

Power-Sharing and Asymmetrical Autonomy: The Case of Kosovo's ASMM Deadlock in Light of the South Tyrol Autonomy Model

Güç Paylaşımı ve Asimetrik Özerklik: Güney Tirol Özerklik Modeli
Işığında Kosova'daki SÇBB Çıkmazı

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Abstract

This paper analyzes the tenacious impasse over the Association of Serb-Majority Municipalities (ASMM) in Kosovo, exploring the constitutional, legal, and political hurdles that hinder its implementation. Applying the theories of consociationalism and asymmetrical autonomy, the study analyzes how power-sharing and unequal self-rule arrangements designed to protect minority rights can coexist with the principles of national sovereignty and unity. In this framework, the Italian South Tyrol autonomy model serves as a comparative case to evaluate its potential applicability to Kosovo. This study employs a qualitative, comparative methodology that integrates constitutional analysis with detailed case studies. The article argues that the ASMM remains deadlocked because Belgrade seeks an executive autonomy mechanism for Kosovo Serbs, whereas Pristina regards it as incompatible with Kosovo's constitutional framework and sovereignty. Beyond institutional comparison, the study also situates the ASMM within the broader international and constitutional context by examining the positions of Kosovo, Serbia, the European Union, and other international actors throughout the normalization process. Although the South Tyrolean approach is not directly exportable, it offers significant lessons on how differentiated self-governance frameworks backed by political agreement, legal certainty, and international support can successfully resolve conflicts.

Keywords: Kosovo, Serbia, Association of Serbian Majority Municipalities (ASMM), South Tyrol Model, Brussels Agreement.

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Öz

Bu makale, Kosova'daki Sırp Çoğunluklu Belediyeler Birliği (SÇBB) konusundaki kalıcı çıkmazı analiz etmekte ve uygulanmasını engelleyen anayasal, hukuki ve siyasi engelleri incelemektedir. Oydaşmacılık ve asimetrik özerklik teorilerini temel alan bu çalışma, azınlık haklarını koruyan güç paylaşımı ve asimetrik özerklik düzenlemelerinin ulusal egemenlik ve birlik ilkeleriyle nasıl bir arada var olabileceğini analiz etmektedir. Bu çerçevede, İtalya'daki Güney Tirol özerklik modeli, Kosova'da uygulanabilirliğini değerlendirmek amacıyla karşılaştırmalı bir örnek olarak ele alınmaktadır. Çalışma, anayasal analizi ayrıntılı vaka incelemeleriyle bütünleştiren nitel ve karşılaştırmalı bir metodoloji kullanmaktadır. Bulgular, SÇBB'nin uygulanmasının, Belgrad'ın Kosovalı Sırp için yürütme yetkileriyle donatılmış bir özerklik mekanizmasını savunmasına karşın, Priştine'nin bu modeli Kosova'nın anayasal düzeni ve egemenliğiyle bağdaşmaz olarak değerlendirmesi nedeniyle çıkmaza girdiğini göstermektedir. Kurumsal karşılaştırmaların ötesine geçen çalışma, Kosova, Sırbistan, Avrupa Birliği ve diğer uluslararası aktörlerin normalleşme süreci boyunca benimsedikleri tutumları inceleyerek SÇBB'yi daha geniş bir uluslararası ve anayasal bağlam içine yerleştirmektedir. Güney Tirol yaklaşımı doğrudan aktarılabilir bir model olmasa da, siyasi uzlaş, hukuki kesinlik ve uluslararası destekle güçlendirilen farklılaştırılmış özyönetim düzenlemelerinin etnik çatışmaların çözümüne nasıl katkı sağlayabileceğine ilişkin önemli çıkarımlar sunmaktadır.

Anahtar Kelimeler: Kosova, Sırbistan, Sırp Çoğunluklu Belediyeler Birliği (SÇBB), Güney Tirol Modeli, Brüksel Anlaşması

1. Introduction

Following Kosovo's declaration of independence in 2008, the Constitution, largely based on the Ahtisaari Plan, established a multi-ethnic constitutional order and an advanced system of local self-government (Rohan, 2018). Nevertheless, the Serb-majority municipalities in northern Kosovo continued to operate under Belgrade-supported parallel structures (Smolar, 2013). The 2011 barricade crisis and the subsequent EU-facilitated Brussels Dialogue culminated in the 2013 Brussels Agreement, which envisaged the establishment of the Association of Serb-Majority Municipalities (ASMM) as a mechanism to integrate these municipalities into Kosovo's constitutional framework while providing a degree of local self-management (Kryeministri, 2013). Since then, the implementation of the ASMM has remained the principal unresolved issue in the normalization process between Kosovo and Serbia (CGER, 2012).

The EU and the US strongly insisted on implementing the 2013 Brussels Agreement, considering it essential for promoting long-term stability in the Western Balkans, limiting Russian influence, and advancing the Euro-Atlantic aspirations of both Kosovo and Serbia. Accordingly, the establishment of the ASMM was envisaged as a central mechanism for integrating Kosovo Serbs into Kosovo's legal and institutional framework, dismantling Belgrade-backed parallel structures, strengthening the rule of law in northern Kosovo and the Serb-majority municipalities, and ultimately facilitating the normalization of relations between the two parties (Morina, 2022; Prelec & Rashiti, 2015). According to the agreement, the ASMM would comprise ten Serb-majority municipalities (Baliu, 2022).

The creation of the ASMM is rooted in frameworks such as the European Charter of Local Self-Government and the Ahtisaari Plan, which emphasize local autonomy while preserving the

sovereignty and territorial integrity of states (Council of Europe, 1985; UN Security Council, 2007). The ASMM was designed to have its own bodies, including a presidency, assembly, council, and administrative structures, while operating under Kosovo's legal framework (The Dialogue, 2013). The Association is intended to have a comprehensive overview of education, economic development, health care, and urban and rural planning (Mushkolaj, 2023). The deadlock surrounding the ASMM has significant implications for Kosovo's internal governance and its relations with Serbia, as the Association is both an international obligation and a deeply contested domestic issue (Bashoviq & Haziri, 2023, pp. 1–12). In this context, comparative models of autonomy and minority governance offer potential pathways for resolving the ASMM impasse while maintaining Kosovo's constitutional framework and territorial integrity. One such model is the South Tyrol autonomy arrangement in Italy, which illustrates how territorial autonomy and power-sharing mechanisms can address inter-ethnic tensions while preserving state sovereignty (Carlà, 2016). Accordingly, this study seeks to answer the following research questions:

- What are the constitutional and institutional challenges compared to the South Tyrol Model that are incompatible with the proposed ASMM in Kosovo?
- To what extent can the South Tyrol autonomy model provide insights into resolving the ASMM deadlock in Kosovo?

