes of Belgrade and Pristina, which are interdependent, significantly affect Serbian community in Kosovo. Therefore, the inclusion of the Serbian community in this process is crucial for its success.

Legal and Strategic Framework

Before 2015, the only strategic framework for the inclusion of Serbian community¹¹ in the process of EU integrations of Kosovo was the yearly Progress Report¹². The latter is an instrument that European Parliament use to, among other things, assess the level of respect of the rights of minority communities, as well as other responsibilities Kosovo is trying to undertake within the process of EI. This report is drafted in regular consultations with the civil society organizations (CSO) within the mentioned Dialog on Stabilization and Association. In October 2015, Kosovo signed the SAA¹³ as a separate geographic region, and Article 9 of this document proscribes that the process of stabilization and association shall last for ten years (with the possibility of extension for five more years), and both the process and the level of harmonization of Kosovo legislation with European standards shall be monitored on a yearly basis. The process of monitoring of implementation of obligations that Kosovo took over is defined in Article 126 of SAA, which envisages high level meetings which could be convened ad hoc, if necessary. Beside these meetings, what is also envisaged, are political dialogs on parliamentary level, and dialogs on policies with high representatives of Kosovo and EU, and there is also the option of using widely defined channels of communication that could be established through non-EU countries, international organizations, etc. Finally, Article 13 of SAA obliges Kosovo to fulfil all agreements signed

<http://www.kuvendikosoves.org/common/docs/ligjet/Draft%20law%20on%20accounting%20financial%20reporting%20and%20au?cid=3,110,122>

¹⁰ Brussels Agreements dated 25 August 2015

¹¹ Only one member of Serbian community participated in drafting of the report for year 2015¹¹.

¹² Part of the process of stabilization and association.

¹³ <http://data.consilium.europa.eu/doc/document/ST-10728-2015-REV-1/en/pdf>



in Brussels, and to continue, in spirit of dialog and compromise, to resolve all remaining issues. One of these duties is establishment of ASM.

The Plan for implementation of the agreement on normalization of relations between Belgrade and Pristina¹⁴ envisages for ASM to be established after successfully conducted elections in the north of Kosovo. Specifically, Point 11 of Brussels Agreement obliges northern Kosovo municipalities to participate in local elections, and consequently to take part in Kosovo institutions¹⁵, which significantly changed the situation as it were back in 2013. Even though this condition was met, two years after the signing of the Agreement, ASM is not established yet. Regardless of political turmoil and delays in establishment of Association of Serbian Municipalities, it is safe to say that it will exist in some form, and authors of this policy brief will project its setting on basis of the agreement titled “Association/Community of Serb-majority Municipalities in Kosovo– General provisions/key elements”, signed on August 25, 2015. Competencies of ASM envisaged by this Agreement, in fact, largely cover topics pertaining to EU integration process, among other strengthening of strengthening local democracy¹⁶. The Agreement stipulates that one of competences of the Association is advancement, sharing and advocacy of issues of mutual interest of member municipalities, but also their representation, including before central authorities¹⁷. Furthermore, the part of agreement that defines relations between ASM and central authorities states the following:

10) The Association has the right to propose, in accordance with Kosovo law, amendments to the laws and other rules relevant for realization of its objectives.

The above item is one of those marked as problematic by the Constitutional Court of Kosovo in its opinion on the August Agreement¹⁸. Nevertheless, the authors of this brief will not engage into legal discussion on the question of constitutionality of the Brussels Agreement, but they will rather establish their analytical projection on foundations of the signed agreement. It is clear that ASM could become a strong mechanism of advocacy and guarantor of the rights of Serbian community in Kosovo, but only if it establishes strong bodies and secures expert human resources, especially in the Office for complaints, which is envisaged in Point 6 (d) of the August Agreement on Association, and this Office shall have a mandate to deal with complaints related to objectives of ASM.¹⁹ This Office should take a particular role in the struggle for realization of rights of non-majority communities, especially property rights of internally displaced persons, with the aim of improvement of local life conditions of returnees, through adoption of adequate measures²⁰.

¹⁴ Plan of implementation of the Agreement on normalization of relations between Belgrade and Pristina.

<http://www.kim.gov.rs/p02.php>

¹⁵ First local elections held on whole territory of Kosovo, including first time in the northern municipalities, took place on 3 November 2013.

¹⁶ Association of Municipalities with majority Serbian population in Kosovo – General provisions/key elements, point 4 (a).

<http://www.kim.gov.rs/p17.php>

¹⁷ Association of Municipalities with majority Serbian population in Kosovo – General provisions/key elements, point 4(ž).

