

The London School of Economics and Political Science

Germany's Recognition of Kosovo as an Independent State in
2008.

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Abstract

In February 2008, Kosovo declared independence. It was a highly controversial move that divided international opinion. While the United States and many EU members quickly recognised the new state, many other countries, including Russia and China and several EU members, did not. Even today, Kosovo remains a contested state.

Although Germany recognised Kosovo quickly, it nevertheless expressed concerns over the failed international efforts to reach an agreement. This thesis analyses Germany's decision to recognise Kosovo as independent despite the multilateral disagreement. It traces the position of Germany on Kosovo from the early 1990s until recognition in 2008. It pays particular attention to the final months of negotiations, when Germany represented the EU in the 'Troika talks' that also involved the US and Russia.

In 2008 Germany was less committed to a Kosovan state than its close allies in the Quint – a five state group that also included the United States, Britain, France and Italy. Domestically the coalition parties had different approaches towards the status question. Also the international division on the status in the EU and the United Nations Security Council were a significant obstacle for the German leadership to accept a unilateral declaration of independence. The acceptance of this international divide came when domestic actors were persuaded that the Troika negotiations had exhausted all possibilities for a resolution.

From a theoretical standpoint, Germany's decision to recognise is examined in regards to its Civilian Power identity and specifically to intervention and multilateralism. It is argued that Germany recognised Kosovo due to its long-standing involvement in the intervention in the conflict and due to concerns that an unresolved status would bring greater instability to the Western Balkans. Germany's recognition was therefore built on a rationale of conflict management and expectations of an increasing role of the European Union in this process.

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Abbreviations

AA	Auswärtiges Amt (German Foreign Office)
BMVg	Bundesverteidigungsministerium (German Ministry of Defence)
BMZ	Bundesministerium für Wirtschaftliche Zusammenarbeit und Entwicklung (German Ministry of Development)
CDU	Christlich Demokratische Union Deutschlands (Christian Democratic Party)
CFSP	Common Foreign and Security Policy
COREPER	Committee of Permanent Representatives (EU)
II	
COWEB	Council of the EU Working Party on the Western Balkans of the European Union
CSCE	Conference on Security and Cooperation in Europe
CSU	Christlich-Soziale Union (Christian Social Union)
DS	Demokratska stranka (Democratic Party)
DSS	Demokratska stranka Srbije (Democratic Party of Serbia)
EC	European Community
EPC	European Political Cooperation
ESDP	European Security and Defence Policy
EU	European Union
EULEX	European Union Rule of Law Mission
EUMS	European Union member states
EUSR	European Union Special Representative
FDP	Freie Demokratische Partei (Free Democratic Party)
FRY	Federal Republic of Yugoslavia
ICJ	International Court of Justice
ICTY	International Criminal Tribunal on the former Yugoslavia
IMF	International Monetary Fund
IR	International Relations
KFOR	Kosovo Force (NATO)

KLA	Kosovo Liberation Army
MdB	Mitglied des Deutschen Bundestages (Member of Parliament)
MEP	Member of the European Parliament
NATO	North Atlantic Treaty Organisation
OSCE	Organisation for Security and Cooperation in Europe
PDS	Partei des Demokratischen Sozialismus (Democratic Socialist Party)
SCR	Security Council Resolution
SFRY	Socialist Federal Republic of Yugoslavia
SPD	Sozialdemokratische Partei Deutschlands (Social Democratic Party)
UCK	Ushtria Çlirimtare e Kosovës (See KLA)
UDI	Unilateral declaration of independence
UK	United Kingdom
UN	United Nations
UNMIK	United Nations Mission in Kosovo
UNMK	United Nations Mission in Kosovo
UNOSEK	United Nations Office of the Special Envoy for Kosovo
UNSC	United Nations Security Council
UNSG	United Nations Secretary General
US	United States of America
WB	World Bank
WEU	Western European Union

Introduction

On 20 February 2008, Germany recognised Kosovo. It was the tenth country to do so amid international controversy. In his speech following the decision of the German government to recognise Kosovo, German foreign minister Frank Walter Steinmeier made it clear that the decision to recognise was considered problematic among German policy makers:

“[...] The people of Kosovo have to understand that we Europeans look at their new country with mixed feeling and concern. We have seen the burning Albanian flags in Mestrovic and the violent demonstrations and tear gas in Belgrade. [...] The people in Kosovo have to understand our mixed feelings because from our perspective we want borders in Europe to lose their dividing effect.

[...] I have read in many editorials in the past days: Maybe this small state in the Western Balkans was not originally the wish of the world community. All those who say this, are right. But I remind you: We have sought a consensual solution. Everyone would have preferred consensual agreement rather than the procedure we are facing now. But it was not possible.

[...] We now have to live up to the responsibility in this situation in which we can not retire into abstinence, even if some wish we did. We have to try with all our efforts to support Kosovo and its people and - and I say that even though I know what kind of situation we are coming out of there- to make the best of it. The best means: To create a democratic state and rule of law, to achieve European values in Kosovo, not only there but in the whole of the Western Balkans. I say it again: Only this is the foundation for stability and a fair balance in the whole region, not just in Kosovo.

[...] This is why the federal government took the decision in the cabinet meeting today, to recognise Kosovo as an independent state.”

Frank Walter Steinmeier, Minister of Foreign Affairs of Germany,

20 February 2008, *Bundestag* debate following the unilateral declaration of independence of Kosovo on 17 February 2008.¹

As can be seen, Steinmeier stressed German fears of a return to conflict and concerns about the divide in the international community on the status of Kosovo. An examination of other statements in response to the unilateral declaration of independence (UDI) shows this divide in the international community on recognition clearly. US President Bush welcomed the independence openly saying that, “the Kosovars are now independent, this is something that I have advocated in my government.”² He was also quoted as saying that there is ‘a disagreement [on recognition] but we believe as many other nations do that history will prove this to be the correct move’.³ Russia, the most prominent opponent to Kosovan independence after Serbia, underlined the need to re-establish the territorial integrity of Serbia and called on the international community to reject the UDI. President Putin also claimed that the UDI increased the potential risk for an escalation of violence in the region.⁴

Even the larger member states of the EU, although all recognising Kosovo, differed in their attitudes towards the secession. France was the first European Union (EU) member to recognise Kosovo with President Sarkozy and Foreign Minister Kouchner

¹ Translation from German by the author, Deutscher Bundestag (2008c) Plenarprotokoll 16/144. Stenographischer Bericht. 144. Sitzung 16. Wahlperiode. Berlin, 20 February 2008, p. 15189.

² ‘France, Germany and UK to Recognize Kosovo’ Der Spiegel Online, February 18 2008, <http://www.spiegel.de/international/europe/suspense-is-over-france-germany-and-uk-to-recognize-kosovo-a-536119.html> (last accessed 25 September 2016).

³ ‘Bush salutes Kosovo independence’ BBC News 19 February 2008. <http://news.bbc.co.uk/1/hi/world/europe/7252033.stm> (last accessed 25 September 2016).

⁴ ‘Statement by Russia’s Ministry of Foreign Affairs on Kosovo’ The Ministry of Foreign Affairs of the Russian Federation 17 February 2008, http://archive.mid.ru/brp_4.nsf/sps/041C5AF46913D38AC32573F30027B380 (last accessed 25 September 2016).

at the time welcoming a “new page” in the history of France and Kosovo.⁵ British Prime Minister Gordon Brown used more careful language and admitted “there are sensitive issues that we understand in Serbia but we believe that Serbia is committed to and we are committed to Serbia's European future. We are also satisfied that Kosovo is taking the steps that are necessary to protect the minorities within its country.”⁶ Italy also used cautious wording, stressing that its recognition should not be interpreted as a hostile act against Serbia and that Italy was highly committed to the integration of Serbia into the European Union. Foreign Minister D'Alema also referred to the Italian troops stationed in Kosovo and that continued Italian and EU involvement in Kosovo was in the interest of the region as well as in Serbia's interest.⁷ The objections from EU members who did not recognise Kosovo - Cyprus, Greece, Romania, Slovakia and Spain - did not go as far as the Russian criticisms, but cited more generally international law and the risk of setting a precedent for separatist movements in other multi-ethnic societies.⁸

Kosovo's statehood was therefore contested as it lacked the collective or *de jure* recognition from the international community.⁹ (Even now, it has only been recognised by about 112 of the 193 UN Member states,¹⁰ and has not joined the United Nations –

⁵ ‘Kosovo: la lettre de Sarkozy’ Le Figaro 18 February 2008 <http://www.lefigaro.fr/international/2008/02/18/01003-20080218ARTFIG00666-kosovo-la-lettre-de-sarkozy.php> (last accessed 25 September 2016), ‘Paris reconnaît le Kosovo’ L'Express 19 February 2008, http://www.lexpress.fr/actualite/monde/paris-reconnait-le-kosovo_470294.html (last accessed 25 September 2016).

⁶ ‘KOSOVO: Independence declaration: Statement by Prime Minister Gordon Brown’ ITN Source, 18 February 2008 <http://www.itnsource.com/shotlist/ITN/2008/02/18/R18020806/?v=0> (last accessed 25 September 2016).

⁷ ‘L'Italia riconosce il Kosovo, la Serbia richiama l'ambasciatore’ I Sole 24 ore, 21 February 2008 http://www.ilsole24ore.com/art/SoleOnLine4/Italia/2008/02/kosovo-riconoscimento-italia.shtml?uuid=ABgRD8L&refresh_ce=1 (last accessed 25 September 2016); ‘L'Italia riconosce il Kosovo Belgrado ritira l'ambasciatore’ La Repubblica, 21 February 2008 <http://www.repubblica.it/2008/02/sezioni/esteri/kosovo-indipendenza/riconoscimento/riconoscimento.html> (last accessed 25 September 2016).

⁸ ‘Spain says won't recognise Kosovo’ Reuters, 18 February 2008, <http://www.reuters.com/article/idUSL18645227> (last accessed 25 September 2016). ‘Romania, Cyprus Adamantly Oppose Independent Kosovo’ Sofia news agency, Novinite, 1 February 2008 <http://www.novinite.com/articles/89973/Romania,+Cyprus+Adamantly+Oppose+Independent+Kosovo> (last accessed 25 September 2016).

⁹ For a definition of contested statehood see Goldhuys, D. (2009) *Contested States in World Politics*, Basingstoke: Palgrave Macmillan, p. 9.

¹⁰ The latest count of recognitions of Kosovo is updated on the website [Kosovo thanks you](http://www.kosovo-thanksyou.com)

a widely understood indicator of ‘universal recognition’.¹¹) The most significant divisions on the status of Kosovo developed between three different groups of actors: firstly, between the two conflict parties Kosovo and Serbia; secondly, among EU member states; and, thirdly, within the United Nations Security Council. Accounts of Kosovo’s path to its unilateral declaration of independence usually focus on the international negotiations, the changing positions between the conflict parties, Serbia and Kosovo, and mainly on those states who have not recognised Kosovo.¹² By focusing on Germany’s position, this thesis will provide an account of a state which recognised Kosovo, but which does not appear to have done so unconditionally. Germany’s position is also significant from its geopolitical position between the United States and Russia, its growing leadership role in the European Union and its central role in the final negotiations, the Troika negotiations. These negotiations led by the EU, US and Russia were chaired by German Ambassador Wolfgang Ischinger, the EU’s representative. They were the last attempt to reach an agreement before the impending UDI and will be a main focus of this thesis. In the three months of the negotiations, German diplomats attempted to reconcile divisions in the international

<http://www.kosovothanksyou.com/> (last accessed 25 September 2016). However, this figure is contested as it includes Nigeria and Uganda, which are now widely understood not to have recognised Kosovo. See ‘Dispute Arises Over Kosovo’s 98th Recognition’, *Balkan Insight*, 10 January 2013.

¹¹ To become a UN Member state, admission must be approved by the UN General Assembly after a recommendation from the UN Security Council. ‘The admission of any such state to membership of the United Nations will be affected by a decision of the General Assembly upon the recommendation of the Security Council.’ See Chapter II Article 4.2 (1945) Charter of the United Nations, 24 October 1945, 1 UNTS XV, available at: <http://www.refworld.org/docid/3ae6b3930.html> (last accessed 8 April 2017 September 2016); ‘If the Council recommends admission, the recommendation is presented to the General Assembly for consideration. A two-thirds majority vote is necessary in the Assembly for admission of a new State. Membership becomes effective the date the resolution for admission is adopted.’ United Nations website, ‘About Membership’ <http://www.un.org/en/sections/member-states/about-un-membership/index.html> (last accessed 8 April 2017).

¹²Weller, M. (2009) *Contested Statehood: Kosovo’s Struggle for Independence*, Oxford University Press; Ker-Lindsay, J. (2009) *Kosovo: the path to contested statehood in the Balkans*, I.B. Taurus, London, UK on the negotiations overall and on the position of Slovakia for example Lezová, K (2013) ‘The Notion of Kosovo as a Precedent and the Impact of the Hungarian Minority Issue on Slovakia’s Policy towards Kosovo’s Independence’ *Europe-Asia Studies*, Jul2013, Vol. 65 Issue 5, p. 965-991. and on Romania Csergő, Z. (2013) ‘Kosovo and the Framing of Non-Secessionist Self-Government Claims in Romania’ *Europe-Asia Studies*. Jul2013, Vol. 65 Issue 5, p 889-911.

community, among the conflict parties and domestically in Germany. It is thus of particular interest how Germany approached these divisions and when it finally adopted a position to recognise. Therefore, this thesis traces Germany's evolving position within this divided international community towards recognition and how it came to the decision to recognise. It will approach the question of recognition as a foreign policy decision and therefore consider it in light of German contemporary foreign policy.

The Kosovo Conflict

The focus of this thesis is Germany's approach towards the status of Kosovo after the dissolution of Yugoslavia. It will therefore consider the conflict mainly in the context of the creation of an independent Kosovan state in post-Cold War history, therefore focusing on its status in the Socialist Federal Republic of Yugoslavia (SFRY), the Federal Republic of Yugoslavia (FRY), Serbia and Montenegro and within the Republic of Serbia. The conflict between Kosovo and Serbia is often cited as historically rooted in imperial conflict over control of the Western Balkans. There are many comprehensive historical accounts of the origins of the conflict in the literature,¹³ but these are beyond the scope of this thesis. The following is therefore intended to provide only a very brief review of historical developments pertaining to Kosovo's status to provide some background to the more comprehensive discussion of the conflict over its status since the dissolution of the SFRY.

Albanian claim to have settled in the region more than 4000 years ago.¹⁴ The Serbian Kingdom began to control the area in the 1200s. The Ottoman Empire tried for several centuries to seize control over Serbia and the Balkan region as a whole. In 1389 the Serbs lost the Battle of Kosovo Polje (Field of Blackbirds) against the Ottoman

¹³ See Malcolm, N. (2002) *Kosovo: A Short History*, London: Pan Books; Vickers, N. (1997) *The Albanians: A Modern History*, New York: Tauris and (1998) *Between Serb and Albanian: A History of Kosovo*, New York: Columbia University Press; Mazower, M. (2001) *The Balkans: From the End of the Byzantium to the Present Day*, London: Phoenix; Fisher, B.J. eds. (2002) *Albanian Identities: Myths and History*, London: Hurst. Pavlowitch, S.K. (2008) *Hitler's new Disorder: The Second World War in Yugoslavia*, London: Hurst and (1999) *A History of the Balkans, 1804–1945*, London, New York: Longman; Jelavich, B. (1983) *History of the Balkans: Twentieth Century*, II, Cambridge: Cambridge University Press.

¹⁴ Ker-Lindsay (2009) p. 8; Weller (2009) p. 25.

Empire.¹⁵ This battle, which took place in Kosovo, remains a central reference for Serbian nationalism and adds to the Serbian claim over Kosovo's territory. In 1459 the Ottoman Empire asserted its control over the whole of the central Balkans.¹⁶ Serbia achieved greater autonomy within the Ottoman Empire in the 19th century and, after the Congress of Berlin, Serbia and Montenegro gained independence in 1878.¹⁷ Kosovo remained under Ottoman rule with the new Serb Kingdom threatening expansion into the region. In the first Balkan war of 1912, Serbia gained control over Kosovo and Albania. In an attempt to restrain Serbia's power in the region, the London conference established the independent state of Albania, while Kosovo remained under Serbian control.¹⁸ After the end of the First World War, Kosovo again remained part of the new Yugoslav Kingdom of Serbs, Croats and Slovenes.¹⁹ During the Second World War, first Italy and then Germany occupied Albania and Kosovo, thereby cutting them off from Serbian rule. After Italy's capitulation and the loss of the war by Germany, Kosovo was reintegrated into Serbia as an autonomous region within the new Socialist Federal Republic of Yugoslavia.²⁰

These continuous changes of rule over the Kosovan region were characterised by significant violence among ethnic groups and persecution. During the Ottoman rule significant numbers of Serbs left the region, whilst some Serbian nationalists organised violent revolt towards the end of the Ottoman Empire. By 1912, Kosovo Albanians had organised politically and called for independence in an uprising.²¹ During the Balkan Wars and the First World War, Serbs persecuted and repressed Kosovo Albanians were resettled in Kosovo.²² Under the Fascist and Nazi rule of Greater Albanian, Serbs were persecuted and driven out of the territory in acts of revenge.²³

¹⁵ Weller (2009) p. 25; Ker Lindsay (2009) p. 38.

¹⁶ Weller (2009) p. 25

¹⁷ Ibid, p. 26.

¹⁸ Ker-Lindsay (2009) p. 9.

¹⁹ Ibid and Weller (2009) p. 27.

²⁰ Weller (2009) p. 28 and Ker-Lindsay (2009) p. 9.

²¹ Weller (2009) p. 27.

²² Ibid and Ker-Lindsay (2009) p. 9.

²³ Weller (2009) p. 27.

Yugoslavia consisted of the Republics of Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia. Kosovo Albanians were considered a people with an external homeland, Albania. Therefore, they did not gain status as a nation, but were instead described as so-called nationalities and, therefore, considered a minority.²⁴ This was used as justification of not granting republic status to Kosovo as a region. After nationalist uprising in Pristina, Kosovo gained significant autonomy under province status with the new constitution of 1974, which stopped short of allowing republic status. Calls for republic status continued, driven by the Kosovan student movement in the early 1980s. At the same time, Belgrade observed a decrease in the number of the Serb minority in the region and from the mid- 1980s, parts of the Serbian leadership sought to reintegrate Kosovo fully into the Socialist Republic of Serbia.²⁵ The new Serbian President Slobodan Milosevic removed the enhanced autonomy of Kosovo in the new constitution of Serbia in 1990. In the wake of the dissolution of Yugoslavia, Kosovans responded with a declaration of independence in 1992.²⁶

Within the dissolution of Yugoslavia, Kosovo's status received little attention in the international response to the reordering of the Western Balkans. Within the main body of this thesis I will review in detail the status of Kosovo from this period onwards; therefore, here I will only briefly review Kosovo's status developments. While the former Republics of Yugoslavia were granted independence, Kosovo was excluded from this process and remained part of what became Serbia and Montenegro. During the wars in the Balkans throughout the 1990s, the focus of the international community was on containing Milosevic and further ethnic violence. The status of Kosovo received little attention. However, the conflict between Kosovo and Serbia escalated at the end of the 1990s and greater international efforts were put into negotiating a settlement.

²⁴ Ker-Lindsay (2009) p. 9-10. Other minorities included Hungarians, Slovaks and Italians.

²⁵ Ibid.

²⁶ Weller (2009) p. 29.

In 1999, after a failed attempt to reach an agreement, the NATO operation in Kosovo and Serbia against Milosevic's forces led to a Serbian retreat from Kosovo.²⁷ Further international negotiations led to United Nations Security Council Resolution 1244, which established the United Nations Mission in Kosovo (UNMIK), to oversee the governance of Kosovo until a resolution to the status question was reached. The UN therefore headed the international civil presence, provided an interim civilian administration, and authorised the security presence under NATO command in Kosovo. UNMIK would act under a status neutral mandate, which would not favour either the independence of Kosovo or its reintegration into Serbia until a new status had been decided with a new UN Security Council Resolution.²⁸ Progress under UNMIK was very slow and ethnic violence returned in 2004. This triggered new efforts to negotiate a settlement between Pristina and Belgrade on the future status of Kosovo.²⁹ The so-called Vienna talks took place under the auspices of UN Special Envoy Martti Ahtisaari. These talks lasted from 2006 until the Spring of 2007. They resulted in a comprehensive proposal on Kosovo formulated by the Special Envoy that established a new settlement for political representations, minority rights, the justice system, security and economic policy.³⁰ This 'Ahtisaari Plan' was however rejected by Serbia, as well as by Russia in the Security Council. Therefore, following a G8 meeting in the summer of 2007, new talks were initiated to be held under a Troika of the European Union, the United States and Russia. These talks lasted from August to

²⁷ This period is discussed in greater detail in Chapter Three 3.2 Kosovo in the Dissolution of Yugoslavia with reference to Weller (2009); Friedrich, R. (2005) *Die deutsche Außenpolitik im Kosovo-Konflikt*, Wiesbaden: VS Verlag für Sozialwissenschaften, pp. 29-33 and Krause, J. (2000) *Deutschland und die Kosovo-Krise*, in Teuter, J. and Clewing, C. (eds) *Der Kosovo-Konflikt Ursachen, Verlauf, Perspektiven*, Klagenfurt: Wieser Verlag, pp. 396-410.

²⁸ See Chapter Three, 3.5 Political Settlement and UN Resolution 1244 and Weller (2009) p. 171 and United Nations (1999b) UN Security Council, 'On the situation relating to Kosovo' Resolution 1244 (1999) S/Res/1244, 10 June 1999

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement> (last accessed 8 April 2017).

²⁹ See Chapter Three, 3.3.5 Ethnic Violence of 2004 and the Eide Report; Yannis, A. (2002) 'The international presence in Kosovo and regional security: The deep winter of UN security council resolution 1244', *Southeast European and Black Sea Studies*, 2: 1, pp. 173- 190, p. 176; Meurs, van, W. (2004) 'Kosovo's fifth anniversary—on the road to nowhere?', *Ethnopolitics*, 3: 3; pp. 60-74, p. 68; Weller (2009) p. 185.

³⁰ See Chapter Three 3.9.5 The Ahtisaari Proposal; United Nations (2007a) UN Security Council, Letter dated 26 March 2007 from the Secretary-General addressed to the President of the Security Council (Report of the Special Envoy of the Secretary-General on Kosovo's Future Status), S/2007/168, 26 March 2007).

December of 2007 and were chaired by German Ambassador Wolfgang Ischinger, who led the EU Troika delegation. The talks were considered a last opportunity to either find a solution between the conflict parties or to reach an agreement between the United States and Russia for a new Security Council Resolution, which would allow for a new status for Kosovo. After the talks concluded, the Troika announced that no new agreement had been found but that the parties had committed to a peaceful resolution and European integration. Kosovo declared independence from Serbia unilaterally on 17 February 2008.³¹

Germany's recognition of Kosovo - Issues and Controversies

Germany's decision to recognise Kosovo came after the breakdown of the Troika talks and with no consensus among international actors. From the statement quoted at the beginning of this chapter by the German foreign minister, it seems clear that the decision to recognise was highly controversial from a German foreign policy perspective. Whilst Kosovo is not the only territory to have been partially recognised by UN member states,³² in comparison to other such cases, contestation of Kosovo has publically split the international community and the European Union to an unprecedented extent. Although the international community, and particularly the United States and Russia, had been able to collaborate and manage earlier crises in Kosovo, for example the war of 1999 and its aftermath, this multilateral consensus broke down as the new unilateral declaration of independence was nearing and no agreement had been found.³³

This thesis approaches the question of Germany's recognition within the framework of foreign policy literature on Germany. Additionally, it considers the question of Kosovo's status within the process of the dissolution of the former Yugoslavia, which

³¹ The establishment of the Troika and the negotiations are discussed in Chapter Four in greater detail. See also Weller (2009) pp. 221-229 and Ker Lindsay (2009) from p. 81-102 for a discussion of the talks.

³² For example, Taiwan and Palestine are recognised by some UN members, Sahrawi Arab Democratic Republic, Abkhazia, South Ossetia and Northern Cyprus have also few but UN member recognitions.

³³ The international negotiations on the status of Kosovo are discussed in detail in Chapter Three, specifically in 3.3 Leading up to the war of 1999.

began in the early 1990s. This process has generated significant discussion in the International Relations literature in regards to recognition practices and the management of the dissolution by the international community.³⁴ For a more policy focused reading of recognition of this case, authors, such as Caplan as well as Zaum, developed the notion of recognition as an act of intervening and managing a conflict. In contrast to more legal and sociological approaches, their approach analysed the practice of internationalising a conflict through recognition, thereby allowing for greater international intervention.³⁵ Recognition, following this interpretation, is used by recognising states as a tool to change the power relations in a conflict, by giving the group which seeks to secede international recognition and, therefore, statehood, transforming conflict from intra-state to interstate. This, therefore, allows for greater intervention into the conflict from the international community. On the other hand, recognition raises issues in regards to the territorial integrity of the parent state and the carefully established balance between internal and external self-determination.³⁶ For the case of Croatia, Caplan has argued that the rationale behind using recognition as a conflict intervention depended on understanding Serbia as the aggressor against Croatia. By promoting the internationalisation of the conflict, the international community was then able to intervene with greater capacity in the conflict of the former Yugoslavia.³⁷

³⁴ See Chapter One 1.3.3 Dissolution at the End of the Cold War.

³⁵ Chapter One provides an overview of the legal approaches; Particularly relevant is 1.5 International Relations and Recognition Theories: issue of secession and discussion within the International Relations literature. Fabry, M. (2010) *Recognizing States: International Society and the Establishment of New States Since 1776*, Oxford, Oxford University Press; Coggins, B. (2014) *Power Politics & State Formation in the 20th Century: The Dynamics of Recognition* Cambridge: Cambridge University Press provide the most comprehensive reviews of the position towards recognition in IR; Crawford, J. (1999) *State Practice and International Law in Relation to the Secession*, *British Yearbook of International Law* (1998) 69 (1): 85-117; Lauterpacht, H. (1947) *Recognition in International Law*, Cambridge: Cambridge University Press; Cassese, A. (1995) *Self-Determination of Peoples: A Legal Reappraisal*, Cambridge: Cambridge University Press discuss the legal debates.

³⁶ In Chapter One I describe the tension between internal and self-determination in detail, see 1.3.1. Traditionally international law has supported internal self-determination to overcome claims of secession, i.e., providing greater political control over the territory within the existing parent state through constitutional arrangements, such as autonomy.

³⁷ Caplan, R. (2005) *Europe and the Recognition of New States in Yugoslavia*, Cambridge: University Press and Zaum, D. (2007) *The Sovereignty Paradox: The Norms and Politics of International State building*, Oxford: Oxford University Press are discussed in Chapter One 1.6 Recognition as Conflict Management.

The second main aspect of Caplan's reading of recognition is the conditionality imposed on the new emerging states seeking recognition. In the case of the dissolution of Yugoslavia, European Union members used conditionality in an unprecedented way, thereby exerting significant influence on the shape of the governance of the new states.³⁸ Acknowledging the conflict management nature of recognition and the political controversy of a recognition of a contested state, against the will of the parent state, facilitates one in examining the tensions which arise from recognition in foreign policy. In this thesis, I will therefore demonstrate how the concept of recognition can be applied to the case of Kosovo as well.³⁹

The foreign policy decision by Germany to recognise in a contested environment is particularly striking in light of expectations of Germany to behave as a Civilian Power, in foreign policy terms. The Civilian Power role describes Germany after the Second World War as an international actor committed to economic rather than military power with a strong commitment to multilateralism and international institutions, implying also a commitment to international law.⁴⁰ Although there are strong critics of such an approach, most authors subscribe to the description of Germany as a 'different' kind of international actor. Most stress its commitment to its international alliances and that it is less likely to act in a coercive or *Realpolitik* manner.⁴¹ For this thesis, the characterisation of Germany as a Civilian Power will be particularly relevant since its expected commitment to a multilateral approach appears to have created tensions in the context of the contested statehood of Kosovo. In the case of the recognition of Croatia and Slovenia in the dissolution of Yugoslavia, the European Union eventually

³⁸ These were established through the Arbitration Commission of the Peace Conference on Yugoslavia, mostly referred to as the Badinter Commission. A discussion of this is provided in Chapter 1.3.3 Dissolution at the End of the Cold War.

³⁹ Ibid and particularly 1.6.2 Conditional Recognition.

⁴⁰ Maull, H.W. (1990) 'Germany and Japan: The New Civilian Powers', *Foreign Affairs*, Vol.69., and discussed in Chapter Two 2.3 Civilian Power Germany.

⁴¹ For instance, Katzenstein, P. (1996) *The Culture of National Security, Norms and Identity in World Politics* New York: Columbia University Press; Rittberger, W. (1999) *Deutschlands Außenpolitik nach der Vereinigung, Zur Anwendbarkeit theoretischer Modelle der Außenpolitik: Machtstaat, Handelstaat oder Ziviltaut*, in Bergem, W., Ronge, V., and Weißeno, G. (eds.) *Friedenspolitik in und für Europa*, Opladen: Leske und Burich, pp. 83-108; Ash, T. (1996) 'Germany's Choice' in Mertes, M., Muller, M. Winkler, S. *In search of Germany*, New Brunswick: Transaction; Aggestam, L. (2000) 'Germany' in Manner, I and Whitman, R. eds. *The Foreign policies of European Union Member States*, Manchester: University Press.

agreed on a recognition policy, however, Germany was considered the driving force behind this process. Many states, at the time were not willing to recognise the former Republics of Yugoslavia as independent states until the conditions posed to them were fulfilled. Germany recognised Croatia and Slovenia a month before the remaining member states. Although consensus was reached, Germany's pressure to recognise was strongly criticised by its close partners and its Civilian Power role was put into question.⁴² The case of Kosovo is equally if not less controversial as it remains a contested state and the division in the international community has included the UN Security Council. Nonetheless, after the failed talks and the breakdown in agreement in the international community, Germany recognised Kosovo. It thereby found itself in the midst of significant divisions between its closest allies in the European Union, Russia and the United States. This raises questions about how Germany reconciled the division among its allies and within the international organisation with its assumed tradition of committing to institutions and multilateralism. When considering the recognition of Kosovo, I will focus on Germany's approach towards intervention in Kosovo and its role as a multilateral actor in light of the international divide. Particular attention will be paid to its role in the final Troika negotiations. Here, Germany's relationship to the two conflict parties, to the United States and Russia and to its fellow EU member states will be explored in detail.

A second aspect of my analysis of Germany's position towards the status of Kosovo concerns domestic actors in Germany. Within the Civilian Power description of Germany, adherence to the principles of multilateralism is often explained with the strong conviction of domestic political parties and their influence in foreign policy. For instance, political parties have developed distinct foreign policy identities and foreign policy receives a proportionally larger attention from the public than does other

⁴² Maull, H.W. and Stahl, B. (2002) 'Durch den Balkan nach Europa? Deutschland und Frankreich in den Jugoslawienkriegen' *Politische Vierteljahresschrift*, 43. Jg. (2002) Heft 1, S. 82–111; Augter, S. (2002) Negotiating Croatia's recognition: German foreign policy as a two-level game, PhD in International Relations, London School of Economics and Political Science; Crawford, B. (1996) Explaining Defection from International Cooperation: Germany's Unilateral Recognition, *World Politics* 48.4 482-521; Glaurdic, J. (2011) *The Hour of Europe. Western Powers and the Break-Up of Yugoslavia*, New Haven: Yale University Press; Caplan (2005).

policy areas.⁴³ Furthermore, in the case of the independence of Croatia and Slovenia, the policy for recognition by Germany was influenced strongly by German domestic actors. Particularly, a consensus among political parties to recognise Croatia and Slovenia had put pro-recognition pressure on the German government. Politicians, using a language of managing the conflict, argued for self-determination after communist and socialist rule, justifying it with the recent positive experience of the unification of the two Germanys at the end of the Cold War.⁴⁴ Thus, recognition gained significant attention among domestic actors in Germany in the early dissolution of Yugoslavia: Domestic actors then are likely to have played a significant role in the shaping of German policy on the status of Kosovo. When discussing Germany's role as a Civilian Power I will also engage with the domestic contestations and changing approaches towards it. Particularly differing approaches towards multilateralism which can co-exist in Germany among domestic actors will be relevant as they created conflict within the grand coalition government in 2008. This thesis will therefore also explore the domestic positions on recognition or non-recognition and how these influenced the position of the German government.

Structure of the Thesis

This thesis consists of four chapters. These explore the questions raised by Germany's recognition of Kosovo from different angles. Chapter One will elaborate on conceptual issues in regards to secession and recognition, exploring the controversy surrounding recognition in International Relations and International Law. It will review the different approaches with which the international community has attempted to balance the tension between the concepts of territorial integrity on the one hand and calls for self determination and secession on the other. It will also highlight differences in the legal approaches towards recognition found in the International Relations literature. This chapter will also introduce the concept of recognition as conflict management. Building on the case study of the dissolution of the former Yugoslavia and the recognition of Croatia, the chapter will discuss how conditional recognition and the

⁴³ The role of the German Bundestag is discussed in greater detail in Chapter Two 2.2.6 The Legislative.

⁴⁴ Augter (2002) p. 235; Crawford (2007) p. 70; Glaurdic (2011).

use of the internationalisation of a conflict through recognition has been described by some authors as a conflict management approach. It will then discuss how this approach is compatible with a foreign policy approach.

This thesis approaches the decision to recognise as a foreign policy decision by Germany. Therefore, Chapter Two provides a review of the foreign policy literature on the question of multilateralism and participation in international interventions. Chapter Two introduces German domestic foreign policy actors and the concept of Germany as a Civilian Power. It introduces the literature on role theory in foreign policy and how it related to the German case. It will provide a critique of this understanding of Germany, particularly in regards to the assumption of a consistent national consensus on foreign policy and the German approach to multilateralism. For this critique, it will discuss Germany's post-war foreign policy and then foreign policy after unification. The literature on the changing approach toward multilateralism and international interventions from domestic actors and pressure from international partners will be discussed in particular. The Civilian Power role and Germany's multilateralism in the context of the EU will also be discussed. This chapter, therefore, provides the background to Germany's foreign policy up until the period of the main case study set in 2007.

The next two chapters discuss the German position on the status of Kosovo. Here, the thesis will consider particularly the domestic positions within Germany on the status of Kosovo and the role these played at international level in different negotiations. Chapter Three discusses Germany's position from the dissolution of Yugoslavia until the end of the Ahtisaari process in the Summer of 2007. Here it will be evident that, although Germany may have supported Kosovan independence in the early 1990s, it held little sway over its allies, amongst whom support for independence was weak. By the time of the Kosovo war in 1999, German support for independence had diminished and so it followed the general NATO and EU policy on Kosovo, which was primarily focused on containing Milosevic. Germany was central in providing a European perspective on the Western Balkans states, including on Serbia and Kosovo, and its

role in the international community grew considerably. After the conflict of 1999, the international community agreed on the status neutrality of the UN mission to control Kosovo. With the changing leadership in Belgrade after Milosevic, German domestic actors became more sympathetic to the Serbian position. Among western allies, support for Kosovan independence grew in the early 2000s. The Ahtisaari process resulted in a recommendation of self-governance for Kosovo, with independence supervised by the international community and a greater role of the European Union in managing this new status. However, the Ahtisaari Process was rejected by Serbia as well as by Russia and left Kosovo's status unresolved.

While in this context most close allies of Germany were willing to support Kosovo's independence, despite Serbia's refusal to grant it, Germany supported extending the talks. In a new format of negotiations, the EU, the United States and Russia would form a Troika to lead a last effort to bring a solution between Pristina and Belgrade. Chapter Four focuses on these negotiations, which lasted from August to December 2007 and were chaired by German Ambassador Wolfgang Ischinger, who was seconded by Germany to the EU delegation of the Troika. The Troika process also ended without a resolution of the conflict between Pristina and Belgrade. Nonetheless, Kosovo declared independence on February 2008. This chapter explores firstly the negotiations between the conflict parties, the positions of the different Troika members and the role of the Troika in changing the positions on recognition among EU members and within Germany. Between the conflict parties, however, the Troika process did little to change their positions. Kosovo was unwilling to accept anything short of independence, while Serbia was willing to extend greater autonomy but, in all of its proposals, stopped short of allowing secession. However, the Serbian delegation considered the efforts of the Troika more genuine than those of the Ahtisaari process, as a greater array of options were tabled. This wide-ranging approach generated trust in the process of the Troika negotiations and also affected the position of EU members and domestic actors in Germany. Within the EU many member states were unwilling to recognise Kosovo, considering the risk of its contested statehood particularly for the EU mission, which was due to be deployed. By the end of the Troika process, EU member states still disagreed on the status, although a clear majority had agreed to

support a UDI. Despite divisions on the status, EU member states agreed to deploy a status neutral mission. These developments affected Germany's position significantly. In Germany, at the beginning of these negotiations, domestic actors were still calling for a new UN resolution and a united EU position on the status before a recognition of a potential declaration of independence. By the end of the talks, almost all political parties considered independence very likely and supported recognition by Germany and the increased role of the EU in the future of Kosovo. Chapter Four therefore analyses the negotiation from the point of view of Germany's multilateralism, asking how domestic actors and policy makers accepted the lack of international agreement on the status question and how this was managed within the German foreign policy context.

The concluding chapter will draw on the empirical evidence, considering it in light of the conceptual issues raised in Chapters One and Two. The conclusion will review whether the recognition by Germany can be considered in the conflict management approach as described by Caplan focusing on internationalising of the conflict as well as conditional recognition. It will then consider the shift in the German domestic position on the status question and the review Germany's multilateral role in the process, with particular attention to the context of the European Union.

Methodology

This thesis is primarily based on qualitative research and provides a process tracing of the case of Germany's recognition of Kosovo. The case study is framed within a conceptual framework of recognition as conflict management for German Foreign Policy. The first two chapters therefore build mainly on existing literature, while Chapters Three and Four use mainly primary sources. To introduce the conceptual framework, I provide a discussion of both Law and International Relations literature relevant to the questions of secession and recognition for foreign policy. To discuss the background to Germany's foreign policy I rely on History and International Relations texts. Thus, the first two chapters provide the framework for the case study and set the historical, legal and foreign policy contexts.

Chapters Three and Four will process trace the position of Germany towards the status of Kosovo. Process tracing is a widely used qualitative research method that allows the examination of intervening causal processes. This method considers a case study along a chronological order and by examining observable implications.⁴⁵ This thesis will scrutinise the German recognition of Kosovo through examining developments involving a variety of domestic and international actors and internal and external influences on the policy. Process tracing allows the researcher to consider the interaction of different factors, at different levels and by different actors, thus implying a non-linear causality.⁴⁶ It is therefore particularly suitable for this study. The scope and focus of the process tracing is established in Chapters One and Two, in which I set out the conceptual focus and the considerations of the multilateralism of Germany in the context of the recognition of Kosovo. Therefore, the actors and levels of analysis will be set out in these chapters. For the general timeline and narrative of the negotiations in Chapters Three and Four, I will build on secondary literature as well as reportage on the negotiations from international print and online media. The advantage of exploring a case study through process tracing is the greater depth and detail. To do this I will build to a large extent on the use of primary sources into trace Germany's position towards the status of Kosovo. I used several categories of sources, as follows.

Elite interviews with policy makers involved in the status negotiations have been used for the empirical evidence of this thesis. The use of interviews for Social Science research brings some risks but also great advantages. The bias of the interviewer and author or the 'naïve' assumption of the rationality of the interviewee are limits to the value of the data obtained from interviews.⁴⁷ However, no other research method allows for as much data to be collected or the opportunity to target very specific areas

⁴⁵ George, A. and Bennett, A. (2005) *Case Studies and Theory Development in the Social Sciences*, Cambridge: Belfer Center for Science and International Affairs, pp. 206-208.

⁴⁶ *Ibid*, p. 208.

⁴⁷ Rathbun, B.C. (2008) Chapter 29 *Interviewing and Qualitative Field Methods: Pragmatism and Practicalities* in Box-Steffensmeier, J.M., Brady, H.E. and Collier, D. (eds.) *The Oxford Handbook of Political Methodology*, Oxford: Oxford University Press, p. 685.

while also responding to those who provide the data in an interview.⁴⁸ Within process tracing, elite interviews provide a unique opportunity to understand political processes, as the researcher receives insights from those involved in the processes described.⁴⁹ At the same time, such interviews require a particularly analytical approach toward the data and flexibility from the interviewer to overcome the practical and intellectual obstacles in obtaining reliable data from interviewees.

The criterion for choosing interviewees was that they be policy makers involved in the negotiations on Kosovo, particularly with experience of the Troika negotiations. Among German policy makers, I focused on the main negotiator Wolfgang Ischinger, but I also interviewed members of the civil service involved in the Troika negotiations or positioned in the *Auswärtige Amt* (the German Ministry of Foreign Affairs). Other German interviewees included experts who have worked on the Kosovo question in party political positions. However, no Members of Parliament were willing to be interviewed in regards to the topic of this thesis. Other interviewees were selected mainly for their experience of the Troika negotiations outside of the German context. These included EU officials in the Commission and Council who had access to Contact Group meetings and worked directly with EU High Representative Javier Solana. Also, representatives of EU Member States in the COREPER II (Committee of Permanent Representatives) and COWEB (Council of the EU Working Party on the Western Balkans of the European Union) were interviewed. These participants provided insights into the coordination around the Kosovo status at EU level and the perception of the German position by its allies. Finally, important interviewees were the representatives of the delegations of Serbia and Kosovo. Some additional interviews with journalists, members of the European Parliament and politicians in Belgrade and Pristina were also held for background information and context. The elite interviewees were considered to be those who had exclusive access to negotiations and confidential government information, and who also held expert knowledge and

⁴⁸ Ibid.

⁴⁹ Rubin, H.J. and Rubin, I.S. (2005) *Qualitative Interviewing: The Art of Hearing Data*, 2nd edn, London: Sage Publications, p. 3.

experience on the question of the status of Kosovo.⁵⁰ Interviewees were provided with a catalogue of questions prior to the meeting and interviews were conducted in a semi-structured manner. Some of these interviews had to be held via phone and, in exceptional cases or as follow up, interviewees provided answers via email.

The interviews for this thesis focussed mainly on the three-month Troika process in late 2007. This collection of primary data is the main empirical contribution of this research, as it provides a detailed recollection of this period of negotiations. In some cases, depending on the expertise of the participants, historical aspects of the Kosovo status were discussed. The focus of all interviews was thus on a very specific period which allowed me to verify the details, facts, and accounts of different interviewees. Contrasting information from different interviews provided an opportunity to evaluate the diverse perspectives of actors on the process. To overcome the potential biases of both interviewer and the interviewee, I triangulated the information where possible. Here, it was particularly important to compare the position of the Troika Chair Ischinger, representing the EU as chief negotiator, with that of the German government representatives and the EU Council position, as well as the perception from member states. To additionally verify the accounts given in interviews, my research was supplemented by additional primary and secondary sources, which will be discussed below.

Some official German government documentation from the archive of the German Foreign Office (Politisches Archiv des Auswärtigen Amtes) has been used to confirm the timeline already established in other secondary literature on the negotiations. However, due to access restrictions, most of the internal correspondence of the German government held in the Politische Archiv will not be released publicly until 2038. However, I have been able to access some confidential documents regarding the

⁵⁰ A discussion of the identification of Elites for interviews can be found in Burnham, P., Gilland Lutz, K., Grant, W., and Layton-Henry, Z. (2008) *Research Methods in Politics*, 2nd edn London: Palgrave Macmillan. See also Odendahl, T., and Shaw, A. M. (2002) 'Interviewing Elites', in Gumbrium, J.F. and Holstein, J.A eds. *Handbook of Interview Research: Context and Method*, London: Sage, pp. 299-316.

negotiations through private files of participants in the negotiations. Therefore, this research also relies partly on access to this documentation that was confidential at the time of the negotiation, including personal notes and documents made available by some of the interviewees. Additionally, the Public Library of US Diplomacy compiled and made available confidential documents, mainly diplomatic cables, to the online database, WikiLeaks. These documents are somewhat limited in their helpfulness because of the unverified nature of the cables and a lack of clear context for the correspondence. Documents taken from this database were therefore primarily used for the purpose of confirming the information provided in interviews and secondary sources, as well as for additional detail and external perspectives on the German position.

Finally, a key primary source are the minutes of debates on the status of Kosovo in the German Parliament, the *Bundestag*. In Parliament, the committee on Foreign Affairs (*Auswärtiger Ausschuß*) is closed to the public and minutes are currently not released publically. Therefore, plenary debates are the main forum in which party political positions on foreign affairs are expressed and from which divisions between political parties become evident. The parliamentary minutes therefore provide an insight into the changing party political positions and provide central empirical evidence in the tracing of domestic positions on the question of Kosovo's status in Germany. The positions of each party have therefore been traced in detail and compared over the years to describe the shift in domestic positions towards the status of Kosovo from the early 1990s until recognition in 2008. The positions of each party have therefore been traced in detail and compared over time to describe the shift in domestic positions towards the status of Kosovo from the early 1990s until recognition in 2008. To trace the positions of the different political parties in each relevant debate, positions by each parliamentary party were recorded and mapped throughout the nearly 20-year period. This allowed for a detailed record of the key aspects defining party positions and the changes over the years. Particular attention was given to the connection made by parliamentarians between the unresolved status and the risk of eruption of conflict, the need for multilateral solutions, the approach towards Serbia as an aggressor in the conflict, and the specific proposals brought forward by different political parties on

how to resolve the conflict or how to respond to the multilateral deadlock. Debates considered relevant were specifically on the Kosovo status or related to German participation in the NATO operation in Kosovo (which was debated regularly in the Bundestag). The diversity of arguments put forward in the debates in parliament provided evidence for the clear contrast to the position of Germany's closest allies in support for a UDI after the failed Ahtisaari Process.

Contribution

The contribution of this thesis to the existing literature on International Relations is threefold.

Firstly, it will provide a more detailed academic investigation into the multilateral negotiations on the status of Kosovo prior to the UDI. The academic literature has mainly focused on the Ahtisaari process in the past. This process was a two-year process lead by the United Nations Special Envoy Martti Ahtisaari in close collaboration with the Contact Group consisting of the United States, Russia, the United Kingdom, France, Germany and Italy. This focus from the literature was due to the process resulting in the Ahtisaari Plan. This plan was rejected by the Serbian authorities, however, it later became the basis for the Kosovan authorities to declare independence. In this thesis, I will discuss the Ahtisaari process, however, the focus will be on the final three-month period from August to December 2007, or the so called Troika negotiations. Other authors have discussed these talks, however, in lesser detail or with a different focus.⁵¹ The account in this thesis will discuss the role of the chair of the Troika, a detailed discussion of the different options discussed in the talks and the multilateral role of the Troika particularly on its relations with the EU and among its members. It therefore provides additional insight into the international coordination in the lead up to the unilateral declaration of independence of Kosovo.

Secondly, the thesis provides a systematic review of Germany's position on the status of Kosovo after the dissolution of Yugoslavia. For this, I was able to build on the

⁵¹ Weller (2009); Ker-Lindsay (2009); Economides and Ker-Lindsay (2012).

existing literature on Germany and the dissolution of Yugoslavia and Germany's position towards the military intervention in Kosovo in 1999. However, to provide an overview of Germany's position on Kosovo and its role in the status negotiations, I combined existing secondary literature with primary sources and a review of the party positions from the early 1990s until the recognition in 2008.

Finally, the conceptual contribution of this thesis is the development of the concept of recognition as conflict management. This concept was used in regards to the cases of the recognition of Croatia and Slovenia by Caplan, as well as by Zaum.⁵² Caplan identified the use of recognition to internationalise a conflict and the use of conditional recognition on a new state entity as the key aspects of using recognition as conflict management. In this thesis, I examine to what extent these aspects can be applied to the rationale behind Germany's recognition of Kosovo.

Other authors have explored the interventionist nature of state building by the international community in the Western Balkans in general and Kosovo in particular.⁵³ In this thesis, I provide a specific focus on the recognition question. By doing this, I demonstrate of the conceptual understanding of recognition as conflict management can be applied in the wider post-Yugoslav context of the Western Balkans.

⁵² Caplan (2005); Zaum (2007).

⁵³ Bieber, F. (2011) Building impossible states - State building strategies and EU membership in the Western Balkans, *Europe-Asia Studies*, Vol. 63, no 10, December 2011, 1783-1802; Noutcheva, G. (2009) Fake, partial and imposed compliance: the limits of the EU's normative power in the Western Balkans, *Journal of European Public Policy*, 16:7.

Chapter 1: The Recognition of New States as Conflict Management

1.1 Introduction

In the introductory chapter, I outlined the puzzle of Germany's recognition of Kosovo. This chapter will consider in greater detail recognition in the Legal and International Relations literature to contextualise the political and legal debate around recognition of new states.

The key principles central to the issue of recognition are territorial integrity and self-determination. I will outline the interpretations of the principles and tensions which have arisen, as the relationship between these principles has developed, particularly over the course of the 20th century. In doing so, I will discuss the process of decolonisation, the cases of the Åland Islands and Quebec and the dissolution of the former Yugoslavia. Throughout this discussion, I will also review the development and application of the distinction between internal and external self-determination, which implies domestic political control in the former and independence from a parent state in the latter sense. From this discussion, it will become evident that throughout these political developments the principle of territorial integrity and a reluctance to facilitate secession, particularly unilaterally, has prevailed. However, we cannot speak of an explicit prohibition of secession. Thus, political independence claims remain a challenge to the legal approach.⁵⁴

I will then move to the legal theoretical debate between declaratory and constitutive theories on recognition. In my review of how International Relations (IR) literature has considered recognition, I will point out that most IR schools take a constitutive approach. I will review the different international relation approaches towards recognition including Rationalists as well as Constructivist and English school approaches. As described in the Introduction this thesis takes a foreign policy approach towards recognition and consider Germany's recognition of Kosovo this particularly

⁵⁴ Fierstein, D. (2008) Kosovo's Declaration of Independence: An Incident Analysis of Legality, Policy and Future Implications. *Boston University International Law Journal* 26.2 (2008): 417–42; p. 440.

in the context of the dissolution of Yugoslavia. For this I will introduce the concept of recognition as conflict management, which was developed in the case of the European Union's policy towards the dissolution of the former Yugoslavia.⁵⁵ Both Caplan and Zaum have described the recognition of Croatia as a conflict management tool.⁵⁶ The main evidence for their conclusion is the EU's internationalisation of the conflict through recognition, and the conditionality attached to the recognition of post-Yugoslav states.⁵⁷ I will describe these two aspects in greater detail and explain how through this approach provides a lens to analyse the political and foreign policy aspects of recognition.

In the recognition process of Croatia, the foreign policy aspect has been discussed in the literature and particularly in reference to Germany's approach. I will therefore point out the specific aspects in which foreign policy of recognition influenced the conflict management approach towards recognitions: The interpretation of the conflict by Germany, the support for self-determination of Croatia among German domestic actors and policy makers, and Germany's role and approach in the multilateral negotiations on the coordinated recognition by European states.

1.2 Secession and Recognition

The recognition of acts of secession has been controversial in the international system.⁵⁸ In its broader definition, secession refers to the creation of a new state on territory of an existing state, often referred to as a 'parent state'.⁵⁹ Although territories

⁵⁵ Note that in the period discussed in this chapter the European Community was renamed the European Union. To keep the description in this chapter consistent I will refer to the EU or European Union throughout, including for events which took place before the name change.

⁵⁶ Caplan, R. (2005) *Europe and the Recognition of New States in Yugoslavia*, Cambridge: University Press; Zaum (2007) *The Sovereignty Paradox: The Norms and Politics of International State building*, Oxford: Oxford University Press.

⁵⁶ Note that Croatia and Slovenia were recognised at the same time. However, in the literature and political debate on recognition, their recognition usually refers mainly to Croatia. For this reason, and for brevity, I therefore only refer to the recognition of Croatia in this thesis.

⁵⁷ Caplan (2005); Zaum (2007).

⁵⁸ Ker-Lindsay (2011) Not such a 'sui generis' case after all: assessing the ICJ opinion on Kosovo, *Nationalities Papers*, 39:1, p. 1.

⁵⁹ Definition taken from Peter Radan discussed in Pavkovic, A. and Radan, P. (2011) *The Ashgate Companion to Secession*, Aldershot: Ashgate, p. 3.

that have seceded with permission are generally accepted, there is a deep aversion to recognising states that declare independence without the consent of the 'parent state'. The territorial integrity of states remains the fundamental principle for coexistence among states. Codified in the UN Charter is the principle of the prohibition of threats by other states to territorial integrity, including the use of force, or undermining political independence.⁶⁰ States are therefore reluctant to recognise the existence of contested states and thereby appear unwilling to undermine the territorial integrity of the 'parent state' or enable processes that facilitate secession of a territory.⁶¹ This reluctance is also evident from the fact that new states emerging from acts of unilateral secession have not been admitted to the United Nations.⁶² Thus, the international community is averse to encouraging or condoning secession action against the will of the former 'parent state'.⁶³ Nonetheless, new states do emerge. Secessionist movements, decolonisation and the dissolution of the Soviet Union and the former Yugoslavia have all led to the creation of new independent states. In the following section, I will outline how international law has approached these developments.

1.3 Territorial Integrity, Self-Determination and Secession

The traditional approach towards statehood in customary international law was codified in 1933 in the Montevideo convention.⁶⁴ This set the criteria for a state as: (1) holds a permanent population, (2) has a defined territory, (3) has a government, and (4) has the capacity to enter into relations with other states.⁶⁵ The implication of these criteria is that a state would then be eligible for recognition. However, the Convention also states, in Article 3, that the existence of the state is independent from any external

⁶⁰ Mainly in Article 2, particular 2(4) as 'All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.' United Nations (1945) Charter of the United Nations, 24 October 1945, 1 UNTS XVI.

⁶¹ Crawford, J. (1999) State Practice and International Law in Relation to the Secession, *British Yearbook of International Law* (1998) 69 (1): 85-117, p. 87.

⁶² Crawford, J. (2007) *The Creation of States in International Law*, Oxford Scholarship Online, p. 390.

⁶³ Ker-Lindsay (2011) p. 7.