This study employs a qualitative, comparative research design grounded in the theoretical frameworks of power-sharing and asymmetrical autonomy. It combines constitutional analysis with case study methodology to examine the legal and political constraints surrounding the implementation of the ASMM in Kosovo. The article is organized into five sections. Following the introduction, it presents the literature review, examines Kosovo's constitutional framework, analyzes the South Tyrol autonomy model, compares the two cases, and concludes by presenting the main findings.

2. Power-Sharing and Asymmetrical Autonomy in Theory

2.1. Power-Sharing Theory (Consociationalism)

In societies divided along deep ethnic, linguistic, and religious cleavages, consolidating long-term democracy is quite difficult. Some of the most prominent political scientists have argued that a stable democracy is possible only in comparatively homogenous societies (Horowitz, 2014, p. 5). In such cases, societies are divided into majority groups and minority communities. Societies with a majority of votes tend to dominate minority groups, which also undermines genuine democracy. The two most distinct approaches to power-sharing in deeply divided societies are consociationalism and centripetalism (Horowitz, 2014, p. 5).

According to Lijphart, “the successful establishment of democratic government in divided societies requires two key elements: power-sharing and group autonomy (Lijphart, 2004, p. 97). In addition, Lijphart defines power-sharing and group autonomy as follows:

“Power sharing denotes the participation of representatives of all significant communal groups in political decision-making, especially at the executive level; group autonomy means these groups have the authority to run their own internal affairs, especially in education and culture. These two characteristics are the primary attributes of the kind of democratic system often referred to as a power-sharing democracy, or, to use a technical political-science term, ‘consociational’ democracy” (Lijphart, 2004, p. 97).

McCulloch claims that “power-sharing relies on some form of joint-political decision making between the major ethno-political groups in divided societies. This collection considers different models of power-sharing, including consociationalism and centripetalism, and their implications for the pursuit of political stability, for effective governance, and for justice and fairness.” (McCulloch, 2017, p. 1). According to Brendan O’Leary, “Power sharing is intended to hold the existing state together with the active participation and consent of its minorities, unlike strategies of genocide, expulsion, partition, and control.” (O’Leary, 2013, p. 14). Power-sharing is the most pragmatic technique for resolving armed conflicts, where, through the division of powers in terms of politics, economy, military, and territories, a final peace agreement is reached, and by implementing decision-making rights to prevent civil war from recurring, as well as guaranteeing the accommodation of all representative groups (Hartzell & Hoddie, 2007, p. 13).

About consociational democracy as one of the most prominent theories of power-sharing alongside centripetalism, Lijphart stipulates that it can be defined in terms of four characteristics:

“The first (1) and most important element is government by a grand coalition of the political leaders of all significant elements of the plural society. The other three basic elements of consociational democracy are (2) the mutual veto or ‘concurrent majority’ rule, which serves as an additional protection of vital minority interests, (3) proportionality as the principal standard of political representation, civil service appointments, and allocation of public funds, and (4) a high degree of autonomy for each segment to run its own internal affairs.” (Lijphart, 1977, p. 25).

Power-sharing arrangements were first introduced in Kosovo through the 2001 UNMIK Interim Constitutional Framework and were later incorporated into the 2008 Constitution of Kosovo, based on the Ahtisaari Plan (McGarry, 2019). These provisions guarantee minority participation through mechanisms such as reserved parliamentary and governmental seats. However, their effectiveness has remained limited, as many Kosovo Serb political representatives have continued to challenge Kosovo’s state institutions and their legitimacy (Bieber & Keil, 2009, p. 344). The implementation of power-sharing in Kosovo has been hindered by the persistence of Serbian parallel institutions and Belgrade’s continued influence over the Kosovo Serb community. Rather

than fostering interethnic cooperation, these structures have reinforced political divisions, while parallel systems in education and health care have remained integrated with Serbia instead of Kosovo, limiting the consolidation of Kosovo's state institutions (Baliqi, 2018, p. 56). It was precisely for this reason that the Brussels Agreement, particularly the provisions establishing the ASMM, sought to dismantle Serbian parallel structures by facilitating their integration into Kosovo's legitimate institutional framework while granting Serb-majority municipalities a degree of self-management in local affairs (López Domènech, 2023).

Nevertheless, the principal point of contention remains the failure to implement the ASMM, as Serbia continues to advocate for broader executive and legislative competencies that conflict with key principles of Kosovo's constitutional framework. Accordingly, if the ASMM is ultimately granted executive and legislative powers in its final institutional design, it would effectively constitute a form of asymmetric autonomy comparable to that of South Tyrol, as discussed in the following section.

2.1. Asymmetrical Autonomy and Conflict Resolution

Territorial autonomy is a 'form of self-governance in which a specific region within a state possesses unique legislative or executive competences, often designed for geographically distinct areas or national minorities.' (Lapidoth, 1997; Suksi, 2011; Hannum, 1996). According to Weller, these basic elements must be present to fulfill the criteria for territorial autonomy: (1) demographic distinctiveness; (2) devolution, not decentralization; (3) legal entrenchment; (4) legal supremacy; (5) statute-making powers; (6) significant competences; (7) parallel action; (8) limited external relations powers; (9) institutions; and (10) integrative mechanisms (Weller, 2010, pp. 4–5).

