



KCSS
Kosovar Centre for Security Studies

WHAT ARE THE 20 RULES THAT MUST BE RESPECTED FOR THE ESTABLISHMENT OF THE ASSOCIATION/COMMUNITY OF SERB MAJORITY MUNICIPALITIES IN KOSOVO?



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Program Overview: Foreign and EU Policy and Regional Security Cooperation

The Foreign Policy and Regional Security Cooperation Program is a cornerstone initiative within the KCSS (Kosovar Centre for Security Studies). Established in 2011 and continually refined to adapt to evolving regional dynamics, this program addresses a spectrum of critical themes. These encompass bilateral disputes in the Western Balkans region, with a particular emphasis on fostering dialogue for the normalization of relations between Kosovo and Serbia. Additionally, the program delves into topics of transitional justice, reconciliation, public diplomacy, disinformation campaigns, malign foreign influence, security cooperation, conflict resolution, peacebuilding, and migration. Serving as the central pillar of KCSS, this program engages in extensive research to address matters of public interest and expand the organization's influence within its sphere of research.

A central highlight of this program is the annual Kosovo Peace and Democracy Summit (KPDS). The KPDS serves as a platform that brings together policymakers, experts, and researchers from the Western Balkans, the European Union, and the United States to engage in meaningful dialogues surrounding the pressing challenges confronting the region.

As part of this program, KCSS has produced a series of influential studies that have contributed significantly to enhancing public awareness in Kosovo. These studies address crucial issues, including the process of a normalization agreement between Kosovo and Serbia, as well as the analysis of community perceptions regarding interethnic

relations and cooperation

- **Strengthening Research Capabilities:** The program is committed to strengthening its team of researchers with the expertise to tackle topics related to foreign policy and regional cooperation.
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- **Sustaining Research Excellence:** Maintaining a consistent standard of research excellence is of key importance. The program remains dedicated to producing high-quality research products and actively contributing to conferences, thereby ensuring that its work continues to make a significant impact in the field of foreign policy and regional security cooperation.

WHAT ARE THE 19 RULES THAT MUST BE RESPECTED FOR THE ESTABLISHMENT OF THE ASSOCIATION/COMMUNITY OF SERB MAJORITY MUNICIPALITIES IN KOSOVO?

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Background

The establishment of the Association/Community of Serb majority municipalities in Kosovo (ASM) is foreseen by two key agreements from the EU-facilitated dialogue for normalization of relations between Kosovo and Serbia: the "[First Agreement Governing Principles of Normalization of Relations](#)" (shortly the 2013 agreement) agreed on April 19, 2013 which was ratified by the Kosovo Assembly in May of 2013 and the agreement on "[Association/Community of Serb majority municipalities in Kosovo – general principles/main elements](#)" was signed on August 25, 2015 by then Prime Minister of Kosovo at the time Mr. Isa Mustafa and his Serbian counterpart Mr. Aleksandar Vucic (shortly 2015 agreement).

The Association/Community of Serb-majority municipalities (ASM), because of its link with the European Charter of Local Self-Government, is meant to serve as a mechanism to further facilitate the integration of the Serbian community in Kosovo in the Kosovo legal and political system. The idea of the Association/Community of Serb majority municipalities in

Kosovo is based on the Constitution of Kosovo, [the Comprehensive proposal for the Kosovo status settlement \(Ahtisaari Plan\)](#), and the [European Charter of Local Self-Government](#).

The ASM would be comprised of 10 Serbian-majority municipalities in Kosovo, respectively: North Mitrovica, Zubin Potok, Zvečan/Zvečan, Leposaviq/Leposavić, Graçanica/Gračanica, Shtërpca/Štrpce, Novobërda/Novo Brdo, Kllokot/Klokot, Ranillug/Ranilug and Partesh/Parteš.