⁶⁴ Montevideo Convention on the Rights and Duties of States, Dec.26, 1933, 49 Stat. 3097, 165 L.N.T.S. 19

⁶⁵ *Ibid* Article 1.

recognition.⁶⁶ These criteria indicate a commitment to *de facto* statehood and give a priority to the control over a territory, which was very much in line with thinking on secession during the nineteenth and early twentieth century.⁶⁷ The criteria, however, do not address the questions of legitimacy or self-determination of states, nor the issue of whether a state's existence may infringe on the territorial integrity of another or what effect recognition or non-recognition would have on this state. These are questions which have been central to the theory and practice on secession and recognition by states. Additionally, the emergence of the political principle of self-determination has affected notions of the legitimacy of a state in the post-War era.

It was not until the 19th century that self-determination became part of the romantic nationalist notions of statehood, as populations sought to establish national identities.⁶⁸ Legally, these nationalist notions of self-determination had been excluded in the early to mid 19th century, although they then gained significant support politically in Europe by the end of the century.⁶⁹ With new Leninist and Wilsonian ideas of self-determination and the dissolution of the European empires, the aftermath of the First World War saw an increasing rise in movements characterised by romantic nationalist approaches, and thus a rise in challenges to traditional statehood.⁷⁰

⁶⁶ Article 3 discussed in Fierstein (2009) p. 439. The theoretical implications of this will be discussed below in 2.4 in regards to declaratory and constitutive theories of recognition.

⁶⁷ Fabry (2010) *Recognizing States: International Society and the Establishment of New States Since 1776*, Oxford, Oxford University Press, p. 69.

⁶⁸ Koskenniemi, M. (1994) *National Self-Determination Today: Problems of Legal Theory and Practice. International and Comparative Law Quarterly* 43 (1994): 241–69, p. 249-250.

⁶⁹ *Ibid*, p. 253.

⁷⁰ *Ibid*, p. 254. Cassese summarises political claims for self-determination, which differ significantly from claims based on legal interpretations, as including: first, the right to territorial changes after a plebiscite, second, the democratic election of rulers (the Wilsonian approach), third, the emancipation from colonial rule, or fourth, secession by minorities. An in depth discussion of this literature is beyond the scope of this thesis. It is however important to note the progressing political debate on this subject since the French Revolution in 1789, while the legal approach considered self-determination only a political principle and prioritised territorial integrity and state sovereignty. Cassese, A. (1995) *Self-Determination of Peoples: A Legal Reappraisal*, Cambridge: Cambridge University Press, p. 32.

1.3.1 Internal and External Self-Determination

In the interwar period, the League of Nations responded to secessionist claims by establishing and encouraging legal settlements and processes rather than embracing nationalism.⁷¹ In this period, the difference between internal and external self-determination clarified the meaning of self-determination as a legal principle. External self-determination implies independence from outside political control, hence an independent state, while internal self-determination refers to the domestic political self-determination of a population and can include constitutional measures that give greater autonomy or increased rights to minorities.⁷²

The League of Nations established this distinction in the interpretation of self-determination in the case of the Finnish Åland islands in 1920. In response to the Swedish minority's claim for independence, the League of Nations established a Committee of Jurists, which presented their opinion in 1921. This decision provided a discussion of self-determination in international law in the aftermath of the first World War. The Committee highlighted that although during the first World War claims for self-determination had increased and become central to political debate, the League of Nations did not mention this principle in its charter.⁷³ It stated that while there was no legal principle of self-determination or right of secession, there was one of territorial integrity and that only a state could decide to shed part of its territory or give independence to a territory, one possibility being to let a population vote in a plebiscite.⁷⁴ Should, however, a state actively suppress a part of its population, this may be a matter in which the League of Nations should intervene. The committee clearly stated that this appeared not to be the case for the Åland islands.⁷⁵ To balance the principle of self-determination with that of territorial integrity in cases of claims of secession, the committee suggested measures that would strengthen the internal

⁷¹ Koskenniemi (1994) p. 254. Cites specifically the arrangements for the Saar Region, Danzig Upper Silesia and Åland islands.

⁷² Lauterpacht, H. (1947) *Recognition in International Law*, Cambridge: Cambridge University Press, p. 289.

⁷³ League of Nations (1920) *Report of the International Committee of Jurists*, League of Nations Official Journal, Special Supplement No. 3, p. 5.

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

freedom to self-determination granted to minorities.⁷⁶ The creation of this distinction between internal and external self-determination demonstrated the reluctance for allowing unilateral secession despite the emergence of the political principle of self-determination.⁷⁷

1.3.2 Decolonisation and Self-Determination

The principle of self-determination was included in the UN Charter of 1945.⁷⁸ The principle cited in this context was, however, one of external self-determination, hence referring to the rejection of external influences into domestic affairs.⁷⁹ The decolonisation process began in the 19th century, but in the 20th century, the United Nations coordinated the process, which was framed mainly as being one of recognising the external self-determination of former colonial territories from European empires. Decolonisation, as set out in the Declaration on the Granting of Independence to Colonial Countries and Peoples of 1960, facilitated the liberation of territories from colonial subjugation, which was deemed irreconcilable with the UN charter.⁸⁰ Thus, in the case of decolonisation, self-determination referred to external not internal aspects: its purpose was to emancipate territories from colonial rule rather than

⁷⁶ Ibid p. 6.

⁷⁷ Fierstein (2009) p. 426; Crawford (1999) p. 93.

⁷⁸ United Nations (1945) Art 1(2) 'To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace'. Art. 55 'With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: a. higher standards of living, full employment, and conditions of economic and social progress and development; b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.'

⁷⁹ Fierstein (2009) p. 427; Higgins, R. (2003) 'Self-Determination and Secession' in Dahlitz, J. eds. *Self Determination and Secession and International Law*, New York: The United Nations, p. 23.

⁸⁰ United Nations (1960a) UN Resolution 1514(XV) Declaration On the Granting of Independence to Colonial Countries and Peoples Adopted by General Assembly 14 December 1960 U.N. Doc. A/4684. Some provisions for decolonisation had been made previously in the Covenant of the League of Nations Art 22 and Chapter XI of the UN Charter. (Crawford (2007) p. 603) See also United Nations (1960b) General Assembly Resolution 1541 (XV) A/RES/1541(XV) Principles which should guide members in determining whether or not an obligation exists to transmit the information called for under Article 73e of the Charter (Dec 15 1960).

introducing external self-determination as a legal principle for other territories.⁸¹

The priority of external self-determination was upheld through the principle of *uti possidetis* [lat. as you possess] as the underpinning legal concept.⁸² *Uti possidetis* in this context meant that new states were able to declare their independence within previously existing colonial administrative boundaries. It had first been applied to self-determination claims in the cases of Latin American states claiming independence in the 19th century.⁸³ Fabry has provided an in-depth historical analysis of 19th century practices, which took into consideration both *de facto* control of a territory and introduced political requirements for recognition, such as ‘standards of civilisation’ as expressed in the Treaty of Vienna. In the period of decolonisation, Latin American states were recognised by Europeans to avoid largely unrecognised former colonial territories, despite the fact that in certain cases the *de facto* criteria had not been fulfilled.⁸⁴

The principle of *uti possidetis* was applied again to the decolonisation of African states in the 20th century. Here the borders to be maintained were those between different colonial powers, rather than former administrative borders.⁸⁵ *Uti possidetis* was not used to the exclusion of other practices of establishing postcolonial borders. In some cases, agreements were negotiated between colonial powers, but *uti possidetis* was the underlying framework.⁸⁶ Those applying *uti possidetis* sought to provide order to the breakup of colonial territories and prevent contested or unclaimed territories; application of the principle also prioritised the external self-determination from colonial powers over internal self-determination.

⁸¹ The concept originated from Roman Law to decide on legitimate ownership in property disputes. The doctrine was changed from private property to apply to state sovereignty to facilitate the decolonisation process. Cassese (1995) p. 74.

⁸² Ibid

⁸³ Ratner, S.R. (1996) Drawing a Better Line: Uti Possidetis and the Borders of New States *The American Journal of International Law*, Vol. 90, No. 4 (Oct. 1996) pp. 590-624 p. 593.

⁸⁴ Fabry (2010) p. 69 and Caplan (2005) p. 52.

⁸⁵ Ratner (1996) p. 596.

⁸⁶ Ibid, p. 599.

The UN and its member states reinterpreted the principle of internal self-determination after decolonisation, giving it greater importance.⁸⁷ The UN Covenant on Civil and Political Rights and the Covenant on Economic, and Cultural Rights in 1966 refer specifically to self-determination in the internal sense.⁸⁸ The 1970 Declaration on Friendly Relations⁸⁹ was interpreted as expanding the meaning of self-determination to include aspects of internal self-determination. However, it also included a so-called ‘saving clause’, which reiterated the importance of the territorial integrity of states.⁹⁰ While it does not explicitly refer to secession or prohibit it, the declaration emphasises the importance of states adhering to the obligations set out in the declaration and the territorial integrity of those who do so.⁹¹ The Helsinki Final Act of 1975 also explicitly stated the validity of upholding self-determination outside of the decolonisation process.⁹² The priority remained, however, on territorial integrity and the act did not establish a principle of right of secession.⁹³

1.3.3 Dissolution at the End of the Cold War

The break ups of the East European communist and socialist regimes, including the Soviet Union, Czechoslovakia and Yugoslavia, were approached as a dissolution of unions rather than as secessionist claims based on self-determination.⁹⁴ However, they did reinforce certain principle that shape international approaches towards secession, not least of all the principle of *uti possidetis*.

⁸⁷ Koskeniemi (1994) p. 241.

⁸⁸ United Nations (1966a) UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171 Art 1; United Nations (1966b) UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, General Assembly (1966b) Art. 1.; Ratner (1996) p. 612.

⁸⁹ United Nations (1970) UN General Assembly, Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 24 October 1970, A/RES/2625(XXV)

⁹⁰ Crawford (1999) p. 113.

⁹¹ United Nations (1970); Ratner (1996) p. 611.

⁹² Ratner (1996) p. 612.

⁹³ Koskeniemi (1994) p. 242; Cassese (1995) p. 289.

⁹⁴ Fabry (2015) p. 501. A discussion of the EU policy towards the Republics of the former Soviet Union other than the application of EU conditionality is beyond the scope of this but discussed in greater detail in *Ibid*, p. 181-189.

In the case of Yugoslavia, the European Community established the Arbitration Commission of the Peace Conference on Yugoslavia consisting of five presidents of European constitutional courts under the presidency of Robert Badinter (hereinafter the Badinter Commission). The Commission was tasked with establishing legal guidelines on the recognition of the states emerging from the dissolution, which was initiated by secessionist claims from some of the former constituent republics. However, the Commission interpreted the process as one of dissolution, and thus did not consider the independence claims under the self-determination justification. The Commission oversaw, the management of the dissolution of the Federal Republic, rather than any consideration of self-determination claims.⁹⁵ The Commission therefore applied *uti possidetis* by granting recognition along the formerly established federal borders between the former Republics. The European Community then established conditions for recognition, which included the provision of protection of minorities in the new independent states, thus encouraging internal self-determination.⁹⁶ The principle of *uti possidetis* was intended to avoid further breakaways from groups such as Serbian minorities in Croatia, Kosovo Albanians in Serbia, or Serbian minorities in Kosovo.⁹⁷ Below, I will discuss in detail the political aspects of the use of *uti possidetis* in this particularly recognition process, a legal analysis of which shows a continuing reluctance to embrace secessionist movements and contested states: instead, the international community framed the case of Yugoslavia as a dissolution. This commitment can also be seen in the fact that the former Republics became members of the United Nations only once they had all declared independence, including Serbia and Montenegro, and recognised each other.⁹⁸

⁹⁵ Crawford (1999) p. 100.

⁹⁶ Ibid, p. 103.

⁹⁷ Caplan (2005) p. 77.

⁹⁸ Crawford (1999) p. 102. The case of Montenegro's secession from Serbia in 2006 is an example of a secession approved by the former parent state. In 1992, Montenegro joined with Serbia in the Federal Republic of Yugoslavia (FRY), although it would have qualified for independence under *uti possidetis*. A referendum was held of which the democratic process was questioned. [Friis, K. (2007) The Referendum in Montenegro: The EU's 'Postmodern Diplomacy' *European Foreign Affairs Review* 12: 67–88, 2007] However, in the early 2000s, domestic support for the independence of Montenegro grew. The EU brokered the Belgrade agreement between Serbia and Montenegro in 2003 and approved a referendum to take place three years later. [Friis (2007) pp. 69-78] The FRY was renamed State Union of Serbia and Montenegro in this three-year period. The referendum resulted in a pro-independence

Despite these developments regarding the self-determination principle since the Second World War and decolonisation, legally there has not been increased support for greater external self-determination or a right to secession. The case of the secessionist claim of Quebec from Canada is a key example that highlighted this continuity. In this case, the Constitutional Court ruled in 1998 that Quebec's self-determination was fulfilled within the State of Canada and that there was no support for a claim for external self-determination. The court justified its decision referring to the facts that the Quebecois are not a repressed or colonised people and have access to political rights within the Canadian state.⁹⁹ Using similar arguments to the case of Åland islands, the court reiterated the importance of internal self-determination rather than external self-determination. However, while the court concluded that secession would not be justified legally, it did point out that *de facto* secession would be impossible to prevent under international law.¹⁰⁰ Thereby, the decision acknowledged the tension and limits within international law in providing clarity to claims of secession, and thus the political implications of secessionist movements.¹⁰¹

The legal situation remains unclear. Whilst, international legal documents do not explicitly forbid or establish clear sanctions against secession, territorial integrity remains the priority. Moreover, there is also no clear process for secession and no institutions exist that might facilitate any potential secession. The closest approximation to a framework for managing secession was the that used during decolonisation; however, the legal framework that successfully managed decolonisation emerged from a very specific historical context and did not embrace internal self-determination, as independence was framed by *uti possidetis*.

vote. [Fawn (2008) The Kosovo- and Montenegro - Effect', *International Affairs* 84: 2 (2008) pp. 269–294, p. 276] The Belgrade agreement had defined a minimum of 55% majority as a requirement for independence. Montenegro was quickly recognised by Serbia as well as the EU and all UN Security Council members. [Fawn (2008) p. 275; Friis (2007) p. 83]

⁹⁹ Crawford (2007) p. 411; Supreme Court of Canada (1998) Reference re Secession of Quebec, [1998] 2 S.C.R. 217 No 61 para 155, 115 ILR 537, 595.

¹⁰⁰ Crawford (2007) p. 389; Supreme Court of Canada (1998).

¹⁰¹ Fierstein (2009) p. 440.

Support for self-determination as a justification for secession has been weak unless in cases of specific historical dissolutions of former empires or federal states, such as decolonisation or the end of the communist or socialist regimes in Eastern Europe. An example in which a unilateral declaration was supported by the international community is the independence of Bangladesh from Pakistan, in which case humanitarian issues were given as a justification. However, even in this case, Bangladesh was only admitted to the United Nations after its recognition by Pakistan in 1974.¹⁰² Despite the humanitarian considerations in the Bangladeshi case, these have not been applied to other cases: often cited examples are Iraqi Kurds or Sri Lankan Tamils.¹⁰³ Thus, the concept of ‘remedial secession’, through which states can claim independence based on injustice inflicted upon them through persecution or even genocidal acts by the ‘parent’ state and thereby triggering some form of stronger self-determination case has been weak historically. However, I will demonstrate in this thesis such arguments have been used in supporting the independence of Kosovo,

1.4 Declaratory and Constitutive Recognition Theories

Above I have discussed the issue of secession and how the emergence of new states has been facilitated by the international community. A related issue, touched on in this Chapter above is that of recognition by other states. What role does recognition play and can states exist without being recognised by the entire international community? From a legal perspective, there are two broad approaches to this question. These are the *declaratory* and *constitutive* theories. Declaratory theory argues that the declaration of independence in itself is, and should be, central to the process of gaining independence. In contrast, the constitutive approach concentrates on the importance of achieving recognition from other states.¹⁰⁴ As I will discuss below, while international law has been dominated by declaratory theory, the IR literature has been

¹⁰² Crawford (2007) p. 180; Fierstein (2009) p. 437; Fabry (2015,) p. 502.

¹⁰³ Ker-Lindsay (2011) p. 233; Fierstein (2009) p. 431; Crawford (1999) p. 108.

¹⁰⁴ Eckert, A.E. (2002) Constructing States. The Role of the International Community in the Creation of States *Journal of Public and international Affairs*, 13 pp. 19-39, p. 21-23.

predominantly based on constitutive theory and particularly those authors who focus on norms and values have taken the political issue of recognition into consideration.

From the declaratory perspective, the practices of recognition of new states was traditionally treated according to natural law and was based on customs, which considered material attributes of states to be the defining feature and refers to the Montevideo Convention of 1933. The convention sets out practical *de facto* aspects as the defining features and necessary requirements for a state.¹⁰⁵ With this approach, states recognise these objectively measurable and material attributes rather than judge with normative consideration whether a state should be independent. Recognition in itself is not acknowledged: it is explicitly excluded in article 3.¹⁰⁶ The declaration of independence and the fulfilment of these criteria are sufficient for the state to exist.¹⁰⁷ This approach does not engage with the political aspect of recognition or non-recognition. It does not discuss the effect of recognition on a declaration of independence or the *de facto* existence of the state.¹⁰⁸ The approach emphasises the practicalities of a state existing as an independent entity rather than the legitimacy of its existence or its government.¹⁰⁹

In contrast, constitutive theory rejects the premise of the factual understanding of declaratory theory and is based rather on the assumption that for states to exist they need to be acknowledged within the international system as a subject. This theory emphasises the legal nature of states and their obligations to international society, and thus, to be part of this society, recognition from other states is necessary.¹¹⁰ In the legal

¹⁰⁵ (1) permanent population, (2) a defined territory, (3) a government and the capacity to enter into relations with other states, Montevideo Convention on the Rights and Duties of States (1933).

¹⁰⁶ Article 3 specifically excludes the necessity of recognition for a state to ‘defend its integrity and independence (...)’ Similarly in the case of *Deutsche Continental Gas Gesellschaft, v Polish State* (1929) AD 11, Art 13 the mixed German-Polish Arbitration Tribunal that recognition is not constitutive and that a state does not need to be undisputed in its territory but needs to have ‘sufficient constituency.’ Discussed also in Caplan (2005) p. 56.

¹⁰⁷ Eckert (2002) p. 21, Fabry (2010) p. 5.

¹⁰⁸ Crawford, J. (1976) The Criteria for Statehood in International Law *British Yearbook of International Law* 48 (1): 93-182. p. 22, See also Caplan (2005) p. 58-57.

¹⁰⁹ Crawford (1976) p. 4.

¹¹⁰ Eckert (2002) p. 23.

literature, Lauterpacht considers it a duty for others to recognise functioning states. Müllerson, as well as Hillgruber, points out that recognition can act as a strengthening mechanism or even substitute for unfulfilled conditions as set out by the Montevideo Convention.¹¹¹ Thus, while declaratory theory rejects the political process, constitutive theory sees it as central to the creation of a state. It does not, however, resolve the tensions which arise between the principles of self-determination and territorial integrity.

1.5 International Relations and Recognition Theories

The debate between constitutive and declaratory theories originated from the legal literature. In the International Relations literature, the question of whether recognition matters, is related to the core issue of our understanding of sovereignty and the role of the state. As I will show below, some Neorealist accounts with a more fixed understanding of sovereignty of states are implicitly compatible with the declaratory approach.¹¹² However, because of the more complex notions of sovereignty and the acknowledgement of the social aspects of the international system by schools of thought in IR, the constitutive approach has been dominant in International Relations literature.

The traditional understanding in the International Relations literature of sovereignty is that of Westphalian sovereignty, understood as strong and unshakable sovereignty of a state, both through the principles of domestic authority and non-interference.¹¹³ The Westphalian reference comes from the Peace of Westphalia of 1648. However, Krasner points out that this is historically incorrect as this system was only in place in the late 1700s.¹¹⁴ The acceptance of European states of each other's sovereignty and

¹¹¹ Lauterpacht (1947) p. 6; Müllerson (1994) *International Law, Rights and Politics*, London: Routledge, p. 123; Hillgruber, C. (1998). *The Admission of New States to the International Community* 9 *European Journal of International Law* p. 493, discussed in Caplan (2005) p. 59-60.

¹¹² This will be discussed in regards to Waltz in particular.

¹¹³ Coggins, B. (2014) *Power Politics & State Formation in the 20th Century: The Dynamics of Recognition* Cambridge: Cambridge University Press, p. 20.

¹¹⁴ Krasner (1999) *Sovereignty: Organized Hypocrisy*; Princeton, NJ: Princeton University Press p. 20.

the consequent assumption of anarchy in the international system, is usually associated with a Westphalian system and embraced by structural realism.¹¹⁵ Waltz's structural realist, or Neorealist theory, defined a generation's understanding of IR in the 20th century. It described the international system in a state of anarchy and attributed the sovereignty of states to the absence of a higher authority.¹¹⁶ Waltz translated the philosophical tradition of Machiavelli or Hobbes into a resolute systemic theory for the international. States were understood as sovereigns acting in their self-interest.¹¹⁷ Alternative and more traditional realist notions of sovereignty, such as those of Carr, who considered sovereignty as an inherently and increasingly blurred concept, were not incorporated into the Neorealist approach.¹¹⁸ The Westphalian model of sovereignty is an assumption that underpins Neorealist and Neoliberal theories, as well as some Constructivist concepts. Such approaches can accept the declaratory theory of recognition as they take sovereignty to be a finite and measurable concept. However, most schools of IR take a more complex view of sovereignty.

In his critique of the traditional understanding of sovereignty, Krasner pointed out four ways in which it has been conceptualised within International Relations. These are Westphalian sovereignty, mainly defined by non-interference from other actors, Legal Sovereignty, which refers to the recognition of states by others, Domestic Sovereignty, the internal authority and legitimacy of a state and, finally, Interdependence Sovereignty, a state's ability to control its interaction with other states.¹¹⁹ Krasner claims that these assumptions of sovereignty are legendary rather than based on

¹¹⁵ Coggins (2014). For a comprehensive discussion see Coggins from p. 21 in relation to recognition practices. She provides a historical discussion of the emergence of the principles in relation and its importance for the international system.

¹¹⁶ Biersteker, T.J. and Weber, C. (1996) *The Social Construction of state Sovereignty* in Biersteker, T.J. and Weber, C. eds. *State Sovereignty as Social Construct*; Cambridge: Cambridge University Press, p. 5.

¹¹⁷ Structural Realism is fundamentally defined by five assumptions: Firstly, states are the main actors in world politics and they operate in an anarchic system, secondly, states possess some offensive military capabilities, thirdly, the security dilemma which is defined by state's uncertainty about the intentions of others, fourthly, state survival is the key goal of the state and, finally, states are rational actors [Mearsheimer, J. (2006) 'Structural Realism', in Dunne, T., Kurki, M. and Smith, S. eds. *International Relations Theories: Discipline and Diversity*, Oxford: University Press, p. 74].

¹¹⁸ Bierstecker and Weber (2011) p. 5; Carr, E.H. (1964) *The Twenty Years Crisis, 1919-1939*. New York: Harper & Row, p. 229.

¹¹⁹ Krasner (1999) p. 4, specifically 'Neorealism begin with the assumption that Westphalian sovereign states are the constitutive actors of the system.'

empirical evidence. Particularly relevant, in view of the legal debate on internal and external self-determination, Krasner argues that Westphalian Sovereignty has been compromised by external intervention and Domestic Sovereignty has been weak. According to him the assumed fundamental aspects of ‘territory, recognition, autonomy and control’, do not reflect state practice.¹²⁰

As already mentioned above, even among Realists and Rationalists, more nuanced approaches to sovereignty have been developed. Neoliberalism shares the anarchical assumption of the international system with Neorealists. However, Neorealists consider International Relations to be institutionalised to some extent to mitigate the effects of anarchy.¹²¹ Regime theory focuses specifically on the relationship between international law and International Relations from a rationalist perspective and has developed within Neoliberalism, while it has also received some traction among Neorealists. Regime theorists argue that on specific issues states collaborate and work with ‘common principles, norms, rules and decision making procedures’ by building regimes.¹²² Regime theorists are divided on the degree of formality of such regimes or the effectiveness of implementing sanctions against states that do not act according to regimes. Depending on a realist, liberal, or constructivist approach, regime theorists also disagree on whether the basis of their approach towards regimes should be power, interest or knowledge.¹²³ Regime theorists therefore acknowledge shared rules in the international system, the role of international institutions and a more complex interrelationship with sovereignty than in the traditional Westphalian definition. Caplan argues that the rules, norms and institutions established around recognition up until the dissolution of Yugoslavia can be understood as a regime. He argues this, despite the fact that legal principles have been contested at times, as in the case of the tension between the principle of self-determination and territorial integrity. For regime theorists, regimes exist as long as they serve the interests that are reflected in their

¹²⁰ Ibid, specifically spelled out in p. 8 and p. 220.

¹²¹ Caplan (2005) p. 81, Keohane, R.O. (1989) *International Institutions and State Power: Essays in International Relations Theory* Boulder, CO: Westview, p. vii.

¹²² Krasner (1982) p. 185.

¹²³ Caplan (2005) p. 84.

principles. Thus Caplan points out that the recognition regimes which allow a state to gain independence reflect the interest of the recogniser.¹²⁴

The discussion of recognition has been particularly compatible for IR schools that follow social approaches. Constructivists or authors of the English School consider sovereignty less of a given assumption but analyse the interaction of states' behaviours with the norm. For the English school, the Westphalian model represents a norm accepted within International Society.¹²⁵ Overall, it considers the rules and norms that states establish amongst themselves and guides state behaviour.¹²⁶ English School authors have tried to explain the discrepancies between the Westphalian system and reality but have sought to do so by explaining shared ideas. Criticising this approach, Krasner argues that leaders are able to choose between material and ideational resources rather than being led mainly by norms and values.¹²⁷ Due to its inclination to engage with legal debates through a normative lens, the English School is the theoretical approach in IR that has engaged more comprehensively with the question of recognition of new states in international society. Fabry highlights that, for most English School authors, mutual recognition is a fundamental aspect of a functioning International Society.¹²⁸ A debate thus emerges in regards to the origin of the state and the question of whether a state can exist without recognition. Manning and James argue that sovereignty is possible without recognition. In contrast, Wight argues that, since sovereignty is defined by international law resulting from shared norms, one cannot claim sovereignty outside the recognition of this community of states. He thus spells out the rationale for a wholly constitutive approach to recognition.¹²⁹

Constructivism in International Relations has also considered recognition in great detail. Constructivist approaches have focused on changing interpretations of

¹²⁴ Caplan (2005) p. 85, 87.

¹²⁵ Krasner (1999) p. 44.

¹²⁶ Coggins (2014) p. 26.

¹²⁷ Krasner (1999) p. 55-56.

¹²⁸ Fabry (2010) p. 3.

¹²⁹ Ibid, p. 3.

sovereignty.¹³⁰ Both Systemic and Social Constructivists consider the construction and external aspect of sovereignty as being central to recognition. Social Constructivists highlight changing norms towards sovereignty and criteria for membership in international society. They are interested in change in the international system and thus challenge the, in Ruggie's words, reproductive logic of Neorealism, which is unable to explain change in the international system.¹³¹ Thus, any change in the interpretation of sovereignty is also inherently connected to the issue of recognition. Constructivists consider sovereignty a social construct and recognition of such sovereignty is a central aspect in the creation of the state itself.¹³²

Among Constructivists there is general agreement on the social construction of recognition. Wendt's Systemic Constructivism also accepts the social construction of states.¹³³ He offers an alternative view of the anarchical system, in which states not only strive for security, as in the neorealist logic, but also for recognition in the international system. Thus, in a clear constitutive interpretation of recognition, he argues that states seek to become part of an international society and to be recognised as a unit within this system.¹³⁴

Other Constructivists go further and also consider aspects of statehood, such as territory, population and authority to be socially constructed.¹³⁵ Those who engage with the concept of recognition rejected the rationalist explanation, which assumes the state as a rational actor, and instead have focused on recognition through identity building.¹³⁶ Such accounts have focused on the interaction between the recognising

¹³⁰ Krasner (1999) p. 45.

¹³¹ Bierstecker and Weber (2011) p. 6; Ruggie, J. (1983) 'Continuity and Transformation in the World Polity: Toward a Neorealist Synthesis' *World Politics* 35: 261-95.

¹³² Bierstecker and Weber (2011) p. 2.

¹³³ Wendt, A. (1987) 'The agent structure problem in international relations theory.' *International Organization* 41, pp 335-370, p. 246.

¹³⁴ Wendt (2003) Why a World State Is Inevitable, *European Journal of International Relations*, 9:4, 491-542, p. 510-11. Wendt further described for 'thick' versus 'thin' recognition, but this is beyond the scope of this chapter.

¹³⁵ Bierstecker and Weber (2011) p. 3.

¹³⁶ Ringmar, E. (2002) The Recognition Game: Soviet Russia Against the West Cooperation and Conflict: *Journal of the Nordic International Studies Association* Vol. 37(2): 115-136.

state and the recognised or unrecognised state.¹³⁷ Authors have borrowed mainly from sociological and psychological literature on recognition; Such authors have offered an affective dimension to the interpretation of recognition, which challenges the traditional more rationalist approach.¹³⁸ To what extent application of these theories originally developed to account for individual behaviour can be applied to the psychology of the state remains a debate in this specific literature.¹³⁹ The literature has also moved beyond considering only states and formal interaction as part of the recognition process. Some consider acts of recognition beyond formal diplomatic or legal recognition practices, taking into consideration informal and social acts of recognition.¹⁴⁰ This has included consideration of actors beyond the state who seek recognition.¹⁴¹

Critical theorists have sought to move away from the psychological emphasis towards examining normative implications of recognition that take into consideration relations of power. This approach builds on the tradition of questioning the origins and normative approach of international law.¹⁴² The negative consequences of recognition, such as its exclusive nature or the reproduction of social injustices, have been central to sociological discussions of recognition in normative political theory. The literature in International Relations has also begun to engage with these questions more

¹³⁷ Honneth, A. (2012) Recognition between States: On the Moral Substrate in International Relations, in Lindemann, T, and Ringmar, E. (eds) *The International Politics of Recognition*; Boulder, CO: Paradigm Publishers; p. 25-38, p. 28. Murray, M. (2012) Recognition, Disrespect and the Struggle for Morocco: Rethinking Imperial Germany's security Dilemma' In Lindemann, T, and Ringmar, E. (eds) *The International Politics of Recognition*; Boulder, CO: Paradigm Publishers; pp. 131-152, p. 134.

¹³⁸ Such as Fraser, N. (2000) Rethinking Recognition, *New Left Review*, 3, 107–20.

¹³⁹ Honneth (2012) p. 34. Taylor, C. (1992) The Politics of Recognition in A. Gutmann (ed.) *Multiculturalism: Examining the Politics of Recognition*, Princeton: Princeton University Press, pp. 25–73 is considered the origin of the sociological and political analysis of recognition among individuals in multicultural societies. Wendt, A. (2004) The State as Person in International Theory, *Review of International Studies*, 30:2, 289–316 has contributed to the discussion on approaching the state as an individual.

¹⁴⁰ Daase, C. et al (eds.) (2015) Recognition in International Relations: rethinking a political concept in a global context. Basingstoke: Palgrave Macmillan., see also Agné, H., et al (2013) Symposium: The Politics of International Recognition, *International Theory*, 5:1, 94–176.

¹⁴¹ Heins, V. (2008) Nongovernmental Organizations in International Society: Struggles over Recognition, Basingstoke and New York: Palgrave Macmillan.

¹⁴² Iser, M. (2015) Recognition between States? Moving beyond Identity Politics, in Daase et al (eds) Recognition in International Relations: rethinking a political concept in a global context. Basingstoke: Palgrave Macmillan, p. 27.

recently.¹⁴³ Finally, with greater attention to the issue of recognition, the practice and implication of non-recognition has also emerged in both the rationalist and constructivist approaches.¹⁴⁴

Thus, while, declaratory theory is a conventional concept in the legal debate on recognition, it is applied only by a minority of IR schools of thought, such as by some authors of the English School, and it can be considered to be a consequence of Neorealist logic. However, authors who apply declaratory theory do not engage with the issue of recognition to a great extent. Above, I have briefly outlined the thinking of schools of thought that have discussed recognition with a constitutive assumption and the recent developments in the literature.

Below I will explore the interpretation of recognition as intervention to manage a conflict. This approach has been applied in both rationalist and constructivist approaches and can be applied to the EU's recognition policy during the dissolution of Yugoslavia as a conflict management tool.

1.6 Recognition as Conflict Management

With a constitutive approach comes therefore a consideration of the the political aspects of recognition it this is also applicable to an analysis for recognition as a foreign policy decision. Above I have outlined how the international community has attempted to provide legal guidelines and rationales for recognition, facilitate this complex process, and balance new claims of independence with the territorial integrity

¹⁴³ Geis, A. et al (2015) Gradual Processes, Ambiguous Consequences: Rethinking Recognition in International Relations in Daase et al (eds) Recognition in International Relations: rethinking a political concept in a global context. Basingstoke: Palgrave Macmillan, discuss the international aspect of the so-called 'dark side of recognition' as outlined for the domestic and social context by Hitzel-Cassagnes, T. and R. Schmalz-Bruns (2009) Recognition and Political Theory. Paradoxes and Conceptual Challenges of the Politics of Recognition, RECON Online Working Paper 11/2009 or Markell, P. (2003) Bound by Recognition; Princeton: Princeton University Press.

¹⁴⁴ Caspersen, N. (2012) Unrecognized States: The Struggle for Sovereignty in the Modern International System, Cambridge, MA: Polity Press; Ker-Lindsay (2012) The foreign policy of counter secession: preventing the recognition of contested states, Oxford: Oxford University Press; Krasner (2013) Recognition: organized hypocrisy once again, *International Theory*, 5, pp 170-176a.

of existing states. From this the tensions between the practice of recognition through pure *de facto* and measurable understandings of statehood on the one hand and the political considerations of recognising states on the other are evident. Here I will set out how specifically the approach of understanding recognition as conflict management provides a framework for the political considerations in the process of recognition.

Despite the legal principles established, the Montevideo Convention or *uti possidetis*, political aspects have played an important role for recognising states throughout history. Above I have mentioned that in the 19th century some Latin American states were recognised prematurely as independent, as they had not fulfilled the *de facto* criteria.¹⁴⁵ At the same time, normative conditions were applied, too. For example, Britain demanded that Brazil abolish slavery as a condition for its recognition. This shows the clear influence of normative considerations of recognition.¹⁴⁶ I have discussed how the decolonisation of African states in the 20th century is generally understood as an application of the principle of external self-determination to facilitate independence from colonial powers. The recognitions of these new states have also included normative aspects. Some states, such as the Congo, were recognised before fulfilling the *de facto* criteria; however, Rhodesia, remained unrecognised as the international community boycotted the racist white minority regime.¹⁴⁷ Ultimately, the process of recognition was driven by international actors and former colonial powers rather than being defined by those states gaining independence. Coggins therefore points out the importance of considering the interests of recognising states in the process. She highlights the top-down social influence in the creation of new states and the necessity for International Relations literature to engage with this political aspect. She argues that states seek to establish themselves in regards to the conventional Montevideo criteria as independent and pursue international recognition at the same time.¹⁴⁸

¹⁴⁵ Fabry (2010) p. 69 See 1.3.2 Decolonisation and Self-Determination in this Chapter.

¹⁴⁶ Fabry (2010) p. 66.

¹⁴⁷ Caplan (2005) p. 53.

¹⁴⁸ Coggins (2014) p. 36.

Thus, authors have engaged with the political and strategic aspects of the process of recognition. Such approaches have build the conceptual understanding based on the case of the recognition of the post-Yugoslav states. Such an analysis of the process takes a constitutive approach. Above I have briefly outlined how, in the case of the dissolution of Yugoslavia, the international community set out a legal and political process for recognition. *Uti possidetis* was applied in regards to drawing out the border of the newly independent states in the Western Balkans. The Badinter Commission treated the process as the dissolution of Yugoslavia and hence saw the recognition of the new states as a matter of managing this change. Independence was not granted based on self-determination claims.¹⁴⁹ Additionally, the European Union applied conditions for these new states to be recognised, which focused mainly on minority protections and aspects of the rule of law.¹⁵⁰

In reference to the dissolution of the SFRY, Caplan and Zaum have described this process as one in which recognition was used as an intervention in the conflict.¹⁵¹ Caplan has described the recognition of Croatia by European states, thus, as a conflict management and intervention strategy.¹⁵² Conflict management implies an interim policy from external actors after violence has erupted, thus fighting can no longer be prevented, and before a longer term conflict resolution process can be put in place.¹⁵³ However, by using the term ‘conflict management’, I refer to the policy undertaken by external actors who seek to create the conditions for conflict resolution in the future. Since the conflicts in the former Yugoslavia were considered mainly of an internal nature, conflict resolution would only be possible with the engagement of internal conflict parties at a later stage. Conflict management tools, according to McGarry and O’Leary, can include variations of new governance structures, which can give specific rights and autonomy to specific groups in a territory.¹⁵⁴ Thus, similarly to the legal

¹⁴⁹ Crawford (1999) p. 100.

¹⁵⁰ Crawford (1999) p. 103.

¹⁵¹ Caplan (2005); Zaum (2007).

¹⁵² Caplan (2005) p. 25.

¹⁵³ Ibid p. 4.

¹⁵⁴ These include hegemonic control, arbitration, cantonisation/federalisation, consociationalism and

provisions discussed above, these tools are different forms of granting internal self-determination to minorities or parties of the conflict. Caplan considers recognising independence as the internationalisation of the conflict and therefore an elevated version of such conflict management.

The other conflict management aspect of recognition is, according to Caplan, the use of conditionality attached to recognition.¹⁵⁵ He argues that change in the traditional recognition regime to the use of conditionality can be explained with strategic interest of recognising states, in this case the EU, who sought greater involvement and participation in the newly arising state of Croatia.¹⁵⁶

Caplan's rationalist interpretation of the recognition process has also been echoed in constructivist approaches. For Zaum particularly conditional recognition represents the establishment of further conditions to join a society of states.¹⁵⁷ Above I mentioned that constructivists consider a consequence of anarchy in the international system to be that states seek recognition and that competition for recognition can lead to conflict.¹⁵⁸ Therefore, the constructivist approach also considers the conditionality from the EU as being an involvement in the struggle between the two conflicting parties.

Therefore, I will now describe in more detail the interpretation of the recognition of Croatia as an interventionist and conflict management policy. I will focus on the two core elements, internationalisation of a conflict and conditional recognition.¹⁵⁹

power-sharing. Described in McGarry, J. and O'Leary, B. (1993) Introduction, in McGarry, J. and O'Leary, J. (eds.) *The Politics of Ethnic Conflict Regulation: Case Studies of Protracted Ethnic Conflicts*, London: Routledge, pp. 1–40.

¹⁵⁵ Ibid, p. 25.

¹⁵⁶ Ibid, p. 73.

¹⁵⁷ Zaum (2007) p. 33.

¹⁵⁸ Wendt (2003); Lindemann, T. (2010) *Causes of War: The Struggle for Recognition*, London: ECPR Press.

¹⁵⁹ Caplan (2005) p. 25.

1.6.1 Internationalisation of the Conflict

For Caplan, the recognition by EU member states of the former Republics of Yugoslavia had a clear strategic aspect and internationalising the conflict was central to this logic.¹⁶⁰ The EU sought to grant an international legal personality through recognition and thereby allow international intervention in the conflict, which otherwise would have remained a civil war and an thus internal conflict.¹⁶¹

‘Internationalising’ a conflict by recognition goes to the core of the tension between the principle of self-determination for the peoples in the newly arising state, on the one hand, and, the territorial integrity of the former ‘parent state’, on the other. As seen in case law in examples such as the Åland Islands or Quebec, secessionist claims have been mainly considered invalid if using self-determination claims. Instead, courts have promoted advanced forms of federalism, political autonomy and provisions for minority rights, thereby highlighting the difference between internal and external self-determination.¹⁶²

When *uti possidetis* was applied in the case of the former SFRY, this was done to facilitate its dissolution and to prevent any further secessionist claims outside the former federal borders.¹⁶³ The legal concept of *uti possidetis* was used as a precedent. Caplan questions the inevitable use of *uti possidetis* and considers it a political choice, arguing that the EU was not obliged to do so.¹⁶⁴ Additionally, he argues, *uti possidetis* was not created to be implemented outside of the decolonisation process and hence was to some extent misapplied.¹⁶⁵ He emphasises that International Law is not static and practice within it changes continuously.¹⁶⁶ Thereby echoing Lauterpacht’s point

¹⁶⁰ Caplan (2005) p. 16 and 25.

¹⁶¹ Caplan, R. (2002) Conditional recognition as an instrument of ethnic regulation: The European Community and Yugoslavia, *Nations and Nationalism*, 8(2) 2002 157-177, p. 164-5.

¹⁶² Crawford (2007) p. 389; Supreme Court of Canada (1998).

¹⁶³ Caplan (2005) p. 77.

¹⁶⁴ Caplan (2005) p. 71.

¹⁶⁵ Ibid, p. 71 Badinter refers specifically to the ICJ judgment on Frontiers Dispute Case (Burkina Faso v. Republic of Mali) in which *uti possidetis* was applied. See also Radan, P. (1997) 'The Badinter arbitration commission and the partition of Yugoslavia', *Nationalities Papers*, 25: 3, 537 – 55, p. 549.

¹⁶⁶ Caplan (2005) p. 93.

that recognition is not a matter governed by law but a question of policy.¹⁶⁷ Zaum interprets the use of the EU's decision to uphold the concept of *uti possidetis* as a clear indication that the international community was unwilling to put the international order of the time at risk. Despite the interventionist intention in the conflict the EU intended to maintain the existing borders as far as possible.¹⁶⁸ Caplan therefore argues that the rationale behind the recognition was 'to mitigate the conflict and prevent further expansion'.¹⁶⁹ Due to this limits of internationalisation the conflict through *uti possidetis* the conditional recognition constitute the second aspect of the more interventionist recognition policy.

1.6.2 Conditional Recognition

Policy conditionality has long been used by states to influence the policy of others. Often conditionality is associated with aid provided on condition of the appliance of socio-economic policies, which the receiving state may otherwise not follow. Increasingly conditionality by Western states has also included the implementation of Human Rights policies, the European Union having increasingly made use of this approach.¹⁷⁰

Within the context of recognition, Zaum refers to the increased use of political conditions beyond those of the Montevideo criteria or universal Human Rights, which in the case of the former Yugoslavia focused explicitly on the internal governance of the new states in reference to minority rights.¹⁷¹ Such policies also existed in the decolonisation era but were exceptions. Conditions included the rejection of certain forms of racist regimes or the abolition of specific policies before a new state would be recognised.¹⁷² This normative approach towards recognition presupposes positive sovereignty. With positive sovereignty a state needs to not only fulfil the empirical

¹⁶⁷ Lauterpacht (1947) p. 1 cited in Rich, R. (1993) 'Recognition of States: The Collapse of Yugoslavia and the Soviet Union', *European Journal of International Law*, 4/1.

¹⁶⁸ Zaum (2007) p. 34.

¹⁶⁹ *Ibid.*, p. 16.

¹⁷⁰ Caplan (2005) p. 147-149.

¹⁷¹ Zaum (2007) p. 33.

¹⁷² Fabry (2010) p. 66.

conditions of statehood, in the Montevideo sense, but also needs to provide politically for its citizens. Positive sovereignty exists in contrast to negative sovereignty, defined as freedom from external influence. Negative sovereignty is therefore associated with the decolonisation era of the 20th century, when external sovereignty was recognised by the international community without much conditionality. Although certain cases of normative conditions for recognition existed, overall the process was set up with few conditions and did not require full empirical sovereignty or political conditions regarding the governance of new states.¹⁷³

For Zaum, the use of conditionality is therefore connected to understanding sovereignty as being positive. From this, he deduces that by maintaining the principle of *uti possidetis*, statehood may still be subject to the principle of non-intervention, however with the increased use of conditionality, sovereignty may no longer be.¹⁷⁴ In the case of the former Yugoslavia, the territorial integrity of the new states was maintained by adhering to *uti possidetis* and not allowing further secessions of minorities outside of the boundaries of the former republics. However, Zaum argues, to mitigate the secessionist claims of remaining minorities, the European Union and its member states establish normative political conditions for recognition, aimed to influence internal governance of these states. Zaum compares such conditions with the Standards of Civilisation of the 19th century, which were imposed on non-western states seeking to become part of International Society.¹⁷⁵ However, while some states and international organisations may have aimed to impose these new standards in the 20th century, they were not fully implemented or universally accepted.¹⁷⁶

¹⁷³ On negative and positive sovereignty see Jackson, R. H. (1990) *Quasi-States: Sovereignty, International Relations and the Third World* Cambridge: Cambridge University Press, 1990, p. 27 and p. 29.

¹⁷⁴ Zaum (2007) p. 35.

¹⁷⁵ Zaum (2007) p. 38 and p. 40. Zaum argues that while the traditional criteria for the International Society were, citing Gerrit Gong, (1) guaranteed basic rights, such as life, dignity, property, and freedom of travel, especially to foreign nationals, (2) organised political bureaucracy, with some efficiency in running the state, and some capacity for self-defence, (3) the rule of law demonstrated domestically, and adherence to international law, (4) fulfilment of a state's obligations towards international society by maintaining a diplomatic system, the new principles were, (a) administrative effectiveness, (b) human rights, (c) democratisation, (d) rule of law, and (e) the establishment of a free market economy.

¹⁷⁶ Zaum (2007) p. 37.

The following documents were the main instruments established by the European Union, with which the breakups of the Soviet Union and the Socialist Federal Republic of Yugoslavia were managed and which contained political conditionality towards the new states: the Declaration on the 'Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union' (16 December 1991), the Declaration on Yugoslavia (Extraordinary EPC Ministerial Meeting, Brussels, 16 December 1991)¹⁷⁷ and, the opinions of the Arbitration Commission of the International Conference on Yugoslavia (the 'Badinter Commission', January 1992). The Guidelines of 1991 set out the specific criteria the European Community had established for new states to be recognised. Apart from referring to Human Rights agreements, particularly the Helsinki Final Act and the Charter of Paris, the guidelines also made specific claims for the Charter of Human Rights, protection of minorities, inviolability of borders, commitment to disarmament and non-proliferation, settlement of disputes and non-aggression. The 'Declaration on Yugoslavia', published at the same time, set out a clear path towards recognition from the European Community and, at the same time, the declaration encouraged conflict resolution through the United Nations Security Council.¹⁷⁸ The Badinter Commission was to evaluate the progress made by the independence seeking republics and recommend recognition from the EU if the criteria set out in the guidelines had been fulfilled.¹⁷⁹

Above, I have discussed the international and European approach towards the independence claims of Croatia. However, in the case of Croatia's independence, there was an important foreign policy aspect that came to dominate the debate on the dissolution of Yugoslavia with specific reference to Germany. Below I will demonstrate how the approach of considering recognition as a tool for conflict

¹⁷⁷ European Community (1992a) European Community: Declaration On Yugoslavia and on the Guidelines on the Recognition of New States *International Legal Materials* Vol. 31 1485; European Community (1992b) Conference on Yugoslavia Arbitration Commission, Opinion on questions arising from the dissolution of Yugoslavia. *International Legal Materials*, Vol. 31 1488.

¹⁷⁸ European Community (1992a).

¹⁷⁹ *Ibid*, p. 95.

management has been approached within the foreign policy literature in the case of Croatia.

1.7 Recognition as Conflict Management and Foreign Policy

The EU's recognition policy towards Croatia, although a common EU policy was defined by the relationship between different member states. Within this case of recognition, the literature has discussed the political consideration around the issue of recognition in greater detail. A central puzzle for IR literature has been the role and foreign policy of Germany in the decision to recognise. Thus, the analysis of Europe's recognition policy towards Croatia has been closely linked to German foreign policy. In the literature on this case, it has been debated whether Germany was committed to the independence of Croatia from an early stage or whether it supported its European partners in maintaining a unified Yugoslavia.¹⁸⁰ The discussion has not only been about whether Germany supported Croatian independence, and why it may have done so, but also on how it went about it. These foreign policy analyses relate closely to the two aspects of recognition as conflict management which I have discussed above, namely the internationalisation of the conflict and conditionality. A more detailed account of Germany's foreign policy in regards to the recognition will be provided in the following Chapter in relation to Germany's foreign policy generally. Here I will point out how the approach towards recognition as a form of conflict management has been combined with foreign policy analysis in the case of Croatia.

Although the Badinter Commission provided the legal framework for the recognition with *uti possidetis*, most EU members, particularly France and the United Kingdom, were initially not willing to support a breakup of Yugoslavia.¹⁸¹ The timeline set out by the European Commission established the deadline for republics to declare independence as being 23 December 1991.¹⁸² The Badinter Commission was to assess claims for independence and evaluate whether the potential new states fulfilled certain

¹⁸⁰ Crawford (2007) p.68-83. Augter (2002), Glaurdic, J. (2011)

¹⁸¹ Crawford (2007).

¹⁸² European Community (1992a).

conditions. The opinion by the Commission was to be published in January 1992, in time to be discussed at the following EU Council on 15 January.¹⁸³ Germany however indicated at the EU Council on 16 December that it would recognise Croatia on the day of the deadline, 23 December. It therefore pre-empted the judgement of the Commission, which later stated that Croatia had not fulfilled the criteria. The remaining EU members followed a month later.¹⁸⁴ Despite the legal principle established, the coordination among recognising states therefore plays an important role in the recognition process. Germany appears therefore to have been particularly supportive in the development of interventionist aspect of the policy while it to some extent appeared to have undermined the conditionality of the recognition of the new states.

From an early stage Germany's understanding of the conflict was of a 'war of conquest' by Serbia rather than of a civil war, as others, especially France understood it.¹⁸⁵ The German interpretation of the conflict shaped the conflict management approach towards Yugoslavia, while its close allies continued to consider maintaining the territorial integrity of the SFRY. The assumption from Germany was that recognition would be an alternative to military intervention.¹⁸⁶ The interpretation of the conflict by Germany was therefore a fundamental basis behind the use of recognition for conflict management .

This more justification for recognition becomes also evident in relation to the justification for internationalisation. Above I have described that the Badinter Commission framed the break up of Yugoslavia as a dissolution and did not consider self-determination arguments for allowing an independent Croatia to secede. Within Germany however domestic actors promoted an argument for secession based on the right for external self-determination.¹⁸⁷ This was despite the controversy over the

¹⁸³ Caplan (2005) p. 38-39.

¹⁸⁴ Ibid.

¹⁸⁵ Caplan (2005) p. 27 and (2002) p. 165.

¹⁸⁶ Caplan (2002) p. 165.

¹⁸⁷ Crawford (2007) p. 70.

territorial integrity of the SFRY. As I have discussed above in international law this notion of external self-determination for minorities has been rejected in cases such as Quebec and the Åland islands and instead internal self-determination has been promoted.¹⁸⁸ However, within Germany such arguments were supported by domestic actors. Thus although the European policy considered the break up of Yugoslavia a dissolution differing views and rationales behind the policy existed among member states and were defined by the understanding of the conflict.

In the context of the recognition as conflict management Germany therefore appears very committed to the aspect of internationalising the conflict and less enforcing of conditionality towards the new states. The conditionality towards the new recognition was intended to respond to the issue of lacking minority rights which was considered a key source of the conflict. By pre-empting the decision of the Badinter Commission and recognising Croatia unilaterally, Germany therefore undermined the process.¹⁸⁹

The foreign policy aspect in the coordinated recognition of Croatia is quite evident. The need to manage the conflict influenced strongly by Germany's interpretation of the conflict. Also domestic actors played a significant role in framing the policy. Through the lens of considering recognition as conflict management and resolution, particular foreign policy considerations towards intervention and domestic as well as international factors from the recognising state come into play and within this thesis I will combine these in reference to the case of Kosovo.

1.8 Conclusions

In this chapter, I have outlined the tensions and controversies around questions of secession and recognition in both the legal debate and International Relations literature. By discussing the perceived challenge to the principle of territorial integrity with the emergence of greater authority for the principle self-determination, I have

¹⁸⁸ See discussion above and specifically Fierstein (2009) p. 440.

¹⁸⁹ Caplan (2005) p. 38-39.

described the legal responses to these tensions. Considering the IR literature on the issue, it is evident that most schools of thought are taking a constitutive approach rather than the declaratory approach, which is more common among legal scholars. They have focused on the creation and development of norms around recognition and on the relationships between recognisers and those to be recognised. As part of this constitutive approach within IR, I have introduced the interpretation of recognition as an approach of conflict management.

The framework was developed in the case of the dissolution of Yugoslavia and the recognition of Croatia in 1991. The European Union established clear guidelines for the dissolution and the recognition through the Badinter Commission based on the principle of *uti possidetis* and minority rights. Caplan and Zaum described the rationale behind this recognition policy to be one of conflict management as it sought to internationalise the conflict and imposed conditions for recognition by European states.¹⁹⁰ Building on the foreign policy literature on this period, I highlighted that the origins for this European approach towards recognition were partly in the foreign policy of EU member states and particularly by Germany. On the case of Croatia therefore the literature has made a close link between the international coordination of the process of recognition and foreign policy. The following aspects of German foreign policy were identified to particularly influential: The interpretation of the conflict by Germany, the support for self-determination of Croatia among German domestic actors and policy makers, and Germany's role and approach in the multilateral negotiations on the coordinated recognition by European states.

The notion that the management of the dissolution of Yugoslavia was defined by the goal to intervene and manage the conflict by the European Union therefore provides a framework with which the foreign policy of recognition can be examined. As I consider the case of the recognition of Kosovo as part of the dissolution of Yugoslavia, this thesis will examine to what extent the interventionist approach prevailed in the

¹⁹⁰ Caplan (2005) and Zaum (2007).

case of Kosovo and how Germany's policy can be placed within this. Therefore, will consider to what extent internationalisation and conflict management were part of the rationale of the recognition of Kosovo. The level of conditionality for recognition will also be explored. In regards to understanding the foreign policy decision of Germany to recognise Kosovo I will review also to what extent the three aspects identified in the case of Croatia - the interpretation of the conflict, support for self-determination, and Germany's role in negotiations - were relevant.

The following chapter examines Germany's approach towards intervention and its role in European foreign policy in regards to intervention. Then, I will move to the empirical chapters, which will trace in detail Germany's role in the recognition process and the development of its policy towards the independence of Kosovo.