Two important concepts, symmetry and asymmetry, to be discussed in the context of federalism were first used by the political scientist Charles Tarlton in the *Journal of Politics* (Tarlton, 1965). Tarlton uses the notion of symmetry "to the extent to which component states share in the conditions and thereby the concerns more or less common to the federal system as a whole. The concept of asymmetry expresses the extent to which component states do not share in these common features" (Tarlton, 1965, p. 861). McGarry emphasizes that "An asymmetrical federation is now usually understood as a state in which all parts have constitutionally guaranteed autonomy, but in which at least one part enjoys a different, usually enhanced level of autonomy than the rest." (McGarry, 2007, p. 105). In federal systems of government, this can be described as an autonomous republic enjoying more rights than other republics (e.g., Chechnya and Tatarstan in Russia, or Quebec in Canada). In unitary systems of government, such as China, Hong Kong has been granted greater autonomy than other provinces for reasons of reabsorption and economic benefits (McGarry, 2007, p. 105). Kosovo also has a unitary system in which a self-governing association may enjoy more rights than other regions (Hamza, 2022, p. 249). In this case, the question concerns the formation of the Association of Serb-Majority Municipalities, which will be discussed further. Weller states that asymmetry can be classified into two categories: *de facto*

and de jure asymmetry. De facto approaches assess the ‘felt’ degree of competence and power, taking into account factors such as the population size and the economic and fiscal resources of the respective entities. The de jure approach offers greater clarity. It is embodied in constitutional and legislative legal instruments (Weller, 2010, p. 8). To be clear, the ASMM is a de facto part of the asymmetrical self-government system, but it has not yet been implemented de jure.

Giving his consent to the normative and empirical significance of asymmetry, McGarry articulates the following about the four scholars:

“Adeney writes that asymmetrical federalism is “an important element in managing conflict in diverse states”. Conversi notes that asymmetric arrangements are “durable and practical” as well as “flexible and effective” in managing and preventing ethnic conflict. A specialist on Spain, he argues that asymmetry was “necessary” for maintaining state unity there. Hechter concurs that different nations are likely to seek different degrees of self-government and that asymmetrical governance represents an “entirely sensible” response. He believes, as I do, that giving nations appropriate levels of self-government can help forestall demands for secession rather than always exacerbating them, as critics of pluralist federalism allege. Rezvani points out that asymmetrical governance “has a strong empirical record of helping to mitigate many seemingly intractable conflicts.” (McGarry, 2007, p. 133).

Indeed, asymmetric autonomy has been criticized for encouraging centrifugal tendencies by granting special powers to a territorial unit. Moreover, devolving extensive competencies from the central government may, under certain conditions, reinforce secessionist aspirations (McGarry, 2007, p. 112). Still, in this paper, since South Tyrol has been taken as the basis of analysis, it may be argued that South Tyrol’s secessionist policies contradict the central constitution in Rome. The Italian Constitution treats the republic as “one and indivisible”, making unilateral secession illegal without constitutional reform (Pallaver, 2022; Scantamburlo & Pallaver, 2015). Therefore, any territorial violation or secession from Kosovo’s territory should be treated as illegal and unconstitutional.

In short, asymmetry is a response in countries with multi-ethnic diversity. It is a response to minorities demanding more rights, or being granted them as a privilege by the state itself, to eliminate the risk of political secession and to integrate more closely with the central government. Many examples of asymmetry exist, the most prominent being Northern Ireland, Scotland, and Wales within Great Britain. In Indonesia, there is also the case of Aceh, which was granted extended autonomy (McGarry, 2007, pp. 105–106). In this study, however, South Tyrol in Italy is used for analysis.

Kosovo, under the Ahtisaari package and its constitutional order, is a unitary state, while municipalities enjoy a symmetrical form of decentralized local government. Nevertheless, the creation of asymmetrical autonomy through the Association is one of the most intricate

challenges for the central government of Kosovo, the bilateral negotiating party, Serbia, and international partners. The Association will be responsible for matters related to the sectors of education, health, and security, and perhaps even the definition of the legislative and executive branches (Hamza, 2022, p. 253). “If this autonomy is constitutionally guaranteed, and cannot be rescinded unilaterally by the state’s central authorities, a ‘federation’ exists. If the center is capable of rescinding the autonomy, there exists an asymmetrically decentralized unitary state” (McGarry, 2007, p. 105).

3. The ASMM in the Context of Kosovo’s Constitutional Order and Status of Kosovo in the Constitution of Serbia

In October 2015, amid domestic opposition and legal ambiguity, President Atifete Jahjaga submitted the 2015 Agreement on the ASMM to the Constitutional Court of Kosovo for review (EEAS, 2015). The Court was required to assess whether the General Principles of the Association were consistent with the “constitutional spirit” of Kosovo, particularly regarding the equality of all citizens and the state’s multi-ethnic character (Fehmiu, 2015). On December 23, 2015, the Constitutional Court issued a landmark decision that, while the creation of the ASMM as part of an international obligation was permissible in principle, several provisions of the Agreement were incompatible with Kosovo’s Constitution (Constitutional Court of the Republic of Kosovo, 2015). Specifically, the Court found that the ASMM violated:

- Article 3 [Equality Before the Law],
- Chapter II [Fundamental Rights and Freedoms], and
- Chapter III [Rights of Communities and Their Members] of the Constitution of the Republic of Kosovo (Constitutional Court of the Republic of Kosovo, 2015).

Furthermore, the Constitutional Court, pursuant to Article 84(9) of the Constitution of the Republic of Kosovo, in conjunction with Article 112.1 of the Constitution, Article 20 of the Law, and Rule 56(a) of the Rules of Procedure, at its session held on December 21, 2015, by majority, decided:

“III. TO HOLD that the principles as elaborated in the “Association/Community of Serb majority municipalities in Kosovo – general principles/main elements” are not entirely in compliance with the spirit of the Constitution, Article 3 [Equality Before the Law], paragraph 1, Chapter II [Fundamental Rights and Freedoms] and Chapter III [Rights of Communities and Their Members] of the Constitution of the Republic of Kosovo” (Constitutional Court of the Republic of Kosovo, 2015, p. 39).

The Court emphasized that the mono-ethnic nature of the ASMM contradicts Kosovo's constitutional identity as a multi-ethnic state (Constitutional Court of the Republic of Kosovo, 2015, p. 39). Article 3 of the Constitution of the Republic of Kosovo declares that:

"The Republic of Kosovo is a multi-ethnic society consisting of Albanian and other Communities, governed democratically with full respect for the rule of law through its legislative, executive, and judicial institutions..." (Constitutional Court of the Republic of Kosovo, 2008).