<http://www.kim.gov.rs/p17.php>

¹⁸ <http://www.politika.rs/sr/clanak/345947/Kancelarija-EU-sto-pre-pripremiti-Statut-ZSO>

¹⁹ Association of Municipalities with majority Serbian population in Kosovo – General provisions/key elements, point 6 (d).

<http://www.kim.gov.rs/p17.php>

²⁰ In accordance with point 4 (d) of the agreement “Association of Municipalities with majority Serbian population in Kosovo – General provisions/key elements”, ASM will have within its jurisdiction, adoption of measures for improvement of local living conditions of returnees in Kosovo.



Institutional framework: Main actors and their interests in process of European integrations of Kosovo*

National Council for European Integration, within the Office of the President, provides for direct and full inclusion of many governmental and non-governmental actors in analysis of the current situation in Kosovo, by taking a position and giving recommendations for all actors in the process of European Integration. It secures political coordination and systematic consultations about the process among main participants in this process. The mentioned political platform is very important, because it secures clear and stable direction for the potential candidate for EU membership, regardless of possible future changes of political forces in the Assembly and Government.

In recognizing the need for the initiation of practical work towards reaching national consensus on European integration, the National Council recommended establishment of Task Force for European Integration of Kosovo (Task Force)²¹. The Task Force was established in May 2012. The general goal of the Task Force was to draft National Strategy for European Integration, along with simultaneous development of the consensus between main actors, and also providing recommendations for the Government of Kosovo. Work of the Ministry for European Integration, including the work of Task Force, is directly supported by GIZ project titled “Support to process of European integration in Kosovo” within the framework of long-term bilateral support from Federal Republic of Germany to Kosovo. However, after the conclusion of this particular part of the project and the achievement of the objectives, the work of this group also ended. The Task Force gathered 54 actors, including both institutions and CSO, which were in 7 thematic groups represented by 626 individuals, four of which were Serbs.²² Among them, there were no representatives of civil society - there were three politicians and one political adviser.

Permanent structures dealing with EU integration process of Kosovo include:

- Ministerial Council for coordination of the process of European integrations (Minister Ljubomir Marić is also a member of this Council)
- Working Committee for European integrations
- Working groups for European integrations
- Assembly Committee for European integrations (Deputy Chairman is Slobodan Petrović)

Serbian community in Kosovo

Kosovo Serbs were omitted from the process of normalization of relations between Belgrade and Pristina. Precisely, Brussels Agreement and (anticipated) establishment of ASM within Kosovo political and legislative framework, pushed Kosovo Serbs against their will out of legislative-administrative framework of Serbia into legislative-administrative framework of Kosovo. Thus the signed agreement induced fear and sense of insecurity in Serbian community in Kosovo: constructive ambiguity about competences that ASM could have, resulted in a worry that ASM in practice will not be in position to make decisions related to key issues for Serbian community. This policy brief will not dwell on

²¹ <http://www.mei-ks.net/sr/task-forca-za-brevropske-integracije>

²² Bojan Stojanović, Petar Miletić, Dejan Radivojević i Srđan Popović – based on information received from GIZ
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ambiguities and vagueness of the first Brussels Agreement, but it will focus on possibilities opened by general provisions of the August Agreement.

At the moment, the Serbian community is looking forward to the creation of the mechanism for realization of their rights and protection of interests through establishment of Association/Community of Serb-Majority Municipalities (ASM)²³. As it can be seen from the above mentioned, Serbian community was also marginally represented in Kosovo institutions in charge of European integration. If Serbian community does not enter more actively into process of EU integration of Kosovo, a process which is unavoidable and unstoppable, with or without Serbian community, they will not get a chance to influence changes in legislation, programs, and using EU funds dedicated to Kosovo, as well as other benefits which can be brought by association process. Moreover, the crucial question for Serbian community within the democratization process (and consequently in European integrations) in Kosovo is fulfilment of standards from Chapters 23 and 24. These Chapters, related to judicial reform and basic rights, such as justice, freedom and safety, open an opportunity and a duty for Serbian community to articulate their needs and realize their rights through process of European integrations of Kosovo.

By entering of SAA into force, obligations accepted through Brussels Agreement are becoming the key part of EU Integration of Kosovo. These obligations are already accepted on behalf of the Kosovo Serb community, even though it did not participate in these negotiations, but it will, regardless, be forced to fulfil it. Therefore it is necessary for the Kosovo Serb community, within limitations that exist in political and legal framework, to get organized in a way that makes it possible to articulate its interests and to participate in formulating and monitoring Kosovo EU Integration policy.