Chapter 2: Germany as a Foreign Policy Actor

2.1 Introduction

In the previous chapter, I set out the main tensions in the question of recognition and how these related to Germany in the recognition of Croatia. I identified three aspects which were considered central to the question of German recognition and which will guide my analysis of Germany's foreign policy decision to recognise Kosovo:¹⁹¹ Germany's interpretation of the conflict, its support for self-determination, and its role in multilateral negotiations on recognition. I demonstrated that the issue of recognition was linked to foreign policy. In this chapter, I will provide an in-depth discussion of the literature on Germany's foreign policy. It will introduce the main domestic actors in foreign policy making, provide an overview of the literature on German foreign policy role and discuss the key policies relevant to the question of multilateralism and .

The first section of this chapter will introduce the actors in German foreign policy and the recent changes among these. I will discuss how German foreign policy is driven mainly by the executive with a central role of the Chancellery. Nonetheless, because German governments are usually coalition governments, in which the junior partner holds the position of foreign minister, foreign policy is affected by the relationship between coalition parties. The role of parliament is complex as in principle it holds little power of control over foreign policy, with the exception of troop deployments. However foreign policy is one of the most discussed topics in the *Bundestag*. Foreign policy plays an important role in political debate in Germany and political parties have each developed a specific approach to Germany's foreign policy role. I will thus demonstrate that foreign policy is often influenced by party political discussions.

¹⁹¹ Throughout this research 'Germany' refers to the Federal Republic of Germany (FRG). In reference to divided Germany prior to 1990 I also refer to it as West Germany. In reference to the German Democratic Republic (GDR), I also use the term East Germany interchangeably.

Beyond the specific actors in German foreign policy and the political divisions among these, Germany has been ascribed the foreign policy role as Civilian Power.¹⁹² As the concept of Civilian Power continues to be used in reference to Germany, I will review it in detail in this chapter particularly in regards to the foreign policy literature on role theory and the centrality of multilateralism, its relationship to key partners, international institutions and the European Union in particular. I will discuss the concept in reference to Germany's post-war foreign policy as well as after unification. Civilian Power became to characterise

Germany's foreign policy as it had adopted a considerably non-aggressive foreign policy after the Second World War and integrated into international institutions and Europe as a multilateral actor. With a historical review of post-war Germany, I will demonstrate that the view of Germany as being inherently anti-militaristic or multilateral has been exaggerated. Instead, I will argue that the domestic political debates on key policies were more complex and did not fully follow the logic of Civilian Power. For example, I will highlight how West Germany sought in the early stages of the Cold War and was often in discord with NATO and US policies. Another key example is that the *Ostpolitik*, West Germany's rapprochement with Communist and Socialist countries, was contested domestically. I will thus argue that characterising Germany as a Civilian Power presumes a consensus among domestic actors, which was not in place in many cases. Although the commitment to the West was central to Germany's foreign policy, domestic actors had quite a diverse view of what German foreign policy should look like and how it should act multilaterally.

The debate in the literature has focused on the post-unification period and on whether as a consequence of unification Germany became less civilian and multilateral, and more militaristic. Here I will review the case of Germany's recognition of Croatia from the foreign policy perspective and discuss the domestic debate and explanations in the literature as to why Germany appeared less multilateral in this case. I will then move

¹⁹² Maull (1990).

to discuss the increased occurrence of international military interventions in the 1990s and 2000s, with specific reference to the cases of Kosovo in 1999, Afghanistan in 2001, and Iraq in 2003. From these cases, I will examine how Germany has changed its approach to military action and multilateral action. Germany participated in the war in Kosovo, although it did not have United Nations Security Council approval. The original restrictions on Germany's military action had been as a result of German aggression and genocide in the early 20th century. However, at the time of the Kosovo conflict, the German government argued that it was now responsible for stopping such actions by other states and thus had a duty to intervene. Nevertheless, military intervention remains controversial in Germany. In the case of Afghanistan, Germany participated in the NATO mission with United Nations Security Council approval. When Germany did not participate in the Iraq war, the decision received domestic public support, however, the strain on transatlantic relations had a significant impact on policy makers with Germany being accused of undermining multilateralism. The three cases of international military interventions highlight the different expectations towards Germany which existed both domestically and from its allies.

The literature on German foreign policy continued to circle around the Civilian Power characterisation even after unification. The final section of this thesis will discuss the literature on Germany as a multilateral actor in the period surrounding Kosovo's declaration of independence in 2008. Since the late 1990s, it has been argued, the German public increasingly accepted the use of German troops in joint missions and Germany changed its approach to multilateralism. Since then, Germany has appeared still to be committed to participating in multilateral action but is less committed to consensus in the UN or the EU. I will conclude this chapter, therefore, with a discussion of the literature in which some see this approach as indication of a new *Realpolitik* or a de-Europeanization, while others argue it to be a more pragmatic approach Germany has adopted to contemporary developments in international affairs.

2.2 Domestic Actors in German Foreign Policy

In this chapter I will focus mainly on Germany as a foreign policy actor and the debate around Germany's multilateralism in particular. However before going into detail on specific policies and historical developments, I will focus firstly on the domestic process for foreign policy in Germany. The following will thus focus on the different actors in the executive branch involved in foreign policy making to highlight the increasing role of the chancellor and the different layers in which party politics and coalition power balance can affect foreign policy. I will then turn to the complex role of the *Bundestag*, which, with very specific but limited tools to influence foreign policy, is a central forum for discussion of foreign policy. Related to the role of the parliament is also the role of different political parties and their outlooks on foreign politics. As I will make frequent reference to the different parties throughout this thesis, I will provide an overview of policy positions. Finally, I will evaluate the role of non-governmental actors and the media.

German foreign policy is by constitution, or by its *Grundgesetz* [ger. 'basic law'], the responsibility of a multitude of actors and, thus, there are a higher number of safeguards than in most EU member states. To a large extent, this is due to the post-World War II efforts to constrain Germany's *foreign* policy strength to deter aggressive policies. The federal set-up, Germany consists of 16 *Länder* or "states", has little influence on foreign policy in practice but nonetheless adds an additional layer to policy making.¹⁹³ While German foreign policy processes have been described as bureaucratically complicated, they have increasingly become more centralised and have moved toward the chancellor and the chancellery.

¹⁹³ As Germany is a federal state, the sixteen *Länder* have constitutionally the right to establish relations with other nation states. The *Länder* are, as many EU regions, very active in their presence in Brussels and in establishing relations with EU institutions. In theory, the *Länder* can establish relationships with other states, or with specific cities in certain policy areas, however, it is rare for *Länder* to develop fully formed foreign policies through the executive branch. Furthermore, constitutionally, federal policy takes precedence over any policy of the *Länder*.

2.2.1 Foreign Policy by the Executive

According to the *Grundgesetz*, the federal government, the *Bund*, as opposed to its sixteen states, the *Länder*, holds the authority over Germany's foreign policy.¹⁹⁴ Foreign policy is often an important marker of the legacy of German chancellors: their roles are considered significant in policy development. The position of the minister of foreign affairs is traditionally reserved for the junior coalition partner and often allocated to the leader of that party. The authority of the foreign minister has in the past been highly dependent on the relationship between the coalition parties and their leaders.¹⁹⁵ This tension is expressed in two key principles of the German constitution, the *Kanzlerprinzip*, the principal influence of the chancellor, and the *Ressortprinzip*, which refers to the expertise and autonomy of ministers. Constitutionally, the chancellor's office however has hierarchical authority over foreign policy and may choose to delegate it through different institutions.¹⁹⁶ Most commonly these would be the foreign office, the *Auswärtige Amt* (hereinafter AA), and the wider government cabinet.

2.2.2 The Chancellor

While there is no defined hierarchy of the *Kanzlerprinzip* and the *Ressortprinzip*, Siwert-Probst argues that the tools available to the chancellor in foreign policy put the chancellor in the defining position. The chancellor, rather than cabinet ministers, defines the general direction of policy, the organisational power and the ability to use the constructive vote of confidence.¹⁹⁷

¹⁹⁴ German Federal Republic (1949) 'Grundgesetz für die Bundesrepublik Deutschland in der im Bundesgesetzblatt Teil III, Gliederungsnummer 100-1, veröffentlichten bereinigten Fassung, das zuletzt durch Artikel 1 des Gesetzes vom 23. Dezember 2014 (BGBl. I S. 2438) geändert worden ist' Art. 32(1) GG and Art 73(1) GG. See Article 23 Available at Deutscher Bundestag <https://www.bundestag.de/bundestag/aufgaben/rechtsgrundlagen/grundgesetz/gg/245216> (last accessed 25 September 2016).

¹⁹⁵ Bartsch, S. (1998) Außenpolitischer Einfluss und Außenbeziehungen der Parteien, in Kaiser, K. and Eberwein, W.D. (eds) *Deutschlands neue Außenpolitik: Institutionen und Ressourcen*, München: Oldenburg Verlag, p. 178.

¹⁹⁶ Siwert-Probst, J. (1998) Die klassischen außenpolitischen Institutionen, in Kaiser, K. and Maul, H.W. (eds) *Deutschlands neue Außenpolitik: Institutionen und Ressourcen*, München: Oldenburg Verlag, p. 14.

¹⁹⁷ *Ibid*, p. 13.

There is however also a debate around whether the central role of the chancellor in foreign policy is due to the constitutional set-up or due to the historical development of the power of the chancellor.¹⁹⁸ Certain prominent chancellors, such as Konrad Adenauer, who defined the *Westbindung*, Germany's alignment to the West in the Cold War, or Brandt, who created the *Ostpolitik*, are key examples showing the important role of chancellors in foreign policy. Moreover, under Kohl the 10-point plan to overcome the division of Germany and Europe was kept from the foreign minister.¹⁹⁹ Although some argue that this *Kanzlerdemokratie*, in which the chancellor controls most policies, may be moving towards a *Koordinationsdemokratie*, which is more inclusive of further actors and, especially in foreign policy, of more government branches.²⁰⁰ This, Siwer-Probst argues, is however less likely and instead power in foreign policy is likely to concentrate more around the chancellor, which may have a negative effect on the transparency of foreign policy making overall.

2.2.3 The *Kanzleramt*

The *Kanzleramt*, the office of the chancellery, has *Resorts*, internal departments for different policy issues, which are coordinated by the *Chef des Bundeskanzleramtes*, a key position equivalent to a high profile ministerial post.²⁰¹ Constitutionally, the *Kanzleramt* does not exist as an independent institution and its main role is to support the chancellor. The *Resorts* mirrors ministries or sectors of government and are, rather than dealing mainly with policy content, especially for foreign policy, tasked with preventing disagreement among policies, helping coordination and providing guidelines. The importance of the foreign policy section, Section 2 of the chancellery, depends on the priority a chancellor gives to foreign policy.²⁰² For example, Frank Walter Steinmeier was Chief of the Chancellery under Chancellor Gerhard Schröder until 2005; he later became foreign minister in Angela Merkel's first cabinet of the grand coalition of 2005 and again in the second grand coalition of 2013. The

¹⁹⁸ Ibid, p. 14.

¹⁹⁹ Ibid, p. 15.

²⁰⁰ Ibid.

²⁰¹ Korte, K.R. (2007) Bundeskanzleramt, in Schmidt, S., Hallmann, G., and Wolff, R *Handbuch der Deutschen Außenpolitik*, Wiesbaden: VS Verlag für Sozialwissenschaften, p. 208.

²⁰² Siwer-Probst (1998) p. 16.

departments of the chancellery represent all the key policy Resorts of Home Affairs, Foreign Affairs, Social Policy, Economic and Finance, European Policy and the secret services. Foreign policy, development policy and defence are in the 2nd Department of the Chancellery and are structurally inter-linked with the AA, this Resort being a key area of interest for the chancellery. The department for European policy was established by Chancellor Schröder, which diverted responsibility for EU affairs away from the Foreign Office and thereby away from the junior coalition partner.²⁰³

2.2.4 The Cabinet

As German governments are usually coalitions, there is an additional layer of policy coordination, which is not in itself a constitutional institution but has developed as a key committee for many German governments. The *Koalitionsgremien* (coalition committees) are the most formal forums for regular talks among the coalition parties, often only attended by party heads rather than ministers. Additionally, during parliamentary sessions, and in several informal meetings, coalition parties are frequently involved in discussions and coordination, which avoids burdening the cabinet with finding consensus. However, at the same time, this has raised questions about whether, in a sense, an additional, informal government is operating.²⁰⁴ These relationships depend to a large extent on the chancellor in power, however, the role of the junior coalition partner has been proven to have a proportionally greater influence on foreign policy than on other policy areas.²⁰⁵

2.2.5 The AA (Ministry of Foreign Affairs) and Other Ministries

The AA is constitutionally the ‘primary source of foreign policy’, in the sense that it needs to be informed and included in all forms of the foreign policy of the FGR. As other federal ministries also have external relations, much of the AA staff is placed

²⁰³ Müller-Brandeck-Bocquet, G (eds) (2010) *Deutsche Europapolitik – Von Adenauer bis Merkel*, Wiesbaden: VS Verlag für Sozialwissenschaften, p. 243.

²⁰⁴ Siwer-Probst (1998) p. 20.

²⁰⁵ Kaarbo, J. (1996) Power and Influence in Foreign Policy Decision Making: The Role of Junior Coalition Partners in German and Israeli Foreign Policy, *International Studies Quarterly*, Vol. 40, No. 4 (Dec., 1996) pp. 501-530, p. 505.

within these ministries for the administration of such relations and the chancellery has a structure mirroring the AA's division of labour on policy and international regions.²⁰⁶

The AA and the German foreign service differ from the British, US or French model as their civil servants are trained as *Generalisten*, meaning they do not specialise in specific policy areas or regions, but are mainly highly trained bureaucrats within the foreign policy apparatus.²⁰⁷ This is the case for the majority of AA civil servants, but the higher-ranking positions within the ministry are political appointments, mainly from the coalition parties. This structure reinforces the leadership of the chancellor's office on policy development. The AA therefore administers foreign policy rather than shapes it.²⁰⁸

Constitutionally, the AA should be informed of, approve and lead most international negotiations.²⁰⁹ Within the EU, however, ministries negotiate directly at Council level.²¹⁰ The foreign policy of the federal ministries is mostly coordinated across ministerial channels: Nearly every ministry has units dedicated to coordination at EU level and additional units for international coordination.²¹¹ Although not of special relevance to this thesis, it should be noted that there are also specific ministries that have deeply integrated foreign policy. These are, especially, the ministry of defence (*Bundesverteidigungsministerium*, BMVg) or the ministry for international development (*Bundesministerium für Wirtschaftliche Zusammenarbeit und Entwicklung*, BMZ).²¹² International economic relations are divided between the

²⁰⁶ Andreae, L. and Kaiser, K. (1998) 'Die 'Außenpolitik' der Fachministerien', in Kaiser, K. and Eberwein, W.D. (eds) *Deutschlands neue Außenpolitik: Institutionen und Ressourcen* München: Oldenbuorg Verlag, p. 46.

²⁰⁷ Siewer-Probst (1998) p. 17.

²⁰⁸ Ibid, p. 28.

²⁰⁹ Andreae and Kaiser (1998) p. 32.

²¹⁰ Ibid, p. 33.

²¹¹ Weller, C. (2007) *Bundesministerien*, in Schmidt, S., Hellmann, H., Wolf, R. *Handbuch zur deutschen Außenpolitik* Wiesbaden: Verlag für Sozialwissenschaften, p. 211. This internationalisation of domestic policy has been mainly attributed to globalisation and also to the increasing role of international organisations in policy areas: not just the EU but also the UN organisations working on economic development, trade or the environment to name just a few [Andreae and Kaiser (1998) p. 25].

²¹² Weller, C. (2007) p. 212. The BMZ has traditionally been allocated to the senior coalition partner, while the AA is allocated to the junior partner, thereby allowing the senior coalition party to maintain control over foreign aid and investment as well as coordination with international organisations over

Ministry of Economic Affairs and the BMZ, which is responsible for those states classified as ‘developing’.²¹³ The role of the Ministry of Defence (*Bundesministerium der Verteidigung*, BMVg) has also developed since unification and greater German involvement in international military intervention.²¹⁴ The Ministry of the Interior is controls visa allocation and the Ministry of Economic Affairs leads on economic negotiations at international level.²¹⁵ In the case of overlapping responsibilities, the chancellor has the final say on allocation of negotiations on a particular issue or may move negotiations directly into the chancellery.²¹⁶

2.2.6 The Legislative

Germany has a bicameral legislature, with the *Bundestag* being the primary legislative chamber. Members of the *Bundestag* (MdBs) are elected directly by their constituencies and through party lists. The influence or authority of the *Bundestag* on foreign policy is multifaceted with formal and informal roles. Formally, it controls the ratification of international treaties, further integration at EU level, the deployment of troops and control of the annual federal budget.

The German *Bundestag* holds particular role in German foreign policy. To some extent, for the parliament’s role in foreign policy there is a differentiation between foreign policy and security policy. The executive does have a control in both, however, it is slightly limited in questions of security. It only holds veto power in relation to the deployment of troops abroad. This power is anchored in the German constitution and

governmental development agencies. (p. 218) Conflict between the two ministries has arisen frequently not just at party level but also at institutional level. The AA represents a more domestic German focused approach to foreign policy while the BMZ is fundamentally integrated into the global structure of development organisations and conditionality. [Andreae and Kaiser (1998) p. 38.]

²¹³ Andreae and Kaiser (1998) p. 40.

²¹⁴ The ministry is the civilian administration of German forces and holds command [Brzoska, M., (2007) Rüstungsexportpolitik, in Schmidt, S., Hellmann, H., Wolf, R. *Handbuch zur deutschen Außenpolitik*, Wiesbaden: Verlag für Sozialwissenschaften, p. 658.] With the global shift of development policy in Sub-Saharan Africa, the BMVg has now become an intrinsic actor in German foreign and development policy on the African continent and overall in regards to greater military involvement by German troops. [Schmidt, S. (2007) Afrika südlich der Sahara, in Schmidt, S., Hellmann, H., Wolf, R. *Handbuch zur deutschen Außenpolitik*, Wiesbaden: Verlag für Sozialwissenschaften, p. 544].

²¹⁵ Andreae and Kaiser (1998) p. 41.

²¹⁶ Ibid, p. 41.

was confirmed by the decision of the Constitutional Court in 1994. The parliament has budgetary control over the army, which is referred to as a parliamentary army. It thus needs to approve any deployment but also has control over the general use of the armed forces. These processes are intended as safeguards against potential abuses by the executive over the army.²¹⁷

In regards to general foreign policy, the power of the parliament is limited. It is important to note that the parliament does not have a right to initiate new policies and that those presented by the government can only be approved or rejected. According to Section 59.2 of the *Grundgesetz*, the *Bundestag's* approval is only needed for international treaties, which regulate the 'political relationship' of the *Bund* or those that concern objects of federal law. Political relationships refer only to issues of the existence of the state, its territorial integrity, its independence, and its position or influence in the international community of states. Thus, the approval of the *Bundestag* is limited to fundamental treaties, such as joining international organisations or European integration.²¹⁸ The constitutional reform of Article 23, in 1992 following the Maastricht Treaty, recognises the right of the *Bundestag* to participate in policy making at EU level and stipulates that the parliament is to be kept informed of all EU policy changes and that the government should consider statements made by the *Bundestag*. A ratification of each EU policy by the *Bundestag* is, however, not required unless it implies further European integration with constitutional changes, in which case a two-thirds majority in the *Bundestag* is necessary.²¹⁹

However, the *Bundestag* is not a '*Redeparlament*', a debating parliament, like the British parliament but an '*Arbeitsparlament*', a working parliament. Parliamentary committees thus play an important role, somewhat aspiring to that of US Congress

²¹⁷ Hellmann, G., Wagner G., Baumann, R. (2006) *Deutsche Außenpolitik - Eine Einführung*, Wiesbaden: Verlag für Sozialwissenschaften p. 55.

²¹⁸ Hellman et al. (2006) p. 53.

²¹⁹ See German Federal Republic (1949) Article 23 of the *Grundgesetz* <http://dejure.org/gesetze/GG/23.html> (last accessed 25 September 2016) and Krause, J. (1998) Die Rolle des Bundestages in der Außenpolitik, In Kaiser, K. and Eberwein, W.D. (eds) *Deutschlands neue Außenpolitik: Institutionen und Ressourcen*, München: Oldenbuorg Verlag, p. 142 and p. 149.

committees, however with less policy making power.²²⁰ The role of the parliamentary committee on foreign affairs, the *Auswärtiger Ausschuss*, is thus interesting as it is used as a ‘working committee’ in the sense that policy is discussed and evaluated by coalition and opposition MdBs.²²¹ The *Auswärtiger Ausschuss* should be kept informed of all foreign policy of the government. Considering the vast number of policy areas covered by the committee, its secretariat and the party working groups support the committee in research and policy analysis.²²² The *Bundestag* is, therefore, not a foreign policy making body and cannot initiate new policy and its influence is mainly confined to the majority vote of the coalition parties. Meetings of this committee are not open to the public. However, members of the committee use the public plenary sessions to repeat discussions from the committee and state party positions. Therefore the *Bundestag* is used as a key institution to communicate foreign policy to the public and to allow public political debates on foreign policy questions.²²³ Foreign policy is, in fact, the most debated aspect of German policy in the *Bundestag*; although debates seldom affect policy change, they are able to exert pressure on the government and can promote consensus among parties.²²⁴ For example, the ratification of Germany’s recognition of Kosovo by the *Bundestag* was not necessary, but an extensive debate was held nonetheless, a day before recognition.²²⁵

The secondary chamber is the *Bundesrat*, composed of the heads of the sixteen *Länder*. Regarding domestic policy, the *Bundestag* and *Bundesrat* share powers in many areas but this is not the case for foreign policy. In fact, the *Bundesrat* is only able to vote on federal foreign policy if this should imply constitutional changes for which both chambers’ majority vote is needed or if the foreign policy directly affects the affairs of the *Länder*.²²⁶ Here EU policies are particularly important and the *Länder* have

²²⁰ Krause (1998) p. 139.

²²¹ Ibid, p. 141.

²²² Ibid, p. 146.

²²³ Ibid, p. 138.

²²⁴ Ibid, p. 141.

²²⁵ see Deutscher Bundestag (2008c) Plenarprotokoll 16/144. Stenographischer Bericht. 144. Sitzung 16. Wahlperiode. Berlin, 20. February 2008.

²²⁶ Fischer, T. (2007) Bundesrat und Bundesländer, in Schmidt, S., Hallmann, G., and Wolff, R *Handbuch der Deutschen Außenpolitik*, Wiesbaden: VS Verlag für Sozialwissenschaften, p. 201.

more influence than the *Bundestag* as they are informed and can participate in the policy development of all policies that would affect them as state entities.²²⁷

2.2.7 Political Parties

Although foreign policy in Germany is led by the executive branch of the government, political parties in the *Bundestag* play a significant role. It is unlikely that a government would be able to divert too far from the foreign policy outlook of its party without significant backlash, and this restriction is also exacerbated by the nature of coalition governments, which need to satisfy two or more, parties. Major foreign policy decisions have often been accompanied by major party political debates and often intra party debates.²²⁸ The role of party leader is therefore considered central to German foreign policy making.²²⁹

The nature of Germany's coalition government and federal structure, which leads to multiple coalitions in the *Länder*, thus engenders consensus politics in foreign policy, as in other policy areas as well.²³⁰ However, this focus on consensus overlooks differences among parties and also within them.²³¹ In this thesis, the positions of political parties will be of central importance in discussing domestic political positions in Germany. Thus, it is worth outlining here the main foreign policy outlooks of political parties. As I will demonstrate, general approaches to foreign policy may be held up by party members and MdBs. However, these are often not aligned with the policies of the governments and their coalition and divisions on issues and policies exist. Overall, the general consensus, which is referred to in German foreign policy, is that all five main parties are committed to peace and security and to the UN as the international institution to guarantee these. Also, most parties, except for the sister

²²⁷ Krause (1998) p. 150.

²²⁸ Oppelland, T. (2007) Parteien, in Schmidt, S., Hellmann, H., Wolf, R. *Handbuch zur deutschen Außenpolitik*, Wiesbaden: Verlag für Sozialwissenschaften, p. 269.

²²⁹ Paterson, W.E. (1981) Political Parties and the Making of Foreign Policy: The Case of the Federal Republic, *Review of International Studies*, Vol. 7, No. 4 (Oct., 1981) pp. 227-235, p. 230.

²³⁰ Ibid, p. 228.

²³¹ Keller, M. (2011) Die sicherheitspolitischen Positionen von CDU und SPD im Vergleich: Kann der Konsensgrad in den Positionen der Bundestagsfraktionen von CDU/CSU und SPD zum Afghanistaneinsatz der Bundeswehr durch Weltbilder erklärt werden? *Forschungsberichte internationale Politik* 43, Berlin: Lit Verlag, p. 7.

party of the Christian Democrats in Bavaria, the CSU, are in favour of Greater European integration, although disagreement exists on processes and priorities. However, major differences among the parties exist regarding Germany's role within global economic and financial structures, but these differences are beyond the scope of this research.²³² Later in this chapter, I will discuss Germany's changing position on military interventions in detail, but this section will provide an overview and introduction to the parties.

The two main political parties are the Christian Democratic Union (CDU) and the Social Democrats (SPD). Smaller parties have included the Free Democrats (FDP), the Green Party and the Left (initially PDS and later Die Linke). These parties, except for Die Linke, have collaborated within different federal government coalitions over the decades and have sought different compromises. The CDU has never been the so-called junior partner in a coalition but has worked with the Free Democrats and the Social Democrats in long term coalition governments. They only held the position of foreign minister in the early years of the German Federal Republic after the Second World War. However, as discussed above, German chancellors have been very influential on foreign policy and, as I will also show below, certain chancellors, such as Adenauer and Kohl, as well as Merkel, have prioritised it. The foreign policy outlook of the Christian Democrats is one embedded in the principle of multilateralism and with a specific Atlanticist outlook.²³³ Unlike other parties, which may think in terms of prioritising peace in foreign policy (*Friedenspolitik*), among the Christian Democrats the emphasis lies on 'international cooperation'.²³⁴ The CDU has been keen to bring Germany back as a central actor in international affairs. After the Cold War, the support and expectation from Germany's key allies, mainly the United States, has also influenced its approach towards military force, as it was the only party willing to consider and support the use of force from the early 1990s.²³⁵ With its strong

²³² Oppelland (2007) p. 272-3.

²³³ Duffield, J. (1999) Political Culture and State Behavior: Why Germany Confounds Neorealism, *International Organization*, Vol. 53, No. 4, Autumn, 1999, pp. 765-803, p. 789.

²³⁴ Keller (2011) p. 108.

²³⁵ Oppelland (2007) p. 275 The CDU was the only party willing to support the US in the Gulf war however did not receive the support from its coalition partner or the opposition.

orientation towards the West, the CDU has also been committed to European integration from early on in the post War era.²³⁶

The Social Democrats have held both senior and junior positions in coalitions and their chancellors have been very involved in foreign policy. Historically, the party has been anchored in anti-militarism,²³⁷ which has informed many of their key policies, such as the *Ostpolitik*.²³⁸ However, as I will discuss later, during the Cold War the party was split between its left and right wings on the question of nuclear deterrence.²³⁹ The SPD is also committed to multilateralism but has prioritised less the relationship with the United States than the CDU. Despite potential unease with the economic policy developments of the European Union, the SPD has also been committed to European integration since the 1950s.²⁴⁰ In the 1990s, the move towards greater military interventionism was very controversial for the SPD. Disagreement with the government led to legal challenges. It has slowly moved toward accepting military action since the 1990s.²⁴¹ However the approach of understanding foreign policy as ‘peace policy’, remained central in parliamentary statements by the SPD MdBs.²⁴² The case of the military intervention in Kosovo in 1999 was controversial, and a watershed moment, for the party as it supported military intervention without a Security Council resolution.

The Free Democrats, also referred to as the Liberal party, have always been junior parties in governments but were influential on foreign policy particularly during the Cold War and immediate post-Cold War eras. Their approach is anchored in both anti-

²³⁶ Risse and Engelmann-Martin (2002) ‘Identity Politics and European Integration. The Case of Germany’ in Anthony Pagden (ed.) *The Idea of Europe. From Antiquity to the European Union*, Cambridge: Cambridge University Press, pp. 287-316, p. 295.

²³⁷ Duffield (1999) p. 789.

²³⁸ Oppelland (2007) p. 272.

²³⁹ Risse, T. (1991) Public opinion, domestic structure, and foreign policy in Liberal Democracies, *World Politics* 43 (July 1991) pp. 479-512, p. 506.

²⁴⁰ Risse and Engelmann-Martin (2002) p. 299.

²⁴¹ Bierling, S. (2005) *Die Außenpolitik der Bundesrepublik Deutschland, Normen, Akteure, Entscheidungen*, 2. Aufl. München /Wien: Oldenbourg Verlag, p. 281; Maull, H.W. (2000) Germany and the use of force: still a ‘Civilian Power’? *Survival* Vol. 42, Issue 2, pp. 55-80, p. 82.

²⁴² Keller (2011) p. 108.

militarism, multilateralism and a cosmopolitan outlook.²⁴³ Their commitment to internationalism and pooling of sovereignty, including in foreign policy, is the most developed among German political parties and is reflected in their strong support for a more integrated EU foreign policy. Within this context they also give particular priority to international law and the maintenance of internationally and domestically agreed legal processes.²⁴⁴ While very principled as a party overall, they oversaw the controversial decision of the early recognition of Croatia in the early 1990s. As described in the previous chapter, the liberal foreign minister Genscher was very influential in this process at the time.

The Green Party (*Bündnis 90/Die Grünen*) grew out of civil society and social movements in the post-war era. It therefore does not have the same tradition as other major parties, whose predecessors operated in the Weimar Republic. The Greens (*Die Grünen*) developed from a dissident group in West Germany with a focus on demilitarisation, peace and environmental justice, growing larger after unification as it joined with the East German *Bündnis 90*.²⁴⁵ The party's outlook remained one of an anti-militarist approach and thus it is aligned with the Social Democrats to a certain extent.²⁴⁶ It has however also been committed to international institutions, the international legal order and the European Union. The Greens became the coalition partner of the Social Democrats, holding the position of foreign minister from 1998-2005. With greater political power came a significant strain on the party in this period, in which they enabled the Kosovo intervention.²⁴⁷ The period highlighted the division in the party on foreign policy questions. One wing, often referred to as the 'Realos', supported greater German participation in international affairs and accepted the presence of German troops abroad, albeit with an emphasis on the civilian character of these missions. The pacifist wing of the party, often referred as the 'Fundis', remained closer to the party's origins as a peace movement and was reluctant to

²⁴³ Oppelland (2007) p. 272 and Duffield (1999) p. 789.

²⁴⁴ Bierling (2005) p. 280.

²⁴⁵ Risse (1991) p. 506.

²⁴⁶ Duffield (1999) p. 789.

²⁴⁷ Maull (2000) p. 82.

participate in military intervention or general intervention.²⁴⁸ Overall, the party is highly committed to international institutions but is keen on the reform and democratisation of these in favour of non-Western Countries.

The Left Party joined the *Bundestag* after German unification and its members and Members of Parliament came mainly from Eastern Germany. The party was originally called *Partei des Demokratischen Sozialismus* (PDS) but reformed after 2007 as *Die Linke*. It is the one party that lies outside of the general consensus on foreign policy issues. The foreign policy of the party is defined by a fundamental disagreement with the Atlantic alliance and alignment with the West. It has been very outspoken in its criticism of US American foreign policy, describing it as imperial and aggressive.²⁴⁹ It has also been very critical of further integration with the EU, mainly because of social and economic policies, and voted against key treaties in the 1990s. Also, its consistent resistance towards German military involvement is unique amongst German parties.²⁵⁰ It has been heavily influenced by its close relationship with Russia and advocates the inclusion of Russia in the international security framework. In regards to international interventions, it has been highly critical of developments in Germany towards greater involvement abroad. To promote its foreign policy, the party has used legal arguments and frequently challenged the foreign policy decisions of German governments at the constitutional court, and has succeeded in some cases.

2.2.8 Non-Governmental Actors – Think Tanks, NGOs and Interest Groups

The influence of NGOs has been limited in Germany in comparison with Anglo-Saxon states, where NGOs, think tanks and interest groups have gained more footing in high-level policy making. Thus, NGOs working on foreign affairs rarely prioritise lobbying or policy work but rather focus on the running of projects often supported by government funds.²⁵¹ Their influence on high-level policy making is thus limited,

²⁴⁸ Bierling (2005) p. 282.

²⁴⁹ Oppelland (2007) p. 273.

²⁵⁰ Bierling (2005) p. 282.

²⁵¹ Erdmann, G. (2007) Kirchen und NROs, in Schmidt, S., Hallmann, G., and Wolff, R *Handbuch der Deutschen Außenpolitik*, Wiesbaden: VS Verlag für Sozialwissenschaften, p. 309; Eberlei, W. (2002)

although contact with the government and political parties does exist.²⁵² The literature has often downplayed the extent to which many NGOs, particularly those representing diaspora groups²⁵³, have influenced German policy makers. There appears to be little evidence of German foreign policy decision makers meeting or considering the positions of these groups as a priority.²⁵⁴

Among German think tanks in foreign policy, state-subsidised political foundations with party affiliations are particularly active actors. Some argue that they can also be considered a foreign policy tool by the German government. The complex position of these foundations is due to their officially non-governmental and independent status. However, they are nearly exclusively financed by federal money. The foundations are independent in designing and executing activities, however, the foreign ministry has to sign off all programmes in regards to potential concerns.²⁵⁵ The parties are also closely connected to the major parliamentary parties, the *Konrad Adenauer Stiftung* to the Christian Democrats, and the *Hans-Seidel Stiftung* for the Bavarian Christian Social Union (CSU), the *Friedrich Ebert Stiftung* to the Social Democrats, the *Friedrich Naumann Stiftung* to the Liberals, the *Heinrich Böll Stiftung* to the Greens and the *Rosa-Luxemburg Stiftung* to *Die Linke*. The party affiliation of these foundations relates mostly to political outlook and close collaboration on the human resource level, as politicians from either parties are likely to take senior positions in the foundations' international offices or on their boards.²⁵⁶

'Entwicklungspolitische Nicht-Regierungsorganisationen in Deutschland' *Aus Politik und Zeitgeschichte* B 6-7 / 2002, pp. 23-28, p. 28. Major international NGOs, such as Greenpeace and amnesty international, have had little success in affecting wider government policy directly at the German government level. While Human Rights and ecological issues have gained political support on the international stage, little influence could be traced to German policy level.

²⁵² Hartmann, J. (1998) 'Organisierte Interessen und Außenpolitik' in; Kaiser, K. and Eberwein, W.D. (eds) *Deutschlands neue Außenpolitik: Institutionen und Ressourcen*, München: Oldenbuorg Verlag, pp. 250-251.

²⁵³ Ibid, p. 251. The influence of the organisation of Germans displaced in Eastern Europe (*Vertriebenerverbände*) is said to be exaggerated.

²⁵⁴ Augter, S. (2002) 'Negotiating Croatia's recognition: German foreign policy as a two-level game' PhD in International Relations, London School of Economics and Political Science, p. 94.

²⁵⁵ Bartsch, S. (2007) 'Politische Stiftungen', in Schmidt, S., Hellmann, H., Wolf, R. *Handbuch zur deutschen Außenpolitik* Wiesbaden: Verlag für Sozialwissenschaften, p. 280.

²⁵⁶ Bartsch (2007) p. 281. Research on these foundations has focused mainly on the foundations' activities abroad. While much of the foundations' work falls more under development collaboration there is also an important focus on collaborating with civil society and political parties close to their

The role and influence of industrial interest groups is more controversial than that of other non-state actors. Some argue that, due to the European common market, industry consortia and representatives focus on Brussels rather than Berlin.²⁵⁷ Others point at the promotion of German businesses and of the search for investment as key and historical aspects of German foreign policy. The promotion of German business on official visits, the coordination through the several consortia, and investment promotions are important aspects with which German industry is intrinsically linked to German foreign policy.²⁵⁸

2.2.9 Public Opinion and Media

Judging public opinion and its influence on policy has been controversial in foreign policy analysis. The Almond-Lippmann consensus argues that public opinion is not rational and without interest representation and thus not relevant to the study of foreign policy.²⁵⁹ In the 1990s Page and Shapiro, as well as Holsti argued that, based on the United States, the public is becoming better informed and more interested in foreign policy.²⁶⁰ Research on Germany is quite new in the literature but it seems that, compared to the UK or France, the German public is less interested in foreign policy

own political outlook. At the same time, it needs to be considered that the independence of these foundations is consistently stressed in the wider literature on their influence. [See Bartsch (2007) or Pogorelskaja, S.W. (2002) 'Die parteinahen Stiftungen als Akteure und Instrumente der deutschen Außenpolitik' *Aus Politik und Zeitgeschichte* B 6-7/2002]

²⁵⁷ Hartmann (1998) p. 247.

²⁵⁸ Schultes, N. (2011) 'Deutsche Außenwirtschaftsförderung' In Jäger, T. et al *Deutsche Außenpolitik*, Wiesbaden: Verlag für Sozialwissenschaften, p. 364. The consortium of German Industries (*Bundesverband der Deutschen Industrie*) has had a foreign policy since its inception and the European and foreign policy desks of the consortium are key to its work. [Bührer, W. (2007) *Wirtschaftsverbände*, In: Schmidt, S., Hellmann, H., Wolf, R. *Handbuch zur deutschen Außenpolitik*, Wiesbaden: Verlag für Sozialwissenschaften, p. 290.] The German arms industry is also an interesting aspect of industries in German foreign policy. Arms exports remain under governmental control and often foreign ministers and chancellors are involved in negotiations with other states. Furthermore, the German arms industry has been heavily involved in the debates around German security policy, disarmament and change from a conscription to a professional army [Hartmann (1998) p. 249]

²⁵⁹ Almond, G.A. (1956) 'Public Opinion and National Security Policy', *Public Opinion Quarterly*, No 2, Summer 1956, pp. 371-378.

²⁶⁰ Hellmann et al (2006) p. 180 and see Page, B.I. and Shapiro, R.Y.

(1992) *The Rational Public. Fifty Years of Trends in Americans' Policy Preferences*, Chicago: University of Chicago Press; Holsti, O.R.

(1992) *Public Opinion and Foreign Policy: Challenges to the Almond-Lippmann Consensus*, *International Studies Quarterly*, No 4, pp. 439-466.

issues and considers them to be a low priority when voting in national elections.²⁶¹ However, there appears to have been an increase in awareness of foreign policy and European issues. This rarely has a real impact on election results, with the exception being the Iraq War in the early 2000s, which is often cited as a key issue in the 2002 elections.²⁶²

Nonetheless, German public opinion on military activity is often considered an obstacle for certain German foreign policy action, particularly the use of force. In fact, despite changes in the international environment and the end of the Cold War, general trends remain. German support for ‘out of area’ military operations remains weak although acceptance has grown among the public.²⁶³ However public opinion on key issues of German foreign policy, such as NATO membership, participation in military missions abroad, or further European integration, fluctuates and is not reliable. Furthermore, due to the relative high control of the executive over foreign policy in Germany, the influence of public opinion remains quite weak.²⁶⁴

The relationship between the media and public opinion is also a difficult one to disentangle. Overall the media appears very much as an agenda setter on public opinion in foreign policy.²⁶⁵ In Germany, national press agencies, such as the *Deutsche Presseagentur* (dpa), or the German branches of international agencies such as Associated Press (AP) Reuters and *Agence de France* (AFP), play an important role in controlling the international and foreign policy news.²⁶⁶ However, evaluation of the quality of information in German media and its effect on public opinion is significantly divided.²⁶⁷ Also the content of foreign policy comments in the media is not always policy focused but more ‘issue-driven’. The unclear relationship between public

²⁶¹ Jäger, T., Höse, A., Oppermann, K. (2011) *Deutsche Außenpolitik*, Wiesbaden: VS Verlag für Sozialwissenschaften, p. 62.

²⁶² Jäger et al (2011) p. 64.

²⁶³ Hellmann et al (2006) p. 192.

²⁶⁴ Ibid.

²⁶⁵ Jäger et al (2011) p. 62.

²⁶⁶ Sarcinelli, U. and Menzel, M. (2007) *Medien*, in Schmidt, S., Hellmann, H., Wolf, R. *Handbuch zur deutschen Außenpolitik*, Wiesbaden: Verlag für Sozialwissenschaften, p. 326.

²⁶⁷ Ibid, p. 333.

opinion and the media can be seen in the fact that on many occasions the press does not reflect the traditional public opinion on key issues, such as the use of force.²⁶⁸

Here, I have to provided an overview of the key actors involved in foreign policy making in Germany. Although foreign policy is considered a policy of the executive in the German context, other factors and actors have great influence on policy making. One such factor is the reality of coalition governments and the attention foreign policy receives in parliament. Also, the multitude of ministries and the division of labour among the Chancellery and the AA affect the way policy is made. This overview provides an insight to the different actors involved and will be referred to more generally in the historical discussion of German foreign policy in this chapter as well as in the subsequent chapter, particularly in regards to tracing the position of Germany in regards to the status of Kosovo.

2.3 Civilian Power Germany

After outlining the different actors in German foreign policy, the remainder of the chapter will focus on German foreign policy since the Second World War. For this, I will first describe Civilian Power as a foreign policy role, which has dominated the literature on Germany. As part of this discussion, I will highlight how multilateralism and Germany's role in the EU have been particularly relevant for this role description. I will then reconsider this status in light of specific policies, which will be discussed in a more historical review of German policy.

The description of Germany's foreign policy role as a Civilian Power originates from a Foreign Policy Analysis (FPA) approach of role conceptions. Such approaches originate from the constructivist analysis that roles provide the rationale for actions of states. Role theory was firstly applied within Foreign Policy Analysis by Hoslti in the 1970s, borrowing from concepts developed in sociological, anthropological and

²⁶⁸ Ibid, p. 330.

psychologist literature.²⁶⁹ Holsti's understanding of national role conceptions began with an analysis of the Self of states in the international system. Role conceptions were developed further by Walker and have been applied by a variety of authors in FPA.²⁷⁰ Originally, role theory focussed on beliefs, images and identities of groups and how this reflects their behaviour towards others. Foreign Policy Analysis attempts to apply this onto states.

Role theorists consider the role expectations from within a state, the ego, and the expectations from outside of the state, the *alter*.²⁷¹ *Role conceptions* consider the role of one actor in relation to others. This is where the social nature, the social identity of roles in foreign policy, becomes evident. Finally, role theorists also examine to what extent changes in roles are possible, considering this as a social aspect. Changes in roles can come as role adaption or as learning. Adapting their role could be adjustments such as increasing or decreasing certain instruments, changing instruments, or changing the perception of a problem.²⁷² Learning constitutes the adaption of behaviour by an actor through a change of beliefs or, as analysed in greater detail by Levy, diagnostic learning.²⁷³

Recognising the potential for greater integration of role theory in Foreign Policy Analysis, Thies has argued that its contributions to the field has been limited due to a series of factors such as its early focus on sociological aspects not compatible with the wider FPA literature of the time, its initial limitations to the level of analysis and its methodological constraints.²⁷⁴ It is striking how central role conception has been in the

²⁶⁹ Holsti, K. J. 1970. National Role Conceptions in the Study of Foreign Policy. *International Studies Quarterly* 14(3): 233-309

²⁷⁰ S. G. Walker eds (1987) *Role Theory and Foreign Policy Analysis*, Durham, NC: Duke University Press.

²⁷¹ Harnisch, S., 'Role Theory – Operationalization of key concepts' in Harnisch, S, Frank C. and Maull H.W. eds. *Role theory in International Relations*, London and New York: Routledge, p.7.

²⁷² Hermann cited in Harnisch, S. p.10.

²⁷³ Harnisch, S., p.10

²⁷⁴ Thies, C. (2009), *Role Theory in Foreign Policy Analysis*, International Studies Association Compendium Project, Foreign Policy Analysis section, pp.34-35.

discussion of Germany's foreign policy, with a focus on Civilian Power. Thus the concept has been adapted by authors of different perspectives, who do not always trace the origins back to the wider FPA literature on role conception.

The term Civilian Power (CP) was first coined in relation to the European Union by François Duchêne in the 1970s and formed an important basis in the development of the debate on the EU as a foreign policy actor. The characteristics of a Civilian Power are that it, firstly, recognises international cooperation as a necessity, secondly, focusses on economic rather than military power, and finally, that it prioritises international institutions for international affairs over national interest in the realist sense.²⁷⁵ This original definition is quite loose and has been discussed among EU scholars.²⁷⁶ The term was then used by Maull after the end of the Cold War to describe a new kind of foreign policy role, which he attributed to both Germany and Japan in the post Second World War period.²⁷⁷

Describing Germany as a Civilian Power (ger. *Zivilmacht*) was for Maull a retrospective analysis but also an attempt to predict Germany's foreign policy behaviour in the near future after its unification. To a large extent the concept aimed to reassure those who feared an expansionist Germany, pursuing a new *Realpolitik*. For Maull, German Civilian Power is defined, firstly, by the position of fundamental integrations into the West during the Cold War and thus a commitment to democracy. Secondly, its willingness to be integrated in western institutions and to pool sovereignty, mainly via the EU and NATO. Third, its fundamental multilateral approach in foreign policy, which seeks to resolve conflict through international institutions or informal multilateral collaboration. Fourth, its scepticism towards

²⁷⁵ Maull, H.W. (1990) Germany and Japan: The New Civilian Powers, *Foreign Affairs*, Vol.69 p. 92.

²⁷⁶ The origins of the debate lie with Duchêne, F. (1972) Europe's Role in World Peace, in R. Mayne (ed.) *Europe Tomorrow: Sixteen Europeans Look Ahead*. London: Fontana and main points of critique were established by Bull, H. (1982) Civilian Power Europe: A contradiction in Terms?, *Journal of Common Market Studies* Volume 21, Issue 2, pp 149-179. This will be discussed in greater detail in the following chapter in regards to the EU as a Civilian Power.

²⁷⁷ Maull (1990).

military means. Fifth, its commitment to Human Rights and, finally, the alliance with its main partners in international affairs: France, the United States, and Russia.²⁷⁸

In his description of Civilian Power, Maul highlighted the pursuit of multilateral avenues and respect for the rule of law internationally. The assumptions underlying such a reading of Civilian Power have, however, rarely been unpacked. What kind of multilateralism is Germany pursuing as a Civilian Power? To what degree would Germany, in order to comply with a Civilian Power role, be expected to follow international law? Is defection from multilateralism reconcilable with the role of Civilian Power? The difficulty of pinpointing Germany's multilateralism is further amplified by the lack of a coherent engagement with the concept of multilateralism in Foreign Policy.

Keohane famously described multilateralism as the practice of coordinating national policies in groups of three or more states.²⁷⁹ Through multilateralism, so Keohane argues, states accept short-term costs for the sake of longer-term benefits, what he coined as 'diffuse reciprocity'.²⁸⁰ Ruggie's interpretation is more qualitative. He argues that, in contrast to bilateralism, multilateralism prevents exploitation of the weaker actor and introduces 'generalized' principles of conduct among states.²⁸¹ Caporaso further emphasises the normative aspect of multilateralism: not only does it describe state behaviour, but multilateralism carries with it its own ideology of how states should behave.²⁸² Koops refers to these initial descriptions in the literature as 'classic' approaches to multilateralism.²⁸³ While so central to international affairs,

²⁷⁸ Maul, H.W. and Stahl, B. (2002) 'Durch den Balkan nach Europa? Deutschland und Frankreich in den Jugoslawienkriegen', *Politische Vierteljahresschrift*, 43. Jg. (2002) Heft 1, S. 82–111.

²⁷⁹ Keohane, R.O. (1990) 'Multilateralism. An Agenda for Research' *International Journal* 45 no 4 p.731.

²⁸⁰ Keohane, R. (1990) p. 752.

²⁸¹ Ruggie, J.G. (1993) *Multilateralism- The Anatomy of and Institutions in Ruggie J.G. (1993) Multilateralism Matters – The Theory and Practice of and Institutional Form* New York: Columbia University Press. p.571.

²⁸² Caporaso, J.A. (1992) *International Relations Theory and Multilateralism: The Search for Foundations* *International Organization* 46, 3, Summer 1992

²⁸³ Koops, J. (2011) *The European Union as an Integrative Power. Assessing the EU's 'Effective Multilateralism' towards NATO and the United Nations*, Brussels: VUP Press.

theorizing on multilateralism has been surprisingly limited. However, newer interpretations of multilateralism have emerged, which describe the behaviour of states after the Cold War and in the early 2000s as a means to an end rather than an ideology or principle. Van der Oudenaren attributed the failure of multilateralism to ineffective institutions. Here, he refers mainly to the UN, describing political undermining by state actors of multilateralism as ‘dysfunctional multilateralism’. In response, some states have returned to greater unilateralism, while others have sought greater institutionalisation of multilateralism.²⁸⁴ These varying views towards multilateralism become increasingly apparent in the difference between the United States, which approaches multilateralism more as a means to an end, and Europe, with its ideological base that promotes continuous integration.

One of the key issues that led to the described dysfunction is whether multilateralism should be defined by quantity or quality. Should the priority be to reach high numbers, in the traditional multilateral sense, or is it about who executes the action?²⁸⁵ Underlying this political development is what Keohane, in his later reflection on multilateralism, defined as the ‘contingent legitimacy of multilateralism’. He challenges the established rules for legitimising multilateralism and the emphasis on high numbers in intergovernmental collaboration. Instead, he argues that multilateral action should be considered legitimate if it reflects and works to the end of promoting democracy and fundamental values agreed by the international community, namely human rights.²⁸⁶ This tension, as I will explore in this chapter, has developed significantly in the post-Cold War era and after 9/11. Such tensions on the future of multilateralism played a significant role in post-war and post-unification Germany.

²⁸⁴ Van Oudenaren, J. (2003) What is "Multilateral"? *Policy Review* 117:33-47.

²⁸⁵ Van der Oudenaren, J. (2003).

²⁸⁶ Keohane, R. (2006) The contingent legitimacy of multilateralism, in Newman, E., Thakur R. and Tirmaeds, J. (eds) *Multilateralism under challenge? Power, international order, and structural change* New York: United Nations Press

The German approach towards multilateralism after the Second World War has been described as normative. It was not just about coordinating policy with other states, but also about building institutions, following and upholding the established rules, and promoting integration among states, particularly within the European Union. Multilateralism was a constituent part of its new role in foreign affairs. Germany's commitment to multilateralism was, in broad terms, seen as the antidote to its unilateralism, particularly under the Nazi regime.²⁸⁷ It was so much so, that Krause describes Germany's approach to multilateralism in the post-war era as 'uncritical'.²⁸⁸ Other interpretations of Germany's motivation to become multilateral have also been discussed, such as its geographic position and economic interest in a globalising world economy, or as a confidence building measure after two world wars.²⁸⁹

Where such role conceptions originate, who the relevant actors in a society are, and how roles can change are central debates among role theorists. For Maull, Germany's role as a Civilian Power was a result of a concerted effort to make foreign policy elites more civilian.²⁹⁰ Germany's Civilian Power role after the Second World War, with its authoritarian tradition and aggressive foreign policy past, highlights the possibility for roles to change.²⁹¹ The change Germany underwent is considered one of the most radical of, what in role theory is referred to as, international orientation change. Thus, Germany's unification created potential for change in Germany's role in international relations, and thus would have led to expectations of a change in its foreign policy behaviour. If Germany would have become more interventionist and more willing to use military force, would this imply a role change?²⁹²

²⁸⁷ Baumann, R. (2002) 'The Transformation of German Multilateralism – Changes in the Foreign Policy Discourse since Unification' *German Politics and Society*, Issue 62 Vol 20 No 4 Winter (2002) p. 4.

²⁸⁸ Krause, J. (2004) Multilateralism: Behind European views, *The Washington Quarterly*, 27:2, p.48-49.

²⁸⁹ Ibid.

²⁹⁰ Breuning, M. (2011) 'Role Theory Research In International Relations: State Of The Art And Blind Spots' in in Harnisch, S, Frank C. and Maull H.W. eds. *Role theory in International Relations*, London and New York: Routledge, pp.29-31.

²⁹¹ other changes can include adjustment, programme, or goal change. Breuning, M. (2011) p.31.

²⁹² Breuning, M. (2011) p.32.

Baumann has focussed in greater detail on the changing attitudes among German elites towards multilateralism. He highlighted that after unification, multilateralism, as a term, was increasingly used in reference to self-interest. While this concept was nearly absent from public statements by ministers prior to the end of the Cold War, it became increasingly common to refer to them. In regards to the term responsibility, Baumann notices that, prior to unification, it was considered in the context of the Nazi past in Germany and thus it was the responsibility to assure peace in Europe. Later, however, the term was considered in the context of playing a greater role in international affairs.²⁹³ Thus, being a proactive actor in international institutions and using the institutions for a political outcome became much more of a pursuit in German policy rather than using international institutions as a way to level the field to keep the balance between different actors.

In regards to the German role conception as a Civilian Power and its attitudes towards multilateralism, I will argue that the description of Germany as a Civilian Power overlooked the well-documented domestic political debates on foreign policy after the Second World War as well as tensions regarding multilateralism and militarism after unification. Wehner and Thies have argued that domestic contestations are often overlooked by role theorists. However, it is important to include the domestic contestation to explain how narratives of leaders are influenced by such contestation and therefore adapted.²⁹⁴ Brummer and Thies have demonstrated in detail how, in the case of Germany, opposition parties have contested the change of role conceptions by the government. They also found that bureaucratic politics of coalition governments affect the national role conception of the states.²⁹⁵ I therefore argue that the level of analysis applied by Maull in his interpretation of Germany's role was too limited, as it focussed on the governments or influential civil society groups rather than on the political conflict in Germany on contentious issues.

²⁹³ Baumann (2002) pp. 16-19.

²⁹⁴ Wehner, L and Thies, C. (2014) 'Role Theory, Narratives, and Interpretation: The Domestic Contestation of Roles' *International Studies Review* 16, 411–436, p.421

²⁹⁵ Brummer, K and Thies, C. (2015) 'The Contested Selection of National Role Conceptions' *Foreign Policy Analysis* 11, 273–293, p. 290.