Therefore, establishing an association based exclusively on ethnicity risks violating the constitutional principle of equality. Furthermore, the Court raised concerns over the Agreement's ambiguous terminology, particularly the phrase "*exercise full overview*" in areas such as education, health care, and economic development, questioning whether it implied executive authority for the ASMM and, consequently, undermined the constitutional status of municipalities as the fundamental units of local self-government under Articles 12, 123, and 124 (Constitutional Court of the Republic of Kosovo, 2015, pp. 143–148).

The judgment also stressed the importance of legal clarity and accessibility. Referencing European Court of Human Rights jurisprudence, the Court stated that legal provisions must be "sufficiently accessible, precise, and foreseeable in their consequences" (Constitutional Court of the Republic of Kosovo, 2015, p. 147). Accordingly, any ambiguity in the ASMM's objectives or structure must be resolved in conformity with constitutional standards.

From a structural standpoint, the Court ruled that the planned governing bodies of the ASMM, including an Assembly, a President, a Vice President, a Council, a Board, and an Administration, must not replicate or replace existing municipal authorities. Instead, they must operate strictly within Kosovo's constitutional and legal order (Constitutional Court of the Republic of Kosovo, 2015, pp. 151–153).

The ruling further held that the Statute of the ASMM, which would outline its legal identity, must not confer powers that conflict with national legislation. Article 4.1 of the European Charter of Local Self-Government (ECLSG) also affirms that "The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute" (Council of Europe, 1985, Art. 4.1).

In essence, the Court's interpretation suggests that any model of the ASMM should be reframed to comply with the core values of the Republic of Kosovo: equality, integration, and decentralization of governance, rather than establishing an autonomous, ethnicity-defined parallel structure. The ruling leaves room for implementing the ASMM, but only within the constitutional framework and with carefully defined, limited competencies.

When discussing the constitutional order, another, even more fundamental challenge is that, from the very outset, the preamble to the Constitution of Serbia (n.d.) explicitly states that "... the Province of Kosovo and Metohija is an integral part of the territory of Serbia." While Kosovo

ratified the Brussels deal in its parliament as an international agreement, Serbia did not amend its Constitution or pass any constitutional laws to accommodate it, thereby limiting its legal integration to internal legislative adjustments (Stanicek, 2025).

4. Comparative Analysis of the South Tyrol Autonomy Model

4.1. Brief Historical Background of South Tyrol

Before 1918, South Tyrol was a constituent part of the Austro-Hungarian County of Tyrol. Under the Treaty of London of 1915, the region was promised to Italy as an incentive for Italy to join the Allied Powers during World War I. Consequently, in 1919–1920, Italy annexed South Tyrol, and it has remained under Italian sovereignty ever since (Golowitsch, n.d.; Alcock, 2001).

Between 1922 and 1939, under the Fascist regime, South Tyrol underwent a period of aggressive “Italianization.” During this time, all German-language schools were closed, and public-sector employment was reserved exclusively for members of the Italian community (Alber & Zwilling, 2022, p. 6).

In 1939, an agreement known as the “Option” was concluded between Benito Mussolini and Adolf Hitler. Under this arrangement, the German-speaking population of South Tyrol was forced to make a difficult choice: either immigrate to Austria (then under Nazi German control) to preserve their cultural identity or remain in South Tyrol while relinquishing their German identity in favor of full assimilation into Italian society. A significant portion of the population chose to immigrate to Austria to safeguard their linguistic and cultural heritage (Alber & Zwilling, 2022, p. 6).

Following the end of World War II, the shift in Italy’s position from being part of the Axis Powers to aligning with the Allied Powers, and the resulting armistice agreement, prompted Nazi Germany to occupy South Tyrol. This development led to a significant number of German-speaking individuals who had previously immigrated to Austria returning to their ancestral homeland in South Tyrol (Golowitsch, n.d.; Lantschner, 2008, pp. 3–15).

In the interwar period, the German community of South Tyrol consistently sought either the exercise of the right to self-determination or reunification with its historical homeland, Austria. Nevertheless, these goals were staunchly opposed by the Italian authorities and lacked international support due to fears that such actions would spark a new conflict between the Austrian and Italian Republics. Accordingly, a peaceful resolution through diplomatic status arrangements became the preferred approach to managing the dispute (Alber & Zwilling, 2022, p. 3).

Following World War II, South Tyrol remained an inseparable part of Italy. The bilateral Gruber–De Gasperi Treaty was signed on September 5, 1946, in Paris, ensuring autonomy for the

German-speaking population of Alto Adige. Pursuant to this bilateral agreement, South Tyrol and Trentino received cultural autonomy, and German was officially designated as a second language, sharing equal status with Italian (Pföstl, 2004, p. 78; Alcock, 2001).

Nonetheless, one significant issue remained unresolved. Although South Tyrol had a German-majority population, it was merged with the predominantly Italian-speaking region of Trentino to form the joint autonomous region of Trentino–South Tyrol. Given that the Italian population held the demographic majority within this combined region, German-speaking South Tyroleans expressed growing dissatisfaction with what they perceived as Italian favoritism. As a result, criticism of the Gruber–De Gasperi Agreement intensified. The Südtiroler Volkspartei (SVP), the primary political representative of the German-speaking population, began to demand the administrative separation of South Tyrol from Trentino and the establishment of full autonomy for South Tyrol as an independent province (Carlà, 2016, p. 8).

The South Tyrol issue did not end there. Violent tensions escalated in the form of terrorist attacks by radical groups from Trentino and increased restrictions on the rights of German speakers. As the conflict intensified, it gained international attention. In 1960, Austria formally brought the South Tyrol question to the UN. By 1961, several preliminary negotiations had begun but yielded no substantive results (Haller, 2006, pp. 133–154).

It was not until 1969, after years of political pressure, that a breakthrough was achieved with a set of measures known as the “Package.” These included 137 new provisions granting broad rights to the German-speaking population. This culminated in the adoption of the Second Statute of Autonomy in 1972, which provided South Tyrol with significant legislative and executive powers, thereby transforming Italy’s centralized system into a decentralized one with consociational features (Alber & Zwilling, 2022; Lantschner, 2008, pp. 12–13; Carlà, 2016, p. 9).