As a result of growing pressure against the establishment of the ASM, in October 31, 2015, the President of Kosovo at the time H.E., Atifete Jahjaga [asked](#) the Constitutional Court of Kosovo to assess rather the principles and elements from the 2015 agreement that regulate the creation and functioning of the Association/Community of the Serb-majority municipalities in Kosovo are compatible with the spirit of the Constitution. The Constitutional Court issued its [judgement](#) on December 23, 2015, and found that:

- The establishment of the Association/Community is in compliance with the constitutional requirement and thus is part of constitutional order of the Republic of Kosovo" (point 113 of the judgement).
- The Association/Community of the Serb majority municipalities is to be established as provided by the First Agreement" (decision II).
- The Government decision to establish the ASM together with the statute must be sent for review to the Constitutional Court of Kosovo (point 189, subpoint 6).
- The court determined that certain provisions of the 2015 agreement, which regulated the role and competencies of the ASM, did not fully meet constitutional standards, and therefore some adjustments are required, and provided a list of do's and don'ts

The Kosovo government has expressed valid concerns regarding the establishment of the Association/Community of Serb-Majority Municipalities in Kosovo (ASM). These concerns primarily revolve around the potential disruption of Kosovo's state functionality, with the fear that it might evolve into a situation akin to Republika Srpska in Bosnia and Herzegovina. Encouraged by Serbia's consistent actions against Kosovo's sovereignty, many Serbs in Kosovo continue

to reject the reality of Kosovo's independence, contributing to the existing reluctance among Kosovar authorities to grant additional mechanisms, despite the comprehensive guarantees already provided by the Ahtisaari Plan (enshrined in the Constitution and primary laws). Furthermore, the government is apprehensive about Belgrade's influence on Kosovo's Serb population, which has, at times, manifested through negative actions, including

[mistreatment of Kosovo Serbs who do not align with Belgrade's stance](#) during border crossings between Kosovo and Serbia, [pressures placed on Kosovo Serbs to resign from the Kosovo Security Force \(KSF\)](#) in 2018, and efforts to [encourage them to leave the Kosovo Police](#).

However, despite these concerns, if the Kosovo government decides to proceed with the establishment of the ASM, as indicated by its acceptance of the Agreement on the Path to Normalization, the following section outlines the Do's and Don'ts for the government in the process of ASM's establishment, based on the decision of the Constitutional Court of Kosovo from 2015.

In addition to the agreement, it is noteworthy that Kosovo has shown its readiness to proceed with the establishment of the Association/Community of Serb-Majority Municipalities in accordance with the guidance provided in [a letter Prime Minister Mustafa received on August 24, 2015](#), the day before the signing of the Agreement on General Principles of the Association, from the now former High Representative/VP Federica Mogherini, providing assurances to the Kosovo

government that Association of municipalities with a Serbian majority will not have executive powers, and in accordance with [the report by Derek Chollet, Senior Advisor of the US Department of State, and Gabriel Escobar, Washington's envoy for the Western Balkans](#), to the Committee on Foreign Affairs of the United States. It is important to acknowledge the legitimate concerns of the government and the majority population regarding the establishment of such a mechanism, considering the experience of Bosnia and Herzegovina. In this context, there is a solid and legitimate argument to link the establishment of the ASM should align with the de facto recognition of Kosovo by Serbia. This approach ensures a balanced and coordinated progression in the establishment of mechanisms that promote cooperation and reconciliation while respecting the concerns of all stakeholders involved.

This brief paper aims to outline some principles of how the Association/Community of Serb-majority municipalities should look like, based on the Judgment of the Constitutional Court of Kosovo. Each principle presented here directly references the court's judgment.

So, how would an Association/Community of the Serb-majority municipalities look like according to the judgement of the Constitutional Court of Kosovo?

Firstly, the ASM's formation must align with the 2013 agreement, focusing on the principles outlined in the agreement. The Kosovo government is expected to take necessary steps towards the establishment of ASM, making use of a decree and the preparation of the ASM's statute. It is crucial that all actions related to the ASM adhere to Article 93 of the Kosovo Constitution, which defines the competencies of the Kosovo government, and are consistent with Article 44 of the Constitution regarding freedom of association.

Additionally, the ASM's establishment and operation must comply with various specific articles of the Kosovo Constitution, including those that pertain to local government, general principles, freedom of association, and local

self-government organization and operation. The ASM should be based on inter-municipal cooperation, with membership stemming from Article 124(4) of the Kosovo Constitution. Its purpose lies in facilitating inter-municipal cooperation without undermining the authority of participating municipalities as the primary units of local self-government in Kosovo.