I will illustrate this, firstly, by highlighting the differing positions of chancellors along and across party lines on German rearmament, nuclear deterrence in Europe and the relationships with Germany's key allies in the West and the East. I will argue that the Civilian Power model assumes an unanimity, which is reductive of German foreign policy positions. Germany's commitment to multilateralism is not simply anti-militarist or committed to unanimity within International Relations. After the Second World War, military and security issues were central to the debates among political parties and within coalition governments. Additionally, Germany had to find a balance between its close allies the United States and France, establish itself against the former occupying powers and create a sustainable relationship with Eastern Europe and the Soviet Union. In these areas, the non-military approach of a Civilian Power as described by Maull was not the only ethos in Germany. The two main parties, the Social Democrats (SPD) and the Christian Democrats (CDU/CSU), argued at different stages for arms proliferation in Europe, both conventional and nuclear. Although this was always framed in the language of deterrence and multilateralism, non-militarism did not equal anti-militarism. German elites did not seek to act militarily abroad but did not reject military power and sought it for domestic defence during the Cold War.

In the following, I will discuss the key policies and events of post-War Germany. This will then be followed by, first, a discussion of the literature on the concept of Civilian Power in that period and, second, I will then turn to German foreign policy after unification in which I will also highlight the role of the EU in Germany's multilateralism. I will then conclude this section with a more extensive discussion of the Civilian Power concept and continuity and change in the post-Cold War era.

2.4 Post War Germany

2.4.1 Anchoring Germany in the West

After the defeat of Germany in the Second World War and a period of full control of German territory by the occupying powers, the Christian Democrat Konrad Adenauer became the first chancellor of the FRG, West Germany, in 1949. The priorities of Adenauer at the time are often cited as ‘security, equality and unification’. He considered the anchoring of Germany to the West (*Westbindung*) the only opportunity for Germany to re-join the international community. Thus, the contribution of Germany to the institutional framework among Western allies was a key aspect of this. Most importantly the European Coal and Steel Community, the European Economic Community, as well as NATO were important institutions for reconciliation with and integration into the West.²⁹⁶ The next chapter will discuss how Germany integrated into Western Europe, here I will focus on the security aspect outside of the EU and mainly on NATO.

Adenauer was dependent on support from the United States. However in regards to security, his approach was ambitious and often not perfectly aligned with the United States or NATO.²⁹⁷ It was also in stark contrast to wider public opinion throughout Germany.²⁹⁸ For example, Adenauer wanted to rearm Germany at a time when NATO’s *Massive Retaliation* policy focused primarily on atomic weapons. This was a controversial pursuit just a few years after the defeat of the Nazi regime. To adapt, Adenauer’s priority changed to increase Germany’s role in the NATO decision-making process.²⁹⁹ Germany, in Adenauer’s eyes, had to become indispensable for the alliance. He thus moved to lobby for Germany to hold nuclear launchers, which he achieved in 1958.

²⁹⁶ Overhaus, M. (2009) *Die Deutsche NATO-Politik*, Baden-Baden: Nomos.

²⁹⁷ Ibid, p. 44 and Haftendorn, H. (1985) *Security and Détente*, New York: Praeger, p. 20-22.

²⁹⁸ Risse (1991) p. 2481.

²⁹⁹ Overhaus (2008) p. 44.

In 1963 Germany signed the Franco-German Elysee treaty, reinforcing bilateral ties but also raising alarm in Washington.³⁰⁰ NATO moved further away from Adenauer's security policy by changing from *Absolute Retaliation* to *Flexible Response*, initiated by US Presidents Kennedy and Johnson. This was received positively by the Social Democrats. The SPD, which was in opposition at the time, disagreed with Adenauer's nuclear ambitions.³⁰¹ The United States appeased Germany with additional security guarantees within NATO, partly to avoid Germany forging a closer alliance with France.³⁰² Adenauer had to balance the priority of Germany becoming a full independent member of the international community with its dependence on the United States for its security. While West Germans were keen allies of the US, it became evident that their security interests would diverge to a certain extent. The nuclear deterrent was to remain a political issue for most chancellors.

The Harmel report of NATO in 1967 was the beginning of a new Cold War Policy of the United States and foreshadowed or enabled the German *Ostpolitik*, which followed a few years later under the SPD government. It combined the approaches of Johnson and de Gaulle to combine the *détente* cooperation to begin negotiations with the Soviet Union, on the one hand, but continue to maintain security for the alliance, on the other.³⁰³

³⁰⁰ Haftendorn, H. (2006) *Coming of Age: German Foreign Policy since 1945*, Lanham, MD: Rowman & Littlefield, p. 95. In the late 1950s and early 1960s relations between the UK and France soured over Anglo-American nuclear cooperation and the blockage of British accession to the Common Market. Adenauer's ambitions for a multilateral nuclear force (MLF) through which Germany would gain access to nuclear weapons had been taken into consideration by US President Kennedy but was dropped by President Johnson. Due to concerns from Paris and London as well as the progress on the non-proliferation treaties (NPTs) with the USSR, the United States moved towards a de-escalation rather than further nuclear proliferation. [Overhaus (2008) p. 46-47.]

³⁰¹ Overhaus (2008) p. 48. The development of aborting the MLF project and progress to the NPT left Germany concerned with the perceived lack of military security provided by the United States.

³⁰² Haftendorn (2006) p. 98.

³⁰³ Overhaus (2008) p. 49. The Harmel report was also an important balancing act for Germany in its western alliance as, on the one hand, its relationship with France remained a key priority but, on the other, de Gaulle was not shying away from further confrontation with NATO, Germany had to continue to rely on US security, although this guarantee appeared to be diminishing. [Haftendorn (2006) pp. 112-114.] Within NATO there was reluctance to continue to support West Germany's position on achieving unification and a more constructive approach towards the Warsaw Pact states became a policy, which Germany would not have been able to stop. The report was eventually, however, a compromise between the American approach, which still considered NATO as a fundamental deterrence and defence alliance and the French *détente*, which would have wanted to see a more active policy.

Thus, after regaining sovereignty from the occupying powers, Adenauer, as first chancellor in the post-War era, had to adapt to a new Germany and a new international security situation. He realised quickly that although directly affected by the Cold War, Germany would not have a first tier position in policy making. Its dependence on the United States for security and its relationship with France highlighted a complex tension in regards to militarism and multilateralism. I argue that considering this early period of the FRG, highlights important tensions, which existed for Germany in the post-War era, which, in turn, highlights the shortcomings of a pure Civilian Power understanding of Germany. While German economic integration and multilateralism were a central part of post-War Germany, anti-militarism was not the predominant policy of the German leadership. Instead, multilateralism was the only opportunity for Germany to re-establish itself as an independent state and any attempts to move beyond a fully integrated security framework or to seek more autonomy would have led to conflict with its key allies.

2.4.2 *Ostpolitik*

Ostpolitik was a central policy in post-War Germany, developed by Social Democrat Chancellor Willy Brandt. This policy entailed the establishment of treaties with Eastern Germany and Eastern European states to allow for the de-escalation of the Cold War. Historically, the policy is considered Brandt's main legacy.³⁰⁴ After the escalations of the Cold War with the Cuba and Berlin crises, also the United States and many western European countries were keen to improve relations with Eastern Europe. Within Germany, civil society organisations were increasingly advocating a change to the previous *Deutschlandpolitik*, which had unification as the priority with a zero-sum approach.³⁰⁵

³⁰⁴ It was awarded the Nobel Peace Prize in 1971.

³⁰⁵ Haftendorn (2006) pp. 158-159. One of the few steps towards relations with the USSR by Adenauer had been to travel to Moscow to negotiate the release of ten thousand remaining prisoners of war, who ten years after the end of World War II were still in Siberian labour camps. Adenauer's concession to open diplomatic relations in exchange for the prisoners was at the time conceived as a risk in regards to a possible unification of the two Germanys. Instead, it turned out to be Adenauer's biggest political success and a definition of his legacy. With unification still as an ambition for West Germany in the 50s, an *Ostpolitik*, would however been unimaginable for Adenauer.

As mayor of West Berlin, Brandt had witnessed the building of the Berlin wall and since then had taken a pragmatic approach to improving the lives of the population of Eastern Berlin and Eastern Germany. ‘Change through rapprochement’ (*Wandel durch Annäherung*) became the key philosophy for Brandt’s approach to be able to undo the division of Germany.³⁰⁶ As minister of foreign affairs,³⁰⁷ Brandt used the French détente policy to lay the foundation for his *Ostpolitik* by including the GDR in non-aggression agreements.³⁰⁸ At the time, this led to disagreement with the coalition partner the Christian Democrats, and was not well received by the United States who continued to frame the conflict in an ideological manner.³⁰⁹ As Chancellor, Brandt set out the *Ostpolitik*, with his main adviser, Social Democrat Egon Bahr, and the policy became more aligned with the US Kennedy administration towards a peace strategy.³¹⁰

In the period of 1970-1973 treaties with Moscow, Warsaw, and Prague, as well as with the various agreements with the German Democratic Republic and the four occupation powers became the cornerstones of the *Ostpolitik*. The first treaty of Moscow laid the foundation for rapprochement with the Soviet Union. It aimed to work from the current status quo towards peace and détente, rejecting the use of force and respecting current borders in Europe. Relationships with the Soviet Union and all states of the Eastern Bloc were to be established.³¹¹ Finally, the treaty expressed willingness to improve collaboration in international organisations. Both Germanys would become members

³⁰⁶ Schmidt, W. (2014) Willy Brandts Ost-und Deutschlandpolitik in Rother, B. ed. *Willy Brandts Außenpolitik*, Wiesbaden: Springer VS, p. 169.

³⁰⁷ In the CDU/SPD grand coalition prior to becoming chancellor.

³⁰⁸ Kaarbo (1996) p. 506 – see also Clemens, C. (1989) *Reluctant Realists: The Christian Democrats and West German Ostpolitik*, Durham, N.C.: Duke University Press and Haftendorn (1985).

³⁰⁹ Haftendorn (2006) p. 110, Bickerton, C. (2011) *Towards a Social Theory of EU Foreign and Security Policy* *JCMS* 2011 Volume 49. Number 1. pp. 171–190, p. 176 see also Garthoff, R.L. (1994) *Détente and Confrontation: American–Soviet Relations from Nixon to Reagan*, Washington, DC: Brookings Institution, p. 140 and Sarotte, M.E. (2008) *The Frailties of Grand Strategy: A Comparison of Détente and Ostpolitik*, in Logevall, F. and Preston, A. (eds) *Nixon in the World: American Foreign Relations, 1969–1977*, Oxford: University Press, p. 159.

³¹⁰ Kundnani, H. (2014) *The Paradox of German Power*, London: Hurst, p. 33.

³¹¹ The treaty with Warsaw demonstrated West Germany’s willingness to build relationships with the Eastern Bloc independently from Russia. Schmidt (2014) p. 210. Any progress on these treaties was, however, under the condition of collaboration with the USSR on Berlin and on German-German relations. (p. 213)

of the United Nations and the establishment of the Conference for Security and Collaboration in Europe was decided, which later became the Helsinki act and the OSCE.³¹²

Eventually, also a German-German treaty was agreed, improving transport and travel arrangements across the border. This so-called ‘basic treaty’ (*Grundlagenvertrag*) between East and West Germany echoed the principles of the agreements with the Soviet Union: a rejection of violence and the desire for an improvement in relations between the nations. For the German-German relationship, mutual acknowledgement as neighbours enabled application to the United Nations, although again there was no diplomatic recognition.³¹³ The last of these treaties, with Czechoslovakia enabled West Germany to come to an agreement to override the agreement of the Munich conference of 1938 and reaffirmed the current borders of Czechoslovakia, rejecting any German claim over the *Sudetenland* which had been annexed by Nazi Germany.³¹⁴

2.4.2.1 Domestic and International Debate over Brandt’s *Ostpolitik* - For Maull, *Ostpolitik*, and the related commitment to the Conference on Security and Cooperation in Europe, are essential aspects of Germany’s Civilian Power role.³¹⁵ The policy supports his argument of Germany as a fundamentally multilateral actor and ‘coalition-builder’ among international actors.³¹⁶ He also emphasised that Germany’s recognition of the *Oder-Neiße* line to Poland was key proof that the country was no longer a *Real-political* threat to the rest of Europe.³¹⁷ He argues that this recognition demonstrated Germany’s clear preference for political solutions over the use of force, and an inherent focus on de-escalation and overcoming tensions.³¹⁸ This was true for the principles of the *Ostpolitik*: demilitarisation, rejection of violence, respecting borders, securing peace and improving collaboration between the East and West. However, the

³¹² Schmidt (2014) p. 205.

³¹³ Ibid, p. 219-222.

³¹⁴ Ibid, p. 223.

³¹⁵ Maull (2000) p. 68.

³¹⁶ Maull, H.W. (2008) Germany and the Art of Coalition Building, *Journal of European Integration*, 30:1, pp. 131-152, p. 132-133.

³¹⁷ Maull 1990) p. 4.

³¹⁸ Maull (2000) p. 68.

policy was disputed among German politicians. The opposition always opposed the approach and Brandt's policy became isolated and lost support, even in his own party, after new escalations in the Cold War and delays in implementing the agreements.³¹⁹

The Christian Democrats had opposed the 1970-73 treaties and went on to contest these at the constitutional court. The fear was that such agreements would undermine constitutional commitment to a unification of Germany. Especially Brandt's approach to relations with Poland was criticised, firstly, in regard to the *Oder-Neiße* line, and, secondly, regarding the way Brandt represented Germany in Poland.³²⁰ Especially the associations of expellees, representing the interest of German exiles from East European countries, was highly critical of *Ostpolitik*. This led to a failed attempt to remove Brandt from power with a constructive vote of no confidence.³²¹

At the same time, the Christian Democrats were also split internally, as some engaged in a long-term reconciliation process with Poland, while others stood to defend the rights of German expellees.³²² Also, the close negotiations with Moscow caused the CDU/CSU and Western allies to fear that Brandt was planning to let Germany join the non-aligned movement. Similarly, Western partners brought up fears of a repetition of history, such as the treaty of Rapallo.³²³ While Britain and France supported Germany moving away from its blockade with Eastern Europe, there remained the concern that Germany's increasingly close relationship with Soviet Union would undermined their own efforts.³²⁴ Brandt continuously reassured his partners that *Ostpolitik* was only

³¹⁹ Schmidt (2014) pp. 223-230.

³²⁰ The *Oder-Neiße* line was still disputed because of German minorities who were living in the area in Poland and the prosecution of those minorities during the Second World War. The opposition claimed that Brandt was not protecting their or German interests. [Schmidt (2014) p. 218] Additionally Brandt's historical gesture of kneeling before the memorial to the victims of the Warsaw Ghetto was perceived as exaggerated by the opposition and much of German public opinion. Thereby, it was argued, Brandt ignored the suffering of Germans in Poland and some even argued that this was an act of treason. (Ibid p. 212)

³²¹ Kronenberg, V. (2009) Grundzüge deutscher Außenpolitik, *Informationen zur politischen Bildung* 304/2009, pp. 14-28, p. 24.

³²² Haftendorn (2006) p. 171.

³²³ Schmidt (2014) p. 68 and 217.

³²⁴ Haftendorn (2006) p. 162.

possible if West Germany remained firmly anchored in the West (*Westbindung*).³²⁵ Christian Democrats did not trust this promise and still today many see Brandt's close collaboration with the regimes of the East as having been two-faced.³²⁶

The domestic debate about *Ostpolitik* highlights various tensions within German Foreign Policy in the post-War and Cold War era. General alignment during the Cold War was contested during this period, although the question of engaging with the Soviet Union without undermining the *Westbindung* was accepted. Security concerns were central for many politicians at the time. Finally, the willingness of the government to reconcile with Communist countries but also with those states that had been invaded by Germany during the second World War was also a contested by critics mainly within the CDU. As much as the *Ostpolitik* was an important legacy for the Brandt administration it was not one built on the consensus of German politicians and parties.

2.4.3 NATO Double Track Decision

With escalations of in the Cold War in the early 80s, the Soviet march into Afghanistan and the Poland crisis, as well as the continuing arms race, the lauded effects of *Ostpolitik* came into crisis.³²⁷ Brandt's successor Helmut Schmidt led a Social Democrat-Liberal coalition.³²⁸ Schmidt was increasingly concerned about the Soviet dominance in Intermediate-Range Nuclear Forces (INF).³²⁹ In response to this threat,

³²⁵ Schmidt (2014) p. 222.

³²⁶ Hennecke, H.J. (2009) 'Das Doppelgesicht der sozial-demokratischen Ostpolitik' in Konrad-Adenauer-Stiftung e.V., *Dreißig Thesen zur deutschen Einheit*, Freiburg: Herder Verlag, p. 64. Another major critique was that Brandt was not collaborating with civil society movements in Eastern Europe and would not meet with dissidents. Brandt did not see the *Ostpolitik* as a way to end communism but believed that only through rapprochement questions of human rights could be raised and discussed with the various regimes. Undermining these regimes, in his view, would not have led to an improvement in the conditions of the population. [Schmidt (2014) p. 232 and p256.] Thus, critics of the *Ostpolitik* argue that having failed to reform communism from outside, Ostpolitik did not contribute to the unification of Germany. [Hennecke (2009) p. 58.] Instead, critics argue, the West-orientated leadership of the chancellors that followed Brandt, Schmidt (also SPD) and Kohl (CDU), exposed a naïveté regarding the Soviet and the East German regimes by the Social Democrats.

³²⁷ Schmidt (2014) pp. 256-257.

³²⁸ Ibid, p. 233.

³²⁹ Kronenberg (2009) p. 29.

Schmidt and his party increasingly pursued disarmament, while the Christian Democrats followed Adenauer's tradition of focusing on modernisation and increasing Germany's influence in NATO.³³⁰ West Germany also considered itself vulnerable to conventional weapons attack from the USSR.³³¹ Schmidt succeeded in gaining recognition of the INF issue in Europe through the double track decision in 1979, which was in line with the goal of disarmament and the introduction of the *zero option*.³³²

While considered a tool for de-escalation and demilitarisation, Schmidt's support for the double track decision and deployment of medium range missiles in Germany faced significant opposition from the German public. The political mobilisation against the agreement encouraged the German peace movement in the 1980s, which called for a Europe free from atomic weapons.³³³ Schmidt disagreed with this opposition arguing that the security of the West depended on the positioning of the missiles. The Christian Democrats supported Schmidt's policy, while the left wing of the SPD wanted to prioritise arms control.³³⁴ Eventually, Germany ratified the agreement with a small minority and when Christian Democrat Helmut Kohl succeeded Schmidt as chancellor in 1982, he implemented the policy.

The double track decision highlights the strong political divisions within German foreign policy on military and nuclear questions. Although parts of civil society and public opinion may have been in favour of disarmament, the strong public support for greater disarmament did not become government policy. The domestic opposition to the double track decision was not stronger than the government's commitment to *Westbindung* and the dependence on the Western allies for security at the time.

³³⁰ Overhaus (2009) p. 50-51.

³³¹ Haftendorn (2006) p. 242. Hence, the US's Schlesinger doctrine of the reassessment of nuclear weapons at the time was only partly desirable for Bonn,

³³² Overhaus (2009) p. 53 and Kronenberg (2009) p. 29.

³³³ Kundnani (2014).

³³⁴ Haftendorn (2006) p. 255.

External pressure on the German government was thus essential and very influential in the decision making.

2.4.4 German Unification

After the fall of the Berlin Wall in 1989, West Germany needed an immediate response in, firstly, domestic politics, secondly, to the legal status of the new Germany and, finally, in foreign policy.³³⁵ Overall, Chancellor Kohl appeared to be acting initially quite unilaterally when he presented a ten-point plan on the unification of Germany and security in Europe, without input from his liberal coalition partner, or from West Germany's closest international allies. For Kohl, the unification of Germany was the priority.³³⁶

Unification was managed through the so-called two-plus-four treaty, which referred to the two Germanys and the four occupying powers. Through this formula, the Soviet Union accepted German unification; however, the future of Germany in NATO was a more difficult issue to resolve. The Soviet Union showed considerable resistance to the idea that the newly unified Germany would become a full NATO member. The Soviet Union wanted Germany as a whole to be demilitarised and with neutral status instead. The German leadership considered a policy of non-alignment, and this would have been supported by public opinion. Due to American pressure on the Chancellor and negotiations between Kohl and Gorbachev, the full accession of Germany to NATO was, however, agreed.³³⁷ With the two-plus-four treaty, it was eventually agreed that the territory of the new Germany would include the areas of the former GDR and FRG, Germany would reaffirm its border with Poland and that there would be no change to borders as part of a European Peace Order, which was to be recognised by the four occupying powers.³³⁸

³³⁵ Ibid, p. 279.

³³⁶ Ibid, p. 283.

³³⁷ Overhaus (2008) p. 55-56.

³³⁸ Haftendorn (2006) p. 299.

The case of unification put Germany right at the heart of multilateral negotiations in which it depended on the benevolence of its former occupying powers. It also demonstrates that Germany's unwavering support for and dependence on NATO was briefly put into question. This was mainly considered to avoid de-stabilising Europe in light of the major changes. Establishing peaceful relations with its new Eastern European neighbours was also a stabilising policy by the FRG. Due to the history of violence of Germany against its Eastern neighbours, the Warsaw Pact countries were vulnerable after 1990. Thus, Germany moved quickly to sign agreements with its Eastern neighbours to recognise the new borders of the Federal Republic of Germany. This was just the beginning of the further integration of Eastern Europe into NATO and the European Union.³³⁹ The peaceful fall of the GDR and unification remains an unexpected turn in European history. The immediate post-Cold War era was a period in which Germany's foreign policy was under great scrutiny and, especially, its multilateralism and position on military force was of great concern for its closest allies and some domestic actors.

2.4.5 Post-War Germany – More than a Civilian Power

Above I have provided a review of key policies in Germany's foreign and security policy of the post-war era. The analysis by Maull of this same period has led him to ascribe Germany a foreign policy role of a Civilian Power. I have provided a discussion of Germany's foreign policy role, which acknowledges that within Germany there have been political positions and policies which would not fit a strict Civilian Power role.

I have already provided a first critique of the emphasis by Maull on *Ostpolitik* as the central proof for the Civilian Power nature of Germany. The debate around Germany's *Ostpolitik* was continuous not only along party lines but also within parties. Brandt's was strongly contested and his successor moved away from it entirely. The policy remains disputed among political parties. Domestic contestation of a role in foreign

³³⁹ Tewes, H. (2002) *Germany, Civilian Power and the New Europe*, Houndmills: Palgrave Macmillan, p. 2.

policy has been considered to be under-studied within Foreign Policy Analysis and International Relations theory.³⁴⁰ It is therefore necessary to incorporate the domestic debate in the analysis. The disagreement on Ostpolitik does not signify a disagreement on the Civilian Power role per se, but it demonstrates that the specific character of the Civilian Power role was disputed and is not inseparable from Ostpolitik. Brummer and Thies have outlined the ongoing negotiations and the struggle between different role conceptions by German actors after the Second World War. These different approaches were the 'faithful ally' - the role advocated by Adenauer - and other role conceptions promoted by parts of the Social Democrats, such as 'recalcitrant ally', neutrality, or 'the eastern ally'.³⁴¹ Thus, the contestation of Brandt's Ostpolitik could be considered a continuation of this struggle of the role conception for Germany. The central aspect of multilateralism was not questioned - in fact, it constituted a central aspect of the overall Civilian Power role accepted by most of the elite in Germany. However, it remained contested as to how Germany should execute this multilateralism.

In regards to commitment to anti-militarism, I have also highlighted particular political strands in that period. The Chancellors Adenauer, Brandt and Schmidt all found themselves at odds with the expectations of their Western allies. Both Adenauer and Brandt found themselves arguing for changes in NATO, however on opposite sites. While Adenauer wanted nuclear proliferation, Brandt called for a stronger conventional defence force for Germany. For Brandt, this was not the alternative to nuclear weapons but an addition, which he saw as vital to fill a security blind spot in Europe. While some changes were made to NATO policies, generally, German claims were largely put off.

Germany's relationship with nuclear proliferation and conventional weapons in Europe is thus more complex than a Civilian Power role might suggest. Adenauer and Strauss had nuclear ambitions for Germany. The first German Chancellor did not

³⁴⁰ Wehner, L and Thies, C. (2014).

³⁴¹ Brummer, K. and Thies, C. (2015) p.281.

embrace the same values of disarmament as the peace movement did against NATO thirty years later. Social Democratic Chancellor Schmidt was confronted with strong public opinion against the double track decision but went ahead with the policy. The domestic peace movement was not as influential as stressed in the Civilian Power characterisation. Maull's Civilian Power does not imply a pacifist position. However, it still excludes the political and security considerations several administrations in Germany took. These were not always for the purpose of de-escalation, although often they were framed in this context. German chancellors tried to re-establish Germany as a full member of the Western alliance and to respond to perceived security threats during the Cold War era. The limitations on their military ambitions came partly from domestic politics, Brandt being a case in point, but mostly from Western Germany's allies, especially the United States and France. In the description of the domestic actors above I highlighted the anti-militarist approach of public opinion and of political party factions in Germany. This outlook is not fully reflected in the political elites of the parties and the government policies. In role theory, the *alter* and *ego* are central to a state's role conception and, in the case of Germany, the influence of its close allies, particularly the United States, has been highlighted as an important factor in its approach to militarism. From the developments in post-War Germany, Tewes has argued that the acceptance of the Civilian Power role occurred over time, first by affecting the ego role conception of the elites, and, in the longer term, of the wider public. Hence at the end of the Cold War, the conceptions of the ego and the alter were closely aligned, particularly in regards to prioritisation of alliances for Germany and to its use of force.³⁴²

The argument here is not that Germany had military and expansionist ambitions after the Second World War. It is rather that, although a diverse political debate and German considerations during the post-War era up to unification have been well documented in the historical literature, these have not found their way into the literature surrounding Civilian Power, a concept which has dominated interpretations of

³⁴² Tewes, H. (1998) Between deepening and widening: Role conflict in Germany's enlargement policy, *West European Politics*, 21:2, 117-133, pp118-119.

Germany as a foreign policy actor after unification. Taking these more diverse political factions into consideration, my argument will help explain Germany's willingness to intervene in conflicts also through recognitions, as I aim to do in this thesis.

The next section will discuss developments in German foreign policy after unification. This period is especially relevant to the case study presented here because after 1990 Germany began to develop as a foreign policy actor outside of the Cold War dichotomy and the 1990s are the central period in which Berlin developed its policy on Kosovo's status. I will firstly outline the debate about continuity and change in German foreign policy after unification in regards to multilateralism. I will then discuss key cases which were used in the literature to discuss Germany's changing foreign policy role. For this I will focus firstly on the controversy on Germany's recognition of Croatia and secondly military interventions of the late 1990s and early 2000s. Here Germany's relationship to key allies and also within the European Union will particularly highlight the changing role of Germany in international affairs.

2.5 Germany Post-Unification

The post-Cold War period brought many challenges for Germany as a foreign policy actor although it was then that the concept of Civilian Power was defined by Maull. What Germany's foreign policy would look like after unification was a key debate within academic and also foreign policy circles. Would Germany, now reunited and growing economically, develop a classic *Realpolitik*? Was Germany again a threat to Europe? Throughout the 1990s, policy analysts and academics looked anxiously for signs; each German foreign policy decision was torn between interpretations of continuity versus anomaly. Fundamentally, the debate was divided between rational neo-realists and constructivists, between accounts of *Realpolitik* versus those focused on values.

Another element became increasingly important in the discussion of Germany's foreign policy role change: that of the European Union. The understanding of the EU role of Civilian Power and the relationship to Germany's role was one aspect of this. Secondly, the other the growing literature on Europeanisation of EU members' states,

which also reflected on the consequences in foreign policy in particular, became relevant to how Germany's role may develop.

As described above, the original term of Civilian Power was coined by Duchêne in regards to the European Union..³⁴³ Duchêne's characterisation differed from Maull's description of Germany and Japan's foreign policy role Duchêne raised the question of whether the EU could be an actor in international relations at all and what kind of actor it should be. Maull's Civilian Power description does not question Germany being an actor and presumed it to have a foreign and security policy.³⁴⁴ What type of international actor the EU, as an organisation, should become has therefore been a central question in the literature. In regards to Germany, the literature has also focussed on what kind of actor it wanted the EU to become and how its changing approach to military action was linked to the EU's new role in international affairs.

The concept of Europeanization has played an important function in the description of Germany's foreign policy role. It describes the effect of the creation and reinforcement of an EU identity - through norms, regulations and practices - on state behaviour. It can broadly be understood as a phenomenon of socialisation at the level of the EU member states' executives in developing policy.³⁴⁵ Europeanization acknowledges the role of the state and of intergovernmental negotiations at the European level, however, it also claims that within these EU-level talks, negotiators are more attuned to the importance of finding a common solution. Thus, their negotiation strategies may be

³⁴³ Duchêne (1972).

³⁴⁴ Maull (1990). Duchêne formulated a future role for the Europe Union in which it seeks political influence using its economic power and rejects all military activity. Building on its violent past, Duchêne saw Europe as a civilizing force which should encourage responsibility among other members of the international system and thus contribute to world peace. Duchêne (1972) and (1973) *The European Community and the Uncertainties of Interdependence*, in M. Kohnstamm and W. Hager (eds) *A Nation Writ Large? Foreign-Policy Problems before the European Community*, pp. 1–21, London: Macmillan, pp. 19-20.

³⁴⁵ A fundamental mechanism to achieve Europeanization at domestic level is the concept of Diffusion, through which norms are accepted and internalised. Checkel, for example, identified two key phenomena, elite learning and societal pressure, both of which influence changes in state behaviour, specifically in liberal democracies. Checkel, J.T. (1997) *International Norms and Domestic Politics: Bridging the Rationalist-Constructivist Divide*, *European Journal of International Relations* 1997 3: 473p. 487.

focussed on finding a European solution rather than focusing on representing their domestic position.³⁴⁶ It can therefore fundamentally affect the way EU members behave in a multilateral environment.

In regards to foreign policy, however, proving the existence of a high intensity of Europeanization has been less obvious. The spectrum of critics includes Realists, who deny the existence of the EU as a significant foreign policy actor in the international system and consider it simply a coordination of member states' policies, and Functionalists, who hoped for intensive integration of EU in foreign policy, but accept that the lack of institutional maturity and committed resources remain an obstacle to achieving this.³⁴⁷

Applying the concept of Europeanization to foreign policy, Wong identified the following three developments: EU Member States adapt foreign policy as advocated by the majority of member states and/or the EU institutions; member states attempt to 'export' their national foreign policy to the EU level in regards to specific countries or issues; and finally, member states engage in socialisation and identity reconstruction of the EU as a foreign policy actor to overcome previous conflicts with third countries and/or to redefine themselves in the international sphere as EU member states.³⁴⁸

Within the literature, the role of the EU in the development of German foreign policy has been emphasised significantly. Particularly in regards to Germany's potentially changing foreign policy role after the Cold War. Miskimmon and Paterson applied the framework of Europeanization to explain the changes in German foreign policy

³⁴⁶ Featherstone, K. and Radaelli, C. (2003) (eds) *The Politics of Europeanization*, Oxford: Oxford University Press Bulmer, S., and C. Lequesne (2005) *The EU and its Member States: An Overview*, in S. Bulmer and C. Lequesne (eds) *The Member States of the European Union*, Oxford University Press; and Smith, M.E. (2004).

³⁴⁷ Wong, R. (2007) Foreign Policy, in Graziano, P. and Vink, M. (eds.) *Europeanization: New Research Agendas*, Basingstoke and New York: Palgrave Macmillan, p. 324-325.

³⁴⁸ Wong, R. (2007) p. 325. Hill and Wong explain this Europeanization of foreign policy through a 'three-and-a-half level game', as this concept was developed prior to the Lisbon treaty, the 'half level' would be under Pillar II of the CFSP. [Wong, R. and Hill, C. (eds.) (2011) 'National and European Foreign Policies' New York: Routledge, p. 227.]

towards greater intervention and military foreign policy.³⁴⁹ Hellman et al raised the possibility of Germany de-Europeanizing over time.³⁵⁰ The role of Europeanization in Germany's behaviour after the Cold War is therefore an additional layer to Germany's change towards multilateralism. In the following cases, the approach towards the EU was an integral part of the observed change

2.5.1 Germany's Recognition of Croatia

In Chapter One I indicated that the understanding of the of recognition of Croatia as conflict management had been linked to Germany's foreign policy. Firstly, in regards to Germany's understanding of the conflict was a 'war of conquest' by Serbia rather than understanding it as a civil war, as others, especially France interpreted it.³⁵¹ Secondly, German domestic pressure was interpreted to have mounted based on a commitment to self-determination in the post-unification context of the Federal Republic.³⁵²

The use of recognition was therefore considered a conflict management method, compatible in principle, with Germany's foreign policy role as a Civilian Power. It was intended to be a civilian solution to a military aggression, with the long-term goal of supporting self-determination and the establishment of a new democratic political system. Germany's policy was however also under particular scrutiny because of the perceived uncharacteristic unilateral approach towards the recognition process. While the Badinter Commission had established a clear timeline and criteria of recognition, Germany recognised prior to the publication of the decision of the Commission as to whether the republics would be recognised. This therefore created particular tensions among its close multilateral partners, especially within the EU. In this context,

³⁴⁹ Miskimmon, A. and Paterson, W.E. (2003) Foreign and Security Policy: On the Cusp Between Transformation and Accommodation, in Dyson, K. and Goetz, K.H. eds. *Germany, Europe and the Politics of Constrain*, New York: Oxford University Press

³⁵⁰ Hellmann, G., Baumann, R., Bösche, M., And Herborth, B., Wagner, W. (2005) 'De-Europeanization by Default? Germany's EU Policy in Defense and Asylum' *Foreign Policy Analysis* (2005) 1, 143–164

³⁵¹ Caplan (2005) p. 27 and 2002, p. 165. See Chapter One 1.7 Recognition as Intervention and Foreign Policy.

³⁵² Glaurdic, J. (2011) *The Hour of Europe. Western Powers and the Break-Up of Yugoslavia*, New Haven: Yale University Press; Crawford, B. (2007) *Power and German Foreign Policy - Embedded Hegemony in Europe*, Houndmills: Palgrave Macmillan.

Germany has been depicted as pushing its European allies into recognition. Thus, the discussion has not only been on whether Germany supported Croatian independence, and why it may have done so but also on how it went about it.

Some authors have traced Germany's position on Croatia in more detail and have pointed out that its policy was first committed to a unified Yugoslavia and only later moved to support for the independence of the constituent states.³⁵³ Caplan points out that Germany was supportive of maintaining Yugoslav territorial integrity and reiterated statements of the EU at the beginning of the apparent dissolution of Yugoslavia until the summer of 1991. Only once the conflict had escalated militarily did Germany advocate recognition. Furthermore, Caplan also points out that Germany was not alone in this approach and that other EU members had indicated a need for recognition.³⁵⁴ Glaurdic also emphasises the early commitment of Germany to a united Yugoslavia controlled by Belgrade.³⁵⁵

The reason for the change in policy has been justified by many authors with the role of domestic actors in Germany. Maull has argued that the Christian Democrats were sympathetic to the Croatian independence struggle because of Croatia's Catholicism, and that Croatia's cultural ties with Germany added to this sympathy.³⁵⁶ However, other authors have demonstrated that the cultural ties have been exaggerated and that other factors, such as the support for self-determination, were more influential in this regard.³⁵⁷ The consensus among the political parties on the importance of supporting self-determination claims from the Republics has been especially highlighted in the literature.³⁵⁸ Crawford discusses the party relations and the unusual coalitions that built over the recognition question. She argues that the experience of the then recent German reunification created a momentum of support for self-determination and this

³⁵³ Ibid.

³⁵⁴ Caplan (2005) p. 18, Glaurdic (2011).

³⁵⁵ Glaurdic (2011).

³⁵⁶ Maull, H.W. (2005) 'Germany's Uncertain Power: Foreign Policy of the Berlin Republic' New York and Basingstoke: Palgrave Macmillan, p. 111 and 122.

³⁵⁷ Lucarelli, S. (1997) Germany's recognition of Slovenia and Croatia: An institutionalist perspective, *The International Spectator: Italian Journal of International Affairs*, 32:2, 65-91, p. 81.

³⁵⁸ Augter (2002) p. 235.

resulted in greater pressure on the government. The German foreign minister Friedrich Genscher's own party, the Free Democrats, was traditionally very committed to a liberal but legalistic approach to foreign policy. Thus, the question of the legal process and a commitment to the Badinter Commission was important to the party. The Christian Democrats, senior coalition party at the time, and the Social Democrats, in the opposition, were also not initially supportive of recognition. Crawford argues that the Green party succeeded in gaining support for their position of pro-independence, by focusing their argument on supporting self-determination as post-unification Germany, including East Germany, was enjoying.³⁵⁹ The strong consensus of the political parties thus affected Genscher's position considerably, as Glaurdic argues.³⁶⁰

Other interpretations of Germany's behaviour have used a *Realpolitik* argument: particularly the media at the time read the behaviour of Germany as coercive. Germany's interest in maintaining a 'sphere of influence' in the Balkans was cited as justification for Germany's support for independence. This was justified with the former occupation by Nazi Germany of the Balkans and implied a historical strategic interest in the region by Germany. Germany was described as 'twisting the arm' of the its partners by putting other EU member states under pressure. Moreover, Germany's support for Croatia's declaration of independence was considered unreasonable.³⁶¹ This very negative depiction of Germany persisted over the early 1990s especially as the violence conflict between Serbia and Croatia escalated after the recognition of the republics as independent states. However, this approach has not been reiterated fully in the academic literature but the backlash for Germany as a foreign policy actor has been noted.³⁶²

³⁵⁹ Crawford (2007) p. 70.

³⁶⁰ Glaurdic (2011); Augter (2002); Crawford (2007).

³⁶¹ For example, 'Germany Muscles In' Daniel Singer, *The Nation*, February 3, 1992; Crawford, B. discusses others in (1996) Explaining Defection from International Cooperation: Germany's Unilateral Recognition, *World Politics* 48.4 482-521, p. 498. Also in the French press 'Vers une pre-dominance allemande', Pierre M. Gallois, *Le Monde*, 16 July 1993. Caplan also discusses various Serbian sources arguing that Germany pursued expansionism in the region (2002) p. 42.

³⁶² Caplan (2002); Glaurdic (2011); Augter (2002); Crawford (1996).

The most evident symptom of the disagreement among EU members was the threat from the UK and France to bring a UN resolution to stop Germany from recognising new states in the Western Balkans.³⁶³ When the remaining eleven EU member states recognised Croatia's independence, some argued that the agreements among EU member states were mainly to protect the unity of the EU at a difficult time during the Maastricht negotiations.³⁶⁴ Bearce describes how the French and British positions shifted towards recognition due to the risk of the institutional breakdown of the European Union.³⁶⁵ Lucarelli highlights the strategic calculation of Germany to choose late December to recognise, as the Maastricht treaty had been signed.³⁶⁶ Glaurdic claims that Germany was 'calling in its favours' from these negotiations, as it had made serious concessions on social, economic and monetary policy.³⁶⁷ Crawford argues that the internal dispute in the EU highlighted the weakness of a Common Foreign Policy at the time. She argues that this institutional weakness allowed for the strong domestic interest of Germany to determine EU policy on the question of recognition.³⁶⁸ But, although the other member states may have made concessions to Germany, Augter argues that the German government would not have recognised Croatia if it had not been sure that the other EU members would follow. Crawford contends, in contrast, that eventually the German leadership lost trust in its European counterparts and therefore pushed ahead alone.³⁶⁹

Hence, the policy of recognition itself, as well as Germany's approach to it, were questioned and criticised heavily by some of Germany's closest allies. Germany's behaviour was considered by many authors incompatible with the characterisation of Civilian Power. In post-unification Germany the case of Croatia led to criticism of Germany as a multilateral actor, as a committed European and the questions about

³⁶³ Caplan (2005) p. 47.

³⁶⁴ Erb, S. (2003) *German Foreign Policy: Navigating a New Era*, Lynne Reiner: London p. 133; Duffield (1999) p. 784; Caplan (2005) p. 39.

³⁶⁵ Bearce, D.H. (2002) Institutional Breakdown and international cooperation: The European Agreement to recognize Croatia and Slovenia, *European Journal of International Relations* 8(4).

³⁶⁶ Lucarelli (1997).

³⁶⁷ Glaurdic (2011).

³⁶⁸ Crawford (1996) p. 516.

³⁶⁹ Augter (2002) p. 273 and Crawford (1996) p. 516.

continuity or change in German foreign policy after the Cold War. The case of Croatia also highlights the influence of domestic actors and political parties in foreign policy and the influence of a consensus among the parliamentary parties in the *Bundestag* can have on the policy of the government.

2.5.2 Military Interventions: Kosovo, Afghanistan, and Iraq

With the end of the Cold War came a new international order, freed from the bipolarity between the Soviet Union and US. One consequence of this was more action from the United Nations, as collaboration in the Security Council was now possible to a greater degree than before. Also, the United States was able to act more freely. Here, the cases of the Gulf war, the Balkan wars, conflicts in Somalia, Rwanda, and Eastern Timor raised issues globally on international intervention, military or humanitarian, and the role of the UN Security Council and NATO. Above I discussed that the international influence from close allies was very influential on Germany's foreign and security policy: with the changing environment of greater involvement, these factors also resulted in calls on Germany to participate in collective action.³⁷⁰

With regard to the post-unification period, debate in the literature has circled around two aspects. Firstly, Germany's multilateralism in interventions and, secondly, its approach to the use of force. The participation of Germany in military interventions has been the focus of the literature on Germany's multilateralism. There are, however, also parallels with the debate on Germany's recognition policy. Above I outlined how in this particular period Germany's commitment to multilateralism came under criticism, in regards to Croatian independence.³⁷¹ In this section, I will highlight the debate on multilateralism as it developed in Germany in the 1990s and early 2000s in regards to interventionism. The following issues arose from this debate: the tension between responsibility and anti-militarism, the question of legality versus multilateralism, and the question of being a reliable partner to German allies. Although these questions were related to cases of military intervention and were affected by anti-

³⁷⁰ Oppelland (2007) p. 275.

³⁷¹ See Chapter One, 1.7 Recognition as Intervention and Foreign Policy.

militarist arguments, there remained key tensions regarding questions of interventionism and involvement in multilateral activities generally. These cases therefore provide a perspective on the debates and issues raised in regards to disunity on the recognition of Kosovo.

One key characteristic of the concept of Civilian Power is commitment to international institutions, thus multilateralism as opposed to unilateralism.³⁷² This implies also a commitment to upholding international law. Below, I will outline how commitments to international institutions and to international law were at the heart of the debate on these interventions. I will then discuss the literature on the expectations and developments of interpretations of the multilateralism of Germany as a Civilian Power and how these affect our understanding of this concept.

Here, I will review three cases of military international interventions and Germany's role in them, as well as the views on Germany's involvement or non-involvement. These are the Kosovo war of 1999, the NATO mission in Afghanistan, starting in 2001, and the Iraq war, starting 2003, in which Germany did not participate. This is not an exhaustive list of international military interventions or *Bundeswehr* participation since unification. However, these three cases were central examples of intervention prior to the recognition of Kosovo. These missions took place after a decision by the German constitutional court in 1994 on the legality of German participation in 'out of area' operations, which had taken place increasingly since unification with the most recent cases being in Somalia and Bosnia. The opposition, at the time the Social Democrats and the Socialist Party (at the time PDS now Die Linke), had requested a verdict on those operations. The constitutional court, ruled that while the operations were lawful as long as they were under a multilateral mandate, they had to be approved by the *Bundestag*.³⁷³ This legal decision was defining for post-unification German

³⁷² Maull (1999).

³⁷³ Federal Ministry of Defence 'Ein geschichtsträchtiges Urteil' 13.2.2009, https://www.bmvg.de/portal/a/bmvg/lut/p/c4/DcwxDsMgDEbhs_QCeO-WW6RdECSG_Ap1IttQqacvesO3PXrTTNJATY5LUqOVXhue-RvyZ9Rg2A7Wg-F2Xw2OMzDEkv9i6axxZ4IFwdPQ1Rkt5i4722AtyaxLtco6L073uTz-dYP0ig!!/

foreign policy. While during the Cold War Germany had been in the midst of a potential military conflict, the use of German troops abroad in ‘out of area’, referring to cooperation taking place abroad and not as direct defence action, went against the anti-militarist factions of German policy makers in the various parties. The three cases of military intervention were characterised by the following: A debate over a UNSC mandate or endorsement of military action, other international institutions and allies’ participation in military action and, finally, domestic support.

Table 1: German participation on military interventions 1999-2003

<u>Case</u>	<u>UNSC mandate</u>	<u>EU consensus</u>	<u>Domestic authorisation</u>
Kosovo 1999 - NATO Operation Allied Force	No	Yes	Government supports participation; majority vote in <i>Bundestag</i>
Afghanistan 2001 - ISAF	UNSC resolution 1386	Yes	Government supports participation. Approval in <i>Bundestag</i> with vote of confidence for chancellor Schröder.
Iraq War 2003 – US UK initiative	No	No	Government against participation, supported by majority in <i>Bundestag</i> .

As can be seen in Table 1, in the case of the Kosovo war, there was no UN Security Council consensus,³⁷⁴ but the German government still pursued participation and put

(last accessed 25 September 2016); German Constitutional Court (1994) BVerfGe 90, 90, 286 – Out of Area Einsätze at <http://www.servat.unibe.ch/dfr/bv090286.html> (last accessed 25 September 2016).

³⁷⁴ Several UN Security Council Resolutions had called repeatedly for an end to the violence from the FRY government and KLA, condemned the actions but also reaffirmed the territorial integrity of the FRY. United Nations (1998a) UN Security Council, Resolution 1160 (1998) Adopted by the Security Council at its 3868th meeting, on 31 March 1998, 31 March 1998, S/RES/1160 (1998) <http://unscr.com/en/resolutions/doc/1160> (last accessed 25 September 2016); United Nations (1998b) UN Security Council, The situation in Kosovo, Resolution 1199 (1998) Adopted by the Security Council at its 3930th meeting, on 23 September 1998, 23 September 1998, S/RES/1199 (1998) <http://unscr.com/en/resolutions/doc/1199> (last accessed 25 September 2016); United Nations (1998c) Security Council Resolution 1203 (1998) Adopted by the Security Council at its 3868th meeting 3937th meeting, 24 October 1998, S/RES/1203 (1998) <http://unscr.com/en/resolutions/doc/1203> (last accessed 25 September 2016); Miskimmon, 2009, p. 561.

the intervention to a vote in parliament.³⁷⁵ The mission Allied Force was conducted by NATO and there was consensus within the EU for a need of military intervention. The ISAF operation in Afghanistan in 2001 had a Security Council mandate with UNSC resolution 1386 and was not contested within NATO or the EU.³⁷⁶ Finally, the case of Iraq was contested in the Security Council, among NATO members and the EU. Germany did not participate in this war.

I will discuss the position of Germany on Kosovo in the 1990s in Chapter Three where I will trace Germany's politics towards it.³⁷⁷ Here, I focus on the discussion among domestic policy makers and the academic literature regarding the meaning of the Kosovo war for Germany's foreign policy. In Germany, the preparation for and execution of military strikes were conducted by two very different governments. The federal elections in Germany took place in September of 1998 and the designated a new Berlin government, which did not take office until late October. After sixteen years Chancellor Helmut Kohl's Christian Democrat-Liberal coalition was voted out and replaced by a Social Democrat-Green coalition under Chancellor Schröder and his deputy and foreign minister Joseph Fischer. The vote on the military intervention took place just a fortnight before the new government came in, after significant pressure from the United States for formal approval from the *Bundestag* in time before the change of government.³⁷⁸ The Social Democrat-Green coalition had thus inherited a commitment to NATO to intervene and support the operation in Kosovo.³⁷⁹

³⁷⁵ See Deutscher Bundestag (1998) Antrag der Bundesregierung. Deutsche Beteiligung an den von der NATO geplanten begrenzten und in Phasen durchzuführenden Luftoperationen zur Abwendung einer humanitären Katastrophe im Kosovo-Konflikt. Drucksache 13/11469. 13. Wahlperiode. Bonn, 12. Oktober 1998.

³⁷⁶ United Nations (2001) UN Security Council ; On the situation in Afghanistan' Resolution 1386 (2001) S/Res/1386, 20 December 2001, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N01/708/55/PDF/N0170855.pdf?OpenElement> (last accessed 25 September 2016)

³⁷⁷ See Chapter Three, 3.2 Kosovo and the Dissolution of Yugoslavia and 4.3 Leading to the war of 1999.

³⁷⁸ Krause, 2000, p. 406; Plenarprotokoll 13/248, Deutscher Bundestag Stenographischer Bericht 248. Sitzung Bonn, 16. Oktober 1998.

³⁷⁹ Miskimmon, A. (2009) Falling into line? Kosovo and the course of German foreign policy, *International Affairs*, 85, 3, p. 561-573 2009, p. 564; Krause (2000) p. 406 and discussed in Chapter Three, 3.3 Leading up to the Kosovo War of 1999.

The Social Democrats, as I have described above in this chapter, come from an anti-militarist yet multilateral tradition, although the party was divided during the Cold War between different factions on the question of disarmament and nuclear proliferation.³⁸⁰ The question of military deployment was controversial for the party. Internecine disagreement over this intervention was even more severe for the Green party, the junior coalition partner. Despite its origins in the peace movement and it being in the federal government for the first time, the party was set to enable Germany's first military action abroad since the Second World War. This debate polarised the party further between its so-called pragmatic and fundamentalist wings.³⁸¹ The main opposition to German participation came from the leftist party (at the time still called PDS).³⁸²

The intervention remains highly contested not only within the Green party but in German public opinion. Beyond the military aspect of the Kosovo case, there was a lack of consensus in the Security Council. This international divide posed a significant challenge to Germany considered to act mostly multilaterally.³⁸³ For some factions of the government and of the Left opposition, not only was the intervention unnecessary and against German foreign policy role and values, but also illegal. Miskimmon argues that the government reinterpreted its traditional role of 'never again', which referred to the wars of aggression from Germany into 'never again genocide' or 'never again Auschwitz', thus making the clear connection to genocide and ethnic violence.³⁸⁴ This interpretation also implies responsibility to prevent such acts globally, not just on German soil.³⁸⁵ This justification for the intervention by the government gives a first indication of Germany's interpretation of the Kosovo conflict. As indicated in the

³⁸⁰ Miskimmon (2009) p. 563; Karp, R. (2005) *The New German Foreign Policy Consensus*, *The Washington Quarterly* Volume 29, Number 1, Winter 2005-06 pp. 61-82, p. 72. See also discussion *Ostpolitik* and the NATO double track decision above.

³⁸¹ Miskimmon (2009) p. 564; Karp (2005) p. 72.

³⁸² Miskimmon (2009) p. 566.

³⁸³ *Ibid.*, p. 561.

³⁸⁴ *Ibid.*, p. 563. See also Berenskoetter, F. and Giegerich, B. (2010) *From NATO to ESDP: A Social Constructivist Analysis of German Strategic Adjustment after the End of the Cold War*, *Security Studies*, 19:3, 407-452, p. 437.

³⁸⁵ Foreign Minister Fischer equaled stopping Milosevic to standing up to Hitler or Mussolini. Webber, M. (2009) *The Kosovo war: a recapitulation*, *International Affairs* 85: 3 (2009) 447-459, p. 453.

previous chapter, Germany's interpretation of Serbia as the main aggressor in the conflict, affected its attitude towards supporting independence to manage the conflict.³⁸⁶ Chapters Three and Four will discuss in detail Germany's position towards the conflict but from the debate on the military intervention it appears that Germany continued to see Serbia as the main source of the conflict in the former Yugoslavia and sought greater intervention from the international community. Nonetheless, although the government's justification for intervention was accepted at the time and received support from Parliament, it has been argued that the Civilian Power narrative was destabilised by the Kosovo war.³⁸⁷ Others have considered this development in German foreign policy as a 'normalization' as Germany was now contributing in military operations while it had remained on the side-lines before.³⁸⁸

Due to the lack of a UNSC resolution, Germany had to take a position in regards to its support for NATO. The Social Democrat-Green government had committed to civilian conflict prevention and the pressure from the United States to contribute were out of touch with the German position.³⁸⁹ For the German chancellor, maintaining a transatlantic relationship and being considered a reliable partner in the alliance were important.³⁹⁰ Nonetheless, Berenskoetter and Giegerich argue, Germany was very resistant to the dominance of the United States on European security and divisions in the transatlantic relationship began to emerge during the Kosovo crisis and foreshadowed the tensions during the Bush administration in Washington.³⁹¹ The intervention remains very controversial in Germany and in public opinion.³⁹²

The case of Afghanistan was in one sense less controversial, as the operation had backing from the UN Security Council. In the aftermath of 9/11, there was little opposition to the deployment of the ISAF mission. Nonetheless, opposition existed in

³⁸⁶ See Chapter One 1.7 Recognition as Intervention and Foreign Policy.

³⁸⁷ Berenskoetter and Giegerich (2010) p. 440.

³⁸⁸ Karp (2005) p. 64.

³⁸⁹ Berenskoetter and Giegerich (2010) p. 440, Karp (2005) p. 72.

³⁹⁰ Miskimmon (2009) p. 564.

³⁹¹ Berenskoetter and Giegerich (2010) p. 443; Karp (2005) p. 66.

³⁹² Rudolf, P. (2005) The Myth of the 'German Way': German Foreign Policy and Transatlantic Relations, *Survival*, Vol. 47, No. 1, p. 141.

several countries, including in Germany. The critique was built on the increased use of military action and in the aftermath of the controversial Kosovo decision. The 'never again' argument did not seem to apply in the case of Afghanistan and some did not consider the connection between the Afghani Taliban regime and the attacks on the Twin Towers in New York sufficiently clear to justify military intervention in the country. This decision was again taken in the same period of the Social Democrat-Green coalition government. Although there was greater international consensus on the Afghanistan mission than on Kosovo, Chancellor Schröder publically committed to supporting the United States and did not hesitate to accept the invoking of Article 5 by NATO.³⁹³ He used a vote of confidence from parliament for the approval of the *Bundeswehr* deployment for the mission.³⁹⁴ He did, however, play down the role German troops would play on the ground and emphasised civilian support instead.³⁹⁵ Potential anti-militarists arguments were countered with the duty to stand by NATO allies and the perceived threat to Western states.³⁹⁶ While in the case of Kosovo, there had been a clear moral and normative argument made toward defending a population against an aggressor state, the case of Afghanistan was about contributing to the North Atlantic Alliance, particularly in the light of unanimity at the UN.