With the implementation of “the Package” in 1972, provincial powers have been continuously expanded through specific regulations. The Italian state’s authority in South Tyrol is now limited strictly to defense, law enforcement, the judiciary, and national taxation (Pföstl, 2004, p. 87). The region’s economic boom is largely attributed to its Second Statute of Autonomy, which has permitted South Tyrol to retain 90% of its tax revenue since 1972. By transferring only 10% to the central state, the province has developed a largely independent, self-driven economy (Rosenberger, 2012).

Overall, South Tyrol’s autonomy today is protected by three essential legal pillars: the Constitution of the Republic of Italy; the 1946 Gruber–De Gasperi Agreement, which laid the foundation for cultural, linguistic, and economic rights; and the Second Statute of Autonomy of 1972, which institutionalized the principles of internal self-governance and consociationalism (BolzanoProvince, 2024).

4.2. Differences Between South Tyrol and the ASMM

The principal distinction between South Tyrol and the ASMM lies in their legal status. South Tyrol enjoys constitutionally entrenched autonomy with extensive legislative and executive powers, whereas the ASMM has yet to acquire a clearly defined legal status. Although its establishment was agreed upon in the 2013 Brussels Agreement, its institutional structure and competences remain politically contested (IPESE, 2024).

The 2013 Brussels Agreement relied on constructive ambiguity, deliberately avoiding clarification of Kosovo's status and the Association's legal framework. This reflected the experience of the Ahtisaari negotiations, where the status question had obstructed a mutually acceptable agreement (Bieber, 2015, p. 313). Comparing Kosovo–Serbia relations to the South Tyrol arrangement between Italy and Austria reveals two fundamentally different approaches to minority autonomy and sovereignty. The key distinction is that South Tyrol is built upon agreed sovereign borders and mutual recognition, whereas the ASMM is a point of contention in an unresolved sovereignty dispute (ICG, 2021). The status of South Tyrol is grounded in the 1972 Gruber–De Gasperi Agreement and subsequent international treaties. Austria recognizes Italy's sovereignty over the region, and Italy guarantees extensive legislative, executive, and cultural autonomy to the German-speaking majority in South Tyrol (Alcock, 2001). Serbia does not recognize Kosovo's 2008 declaration of independence, viewing it as its autonomous province. This creates a frozen conflict in which sovereignty over Serb-majority areas in northern Kosovo remains deeply contested between the government in Pristina and Serbia (ICG, 2024).

South Tyrol's autonomy has relied on an ethnic quota system that ensures proportional representation of the German, Italian, and Ladin linguistic communities in public employment, political institutions, and the allocation of selected provincial resources. The system is based on periodic linguistic censuses that require individuals to declare their linguistic affiliation to benefit from these proportional arrangements (Wolf, 2026). For example, if a public-sector employee from the German-speaking linguistic community leaves their position due to retirement, health reasons, death, or other circumstances, the vacancy is filled by another qualified candidate from the same linguistic community. This mechanism preserves the proportional representation established under South Tyrol's ethnic quota system (Wolf, 2026; Palermo, 2006). While South Tyrol's framework mandates strict ethnic quotas for public-sector employment, political offices, and social funding based on mandatory linguistic declarations, the ASMM is designed primarily as a mechanism for horizontal cooperation among local governments rather than as an overarching, rigid ethnic power-sharing structure (Popović, 2023; Grezda, 2021).

Another important distinction between South Tyrol and the ASMM concerns their territorial configuration. South Tyrol constitutes a single, geographically contiguous, and highly autonomous province in northern Italy (Carlà et al., 2025). In contrast, the ASMM comprises geographically dispersed Serb-majority municipalities and enclaves distributed across Kosovo, lacking the territorial continuity that characterizes the South Tyrol autonomy model (Prelec & Rashiti, 2015).

4.3. Further Political and Legal Challenges in Implementing the ASMM

The establishment of the Association remains the sole outstanding obligation under the 2013 Brussels Agreement that the Kosovo side has not yet implemented. The importance of the ASMM is underscored by the fact that six of the fifteen provisions of the 2013 Brussels Agreement are dedicated to its establishment and operation (Bajrami, 2017).

The 2013 Brussels Agreement was accepted by the Kosovo leadership, led by then-Prime Minister Hashim Thaçi, primarily due to intense Western pressure, the promise of EU integration, and the goal of dismantling Serbia-backed parallel structures in northern Kosovo. The deal was presented domestically as a way to extend Pristina's authority over Serb-majority northern municipalities, integrating Serb police officers and judicial personnel into Kosovo's legal framework (Bajrami, 2017, p. 4).

The principal reason for Kosovo's reluctance to implement the ASMM under the current Prime Minister, Albin Kurti, is the concern that it could evolve into a structure resembling 'Republika Srpska' in Bosnia and Herzegovina (BiH), thereby undermining the functionality of Kosovo's unitary state and potentially obstructing its institutional decision-making processes. The Kosovo government argues that any form of executive authority granted to the ASMM could create a parallel governance structure incompatible with the country's constitutional order (Popović, 2023). Kurti has consistently argued that the ASMM should not possess competencies exceeding those of a non-governmental organization (Bajrami, 2017). Hence, Kurti has maintained that the ASMM should be redesigned to ensure full compliance with the Constitution of Kosovo and should not be exclusively mono-ethnic. This position is grounded in the constitutional principle that Kosovo is a multi-ethnic state in which the rights and interests of all communities are guaranteed within a unified institutional and legal framework (Popović, 2023; Taylor-Braçe & Zimonjic, 2023).

A further ambiguity that requires clarification is that the Albanian authorities consistently refer to it as the Association of Serb-Majority Municipalities (ASMM), emphasizing its role as a coordinative mechanism for inter-municipal cooperation without executive powers, in line with Kosovo's constitutional framework. In contrast, Serbia and the Kosovo Serb community prefer the term Community of Serb-Majority Municipalities (CSMM), reflecting their expectation of a more institutionalized form of self-governance with broader executive and legislative competencies (BPRG, 2017; Ernst, 2014, p. 123).

