



Group for Legal
and Political
Studies

POLICY NOTE

Number 02 – October 2011

An Ahtisaari ‘Plus’ Paradigm for the northern Kosovo: a Unified or a Divisive Approach for Ethnic Communities in Kosovo?

Author:
Group for Legal and Political Studies
European Movement in Kosovo

Summary Points:

- A. An Ahtisaari Plus solution could be comprehended as something that would unlock the Ahtisaari Settlement Proposal and change its attributions and/or prescriptions with regard to the regulation of the status of Kosovo Serbs living in the northern Kosovo;
- B. An Ahtisaari Plus would weaken the collective impact of the Kosovo Serbs in the central-government life, and bond ethnic Serbs living in the northern Kosovo with their local territory;
- C. An Ahtisaari Plus solution would imply two solutions for a single ethnic group within the same political entity;
- D. An Ahtisaari Plus solution for the north would conflict with the Ahtisaarian integrated approach to protecting and integrating ethnic communities;
- E. Ahtisaari Plus would provoke both formal and substantial asymmetry between different ethnic communities living in Kosovo;
- F. Ahtisaari Plus would precondition the disintegration Kosovo Serbs in the institutional life;
- G. Ahtisaari Plus would narrow the concept of Kosovo as a “multiethnic state” and a “state of citizens”;
- H. Ahtisaari Plus would advance the division of Kosovo upon ethnical lines and the territorialisation of ethnic communities; wherein it would weaken the participation of Kosovo Serbs in the central institutions of Kosovo, and favour their concentration within municipal institutional structures;
- I. Ahtisaari Plus would predetermine problems with the functionality of the state of Kosovo, similar to Bosnia and Herzegovina;
- J. Ahtisaari Plus would predetermine the mobilization of other ethnic communities living in Kosovo to articulate further self-ruling requests, and the Ahtisaari Plus would be the beginning of a precedent.

Policy Note 02/2011

October 2011

A project sponsored by Kosovo Foundation for Open Society (Soros Foundation), Prishtina, Kosovo. The opinions expressed in this publication do not necessarily reflect those of the Kosovo Foundation for Open Society (KFOS).

© Group for Legal and Political Studies, 2011.

The opinions expressed in this publication do not necessarily reflect those of the GLPS. All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any mean without the permission of the Group for Legal and Political Studies. This publication might be ordered in-print for a fee. Contact the administrative office of the Group for Legal and Political Studies for such requests. Information on contacts can be found at the web site of the Group. If you wish to further use this paper, please contact GLPS for permission.

Group for Legal and Political Studies
'Rexhep Luci' str. 10/5
Prishtina 10 000, Kosovo
Web-site: www.legalpoliticalstudies.org
E-mail: office@legalpoliticalstudies.org
Tel/fax.: +381 38 227 944

About GLPS

Group for Legal and Political Studies is a think-tank based in Kosovo. It is one of the foremost institutions which provide both academic and policy-based research in the South Eastern Europe. Group for Legal and Political Studies is mainly concentrated in the politics, law and economics fields of research, however special attention is paid to the democratization phenomena in the post-communist world. The Group intends to use its policy research and solutions for furthering the process of democratization and European integration of Kosovo.

Background

The events that followed the Kosovo's government-owned police action intended to reassert control over the border crossings in the northern Kosovo dominated by ethnic Serbs generated a complex situation, both domestically and internationally. A very common tendency – as anticipated by several rational observers – was that the reaction of local Serbians living in the northern Kosovo would be adjusted to both the aims of the Serbian Government and Serbian opposition political parties that control some of the local leaders in those areas.

A number of multifaceted developments therefore pursued these events. On the one hand, local Serbians living in the northern Kosovo were mobilized to confront any action of the Kosovo Government to put into control both border-crossing posts, and on the other, to avert any action that intends to establish a different governing logic in the northern part of Kosovo.

With a new – both political and non-political – approach to resisting any form of control from the international and Kosovo's Government authority, local Serbians in the northern Kosovo started to implicitly articulate the Serbia's Government request for a northern autonomous territorial entity, later labelled as an "Ahtisaari Plus" solution. Of note is the fact that this solution was never substantively articulated and/or formulated. There is of course another view which reiterates that the Serbian leaders' claim for an autonomous north is an ambiguous claim in itself. It goes without saying that considering Kosovo part of Serbia on the one hand, and claiming an autonomous solution for its northern part, on the other, makes this claim both ambiguous and obscure.