The final case is the Iraq war of 2003, in which Germany did not participate. The Anglo-American initiative sought to remove Saddam Hussein from power after he had been accused of developing nuclear weapons and supporting Al Qaeda. The United States President George W. Bush and his administration had failed to gain support from the UN Security Council, where only the UK supported its claim. Some European Union and NATO members joined the alliance, including Poland, Denmark, the

³⁹³ Berenskoetter and Giegerich (2010) p. 444. Karp (2005) p. 74.

³⁹⁴ See government's request to the Bundestag: Deutscher Bundestag (2001b) Antrag der Bundesregierung - Einsatz bewaffneter deutscher Streitkräfte bei der Unterstützung der gemeinsamen Reaktion auf die terroristischen Angriffe gegen die USA auf der Grundlage des Artikels 51 der Satzung der Vereinten Nationen und des Art.5 des Nordatlantikvertrags sowie der Resolution 1368 (2001) und 1373 (2001) des Sicherheitsrats der Vereinten Nationen.

³⁹⁵ Berenskoetter and Giegerich (2010) p. 444; Meiers, J. (2005) 'Germany's defence choices', *Survival*, 47: 1, 153-165, p. 106; Noetzel, T. and Schreer, B. (2008) 'All the Way? The Evolution of German Military Power', *International Affairs*, 84, 2 2008, p. 214.

³⁹⁶ Berenskoetter and Giegerich (2010) p. 444.

Netherlands, Spain and Italy.³⁹⁷ Among political parties a division emerged between those who prioritised the commitment to the transatlantic relationship and the anti-militarist factions, although even support from a Christian Democrat faction did not include deployment of forces.³⁹⁸ The justification for intervention lacked a ‘never again’ argument, nor was it in response to an immediate threat, such as had been perceived in the case of Afghanistan. Given the lack of multilateral agreement, intervention was therefore not justified in the eyes of the German government.³⁹⁹ Ultimately the government did not participate, some have argued that Schröder turned the issue into an election campaign argument and, thus, followed public opinion.

Germany’s transatlantic relationship suffered significantly from this episode. The United States framed the lack of international support at the time as a disappointment from European partners. Germany was criticised by the Bush administration as having been too assertive and independent in working against its key allies the US and UK.⁴⁰⁰ Its anti-militarism was framed as undermining multilateralism by the United States, and this, by extension, questioned its Civilian Power approach. The strain on relations with the United States was significant and Schröder attempted, to an extent, to ease tensions after the invasion had taken place. His successor, the Christian Democrat Chancellor Angela Merkel, prioritised Atlanticism in her foreign policy after taking office. In light of the deteriorating transatlantic relationship, all parties, including the Greens, have stressed the importance of this alliance to German foreign and security policy.⁴⁰¹ However, the Social Democrat-Green coalition was perceived of as having gambled with its ability to influence the US position with its outright rejection of support for the Iraq war rather than taking time to negotiate.⁴⁰² Maull argues that more than in the case of the Croatian recognition, the case of Iraq revealed a failure for Germany to use international coalition building effectively and act as a genuinely multilateral actor. It failed in stopping the war in Iraq and at the same time put strategic

³⁹⁷ Missiroli, A. (2004) Central Europe between the EU and NATO, *Survival*, 46:4, p. 124.

³⁹⁸ Meiers (2005) p. 160.

³⁹⁹ Karp (2005) p. 65.

⁴⁰⁰ Rudolf (2005) p. 133.

⁴⁰¹ *Ibid*, p. 137-8, Meiers (2005) p. 53.

⁴⁰² Meiers (2005) p. 156; Miskimmon (2009) p. 658.

relationships at risks.⁴⁰³ In German public discourse, however, and with the progress of the Iraq conflict, the Government's position was considered justified and the literature has considered the rejection of the Iraq war as being in line with a Civilian Power role as it rejected both militarism and weak multilateralism.⁴⁰⁴ The debate on multilateralism in regards to the 2003 Iraq war is indicative of the developments after the Cold War. After the initial enthusiasm for greater collaboration through the UN in the 1990s came a change to a selective multilateralism of 'coalitions of the willing' that did not seek legitimacy in the classic sense. The main example here is the Kosovo war in 1999, which exhibited multilateral action from a united NATO and EU, without UNSC approval, and would be lauded by cosmopolitans like Keohne..⁴⁰⁵ However, examples that followed are what van Oudenaren described as 'dysfunctional multilateralism,' in which members of the international community did not remain committed to the established rules and sought out loopholes for unilateralism or limited multilateralism.⁴⁰⁶ This has also been referred to as 'minilaterlaism' by Kahler.⁴⁰⁷ The Iraq war demonstrated the limits for some Europeans on acting multilaterally without institutional approval out of concern that multilateralism was being used for state interest. Particularly in the case of Germany, the contrast between its support for Kosovo, as opposed to the Iraq War, was striking.

Considering the cases of military interventions since unification, the NATO operation in Kosovo in 1999 can be seen as an exception in German foreign policy. This is mainly as it was the only engagement in an out of area NATO operation without UN approval. The domestic objections were, firstly, regarding military intervention in principle, secondly, regarding the intervention's legality and, thirdly, connected to Germany's approach to multilateralism. In the case of Afghanistan, the multilateral

⁴⁰³ Maul (2008) p. 140.

⁴⁰⁴ Rudolf (2005) p. 134, Karp (2005) p. 68.

⁴⁰⁵ Keohane, (2006)

⁴⁰⁶ van Oudenaren, (2003)

⁴⁰⁷ This turn is discussed in greater detail in Koops, J. (2011) *The European Union as an Integrative Power. Assessing the EU's 'Effective Multilateralism' towards NATO and the United Nations*, Brussels: VUP Press

question was not pertinent due to the UN endorsement. The main objection was with the military action *per se*, which the government responded to with a vote of confidence, justifying action through its commitment to multilateralism. Finally, the case for participation in the Iraq war was rejected due to both legal objections from the government and the lack of institutional multilateral support from either the UN or NATO.

Multilateralism and International Law have played central roles in decisions on military intervention for Germany. The political debates also indicate the relevance of political parties in foreign policy decision making in this period. The three interventions discussed here took place during the Social Democrat-Green coalition. At the time, the Christian Democrats were in opposition and in all three cases argued for greater German involvement in military action or support for the interventions. Assuming Germany to be a Civilian Power might lead one to expect a less military approach and commitment to international law and international institutionalism among German actors. These cases, however, demonstrate that multilateralism is not directly tied to specific institutions or the consensus of multiple organisations. This was evident in the case of Kosovo, when NATO and the EU were united on the mission, while the UN Security Council was divided. In the case of Iraq there were legitimate concerns within the German government about the justification for the war and the claim of the existence of nuclear weapons in Iraq, also no international organisation - UN, NATO or the EU - had endorsed the war. Nonetheless among German policy makers there are significant concerns that Germany would appear as an unreliable partner to the United States and the UK.

To explain the shift in the use of force in Germany, Miskimmon and Paterson identified, in particular, Europeanization through elite socialisation. They argued that after unification, German foreign policy elites were more receptive to socialisation at the EU level due to an emerging framework for security and defence, pushed mainly by France, which provided Germany justification for intervention and 'responsibility',

an orientation through which to adapt its new defence policy.⁴⁰⁸ The establishment of committees for decision coordination at the EU level also ultimately affected German bureaucratic structures. The introduction of the Political Security Committee (COPS), the EU military Committee (EUMC), and EU military staff (EUMS) all led to more power for the German ambassador in Brussels reform of the German military (such as the professionalisation of the conscription-based army), and the strengthening of capabilities to support international missions.⁴⁰⁹

Similarly to other Member States, Germany had to make constitutional changes to adapt to the Common Foreign and Security Policy, but the most significant change was related to the deployment of the Bundeswehr abroad, which was authorised by the Constitutional Court in 1994.⁴¹⁰ Finally, the notion of Germany participating actively in a common EU Security and Defence Policy appears to have been widely accepted by the public by the early 2000s. However, public reluctance to support military activity remained and instead, the public supported more civilian and diplomatic efforts.⁴¹¹ In the debate on the change of Germany's foreign policy away from a traditional Civilian Power role, Europeanisation accounts for this change, describing it as an elite-led development that does not have domestic support, as measured by public opinion. The 'normalisation' of German foreign policy was only possible through the Europeanisation of Germany and its foreign policy. Following from the debate outlined above it becomes clear that, authors have argued that Germany's foreign policy has developed due to EU pressures, as well as pressures from other alliances, particularly from NATO.

2.5.3 Continuity or Change? The Academic Debate on Intervention and Multilateralism in German Foreign Policy

The Civilian Power role meant that the analysis in the literature of foreign policy has been dominated by the values and norms debate. Many argued that after unification

⁴⁰⁸ Miskimmon and Paterson (2003) p. 332.

⁴⁰⁹ Ibid.

⁴¹⁰ Ibid.

⁴¹¹ Ibid.

German foreign policy was likely to continue with the Civilian Power role. The constructivist explanations of Germany, as the odd-one-out as a foreign policy actor, still scarred and defined by the past of a Nazi regime, and Germany's continued commitment to multilateralism and economic growth, stand in direct contrast to Realpolitik accounts, which focus on Germany's growing economic power and increasing influence.⁴¹² In a critique of the neo-realist prediction of German foreign policy in the early 1990s, Rittberger argues that multilateralism remained at the core of all of Germany's foreign policy culture. Building on Katzenstein, Eichenberg and Dalton,⁴¹³ he argued that it was the national culture of German foreign policy, which explained the behaviour. While Germany may have engaged in military operations since unification, which would have been unthinkable prior to 1989, it always engaged in operations under NATO command and closely embedded in alliances.⁴¹⁴ Germany may have been more confident in seeking influence and pursuing goals, but again, always within a multilateral set up. In fact, Germany supported the building of international institutions in the 1990s, especially promoting further integration of the EU and the strengthening of EU instruments.⁴¹⁵

Mauß points to these values as markers of Germany's foreign policy. Borrowing from Katzenstein and Rittberger, he describes Germany's role as promoting multilateralism, institution building and supranational integration, and seeking to constrain the use of force in international relations through national and international norms.⁴¹⁶ Germany was considered committed to preventing potential nationalism and militarism, upholding democratic values domestically and internationally, and promoting

⁴¹² Tewes (2007) p. 8.

⁴¹³ see Eichenberg, R.C. and Dalton, R. J (1993) Europeans and the European Community: the dynamics of public support for European integration, *International Organization*, Vol47, issue 4, and Katzenstein, P.J. (1996) *The Culture of National Security, Norms and Identity in World Politics*, New York: Columbia University Press.

⁴¹⁴ Rittberger, V. and Wagner, W. (2001) German foreign policy since unification: theories meet reality, in Rittberger, V. ed. *German Foreign Policy Since Unification: Theories and Case Studies*, Manchester: University Press, p. 323.

⁴¹⁵ Ibid, p. 323.

⁴¹⁶ Katzenstein (1996); Rittberger, W. (1999) Deutschlands Außenpolitik nach der Vereinigung, Zur Anwendbarkeit theoretischer Modelle der Außenpolitik: Machtstaat, Handelstaat oder Ziviltaut, in Bergem, W., Ronge, V., and Weißeno, G. (eds.) *Friedenspolitik in und für Europa*, Opalden: Leske und Burich, pp. 83-108.

European integration.⁴¹⁷ Maull argues that the decision to intervene in the Kosovo war was particularly challenging because, in accordance with Germany's Civilian Power role, a deployment of troops abroad was considered impossible. He speaks of the conflict of values within this Civilian Power framework, which eventually led to Germany contributing to the NATO operation in Kosovo in 1999.⁴¹⁸ He argues that this case had already been made possible through small developments in the direction of intentional humanitarian interventions during the Bosnia UNPROFOR operation. Eventually, the historical responsibility and commitment to deter grave violations of Human Rights, and the failure in Bosnia to do so, was considered more important than anti-militarist intentions. It is, however important to note that, when considering Germany as a Civilian Power, Maull points to two crucial thresholds, which were crossed with the participation of the NATO operation in Kosovo: the use of German Luftwaffe aircrafts and the missing UN Security Council mandate.⁴¹⁹ While these thresholds were crossed, the debate in Germany on whether it was right to do so continued in the aftermath of the war, and the success and legitimacy of the campaign remained questioned.⁴²⁰ Maull, therefore, attributes good intentions and a sense of duty to its alliances as the main reason for the new German interventionism.

Even when re-evaluating the concept of Civilian Power in 2006, Maull reiterated that Germany's foreign policy has been defined by continuity and that the changes or anomalies in German foreign policy should be understood as responses to developments in the international system. Germany's opposition to the Iraq war in 2003, should therefore not be seen as Germany reasserting its national interest but as the United States imposing new expectations on Germany that Germany could not fulfil. Not joining the war in Iraq was thus considerably more consistent with German foreign policy than following the American allies into war, from the non-militarist point of view.⁴²¹ The retired position Germany took after 2001, should be understood as a response to four main changes Maull identifies: firstly, the end of the Cold War,

⁴¹⁷ Maull (2000) p. 56.

⁴¹⁸ Ibid.

⁴¹⁹ Ibid, p. 59.

⁴²⁰ Ibid, p. 74.

⁴²¹ Maull (2006) p. 273.

secondly, the growing influence of globalization on Germany's economy and society, third, the progress of European Integration and, finally, domestic gridlocks on foreign policy issues.⁴²² As described above the Iraq war highlighted for Maull the greater complexity of multilateralism in the post-Cold War era and the difficulty this brought for Germany to be an effective coalition builder.⁴²³

Explaining the sudden change through role conception is not straight forward. How and whether roles change in foreign policy is a central debate in role theory. Harnisch stresses that both the domestic change towards Germany's role conception, as well as the international pressure - the *alter* perspective - cannot explain the change in behaviour by Germany, particularly in the case of the Kosovo war. Instead, the conflict of the arguments 'never again war' and 'never again Auschwitz', which I discussed above, were a 'creative reconstruction' of Germany's role to allow it to respond to international pressure but also to justify its response to this international crisis.⁴²⁴

To describe the continuation of Germany's peculiar foreign policy Erb describes the country as a 'post sovereign' power, defined by its commitment to institutions and to the EU. Germany's foreign policy, according to Erb, is defined more by its commitment to multilateralism and international cooperation and, thus, its traditional *Real*-interests are not formulated as a traditional nation state might formulate them.⁴²⁵ Instead, Germany formulated its interests within an EU context. Chancellor Schröder said, the Europeans should act in the Balkans collectively and not Germany by itself. Here, Erb sees Germany as *avant garde* in comparison to its fellow member states, which might put their own interests before the interests of the EU as a whole.⁴²⁶ However, while this political culture has developed over several decades and appears to have continued after unification, reinforcement of these values is mainly driven by the current political elites, who have dominated post World War II and post-Cold War

⁴²² Ibid, p. 280.

⁴²³ Maull (2008) 149.

⁴²⁴ Harnisch (2001) Change and continuity in post-unification German foreign policy, German Politics, 10:1, 35-60, p. 52-53.

⁴²⁵ Erb (2003) p. 217.

⁴²⁶ Ibid, p. 131.

Germany. Duffield warns that a change of this culture is not impossible and may occur as a response to external or internal factors in the same way German political culture changed drastically after 1945.⁴²⁷ Maybe in less alarmist terms, considerations of changes in the most recent foreign policy elite should be considered. For example, that Merkel as the first Chancellor of the post-World War II generation and with experience in East rather than West Germany, would reflect a different sense of national identity than her predecessors.

Tewes points out that argument for an anti-militarist Germany is deeply rooted in a liberal reading of Germany as a Civilian Power and the developments in Europe after the Second World War.⁴²⁸ He suggests a more security focused approach to Civilian Power in which he stresses the need for collective security and calls for an international enforcement authority, thereby implying considerable encroachments on state sovereignty.⁴²⁹ He therefore seeks to emphasise more the soft power aspect, as defined by Nye, of Civilian Power and the interest of reshaping social realities.⁴³⁰

Thus, the extension and strengthening of international institutions after unification is often considered the main evidence for Germany continuing along the Civilian Power path. Above, I have demonstrated that in the post-Cold War period Germany developed its policy in a multilateral environment, albeit not always tied to the institutional frameworks of the UN or the EU. The literature has engaged with this more differentiated approach to multilateralism. Maull discusses Germany's role as a coalition builder in the more complex multilateral environment.⁴³¹ Crawford rejects the notion that through its membership of international organisations and socialisation, Germany is less prone to *Realpolitik*. Instead, she argues, it has used organisations to promote its interest, especially in Europe.⁴³² Banchoff argues that rationalist accounts

⁴²⁷ Duffield (1999) p. 791.

⁴²⁸ Tewes (2007) Ibid, p. 11.

⁴²⁹ Ibid, Tewes stresses that Civilian Power should not be equated with the Democratic Peace theory (DPT), most importantly because Civilian Power implies a 'complex' understanding of security.

⁴³⁰ Ibid, p. 11.

⁴³¹ Maull (2008).

⁴³² Crawford (2007) p. 23.

of the events post-unification simply disregard any notion of state identity and therefore fail to explain German behaviour in the long term. Acknowledging that equally constructivists need to take actual policy decision into account, Banchoff suggests a stronger interconnectedness of the constructivist and rationalist understandings of Germany as a foreign policy actor.⁴³³

Within the EU context, a parallel debate has emerged which engages with the limits of Germany's Europeanization and thus questions this specific aspect of its multilateralism. Hellmann, Naumann, Bösche, and Herborth scrutinised Germany's behaviour regarding EU policy in European defence and security policy, highlighting a possible de-Europeanization. They found an increasing reluctance from Germany to promote progressive EU integration and that Germany was actively undermining the implementation of policies. This was based on an interactionist approach through which it appeared that Germany's de-Europeanization was not necessarily a strategic policy decision. Rather, Germany supports big political projects for further integration, but then hesitates to raise the ambition or does not fulfil its commitments in the long run. Cases discussed are the Eurocorps, or the commitment made with the treaties of Amsterdam and Maastricht, and the EU Cologne summit.⁴³⁴ The responses to this claim have been varied. Daehnhardt argues that it is not a case of de-Europeanization necessarily, but that it proves that Europeanization in itself is not a unidirectional process.⁴³⁵ Bulmer and Paterson responded that Germany is now simply more likely to avoid lengthy negotiations for consensus in the Council and may instead look for alternate ways of implementing a policy, including unilateral action within EU institutions.⁴³⁶ This de-Europeanization debate revolves mainly around the three aspects of firstly, domestic actors in German European policy making and the heterogeneity of the process in Germany secondly, the issue of security and military

⁴³³ Banchoff, T. (1999) German identity and European Integration, *European Journal of International Relations* 1999 5:259, p. 283.

⁴³⁴ Hellmann et al (2005) p. 161.

⁴³⁵ Daehnhardt, P. (2011) Germany in the European Union, in Wong, R. and Hill, H. (eds) *National and European Foreign Policies*, New York: Routledge p. 54.

⁴³⁶ Bulmer and Paterson (2010) p. 1052.

engagement and, finally, the role of Germany as impulse-giver becoming more policy and procedure orientated.

Bulmer and Paterson discuss Germany's approach towards EU integration with reference to Katzenstein's concept of 'Tamed Power'. Tamed Power refers to the fact that Germany institutionalised its power within the European Union and was willing to leave more than proportionate influence to smaller states, thus aiming to exercise its soft power through the new institutions.⁴³⁷ They argue that Germany is simply a normalised power with a greater interest in using institutions to its advantage.⁴³⁸ They see Germany more as an 'agenda-setter' rather than concerned with pragmatic implementation of policy more generally.⁴³⁹ Crawford argues that Germany uses its position, on the one hand, to strengthen institutions at EU level in the long term, but, on the other, defects from common EU positions when it wishes or needs to.⁴⁴⁰ Based on the cases of the recognition of Croatia and Slovenia, discussed above, she described Germany's development into a regional hegemon and its significance for 'regional stability'. Daehnhardt argues that Germany is mainly engaged in the uploading of foreign policy and has adapted a similar approach to other large member states who have significant bilateral relationships with large global powers.⁴⁴¹ For Daehnhardt, this shift in behaviour from Germany can be explained with reference to the new situation after Germany's unification.⁴⁴²

Aggestam stresses that although Germany may not be committed to a single international organisation specifically and may accept to act without a consensus within institutions, it is important to still acknowledge it as a fundamentally multilateral actor. The reflexive consultation with international partners and the emergence of Germany as a trade nation has by definition meant that Germany would reject a security focused Realpolitik in the classical sense. Rather, Germany has

⁴³⁷ Katzenstein, P.J. (1997) *Tamed Power- Germany in Europe*, Ithaca: Cornell University Press, p. 3.

⁴³⁸ Bulmer and Paterson (2010) p. 1073.

⁴³⁹ *Ibid*, p. 1055.

⁴⁴⁰ Crawford (2007) p. 101

⁴⁴¹ Daehnhardt (2011) p. 54.

⁴⁴² *Ibid*, p. 38.

completely embraced the notion of security community as opposed to considering post-Cold War Europe as a security dilemma.⁴⁴³ Ash has termed this the *sowohl als auch* [as well as] approach, meaning that Germany will not commit solely to one institution but will use the transatlantic alliance for continued security.⁴⁴⁴ In this sense, Aggestam argues, there has been a ‘normalisation’ of German foreign policy after 1990. Germany has emerged as more assertive and proactive in international institutions, however, good relations with neighbours and the perseverance of peace in Europe have remained a cornerstone of German strategy.⁴⁴⁵

Germany’s behaviour lies in the tension created by the so-called ‘dysfunctional multilateralism’ as described by van Oudenaren.⁴⁴⁶ As the failure and ineffectiveness of multilateralism becomes evident, some states are drawn towards diminished commitment to international institutions, or in some cases even unilateralism. Others are keen to consolidate existing rules more firmly to generate greater commitment to them. From its role as a Civilian Power and its commitment to multilateralism, a shift towards greater integration would have been expected, but the cases above demonstrate that Germany may be turning further away from greater integration. The cases above also link back to the issue raised by Keohane on where legitimacy lies in multilateralism.⁴⁴⁷ The normative discussion underlying multilateralism and what kind of multilateralism Germany should pursue has played an important role in German foreign policy decisions. Divisions along party lines and within parties have brought out the disagreements on the priority for Germany, and show that although German foreign policy makers do take a multilateral approach, there is no unanimous opinion on what such multilateralism will look like in the future.

⁴⁴³ Aggestam, L. (2000) Germany, in Manner, I. and Whitman, R. eds. *The Foreign policies of European Union Member States*, Manchester: University Press, p. 68.

⁴⁴⁴ See Ash, T. (1996) ‘Germany’s Choice’ in Mertes, M., Muller, M. Winkler, S. *In search of Germany*, New Brunswick: Transaction.

⁴⁴⁵ Aggestam (2000) p. 71.

⁴⁴⁶ Van Oudenaren, J. (2003) discussed above in 2.3 Civilian Power Germany

⁴⁴⁷ Keohane (2006)

For this thesis, Germany's behaviour in multilateral negotiations in relation to the status of Kosovo will be a central aspect. The recognition of Kosovo was a coordinated effort, requiring several years of negotiations. Thus, although recognition is ultimately a decision of each state taken domestically, coordination with other states was central to the decision to recognise. From the literature discussion in this section, it has become clear that Germany's behaviour among different international organisations is not as clear as a Civilian Power role may suggest. While Germany is deeply embedded in international organisations, it has diverged from in certain cases and has acted without a full multilateral consensus, as in the case of Kosovo in the absence of UNSC approval. Beyond multilateral organisations, the military interventions reviewed here have shown the importance of relationships with specific partners. Although Germany did not participate in the Iraq war, the strain on the transatlantic relationship was considered detrimental among political actors in Germany. International law also continues to play an important role in the understanding of foreign policy and international engagement for Germany. When in the case of Kosovo, the lack of multilateral agreement was perceived as potentially illegal, the argument of a responsibility to prevent genocide was brought forward and the unity at NATO and EU level was considered sufficient to justify participating in the Allied Force mission.

2.6 Conclusion

This chapter has analysed the actors within German foreign policy and the development in its role in international affairs. The domestic foreign policy process is controlled mainly by the executive and centred around the relationship of the Chancellery and the *Auswärtige Amt*. However, political debate among parties also influences policy making significantly. This is the case in regards to the relationships between government coalition parties. Here, although the junior partner holds control over the foreign office, the power of the foreign minister depends on the relationship between the two parties in power and, thus, strategic direction will still mainly be controlled by the Chancellery. Party politics in the *Bundestag* are also important. Although the Parliament has little effective power in policy making, it is the central forum in which policy is discussed and consensus among parties is sought. For this thesis, the positions of parties on the status of Kosovo will play an important role and

debates in the *Bundestag* will be of special interest to demonstrate domestic positions on Kosovo.

I have argued in this chapter that the Civilian Power role which was applied to post-war Germany by Maull, misses the continuous political debate on foreign policy among political parties and within governments. I have demonstrated this by reviewing the foreign policy of Germany during the Cold War. Under Adenauer, Germany sought a greater role in the Western Alliance, including a military role. Brandt's *Ostpolitik*, central to Maull's argument on Civilian Power, was not built on consensus and its critics wanted less collaboration with Eastern Europe and to prioritise Germany's unification instead. Finally, Germany was deeply embedded in and depended on the nuclear and conventional arms strategy of NATO throughout the Cold War. Thus, while Germany was civilian in regards to deploying its own troops, it was not in regards to its defence and reliance on NATO. However, the multilateral aspect, which is the second central aspect of Civilian Power, was prominent during this period. Germany appeared to work with its partners and establish new institutions: the development of the Helsinki accords is a central example here. By discussing this in the context of role theory in FPA I have highlighted how domestic contestations of roles and therefore changing ego but also alter perception can develop a foreign policy role.

After unification possible changes in Germany's multilateralism and the use of the military dominated the debate on its foreign policy. Germany appeared to be acting less in consensus in institutions or with key allies. This was the case in regards to the recognition of Croatia, and also in regards to military interventionism. I have discussed here the cases of multilateral military intervention in Kosovo, Afghanistan and Iraq, which have influenced this debate. The debates on multilateralism at those times did not simply concern legality, but also Germany's responsibility to act with its allies and versus its commitment to anti-militarism. The role and expectations of Germany within the EU become also increasingly relevant in this period. In Kosovo, the NATO consensus to launch the mission and the EU consensus to legitimise the intervention,

overruled the missing legal authorisation from the UNSC. While in the case of Kosovo, although the German government argued to accept the lacking UNSC authorisation due to the 'never again' argument, it did not do so in the case of Iraq. The case of Afghanistan, although it had UNSC authorisation, still sparked a strong debate in Germany on whether Germany ought to participate. In the case of Iraq, the lack of consensus in the UN, NATO and the EU, allowed Germany to argue against intervention. However, critics of Germany, including domestic ones who wanted to see some form of participation, albeit not military, saw this act as undermining multilateralism and the commitment to the transatlantic relationship.

The post-unification cases discussed in this thesis demonstrate that Germany's multilateralism was under debate in cases relating to conflict management and intervention, in cases with military aspects and those of diplomatic negotiations. Although military action has received greater attention in the literature, it is the underlying debate on Germany's multilateralism that will be central to this thesis. In the early 2000s, when the negotiations on Kosovo's status began again, the German multilateral approach had been changing. Domestically, military actions abroad continued to be contested and governments would tend to underplay the role of German troops to the public. Germany's commitment to multilateralism was tested and criticised by its allies for a lack of reliability and commitment. The literature on this period has mainly interpreted Germany as having been under pressure from its international partners, who requested a greater contribution that it was prepared to make. Others argue that this represented the beginning of a new militarism in German foreign policy. In regards to its multilateralism, German policy makers approached it as a means to 'do more' in international affairs rather just as an end in itself. This also resulted in Germany being less committed to specific institutions, although it is not considered *en route* to a unilateral approach.

The breakdown of a multilateral consensus was central to the controversy over Kosovo's status. Therefore, in this thesis, Germany's complex relationship with international institutions and multilateralism will be taken into consideration when

analysing Germany's position towards the independence of Kosovo, particularly in regards to the division within the EU and the UN Security Council.

Chapter 3: Germany's position on the status of Kosovo 1989-2007

3.1 Introduction

Chapter Two discussed German foreign policy in relation to conflict management and multilateralism and its role in the European Union. This chapter will provide the first part of an in-depth discussion of Germany's policy towards Kosovo specifically in light of the issue of multilateralism and conflict management. This chapter is the first of two to analyse specifically Germany's role in this process. This chapter will examine the developments in international negotiations on the Kosovo conflict and the German policy within these, until the final negotiations in the summer of 2007. I will address the developments during the 1990s, the NATO operation in 1999, the UNMIK administration, and the period of the Ahtisaari Process in particular. The final negotiations on Kosovo's status under the Troika will be discussed in Chapter Four.

There has been abundant discussion of the status negotiations of the breakup of Yugoslavia and the lead up to Kosovo's declaration of independence. This chapter aims to marry the extensive literature on Kosovo status negotiations with the German accounts of the same period. I examine how the role of Germany evolved in the negotiations from the early 1990s at international level, how domestically Germany's position on Kosovan independence evolved and what themes were relevant for German foreign policy makers over the time in question.

Throughout this chapter it will become evident that the role of Germany within the multilateral negotiations on the status of Kosovo increased. Its strategically used its simultaneous chairmanship of the European Union and the G8 and also gained influence through German diplomats involved in international institutions such as UNMIK. On the question of Kosovo's status, I will highlight that in the 1990s sympathies for Kosovan independence claims and close political connections existed. However, Germany's efforts to bring the status question onto the international agenda were quite weak and were stifled by its close partners. Thus, overall, Germany's policy very much reflected the international policy for Kosovo to remain a region within

Serbia with greater autonomy rather than independence. Also, throughout the 1990s, the focus remained on containing Milosevic and additional armed conflicts in the Western Balkans. After the war of 1999 and UN resolution 1244, the international position changed: most prominently, the United States began to encourage the independence of Kosovo to replace the UN administrations. This strong support for independence was however supported by few other states. Among European countries, including Germany, fears about setting a precedent for secessionist movements, concerns about the reaction of post-Milosevic Serbia, and the political situation Kosovo predominated.

In Germany, there was no consistent parliamentary support for Kosovan independence, however, the question of Kosovo was considered in relation to other aspects of EU and international policy towards Kosovo. Discussions addressed Germany's military role in the Balkans, immigration from the Western Balkans and efforts for the repatriation of former migrants and refugees living in Germany. Considerations of Kosovan independence returned in the early 2000s. But rather than discussing these claims in regards of granting the right to self-determination, political parties in Germany approached the issue within the EU enlargement framework and as a questions of democratisation and state building. Furthermore, for German policy makers, the relationship with Serbia and the potential effect of an escalation of the Kosovo conflict on regional integration played a major role. Kosovan independence was considered by some as inevitable but still to be approached in an internationally managed and coordinated process with leadership from the EU, NATO and western powers in general.

In this chapter, the narrative will focus on different international, national and domestic actors in Germany in relation to the status question. Here, particularly the UN and the Contact Group on the Western Balkans, usually referred to as the Contact Group, which had been very active throughout the Balkan wars of the 1990s, will be particularly relevant prior to the 1999 war and later again in the later years of status negotiations from 2004. The Contact Group consisted of Russia and the so called

Quint, the five Western allies and G8 members: US, UK, France, Germany and Italy. The work of the two UN Secretary General Special Envoys Karl Eide and Martti Ahtisaari informed and advanced UN efforts for a resolution of the status. Finally, the work of the UN Mission in Kosovo and the role of the Security Council will be particularly relevant here. Finally, the role of the EU will be discussed by mainly focusing on the Council's declarations and policy output.

3.2 Kosovo in the Dissolution of Yugoslavia

In the introduction, I mentioned that Kosovo was excluded from recognition as a new state after the dissolution of the SFRY because it was not a constitutive Republic.⁴⁴⁸ Kosovo had been an autonomous province in the SFRY but had lost its status within Serbia in 1989. Milosevic had revoked autonomy and integrated Kosovo administratively into Serbia.⁴⁴⁹ Under Milosevic any promises given by Tito to grant Kosovo the status of a republic were revoked and from an administrative legal point of view independence was impossible.⁴⁵⁰ Prior to the dissolution of the SFRY, Milosevic's political move had been accepted as *fait accompli* by the international community, which gave little attention to this loss of autonomy. Germany, which had strong economic ties with the SFRY, showed little response to this act. The act was viewed as having been carried out within the known undemocratic practice of the communist and socialist regimes during the Cold War and thus did not result in a response.⁴⁵¹ When the unexpected dissolution of SFRY began, initially European capitals recognised the Serb leadership, now as the Federal Republic of Yugoslavia (FRY), as the legitimate successor state of the SFRY. Germany supported the unity of

⁴⁴⁸ See Introduction of this thesis.

⁴⁴⁹ Biermann, R. (2006) *Lehrjahre im Kosovo: das Scheitern der internationalen Krisenprävention vor Kriegsausbruch*, Paderborn: Schöningh, p. 259.

⁴⁵⁰ Bellamy, A. J. (2000) *Lessons unlearned: Why coercive diplomacy failed at Rambouillet*, *International Peacekeeping*, 7: 2, pp. 95-114, p. 105; Kumbaro, D. (2001) *Kosovo Crisis in an International Law Perspective: Self-Determination, Territorial Integrity and the NATO Intervention*, NATO Office of Information and Pressp. 37; Hibbert, R. (1999) *The Kosovo question: Origins, Present Complications and Prospects*, *Occasional Paper No.11*, May1999, London: The David Davies Memorial Institute of International Studies, p. 4.

⁴⁵¹ Biermann (2006) p. 259.

the SFRY until the early 1990s when the independence movements in Croatia and Slovenia became evident.⁴⁵²

When the dissolution of the SFRY seemed imminent, the EC Declaration on Yugoslavia in 1991 applied the concepts of *uti possidetis* and invited only its republics, thus not Kosovo, to declare whether they were to claim independence.⁴⁵³ These requests would then be brought to the Arbitration Commission of the conference for Peace in Yugoslavia, commonly known as the Badinter Commission. Kosovo did declare independence in 1991 after a local referendum, which was not recognised by the FRY authorities. Following this declaration, Kosovans established a government of mainly political exiles and under President Ibrahim Rugova and Prime Minister Bujan Bukoshi. In parallel and in competition with this Kosovan Albanian self-proclaimed government, the *Ushtria Çlirimtare e Kosovës* (UCK) or Kosovo Liberation Army (KLA) began to organise more effectively as a military movement for independence.⁴⁵⁴ Kosovo's independence claim however remained ignored. At the EC Peace Conference in The Hague in September 1991, the Kosovo question was treated as a minority rights issue. A plan proposed by the British diplomat Lord Carrington, which would have provided extensive minority claims for Kosovo Albanians, was rejected by Belgrade.⁴⁵⁵ Kosovan representatives were excluded from the London Peace Conference in August 1992 and Kosovo's status was not discussed.⁴⁵⁶ The UN Conference on Yugoslavia held in Geneva in September 1992 was supposed to address the situation in the whole of Yugoslavia. When EU negotiator

⁴⁵² Krause, J. (2000) Deutschland und die Kosovo-Krise, in Teuter, J. and Clewing, C. (eds) *Der Kosovo-Konflikt Ursachen, Verlauf, Perspektiven*, Klagenfurt: Wieser Verlag, p. 399; Bellamy, 2000, p. 105; Kumbaro 2001, p. 37; Hibbert 1999, p. 4.

⁴⁵³ For a detailed discussion of the application of *uti possidetis* see Chapter 1.3.3 Dissolution at the End of the Cold War and 1.6.1 Internationalisation of the Conflict.

⁴⁵⁴ Weller, M. (2009) *Contested Statehood: Kosovo's Struggle for Independence*, Oxford University Press, p. 30 and p. 40.

⁴⁵⁵ Friedrich, R. (2005) *Die deutsche Außenpolitik im Kosovo-Konflikt*, Wiesbaden: VS Verlag für Sozialwissenschaften, p. 28

⁴⁵⁶ Weller (2009) p. 48-49; Malanczuk, P. (1997) *Akehurst's Modern Introduction to International Law*; London: Taylor & Francis, p. 90; European Community (1992a) Declaration On Yugoslavia and On the Guidelines On the Recognition of New States *International Legal Materials* Vol. 31, No. 6 (November 1992) pp. 1485-1487.

David Owen attempted to bring Kosovo onto the agenda however, this was completely rejected by Slobodan Milosevic as an internal Serbian problem.⁴⁵⁷

In Germany, at this time, the Kosovo Albanian political struggle received some attention and support. Germany had economic ties with Albania and Kosovo Albanians, mainly through migration from the region to Germany during the Cold War. Germany had received some asylum applications from Kosovo Albanians, however, it had granted these only in very few cases. Most Albanians and Kosovo Albanians were considered economic migrants.⁴⁵⁸ Nonetheless, some politicians in Germany supported independence for Kosovo: in 1991 the Social Democrats, in opposition at the time, argued in support of Kosovan statehood. Using similar language to the cases of Croatia and Slovenia, they argued that it was important to ‘internationalise’ the conflict between Serbia and Kosovo to allow for greater international intervention. The German government, Christian Democrats and Free Democrats at the time, were also in contact with the Kosovan leadership.⁴⁵⁹ Within the German Green party, in opposition at the time, some considered a German recognition of Kosovo possible after the declaration of independence of 1991.⁴⁶⁰ Political ties continued to develop with the Albanian and Kosovan leadership among all German political factions in the early 1990s. Albania became the greatest recipient of foreign aid from the German government, and the German foreign minister even encouraged Albanian NATO membership.⁴⁶¹ However, this did not result in greater support for Kosovan independence at international level. Instead, the German government, throughout the 1990s, pursued a policy of increased autonomy with strong minority rights for the Albanian populations.⁴⁶² Overall, German efforts to raise the question of Albanians in international fora, were too weak and lacked institutional support from their international partners.⁴⁶³

⁴⁵⁷ Krause (2000) p. 397

⁴⁵⁸ Friedrich (2005) p. 27.

⁴⁵⁹ MdB Peter Götz (SPD) cited in Friedrich (2005) p. 27.

⁴⁶⁰ Comments to the author, interview with a foreign policy expert in the Green party, Berlin, March 2014.

⁴⁶¹ Friedrich (2005) p. 27.

⁴⁶² Friedrich (2005) p. 33.

⁴⁶³ Krause (2000) p. 396.

The German policy toward Kosovo has been described as being strongly affected by the aftermath of the Croatian and Slovenian independence claims and recognitions. Germany was blamed widely by its European partners for escalating the conflict and the outbreak of war with Serbia, as well as for undermining the international process for recognition.⁴⁶⁴ Thus, for the remainder of the 1990s, the German leadership would be aligned closely with its international and Western partners, especially the United States, on the policy. Germany thus continued to participate actively in multilateral and international fora and avoided insinuating support for unilateral independence or recognition.⁴⁶⁵

The only international forum in which the question was discussed was the Special Group on Kosovo, which had been established by the London Conference. The chairmanship of this group in the beginning lay with German ambassadors Geert Ahrens and Martin Lutz. Bonn's initially optimistic approach towards this working group was disappointed, as attempts to establish autonomy for Kosovans in Serbia were met with strong opposition from the Serbian government. The literature has viewed the Special Group rather critically, as it did not discuss the status question directly and achieved no progress on any of the policy issues which it set out to discuss.⁴⁶⁶ Overall, within this forum, and throughout the period prior to the greater involvement of the international community in the Kosovo questions, Germany pursued a policy focused on re-establishing greater autonomy for Kosovans within the borders of the FRY and to achieve direct negotiations between the two conflicting parties.⁴⁶⁷

From 1994 onwards Germany was part of the Contact Group, which consisted of the United States, the Russian Federation, the United Kingdom, France, Italy and Germany. It was originally the main international forum to coordinate work on the

⁴⁶⁴ Discussed in Chapter one 1.7 Recognition as Intervention and Foreign Policy.

⁴⁶⁵ Krause (2000) p. 399.

⁴⁶⁶ Friedrich (2005) p. 29; See also Weller (2009) p. 77.

⁴⁶⁷ Friedrich (2005) p. 33.

Bosnia conflict and in the late 1990s began to work on Kosovo.⁴⁶⁸ Through the Contact Group Germany was also involved in the settlement of the Bosnia conflict in 1995 at the Dayton Conference. Although there had been hopes that in this conference the Kosovo status question would also be addressed, this was not the case. The focus of these negotiations was on the aftermath of the Croatian and Bosnian wars and resulted in the establishment of the Bosnian Federation.⁴⁶⁹ The failure to bring the Kosovo question onto the agenda stemmed from the Serbian leadership's refusal to accept the issue as an international matter. The head of the German delegation at the conference, Ambassador Wolfgang Ischinger, described raising the question with Milosevic who 'exploded' at the mere mention of Kosovo.⁴⁷⁰

The question of Kosovo was not a priority after Dayton. The international community had established new conditions for the FRY after the Bosnia war. The hope was that this would also improve the situation for Kosovo Albanians.⁴⁷¹ However the Contact Group was split regarding whether or not to take a reconciliatory approach with the FRY. The United States, with support from Germany, were particularly confrontational towards the FRY, while France had favoured appeasement. This became particularly evident when France recognised the FRY as an independent state in 1996, with Germany being the last EU member to recognise it. Germany's change of position on the recognition of the FRY from a strict non-recognition to recognition was linked to migration policy. The German government had pursued more systematic returns and the repatriation of Kosovan refugees to Serbia. Through recognition, Germany was able to impose greater conditions on a repatriation agreement to manage the returns effectively. However, few asylum seekers were deported because the security situation in Kosovo deteriorated quickly.⁴⁷²

⁴⁶⁸ see Schwegmann, C. (2000) The Contact Group and its impact on the European institutional structure, *The Institute for Security Studies, Occasional Papers 16* for a discussion of the role of the Contact Group in Bosnia and Kosovo.

⁴⁶⁹ Bellamy (2000) p. 99.

⁴⁷⁰ Friedrich (2005) p. 30.

⁴⁷¹ See also Caplan (2005).

⁴⁷² Friedrich (2005) p. 31.

The Kosovo Albanians, in a pacifist movement under Ibrahim Rugova, had been struggling to keep the resistance in the region peaceful. This was mainly because support from the international community had been weak. The Contact Group at the time continued to adopt a wait and see approach. After NATO had intervened in the Bosnia conflict, it was hoped that the possibility of a military response from the West would seem more likely to Milosevic and put additional pressure on the Serbian leadership.⁴⁷³ Since the situation had not escalated in comparison to Croatia and Bosnia, the international community continued to hope that it would remain calm and that after two violent conflicts in the region it would be possible to solve the Kosovo issues peacefully with Serbia.⁴⁷⁴ The Contact Group thus made no commitments to the status of Kosovo and encouraged the finding of a solution within the borders of the FRY.⁴⁷⁵ By 1996, however, the KLA had begun to gain more popular support and access to weapons. This was followed by a strong response from Serbia, which used the activities of the KLA to suppress and expel the Albanian population.⁴⁷⁶

From the summer of 1996 Ambassador Martin Lutz, the German chair of the Special Group on Kosovo, worked in collaboration with the EU to initiate dialogue between Serbian and Kosovan leadership. Additionally, from 1997, the Contact Group began to work on Kosovo in the hope of coordinating an international response to the status issue generally and addressing the increasing military activities of the KLA.⁴⁷⁷ This effort for a return to the Kosovo status question can be traced back to the German delegation in the Special and Contact Groups. However, the discussion in New York in December 1997 resulted in the Serbian delegation abandoning dialogue and leaving immediately. Also, the conclusion of the Contact Group ministers only resulted in an ‘expression of concerns’ rather than a specific call to action or policy recommendations.⁴⁷⁸

⁴⁷³ Prantl, J. (2006) *The UN Security Council and Informal Groups of States*, Oxford: Oxford University Press. p. 222.

⁴⁷⁴ Krause (2000) p. 397.

⁴⁷⁵ Prantl (2006) p. 222.

⁴⁷⁶ Krause (2000) p. 397.

⁴⁷⁷ Friedrich (2005) p. 32.

⁴⁷⁸ Ibid.

Germany's position in the period of the dissolution of Yugoslavia was defined by its domestic approach towards the independence of Kosovo and the international backlash after its unilateral recognition of Croatia. Domestic political actors supported the independence based on the 'internationalisation' argument. This was despite the fact that the Badinter Commission established *uti possidetis* as the principle for managing the dissolution of Yugoslavia. This period also shows Germany actively participating in the different international fora established on Kosovo, such as the Special Group, the Contact Group and within the EU. However, its efforts to bring the greater attention to the question of Kosovo were stifled by its international partners. Unlike in the case of Croatia, Germany did not pursue unilateral recognition of Kosovo but focused on promoting efforts for greater autonomy within Serbia.

3.3 Leading up to the Kosovo War of 1999

From late 1997 to 1998 tensions among Contact Group members heightened. In principle the Contact Group had agreed on supporting greater autonomy for Kosovo within Serbia. The United States, however, pushed for sanctions against the FRY while Russia strongly opposed these. Germany, France and the UK tried to mediate between the two superpowers, underlining progress in the Serbian response towards autonomy claims. However, because of US threats to leave the Contact Group, sanctions were agreed in early April 1998.⁴⁷⁹ Russia's greater engagement in the conflict became clearer and Germany found itself increasingly mediating between the United States and the Russian Federation.

In the following months, the United States exerted increasing pressure for military intervention. However, International Organisations were sending mixed signals in regards to the threat to Milosevic. The international conditions to Serbia included the cessation of violence against Albanians, humanitarian access and a political process on Kosovo. Milosevic had made small concessions, which resulted in hope from some

⁴⁷⁹ Krause (2000) 400-401.

European leaders that military force would not have to be used. NATO allies were reluctant to act without a UN resolution. Thus, due to Russia's continuing support for Serbia in the Security Council, Milosevic did not have to fear an immediate military intervention.⁴⁸⁰

From the efforts of the two main US negotiators Holbrooke and Hill in October 1998, prior to the NATO bombing campaign, the US's emphasis was on the containment of Milosevic rather than on a political solution to the status or even independence of Kosovo. The question of the final settlement was avoided in the negotiations under Ambassador Hill. Instead, the negotiations focused on local administration and proposed a three year waiting period before a commitment to status negotiations.⁴⁸¹ Ultimately, it was Holbrooke's direct talks with Milosevic that led to a pause in military action from the FRY side in the fall of 1998. While the Kosovans were aware of the proposed agreements, they eventually did not become party to the final agreement with the FRY.⁴⁸² The agreement was brokered solely by the US, to the exclusion from the Holbrooke talks of the western allies, including Germany.⁴⁸³

Although excluded from the process, Germany had committed to participate in a NATO mission in Kosovo, should the ultimatum have to be implemented. The domestic debate in Germany was discussed in Chapter Two:⁴⁸⁴ the Christian Democrat-Liberal coalition government had argued for German participation before leaving office in October 1998. I discussed how the decision to participate in the bombing was controversial for the new Social Democrat-Green government coalition. The lack of legal authorization from the UN Security Council was particularly controversial for German critics. The German government's justification focused on the issue of preventing genocide, requiring collective responsibility to stop dictators from committing such a crime. German policy makers interpreted the Milosevic

⁴⁸⁰ Krause (2000) p. 403-404.

⁴⁸¹ Weller (2009) p. 90.

⁴⁸² Gow, J. (1998) Kosovo after the Holbrooke-Milosevic agreement. What now?, *The International Spectator*, 33: 4, pp. 17-22, p. 18.

⁴⁸³ Krause (2000) p. 407.

⁴⁸⁴ See 2.5.1 Military interventions: Kosovo, Afghanistan, and Iraq.

regime as the main aggressor in this conflict against the civilian population of Kosovo. However, at this stage the support that had existed among German policy makers for an independent Kosovo in the early 1990s was not translated into government policy. The NATO mission was not framed as a liberation of Kosovans or to support their right of self-determination but to end Serbian aggression.⁴⁸⁵

The final negotiation effort in Rambouillet in February 1999 prior to the war with NATO changed the dynamics among the Contact Group and the conflict parties. Germany and Italy were relegated to second tier members and excluded from the main negotiations.⁴⁸⁶ The KLA had replaced Rugova as their negotiator. This represented a significant shift in the recognition of the regime and delegation representing Kosovo. The KLA had been previously labelled as a terrorist group by the United States.⁴⁸⁷ This shift towards the KLA also led to greater support for the independence claim, especially from within the US delegation.⁴⁸⁸ The Contact Group imposed a final ultimatum to find a settlement under threat of a NATO operation in Serbia. Among Contact Group members there was resistance towards the independence claims. But the KLA, at this point, saw anything short of immediate independence or a NATO operation in Serbia as less beneficial and was thus unlikely to support any kind of political settlement.⁴⁸⁹ The lack of leadership within the Contact Group and contradicting policies within it have been blamed for the lack of progress at the Rambouillet negotiations. The initial leadership of Europe was quickly undone as the US received support from France and the UK to negotiate directly with Milosevic, who had refused to attend the conference himself.⁴⁹⁰ While the Contact Group worked on the basis of unanimity, the UK had become sympathetic to the claims for independence from the Kosovo Albanians and UK diplomat Robin Cook was keen to

⁴⁸⁵ Ibid; Berenskoetter and Giegerich (2010) p. 437; Miskimmon (2009) p. 563.

⁴⁸⁶ Krause (2000) p. 410.

⁴⁸⁷ The US American envoy Robert Gelbard had referred to the KLA as a terrorist group in 1998. B 'World: Europe- KLA terrorist or freedom fighter?' BC NEWS, 29 June 1998, <http://news.bbc.co.uk/1/hi/world/europe/121818.stm> (last accessed 25 September 2016)

⁴⁸⁸ Daalder, I.H. & O'Hanlon, M.E. (2000) *Winning Ugly: NATO's war to save Kosovo*; Washington: The Brookings Institute, p. 82.

⁴⁸⁹ Schwegmann (2000) p. 15.

⁴⁹⁰ Ibid, p. 16.

keep the option of independence open following the three-year interim period.⁴⁹¹ Germany's exclusion from the main negotiations meant it had little influence on the process and was merely kept informed.⁴⁹²

Germany's role in the international negotiations had been weakened as the consensus moved towards military intervention and it had struggled to mediate on the question of status of Kosovo. Although Germany held the EU presidency at the time, the new Social Democrat-Green government had still to earn trust from the western allies.⁴⁹³ Unlike Germany, the French position had been against promoting independence for Kosovo.⁴⁹⁴ The EU and Germany were on occasion in conflict with US dealings, and in comparison had little influence on the Serbs or the Kosovar Albanians in the negotiations.⁴⁹⁵ European NATO members had been calling for a political strategy for the aftermath of the bombing of Serbia and Germany sought to take a central role in this process. German Foreign Minister Joseph Fischer worked with US Secretary of State Madeleine Albright on a joint paper to set political conditions for the NATO bombardment of the FRY to stop. Negotiations over the status of Kosovo based on the Rambouillet accords and an international military presence on the ground were two essential conditions.⁴⁹⁶ In regards to the status of Kosovo, Rambouillet intended to freeze its status for three years before it would be renegotiated. Some have blamed this plan for a more aggressive occupation of Kosovo by Milosevic. A future negotiated settlement was likely to lead to a loss of full Serb control and thus gave the Serb leadership no incentive to keep to a diplomatic or political solution.⁴⁹⁷ With the failure of Rambouillet and after months of military threats from NATO, the bombardment began on 24 March 1999. The details of the NATO mission are beyond the scope of

⁴⁹¹ Bellamy (2000) p. 106.

⁴⁹² Krause (2000) p. 410.

⁴⁹³ Ibid.

⁴⁹⁴ Ibid, p. 107.

⁴⁹⁵ Weller (2009) p. 127.

⁴⁹⁶ Prantl (2006) p. 236.

⁴⁹⁷ Krause (2000) p. 410; see full text of The Rambouillet Accords see United Nations (1999a) 'Letter Dater 4 June 1999 From the Permanent Representative of France to the United Nations addressed to the Secretary General', United Nations Security Council, S/1999/648, 7 June 1999, <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kos%20S%201999%20648.pdf> (Last accessed 25 September 2016).

this research. Germany sought to develop its role in the negotiations to focus on future political and civilian aspects of the international intervention in Kosovo.

3.4 German multilateral diplomacy and the Fischer Plan

After Germany had *de facto* been excluded from the main negotiations in Rambouillet and once the NATO operation began, Germany gained more diplomatic influence through a proposal brought forward initially by foreign minister Fischer, often referred to as the ‘Fischer Plan’. The proposal’s demands included that Serbs should accept an immediate ceasefire, removal of all Serbian troops, the disarmament and withdrawal of paramilitary Serbian groups, the return of refugees, and that Serbia express willingness for a political solution based on the Rambouillet accord.⁴⁹⁸ Fischer aired his proposal in different international fora and was able to gain support from the US, which had opposed a temporary ceasefire. The progress of this plan went firstly to the Quint, the five western Contact Group members, before gaining support from Russia in the Contact Group. Here Germany used both its position as rotating president in the EU but more importantly its chairmanship of the G8 at the same time. This allowed for an additional forum to include Russia in the talks. The plan was then discussed at NATO level and, finally, it also received support from EU foreign ministers.⁴⁹⁹ Most importantly the plan primarily allowed for a cessation of hostilities and paved the way to UN resolution 1244, which provided a settlement for the Kosovo conflict.⁵⁰⁰

From Germany’s perspective this multilateral process was deemed a major success. The new Social Democrat-Green government had succeeded in re-gaining access to the main negotiations on Kosovo and in brokering a consensus among its key western allies as well as with Russia. As discussed in Chapter Two, multilateralism has been a central aspect to Germany’s foreign policy role. The Kosovo war had been a significant issue for German policy makers due to the military aspect and the lack of

⁴⁹⁸ Friedrich (2005) p. 101.

⁴⁹⁹ Friedrich (2005) p. 103-195.

⁵⁰⁰ United Nations (1999b) UN Security Council, ‘On the situation relating to Kosovo’ Resolution 1244 (1999) S/Res/1244, 10 June 1999, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement> (Last accessed 25 September 2016).

consensus in the UN Security Council. Rebuilding such a consensus and promoting civilian and political solutions was in closer alignment with the concept of Germany behaving as a Civilian Power. For the Social Democrats and the Green party, which both considered themselves coming from an anti-militaristic tradition, this change in Germany's role was also of political importance to maintain the credibility of the newly elected coalition government.