Furthermore, the ASM's competencies must be in line with the language used in the 2013 agreement, covering areas such as economic development, education, health, culture and social welfare is essential to ensure diversity in the ASM's personnel, representing all ethnic groups in participating municipalities, with personnel not considered part of Kosovo's civil service.

Table 1 In summary, there are 20 rules that should be respect in the process of establishment of the ASM in order to be in compliance w k jh jhhith the Constitution of Kosovo and the 2015 decision of the Constitutional Court, and these rules include:

1.

Establishment in Accordance with the 2013 Agreement:

The ASM must be established in accordance with the 2013 agreement, specifically the First Agreement Governing Principles of Normalization of Relations. This underscores the importance of adhering to the terms agreed upon in this document.

2.

Responsibility of the Kosovo Government:

The ASM must be established by a decision or decree of the Kosovo government, which is responsible for preparing the ASM's statute. This highlights the role of the government in the creation and regulation of the ASM.

3.

Constitutional Court Review:

The government's decision to establish the ASM, along with its statute, must be sent for review to the Constitutional Court of Kosovo. This ensures the legality and constitutionality of the ASM's establishment.

4.

Compliance with Constitutional Article 93:

The legal act of the government for the establishment of the ASM must adhere to Article 93 of the Kosovo Constitution, which outlines the competencies of the Government of Kosovo. This ensures that the establishment process is consistent with the constitution.

5.

Incorporation of Freedom of Association:

The ASM should be established as an organization in line with Article 44 of the Kosovo Constitution on Freedom of Association. This emphasizes the principles of association and cooperation in forming the ASM.

6.

Statute Adoption at Inaugural Meeting:

The statute of the ASM should be adopted at the inaugural or founding meeting of the ASM's Assembly, which includes representatives from the participating municipalities.

7.

Compliance with Specific Constitutional Articles:

The establishment and operation of the ASM must align with various specific articles of the Kosovo Constitution, including those related to local government, general principles, freedom of association, and local self-government organization and operation.

8.

Legal Status in Accordance with Article 44:

The legal status of the ASM must conform to Article 44 of the Kosovo Constitution, emphasizing the need for compliance with constitutional provisions.

9.

Membership Based on Inter-Municipal Cooperation:

Membership in the ASM is based on Article 124(4) of the Kosovo Constitution, which grants municipalities the right to engage in inter-municipal cooperation and cross-border cooperation.

10.

Purpose of the ASM:

The ASM's purpose can include facilitating inter-municipal cooperation among participating municipalities and exercising certain competences. It cannot undermine the role of participating municipalities as the basic unit of local self-government in Kosovo.

11.

Competencies Aligned with 2013 Agreement Language:

The competencies of the ASM should be in accordance with the language of the 2013 agreement, particularly point (4) of the agreement, which outlines areas of involvement, such as economic development, education, health, and urban and rural planning.

12.

Right of Administrative Review:

The ASM's statute must ensure the right of administrative review by central authorities.

13.

Not Exclusive Authority for Serbian Community:

The ASM cannot have the exclusive authority to represent the Serbian community in relation to central authorities. This suggests that it is not the sole entity responsible for advocating the interests of the Serbian community in Kosovo.

14.

Membership in Consultative Council for Communities:

The ASM can become a member of the Consultative Council for Communities chaired by the President of the Republic of Kosovo, allowing it to participate in commenting on legislative or policy initiatives and seeking the incorporation of its views in relevant projects and programs.

15.

Limited Role in Court Proceedings:

While the ASM can initiate proceedings before the Constitutional Court of Kosovo if its fundamental rights are violated, it does not have the right to initiate or participate in proceedings before competent courts, as required by the 2015 agreement.

16.

Budget and Funding:

The ASM should have its budget, and participating municipalities can transfer funds to it. Central government and external funds can also be sources of financial support.

17.

Auditor General Oversight:

The Auditor General of the Republic of Kosovo has the right to audit the economic activities and use of public funds by the ASM, ensuring financial accountability.

18.

Organizational Structure:

The organizational structure of the ASM must resemble that of the Association of Kosovo municipalities, including positions such as President, Vice-President, Assembly, and Council.

19.

Diversity in Personnel:

The personnel or administration of the ASM must reflect the diversity of ethnic groups in the participating municipalities, particularly ensuring representation of non-majority communities. ASM personnel are not considered part of the civil service of Kosovo.