Therefore, this Policy Note aims to explore the meaning of an Ahtisaari Plus solution for the north. In addition, it explains why a detached solution for the northern Kosovo would conflict with both the Ahtisaari proposal and its ethnic community's protection approach.

Three preliminary arguments as to the meaning of an Ahtisaari Plus solution:

First, an Ahtisaari Plus solution – be it broad or narrow – is something that would unlock the Ahtisaari Settlement Proposal and change its attributions and/or prescriptions with regard to the regulation of the status of the Serbians living in the northern Kosovo.

Second, an Ahtisaari Plus solution would be an approach that favours territorial autonomy of Kosovo Serbs living in the northern Kosovo – as opposed to their functional autonomy – certainly hindering their authority as central-government actors. This attribute, on the one hand, would weaken the collective impact of the Serbs in Kosovo in the central-government life, and bond ethnic Serbs living in the northern Kosovo with their local territory, on the other.

Third, an Ahtisaari Plus solution would provide certain autonomy and self-ruling authority solely and merely to the Serbians living in the northern Kosovo. In other words, only ethnic Serbs living in the northern Kosovo would enjoy, and consequently would become subject to a special substantive, territorial-based authority deriving from such a solution.

This Policy Note, therefore, identifies the key risks that an Ahtisaari Plus solution would generate in practice, suggesting the possible outcomes if the adoption of such a solution would become a reality.

Ahtisaari Plus would provoke both formal and substantial asymmetry between different ethnic communities living in Kosovo:

The Ahtisaari Plan – a rather consociational settlement instrument – provides for a power-sharing (constitutional) system, wherein ethnic communities (most importantly, Kosovo Serbs) are vested with special protection and constitutive attributes. Hence, as it now stands, the relationship between the Albanian majority and ethnic minorities in Kosovo, according to Ahtisaari prescriptions is asymmetrical. This certainly is both logical and acceptable within the margins of consociational democracy that the international community has built in Kosovo. Of note, however, is the fact that

Serbs as an ethnic minority live throughout Kosovo, although they are mostly concentrated in the northern Kosovo. Should the Ahtisaari Plus give special authority to the Kosovo Serbs located in the northern Kosovo, it would mean that a visible asymmetry between Kosovo Serbs themselves would become a reality. This said, an Ahtisaari Plus solution would make Kosovo Serbs living in the area north of the Iber River and those living in the south Iber River have an asymmetric status as to their constitutional rights and attributes.

Besides, not only an asymmetry between Kosovo Serbs would materialize, but also among ethnic minorities themselves, as Kosovo Serbs living in the northern Kosovo would have broader constitutional authority compared to, for example, Turkish, Bosnian, Roma, Egyptians, and other ethnic minorities living in Kosovo. As such, an Ahtisaari Plus would certainly inflict other ethnic groups in Kosovo to seek the same status as that of Kosovo Serbs living in the northern Kosovo, wherein diminishing chances for integration of those minorities in a common Kosovar state. In addition, the Ahtisaari Plus would reduce Serbian collective identity and single representative power, as it would produce two – or even more – Kosovo Serbs' groups; one representing the individual interests of the Kosovo Serbs living in the northern Kosovo enjoying a special territorial autonomy, and the other group representing the Kosovo Serbs group living in the south of the Iber River, enjoying and acting under an Ahtisaarian authority.

Ahtisaari Plus would favour the disintegration of Kosovo Serbs in institutional life:

Territorial autonomy in the form of an Ahtisaari Plus for the northern Kosovo would certainly put into jeopardy the integration and/or participation of Kosovo Serbs in Kosovo's political and public life. Having a special concentration on the northern Kosovo through a special self-ruling solution, Kosovo Serbs would not find it attractive to participate in Kosovo's general institutional framework. Moreover, this concentration would impose a 'self-marginalization logic'. Certainly, omitting to become equal and vibrant institutional actors in Kosovo's political life would diminish the existing possibilities of Serbian ethnic community within Kosovo.

Ahtisaari Plus would narrow the concept of Kosovo as a "multiethnic state" and a "state of citizens":

An Ahtisaari Plus would undoubtedly lessen or even ruin the concept of Kosovo as a multiethnic state and a state of citizens, as Kosovo Serbs living in the northern Kosovo would likely be led by the view that they omit to become active citizens of a common multiethnic state, as long as they generate their own, territorial-based identity within an autonomous northern Kosovo. This would certainly hinder the entire Ahtisaarian goal of making Kosovo a state of every citizen – as opposed to a nation or a mono-ethnic state – producing a situation where Kosovo Serbs living in the north of Kosovo start to lose their ownership over the state and polity of Kosovo.