In this period, Germany also initiated the Stability Pact for South Eastern Europe, with the intention of bringing the Western Balkans closer to the EU in the aftermath of the war. This initiative was mainly attributed to German Foreign Minister Fischer. The so-called Fischer Plan sought economic and development support to the countries of the former Yugoslavia and provided prospects for future membership in NATO and the European Union. The German approach was met with concern about further enlargement plans within the EU, but the Fischer Plan became a key German strategy towards the Western Balkans to ensure regional stability.⁵⁰¹ Germany had been the main supporter for EU enlargement after the end of the Cold War, which included Central and Eastern European countries.⁵⁰² It headed the major enlargement process in the early 1990s with the establishment of the Association Agreements and the Copenhagen Criteria, which introduced structure and criteria for joining the EU.⁵⁰³ The Social Democrat-Green government saw the opportunity to extend its role relating to the Western Balkans by applying a similar approach. After the Kosovo war, Germany thus emerged as an active multilateral player who had engaged with its major allies and delivered in regards to military appeals from NATO, while focusing on civilian aspects in the aftermath of the war.

⁵⁰¹ For a more detailed discussion of the negotiations see Friis, L. and Murphy, A. (2000) 'Turbo-charged negotiations': the EU and the Stability Pact for South Eastern Europe, *Journal of European Public Policy*, 7: 5, pp. 767-786.

⁵⁰² Müller-Brandeck-Bocquet, G (eds) (2010) *Deutsche Europapolitik - Von Adenauer bis Merkel*, Wiesbaden: VS Verlag für Sozialwissenschaften

⁵⁰³ Paterson (2000) p. 105.

This interpretation of the events was particularly important for the German domestic audience. Internationally, the settlement of the conflict was accredited to Russia and the United States, who negotiated the final settlement, as I will discuss below. Nonetheless, discussing the process in the Bundestag, Fischer emphasised the role of Germany in bringing the UK and France to an agreement and the importance of the multilateral process through the G8 and the EU.⁵⁰⁴ An interesting development in regards to the German position is also that while in the lead up to the military intervention Germany did not prioritise the question of the status of Kosovo, Fischer mentioned it after the NATO operation started. In the Bundestag he raised the question as to whether maintaining the territorial integrity of the FRY at all costs was a realistic strategy.⁵⁰⁵ Thereby, he reintroduced the issue, although as we will see below, at international level the support for independence had weakened again.

3.5 Political Settlement and UN Resolution 1244

The political settlement after the Kosovo war was eventually only possible due to the involvement of the Russian diplomat Chernomyrdin, who was part of the EU/US/Russia Troika, along with Martti Ahtisaari and Strobe Talbott.⁵⁰⁶ The UNSC resolution 1244 established the UN Mission UNMIK and made important concessions to Milosevic in comparison to the Rambouillet accords. Firstly, the international presence would be under United Nations command with a status-neutral approach. The status neutrality of the UN implied that it would neither support independence nor the reintegration of Kosovo into Serbia. Secondly, the Rambouillet claim for the 'unrestricted access' of NATO Kosovo Force (KFOR) troops throughout the FRY was dropped. Finally, the Rambouillet accords were not to be the basis for further status debate as suggested by Fischer and Albright.⁵⁰⁷ Instead, the G8 Petersberg declaration was taken as the basis for the political settlement. Here, Rambouillet is merely to be taken into 'full account' with 'the principles of sovereignty and territorial integrity of

⁵⁰⁴ Joseph Fischer (Greens) Minister of Foreign Affairs in Deutscher Bundestag (1999a) Plenarprotokoll 14/44 16 June 1999. Stenographischer Bericht. 44. Sitzung 14 Wahlperiode. Bonn 16 June 1999, p. 3606.

⁵⁰⁵ Ibid.

⁵⁰⁶ Weller (2009) p. 177.

⁵⁰⁷ MccGwire, M. (2000) Why did we bomb Belgrade?, *International Affairs* 76, 1; pp. 1-23, p. 1.

the Federal Republic of Yugoslavia and the other countries of the region'.⁵⁰⁸ This meant that the three-year interim period, as well as the promise of a referendum on the status of Kosovo, had been removed from the political settlement.

UN Security Council Resolution 1244 became a legal milestone in the contemporary discussion of Kosovo's status and its claim to independence. Its ambiguity was, however, fundamental to the progress that was made on the status question: Despite stating that the resolution will take 'full account' of the Rambouillet accords several times, the text does not refer specifically to the three year waiting period as described in Rambouillet. It also mentions a commitment to the territorial integrity of the FRY, also emphasising the Helsinki Final Act, which cited the rejection of military intervention in other states to undermine territorial integrity.⁵⁰⁹ Considering the international community's hesitance for Kosovan independence throughout the previous negotiations, it could be argued that 1244 was a compromise to leave all possible future negotiations open. In Chapter Two, I discussed the principle of territorial integrity and its juxtaposition with the principle of self-determination.⁵¹⁰ The reference to territorial integrity in UNSC resolution 1244 was taken by those arguing against Kosovan independence as supporting internal rather than external self-determination. Therefore, Serbian territorial integrity would be maintained by providing greater autonomy rather than independence. Russian supporters of the Serbian position argued that at the time this was the understanding and thus the reason Russia supported the resolution. This central disagreement on the intention of UNSC resolution 1244 on the status of Kosovo would define the future negotiations between Kosovo and Serbia.

After nearly a decade of conflict in the former Yugoslavia the end to the Kosovo conflict did not come with the ousting of Milosevic by foreign forces but through an internationally brokered agreement. The overthrow of Milosevic eventually happened

⁵⁰⁸ United Nations (1999b)

⁵⁰⁹ Ibid.

⁵¹⁰ See Chapter One, 1.3. Territorial Integrity, Self-Determination and Secession.

with popular support led by Voislav Koštunica as part of the Democratic Party of Serbia, who defeated Milosevic and the Socialist Party in the 2000 elections. The campaign was marked by controversy and Milosevic attempted to reject the result. Koštunica, although far from adopting the nationalist position of Milosevic, considered Kosovo an integral part of Serbia. His strong views on Kosovo would define the negotiation process until 2008.⁵¹¹

3.6 German position on Kosovo post-UNSC 1244

German foreign minister Fischer had questioned the territorial integrity of the FRY but after UNSC resolution 1244 had been established he did not pursue this further. He argued that the time was not right to discuss the status question but instead it was urgent to focus on setting up a process and international framework to accompany any future discussion on the status.⁵¹² The settlement after the Kosovo war had been defined by the division between Russia and the United States on Kosovo's status. While there had been momentum to support Kosovan independence during the Rambouillet accords, the international community, including western supporters of Kosovo, were now taking a more careful approach again.

In Germany, the Kosovo status question was however raised in the *Bundestag*. The Christian Democrats in particular, argued that the current international and European approach was without a long term strategy for the Balkans, especially in regards to the status question.⁵¹³ The response from the government parties, the Social Democrats and Greens, was that the current volatile situation should not be upset by any speculation or discussion on status.⁵¹⁴ In response to continued pressure from the Christian Democrats, Fischer blamed the opposition for engaging in 'dangerous' speculation, countering that the government would not want to make the same mistake

⁵¹¹ 'Showdown in Yugoslavia: The Overview; Milosevic Concedes His Defeat; Yugoslavs Celebrate New Era' New York Times, 6 October 2000; Ker-Lindsay (2009) p. 17.

⁵¹² Joseph Fischer (Greens) in Deutscher Bundestag (1999b) Plenarprotokoll 14/55. Stenographischer Bericht. 55. Sitzung 14 Wahlperiode. Bonn 16 September 1999, p. 4875.

⁵¹³ Christian Schmidt (CDU/CSU) MdB in Deutscher Bundestag (2000a) Plenarprotokoll 14/84. Stenographischer Bericht. 84. Sitzung 14 Wahlperiode. Berlin, 27 January 2000, p. 7715.

⁵¹⁴ Helmut Lippelt (Greens) MdB in Deutscher Bundestag (2000a) p. 7721.

as the Christian Democrats had done in the case of Croatia and Slovenia. While he stood by the importance of recognising the two republics, he emphasised multiple times the failure to create an international framework to manage the process.⁵¹⁵ Also, the coalition partner, the Social Democrats, warned about any attempts from the Christian Democrats at this stage to weaken the consensus over status neutrality, suggesting that the focus should instead be on the democratisation of Serbia and stabilisation of the region.⁵¹⁶ The Christian Democrats in contrast advocated an advancement in the status of Kosovo and a fundamental role of the United Nations in the process. The ethnic separation of Albanians and Serbs was perceived as non-reversible by the party and a more comprehensive plan to accept this reality would, according to the CDU, lead to peace in the region.⁵¹⁷ The Free Democrats also opposed the proposal from the Christian Democrats specifically as it was opposed to an independent Kosovo.⁵¹⁸ Although within the Green party and from the foreign minister support for Kosovan independence continued to exist, the division in the coalition government and the status neutral approach under UN resolution 1244 meant a more hesitant German policy in regards to Kosovo's status at this stage. Generally, the government coalition parties appear to have been bound by the international situation on Kosovo and thus continued to reiterate the point of status neutrality and the need to establish regional stability, especially in light of the Serbian elections.⁵¹⁹ This was supported by the FDP in opposition.⁵²⁰ Later in 2000 some divisions became evident as the Christian Democrats continued to push for specific progress in talks and

⁵¹⁵ Joseph Fischer (Greens) in Deutscher Bundestag (2000b) Plenarprotokoll 14/97. Stenographischer Bericht. 97. Sitzung 14 Wahlperiode. Berlin, 5 April 2000, p. 9011.

⁵¹⁶ Dr. Eberhard Brecht (SPD) in Deutscher Bundestag (2000b) p. 9014.

⁵¹⁷ Karl Lamers (CDU) in Deutscher Bundestag (2000b) p. 9013 and Deutscher Bundestag (2000c) Drucksache 14/3093 'Antrag der Fraktion CDU/CSU: Kosovo Politik überprüfen und weiter entwickeln', 14 Wahlperiode, 4. April 2000.

⁵¹⁸ Werner Hoyer (FDP) MdB in Deutscher Bundestag (2000b) p. 9018.

⁵¹⁹ Deutscher Bundestag (2000d) Plenarprotokoll 14/111. Stenographischer Bericht. 111. Sitzung 14 Wahlperiode. 29. June 2000, p. 10484. Joschka Fischer (Grüne) mentions specifically the need to uphold the Helsinki principles, an argument supported specifically by the Serbian leadership in relation to the Kosovo status. See also Deutscher Bundestag (2000e) Plenarprotokoll 14/123. Stenographischer Bericht. 123. Sitzung 14 Wahlperiode. Berlin, 11. October 2000 for statement by Joseph Fischer (Greens) p. 11822 and Eberhard Brecht (SPD) MdB, p. 11834.

⁵²⁰ Klaus Kinkel (FDP) MdB, in Deutscher Bundestag (2000e) Plenarprotokoll 14/123, p. 11829.

suggested a republic status for Kosovo within the FRY, similarly to that of Montenegro.⁵²¹

German domestic parties appear to be split on the question of Kosovo. While in the early 1990s most showed sympathies for Kosovan claims for independence and there was a consensus among the parties on Croatian independence, this appears to have changed by the end of the 1990s. The settlement through UNSC resolution 1244 significantly influenced the coalition parties and reduced their public commitment to Kosovan independence. The Christian Democrats, which had just lost the federal elections in Germany and were now in the opposition for the first time in 16 years, argued for greater involvement of the international community and support for independence

3.7 The early UNMIK years

The fall of Milosevic and the establishment of UNMIK represented a new period for the Serbia-Kosovo conflict. For the international community, efforts would focus on rebuilding the region and its states after the conflict. Political and status questions were put to one side, due in part to the new political landscape in Kosovo and Serbia. Germany, like other western states, supported an improved status for Kosovo in principle. However, the leadership of the KLA was considered unsuitable as political partner due to its undemocratic structures, its possible participation in war crimes and its uncompromising stance on independence for Kosovo.⁵²² The new Serbian leadership was under much scrutiny as well. Although Koštunica had been supported by many western governments in his campaign against Milosevic, his inexperience and inflexible stance on Kosovo was cause for insecurity and some suspicion.⁵²³

⁵²¹ Volker Rühle (CDU) in Deutscher Bundestag (2000f) Plenarprotokoll 14/134. Stenographischer Bericht. 134. Sitzung 14 Wahlperiode. Berlin, 17 November 2000, p. 12972.

⁵²² See Annex I Travel Report of German Green Party Members of the Bundestag to Macedonia and Kosovo 27-28 July 1999, 'Kurzbericht Reise nach Mazedonien und Kosovo 26. 28.7.99'.

⁵²³ 'Hilfe zur Revolution' Der Spiegel, 41/2000, 9 October 2000.

The relationships between the conflict parties and the international community developed significantly over the subsequent years due to the following: the political leadership in both Serbia and Kosovo, the international position of Russia, the increasing support for an independent Kosovo from the United States, and the increasing role of the EU in the Western Balkans.

UNMIK remained status neutral and avoided any apparent support for Kosovan independence in its operations. Slow developments towards allowing more 'self-governance' were initiated by the UN Special Representative of the Secretary General (SRSG), Hans Haekkerup, from 2001. A constitutional framework was established with some success, which left executive powers to the SRSG and allowed for representations within the parliament and the representation of minorities.⁵²⁴ Germany's official policy followed closely the work of the UN and the Contact Group and resulted in little debate. The 2001 and 2002 annual reports by the German government on South Eastern Europe supported the policy of focusing on practical policy issues in Kosovo rather than on the status question.⁵²⁵ Specifically, in the 2002 report, Germany's position on Kosovo became defined as non-determined on the status question, rejecting a territorial division within Kosovo and supporting the building of a multi-ethnic and democratic state. By 2003 Germany had brought forward an initiative to reactivate the Contact Group and welcomed the start of work on the possible independence question.⁵²⁶

⁵²⁴ Meurs, van, W. (2004) Kosovo's fifth anniversary—on the road to nowhere?, *Ethnopolitics*, 3: 3; pp. 60-74, p. 61, Weller (2009) p. 181.

⁵²⁵ Deutscher Bundestag (2001a) Unterrichtung durch die Bundesregierung Bericht der Bundesregierung über die Ergebnisse ihrer Bemühungen um ein Rahmenkonzept für die Stabilisierung Mazedoniens und um eine politische und ökonomische Gesamtstrategie für die Balkanstaaten und Südosteuropa. Drucksache 14/7891. 14. Wahlperiode. 10 October 2001. Deutscher Bundestag (2003) Unterrichtung durch die Bundesregierung. Bericht der Bundesregierung über die Ergebnisse ihrer Bemühungen um die Weiterentwicklung der politischen und ökonomischen Gesamtstrategie für die Balkanstaaten und ganz Südosteuropa. Drucksache 15/508. 15. Wahlperiode. 21. February 2003.

⁵²⁶ Deutscher Bundestag (2004a) Unterrichtung durch die Bundesregierung. Bericht der Bundesregierung über die Ergebnisse ihrer Bemühungen um die Weiterentwicklung der politischen und ökonomischen Gesamtstrategie für die Balkanstaaten und ganz Südosteuropa für das Jahr 2003. Drucksache 15/2464. 15. Wahlperiode. 6 February 2004, p. 6.

Within the Contact Group there had been disagreement on the level of self-governance for Kosovan Albanians that should be allowed at this stage. While the United States would have supported a much more comprehensive self-governance for the Kosova Albanians, others were more reluctant to raise hopes of self-governance, not wishing to initiate the status discussion at such an early stage.⁵²⁷ The difficulties in establishing a government and continued inter-ethnic tensions led to the increasing involvement of the SRSG. The new post-holder, German diplomat Michael Steiner, introduced the concept of ‘Standards before Status’ in 2003. The rationale behind the policy was that Kosovo was not yet ready for full self-governance or talks on its status. Instead Kosovo would have to fulfil specific benchmarks before being able to discuss the question of status. A complex matrix of conditions and standards was provided by UNMIK, which focused on key policy areas including institutions, rule of law, freedom of movement, rights of return, economic development, property rights, dialogue with Belgrade, and reforming the Kosovo protection corps.⁵²⁸

The new leadership in Serbia was not supportive of full Kosovan independence. On the other side, the KLA was keen on a payoff and independence.⁵²⁹ Instead, the focus was put on functional state institutions and the improvement of inter-ethnic relations as well as the protection of minorities.⁵³⁰ The doctrine of Standards before Status was also a response to the continued volatility of states in the wider Western Balkan region. The UN wanted to discourage secessionist movements, such as the Republika Srpska in Bosnia and Herzegovina.⁵³¹ Along with the institutional conditionality of UNMIK, the 2003 EU Council conference in Thessaloniki promised a ‘European perspective’ to the Western Balkans. While this perspective was welcomed, it was also long-term and attached to conditionality on regional integration, the establishment of democratic

⁵²⁷ Weller (2009) p. 182.

⁵²⁸ Weller (2009) p. 185 See full United Nations (2004) Kosovo Standards Implementation Plan, 31 March 2003, <http://operationkosovo.kentlaw.edu/symposium/resources/KSIP%20final%20draft%2031%20March%202004b.htm> (last accessed 25 September 2016)

⁵²⁹ Yannis, A. (2002) The international presence in Kosovo and regional security: The deep winter of UN security council resolution 1244, *Southeast European and Black Sea Studies*, 2: 1, pp. 173- 190, p. 176.

⁵³⁰ Meurs, van (2004) p. 68.

⁵³¹ Weller (2009) p. 185.

institutions and minority rights. This was also the financial and institutional backing to the original Fischer's Stability Pact for Southeastern Europe.⁵³² The period after the establishment of UNMIK represented an important phase in which the international community was attempting to establish governance in Kosovo without approaching the status question yet. With greater conditionality and the indication of the prospect for European integration the conflict between Kosovo and Serbia was to be managed. The rationale for the international community was to use the leverages of future statehood for Kosovo or EU integration of the region as a whole. However, the conditionality for and delay in addressing the status questions would lead to significant challenges for the international community in Kosovo.

3.8 Violence of 2004 and Eide Report

The long-term view taken on the conflict created stagnation on the ground, frustrations with progress on the governance of Kosovo, and increasing disappointment with and hostility towards UNMIK. In 2004, violent protest became a major concern for the international community. Among German policy makers, particularly outbreaks of violence, raised fears of a returning armed conflict. Since the end of war in Kosovo, German troops had been positioned in the territory as part of KFOR. This ongoing military operation had become a central issue in German foreign policy. The issue of German troops in the region was continuously discussed in the *Bundestag*. The deteriorating security situation was considered an increasing risk for German troops. The projection from the *Auswärtige Amt* on the development of the situation was very pessimistic.⁵³³ By early 2004, the opposition Christian Democrats and Free Democrats continued to argue in the *Bundestag* for a restart to negotiations, reiterating that the unresolved status question was a significant obstacle for economic and democratic

⁵³² On the Thessaloniki Agreement see Schimmelfennig, F. and Scholtz, H. (2008) EU Democracy Promotion in the European Neighbourhood Political Conditionality, Economic Development and Transnational Exchange, *European Union Politics* 9(2) pp. 187-215, p. 196; Altmann (2003) 'Der Gipfel EU-Westliche Balkan Staaten in Thessaloniki: Zurück zur Realität?' *SWP-Aktuell* 26/03, Berlin: Stiftung Wissenschaft und Politik, p. 3.

⁵³³ Comments to the author, interview with a former Political Director of the German Foreign Service, phone interview, October 2014.

development.⁵³⁴ Thus, the German government began to pursue again a political process between Belgrade and Pristina.⁵³⁵

Within the international community attention had shifted away from the Balkans and towards Afghanistan and Iraq.⁵³⁶ The European Union was expected to take over from UNMIK and develop a greater role in the Western Balkans, and Kosovo in particular. The security situation on the ground in Kosovo and the inability of KFOR to cope with the violence was of grave concern. The UN's standards before status policy had failed to help Kosovo fulfil these standards and it had not changed the position of the two conflict parties. Trust in UNMIK fell in July to a low of 30% approval, while it had been above 70% at the beginning of the mission.⁵³⁷ The attacks against mainly Serb minority enclaves appeared to be coordinated, with groups transported into the enclaves to intimidate and attack the communities.⁵³⁸

For Germany, at this stage, the priority became calming the situation and reducing security risks as well as possible spill over risks to the region.⁵³⁹ In regards to the status question, the violence of 2004 has been cited as a turning point in the thinking of western diplomats on the status question. Independence for Kosovo was considered the most likely outcome among western diplomats. Commentators and those working on the issue at the time are hesitant to determine when exactly independence emerged as policy.⁵⁴⁰ However, within German circles it was accepted that the United States

⁵³⁴ von und zu Guttenberg MdB (CSU) in Deutscher Bundestag (2004c) Plenarprotokoll 15/114. Stenographischer Bericht. 114. Sitzung 15. Wahlperiode. Berlin, 17. June 2004, p. 10491; (2004b) Antrag. 'Grundsätzliche Neuausrichtung der EU-Hilfsmaßnahmen für Südosteuropa'. Drucksache 15/2424. 15. Wahlperiode. 28 January 2004.

⁵³⁵ Comments to the author, interview with a former Political Director of the German Foreign Service, phone interview, October 2014.

⁵³⁶ Germany's approach to these interventions was discussed in Chapter 2.5.2 Military Interventions: Kosovo, Afghanistan, and Iraq.

⁵³⁷ USAID (2004) 'Kosovo Early Warning report #6', 2004, http://pdf.usaid.gov/pdf_docs/Pnade574.pdf (last accessed 25 September 2016).

⁵³⁸ Comments to the author, interview with a Balkan expert from a German political foundation, Berlin April 2014.

⁵³⁹ Ibid.

⁵⁴⁰ Comments to the author, interview with member of EU Troika delegation, phone interview, October 2014; Comments to the author, interview with a former Political Director of the German Foreign Service, phone interview, October 2014; Ker-Lindsay (2009) p. 153.

had made independence its priority and was going to pursue this through new talks. While the United States appeared not to consider any alternative position to timely and full independence, Germany was not committed to independence in the short term but did not have an alternative proposal at this stage.⁵⁴¹ From a German perspective the stability in the region and potential risk in regards to its own troops was the priority.⁵⁴² The status issue was not raised in the *Bundestag* or in public discussion on the issue until much later.

In 2005 the UN Secretary General Special Envoy in Kosovo, Norwegian diplomat Karl Eide, presented his assessment of the situation in Kosovo. His comments were very critical and suggested the transfer of responsibilities from UNMIK to the Kosovan authorities and the initiation of further status talks.⁵⁴³ He emphasised the future role of the EU in the report. At multiple stages the report identifies the EU as the key institution to lead on issues of police and justice, as well as the on implementation of the standards process.⁵⁴⁴ Security and the status question, however, were mainly identified as being the responsibility of other international organisations.⁵⁴⁵

The report after the 2004 violence and the failed efforts by UNMIK shows an important shift in which the EU would be increasingly taking a lead role in the question of Kosovo. The EU had already been involved in the multifaceted state building activities international community in Kosovo from 1999 onwards.⁵⁴⁶ While the UN

⁵⁴¹ Comments to the author, interview with a former Political Director of the German Foreign Service, phone interview, October 2014 and interview with a member of EU Troika delegation, phone interview, October 2014.

⁵⁴² Comments to the author, interview with a former Political Director of the German Foreign Service, phone interview, October 2014.

⁵⁴³ Kim, J. & Woehrel, S. (2008) Kosovo and US policy: Background to independence, *Congressional Research Service*, p. 11; See so-called 'Eide Report' United Nations (2005a) UN Security Council Letter dated 7 October 2005 from the Secretary-General addressed to the President of the Security Council, Annex A comprehensive review of the situation in Kosovo, S/2005/635, 7 October 2005, p. 18.

⁵⁴⁴ United Nations (2005a) on EU especially p. 5 and p. 21.

⁵⁴⁵ Ibid on NATO, KFOR and OSCE; In regards to the status process, from p. 19, it refers mainly to the 'international community' and the need to comply with UNSC resolution 1244, thus indicating a prominence of the UN and the Security Council specifically in the matter.

⁵⁴⁶ Papadimitriou, D., Petrov, P. and Greiçevci, L. (2007) To Build a State: Europeanization, EU Actorness and State-Building in Kosovo, *European Foreign Affairs Review*, 12, 2, 2007, p. 331 and 230.

led the international community in Kosovo after the war, several international organisations were present and worked in similar directions with regards to conditionality. The United Nations, the EU and the Organisation of Security and Cooperation in Europe (OSCE) shared civilian aspects while NATO provided military security. The UN Mission in Kosovo (UNMIK) fell under the UN Special Representative of the Secretary General. Its main responsibilities were policing and justice, civil administration, democratisation and economic reconstruction. At the same time, the EU was present through the European Agency of Reconstruction and the European Union Monitoring mission. The EU established a Common Foreign and Security Policy office in Kosovo in 2004. The EU's future leading role became increasingly evident. The establishment of the International Civilian Office in 2006 under a European diplomat was to replace UNMIK with the expected UN agreement after the negotiations. Further, a European Union planning team worked in Pristina since 2006 and focused on crisis management, specifically policy, justice and preparing a future mission in Kosovo.⁵⁴⁷

After the Eide Report it appears that the independence of Kosovo was considered an aspect of this future development. However, strong support for independence came from the United States, which was also intending to retreat from its leading role in the region. The talks on the status of Kosovo suggested by Special Envoy Eide were to be held under the auspices of the UN. The following period would therefore be affected by the coordination between several international institutions, including the United Nations and the EU.

3.9 Vienna Talks and Ahtisaari Process

3.9.1 German position before Ahtisaari

The return of greater international involvement in Kosovo's status resulted in greater attention in the *Bundestag* to the issue. In the parliamentary debate on the government report on South Eastern Europe, divisions along political party lines re-emerged and

⁵⁴⁷ Ibid.

would define the next four years of the negotiations. Disagreements among political parties mainly concerned how the international community should approach these fresh talks. All parties feared an escalation of the situation, due to the stalemate between Serbia and Kosovo, and a return to violence. However, the responses within the parties were different and reflected different approaches to multilateralism. The Christian Democrats, in opposition, accused the government again of delaying tactics.⁵⁴⁸ The continued pressure from the CDU for greater involvement of Germany and more support to solve the status question reflected its more Atlanticist outlook. The party was in line with the US government's intention to support Kosovan independence in the future. Representing the government policy, the Social Democrat MdB Uta Zapf rejected any criticisms from the Christian Democrats that the German government was not giving enough importance to the status question and delaying progress on this issue. She also emphasised the importance of not leaving Belgrade behind and being able to offer some kind of bargain to the Serbian leadership.⁵⁴⁹ While the SPD had expressed support for the independence of Kosovo in the early 1990s during the Milosevic regime, its position towards Belgrade changed after he was ousted. Throughout this period the Social Democrats were keen to emphasise the democratisation process of Serbia after the conflict and to support the new leadership rather than alienate it unnecessarily over Kosovo. The Free Democrats presented a third alternative to the multilateral approach Germany should take. They were highly sceptical of the apparent strong support for Kosovan independence among some international actors. The party had previously suggested EU-governance over the territory of Kosovo rather than independence and continued to advocate for this.⁵⁵⁰ Thus for the Liberals greater EU involvement and intervention were considered the most sustainable solution for the conflict. Thus, prior to the Ahtisaari talks, there was

⁵⁴⁸ Andreas Schockenhoff (CDU) in Deutscher Bundestag (2005) Plenarprotokoll 15/163. Stenographischer Bericht. 163. Sitzung 15. Wahlperiode. Berlin, 10 March 2005, p. 15268 and Siegfried Helias (CDU/CSU) at p. 15270.

⁵⁴⁹ Uta Zapf MdB (SPD) in Deutscher Bundestag (2006a) Plenarprotokoll 16/37. Stenographischer Bericht. 37. Sitzung 15. Wahlperiode. Berlin, 1 June 2006, p. 15266.

⁵⁵⁰ Rainer Stinner (FDP) in Deutscher Bundestag (2005) p. 15269 and Deutscher Bundestag (2004d) Antrag. 'Status des Kosovo als EU-Treuhandgebiet'. Drucksache 15/2860. 15. Wahlperiode. 31 März 2005.

significant disagreement in Germany on how future multilateral negotiations on Kosovo's status should proceed and what Germany's role should be within them.

3.9.2 Beginning of the talks

After the Eide Report in 2005 recommended new talks on the Kosovo status, the Vienna talks began in 2006. The 15 rounds of talks, which were led by the former Finnish Prime Minister and UNSG Special Envoy for the Future Status of Kosovo Martti Ahtisaari, resulted in the Comprehensive Proposal for the Kosovo Status Settlement, often referred to as the 'Ahtisaari Plan'. The specific talks for the Ahtisaari proposal have been discussed extensively in the literature and a detailed description is beyond the scope of this thesis. Instead, I will highlight the positions of the parties generally and review the progress made.⁵⁵¹

Overall the talks were approached with scepticism from Belgrade and with enthusiasm from Kosovo.⁵⁵² To a large extent, Pristina was hoping that the talks would initiate the long anticipated process that would lead to independence. The Kosovan leadership expected the talks to provide a constitutional framework for the future Kosovan state. The talks were to be held with a status neutral approach, however. Although some Contact Group members were particularly in favour of Kosovan independence, the talks were committed to the territorial integrity of the FRY, as per UNSC resolution 1244, and aimed for a consensual agreement on the future status of Kosovo.⁵⁵³

In the process, Ahtisaari, rather than focusing the talks on the status question directly, decided to discuss specific policy issues first. This way, the conflict parties would be able to compromise on concrete problems on the ground to improve relations between Belgrade and Pristina without having to make concessions on status. However, the

⁵⁵¹ For a full discussion of the Ahtisaari Process see Weller (2009) and Ker-Lindsay (2009).

⁵⁵² Ker-Lindsay (2009) p. 27.

⁵⁵³ United Nations (2005b) UN Security Council Letter dated 10 November 2005 from the President of the Security Council addressed to the Secretary-General, S/2005/709, 10 November 2005; United Nations (2006) Statement by the Contact Group on the future of Kosovo, London, 31 January 2006; Kim & Woehrel (2008) p. 15.

positions of the two conflict parties were inflexible. Pristina, now again represented by Rugova, was reluctant to consider anything short of independence, while Serbia suggested again greater autonomy, but not independence. Because of this stalemate, commentators have argued that Ahtisaari had little ambition to continue the talks or hope of reaching a consensual agreement. The Serbian delegation argued that Ahtisaari's proposal was presented with little possibility of amending or discussing them comprehensively.⁵⁵⁴

2006 was also the year of Montenegrin independence after the status referendum, which affected the EU's and Germany's approach towards Kosovo and fears of potential instability in the region. Although in the case of Montenegro a path to independence had been agreed with Belgrade, there were concerns about greater political pressure from secessionist movements in the region. The EU had advocated a continued union between Serbia and Montenegro but EU incentives through enlargement prospects had little effect on the result.⁵⁵⁵ Germany, as many other EU member states, was also concerned about the possible regional repercussions of the Montenegro case. Government officials were therefore keen to stress that the legal process and agreements between Podgorica and Belgrade to implement the referendum result. As independence for Kosovo was becoming a viable option, it was stressed that whatever the outcome for Kosovo, it should be considered a *sui generis* case.⁵⁵⁶

3.9.3 Progress of Ahtisaari Process

Although negotiations were held under UN auspices and led by Ahtisaari, the Contact Group was involved in the process. The progress of the talks was also regularly discussed at the UN Security Council. The outcome of the talks, the Ahtisaari comprehensive proposal on the status of Kosovo, was eventually rejected by Serbia,

⁵⁵⁴ Comments to the author, interview with Eduard Kukan, MEP and Chair of the EU-Serbia Stabilisation and Association Parliamentary Committee, Brussels, February 2015; Ker Lindsay (2009) p. 27.

⁵⁵⁵ Discussed in Chapter 1.3.3 Dissolution at the End of the Cold War *supra note* 99. Fawn (2008) p. 276; Friis (2007) p. 83.

⁵⁵⁶ Full speech by the Minister of State see Erler, G. (2006) After the Referendum: Montenegro, Serbia and the Regional Context, *Südosteuropa Mitteilungen*, issue: 04 / 2006, pp. 12-17, p. 17.

after many months of trying to find a compromise within the Security Council and among the conflict parties.⁵⁵⁷ The talks were defined by debates and disagreements between the United States and Russia in the Security Council. Here, disagreement ranged from the role of the talks, the expected framework, for example the role of Serbian territorial integrity, the relevance of the Helsinki agreement, as well as the duration of the talks. Russia also argued that whatever the outcome of these talks, it would have to be built on a universally applicable legal principle and that it would not accept *sui generis* justification. While the US wanted to finalise the talks by the end of 2006, Russia, in support of the Serbian delegation, pushed for an extension.⁵⁵⁸

The Serbian delegation's mistrust in the process and its perceived undermining of it by the Kosovan delegation led to very little progress on either the practical policy issues or the larger status question. Because the Kosovan delegation was expecting independence as the ultimate outcome, it considered its approach to be already conceding, while the Serbian delegation saw the whole process set up against its interest. The first policy area, decentralisation, was supposed to help the delegations to ease into the process. The discussions on this topic, however, dragged on for several months with little progress. Issues of Serb municipalities and power sharing appeared impossible to overcome. Kosovans perceived themselves to be allowing concessions, including extensive minority rights provision for the Serbian minority in Kosovo, which was not reciprocated from Serbia. Little time was left for economic issues.⁵⁵⁹ When later in the process Serbia pushed for a discussion on status it reiterated its proposal for a twenty-year agreement on autonomy after which an independence would be a possibility. While, in the eyes of the Serbian delegation, the proposal was considered a *de facto* offer of independence, the Kosovan delegation considered this rather a repetition of previous proposals of greater autonomy.⁵⁶⁰

⁵⁵⁷ Weller (2009) p. 218.

⁵⁵⁸ Ker-Lindsay (2009) p. 43.

⁵⁵⁹ Weller (2009) p. 220.

⁵⁶⁰ Ker-Lindsay (2009) p. 32.

The Serbian perspective, as the negotiations continued, perceived independence as being as treated as an unavoidable outcome and that other status options were not to be discussed. The focus on policy issues had been welcomed to get the parties to speak to each other, but leaving the status question unresolved, created significant grievance and mistrust from the Serbian delegation.⁵⁶¹ At the same time, Ahtisaari perceived the Serbian delegation as non-collaborative in the process. Serbia had sent less senior officials to the negotiations and insisted on the argument of territorial integrity as the priority for the outcome of the talks.⁵⁶² Serbia's less collaborative position was supported by Russia, who approached the negotiations more as a general discussion rather than a process to resolve the conflict. To other participants in the negotiations, Russia appeared interested in creating a frozen conflict in Europe. While it contributed and participated in the talks, its legalistic approach towards resolution 1244 indicated its inflexible position and unwillingness to compromise on the status.⁵⁶³

3.9.4 Germany's multilateral role and position during the Ahtisaari Process

By the time of the Ahtisaari process, Germany's role in the Contact Group had changed considerably as compared to the late 1990s. After the conflict with the other Quint members over the recognition of Croatia, Germany had been able to re-establish trust and create a new role for itself in the Contact Group. Through the 2000s Germany became the most proactive European power in the Balkans.⁵⁶⁴ By both Pristina and Belgrade, Germany was considered a balanced international actor. Within the Contact Group Germany took the role of a mediator with Russia, with which it had the closest political relationship among Quint members. Altmann identifies this period as central for Germany to reconcile its position in the Western Balkans as leader among the European countries politically, militarily, and economically. The role of German officials in Kosovo international missions, as well as its military contingent, gave

⁵⁶¹ Comments to the author, interview with Slobodan Samardžić, Senior Member of the Serbian delegation, Belgrade, June 2015.

⁵⁶² Weller (2009) p. 196.

⁵⁶³ Comments to the author, interview with a Balkan expert from a German political foundation, Berlin, April 2014.

⁵⁶⁴ Altmann, F. and Whitlock, E (eds.) (2004) *European and U.S. Policies in the Balkans. Different Views and Perceptions, Common Interests and Platforms?*, Berlin: Stiftung Wissenschaft und Politik, July 2004, p. 6.

Germany significantly more credibility and relevance than in other conflicts at the time.⁵⁶⁵ Thus Germany was able to take an active role within the Contact Group without appearing too forthright, as it had done in the Croatian case. This did not result in a leadership role but rather a confident use of the multilateral fora.

In the period of the Eide report and the beginning of the Ahtisaari Process, a German general election took place in the fall of 2005, which resulted in a change in government. The Christian Democrat Angela Merkel was elected as Chancellor of a grand coalition with the Social Democrats.⁵⁶⁶ Seven years after having approved the Kosovo operation, the CDU was now retuning to work on the conflict. The former senior coalition partner, the SPD, were now the junior partner and thereby held the foreign ministry. Franz-Walter Steinmeier, former head of the Chancellery under Gerhard Schröder, became foreign minister.⁵⁶⁷ In Chapter Two I highlighted how this period marked a change in foreign policy in Germany as Angela Merkel prioritised reviving the transatlantic relationship, which had suffered due to Germany's refusal to participate in the Iraq war.⁵⁶⁸ While in opposition the Christian Democrats had been particularly critical of delays in the Kosovo status talks and indicated support for Kosovan independence. Thus this was another aspect in which the CDU would have sought closer collaboration with the US leadership, as it shared the US's position on independence. The future government policy would however also depend on the relationship between the Chancellery and the foreign ministry. With seven years of experience in working on the Kosovo conflict in government, the SPD would still seek to influence the policy, despite the fact that it was now the junior partner of the coalition. Thus the Social Democrats' sympathy for the Serbian position, which had

⁵⁶⁵ Altmann, F. (2005) Die Balkanpolitik als Anstoß zur Europäisierung der deutschen Außenpolitik, in Perthers, V. *Deutsche Außenpolitik nach Christoph Bertram*, SWP-Studien 2005/S 28a, p. 39. Article I.

⁵⁶⁶ See full election result: Der Bundeswahlleiter, Wahl zum 16. Deutschen Bundestag am 18. September 2005, http://www.bundeswahlleiter.de/de/bundestagswahlen/fruehere_bundestagswahlen/btw2005.html (last accessed 25 September 2016).

⁵⁶⁷ 'Germany's Grudging 'Grand Coalition' Washington Post Foreign Service, November 15, 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/11/14/AR2005111400832.html> (last accessed 25 September 2016).

⁵⁶⁸ See Chapter Two, 2.5.2 Military Interventions: Kosovo, Afghanistan, and Iraq.

been expressed by MdBs before, would therefore continue to influence the position of the German government.

With respect to its wider Western Balkan policy, after the ‘big bang’ enlargement of the EU in 2004 and the imminent Romanian and Bulgarian accession, there was little political appetite in Europe for further enlargement. ‘Enlargement fatigue’ was also reflected in public opinion. This meant that prospects for accession or accession status were delayed and had a diminished prominence in public discourse on EU foreign policy. Instead, the EU decided on stricter implementation of the accession criteria for future members.⁵⁶⁹ Consequently, while the prospect of EU accession would still be part of the approach to the Kosovo conflict the stabilising effect that the coalition government had hoped for with the Fischer Plan and the EU perspective was significantly weaker than it had been at the beginning of the decade. Furthermore, the EU would continue to use conditionality. In addition to the Copenhagen criteria, the EU imposed additional normative conditions onto the Western Balkans States. These included more focus on the rule of law and improved relations between different ethnic communities, such as returning refugees, and, most prominently, cooperation with the International Criminal Tribunal on the former Yugoslavia (ICTY).⁵⁷⁰ Critics pointed to the volatility of societies after conflict and suggested that delay in the accession process would likely politicise EU conditionality.⁵⁷¹ Paired with ‘enlargement fatigue’, the region faced a ‘fog of uncertainty’⁵⁷² based on ‘lukewarm promises’.⁵⁷³ However, the EU perspective on the Western Balkans was compatible with Germany’s foreign policy role as a Civilian Power. It fully embraced the logic of regional integration, and the promotion of the rule of law, democracy and human rights. The implementation of the policy, in light of the political reality and decreased capacity of the EU to accept new members, would become a difficulty for the new government.

⁵⁶⁹ Müller-Brandeck-Bocquet (2010) p. 297-298 and p. 303.

⁵⁷⁰ Batt, J. and Obradovic-Wochnik (eds.) (2009) *War Crimes, conditionality and EU integration in the Western Balkans* *Chaillot Paper* n 116 June 2009, Paris: Institute for Security Studies; Anastasakis, O. (2008) ‘The EU’s political conditionality in the Western Balkans: towards a more pragmatic approach’ *Southeast European and Black Sea Studies* Vol. 8, No. 4, December 2008, pp. 365–377, p. 370.

⁵⁷¹ Anastasakis (2008) and Noutcheva (2009) pp. 1072, 1079.

⁵⁷² Batt et al. (2009) p. 74.

⁵⁷³ Anastasakis (2008) p. 370.

The first official report by the new government commented on the Eide report and the beginning of the Ahtisaari process and was published in early 2006. Here, the government's position appeared to continue its previous position. It stressed the importance of implementing UN resolution 1244 in the Ahtisaari process and emphasised the importance of a multilateral approach and the leadership of the UN.⁵⁷⁴ In the *Bundestag* discussion of the report, the government State Secretary Gernot Erler (SPD) highlighted furthermore the risk of a continued unresolved status to the region, which was also echoed by his colleague defence minister Franz Josef Jung from the Christian Democrats.⁵⁷⁵ Erler pointed out that the Contact Group aimed to find a solution to the status question by the end of 2006. As part of this solution, the German government was committed to the 'three Nos' or red lines which had been agreed in the UN Security Council: no return to pre 1999 status, no unification of Kosovo with another state and no division of Kosovo into north and south.⁵⁷⁶ The government also stressed its involvement with the conflict parties directly. For example, foreign minister Steinmeier met with Kosovan Prime Minister Ceku to discuss the governance and minority right provision by the leadership in Pristina. Steinmeier had also discussed with President Koštunica Belgrade's policy to encourage Serb Kosovans to retreat from local Kosovan institutions and had expressed his concern about such actions.⁵⁷⁷

The grand coalition government thus began to emphasise its active role in the negotiations. It was also concerned with stressing the importance of the implementation of agreements that had been achieved in the talks and to uphold the policies of the Contact Group. At this stage, Germany was also presenting itself as taking a balanced approach to Pristina and Belgrade, although domestically there had

⁵⁷⁴ Deutscher Bundestag (2006b) Unterrichtung durch die Bundesregierung, Bericht der Bundesregierung über die Ergebnisse ihrer Bemühungen um die Weiterentwicklung der politischen und ökonomischen Gesamtstrategie für die Balkanstaaten und ganz Südosteuropa für das Jahr 2005 24. 02. 2006. p. 7,.

⁵⁷⁵ Comments by State Secretary Gernot Erler (SPD) in Deutscher Bundestag (2006a) p. 3305 and Franz Josef Jung (SPD) p. 3317.

⁵⁷⁶ Comments by State Secretary Gernot Erler (SPD) in Deutscher Bundestag (2006a) p. 3305.

⁵⁷⁷ Comments by State Secretary Gernot Erler (SPD) in in Deutscher Bundestag (2006a) p. 3305.

been strong support for independence. The opposition expressed disagreement with the progress of the talks. The Green party became more outspoken about the Serbian leadership than it had been in government. It criticised Koštunica and his approach for being too nationalistic.⁵⁷⁸ The Free Democrats continued to push for a quicker end to the talks and advocated the full integration of Kosovo into the EU.⁵⁷⁹ The Left party was closest to the position of the Serbian leadership and criticised Germany's policy strongly. It reiterated the argument brought forward by the Serbian delegation that Ahtisaari had from the start attempted to undermine the territorial integrity of Serbia and UN resolution 1244. It cautioned the German government against recognising a new Kosovan state without Serbian support.⁵⁸⁰

During the Ahtisaari process the German domestic position remained therefore split on the Kosovo status and the ongoing negotiations. Several parties acknowledged that the United States was supporting independence and that Ahtisaari had also been working towards this solution. The government did not at this stage publicly support a unilateral declaration and highlighted the international consensus on UNSC resolution 1244, although interpretations of this resolution differed. It stressed the importance to work with all parties on a solution to the conflict.

3.9.5 The Ahtisaari Proposal

When the stalemate between the conflict parties and within the Security Council became insurmountable in the autumn of 2006, the Contact Group asked Ahtisaari to prepare his report and present it to the Security Council.⁵⁸¹ From January 2007 Ahtisaari met with the Contact Group and the conflict parties to discuss his proposal. The proposal set out the details for future self-governance of Kosovo, covering policies such as the political representation of different ethnic groups, minority rights, the justice system, economic structure and security.⁵⁸² However, this proposal did not give

⁵⁷⁸ Comments by MdB Marieluise Beck (Greens) in Deutscher Bundestag (2006a) p. 3307.

⁵⁷⁹ Comments by Rainer Stinner (FDP) in Deutscher Bundestag (2006a) p. 3307 and p. 3316.

⁵⁸⁰ Comments by MdB Paul Schäfer (Die Linke) in Deutscher Bundestag (2006a) p. 3318.

⁵⁸¹ Ker-Lindsay (2009) p. 44.

⁵⁸² United Nations (2007b) UN Security Council, Letter dated 26 March 2007 from the Secretary-General addressed to the President of the Security Council (Comprehensive Proposal for the Kosovo

a recommendation on the status of Kosovo. Instead, in a separate document, Ahtisaari submitted a proposal for supervised independence in which he refers to Kosovo as a *sui generis* case as all efforts to reach an agreement had been exhausted.⁵⁸³ Prior to the official discussion and the letter being sent to the Security Council in March, the Serbian delegation had rejected the Ahtisaari plan.

Political developments in Serbia affected the management of the breakdown of the talks: particularly, the secession of Montenegro, the new constitution and the parliamentary elections.⁵⁸⁴ The Serbian constitution text included now a specific reference to Kosovo as a part of Serbia and then introduced the new elections for January 2007.⁵⁸⁵ The election resulted in Prime Minister Koštunica returning to power although it took several months to form a government.⁵⁸⁶ Koštunica had also received repeated assurances from Russia that it would support Serbia's position in the Security Council.⁵⁸⁷ Since there was little progress among the conflict parties, the Security Council was therefore also unlikely to provide a way out of the stalemate. Nonetheless, after the talks between Pristina and Belgrade had broken down the attention shifted to the multilateral level to find a solution on how to approach the deadlock. Discussions of the Ahtisaari proposals in the Security Council in the spring of 2007 highlighted the fundamental division in the approach to the Kosovo status between Russia and the US. While the US was keen to bring international negotiations on Kosovo to an end and supported the Ahtisaari Plan, Russia took a much more long-term approach, which resulted in an additional UN fact finding mission and led eventually to new talks in a Troika format.⁵⁸⁸

Status Settlement, S/2007/168/Add.1, 26 March 2007 is the final proposal submitted to the UN Security Council, a draft version of this proposal was shared with the Contact Group and the conflict parties in January and February 2007; Ker-Lindsay (2009) p. 52-55.

⁵⁸³ United Nations (2007a) UN Security Council, Letter dated 26 March 2007 from the Secretary-General addressed to the President of the Security Council (Report of the Special Envoy of the Secretary-General on Kosovo's Future Status) S/2007/168, of 26 March 2007.

⁵⁸⁴ Ker-Lindsay (2009) p. 47, 48.

⁵⁸⁵ *Ibid.* p. 47.

⁵⁸⁶ *Ibid.* p. 53.

⁵⁸⁷ *Ibid.* p. 52.

⁵⁸⁸ *Ibid.* p. 68 and Weller (2009) p. 22.

The end of the Ahtisaari Process coincided with a low point in the deteriorating relations between the United States and Russia. This was mainly due to conflict regarding the missile defence system the Bush administration of the United States had been pursuing since the early 2000s. The defence system had been quite controversial within Europe and had led to increasing tensions with Moscow.⁵⁸⁹ The Kosovo issue became tied into the discussion on missile defence and led to direct talks during the G8 pre-meeting in Potsdam, between US Secretary of State Rice and her Russian counterpart Lavrov.⁵⁹⁰ Within this context, the US agreed in principle that an extension of the talks was acceptable, although the United States was committed to an enhanced status of Kosovo. Simultaneously, US diplomats made assurances to the Kosovan leadership on different occasions in regards to their independence. Most importantly, US President George W Bush had declared shortly after the Heiligendamm G8 summit in June 2007 on a state visit to Albania that he supported Kosovan independence.⁵⁹¹ However, it appears that among the states supportive of Kosovan independence, considerations of unilateral recognition were held back at this stage.⁵⁹² After the Ahtisaari Plan the collaboration between Germany and the United States on the Kosovo question intensified and Germany's role grew again in regards to the Kosovo question.

With the Ahtisaari process the international community had hoped to bring the Kosovo question to an end. The stalemate on the status question was however not overcome and additionally the relationship of the West with Russia deteriorated during this

Section 1.01 ⁵⁸⁹ A full discussion of the conflict on the missile defence is beyond the scope of this thesis. Discussion of the development and different approaches toward the system can be found in the following literature: Newhouse, J. (2001) The Missile Defenses Debate, *Foreign Affairs* July/August 2001; Slocombe, W.B. (2008) Europe, Russia and American Missile Defense, *Survival*, vol. 50 no. 2, April–May 2008, pp. 19–24; Senoboyers, A., and Thränert, O. (2005) What Missile Proliferation Means for Europe. *Survival*, Vol 48, no.2, Summer 2006, p. 85-96; Coye, P. and Samson, V. (2008) Missile Defense Malfunction: Why the opposed US Missile Defense in Europe will not work, *Ethics & International Affairs*, Volume 22.1 (Spring 2008).

Article II. ⁵⁹⁰ 'Rice Clashes with Russian on Kosovo and Missile' New York Times, 31 May 2007; 'Rice, Russian Clash Over Kosovo Plan, Missile Shield' Washington Post, 31 May 2007; Ker-Lindsay (2009) p. 72.

⁵⁹¹ Weller, 2009, p. 221.

⁵⁹² Tolksdorf, R. (2007) Die deutsche Ratspräsidentschaft und Südosteuropa – zwischen Kosovo-Statusentscheidung und Fortführung des Beitrittsprozesses, in *Bilanz der Deutschen Eu-Ratspräsidentschaft*, CAP Analyse, 6/2007, p. 49.

period. A unilateral recognition at this point would have been of high risk, considering the growing tensions between Serbia and Kosovo. Thus, the Quint sought new ways of engaging the conflict parties and Russia.

3.9.6 The EU position during the Ahtisaari Process

The EU had not been a central actor in the negotiations. Its engagement took place mainly through the EU members in the Contact Group and the Council of Ministers had echoed the statements made by the Contact Group. At the beginning of the Ahtisaari process, possible disagreements among EU Member States on the status of Kosovo were not addressed within the Council. Instead the priority was to support the process to reach an agreement between the conflict parties with the support of the UN Security Council Members.⁵⁹³ This agreement would have been necessary for the deployment of an EU mission in Kosovo. As per the recommendations of the Eide report, such an EU mission was to replace UNMIK and assist with rule of law and state building efforts. The EU had had a planning team in Kosovo since April 2006 and was preparing for the deployment of such a mission.⁵⁹⁴

The question of a possible unilateral declaration of independence was not considered an issue among EU members at this stage. Since the Ahtisaari talks were conducted on a 'status neutral' approach, supporting the process did not require EU members to declare their positions. With an agreement between Belgrade and Pristina, EU members would not have had to make a decision about whether to recognise the contested statehood of Kosovo. Should there not be an agreement between Pristina and Belgrade, the Quint members hoped that supervised independence, tolerated by Russia, would lead to Serbia accepting a new status of Kosovo.⁵⁹⁵

⁵⁹³ Comments to the author, interview with Leopold Maurer, Liaison Officer of the European Commission to the UN Special Envoy for the future status of Kosovo, Martti Ahtisaari, phone interview, February 2015.

⁵⁹⁴ Tolksdorf (2007) p. 47.

⁵⁹⁵ Comments to the author by Leopold Maurer, Liaison Officer of the European Commission to the UN Special Envoy for the future status of Kosovo, Martti Ahtisaari, phone interview, February 2015.

As the difficulties in the Ahtisaari Process began to emerge and an agreement within the Security Council appeared very unlikely, disagreement also emerged among EU Member States. Already in March 2007 several Member States expressed unease about a possible UDI at a Gymnich meeting in Bremen.⁵⁹⁶ Kosovo was removed from the agenda at the following meeting of EU Foreign ministers in May as there was still not sufficient agreement to discuss the issue.⁵⁹⁷ The need for a UN Security Council resolution became an important request from many EU members, who were unwilling to sign off the Ahtisaari proposal if it was not accepted by both conflict parties or by the Security Council.⁵⁹⁸ This was in contrast to the institutional EU side where the Council and the Commission had been much more supportive of the Ahtisaari Plan and had encouraged member states to support it.⁵⁹⁹

Within the Contact Group Germany had been working in favour of Kosovan independence. It also took a proactive role in finalising the future Kosovan constitution, in close collaboration with the United Kingdom.⁶⁰⁰ In the EU, Germany held the EU presidency for six months from early 2007 while the Ahtisaari process appeared to be unravelling. Thus despite Germany's support for independence, it was committed to deliver EU unity on the question of Kosovo. The German foreign ministry therefore promoted the use of the term *sui generis* in regards to Kosovo among EU members. Ahtisaari had used the term in his letter to the UN Secretary General. It implied that Kosovo was a special case due to the historical development of its status and the many years of international negotiation.⁶⁰¹ The concept was

⁵⁹⁶ 'EU splinter group emerges on Kosovo' EU Observer, 1 April 2007 <https://euobserver.com/foreign/23820> (last accessed 25 September 2016); 'EU seeks own role, independent of US', Tajug News agency, 10 September

⁵⁹⁷ See James Ker Lindsay (2009) Chapter 4 footnote 53 p. 223, and 'Divided EU stalls Debate on Kosovo', BalkanInsight, 9 May 2007.

⁵⁹⁸ 'EU Splinter Group Emerges on Kosovo', EU Observer, 1 Apr. 2007 and 'Divided EU Stalls Debate on Kosovo', Balkan Investigative Reporting Network, 9 May 2007.

⁵⁹⁹ Economides S. and Ker-Lindsay J. (2010) Forging EU Foreign Policy Unity from Diversity: The 'Unique Case' of the Kosovo Status Talks, *European Foreign Affairs Review* 15: 495–510 p. 498 cite also European Parliament, 'MEPs Debate EU Foreign Policy for 2007 with Solana', Press Service, 29 Mar. 2007.