Serbian President Aleksandar Vučić insists on establishing the ASMM in Kosovo primarily to secure a legal-political framework that protects the rights of the ethnic Serb minority, maintains institutional ties with Belgrade, and prevents their assimilation into Kosovo's broader Albanian-majority society (Popović, 2023).

The EU has consistently emphasized that establishing the Association remains a binding obligation for Kosovo under the 2013 and 2015 Brussels Agreements. Although the Constitutional Court

of Kosovo ruled in 2015 that certain provisions were incompatible with the Constitution, the EU continues to regard the implementation of the ASMM as a key benchmark for the normalization process and Kosovo's EU accession. Consequently, the failure to advance its implementation has been repeatedly identified by EU officials as a potential obstacle to Kosovo's progress toward European integration (Vasilev, 2024). Consequently, a comprehensive, legally binding agreement to normalize relations is a strict prerequisite for both Kosovo and Serbia to advance toward EU membership. The EU requires both parties to resolve all outstanding disputes before they can integrate into the bloc (Stanicek, 2025). Finally, the EU facilitator deliberately relied on constructive ambiguity by avoiding clarification of the parties' conflicting interpretations. While this approach facilitated political agreement, it left the EU bearing the burden of ambiguity, contributing to prolonged disputes and the implementation deadlock over the ASMM (Bajrami, 2017, p. 4).

Although the EU has served as the principal facilitator of the Kosovo–Serbia dialogue, its role has remained ambiguous due to the absence of a clear strategic vision and unified position on Kosovo's statehood. By refraining from proposing a concrete framework and instead expecting the parties to resolve their disputes independently, the EU has limited its own leverage. This ambiguity has prolonged the dialogue process, encouraged external involvement by actors such as the United States and Russia, and contributed to the continued deadlock in implementing the ASMM (Muharremi, 2018).

Lastly, should future legal or constitutional reforms grant the ASMM a more clearly defined status and broader competences, the South Tyrol model could serve as a valuable reference for its institutional design, as discussed in the following section.

4.4. Applicable Lessons Extracted from the South Tyrol Autonomy Model

When reviewing the resolution of the South Tyrol dispute, it is essential to consider several fundamental benchmarks:

The South Tyrol model demonstrates that in inter-ethnic conflicts, a viable resolution is attainable when all parties consent to self-governance and renounce secessionist agendas. Through peaceful negotiations and the transparent, proportional fulfillment of the parties' needs, South Tyrol was transformed from a state of 'open conflict' into a model of peace and sustainable coexistence (Pförtl, 2004, pp. 75–96). In other words, according to Windischer, the South Tyrolean people relinquished their right to 'external' self-determination in favor of achieving 'internal' self-determination through the establishment of a comprehensive system of territorial autonomy (Windischer, 2008, p. 25).

From the South Tyrol model, we can conclude that two extremes were consciously avoided to reach a sustainable agreement: (1) the German-speaking population of South Tyrol renounced secessionist claims, and (2) the Italian central government relinquished centralist and

assimilationist policies. It is also important to highlight that the 1972 Statute “Package” facilitated mutual conciliation between Italy and Austria. This compromise entailed the Italian government’s commitment to recognize and protect the rights of individuals belonging to the German and Ladin communities, alongside Austria’s assurance to refrain from interfering in the internal affairs of the province of South Tyrol (Pförtl, 2004, pp. 79–80). It is essential to underscore that, should the ASMM be implemented, the Kosovo side also holds the legitimate right to ensure that authorities in Belgrade do not interfere in Kosovo’s internal political affairs, particularly those concerning the Association, except as permitted by the Constitution of the Republic of Kosovo. Furthermore, the Kosovo negotiating team should transform the ASMM from a mono-ethnic entity into a multi-ethnic association, akin to South Tyrol’s model, which includes German, Italian, and Ladin speakers. This effort involves including other communities (e.g., Bosniaks, Roma, Turks, and Albanians) in certain municipalities, such as Novobërdë and Graçanica, where both the Ahtisaari Package and the Brussels Agreement grant each municipality the right to join the Association.

Another significant feature of the South Tyrol case is the tripartite negotiation method involving representatives from three parties: the central Italian government, the German-speaking minority, and the official third-party mediator, Austria. This arrangement exemplifies a transparent and foundational approach, serving as a model for resolving inter-ethnic conflicts through effective negotiation (Pförtl, 2004, pp. 80–83). Based on this, during the Kosovo–Serbia negotiations, only geopolitical and geostrategic interests were prioritized. At the same time, the meaningful participation of the Serbian minority in Kosovo was notably absent from the negotiation table. In contrast, the cooperative framework in South Tyrol involved three key actors: the minority groups (German-speaking and Ladin communities), the majority group (the Italian central government), and the third-party mediator (Austria). This tripartite cooperation ensured that the autonomy arrangement was fundamentally grounded in safeguarding two core principles: the protection of minority rights and the preservation of territorial integrity, which was under threat of secession (Pförtl, 2004).

The right to territorial autonomy, encompassing legislative and executive powers, primarily in economic, fiscal, social, and cultural domains, has conferred significant self-governance rights upon the inhabitants of South Tyrol. This arrangement has fostered closer relations with the central government and mitigated secessionist aspirations (Parolari & Voltmer, 2008, pp. 77–94). The enactment and revision of the autonomy statute, comprising executive measures, the parity principle via an ethnic quota system, the right to mother-tongue education, and financial autonomy, have together fostered a rejuvenated sense of identity among South Tyrolean minorities (Palermo, 2008, pp. 147–148). Fiscal autonomy is indispensable in the context of South Tyrol, as the province’s management and financing predominantly rely on tax revenues, as well as income from tourism and a highly developed agricultural sector. Notably, approximately 90 percent of tax revenues remain allocated for provincial development in South Tyrol, while the remaining 10 percent is transferred to the central government (Lechner & Moroder, 2012). This arrangement also enables the central government to reduce its infrastructure, tourism, and related sector

investment expenditures, thereby alleviating pressure on the state budget. A relevant comparison can also be made with northern Kosovo.