RECOMMENDATIONS

For the Serbian community/ASM

- Having in mind the way the Agreement from August 25. defines ASM, we could say that it will have competences to establish a Department for monitoring EU integrations of Kosovo, with should focus on the role of the Serbian community in this process. This department should follow processes and trends of issues important for Serbian community which could be found in EU progress reports on Kosovo, and to send suggestions, amendments, additions, recommendations, on a yearly basis, for the EU Progress report on Kosovo, published by the European Commission. Also, among its activities, this department should include consultations with civil society.
- Instruments that the ASM Department for monitoring the process of EU integration of Kosovo should use to achieve the mentioned objectives, are researches, analyses and proposals within the realm of policies, which is in accordance with Point 4(e) of the Agreement on Association of Municipalities with majority Serbian population in Kosovo – General provisions/key elements;
- ASM should, in accordance with Points 8 and 9 of the same Agreement, be the key body for articulation and realization of the interests of the Serbian community, and liaison with authorities in Pristina. In this sense, through systematization, human resources should be envisaged for purposes of following the process and managing projects, along with establishment of mechanism of comprehensive consultations on a community level, regarding development priorities;

²³ Agreement concluded on 25 April 2015.

- ASM, through its representatives, should provide for Serbian community access to information on course and content of European integrations process and obligations stemming from SAA. Activities within this obligation could include regular meetings with the public, accessibility of information online, and also consultative processes with experts from CSO.
- Also, it should be possible through ASM, when planning donor support, including the IPA instrument, to take in consideration needs of Serbian community. Policy of ASM should be able to secure utilization of all options and opportunities, financial in the first place, for the realization of the projects that are important for the Serbian community, which, in turn, would secure balanced development of all regions of Kosovo;
- ASM should establish relations with the Office for European integrations of Kosovo, in order to successfully design and implement projects that can be funded from European funds dedicated to Kosovo;
- Serbian political representatives should recognize the importance of participation of Serbs in the process of normalization, and to use the support from Belgrade for the whole process to advocate for interests of the community.

For the Government of Kosovo

- In accordance with *Law on protection and promotion of rights of communities*, and Article 7 of SAA, Kosovo Government should secure participation of minority communities in all segments of the process of European integrations. More precisely, Ministry for European Integration should recruit and hire experts from non-majority communities for bodies competent in European integrations;
- All information about the course and content of negotiations process with EU, through regular meetings with both the ASM Department for monitoring EU integrations of Kosovo and with civil society, but also via electronic media, should be communicated to Serbian community and other non-majority communities;
- With the aim of best possible organization of implementation of the preceding recommendation, it is needed to adopt and implement a communication strategy of EU integration process that would define the following: through which websites would this information be disseminated; identification of institution in charge of publishing accurate information; and identification of institution responsible for accessibility of information, not only in official languages, but also in languages on non-majority communities;

For the European Union

- To encourage the government of Kosovo to include Serbian community in EI process;
- To specifically support projects aimed at inclusion of Serbian community into the process of EI;
- With support of ASM, to provide for, and support establishment of a roster of experts for EI and projects in Serbian community in Kosovo;



- To support the establishment of a consultative framework for cooperation between Serbian community and civil society organizations;
- To pay additional attention to trust building between Serbian community and EU and its institutions, in order to be recognized as partner in realization and protection of rights of Serbian community in Kosovo;
- To plan funds for improvement of infrastructure and human resources of Serbian media in Kosovo, in order to reach higher quality in informing the community about the European integration processes;

For the Government of Serbia

- To encourage participation ASM and CSO in monitoring the process of EU integrations of Kosovo;
- Through mentoring and transfer of knowledge, to help the establishment of human resources database within Serbian community, which would be capable to propose and manage projects that are of importance for this community in Kosovo;

For Civil Society Organisations

- To implement projects aimed at raising awareness about the importance of European integration process;
- To get actively involved in work of the group for monitoring EI process;
- To inform citizens about benefits of harmonization with EU standards;
- To participate in competitions for EU funds, and to secure financing of projects that advance the quality of life of Serbian community;
- Through trainings and education expand capacities for programming, designing and managing of projects;
- To establish intensive cooperation with the local government and as partners to participate in tenders and project competitions, in order to compensate the lack of human resources in institutions of local government, and to maximize opportunities for project financing;

For the media

- To build partnerships with CSO and ASM, as well as with local governments, aimed at informing the public about the process of European integrations of Kosovo, and obligations that stem from the SAA;
- To build their own capacities for following and reporting on EI processes.



Disclaimer:

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