⁶⁰⁰ Comments to the author, interview with Leopold Maurer, Liaison Officer of the European Commission to the UN Special Envoy for the future status of Kosovo, Martti Ahtisaari, February 2015.

⁶⁰¹ United Nations (2007a).

accepted by the Council of Ministers in June 2007.⁶⁰² However the concept became a key argument for supporters of Kosovan independence and generated controversy. From this point onward, whether Kosovo was in fact a *sui generis* case or not was a fundamental aspect of the disagreement between recognising and non-recognising member states.

The EU consensus on Kosovo's status was in jeopardy. The EU policy towards the Western Balkans had been based on a rationale of promoting regional integration for conflict management. This had included the Stability Pact for Southeastern Europe, the Thessaloniki declaration and restarting the Stabilisation and Association Agreement negotiations with Serbia as a reward for their increasing collaboration with the ICTY.⁶⁰³ However, the international disagreement on the status might undermine the future role of the EU in Kosovo. Until this point the Quint had been very confident of EU support for its policy. However, now with clarity on the status unlikely, the European Union and its member states required greater involvement in the international negotiations if it was to accept their outcome.

3.10 Conclusion

This chapter has outlined the international negotiations on the status of Kosovo from the post Yugoslav period, throughout the 1990s and up to the end of the Ahtisaari process. The status of Kosovo was not negotiated as part of the post-Yugoslav order in the Western Balkans until the early 2000s. Kosovo was not included in the international legal process initiated through the Badinter Commission, which granted independence to Croatia and Serbia, or the Dayton Agreement, which provided a new constitution for Bosnia and Herzegovina. Although some sympathies existed for Kosovan claims to independence, potential independence was not considered a viable solution within the UN and the EU until the early 2000s. Instead, after the NATO operation in 1999, Security Council resolution 1244 put Kosovo under international

⁶⁰² Tolksdorf (2007) p. 48 see European Union (2007) Press Release, 2809th Council meeting General Affairs and External Relations, Luxembourg, 18 June 2007 p. 14.

⁶⁰³ Tolksdorf (2007) p. 50.

governance, although committing the territorial integrity of Serbia. The failure to establish sustainable governance and institutions in Kosovo resulted in eruptions of violence and the question of Kosovo's status finally gained international attention in 2004. New talks on the status were to be established and to be held under the auspices of the UN. They were to focus on reaching a solution between the two conflict parties, and result in a new Security Council resolution, which would then set up a new leading role of the EU in the future of Kosovo. These talks resulted in a proposal from the UN Special Envoy Martti Ahtisaari, however, it was rejected by Serbia. Russia was committed to stopping any arrangement that did not have Belgrade's agreement in the Security Council. As this UN process appeared to be running into a dead-end and with strong willingness in Pristina to declare independence as soon as possible, disagreement on Ahtisaari and Kosovan independence also emerged among EU Member States.

Following Chapter Two, which discussed the development in German foreign policy more generally, this chapter has highlighted the role of Germany in more detail and drawn on the policy debates in Germany in relation to the status of Kosovo. The role of Germany in the beginning of the 1990s was highly influenced by the repercussions from its recognition of Croatia and Slovenia, which led to a deep crisis of trust between Western powers. Germany had strong ties to some of the Kosovan leadership and there was an understanding of the grievances of Kosovans. However, the German government did not deviate from the mainstream policy of the international community at the time and thus did not encourage or publically support Kosovan independence. In the aftermath of the 1999 conflict, Germany became more visibly involved in developing a political agreement on Kosovo; however, here it worked very closely with the United States and focused on maintaining good relations with Russia on the issue. With the significant contribution to KFOR, Germany's role in Kosovo began to grow in the UNMIK period. As a member of the Contact Group, Germany also actively worked on the status question in the preparation for and during the Ahtisaari process, and was considered a close ally to the US and a reliable partner in improving dialogue with Russia. When in early 2007 the consensus on the Ahtisaari Plan appeared to fall apart at UNSC level and within the G8, Germany, as both

president of the EU at the time and chair of the G8, aimed to resolve the deadlock, albeit without success. Nonetheless, its position in the Contact Group and the EU had developed significantly since the beginning of the 1990s and led to it taking a lead role in the final negotiation round, which will be discussed in Chapter Four.

In German domestic policy circles, however, we can see diverse positions on the status issue as well as changing positions. While some political foundations and parties had connections to the Kosovan secession movement in the early 1990s, most of the German government policy towards Kosovo was focussed on the issue of migration and returning asylum seekers. The support for the independence of Croatia and Slovenia by the Christian Democrats and Free Democrats, in government until late 1998, did not translate into unconditional support for Kosovan independence. With the initiation of status talks, the Free Democrats openly opposed independence, as they also did for Montenegro, suggesting strong EU governance over the region instead. The Christian Democrats, when in opposition from 1998 to 2005, demanded significantly more progress on the status talks, accusing the government and the international community of stalling the process. While the party did not advocate independence or a unilateral declaration, it appeared to reflect the sense of ‘inevitability’, which was the approach of some countries involved in the negotiations, particularly the United States. The Social Democrats used their position in government to argue for caution towards any discussion of status, emphasising the importance of democratising Serbia and keeping good relations with Russia. This position was maintained both as the senior coalition partner with the Greens and as the junior coalition partner, holding the foreign ministry, with the Christian Democrats from 2005 onwards. The Green Party had been significantly shaken by the Kosovo war of 1999. While support for Kosovan independence existed in the party, when in government the Greens emphasised the need for a comprehensive political solution, citing the success of the Fischer Plan and the integration of the Western Balkans into the EU. Once in opposition, from 2005, the Greens were much more forthright in their criticism of the Serbian leadership. The left party Die Linke had opposed the 1999 NATO operation and was vehemently critical of unilateral recognition of the independence of Kosovo and supportive of the post-Milosevic Serbian leadership.

The literature on the status of the nearly twenty years of post-Yugoslav Kosovo has highlighted inconsistent policies from different international actors and the international community's inability to integrate the case of Kosovo in a sustainable manner into the international legal framework it had created for the other republics. The failure of the Ahtisaari talks displayed the fundamental division between the two conflict parties, and divisions between Russia and Western members of the Security Council as well as the chipping away of the European consensus. Debates in the *Bundestag* revealed a diverse range of positions among the German political parties. These also developed over the twenty-year period. The contrasting narratives between political parties show the diverse expectations towards Germany as an international actor at domestic level. Chapter Four will now highlight the final round of negotiations before Kosovo's unilateral declaration of independence and Germany's recognition of an independent Kosovo.

Chapter 4: The Troika negotiations and Germany's recognition

4.1 Introduction

Chapter Three outlined the involvement of Germany in the Kosovo status after the dissolution of Yugoslavia and the Kosovo conflict until the end of the Ahtisaari Process in 2007. I have demonstrated how Germany's role developed in the context of the break up of Yugoslavia and its role at international level within the UN and EU as well as G8. I also discussed the political developments and alignments along party lines in regards to the Kosovo status. This chapter will focus on the final months of negotiations around the status of Kosovo. The period described here begins with the rejection of the Ahtisaari Plan and ends with the recognition by Germany in February 2008.

As has been discussed in Chapter Three, the German position on the status of Kosovo had developed over the years with a change in the ruling coalition and a move within the *Bundestag* towards supporting 'resolving the status'. This was very much in line with the changes at international level, with the United States supporting Kosovan independence more openly. From here I will consider what concerns were still raised either for or against independence and how Germany engaged at international level with these issues. The most important aspect of Germany's international engagement discussed in this chapter will be the Troika negotiations, in which Germany provided the diplomat to represent the EU, Ambassador Ischinger, next to US and Russian counterparts.

Based on interviews, files related to the Troika and Bundestag debates, this chapter will trace the progress of the German position towards recognition. This will begin by setting out the initial position of the German government, then the development of this position throughout the negotiations will be traced and, finally, justifications of the recognition will be examined. In the literature on the status of Kosovo, the Troika negotiations are often referred to as a last ditch effort which still did not succeed in resolving the conflict. Most accounts have focused on the longer period of the

Ahtisaari process, which lay the ground work for the constitution of Kosovo.⁶⁰⁴ Here, I aim to detail this period and concentrate on the various parties' approaches to and the process of the Troika negotiations.

For German foreign policy the case of the Troika period represents an important case for its multilateral approach to foreign policy. As it held the Troika chair as the EU representative, it was able to use its position for its involvement at international level as well as to mend domestic conflicts on the Kosovo issue. The Troika talks failed to resolve disagreement among the UN Security Council and within the EU. However, the process of the negotiations increased the confidence of German domestic actors in the recognition of the UDI: Germany succeeded in gaining greater support among EU Member States for the UDI and convinced political parties in the Bundestag that all other possible options had been considered or tried. Thus, although the talks did not succeed where the Ahtisaari Process had also failed, they were able to mend some multilateral divisions, which had emerged since the Kosovo conflict of 1999. Here, the role of the process of the talks is especially relevant. Thus, Serbia and Russia's rejection of a possible UDI was accepted by Germany and many other EU Member States. From this stalemate the priorities became the future EU mission to Kosovo, the prospect of governance through the EU and creating trust in the new institutions it would build. At a government level in Germany and in the Bundestag the issue of self-determination or territorial integrity, which were the arguments of the conflict parties and the fundamental sources of the conflict, became secondary concerns. Governance and stability in the Western Balkans were instead predominant. While Germany proposed alternative solutions to Ahtisaari, none of these would have been an obstacle to the self-governance of Kosovo. Some may have understood this as Germany being open to Serbia's position or considering 'all options' but ultimately Germany was supporting a policy that would have enabled the EU mission in Kosovo.

⁶⁰⁴ Weller (2009) and Ker-Lindsay (2009).

In Chapter One I outlined how recognition was considered a tool of conflict management to internationalise the conflict between Croatia and Serbia. Here, the rationale had been that with independence the international community is able to intervene in a conflict for greater conflict management. In the case of Kosovo the conflict had been internationalised already in the war of 1999 with NATO intervention. From then onwards, the international community has been increasingly involved in Kosovo. Germany had been particularly important in the development of the EU's role in this. Nonetheless, in this chapter, I will demonstrate that the recognition of Kosovo was also framed by Germany in greater internationalisation and intervention. The future role of the EU in an independent Kosovo was to be an example of advanced European integration, which was considered the basis of stability and peace for the region and would thereby resolve the conflict. While Germany was supportive of the increased role of the EU, it was hesitant about the lack of multilateral consensus. However, disagreement within the UN and the EU became acceptable for Germany once it had been involved in a central position in the multilateral negotiations and had exhausted, from its perspective, all other possible outcomes of the negotiations. Thus, within this multilateral approach the process of the negotiation was crucial and allowed for Germany to take the approach of accepting the UDI.

4.2 German position after Ahtisaari

The failure of the Ahtisaari Process left the international community with a comprehensive proposal with significant backing from western states but with the realisation that the goal of finding a deal between Kosovo and Serbia, or achieving Russian support for the plan, had failed. In the words of one German interviewee, the status situation on Kosovo was “in a shambles”.⁶⁰⁵ As discussed in Chapter Three, the US American administration was keen to progress with a UDI as swiftly as possible. Washington continuously pressured the Auswärtige Amt by asserting that, if there were no progress, the US would go ahead and recognise a UDI.⁶⁰⁶ The lack of an

⁶⁰⁵ Comments to the author, interview with Ambassador Wolfgang Ischinger, February 2015.

⁶⁰⁶ Comments to the author, interview with a former Political Director of the German Foreign Service, phone interview, October 2014.

agreement appears to have raised issues for the German government and domestic actors. In the summer of 2007 the German position appears to have been concerned with two main aspects: the issue of the disengagement of Russia and the possibility of a return to violence in Serbia and Kosovo if talks should break down indefinitely. The relationship with Russia was a central issue for Germany's multilateral role in the status negotiations. In the Contact Group, Germany was considered the mediator with Russia for the remaining Quint members.⁶⁰⁷ In Chapter Three I highlighted how relations between Russia and the United States over the missile defence program in Europe had deteriorated. The German leadership considered it its role to diminish contagion from this clash onto the Kosovo issue as much as possible. In regards to the violence between Kosovo Albanians and Serbs, Germany saw its Western Balkan policy as at risk. After the war of 1999 Germany had invested significantly in EU enlargement prospects and conflict management. The German approach considered EU integration as the best possible conflict management policy and possibly a resolution for the conflict. At the same time, it provided the largest KFOR contingent, which also represented the largest German troop deployment abroad since the Second World War. A return to violence in Kosovo would thus likely result in greater involvement of German troops, which would in turn lead to domestic controversy.

4.2.1 Position in the *Auswärtige Amt*

Within the Contact Group the unresolved relationship between Kosovo and Serbia, and with Russia, split the Quint on how to manage the unilateral declaration. From internal correspondence on the developments in the Contact Group the United States, United Kingdom and France were supportive of a UDI. On the other hand, Germany, along with Italy, appeared concerned about moving to a recognition without further attempts at talks.⁶⁰⁸ Germany held the six-month presidency of the EU at the time, and through its chairmanship of the G8 it was particularly involved in attempts to overcome divisions between Russia and the United States. The G8 in Heiligendamm, Germany 6-8 June 2007 was considered an opportunity to discuss different scenarios

⁶⁰⁷ Altmann (2005) p. 40.

⁶⁰⁸ Internal confidential German government correspondence.

with Russian President Vladimir Putin. Many expected Angela Merkel and the fellow Quint members to succeed in convincing the Russian President and Foreign Minister.⁶⁰⁹ Although France was prepared to accept a UDI, the suggestion to extend the talks came from President Sarkozy.⁶¹⁰ This plan proposed an extension of UN Resolution 1244 for six months. In this period, talks would resume and should no agreement be reached, Ahtisaari would be implemented.⁶¹¹ Internal Auswärtige Amt documents state that the impression from this G8 meeting was that Russia was not in principle against independence but uncomfortable to support it at that specific point in time.⁶¹² Internal correspondence on the positions of the Quint Contact Group states that the United States, the United Kingdom and France were all supportive of a UDI. The German and Italian positions are described as being *pro*-independence but also desiring of further talks.⁶¹³ As Russia rejected the Sarkozy plan due to its support for independence, the Auswärtige Amt developed the plan further by suggesting the Troika format, which would not be bound to the Ahtisaari proposal and would also report to the UN Secretary General after a period of 120 days of additional negotiations.⁶¹⁴ However, in parallel to the negotiation, US and European officials would be working on writing and developing what would become the Kosovo constitution.⁶¹⁵

There was deep concern the Quint's relationship with Serbia and Russia might break down if a UDI were to be supported without further talks. As discussed in Chapter Three, many external observers criticised Ahtisaari's approach to the talks.⁶¹⁶ Also,

⁶⁰⁹ Rucker (2011) *Standards and Status – How Kosovo became Independent*, Munich: Otto Sagner, p. 73.

⁶¹⁰ Weller (2009) p. 221.

⁶¹¹ Internal German government correspondence on G8 summit on 8 June 2007, confidential..

⁶¹² *Ibid.*

⁶¹³ *Ibid.*

⁶¹⁴ 'EU considers key role to break Kosovo deadlock' Reuters, Monday 23 July 2007

<http://www.reuters.com/article/2007/07/23/us-serbia-kosovo-eu-idUSL2390617720070723?mod=related&channelName=worldNews> (last accessed 25 September 2016); 'EU Pushes for further negotiations on Kosovo', Euractive, July 24 2007, <http://www.euractiv.com/enlargement/eu-pushes-negotiations-kosovo/article-165824> (last accessed 25 September 2016); 'EU Foreign Ministers discuss Kosovo and begin the Intergovernmental Conference' Slovenia Foreign Ministry of Foreign Affairs, 23 July 2007

<http://www.mzz.gov.si/nc/en/newsroom/news/article/141/23376/> (last accessed 25 September 2016).

⁶¹⁵ Weller (2009) p. 24.

⁶¹⁶ See Chapter Three, 3.9.2 Beginning of the talks.

within the AA, there was a significant worry that the Ahtisaari Process had not succeeded in convincing the Serbs that Kosovan independence had not been a forgone conclusion of the talks. Further talks were considered to be crucial to regain the Serbs' trust in the international process. This is what the German government considered a 'last ditch effort' to see whether there were any other possibilities to explore.⁶¹⁷ The German position was mainly focused on reducing the possibility of violence returning to the Balkans. Specifically, the long-term goal of keeping peace in the Balkans and the large presence of German soldiers in the NATO contingent made this a priority.⁶¹⁸ In the political leadership at the AA, several experts expressed concern that another violent conflict was a realistic possibility. The extension of the talks was thus for the Germans primarily a way to de-escalate the situation, avoid further polarisation and demonstrate willingness to collaborate.⁶¹⁹ The talks therefore kept the diplomatic talks active and avoided an abrupt ending to year-long efforts. At this stage, in the summer of 2007, for Germany, independence was not considered the only possible outcome of this process although it was clear that the US was keen to achieve this as soon as possible.

4.2.2 Position of the Political Parties in the *Bundestag*

As discussed in Chapter Two, for most foreign policy decisions the government does not require approval from the Bundestag. This would also apply in the case of decisions on approaches to the status or recognition of Kosovo. However, due to the German government consisting of coalitions and generally Germany operating a consensus based approach towards foreign policy, the Bundestag represents an important forum in which policy is discussed.⁶²⁰ To reach a united position between the CDU and the SPD on the issues of Kosovo's status was therefore important for the stability of the government at the time.

⁶¹⁷ Comments to the author, interview with a former Political Director of the German Foreign Service, phone interview, October 2014 interview with Ambassador Wolfgang Ischinger, February 2015.

⁶¹⁸ Comments to the author, interview with a former Political Director of the German Foreign Service, phone interview, October 2014.

⁶¹⁹ Ibid.

⁶²⁰ See Chapter Two, 2.2.6 The Legislative and 2.2.7 Political Parties.

In a speech to the Bundestag on 14 June 2007 on the end of the German EU presidency Chancellor Merkel highlighted the importance Germany had given to a united EU position on Kosovo's status and that it was a key priority for the German government.⁶²¹ Later, in June, in a Bundestag debate on the extension of the German KFOR mandate, parliamentarians expressed their views on the failed multilateral efforts and prospects for continued talks. Although there had been concerns regarding the Ahtisaari process within the AA, most political parties had hoped for the Ahtisaari Plan to provide a basis for an agreement. Christian Democrats, Social Democrats and Greens referred to the plan as acceptable, if not ideal. They also discussed the role of Russia by emphasising the EU's failure to gain Russian support for the Ahtisaari Proposal.⁶²² The importance of achieving a united EU position was emphasised throughout by the CDU, SPD and Greens. The main disagreements among parties emerged between the coalition parties in regards to a possible unilateral declaration of independence of Kosovo at this stage.

The Social Democrat Uta Zapf went so far as to categorically reject even considering recognising a UDI. She emphasised the need to re-engage all parties in more talks, especially Russia. She regretted the misinterpretation of Russia's position by the West and highlighted the importance of accepting Russia as a relevant actor. Finally, she argued that, to keep both Kosovans and Serbians engaged in an international process and not to disappoint or alienate either party too much, more talks were necessary.⁶²³ Thus the Social Democrat perspective was to continue to attempt to find an agreement between the conflict parties.

The Christian Democrats took the position that although Ahtisaari may not have provided an ideal solution, the unresolved status was fuelling the weak rule of law in

⁶²¹ Deutscher Bundestag (2007a) Plenarprotokoll 16/103. Stenographischer Bericht. 103. Sitzung 16. Wahlperiode. Berlin, 14 June 2007, p. 10568.

⁶²² Gernot Erler (SPD) in Deutscher Bundestag (2007b) Plenarprotokoll 16/105. Stenographischer Bericht. 105. Sitzung 16. Wahlperiode. Berlin, 21 June 2007, p. 10762, Uta Zapf (SPD) p. 10768, Ruprecht Polenz (CDU/CSU) p. 10764, Dr. Franz Josef Jung (CDU/CSU) p. 10769; Jürgen Trittin in Deutscher Bundestag (2007c) Plenarprotokoll 16/107. Stenographischer Bericht. 107. Sitzung 16. Wahlperiode. Berlin, 4 July 2007, p. 10997.

⁶²³ Uta Zapf (SPD) in Deutscher Bundestag (2007b) p. 10768.

Kosovo. MdBs emphasised, however, that any change in the status for Kosovo's future would have to be approved in the Security Council by exerting pressure on Russia. The negative developments in the West's relationship with Moscow were interpreted as signs of Russia's approach to the European Union generally. Thus, from a CDU perspective, the relationship with the United States should be prioritised in the process on the Kosovo status as it was a close military and political ally.⁶²⁴ In contrast to the SPD, the Christian Democrats were already more invested in reaching an agreement at international level and within the Security Council rather than focusing on further talks with the conflict parties. Before joining the government in 2005, the CDU had continuously accused the then SPD-Green coalition government of not showing enough initiative to resolve the status question. Now as the CDU found itself in coalition with the Social Democrats, the Kosovo question would become a critical one for the government.

Amongst the opposition, the responses to the failed talks were varied. The Free Democrats reiterated their previous proposal for a resolution of the conflict as soon as possible under EU control. They also explicitly asked the government to continue with the Ahtisaari Plan, to be committed to a common EU position and to reject publically supporting a unilaterally declared independence.⁶²⁵ Marieluise Beck, the Green Party Balkans expert, called for a new UN resolution for Kosovo and called both Russia and the United States irresponsible; here she mentioned US support for unilateral action with Tirana and Russia's turn away from Europe.⁶²⁶ Die Linke MdBs called for a greater commitment to continued talks but rejected the 120 days proposal.⁶²⁷ They argued for an altogether new start to talks that should include mainly the Security Council in a new configuration of the Contact Group. Considering the international

⁶²⁴ Deutscher Bundestag (2007b) Ruprecht Polenz (CDU/CSU) p. 10765 and Dr. Franz Josef Jung (CDU/CSU) p. 10769.

⁶²⁵ Deutscher Bundestag (2007b) Rainer Steiner (FDP) p. 10763.

⁶²⁶ Deutscher Bundestag (2007b) Marieluise Beck (Greens) p. 10768.

⁶²⁷ A proposal by Die Linke to extend the talks indefinitely was rejected a few weeks after the debate. Deutscher Bundestag (2007d) Antrag. 'Konflikte zwischen Serbien und Kosovo-Albanern reduzieren – UN-Resolution 1244 uneingeschränkt umsetzen sowie faire und ergebnisoffene Verhandlungen ermöglichen'. Drucksache 16/6034. 16. Wahlperiode. 6 July 2007.

consequences that changes to Kosovo's status may have had, Monika Knoche MdB argued that only the territorial integrity of Serbia and a high autonomy for Kosovo would be a viable solution.⁶²⁸

Table 2: Overview of political party positions on the question of Kosovo status, 21 June 2007⁶²⁹

	CDU	SPD	FDP	Greens	Die Linke
Ahtisaari	Acceptable	Acceptable	Acceptable	Acceptable	Not acceptable
UDI recognition	Not Acceptable	Not Acceptable	Not acceptable	Not acceptable	Not acceptable
EU unity	High priority	High priority	High priority	High priority	Not mentioned
General position/ concerns	UNSC to agree on new resolution to finalise status.	Stresses need to engage Russia and Serbia. UNSC decision on new status possible.	Kosovo under EU governance	New UNSC resolution	New open ended negotiations. Questions legality of NATO and potential UDI.

The discussion in June 2007 took place during great uncertainty on the future of the multilateral negotiations. This dominated the debate among MdBs. Overall support for independence or a unilateral declaration was very low among all parties and a return to Ahtisaari would have been acceptable for a vast majority of MdBs. None of the parties encouraged German unilateral action. A new UN Security Council resolution was considered by all parties essential to support any change in Kosovo's status at this

⁶²⁸ Deutscher Bundestag (2007b) p. 10767.

⁶²⁹ Deutscher Bundestag (2007b).

stage.⁶³⁰ It is also noteworthy that the principle of self-determination to justify the independence was not used in the debate. Discussion on the conflict was instead framed mainly in the context of EU integration and the future democratisation of both Serbia and Kosovo. This highlights the changing interpretation of the conflict between Pristina and Belgrade. During the Milosevic regime Germany had identified the Serbian government as the aggressor in all the Balkan conflict, including in Kosovo. In debate in parliament, some parties, especially the SPD, the Greens and Die Linke showed some sympathy for the position of Serbia on territorial integrity and its rejection of Kosovan independence. Also the stalemate between the conflict parties was partly blamed on the international community's management during the Ahtisaari process.

4.3 Set up of the Troika

Following consultations at EU level and within the Contact Group, the Troika talks were thus established officially with an invitation from the UN Secretary General who welcomed the initiative on 1 August 2007.⁶³¹ These talks were to be chaired by an EU representative with US and Russian counterparts. The EU representative nominated was the German ambassador to the United Kingdom, Wolfgang Ischinger, who had been previously the ambassador to the United States and had been involved in the negotiations for the Dayton Agreement. As a former German Secretary of State he also served in the Social Democrat-Green Schröder government in the 1990s and early 2000s. He was thus a high profile diplomat, not an EU official, but experienced in multilateral negotiations. Ischinger's counterparts in the Troika were Frank Wisner, an experienced US American diplomat and US envoy for Kosovo, and Aleksandr Botsan-Kharchenko, and Russian representative, who had been the main representative of Russia in the Contact Group on Kosovo over the preceding years.⁶³² The agreed negotiation schedule included meetings by the Troika with the parties

⁶³⁰ Also discussed in Economides and Ker-Lindsay (2010) p. 499.

⁶³¹ United Nations (2007c) UN Press Release of the Secretary General 'Secretary-General Welcomes Agreement On New Kosovo Initiative', SG/SM/11111, 1 August 2007 <http://www.un.org/press/en/2007/sgsm11111.doc.htm> (last accessed 25 September 2016).

⁶³² Ker-Lindsay (2009).

separately, followed by several face-to-face meetings, starting in late September in New York and closing with a meeting at the end of November in Austria.⁶³³

After the announcement of the Troika, it firstly met in London with the whole Contact Group. In the setup discussions between the Troika members the United States expressed clearly to the Quint members and reiterated that from their perspective the Troika was not supposed to disrupt the process towards independence. The process was supposed to be as constructive as possible and to settle the issue of independence.⁶³⁴ For the Russians, the Troika was instead a welcome extension of potentially open ended talks.⁶³⁵ At this stage of the process the Troika presented itself mainly as the mediators of the process rather than a proactive negotiation partner who would propose any recommendations. Thus, key aspects of the role of Chair Ischinger were to establish what should be achieved with these talks, as the understanding between the US and Russia was quite different, and to manage expectations.

Within the AA, due to domestic political concern of a UDI, the talks were considered crucial but at the same time the expectations for success in the shape of a new agreement were very low. Ambassador Ischinger and the political leadership of the AA were well aware that eight years of ongoing talks had not reached any solution. Therefore, it was very unlikely that a new and short round of talks would bring a different outcome. The main hope for Ambassador Ischinger was that the talks would either lead to an unexpected resolution or alternatively prove that all efforts had been made to find a solution.⁶³⁶ From this outset, it is clear that for Germany at this stage the process around the negotiations was very important. Because of the domestic debates on the Ahtisaari process, the importance of including Serbia in a meaningful

⁶³³ See detailed list of meetings in Annex II Travel and Meeting Log of EU Troika delegation 30 July - 12 December 2007.

⁶³⁴ Comments to the author by Leopold Maurer, Liaison Officer of the European Commission to the UN Special Envoy for the future status of Kosovo, Martti Ahtisaari, phone interview, February 2015.

⁶³⁵ Ibid.

⁶³⁶ Comments author, interview with Ambassador Wolfgang Ischinger, February 2015.

international deal and reaching an agreement, Germany's role as chair of the Troika represented an opportunity to establish itself and shape these multilateral negotiations.

4.3.1 Role of the Troika Chair

Ischinger's inclusive approach defined the work of the Troika. In his role as chair, he was the most committed actor in the process and led the negotiations. US Troika member Frank Wisner had a significant number of other responsibilities, besides the Troika, and joined in only whenever he was able to. The Troika's schedule was adopted accordingly.⁶³⁷ The Russian negotiator Alexander Botsan-Kharchenko was less active in the Troika meetings throughout the process.⁶³⁸ He nevertheless did contribute constructively to discussions and the working relationship among all three members was perceived as very positive.⁶³⁹

As chairman of the Troika, Ambassador Ischinger fulfilled various roles. He was a German career diplomat and remunerated by the German government in this role, but as Chairman, he represented the European Union and mediated between the United States and Russia. The main mission of the Troika was to negotiate a solution between the two conflict parties. However, due to the disagreements on the status of Kosovo in the UN Security Council, within the EU, and among domestic political parties in Germany, Ischinger had to work towards generating consensus at all of these different levels.

It is worth noting that the German domestic discussion outlined above, as well as the need to keep a harmonious grand coalition, affected the outlook of the negotiator on the talks. Of the various issues that were raised in the Bundestag, three were specifically influential: firstly, the need to overcome the distrust of the Serbs towards

⁶³⁷ Comments to the author, interview with member of the EU Troika delegation, phone interview, October 2014.

⁶³⁸ Comments to the author, interview with Member of the EU Troika delegation, phone interview, October 2014

⁶³⁹ Comments to the author, interview with member of the EU Troika delegation, phone interview, October 2014 and interview with Ambassador Wolfgang Ischinger, February 2015.

independence; secondly, reaching a common EU position; and thirdly, avoiding a legally precarious decision on the status of Kosovo. On the last point, a new UN Security Council resolution was improbable after the failure of Ahtisaari, therefore, the chair's strategy was either to strive for a solution between the conflict parties that would be supported by Russia, or, should this fail, to focus on unifying the EU regarding Kosovo's status. Hence, the strategy was to find a multilateral level in which consensus would be achieved in a way that also responded to the domestic divisions in Germany. The Social Democrat controlled the *Auswärtige Amt* in the grand coalition, and therefore the political concerns of the party about the UDI received particular attention in the ministry. This was explained by the SPD's strong relationship with and trust in President Boris Tadić's *Demokratska stranka/Democratic Party (DS)*. Hence, the extension of the talks was particularly well received in party circles.⁶⁴⁰ Separate Troika talks with the delegations began in Belgrade and Pristina on the 10 of August.

4.3.2 Positions of the Serbian and Kosovan delegations

The delegations from Belgrade and Pristina had very different outlooks on this continuation of the talks. For the Kosovan delegation, participating in the Troika negotiations was mostly an act of showing 'good will' to find a solution to the conflict with the Serbian delegation and to establish friendly relations. Although the Ahtisaari Plan had failed, the Kosovan delegation was under the impression that the Quint members of the Contact Group considered independence under the Ahtisaari proposal the most likely outcome. While Kosovans were reassured by American support for independence, there was also considerable pressure on managing this process without leading to further conflict.

Hence, the Quint viewed political developments in Serbia optimistically. The Serbian delegation reflected the coalition make-up of the Serbian government and some Quint members hoped that with greater support for the Democratic Party in the upcoming

⁶⁴⁰ Comments to the author, interview with Ambassador Wolfgang Ischinger, February 2015.

elections in 2008, President Tadić might be able to introduce a more collaborative approach to Kosovo than Prime Minister Koštunica had done.⁶⁴¹ From the Kosovan perspective, however, there was little incentive to move beyond the Ahtisaari Plan, which had been accepted by most Contact Group members, and in which considerable concessions had been made to Serbian minorities. For the Kosovan delegation, the Troika negotiations seemed essentially a delay to inevitable independence and the delegation was unwilling to make concessions regarding what had been suggested in the Ahtisaari Proposal.

The main contribution by the Kosovan delegation was thus a comprehensive treaty proposal on peaceful neighbourly relations with Serbia after independence. In this proposal, Kosovo offered additional assurances of friendly relations and collaboration in the region. This was proposed to the Troika during the indirect talks in London on the 19 September 2007. When it became evident that the Serbian side was not willing to discuss this proposal, the delegation from Pristina considered the talks a failure.⁶⁴²

From the Serbian delegation, the approach to the new round of negotiation was considerably more positive. From Belgrade's perspective, the talks represented a continuation of Russia's efforts to block Ahtisaari and a path to new and longer talks. As already discussed in relation to the German position, the Ahtisaari process had been unsatisfactory for the Serbian delegation. Fundamentally, there appears to have been deep mistrust in the Ahtisaari process as a whole, as supervised independence was considered by the Serbian delegation a premature conclusion by Ahtisaari himself. The Serbian delegation considered the Troika negotiations to be a more genuine attempt to reach mutual agreement, firstly, due to Russia putting its weight behind Serbia more openly, secondly, due to the extended timeline for the negotiations, thirdly, because of the appointment of Ischinger as an experienced diplomat, and, finally, because of the

⁶⁴¹ Comments to the author, interview with member of EU Troika delegation, phone interview, October 2014; and interview with Ambassador Wolfgang Ischinger, February 2015.

⁶⁴² Comments to the author, interview with Mr. Skender Hyseni, Spokesperson of the Kosovo Delegation, Pristina, June 2015.

more open approach to possible solutions other than independence.⁶⁴³ At the first face-to-face meeting of the two delegations in New York, shortly after the UN General Assembly on 28 September, the Serbian delegation presented itself as being very optimistic towards the process. President Tadić emphasised that the Serbian proposal of a ‘common sovereign home’ had received a very positive response from the Troika and that the delegation expected this proposal to be seriously considered in Brussels and in different European capitals.⁶⁴⁴ This optimism was, however, also exaggerated publically. While there was hope that the international community would reconsider the Serbian position more than in previous talks, the Serbian delegation were not willing to offer any further concessions to their autonomy proposals.⁶⁴⁵

An important aspect for the Serbian delegation was that, as it was formed from a coalition, it was somewhat divided. Prime Minister Kostunica’s party, Demokratska stranka Srbije/ Democratic Party of Serbia (DSS), took a considerably harder line on the question of Kosovan independence and many external observers highlighted his unwillingness to compromise on the question as the main obstacle for progress in the negotiations. President Tadić from the Democratic Party (DS), and his chief advisor Vuk Jeremić, were on the other hand more open to independence for Kosovo. Here, observers note that on different occasions Jeremić agreed to proposals and would have been willing to sign ‘anything’, but deferred to the prime minister instead.⁶⁴⁶ This had a significant effect on how the aftermath of the talks was managed as we will see below.

Unlike the Ahtisaari Process, the Troika negotiations focused solely on the status settlement rather than on step-by-step policy issues, allowing for more negotiation and

⁶⁴³ Comments to the author, interview with Slobodan Samardžić, Senior Member of the Serbian delegation, Belgrade June 2015.

⁶⁴⁴ WikiLeaks (2007a) ‘Belgrade Feigns Optimism After Direct Talks’ US Embassy Belgrade, reference ID Cable_07belgrade1363_A, 25 October 2007 (last accessed 25 September 2016).

⁶⁴⁵ Ibid.

⁶⁴⁶ Comments to the author, interview with Ambassador Wolfgang Ischinger, February 2015, and interview with a former Political Director of the German Foreign Service, October 2014.

concessions from both sides.⁶⁴⁷ Thus, the proposal from the Kosovan side provided little if no movement from the Ahtisaari proposal. Serbia on the other hand was very much tied to its proposal of autonomy short of independence. Later in the process, the Serbian delegation presented a variety of alternatives to autonomy based on historical precedents. These included, for example, the Åland islands case, which, as discussed in Chapter One, was a landmark case that laid out the definition of internal self-determination in response to secessionist movements. The example of the Hong Kong Special Administrative region within the Peoples Republic of China was also brought forward as a potential model for Kosovo's status.⁶⁴⁸ The proposals from the Serbian delegation were perceived as too limited and inflexible by the Kosovans who viewed them as a tactic to delay or avoid independence. Looking back at the process, one member of the Serbian delegation argues that in principle the Serbian side would have been willing to support a longer internationally supervised union with Kosovo of five to twenty years, which could eventually have ended with independence as final political status.⁶⁴⁹ In essence the direct talks of the Troika demonstrated that after years of negotiations in the Contact Group and the Ahtisaari process, the Kosovans were unwilling to put a supervised independence at risk and Serbia was keen to extend the talks as long as possible. While there was willingness from Belgrade to make further concessions with greater autonomy, any mention of independence was dismissed especially by members of the DSS delegation.⁶⁵⁰

Direct negotiations between the Kosovan and Serbian delegation made little progress in providing new perspectives. Therefore, although initially not the intended role of the Troika, it began to bring forward specific proposals for the parties to discuss.

4.3.3 Troika Proposals

⁶⁴⁷ Comments to the author, interview with Slobodan Samardžić, senior member of the Serbian delegation, Belgrade, June 2015.

⁶⁴⁸ Ker-Lindsay (2009) p. 92 and see in the same volume Appendix F 'Comparative Overview of the Cases of Hong Kong, Åland Islands, and the Serbian Proposal for Kosovo and Metohija', State negotiating team for Kosovo Metohija, 20 November 2007.

⁶⁴⁹ Ker-Lindsay (2009) p. 119; Comments to the author, interview with Slobodan Samardžić, senior member of the Serbian delegation, Belgrade, June 2015.

⁶⁵⁰ Weller (2009) and Ker Lindsey (2009).

Ambassador Ischinger and officials in the AA decided to take more initiative and to present the parties with alternative proposals. When acknowledging the difficulty of this, Ischinger and officials in the AA regularly estimated the probability that the talks would succeed at 10%.⁶⁵¹ He had made the motto of these efforts to ‘leave no stone unturned’. Demonstrating German commitment to the process and a genuine effort to end the stalemate thus became key to the strategy of Ischinger and the AA.⁶⁵²

Two proposals in which Germany was particularly involved were the 14 Point plan and a proposal based on the German-German treaty (the *Grundlagenvertrag*) of 1972. No progress was achieved in the preliminary talks and also the first attempt at negotiations on 14 October in Brussels resulted in a deadlock between the two parties of a non-paper of 14 points.⁶⁵³ This proposal focused on specific collaboration in policy areas without making any reference to either Kosovan statehood or UN Resolution 1244. It stated that Kosovo would not be governed from Belgrade and that both Belgrade and Pristina would work towards joining the European Union.⁶⁵⁴ The paper had been endorsed by all three Troika members and was potentially an opportunity to find common ground between the two parties. While Pristina accepted the general rationale of the paper, Serbia rejected it for lack of reference to legal principles.⁶⁵⁵

In the following and forth meeting in Vienna on 5 November, Ischinger proposed the German-German treaty model. This model had been developed by the legal department of the AA. Ambassador Ischinger argued from early on in the negotiations that the only way to break the deadlock was to find a way to exclude the status question

⁶⁵¹ WikiLeaks (2007b) ‘“Sturm Und Drang" Followed By "Stay The Course" - What To Expect From Germany On Kosovo’, US Embassy Berlin, reference ID 07berlin2081_A., 16 November 2007 (last accessed 25 September 2016).

⁶⁵² Ischinger’s team even printed this slogan on 200 T-shirts, distributing them in Berlin, Belgrade and Pristina in an effort to generate excitement for the negotiations. Interview, Ambassador Wolfgang Ischinger, February 2015.

⁶⁵³ Ker-Lindsay (2009) p. 88 and for full points see Appendix VI of Troika Final Report Nations (2007d) UN Security Council, Letter dated 10 December 2007 from the Secretary-General to the President of the Security Council, S/2007/723, 10 December 2007.

⁶⁵⁴ Ibid.

⁶⁵⁵ Ker-Lindsay (2009) p. 89.

and enable neighbourly relations between the two states.⁶⁵⁶ The proposal and the efforts from the German side for producing an alternative to an outright UDI were met with some resistance from the United States but after some input they were accepted from the American side. The US delegation were in the first instance supportive of the German proposal although there remained concerns about fundamentally changing the policy of supporting independence.⁶⁵⁷ There had been some concern in Washington that the independence of Kosovo was being put in jeopardy and for the US considered the Troika negotiations a means to an end rather than a new round of negotiations.

Considering the domestic pressures within Europe and in Germany for extending the talks, the AA considered it opportune to bring this German-German treaty proposal forward. The proposal was based on the rationale behind the 1972 agreement between the German Federal Republic and the German Democratic Republic. This agreement, as discussed in Chapter Two, allowed the Federal Republic of Germany and the German Democratic Republic to co-exist without recognising each other during the Cold War. This allowed for the establishment of informal relations, collaboration on policy issues and both countries joining the United Nations. The ideological conflict between the two Germanys was thus not overcome but the two separate states existed side by side. This ‘Egon Bahr’ approach, named after the German politician who developed the rationale behind *Ostpolitik*, was to be applied in this proposal to Kosovo and Serbia.⁶⁵⁸ This policy had a clear Social Democratic imprint. The Policy had been the defining legacy of chancellor Brandt and within the party this approach had been embraced for engendering successful de-escalation during the Cold War.⁶⁵⁹

The expectations for the success of these Troika negotiations overall had been very low, even in the AA and, as described above, for the German position, demonstrating a genuine international process was important for domestic political parties. The

⁶⁵⁶ Comments to the author, interview with Ambassador Wolfgang Ischinger, February 2015.

⁶⁵⁷ Comments to the author, interview with a member of EU Troika delegation, phone interview, October 2014,

⁶⁵⁸ Comments to the author, interview with Ambassador Wolfgang Ischinger, February 2015.

⁶⁵⁹ See Chapter Two, 2.4.2 *Ostpolitik*.

proposal of the German-German approach heartened German policy makers more optimistic. Ambassador Ischinger extensively discussed the proposal with the domestic political parties as well as the foreign affairs committee of the Bundestag and found much encouragement. For politicians in Germany it appeared to be an acceptable solution out of the deadlock.⁶⁶⁰ As described above, particularly the Social Democrats and Die Linke were keen on allowing Serbia and Russia a way out of the stalemate, the proposal for an ‘Egon Bahr approach’ was thus close to the ideology and political outlook for these parties, which furthered their trust in the Troika process.

The German-German treaty idea became the key proposal by Ischinger in his attempt to prove that ‘no stone was left unturned’. While the Kosovan delegation was receptive of the proposal, and appreciated the provisions outlined, it was cautious about the historical precedent. The end of the Cold War brought unification of the two Germanys and there was some concern among the Kosovan delegation that there was a ‘hidden message’ in such an agreement as a foregone conclusion.⁶⁶¹ Kosovans were concerned that such a proposal could in the future be reinterpreted as a justification for unification. The response by the Serbian delegation was split. On the one hand, Tadić reassured Ischinger that if Russia was willing to support such an agreement, so would he.⁶⁶² The Serbian delegation was, however, hesitant as they did not agree with the comparison of the conflict between the two Germanys and the Kosovo conflict, arguing that the conflict between the two Germanys was ideological in nature while the question of Kosovo was ultimately territorial. Such an agreement also enabled both Germanys to join the UN and to have Kosovo enabled to become a full UN member would have been a concession too far.⁶⁶³

⁶⁶⁰ Comments to the author, interview with Ambassador Wolfgang Ischinger, February 2015.

⁶⁶¹ Comments to the author, interview with Mr. Skender Hyseni, Spokesman of the Kosovo Delegation, Pristina, June 2015.

⁶⁶² Comments to the author, interview with Ambassador Wolfgang Ischinger, February 2015

⁶⁶³ Comments to the author, interview with Slobodan Samardžić, senior member of the Serbian delegation, Belgrade, June 2015.

Encouraged by the Serbian President, Ambassador Ischinger met with Russian foreign minister Lavrov in early October.⁶⁶⁴ Lavrov's response was positive in comparison to previous proposals and Ischinger was given consent to test the interest from the parties. However, a week later, Lavrov changed his mind and since the Troika then did not reach unanimity, the proposal could not be tabled. Furthermore, due to the Russian disagreement on the proposal, the Serbian delegation would not have been willing to consider the proposal.⁶⁶⁵ In the meantime, however, this proposal had become an important aspect of the 'no stone left unturned' policy of the German government in relation to the Troika and was used as a possible solution in different discussions with EU member states (EUMS). The rejection of the German-German model was a significant set back for Ischinger and diplomats in the AA where much expectation had been invested in this solution. Nevertheless, as will be shown below, the fact that Germany had provided additional ideas and a potential route out of the deadlock was used as evidence for the *Bundestag* that all possible alternatives has been discussed within the Troika talks.⁶⁶⁶

From mid-November onwards it became evident for Ambassador Ischinger and the delegation that an agreement was not going to be reached in these talks. With the United States pressing for a swift conclusion, the German Troika chair was keen to leave the talks with a positive resolution even though no formal agreement could be reached. Finally, within these negotiations the sense was that the Tadić-Jeremić wing of the Serbian delegation would have been willing to sign any kind of agreement. With the Serbian elections coming, the President was keen to present himself as the more pro-EU and pro-reform alternative to Kostunica.

The Serbian delegation had been more enthusiastic about the process at its outset, as described above. Although Belgrade was highly disappointed, and a split on the Kosovo issue had occurred within the delegation, it ended the talks by adopting a more

⁶⁶⁴ Comments to the author, interview with Ambassador Wolfgang Ischinger, February 2015 and see Annex II Travel and Meeting Log of EU Troika delegation 30 July - 12 December 2007.

⁶⁶⁵ Ibid.

⁶⁶⁶ Ibid.

pragmatic stand. From the point of view of the Troika delegation all possible avenues had been considered. Serbia and Russia would have however considered further negotiations necessary. Russia continued to argue that more options had to be explored. In an unexpected proposal during the negotiations the Russian envoy Botsan-Kharchenko had proposed the partition of Kosovo. In this proposal the North would remain under Serbian control with the rest under Pristina. This was however rejected by both parties immediately,⁶⁶⁷ although the Troika chair had initially considered it.⁶⁶⁸ This would have gone against the previously established principles of the negotiations, the 'three Nos', which had excluded the partition of Kosovo as a possible option to be negotiated. The willingness from the German negotiator to consider this was read as an indication of Germany's willingness to take a more creative approach to the negotiations than in the past. Also, Russia's trust in the process appeared to be growing, Putin was cited in conversations with Chancellor Merkel as considering the Troika process seriously.⁶⁶⁹

The partition proposal by the Russian delegation was the only proposal suggested by the Troika, which would have provided control of Serbia over part of the Kosovo territory. In contrast, the German proposal had focused on keeping Serbia engaged with the international community even in the event of a UDI by Kosovo, the plan would have not prevented an UDI. While Russia welcomed the more proactive approach by Germany, the United States were concerned. Particularly, the US considered Germany's apparent insistence on a UNSC resolution to be the main obstacle to accepting a UDI. Therefore, initially they looked at the proposal for the German-German treaty with suspicion. However, by the time Ischinger proposed it, the US had acknowledged that Germany was 'on the longer road but on the right track'

⁶⁶⁷ Comments to the author, interview with a member of EU Troika delegation, phone interview, October 2014.

⁶⁶⁸ Economides, S. and Ker-Lindsay, J. (2012) Standards before status before accession: Kosovo's European perspective, *Journal of Balkan and Near Eastern Studies*, 14 (1) p. 509; Milanovic, M. and Wood, M. (eds) (2015) *The Law and Politics of Kosovo of the Advisory Opinion*, Oxford: Oxford University Press, p. 85.

⁶⁶⁹ WikiLeaks (2007c) 'Assistant Secretary Fried's Conversation with National Security Adviser Heusgen' US Embassy Berlin, reference ID 07BERLIN1943_a, 24 October 2007 (last accessed 25 September 2016).

indicating a movement towards accepting a unilateral declaration of independence.⁶⁷⁰ In the development of the different proposals, the Troika sought advice from the AA on what would be feasible legal options. However, in the work of the EU Troika delegation, international law was not *per se* the deciding factor, but it was rather about finding a solution agreeable to the two parties. By the end of the process, to the Troika team, independence appeared as the only possible outcome, despite the legal concerns expressed by non-recognisers and some of the domestic actors, as described above.⁶⁷¹

4.3.4 End of the Troika negotiations

Following the Troika negotiations there was also a keen interest from the Quint members to convince the Kosovan leadership to postpone the declaration of independence until after the Serbian election, which took place in January 2008 and was won by Tadić, elected mainly on a pro-EU and reconciliation with Kosovo platform. At the final meeting in Baden in Austria, when Koštunica refused to attend the closing dinner, while Tadić and Jeremić did attend, it also became evident that the Serbian leadership would pursue the legal route against the independence declaration at the international Court of Justice (ICJ). This was perceived as encouragement that there would not be a military response to the declaration of independence but instead a legal and institutional response.⁶⁷² This decision was welcomed, especially among the Social Democrat circles of the *Auswärtige Amt*, although in the case at the ICJ Germany would argue against Serbia's claim.⁶⁷³

The Troika presented its final report to the Security Council on 10 December 2007. The conclusion reiterated the commitment of the Troika to reach a solution in the short period and that every possible solution for a settlement had been discussed with the

⁶⁷⁰ WikiLeaks (2007b).

⁶⁷¹ Comments to the author, interview with a member of EU Troika delegation, phone interview, October 2014, and interview with a former Political Director of the German Foreign Service, phone interview, October 2014.

⁶⁷² Comments to the author, interview with a former Political Director of the German Foreign Service, phone interview, October 2014.

⁶⁷³ International Court of (2009) Request for Advisory Opinion transmitted to the Court Pursuant to General Assembly Resolution, Statement of the Federal Republic of Germany, April 2009 <http://www.icj-cij.org/docket/files/141/15624.pdf> (last accessed 25 September 2016)

conflict parties and within the Troika.⁶⁷⁴ Although no solution was found between the two parties, the report points to the importance of the process and that both conflict parties had committed to European integration and peace in the region. These assurance, so the report, were considered key achievements of the process overall.⁶⁷⁵ Finally, the report made no recommendations for the future status of Kosovo but instead stated that a resolution of the status issue would be in the best interest of European integration.⁶⁷⁶ The end of the Troika process would now put each state in the situation of having to take a position in light of a possible contested declaration of independence from Kosovo. As I discussed above, in the Bundestag, parties had been adamant about the need either to find a solution between the conflict parties, find agreement with Russia and establish a common EU position. As the negotiations failed to find an agreement for the first two conditions, I will now turn to discuss in more detail the work of the Troika at EU level and the difficulty of finding a common position among Member States and also EU institutions.

4.4 Searching for Consensus within the EU

As the EU representative in the Troika, the appointment of the German ambassador meant that he was reporting directly to the EU High Representative Javier Solana. Ambassador Ischinger understood his responsibility to be mainly towards the EU and its member states.⁶⁷⁷ A central aspect of Ischinger's role was to support EU member states in reaching a consensus. Disagreement within the EU was concerned with the status question and this dispute also strongly affected by the commitment to and planning of the future EU mission. The EU had been involved since the UN report by Special Envoy Karl Eide had called for a greater role in Kosovo for the EU and to replace the current UN mission.⁶⁷⁸ From 2005, both the Council and the Commission began exploring a greater role for the EU in implementing UNSC resolution 1244 and

⁶⁷⁴ United Nations (2007d) p. 4 Troika report art. 10.

⁶⁷⁵ Ibid, Art 12 and 13.

⁶⁷⁶ Ibid, Art 14.

⁶⁷⁷ Comments to the author, interview with Ambassador Wolfgang Ischinger, February 2015.

⁶⁷⁸ This was discussed in more detail in Chapter Three, 3.8 Violence of 2004 and Eide Report.

what the EU's role might be after a new status for Kosovo had been determined.⁶⁷⁹ Over the following two years, the High Representative Javier Solana and Enlargement Commissioner Rehn presented a series of papers to Member States on possible deployments of an EU mission. The Council and the Commission envisioned a 'robust' mission, which additionally to technical advice, would have had a considerable political role in the management of Kosovo and would have replaced UNMIK entirely.⁶⁸⁰

However, this new EU role was dependent on the outcome of the Ahtissaari talks. To deploy a full mission as envisioned by the Council and the Commission, the EU sought a clear mandate after a new UNSC resolution. With the failure of Ahtisaari and the disagreement in the Security Council on Kosovo status, however, the prospect of a clear mandate and the future of this mission as a whole was put in jeopardy.⁶⁸¹

The Council had been the main driver behind the future mission in Kosovo, which was to become the largest mission for the EU to date. There was confidence that Kosovan independence would be supported by the EU despite international disagreement. Thus, within the General Secretariat of the Council the expectations for the Troika talks to resolve the stalemate were quite low. The talks were rather considered an extension of the Ahtisaari Plan. One Council official was quoted describing the Troika as the 'theatre' of 'no-stone-untuned'.⁶⁸² At this stage, the Council and the Enlargement Commissioner considered a deployment without a new UNSC resolution as possible.⁶⁸³

⁶⁷⁹ Papadimitriou, D. and Petrov, P. (2012) Whose Rule, Whose Law? Contested Statehood, External Leverage and the European Union's Rule of Law Mission in Kosovo. *Journal of Common Market Studies*, 50(5) p. 755.

⁶⁸⁰ Ibid, p. 757.

⁶⁸¹ Ibid, p. 758.

⁶⁸² EU Council representative Giffoni cited in WikiLeaks (2007d) 'EU and Kosovo: Moving Toward Reality', US Embassy Brussels, reference ID 07BRUSSELS3120_a, 10 October 2007 (last accessed 25 September 2016)

⁶⁸³ Papadimitriou and Petrov (2012) p. 758.

The full robust plan of the mission was seen skeptically outside of the Council planning team. Among Commission officials the plans for the mission of the EU to take over from UNMIK were considered too ambitious from an operational perspective.⁶⁸⁴ Generally, among EU Member States, a lighter version of the mission with a mainly technical role was preferred.⁶⁸⁵ Furthermore, the Commission was sceptical about the Troika negotiations. The impression was that the main rationale of the German effort was to avoid alienating Russia and Serbia. The German foreign minister had been quoted saying that “nothing can be done without the Russians” and Ambassador Ischinger was quoted arguing that there is a need to understand the “psychological aspect for the Serbian side”. For the EU institutions, the Troika process was thus mainly considered to be about demonstrating a continued process of engagement with all parties to de-escalate the situation. At the same time, the pressures for recognition and an EU mission were continuing to grow.⁶⁸⁶ Albeit retrospectively, commentators in the Commission have described the Troika as a “*charade*” or simply as “an appendix”.⁶⁸⁷ An agreement among EU member states on the status was nonetheless in the interest of the Commission to enable future EU missions.