It is important to mention that during the 1960s, before equal rights were secured for the German-speaking community, violent protests hindered and destabilized the tourism industry. However, following the enactment of the Second Statute in 1972, South Tyrol became a major center for tourism and agriculture, with revenues surpassing those of other regions in the Italian Republic. Consequently, increased prosperity and economic development have played a significant role in mitigating antagonistic and hostile attitudes among the different communities (Carlà, 2016, pp. 14–15). Today, South Tyrol stands as the most exemplary and successful case among both autonomous and non-autonomous regions on the Apennine Peninsula in Italy, owing to its rapid economic, social, and political development. The division of powers through effective power-sharing transformed South Tyrol from a region marked by conflict and unrest into a hub of economic growth and political stability. The implementation of the Second Statute of Autonomy (1972) mitigated the risks of division and fragmentation, shifting the region from a state of extraordinary instability to one of security and stability, an outcome often referred to in the international relations literature as the “principle of de-securitization” (Carlà, 2016, p. 15). Paul Roe asserts that ‘societal securitization’ simultaneously ensures minorities the right to recognition and protection of their identity, while guaranteeing the majority community and the central government that the minority will refrain from secessionist ambitions. This balance is maintained either through federal structures or through consociational arrangements characterized by cooperative governance (consociational democracy) (Roe, 2004, pp. 288–293). More precisely, Roe states that:

“The minority can feel secure when certain provisions/legislations/mechanisms are put in place that will guarantee its existence (in identity terms), while similarly, the majority can also feel secure in the knowledge that the minority will thus work (politically, economically, and also societally) within the existing framework of the state” (Roe, 2004, p. 293).

Approaching the case of South Tyrol from the perspective of international security studies and the resolution of inter-ethnic conflicts, it can be argued that two significant advances have been achieved. First, the risk of violating the province’s territorial integrity and of its potential secession from the Republic of Italy has been effectively eliminated, with protections enshrined in international law and the UN Charter (Article 2, Paragraph 4). Consequently, through the De Gasperi–Gruber Agreement, Austria no longer posed a risk of territorial infringement on Italy. Second, the Agreement, particularly the Statute of Autonomy of 1972, ensured that the German-speaking community was recognized as a group with rights fully equivalent to those of the majority community in Italy. These rights are further protected under the European Convention on Human Rights (Article 14), which strictly prohibits discrimination on the grounds of race, language, gender, religion, and other such factors (Wolff, 2003, pp. 148–150). Simply put, Italy

relinquished full sovereignty over a portion of its territory; Austria renounced any claims to re-annexation of the region; and the German-speaking community of South Tyrol effectively surrendered its right to 'external' self-determination (Windischer, 2008, p. 18). With regard to Kosovo, the Kosovo side, to safeguard territorial sovereignty, should acknowledge the power-sharing among municipalities with a Serbian majority, thereby expecting the official authorities in Belgrade to relinquish any ambitions to interfere in Kosovo's internal political affairs. Simultaneously, the Serbian minority, as a third party, should refrain from pursuing secession from the territory of the Republic of Kosovo (Marko, 2008, pp. 371–374).

Another significant fact to highlight is that during the negotiations and agreements between the Italian and Austrian governments, the official Austrian government in Vienna actively encouraged the political leadership of the Südtiroler Volkspartei (SVP), the largest representative body of the German-speaking community in the province, to integrate within the Italian constitutional framework (Wolff, 2003, pp. 148–150). Similarly, the Serbian government in Belgrade should encourage the largest representative party of Serbs in Kosovo, namely the Serbian List (Lista Srpska), to actively participate in the official governmental structures in Pristina, rather than using the party as an instrument for divisive and separatist agendas.

In terms of societal security, South Tyrol has successfully overcome the severe ethnic divisions that prevailed during the 1960s between German-speaking and Italian-speaking communities, characterized by an oppositional "we–us" versus "they" mentality. The system of equal power-sharing has effectively dismantled apartheid-like segregation and mitigated "hatred based on racial, linguistic, and identity differences" (Carlà, 2016).

The implementation of an 'ethnic quota system' for proportional employment has eliminated the dominance of the Italian majority that prevailed during the 1960s, fostering a new framework of multi-ethnic coexistence and social harmony, thereby bringing communities closer together. Once, the old slogan during the conflict period was "the further apart we are, the fewer problems we face"; it has now evolved into "the greater our mutual understanding, the less divided we become" (Pföstl, 2004, p. 96). South Tyrol has undergone an 'asymmetric' distribution of powers, granting the province extensive representation within administrative institutions to protect and accommodate minority groups. This multi-ethnic diversity distinctly sets South Tyrol apart from other regions within the Italian Republic. The unique provincial relationship between South Tyrol and the national authorities in Rome is an exclusive arrangement not found elsewhere, whether in autonomous or non-autonomous regions (De Villiers, 2017, p. 4). Accommodation at the provincial level offers a more effective solution for preserving national unity and mitigating the risk of secession (De Villiers, 2017, p. 5). Scholars Alber and Palermo, highlighting the achievements of the ethnic quota system, emphasize that: "The entire institutional structure in South Tyrol is a system of power-sharing based on a pronounced division and enforced cooperation between the two main linguistic groups: German speakers and Italians." (Alber & Palermo, 2012, pp. 287–309).

Regarding the level of international integration, the implementation of the Comprehensive Agreement between Austria and Italy, including the Second Statute of Autonomy of 1972 and its full enforcement in 1992, accelerated Austria's accession to the EU in 1995 (Wolff, 2003). In 2011, the European Region was established within the Council of the European Parliament, comprising the Tyrol Region (Austria), the South Tyrol Region (Italy), and the Trento Region (Italy). Its vision centers on fostering peaceful coexistence between distinct peoples through the framework of Cross-Border Cooperation (Europaregion, 2011). The primary objective of the Euroregion is to promote transnational cooperation, thereby eliminating not only physical but also perceived or symbolic borders (Engl & Zwilling, 2008, pp. 161–175). Building upon this example, Kosovo and Serbia could accelerate their European integration process if the agreements reached thus far are successfully implemented. Full normalization of relations between Belgrade and Pristina could facilitate the creation of a Balkan Euroregion spanning Serbia, North Mitrovica, and the Republic of Kosovo, based on the mutual recognition of each other's sovereignty and territorial integrity.