20.

No Legislative Authority:

The ASM is not vested with the authority to enact laws or approve regulations as part of Kosovo's secondary legislation framework.

These requirements aim to ensure a balanced, representative, and lawful operation of the Association/Community of Serb majority municipalities in Kosovo.

What does the Association/Community of Serb-majority municipalities mean in practice for the Serbian community in Kosovo?

Kosovo has a total of 38 municipalities, ten (10) of which have a Serbian majority population. These municipalities are: Graçanica/Gračanica, Klllokot/Klokot, Leposaviq/Leposavić, Novobërda/Novo Brdo, North Mitrovica, Partesh/Parteš, Ranillug/Ranilug, Shtërpca/Štrpce, Zubin Potok, and Zveçan/Zvečan. Although these municipalities are primarily Serb-majority, they are also diverse and include other minority ethnic groups, such as Albanians.

The ten Serb-majority municipalities in Kosovo cover an estimated area of 1,917.92 km², which accounts for approximately 17.6% of the entire area of the Republic of Kosovo, which

is 10,887 km². Their combined population is approximately 112,657, representing around 6.3% of the total population of Kosovo, which is estimated at 1,786,038 [according to recent data](#).

The four municipalities in the north of Kosovo – Leposaviq/Leposavić, North Mitrovica, Zubin Potok, and Zveçan/Zvečan – collectively cover an area of 1,216 km² and have a total population of 80,095. These municipalities account for approximately 75% of the entire Serbian population in Kosovo and around 63% of the Serbian-majority populated areas.

Table 2 Estimated area and population of the Serb-majority municipalities in Kosovo (Based on the data from the OSCE reports on profiles of Kosovo municipalities).

No.	Municipality	Area (est.)	Population (est.)
1.	Graçanica/Gračanica	131 km ²	10,675
2.	Klllokot/Klokot	24 km ²	2,556
3.	Leposaviq/Leposavić	750 km ²	18,635
4.	Novobërda/Novo Brdo	204 km ²	6,729
5.	North Mitrovica	11 km ²	29,460
6.	Partesh/Parteš	18.3 km ²	1,787
7.	Ranillug/Ranilug	77.62 km ²	3,866
8.	Shtërpca/Štrpce	247 km ²	6,949
9.	Zubin Potok	333 km ²	15,200
10.	Zveçan/Zvečan	122 km ²	16,800
TOTAL		1917.92 km²	112,657

The Association/Community of Serb Majority Municipalities (ASM) in Kosovo can play an important role for the Serbian community, particularly in the ten Serbian-majority municipalities. The ASM can serve as a platform for the Serbian community to assert its rights, promote its interests, and facilitate inter-municipal cooperation, which is essential given the complex and diverse ethnic composition of these regions.

The Serbian-majority municipalities in Kosovo are not only significant due to their population but also because they are distributed across approximately 17.6% of Kosovo's land area. This spatial significance underscores their importance as centers of Serbian culture and identity within Kosovo. The ASM, by bringing these municipalities together under one umbrella, allows for coordinated actions and the pooling of resources to address common challenges and promote Serbian cultural and civic interests.

Moreover, the ASM is essential for ensuring the protection and representation of the Serbian community's interests within the framework of the Kosovo government. It enables the Serbian-majority municipalities to collectively advocate for their needs and maintain a dialogue with the central authorities, despite being minority regions within Kosovo. This is crucial for ensuring that the Serbian community's voice is heard, its rights are respected, and that it can actively participate in local self-governance.

The ASM also serves as a mechanism for ensuring that the Serbian-majority municipalities can effectively manage and oversee areas of economic development, education, health, and urban and rural planning, in line with the 2013 agreement. This allows for tailored development strategies that consider the specific needs and aspirations of these municipalities while fostering

cooperation and integration with the broader Kosovo society.

Most importantly, the ASM should facilitate full integration in the Kosovo system of the Serb-majority municipalities in Kosovo.