Ahtisaari Plus would advance the division of Kosovo upon ethnical lines, and the territorialisation of ethnic communities:

An Ahtisaari Plus solution would unquestionably advance the division of Kosovo on basis of ethnical lines, clearly dismissing the possibility that Kosovo become an ethnically integrated political entity. This would indeed contradict with the European aim of integrating ethnicities and groups rather than dividing them. Besides, an Ahtisaari Plus would territorialize Kosovo Serbs in the northern Kosovo, diminishing the chances that Serbs act in Kosovo's territory as an entirety.

Ahtisaari Plus would weaken the participation of Kosovo Serbs in the central institutions of Kosovo, and favour their concentration within municipal institutional structures:

An Ahtisaari Plus solution, in addition, would also weaken the participation of Kosovo Serbs living in the northern Kosovo within Kosovo's central institutional life. Being bound to a special self-ruling territory, Serbs of the northern Kosovo would not find it attractive to become actors and participants in Kosovo's central and vital institutional life. This being said, an Ahtisaari Plus solution would favour the concentration of Serbs in municipal institutional structures, undermining their participation at the central-government life. This in turn would result in the fading of Serbs' action as

'a collective', and would barrier their influence over the central policy-making processes and goals.

Ahtisaari Plus would predetermine problems with the functionality of the state of Kosovo, similar to Bosnia and Herzegovina:

An Ahtisaari Plus would certainly favour the partition of Kosovo Serbs living in the northern Kosovo, bringing certain problems with the functionality of the state of Kosovo. Building a specific, self-ruling entity in the northern Kosovo would imitate the example of the "Republika Srpska" in Bosnia and Herzegovina. This model of partitioning the state on basis of ethnical lines, accordingly, and as evidence from other countries suggests, would result in tendencies that do not derive in a proper functional state. For example, as the Bosnian case shows, the autonomous competences vested in the institutions of the "Republika Srpska" complemented by a nationalist leadership running with those institutions, have produced, and in many cases blocked the implementation of decisions regulating general non-ethnic related issues (such as those related to tax, health, adoption of free trade agreements etc.) adopted by central government on mere political arguments. As such, an Ahtisaari Plus is predetermined to cause state-failure features for Kosovo, and further the requests for partitioning rather than integrating Serbians of the northern Kosovo.

Ahtisaari Plus would predetermine the mobilization of other ethnic communities living in Kosovo to articulate further self-ruling requests, and the Ahtisaari Plus be the beginning of it:

An Ahtisaari Plus would not close the issue; instead, it would mobilize ethnic communities to articulate similar requests again in the future. As a whole, this must be read as a precedent, in the context that a certain ethnic group – or even more ethnic groups in Kosovo – would be mobilized to see the solution through seeking further constitutional authority on basis of territory. Hence, the view that an Ahtisaari Plus would produce a precedent is not important merely for domestic reasons, since such form of articulation could become a demand in other ethnically plural states in the region of the South Eastern Europe.

Ahtisaari Plus would be a step further to divide Serbians from their local legitimate leadership, and a step to omit from furthering their legitimate local interests (the risk of becoming vulnerable to Belgrade's politics):

As the Ahtisaari Plus solution seems to be articulated from the Serbia's Government, it is obvious that providing territorial self-ruling capacities to the Serbs in the northern Kosovo would simultaneously make them vulnerable to the direction from the Serbia's Government and oppositional political parties' deeds (as it is the case with the recent problems in the north). It is therefore argued that a self-ruling northern Kosovo, under an Ahtisaari Plus solution, could make Serbs in the northern Kosovo a tool for the Serbia's Government and opposition political parties' policy towards Kosovo, the region, and the European Union. On the other hand, this practice would divide Serbians in the northern Kosovo from their own legitimate leadership and interests, likely to omit from articulating their local needs and concerns.



Group for Legal and Political Studies
'Rexhep Luci' str. 10/5
Prishtina 10 000, Kosovo
Web-site: www.legalpoliticalstudies.org
E-mail: office@legalpoliticalstudies.org
Tel/fax.: +381 38 227 944