In South Tyrol, a Joint Commission using the principles of parity and the ethnic quota system (regarding the German-, Italian-, and Ladin-speaking communities) has been established as an institutional mechanism in charge of supervising the autonomy statute and facilitating coordination between the regional authorities and the central government (Palermo, 2006, pp. 1–44). An analogous mechanism should be integrated into Kosovo's constitutional framework, under which a Joint Commission is tasked with managing and overseeing the application of the ASMM Statute. This body shall refer any vague issues or potential constitutional violations to the Constitutional Court of Kosovo. Mirroring the South Tyrolean model, the statute of asymmetrical autonomy is legally entrenched, meaning it cannot be amended solely by ordinary legislation of the central state. At the same time, the statute itself cannot override or contradict the Constitution of the Italian Republic. Consequently, the autonomy statute is superior to the laws of Parliament but subordinated to the Constitution (Palermo, 2008, pp. 143–159). The Kosovo Parliament cannot unilaterally dissolve the Statute of the Association. Instead, its dissolution might be determined internally by a two-thirds majority vote of the Association's Assembly. Furthermore, Palermo underscores that Austria holds the right to bring a case against Italy before the International Court of Justice in the event of a breach of the Gruber–De Gasperi Basic Agreement. Conversely, Italy may initiate proceedings against Austria if Austria undertakes actions that threaten the territorial integrity of South Tyrol (Palermo, 2008). Similarly, a corresponding system of joint accountability should be implemented under the Brussels Basic Agreement. Any actions regarding the application or execution of the Agreement require the mutual approval of both the Kosovo and Serbian parties and should be overseen by the Joint International Observation and Monitoring Commissions. This would ensure that neither side can unilaterally violate or undermine the provisions of the Brussels Agreement.

5. Conclusion

The establishment of the ASMM in Kosovo, as stipulated in the 2013 Brussels Agreement, remains one of the most contentious issues in the ongoing dialogue between Kosovo and Serbia. Fundamentally, the Association was established to dismantle unauthorized administrative structures in northern Kosovo that operated under Serbian directives and to facilitate the integration of the Serbian community into Kosovo's legitimate state system. Throughout this study, it is demonstrated that the ASMM remains a significant point of contention among the negotiating stakeholders.

From a theoretical perspective, the findings reinforce the relevance of power-sharing and asymmetrical autonomy as viable frameworks for managing ethnic conflict in post-conflict societies. However, the Kosovo case illustrates that institutional design alone is insufficient without political consensus, legal clarity, and credible external guarantees. In this regard, the South Tyrol model should therefore be understood not as a blueprint for institutional transplantation but as a source of context-sensitive lessons. In the Kosovo context, any future ASMM arrangement should be developed within the constitutional framework of the Republic of Kosovo and the 2015 Constitutional Court judgment. This requires political commitment by both Kosovo and Serbia, legal precision regarding the Association's competences, the dismantling of parallel structures, and a more coherent facilitating role by the EU to ensure a common interpretation and implementation of the Brussels Agreement. One of the Constitutional Court's main criticisms of the 2015 ASMM Agreement pertains to Article 2, which states that "The ASMM will be a legal entity defined by its Statute..." This formulation raises the critical question of whether the term "statute" implies a framework akin to a "statute of autonomy." Furthermore, ambiguity arises in Article 4 (sections b, c, d, and e), which asserts that the Association shall exercise "full overview" in sectors such as the economy, education, health, and urban and rural planning. When viewed through the lens of the South Tyrol case, this ambiguous phrase could be interpreted as referring to rights of autonomy and self-governance in these domains, suggesting a potential move toward territorial autonomy for the Serbian minority in Kosovo.

Ultimately, the success of the South Tyrol model is rooted in the active participation of the negotiating parties in a democratic process that rejected expansionist and secessionist ambitions in favor of power-sharing, asymmetrical autonomy, full minority inclusion, and integration within central institutional frameworks. This approach successfully avoided territorial fragmentation that could have reignited conflict. South Tyrol transitioned from a mono-ethnic province into a cooperative, multi-ethnic region marked by coexistence and mutual accommodation.

One of the most tenacious issues at present concerns the formal enactment of the Statute of the ASMM in a manner that ensures it neither contravenes nor supersedes the Constitution of the Republic of Kosovo. The implementation of the 2013 Brussels Agreement has stalled for over a decade, with the Statute still lacking official approval. Additionally, the procedures for amending it represent a crucial pending matter. As previously emphasized, the Parliament of Kosovo does

not possess the authority to dissolve the Association unilaterally. Such a decision can only be made internally by the Association's own Assembly and solely with a two-thirds majority vote. Drawing again on the South Tyrol autonomy model, it may be argued that any amendments to the Association's Statute should not be imposed solely through Kosovo's parliamentary legislation. Rather, they should originate from internal consensus within the Association's Assembly and be subsequently approved by the Parliament of the Republic of Kosovo.

In addition, South Tyrol's experience offers valuable lessons for international integration. Austria's accession to the EU in 1995 and the establishment of the Euroregion in 2011, uniting three ethnic groups, two states, and three regions in a borderless territory, demonstrate how deep-seated divisions can be overcome through cross-border cooperation and cultural unity. South Tyrol demonstrates how Kosovo's existing constitutional framework, particularly the provisions on local self-government under Article 124, could be operationalized through a context-specific institutional arrangement that remains consistent with Kosovo's constitutional order while addressing the governance needs of Serb-majority municipalities.

The comparative findings of this study further demonstrate that the feasibility of any future ASMM arrangement depends not only on institutional design but also on the broader constitutional and geopolitical environment in which it operates. The positions of Kosovo, Serbia, the EU, and other international actors, together with the constitutional constraints identified by the Constitutional Court of Kosovo and the continuing constitutional claims maintained by Serbia, fundamentally shape the prospects for implementation. Consequently, any context-sensitive adaptation of selected South Tyrol elements must remain fully compatible with Kosovo's constitutional order while simultaneously addressing the political realities of the normalization process. In sum, a comprehensive resolution of the Kosovo–Serbia conflict will likely require constitutional adjustments by both parties. Serbia would need to reconsider Article 182 of its Constitution, which still defines Kosovo as an autonomous province of Serbia. In contrast, Kosovo may need to establish a more definitive constitutional and legal framework for the Association, including, if necessary, targeted constitutional amendments.

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