The Kosovo Constitution and legal framework offer significant legal protections for non-majority communities within Kosovo. These protections encompass a wide range of rights, both at the local and central levels. The Law on local self-government, for instance, grants Serb-majority municipalities expanded privileges, including the establishment of a university and the provision of third-level healthcare services, such as hospitals. Furthermore, non-majority communities are guaranteed representation in the Kosovo Assembly. It is crucial to note that certain laws deemed of vital interest, such as those governing languages, education, and local self-government, necessitate double majority voting for any proposed changes. This implies that not only the majority but, in some instances, two-thirds of the members of the Kosovo Assembly representing the guaranteed seats must vote in favor of such changes.

In essence, it is challenging to identify additional rights that the Association/Community of Serb-Majority Municipalities (ASM) can further expand upon. Its primary role appears to lie in serving as an institutional mechanism to ensure the effective implementation of the existing legal and policy framework. The ASM essentially provides a centralized means through which the Serb community in Kosovo can politically represent itself, although this representation is already carried out by the Serbian caucus in the Kosovo Assembly. Nevertheless, the ASM serves as a critical mechanism and initiative aimed at fostering the integration of the Serbian community in Kosovo, providing an additional layer of political representation and protection.

What about other communities in the Serb-majority municipalities?

An essential question that the Association/Community of Serb Majority Municipalities (ASM) should effectively address revolves around the Albanian and other communities residing within the Serb-majority municipalities. It's crucial to acknowledge that Kosovo's constitution upholds a broad spectrum of rights for non-majority communities at the municipal level, and these rights must be equally honored by the ASM. In essence, the ASM's operation should not only cater to the interests and needs of the Serb community but should also foster inclusivity and uphold the principles of constitutional equity.

To achieve this, the statute of the ASM should incorporate specific provisions that safeguard the rights of non-Serb communities within the participating municipalities. One key aspect is to ensure that these communities have reserved or guaranteed seats within the ASM's Assembly. This means that Albanian residents, as well as members of other non-Serb ethnic groups,

should have a representation mechanism that allows them to actively participate in the decision-making processes of the ASM. This representation serves as a safeguard against the dominance of a single ethnic group and reinforces the spirit of inclusivity. In this context double-majority voting principle should also be included.

Furthermore, participation in the personnel and executive positions within the ASM should also be extended to members of non-Serb communities. This approach reflects the multi-ethnic nature of the Serb-majority municipalities, ensuring that all residents, regardless of their ethnicity, can contribute to the ASM's leadership and administrative roles. This not only complies with the principles of the Kosovo Constitution but also reflects upon the obligations stemming from the judgement of the Constitutional Court from 2015.

Detailed overview of the implications of the Constitutional Court decision on establishment of the ASM

No.	Description from the Constitutional Court judgement K130/15	Reference in the CC judgement
1.	The Association/Community of Serb majority municipalities in Kosovo needs to be established in accordance with the 2013 agreement, respectively the First Agreement Governing Principles of Normalization of Relations	Decision point II
2.	The Association/Community of Serb majority municipalities in Kosovo needs to be established by a decision/decreed of the Kosovo government, which needs to incorporate the statute of the ASM. This implies that the government of Kosovo is responsible to prepare the statute of the ASM.	Point 117
3.	The legal act of the government for establishment of the ASM needs to be in accordance with the Article 93 of the Constitution which establishes the competencies of the Government of Kosovo.	Point 124
4.	The ASM needs to be established as an organization within the meaning of Article 44 of the Constitution of Kosovo on Freedom of Association.	Point 132
5.	The establishment of the Association/Community is within the scope of inter-municipal cooperation with to the role and objectives of the ASM	Point 140
6.	Government decision to establish the ASM, which incorporates the statute needs to be sent for review to the Constitutional Court of Kosovo;	Point 189, subpoint 6
7.	The statute of the ASM should be adopted at the inaugural or founding meeting of the Assembly of the ASM, which is composed from of representatives from the assemblies of the participating municipalities of the ASM.	Point 133
8.	The government decree/decision establishing the ASM, and the statute, have to be in accordance with the following articles of the Kosovo Constitution: Article 12 [Local Government]; Article 21 (4) [General Principles]; Article 44 [Freedom of Association], and Article 124 (4) [Local Self-Government Organization and Operation].	Points 131 and 136
9.	The legal status of the Association/Community of Serb majority municipalities in Kosovo needs to be in accordance with Article 44 of the Kosovo Constitution	Point 132

10.	Membership in the Association/Community of Serb majority municipalities in Kosovo, is based on Article 124 (4) of the Constitution of Kosovo, which states that Municipalities in Kosovo have the right of inter-municipal cooperation and cross-border cooperation.	Point 135
11.	The purpose of the Association/Community of Serb majority municipalities in Kosovo can be to facilitate inter-municipal cooperation among the participating municipalities. This implies that the ASM can become a platform through which participating municipalities can cooperate and exercise their competences. The ASM can also have full overview competencies in the areas of different activities. Central authorities (government of Kosovo) can also delegate competencies for the ASM to exercise.	Conclusion 189, and point 3
12.	The ASM cannot undermine the participating municipalities as the basic unit of local-self-government in Kosovo.	Point 148
13.	The wording of the competencies of the Association/Community of Serb majority municipalities in Kosovo needs to be in accordance with the language of the 2013 agreement, respectively point (4) of the agreement, which states that "participating municipalities shall be entitled to cooperate in exercising their powers through the Community/ Association collectively. The Association/Community will have full overview of the areas of economic development, education, health, urban and rural planning"	Point 144
14.	The statute of the Association/Community of Serb majority municipalities must ensure the right of administrative review by central authorities.	Point 149
15.	The Association/Community of Serb majority municipalities in Kosovo cannot have the exclusive authority to be the sole institution to promote the interests of the Serbian community in Kosovo in relation with the central authorities	Point 166
16.	The Association/Community of Serb majority municipalities in Kosovo can become a member of the Consultative Council for Communities . As a member of the Consultative Council for Communities, the Association/Community of Serb majority municipalities, in accordance with article 60 (3) of the Constitution of Kosovo, has the right to: "comment at an early stage on legislative or policy initiatives that may be prepared by the Government, to suggest such initiatives, and to seek to have their views incorporated in the relevant projects and programs"	Point 171
17.	The Association/Community of Serb majority municipalities in Kosovo can initiate proceedings before the Constitutional Court of Kosovo if it has a claim to be a victim of a violation of its fundamental rights. However, the ASM cannot, as required by the 2015 agreement, have the right to initiative or participate in proceedings before competent Courts, including the Constitutional Court.	Point 176
18.	The Association/Community of Serb majority municipalities in Kosovo should have its budget. The participating municipalities can transfer funds to the Association/Community of Serb majority municipalities; however, this must be decided by the municipalities themselves. Central government can also transfer funds, and ASM can also receive external funds;	Point 180

19.	The Auditor General of the Republic of Kosovo, has the right to audit the economic activity and the use of public funds by the ASM	Point 183
20.	The organizational structure of the Association/Community of Serb majority municipalities needs to be the same as the structures of the Association of the Kosovo municipalities : President, Vice-President, Assembly, Council	Conclusion 189, 3
21.	The personnel or the administration of the Association/Community of Serb majority municipalities in Kosovo needs to reflect the diversity of ethnic groups in the participating municipalities (point 153; point 155). This implies that non-majority communities living in the participating municipalities need to be represented in the structures and administration of the ASM. The personnel of the ASM cannot be considered part of the civil service of Kosovo per se	Point 159



About KCSS

Established in April 2008, the Kosovar Center for Security Studies (KCSS) is a specialized, independent, and non-governmental organization. The primary goal of KCSS is to promote the democratization of the security sector in Kosovo and to improve research and advocacy work related to security, the rule of law, and regional and international cooperation in the field of security.

KCSS aims to enhance the effectiveness of the Security Sector Reform (SSR) by supporting SSR programs through its research, events, training, advocacy, and direct policy advice.

Advancing new ideas and social science methods are also core values of the centre. Every year, KCSS publishes numerous reports, policy analysis and policy briefs on security-related issues. It also runs more than 200 public events including conferences, roundtables, and debates, lectures – in Kosovo, also in collaboration with regional and international partners.

A wide-range of activities includes research, capacity-building, awareness raising and advocacy. KCSS's work covers a wide range of topics, including but not limited to security sector reform and development; identifying and analyzing security risks related to extremism, radicalism, and organized crime; foreign policy and regional cooperation; and evaluating the rule of law in Kosovo. This year, KCSS celebrated its 15th Anniversary. For more details about KCSS, you can check on the following official platforms:



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