In contrast to the EU institutions, Member States were less committed to the independence of Kosovo for the sake of enabling the EU mission. The divisions among Member States were mainly due to the prevailing expectation that the Ahtisaari process would lead to an agreement. The wider EU would support what had been negotiated by the EU members in the Contact Group. A separate effort to reach an EU consensus on the Kosovo question had not been considered necessary. During the Ahtisaari process, the Council of Ministers had more or less followed the statements and recommendation from the Contact Group.⁶⁸⁸ After the failed Ahtisaari talks the EU High Representative Javier Solana and other high level EU officials in the

⁶⁸⁴ Comments to the author by Leopold Maurer, Liaison Officer of the European Commission to the UN Special Envoy for the future status of Kosovo, Martti Ahtisaari, February 2015.

⁶⁸⁵ Papadimitriou and Petrov (2012) p. 757.

⁶⁸⁶ Comments to the author by Leopold Maurer, Liaison Officer of the European Commission to the UN Special Envoy for the future status of Kosovo, Martti Ahtisaari, phone interview, February 2015.

⁶⁸⁷ Comments to the author, interview with Commission official, Brussels, February 2014.

⁶⁸⁸ Comments to the author by Leopold Maurer, Liaison Officer of the European Commission to the UN Special Envoy for the future status of Kosovo, Martti Ahtisaari, phone interview, February 2015.

Commission called for a common EU position on the future of Kosovo.⁶⁸⁹ As was discussed in Chapter Three, however, this apparent EU agreement collapsed publically at the Gymnich meeting in Bremen in March 2007.⁶⁹⁰ Germany held the EU Presidency at the time and was particularly involved in the efforts to reach an EU position until the summer of 2007.⁶⁹¹ However, with the breakdown of the Ahtisaari process and the support for a unilateral declaration of independence from the United States, each European Union member states (EUMS) had to take a position on the contested statehood of Kosovo, should there not be a settlement in the Troika talks. At this stage, the only opportunity to maintain some consensus on the issue would be the need for a new UN Security Council resolution on Kosovo after Ahtisaari, which the EU could then agree to.⁶⁹²

Similarly to the situation in Germany, most EUMS conducted domestic debates and adopted different positions on the question of the statehood of Kosovo. The concerns by different EUMS included legal questions of recognising the independence without a new UNSC resolution, for example, in the case of the Netherlands.⁶⁹³ The fears of domestic secessionist movements were prevalent in the Spanish, Bulgarian, Slovakian and Romanian positions.⁶⁹⁴ Cyprus appeared increasingly close to the Russian position on Kosovo.⁶⁹⁵ Among those member states that expressed their concern, most prominently Slovakia, Spain, Greece, Cyprus and Romania, were also diverse arguments. For example, Spain appeared to not want to put the EU consensus at risk but was very keen on trying to achieve a new UNSC resolution on the status.⁶⁹⁶ Slovakia was considered to be the key actor in trying to block EU consensus. The

⁶⁸⁹ Economides and Ker-Lindsay (2010) p. 498.

⁶⁹⁰ Ibid; 'EU splinter group emerges on Kosovo' EU Observer, 1 April 2007 <https://euobserver.com/foreign/23820> (last accessed 25 September 2006); 'EU seeks own role, independent of US', Tajug News agency, 10 September 2007.

⁶⁹¹ Economides and Ker-Lindsay (2010) p. 499-500.

⁶⁹² Ibid, p. 498.

⁶⁹³ Comments to the author, interview with COWEB delegation representative of an EU Member State, February 2015.

⁶⁹⁴ Ibid.

⁶⁹⁵ WikiLeaks (2007e) 'Dutch and Cypriots Loudest Nay-Sayers On Kosovo At Dec. 10 Gaerc; Summit Draft Statement Now In Capitals', US embassy Brussels, reference ID 07BRUSSELS3481_a, 11 December 2007 (last accessed 25 September 20016).

⁶⁹⁶ WikiLeaks (2007f) 'Spain/Kosovo: UN Resolution Key To Spanish Troop Presence', US Embassy Madrid, reference ID 07madrid598_A, 2 April 2007 (last accessed 25 September 20016).

argument at the time was that if there was a settlement between the two conflict parties and the UN Security Council, EUMS would have supported such an arrangement and also the deployment of an EU mission.⁶⁹⁷

High Representative Solana was keen on the Troika process as he considered it instrumental to reach a closure of the negotiations. The most important aspect was the idea of gaining time and showing the European effort to solve this conflict. At the Gymnich meeting of 7-8 September, Solana stressed that he hoped the Troika negotiations would succeed but that the EU should be prepared for alternative scenarios. In contrast, the Portuguese representatives, holding the EU presidency in the second half of 2007, expressed the deep unease about a possible UDI felt by some Member States and criticised the Council for pre-judging the Troika.⁶⁹⁸ Among many EUMS the impression that Ahtisaari had been a foregone conclusion was widespread. Thus, those Member States that were uncomfortable with the UDI, expected a more neutral approach from the Troika.⁶⁹⁹

In light of these disagreements and the low expectations for the negotiations to succeed, the AA put its efforts into gaining the largest possible support for Kosovan independence within the EU. The role of Ischinger as EU chair was central to this effort to emphasise the EU commitment to reaching consensus and a genuine process. Thus, Ischinger kept in close contact with EUMS and the Council throughout the process. He made it a key aspect of his work to keep Solana informed on the progress of the talks.⁷⁰⁰ In regular fortnightly briefings at the Political and Security Committee as well as at the Council meetings of the foreign ministers, he kept EUMS informed. Ischinger presented the different proposals that were in the Troika negotiations and

⁶⁹⁷ WikiLeaks (2007g) 'Danish Views On April 23-24 EU Gaerc Ministerial 19 April 2007, US Embassy Copenhagen, reference ID 07copenhag (last accessed 25 September 2016).

⁶⁹⁸ WikiLeaks (2007h) 'Solana To Press EU FMs On Need For Realistic Planning On Kosovo', US Embassy Brussels, reference ID 07BRUSSELS2765_a, 4 September 2007 (last accessed 25 September 2016).

⁶⁹⁹ Comments to the author, interview with Eduard Kukan, MEP and Chair of the EU-Serbia Stabilisation and Association Parliamentary Committee, Brussels February 2015.

⁷⁰⁰ They would speak on the phone daily. Comments to the author, interview with Ambassador Wolfgang Ischinger, February 2015.

discussed the difficulties that had been encountered. Additionally, there were multiple visits to EU capitals to discuss the various issues with governments that were particularly concerned about a UDI. Ischinger was in a good position to respond to alternative proposals from EU capitals and explain what had been discussed and why certain proposals had been rejected. He flew to Budapest, Stockholm, Bucharest, Sofia, Rome and Athens,⁷⁰¹ and conducted in-depth talks with potential non-recognisers, Spain, Cyprus, and Slovakia. On the sidelines of UN and EU meetings in New York, he would speak to several EU ministers and ambassadors, including those from Belgium and Finland, as well as remain in contact with foreign ministers throughout Europe and heads of states, such as Czech President Vaclav Klaus.

Ischinger's motto of 'leaving no stone unturned' appeared to resonate particularly well with EU member states. The response from EUMS concerned about a UDI considered Ischinger to be a 'reasonable, professional' negotiator, attributing to him a genuine interest in resolving the conflict within Europe. Particularly, Ischinger's approach evidently contrasted with that of the United States, Britain or France, whose approach some EUMS described as 'blackmail', as states were being pressured to recognise a possible UDI. In contrast, it appears that other Quint members and supporters for independence did not consider Germany in any way less committed to Kosovan independence than any other among them. Germany appeared to be highly committed and 'pulling in the same direction' in the effort to manage the process towards independence.⁷⁰² In this context, however, it appeared that Germany was much keener on creating an EU consensus than other large EUMS who supported independence, such as France.⁷⁰³

Overall, the Troika process was considered crucial for many Member States in coming to a position on the question of Kosovan independence. Portugal, the Netherlands and

⁷⁰¹ See Annex II Travel and Meeting Log of EU Troika delegation 30 July - 12 December 2007.

⁷⁰² Comments to the author, interview with COWEB delegation representative of an EU Member State, phone interview, February 2015

⁷⁰³ Comments to the author, interview with Leopold Maurer, Liaison Officer of the European Commission to the UN Special Envoy for the future status of Kosovo, Martti Ahtisaari, phone interview, February 2015.

Hungary all attributed the work of the Troika to their decision to recognise Kosovo's UDI.⁷⁰⁴ The defining aspects were the extended consultation process on a question which required ultimately the domestic recognition of another state and the evidence that, according to the Troika chair, all possible avenues for a solution of the conflict between the two states had been explored. The 'no stone left unturned' approach thus was fundamental for more cohesion among EUMS. Although the German-German treaty proposal was not successful with the conflict parties, as has been pointed out above, the proposal received a positive response from EUMS and was considered constructive because it demonstrated the willingness of the Troika to try all possible approaches. Indeed, it appears that the Troika process received greater endorsement from the European Union Member States than from the conflict parties.

4.4.1 Responding to the Lack of EU Consensus

The exact number of the non-recognisers did not become clear until after the Troika process had concluded, and many states were then still hesitant, as can be seen from official documents. Further evidence of this can be taken from the fact that Ischinger discussed the issue in capitals, such as Bratislava or Bucharest, where his team was consistently confronted with severe concerns regarding the recognition.⁷⁰⁵

As the extensive discussions with EUMS as part of the Troika process went on it became evident that there would most likely not be a consensus at EU level. EUMS insisted on their concerns being taken into consideration for recognition and but also desired an overall agreement within the Union. Above, I have demonstrated that for German Members of Parliament a common EU position was very important.⁷⁰⁶

At the end of the Troika negotiation, the question on the future EU mission remained. Details of the debates and negotiations around the deployment of the mission are

⁷⁰⁴ WikiLeaks (2007i) 'EU and Kosovo: Moving Toward Reality' US Embassy Brussels, reference ID 07BRUSSELS3120_A, 10 October 2007.

⁷⁰⁵ Comments to the author, interview with member of EU Troika delegation, phone interview, October 2014.

⁷⁰⁶ See Table 2 in this chapter.

beyond the scope of this thesis. However, the EU presence represented an important justification for German recognition: I will therefore review the process briefly. As described above, the Council and Commission had prepared different options from a lighter technical mission to a more robust deployment. During the Troika negotiations the Council argued that a separate Security Council resolution would legally not be necessary to enable the mission.⁷⁰⁷ The result of continued Council commitment to the mission on the one hand and division over the status among Member States on the other resulted in a compromise. Facing the risk of the international community losing influence in Kosovo after the UDI, the EUMS agreed to support a technical mission.⁷⁰⁸ The consensus on this was, however, decoupled from the status question. The non-recognising states would therefore support the mission but not change their position on Kosovo's status. The new mission would be operating under UN Security Council Resolution 1244. The approach of the EU mission would therefore be 'status neutral': it would provide technical assistance on establishing institutions and the rule of law without affecting the status of Kosovo, to some extent similarly to the original mandate of UNMIK.⁷⁰⁹ Already during the Troika negotiations this process was initiated by states who were likely to not recognise Kosovo, mainly Slovakia had advocated this approach.⁷¹⁰ The development of this solution was finalised just weeks before the UDI in February 2008.⁷¹¹

This status neutral approach of the EU also became evident in the Council of Ministers declaration following the UDI, which stated explicitly that recognition was a matter

⁷⁰⁷ Economides and Ker-Lindsay (2012) p. 502.

⁷⁰⁸ Ibid, p. 503.

⁷⁰⁹ Papadimitriou and Petrov (2012) p. 758.

⁷¹⁰ WikiLeaks (2007j) 'FM Kubiš on Kosovo, missile defense, CFE, Afghanistan', US Embassy Bratislava, reference ID 07Bratislava527, 18 September 2007 (last accessed 25 September 2016) discussed in more detail in Lezová, K. (2013) *The Influence of Domestic Political Factors on Foreign Policy Formation in an EU Member State: The Case of Slovakia and the Kosovo Status Process*, Thesis submitted for the degree of Doctor of Philosophy, Department of Politics, Goldsmiths College, University of London, p. 163; See Lezová (2013) for a more detailed discussion on Slovakia's position on Kosovo.

⁷¹¹ European Union (2008a) 'COUNCIL JOINT ACTION 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO' Official Journal of the European Union, 16 February 2008, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:042:0092:0098:EN:PDF> (last accessed 25 September 2016).

for each EUMS to decide.⁷¹² UNMIK would also continue to be deployed in Kosovo, although in a reduced capacity. The EU mission was also endorsed by the UN Secretary General. He reported to the Security Council throughout the year on the European Partnership Action Plan between the UNMIK and the EU and the intentions of the EU to deploy the mission. In November 2008 the President of the Security Council accepted this deployment and collaboration with the EU.⁷¹³

Thus, the process focused efforts of the Troika chair to emphasise that all options had been explored allowed for enabling the EU mission despite disagreement on Kosovo's status. Among EU Member States was a commitment to the involvement of the EU in Kosovo and the risk of losing its central role would have had also affected the EU's position in the Western Balkans generally. As discussed in Chapter Two, in this period, so-called enlargement fatigue had begun among Member States, however the Council and Commissions had continued with a significant presence in the region overall and the prospect of EU enlargement was considered the key incentive for progress in negotiations on policy reforms. The dispute over the Kosovo status risked escalating this division even further, however the division of the issues of status and EU mission assured greater EU intervention. For the Troika, the division among EUMS was evident from the start and, as described above, the aim of the process was to gain as much support as possible from member states, although a consensus was unlikely to be reached. For Germany, a common EU position was essential due to domestic pressure. Below, I will now discuss how the outcome of the Troika, without an

⁷¹² European Union (2008b) 'Council Conclusions on Kosovo' 2851st External Relations Council meeting, Brussels, 18 February 2008, available at http://www.eu2008.si/si/News_and_Documents/Council_Conclusions/February/0218_GAERC5.pdf (last accessed 25 September 2016).

⁷¹³ United Nations (2008a) UN Security Council Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo S/2008/211, 28 March 2008; United Nations (2008b) UN Security Council Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo S/2008/354, 12 June 2008; United Nations (2008c) UN Security Council Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo S/2008/458, 15 July 2008; United Nations (2008d) UN Security Council Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo S/2008/692, 24 November 2008; United Nations (2008e) UN Security Council, Statement by the President of the Security Council S/PRST/2008/44, 26 November 2008.

agreement among the conflict parties, nor a new UNSC agreement or EU consensus, was perceived.

4.5 The German domestic position during the Troika negotiations

In the Bundestag debate prior to the Troika process most political parties had insisted on a new Security Council resolution on the status before a recognition and for a united EU position. For some parties, especially the Social Democrats, it was important to keep Serbia engaged in the process and to provide inclusive negotiations. As the Troika negotiations proceeded and a clear position from the Security Council or the European Union became less likely, it was the Troika who had to communicate the difficulty of reaching an agreement to the Members of the Bundestag.

Coalition and opposition parties had called for a multilateral settlement, ideally backed by the UN SC. This had not been achieved and therefore the reality of Germany having to take a position, despite the unresolved issue, became clear. The Troika had to demonstrate that it had, indeed, used all possible multilateral avenues to reach a solution, reiterating the ‘no stone left unturned’ motto. This was particularly necessary to hold the grand coalition together. The coalition parties had been divided over what kind of multilateralism was sufficient to legitimise a decision to support an independent Kosovo. Whereas for the CDU, the long standing involvement of the international community and the collaboration with key western allies was sufficient, the SPD sought a more inclusive approach so as to not alienate Russia and Serbia. This tension links back to the question of what kind of multilateralism Germany should pursue and the changing nature of multilateralism among western allies, as discussed in Chapter 2. To some extent, the Troika had to persuade parliamentarians, especially from the SPD and the opposition parties, that an acceptance of a UDI would not resemble, to use von Oudenaren’s term, ‘dysfunctional multilateralism’.

Unity in the coalition had to be reached before Germany could make a commitment to support the UDI. The military intervention in Kosovo in 1999, agreed by a CDU-FDP government and executed by its SPD-Green successors, remained a controversial policy. Thus, in the aftermath, parliamentarians and policy makers sought to

demonstrate an approach that was inclusive of all parties in the Kosovo conflict. After the failed multilateral efforts and deadlock on the issue, German political parties had to justify and rationalize moving on without a multilateral consensus.

In its plenary session, the Bundestag did not discuss the Troika negotiations as they unfolded. However, Ischinger regularly met the Foreign Affairs Committee and specific political parties throughout the process. Based on reports from the EU delegation, the responses from the German parliament were quite supportive of the efforts made by the Troika. This included the opposition parties, the Greens and Free Democrats. The Troika delegation continued to brief political parties regularly and met specifically with the Social Democrats due to their role in the government coalition. In late November 2007, it became evident that the concerns of the political parties had been responded to sufficiently and that, although not enthusiastically, independence for Kosovo could be accepted. Here, it was essential that the Troika chair had engaged with the German political parties that had expressed concerns, thus demonstrating that all possible options in the eyes of the negotiator had been explored and that there was no viable alternative. The outcome convinced most of those who had originally been critical of a UDI, except for Die Linke,. Nonetheless, the debate demonstrated how the decision to recognise remained a difficult one for all parties and the justifications provide evidence on the changing approaches towards German multilateralism among some parties.

4.5.1 Position of Political Parties in the *Bundestag* after the Troika process

Once the negotiations were considered to have failed, the debate returned to the *Bundestag*. A shift in the positions of the parties in relation to a possible UDI became evident as most parties approached the question then in a different light. The speakers of the coalition parties made many references to Ischinger's efforts, often stressing that 'every possibility had been exhausted'. Chancellor Merkel, in her speech on the 28 November, emphasised the difficulty of the new situation, a lacking EU consensus and deadlock between the two conflict parties, and the importance for a European solution. Similarly, Foreign Minister Steinmeier emphasised that Germany had played

an essential role in the EU, both when holding the presidency and then in the Troika. He also stressed the incompatibility of the US versus Russian positions and the importance of encouraging the conflict parties to keep peace in the region.⁷¹⁴ His party colleagues emphasised the leading role of the EU in the conflict and the importance of bringing peace and a European solution after the conflict parties and the international community had failed.⁷¹⁵

The narrative from the Social Democrats turned, therefore, towards managing this moment of crisis in which the talks had yielded no result and the conflict between Serbia and Kosovo remained. To resolve this dilemma, SPD parliamentarians emphasised the role of the European Union. The underlying expectation was that greater integration of the Western Balkan region into the EU would provide incentive for Belgrade and Pristina to co-exist peacefully, and the Kosovo conflict could be resolved.

The foreign policy speaker for the Christian Democrats, Andreas Schockenhoff, quoted Javier Solana, saying that a unilateral declaration would ‘not be the end of the world’. Ultimately, the Christian Democrats stressed that there was no viable alternative to independence and that independence would be ‘supervised’. The CDU accepted *sui generis* as a clear justification and as a response to the legal question.⁷¹⁶

Thus, within the government coalition parties the position towards recognising a possible UDI changed considerably in the public debate. The Christian Democrats had previously always pushed for the greater involvement of Germany and for a swift end to the negotiations. They had previously also supported a new UN Security Council resolution. The Social Democrats had to accept that a solution involving Russia was not going to be possible and that the alienation of their Serbian partners in the Social

⁷¹⁴ Deutscher Bundestag (2007e) Plenarprotokoll 16/132. Stenographischer Bericht. 132. Sitzung 16. Wahlperiode. Berlin, 12 December 2007, p. 13578.

⁷¹⁵ Deutscher Bundestag (2007e) p. 13817.

⁷¹⁶ Deutscher Bundestag (2007e) p. 13581.

Democrat sister party, DS, would have to be contained through promises of European integration.

From the opposition the Green party highlighted the pressure on the negotiations by both the US and Russia and emphasised the role of the EU and the need for a more united EU foreign policy on Kosovo as an absolute priority.⁷¹⁷ The Free Democrats raised legal concerns on the hand over from UNMIK to an EU mission without a new UN resolution. While this party was in support of greater EU involvement, it also called for clarity and transparency in this process.⁷¹⁸ Die Linke continued to accuse the Christian Democrats of supporting violations of international law by supporting a unilateral independence.⁷¹⁹ Thus, the opposition parties, while in principle supportive of a greater role for the EU (particularly the Free Democrats had pushed for this), raised legal concerns. It was essential to the opposition that although there may not be unity on the status question, the EU would need a clear mandate for its mission.

A role for the EU had been essential for German parliamentarians in the management of the conflict. In previous debates, a common EU position on the status and the role of a future EU mission were conditions for the involvement of Germany in the Kosovo conflict. The EU's disunity on the status question represented a particular obstacle for German politicians and the AA. For Ischinger personally, the fact that the non-recognisers had come to their positions due to domestic issues and not because of the conflict in Kosovo, made disagreement on status acceptable.⁷²⁰ The hope was that this would allow some form of compromise between Serbia and Kosovo rather than leading to new stalemate in the EU.⁷²¹ Ultimately, the EU Troika delegation members realised that an EU consensus may be approaching, but was still not possible within the given timeframe of 120 days. Simultaneously, German parties became more

⁷¹⁷ Deutscher Bundestag (2007e) p. 13575 and p. 13809.

⁷¹⁸ Deutscher Bundestag (2007e) p. 13082.

⁷¹⁹ Deutscher Bundestag (2007e) p. 13583.

⁷²⁰ Comments to the author, interview with Ambassador Wolfgang Ischinger, February 2015.

⁷²¹ Ibid.

understanding of the situation among the political parties.⁷²² From the perspective of the AA, the disagreement at EU level became acceptable once it was, in the words of one interviewee, ‘no longer harmful’. As long as there was a solid majority agreement internationally and agreement with key partners, such as the United States, Germany was able to move forward and recognise the contested UDI.⁷²³

Within the Green party it became evident after the Troika negotiations that there were some concerns regarding the process pursued by the EU in light of the lack of legal clarity over the possible status of an EU mission and recognition of independence. A travel report by two Green Party MdBs who went to Pristina and Belgrade in December 2007 stressed the importance of the role of the EU in leading the process of independence and that neither the influence of Russia or the United States should stop the EU from doing so. Thus, there was a sense of inevitability in regards to independence. However, there were severe concerns in regards to the potential response from Serbia. While the MdBs appeared assured that there would be no military response, issues such as the cutting off of energy or water supply to Kosovo, attacks towards the Serbian minority in Kosovo or increased nationalism in the upcoming Serbian elections were of great concern. Trust in Serbian political parties does not appear to have been particularly strong. In meetings with the opposition and civil society, the coalition parties DS and DSS, who participated in the negotiations, have been described mainly as instrumentalising the Kosovo question for party political purposes.⁷²⁴

In the period between the end of the Troika talks in December 2007 and the declaration of independence in February 2008 the opposition parties brought the Kosovo status

⁷²² Comments to the author, interview with member of EU Troika delegation, phone interview, October 2014.

⁷²³ Comments to the author, interview with a former Political Director of the German Foreign Service, phone interview, October 2014. 21 EU Member States are cited as necessary for Germany and the United States to go ahead with a UDI in WikiLeaks (2007k) ‘Assistant Secretary Fried’s Conversation with National Security Adviser Heusgen’ US Embassy Berlin, reference ID 07BERLIN1943_a 2007 (last accessed 25 September 2016).

⁷²⁴ See Annex III Travel Report of German Green Party Members of the Bundestag to Serbia and Kosovo December 2007.

issues back on the agenda of the *Bundestag* as independence became imminent. The questions raised by the Free Democrats focused on the validity of UNSC Resolution 1244 after a possible independence.⁷²⁵ The Green party expressed concern about a German recognition without the safeguards provided in the Ahtisaari Plan on the protection of minority rights and without the control of an EU mission. The disagreement within the Council was therefore considered a risk to the stability of a future independent Kosovo.⁷²⁶

4.5.2 Germany's position on the Troika

During the Troika negotiations, the German foreign office considered possible responses from the German government toward the UDI. Although the pressure from some EU partners and the US was strong, the Troika team and the foreign ministry still believed that there was a genuine possibility of solving the conflict without a unilateral declaration and that this was a worthy effort to pursue. However, as the process appeared to fail to deliver on the resolution of the conflict or an agreement at UNSC or EU level, the AA had to prepare for alternative solutions. Within this process, managing the political backlash domestically and internationally was the priority and this was also reflected in the work of the Troika. The arguments from those states opposing independence were framed in a legal context as well as with political reasons. As discussed in Chapter Two, Germany's participation in contested multilateral action was often challenged legally by Die Linke, and also by sections of the Social Democrats, particularly in regards to the use of force.

4.5.3 Final *Bundestag* debate on Recognition

The parliamentary discussion on the recognition of Kosovo followed the cabinet discussion on recognition on 20 February 2015. The act of recognition, as mentioned previously, did not need an approval from the *Bundestag*, hence the discussion was

⁷²⁵ Deutscher Bundestag (2008a) Schriftliche Fragen mit den in der Woche vom 21. Januar 2008 eingegangenen Antworten der Bundesregierung. Drucksache 16/7892. 16. Wahlperiode. 25 January 2008.

⁷²⁶ Deutscher Bundestag (2008b) Plenarprotokoll 16/141. Stenographischer Bericht. 141. Sitzung 16. Wahlperiode. Berlin, 13 February 2008, p. 4831.

simply an ‘Aussprache’, or debate, on the topic. Nonetheless, this debate received significant attention from most parties, highlighting key aspects with which most parliamentarians struggled, and conflicts between party lines became evident.

The most striking aspect of the debate is that no party referred to the independence of Kosovo as a success. All parties, including the coalition, used cautious language, and referred to specific legal or political concerns that each party had expressed previously. The debate between parties erupted, however, mostly on discussion of past party relationships with the Milosevic regime versus the involvement of the NATO operation in 1999. The debate, thus, highlighted how each party presented itself in regards to their foreign policy outlook, in relation to the issue of self-determination and the contested statehood of Kosovo.

The declaration by foreign minister Steinmeier on the recognition of Kosovo, which had just been decided in a cabinet meeting, was strikingly different from the positive announcements from fellow Quint countries. Introducing the debate to the floor of the Bundestag, his speech was full of caveats referring to the fact that the declaration of independence had not been welcomed by all and emphasising again the 9 years of international efforts for reconciliation. He also highlighted the agreement on the EULEX mission as a success for the 27 member states. The main reason he cited for Germany’s recognition was the need for rule of law and stability in the region. He also referred directly to the Russian leadership and emphasised the German role in establishing and leading the Troika negotiations.⁷²⁷ Steinmeier received support along the same lines from Social Democrat MdBs, who acknowledged the particular difficulty of the decision for the government and the importance of striving against instability in the region. They also supported the *sui generis* approach to the case and the importance of acknowledging the human suffering of Kosovans under Milosevic. One MdB also expressed regret for the Serbian leadership and acknowledges the role in defeating Milosevic, while at the same time accusing the Die Linke of engaging

⁷²⁷ Deutscher Bundestag (2008c) Plenarprotokoll 16/144. Stenographischer Bericht. 144. Sitzung 16. Wahlperiode. Berlin, 20 February 2008, p. 15189.

with Milosevic during the war.⁷²⁸ This was also an occasion for the Social Democrats to distance themselves from the position of Die Linke and to explain previous position in which the SPD had appeared to be defensive of the Serbian government. Die Linke had rejected the German Kosovo policy since the 1990s, always insisting on the principle of the territorial integrity of the FRY and they continued to do so now regarding Serbia on the question of recognition. The Social Democrats accused Die Linke then of having an unreasonable policy of appeasement toward the Serbian leadership both during the Milosevic regime and again in regards to the recognition. Despite their closer relationship with the Serbian leadership and unease about the UDI, the Social Democrats thus argued for the recognition, demonstrating a pragmatic approach and commitment to the EU and European integration.⁷²⁹

The response of the Christian Democrats was more diverse than that of the Social Democrats. Speaker on Foreign Affairs Andreas Schockenhoff presented open support for recognition that was far less apologetic than Steinmeier's speech. He restated all the reasons for accepting the *sui generis* case, the exhaustion of negotiations and the importance for economic and political development in the region. Most interestingly, Schockenhoff, however, referred back to the term coined by the Ahtisaari Plan on the 'supervised' nature of this independence, arguing that Kosovo had not been given full independence.⁷³⁰ His party colleagues provided a slightly different analysis, emphasising the influence of the United States, which according to MdB Gunther Krichbaum made independence inevitable, and the difficult position of the current Serbian leadership and the need for a vision of Serbia in Europe.⁷³¹ Before the Troika negotiations, the CDU had accepted that there would not be a resolution between Pristina and Belgrade but had insisted on a new Security Council Resolution to enable the Ahtisaari Plan. After the Troika talks, the party embraced the concept of *uti possidetis* instead. The concept had become predominant among the Quint members and had also been increasingly used by the EU. Overall, within the Christian

⁷²⁸ Ibid, p. 15198 and p. 15197.

⁷²⁹ Ibid, p. 15189.

⁷³⁰ Ibid, p. 15193.

⁷³¹ Ibid, p. 15199.

Democrats there were also different degrees of confidence in supporting the legally controversial justification of *sui generis* as well as concerns about the political future of the Western Balkans.

A few months earlier the Greens had requested clarification from the government on the legality of recognition in case of disagreement among EU members. Within the party there was strong support for independence. The speaker Jürgen Trittin referred to this as he argued that the recognition was inevitable, that personally he did not welcome it but that his party strongly supported the decision of the government. Both he and the second Green party speaker on the issue, Marieluise Beck, attacked Die Linke accusing them of not acknowledging the atrocities committed by the Milosevic regime.⁷³²

Also, the Free Democrats expressed concern about the UDI, as well as the internal problems of Kosovo and the risks that laid ahead. Quite openly, Werner Hoyer MdB argued that for the FDP this recognition was very difficult and highlighted the mistakes that were made in relation to calculating Russia's behaviour in relation to Kosovo.⁷³³

Die Linke continued to reject the process through which Kosovo was becoming independent, citing legal concerns. Moreover, it disapproved of how the concerns of EUMS that did not recognise Kosovo had been dismissed. It further highlighted the democratic process in Serbia in contrast to the weak state, which it claimed Kosovo would become. Finally, it rejected the legal basis of the EU mission and thus the deployment of German personnel which would form part of it. Therefore, it decided to bring a case against the mission to the constitutional court.⁷³⁴ Thus, Die Linke continued in its complete rejection of the recognition, calling it a continuation of the violations of international law that had begun in the Kosovo war or 1999. It also rejected any claims that the recognition would assist the building of a democratic or

⁷³² Ibid, p. 15203.

⁷³³ Ibid, p. 15191.

⁷³⁴ Ibid, p. 15200.

multi-ethnic state in Kosovo instead arguing that the democratic government of Serbia had been undermined.

Table 3: Overview of political party positions on the question of Kosovo status, based on the recognition debate 20 February.⁷³⁵

	CDU	SPD	FDP	Greens	Die Linke
Ahtisaari	Acceptable	Acceptable	Acceptable	Acceptable	Not acceptable
UDI recognition	Acceptable	Acceptable	Acceptable	Acceptable	Not acceptable
EU unity	High priority	High priority	High priority	High priority	Not mentioned
General positions/ concerns	Independence must be supervised; UDI only remaining option;; Kosovo is a sui generis case.	Sui generis case of Kosovo, no other solution on the table.	Local institutions. Commitment to EU protectorate	Accept independence , concerns about process undertaken by the EU possibly undermining democratic structures and international law.	Reject recognition. Concerns regarding the legality of NATO presence and independence

The positions of the parties in the Bundestag demonstrate a variety of hesitations in regards to the UDI. For the Social Democrats, these stemmed mainly from uncertainty regarding the legal perspective, as well as the failure to find a solution with Serbia. The Christian Democrats expressed similar concerns but stressed particularly the need for a supervised independence with significant international participation. Even for the Green Party, who had supported Kosovan independence in the early 1990s, the recognition was perceived as controversial due to the breakdown in multilateral

⁷³⁵ Deutscher Bundestag (2008c) Plenarprotokoll 16/144. Stenographischer Bericht. 144. Sitzung 16. Wahlperiode. Berlin, 20 February 2008.

negotiations. The Free Democrats, who for a long time had advocated an EU protectorate in Kosovo, lamented the breakdown in international negotiations and had to come to terms with a lack of EU consensus. The breakdown in multilateralism was the greatest disappointment for the German parties.

As discussed in Chapter Two, German action remained tied to multilateral organisations. Even in the case of the Kosovo war of 1999, there was no support from the UNSC but NATO and the EU were united in the military intervention. Even the case of the early recognition of Croatia in 1991 by Germany which raised questions about its multilateralism after unification, resulted eventually in the EU joining in the recognition and Croatia becoming a UN member state. Thus, the failure to reach consensus among the conflict parties, the EU or the United Nations Security Council in the case of Kosovo's status was not easily compatible with German foreign policy. Trust in the Troika process was very important in allowing the parties to accept a UDI despite their reservations. The impression among the parties was that the United States had exerted significant pressure on Germany and Europe to recognise. The efforts of Ischinger to find a compromise were thus welcome. The approach of the German-German solution resonated particularly well, as it had represented for German policy makers the solution to the greatest stalemate in German foreign policy history. Once even this approach had been rejected, the parties accepted that everything had been attempted and Germany had to take a stand on the Kosovo question.

An interesting dynamic appears to have developed in which, despite the breakdown of all trusted multilateralism efforts and institutions, German parliamentarians considered the Troika - led by Ischinger and with an approach defined by a German logic towards multilateralism – to be familiar and trustworthy. The failure of Ischinger's approach was perceived to be caused by the various deadlocks at the international level. The sense of ownership that German Parliamentarians had developed toward the European integration process of the Western Balkans, which had been largely initiated by Germany, also provided confidence that the continuation of this process would eventually resolve the differences among EU members and between

the conflict parties. Those parliamentarians that had previously called for greater multilateralism, and then accepted that no resolution had been found, still advocated for a multilateral solution in the longer term. All parties, apart from Die Linke, had been involved with the military intervention in Kosovo, either by approving it or by executing it. The intervention had been controversial even within those parties. In their speeches in the final discussion of Kosovo's status, the SPD and the Greens responded to criticism from Die Linke, which had made a direct link between the lack of legitimacy of the Kosovo war and recognising the UDI. The parties stressed the violations of the Milosevic regime and the need for international intervention, and accused Die Linke of having been complacent and acting as an apologist for human rights abuses. Thus, they recalled the justification of 'never again' that had been used in the Kosovo war, and while they did not explicitly justify recognition because of human rights abuses, they reject the narrow legalistic critique and interpretation of multilateralism by Die Linke.

Striking are also the justifications for Kosovan independence provided in the debates in the Bundestag. All parties, except Die Linke, acknowledged the desire for independence due to the human rights violations by the Milosevic regime.⁷³⁶ There was no reference to a universal principle of self-determination, as it had been in the case of Croatia or in the early 1990s in reference to Kosovo. Instead there were frequent references to the need for Kosovans to leave the Serbian state due to a breakdown in trust. Despite the stalemate between Pristina and Belgrade as well as the disagreement in the EU, the parties still stressed EU integration to be the long term resolution for the region and to improve relations between Pristina and Belgrade.⁷³⁷ The justifications for the independence were therefore mostly aligned with the *sui generis* argument; the particular recent historical experience for Kosovo of prosecution justified its wish for independence. The conventional international legal approach towards claims of self-determination based on the persecution of minorities allows for

⁷³⁶ for example, Ibid, Krichbaum MdB (CDU) p. 15199 and Marie Louise MdB (Greens) p. 15202.

⁷³⁷ Kolbow MdB (SPD) Schockenhoff MdB (CDU) Hoyer MdB (FDP) in ibid p. 15198-9.

some intervention by the international community.⁷³⁸ However, in the case of Kosovo the argument from those opposing recognition was that the new government could not be held accountable for the actions of the Milosevic regime and that it was not persecuting the Albanian population. The *sui generis* argument was contested by Die Linke and initially also by sections of the Social Democrats. However, its was gradually embraced by all parties.

4.6 Conclusion

In the introduction of this thesis I discussed how the speech of German Foreign Minister Steinmeier on the recognition of Kosovo was full of caveats and hesitations.⁷³⁹ For Germany, the lacking agreement between the conflict parties, the split among EU members and the deteriorated relationship with Russia were all opposite to the hopes expressed by the government and MdBs during the ongoing negotiations. Nonetheless, Germany did recognise Kosovo's UDI. In this chapter, I traced Germany's position from the Ahtisaari process, through the summer of 2007 and the Troika negotiations, until German recognition in February 2008. In the process of moving toward the recognition of Kosovo, this period shows a significant shift in the domestic position at parliamentary level while within ministerial circles recognition was considered a more likely outcome from the start of that period.

In this period can be seen the continued German multilateral engagement on the question of recognition both internationally and at EU level. As described in Chapter Three, Germany held the EU presidency just prior to the Ahtisaari process and had been involved in the first attempts at finding a consensus among Member States. Previously, also at international level, Germany had been a member of the Contact Group. Through the appointment of German Ambassador Wolfgang Ischinger as Chair of the Troika, Germany took a central role in the negotiations. This position allowed the negotiator as well as the political leadership in the foreign ministry to change

⁷³⁸ See Åland Islands and Quebec case discussed in Chapter One, 1.3.1 Internal and External Self-Determination.

⁷³⁹ See Introductory chapter of this thesis.

aspects of the previous international negotiations, which they believed had contributed to the failure of the Ahtisaari process. Thus, the central outcome of the Troika negotiations was to create more trust in the international process. This delaying tactic was acceptable to the US and Russian positions, although for different reasons. Germany however, also intended to discuss alternative proposals to make sure that all possible options had been considered by the Troika and the conflict parties.

The recognition by Germany was ultimately a decision within the cabinet. However, the engagement of domestic political and EU actors demonstrates the multifaceted implications recognition of a new state had for the German government. I do not argue that Germany was unique in this regard. However, Germany took a leading role in comparison to other Member States and Contact Group Members. This allowed for greater influence in the domestic discussion in regards to the German position. Therefore, this chapter has highlighted the shift in the German position at party political level as exhibited in parliamentary debates. Here, particularly the shift in the position of the speeches in the *Bundestag* from the end of the Ahtisaari process and the debate in regards to the recognition are particularly striking. While in the summer of 2007 all parties expressed concerns about considering a possibly unilateral declaration of independence, by February 2008, all but Die Linke accepted such a move. Those recognising still made qualifying comments, such as desiring a ‘supervised’ independence, accepting that the UDI was not ideal, and accepting that much progress would be needed for democratisation in Kosovo and Serbia. However, the ‘no stone left unturned’ approach of the Troika had a significant influence on this outcome. Ischinger attributed this change particularly to his efforts and to the German coalition government in demonstrating that all possible options had been discussed and that the new stalemate was no longer tenable or could not be resolved from the conflict parties. The Ahtisaari process had been criticised for not taking the Serbian side sufficiently into consideration, and the Troika process was to remedy this distrust in the international community. Among the different proposals discussed at the Troika talks was the AA’s German-German proposal, which was considered domestically in Germany to be a constructive and promising solution. It is striking however that for the conflict parties this proposal did not represent a desirable solution. Because this

proposal also failed, the international level negotiations were presented to the domestic constituency to have arrived at a final stalemate. The situation was also framed as polarised between, on the one hand, the promise for independence by the United States and, on the other hand, the denial of cooperation from Russia. Some political parties, including the Social Democrats, the Greens, and Die Linke had argued for greater engagement with Russia before the Troika process. However, the Troika efforts were considered by the majority of the parties to have shown sufficient good will to reach a resolution. Therefore, the failure to reach a new Security Council resolution or achieve Russian support for a UDI was accepted domestically.

A united EU position on the status question had also been a key requirement for most German political parties. Similarly to the German situation, in many other EUMS the continued efforts by Ischinger within the space between the polarised positions of the US and Russia led many to agree to a recognition as the only way out of the stalemate. This increased the number of recognising states considerably to twenty-two. The justification of the five non-recognisers (Cyprus, Greece, Romania, Slovakia and Spain) were accepted as domestic political issues based on domestic secessionist movements. The non-recognition was thus not based on a conflict of these member states with Kosovo. Hence, the disagreement on the status was acceptable for most political parties in Germany. Nonetheless, the Green Party, although very supportive of recognition and the role of the EU in the Western Balkans, raised several concerns about the legality of the process.

Ultimately, the extension of the Kosovo status negotiations through the Troika did not satisfy the two conflict parties or the UN Security Council; it satisfied the EU only partly but sufficiently to bring full agreement within the German government and a large majority in the Bundestag. External pressures, such as strong US support for Kosovan independence, or the ongoing preparation for an EU mission, which had been prepared with the expectation of a successful Ahtisaari process, and the possibility of a powerless UNMIK in a new Kosovan state, raised too many potential security risks.

The independence of Kosovo was directly linked to the EU rule of law mission and the wider EU enlargement to the region. The influence the EU was to have in the future was considered fundamentally beneficial to Kosovo. In Germany, most parties, except for Die Linke, saw the EU as a good force for development and stability in the region. Even those for parliamentarians who supported the independence most openly, mainly the CDU, the supervised aspect of the independence was very important. A leading role for the EU in Kosovo was considered a guarantee for peace prospects.

In Chapter Two discussed the debate in the literature on Germany's multilateralism and approach to EU foreign policy.⁷⁴⁰ Authors have argued that Germany was increasingly less likely to 'participate in long winded negotiations' to reach a consensus within the EU. It is noteworthy that in this case the call for longer negotiations was supported strongly by the Germans, despite facing opposition from other Quint members. This commitment to longer negotiations was due to the disagreement on status at domestic, EU and international level. Since the international level and EU disagreements were not fully overcome but agreement was achieved domestically, it could be argued that domestic disagreement was the main incentive for the German government and that at multilateral level the support for independence was considered 'sufficient'. The length of these negotiations can be understood as an attempt to re-engage with those who were not in agreement with the UDI, under pressure of recognition from the United States. Within the Troika, Germany did encourage the discussion of a variety of different proposals. However, its main proposal of the German-German treaty model would have not represented a departure from enabling independence *per se*. Instead it would have been a way to allow Serbia to remain engaged with the international community. Thus, Germany saw a contested UDI as the most likely outcome and worked towards promoting domestic acceptance of this reality. The AA was open to consider alternative options but these would have had to be accepted by all parties involved.

⁷⁴⁰ See particularly 2.5.3 Continuity or Change? The Academic Debate on Intervention and Multilateralism in German Foreign Policy

In this chapter I have traced the development of the German position towards the recognition of the unilateral declaration of independence of Kosovo. In Chapter One, I identified three aspects for the consideration of the case of Germany's recognition of Kosovo based on the literature on Germany's early recognition of Croatia: Firstly, the German domestic approach towards self-determination, secondly, Germany's understanding of the conflict and, thirdly, the multilateral role of Germany in the process. In Chapter Three and in this chapter, it became evident that, firstly, the argument of self-determination was not brought forward by domestic German actors, and, secondly, the interpretation of the conflict was a stalemate between two conflict parties. The Serbian government of the time was not considered an aggressor as Milosevic had been earlier in regards to Kosovo and in the case of Croatian independence. Finally, Germany's multilateral role was perceived as collaborative by its closest partners and the conflict parties. The following concluding chapter will bring this empirical evidence into the overall context of this thesis, which aims to consider the recognition within the concept of recognition as an interventionist act. Here, I will discuss in more detail the use of recognition by the German government for conflict management. I will discuss particularly Germany's approach to multilateralism and intervention and its role in EU foreign policy.

Conclusion

This thesis has demonstrated that Germany was hesitant to recognise Kosovo due to domestic divisions and the unease about the international division over the status. Germany recognised Kosovo due to its long-standing involvement in the intervention in the conflict and due to concerns that an unresolved status would bring greater instability to the Western Balkans. Since the conflict had not been resolved after many years of international involvement, Germany's recognition was built on a rationale of continued conflict management and expectations of an increased role of the European Union in this process. EU accession prospects were to contain the conflict and avoid escalations. However, German parliamentarians were clear that a resolution of the conflict was not considered possible without a significant shift in the position of the conflicts parties.

Germany's decision to recognise Kosovo was taken amidst international controversy. Although Germany had been a leading actor in the negotiations on Kosovo and in EU policy towards the Western Balkans, domestic positions in Germany were split over the status issue. In the early 1990s Germany's early recognition of Croatia and Slovenia had resulted in significant criticism of its policy and led to a backlash from its close allies, thus making recognition politics in Germany particularly controversial. In the case of Kosovo, Germany did not stand out in the same way it had in the case of Croatia. Instead, it had become a central actor in the international negotiations and a mediator between different actors across the divide over the Kosovo status. Germany appeared as a different international actor, with a new standing in its multilateral alliances, but nevertheless still battling tensions within its domestic foreign policy orientations.

For the purpose of this research the status question for Kosovo was considered as part of the dissolution process of Yugoslavia. At the beginning of this process in the 1990s, the recognition of Croatia was interpreted by Caplan and Zaum as an intervention to manage the conflicts in the former Yugoslav republic. This interpretation of recognition focuses on the political and power relationships between recognising states

and the seceding territory. Caplan argued that in the case of Croatia the rationale behind recognition was to internationalise the conflict and to introduce conditional recognition. Germany's role in this recognition policy towards Croatia, particularly in regards to internationalising the conflict, had been central. This thesis aimed to identify whether such a rationale existed in the case of Kosovo and to what extent this informed Germany's policy.

The question of recognition by Germany was therefore approached from a foreign policy perspective. Here the Civilian Power characterisation of Germany as a foreign policy actor was particularly relevant. Within this description, Germany has been considered an intrinsically multilateral international actor with a commitment to international law and a reluctance to act unilaterally. Such an assumption of Germany as a foreign policy actor raised questions over Germany's use of recognition as a conflict management tool in a contested context such as Croatia and Kosovo. Therefore, by examining the recognition of Kosovo by Germany this thesis provided also an in-depth review of Germany as a multilateral actor in foreign policy generally and as an EU member in particular.

In this conclusion, I will combine the empirical findings from the process tracing of the German decision with the conceptual assumptions surrounding Germany as an international actor and the view of recognition as conflict management.

Recognition as Conflict Management in Kosovo

Based on the case of Croatia, the concept of recognition for conflict management was described as being built on two main elements: the internationalisation of a conflict and conditionality on the new state. This thesis has demonstrated that in the case of Kosovo that although the application of *uti possidetis* did not apply in the early 1990s new justifications were developed by recognising states and within Germany which also build on the logic of internationalisation. Furthermore, UN and EU conditionality towards Kosovo increased over the past two decades. The case of Kosovo also demonstrates the tension between the intensive involvement of the international

community since the Cold War on the one hand and the developing stalemate over the status question on the other.

Kosovo: *Post-Usi Possidetis*

The main controversy around the status of Kosovo arises out of its exclusion of the dissolution process of the Yugoslavia and the application of *uti possidetis*, and the difficulty in reaching consensus for new status in the aftermath. As discussed in Chapter One,⁷⁴¹ a claim for independence exists in the tension between the territorial integrity of a state and interpretations of the right to self-determination. In the case of Croatia, *uti possidetis* and conditionality were to balance these two principles by providing external self-determination based on previously existing borders and internal self-determination by imposing minority rights through conditionality. However over the following seventeen years, as internal self-determination provision for Kosovo were rejected by its population, support for external self-determination for Kosovo grew.⁷⁴² Thus new legal justifications to allow for a secession of Kosovo were developed, most prominently the *sui generis* argument, which was vehemently opposed by non-recognising countries as illegal. From this attempt to create a new legal framework, tensions emerged among recognisers and non-recogniser, which also affected Germany's foreign policy decision to recognise Kosovo.⁷⁴³

The Law and International Relations literature discusses different approaches to justify

⁷⁴¹ See Chapter One, 1.3. Territorial Integrity, Self-determination and Secession.

⁷⁴² An in-depth discussion of the legal concepts can be found in Milanovic, M. and Wood, M. (eds) (2015) *The Law and Politics of Kosovo of the Advisory Opinion*, Oxford: Oxford University Press; French, D. (eds.) (2013) *Statehood and Self-determination – Reconciling tradition and Modernity in International Law*, Cambridge: Cambridge University Press.

⁷⁴³ After the unilateral declaration of independence, the government of Serbia decided to go to the International Court of Justice seeking an opinion on the legality of the declaration, which was published in 2010, International Court of Justice (2010) Reports of Judgments, Advisory Opinions and Orders Accordance with International Law of the Unilateral Declaration Of Independence in Respect of Kosovo, Advisory Opinion of 22 July 2010 <http://www.icj-cij.org/docket/files/141/15987.pdf> (last accessed 25 September 2016). Thus some of the justifications either for or against recognition were developed and refined in greater detail after the declaration. See Milanovic, M. (2015) 'Arguing the Kosovo case' in Milanovic, M. and Wood, M. (eds) *The Law and Politics of Kosovo of the Advisory Opinion*, Oxford: Oxford University Press p. 21-22 for a detailed discussion. However, this chapter focuses primarily on the justifications used in the recognition by states at the time of the UDI.

Kosovo's independence. Justifications have included *sui generis*, 'earned sovereignty' and 'remedial secession'. The central justification for supporters of Kosovan independence was the '*sui generis*' argument, which saw Kosovo as a special case due to its recent history and, therefore, it would not provide a precedent for other cases.⁷⁴⁴ There are two sides to this argument: firstly, it seeks to place Kosovo in the post-Yugoslav recognition framework beyond *uti possidetis* and, secondly, it seeks to undermine concern that it may count as a precedent and cause a possible domino effect in the region and globally.

The origins of the argument of Kosovo as '*sui generis*' are difficult to identify but the concept was used increasingly after the Kosovo war of 1999 and the establishment of the UNMIK mission under UN resolution 1244, which established *de facto* UN governance of Kosovo territory. While the term may have been used informally by some diplomats and politicians, Martti Ahtisaari, the UNSG Special Envoy on the future status of Kosovo, publically referred to the case as *sui generis* from 2003 onwards.⁷⁴⁵ The term became central to the justification of recognition and in response to the UDI in 2008 the EU stated the following:

“The Council reiterates the EU's adherence to the principles of the UN Charter and the Helsinki Final Act, inter alia the principles of sovereignty and territorial integrity and all UN Security Council resolutions. It underlines its conviction that in view of the conflict of the 1990s and the extended period of international administration under SCR 1244, Kosovo constitutes a sui generis case which does not call into question these

⁷⁴⁴ Almqvist, J. (2013) The politics of recognition; the question about the final status of Kosovo, in: French, D. eds. (2013) *Statehood and Self-determination – Reconciling tradition and Modernity in International Law*, Cambridge: Cambridge University Press, p 195-186, p. 175.

⁷⁴⁵ Merikallio, K. and Ruokanen, T. (2015) *The Mediator: A Biography of Martti Ahtisaari* London: Hurst, p. 356; Summer, J. (2011) *Kosovo: A Precedent - The Declaration of Independence, the Advisory Opinion and Implications for Statehood, Self-Determination and Minority Rights*, Leiden, Boston: Martinus Nijhoff Publishers, p. 49; See also Weller (2009) p. 222 has also discussed the efforts by Ahtisaari and the Contact Group to bring the *sui generis* argument in and present it to Russia, which failed. This was discussed in detail in Chapter Three.

*principles and resolutions.*⁷⁴⁶

The use of *sui generis* is here particularly striking as the European Union was split on the status of Kosovo and although five member states (Cyprus, Greece, Romania, Slovakia and Spain) did not recognise Kosovo, they were still willing to support the use of *sui generis*.

In a detailed analysis of the recognition declarations, Almqvist outlines the arguments of those who recognised Kosovo. Strikingly, many states, including Germany, made a direct connection between an independent Kosovo and peace and security in the Western Balkan region. This shows that certain recognising states considered the recognition to be a tool for conflict management.⁷⁴⁷ Other states made a less explicit appeal to conflict management by arguing that the current *status quo* for Kosovo was untenable and hence independence was necessary to gain clarity and closure to the status limbo.⁷⁴⁸ Still other states made clear reference to the recognition of Kosovo as being part of the dissolution of Yugoslavia, thus representing the ‘closure’ of this process.⁷⁴⁹ Finally, some used the lengthy international negotiations and the failure to reach agreement to justify a new kind of settlement.⁷⁵⁰ The United States justified the *sui generis* argument particularly with the historical context, the ethnic conflict, and the long-term UN involvement.⁷⁵¹ Thus, conflict management considerations were central to the recognition justification for many states. However, the recognising states did not fully agree on a clear legal framework. Instead, recognisers used similar language, coordinated statements and similar arguments, often adapting these for their own position.⁷⁵²

⁷⁴⁶ European Union (2008b) ‘Council Conclusions on Kosovo’ 2851st External Relations Council meeting, Brussels, 18 February 2008, available at http://www.eu2008.si/si/News_and_Documents/Council_Conclusions/February/0218_GAERC5.pdf (last accessed 25 September 2016).

⁷⁴⁷ Almqvist (2013) p. 173. Refers to the declarations of Afghanistan, Germany, Japan, and France.

⁷⁴⁸ Ibid. Cites particularly Austria, Hungary and Luxemburg at this stage.

⁷⁴⁹ Ibid. The United Kingdom, Samoa and Albania are cited for this argument.

⁷⁵⁰ Ibid. p. 175. Germany, Hungary, Sweden, The United States, Canada, Colombia and France among others.

⁷⁵¹ Ibid.

⁷⁵² Ibid.

In the aftermath of the UDI, the legal implications of the new concepts and justifications were debated in the literature. *Remedial Secession* is one such concept. Bolton and Visoka have described this concept as involving the following justifications for recognition of independence:

*“a) violations of autonomy agreements by the host state; b) unjust annexation of territory; c) human rights abuses perpetrated by the host state; d) international intervention to mediate a status outcome; e) support of powerful countries; f) exhaustion of negotiations; [and] g) a commitment from the seceding entity to uphold minority rights.”*⁷⁵³

To some extent, the recognition of a territory that has experienced these from the so-called ‘parent state’ represents the non-recognition of this parent state and a sanction against such behaviour. Those who oppose the concept of remedial secession argue that while there should be a response to violations by a host state against the minority of its population, secession should not be the solution.⁷⁵⁴

A related approach is that of Earned Sovereignty, which places the onus on the seceding territory. The process to ‘earn’ sovereignty therefore goes via ‘shared sovereignty’, as, for example, with the governance of a territory under international supervision for a limited period; it would then be followed by a period of institution building and eventually a determination of the ‘final status’ of a territory.⁷⁵⁵ This

⁷⁵³ Bolton, C. and Visoka, G. (2010) Recognizing Kosovo’s independence: Remedial secession or earned sovereignty? *South East European Studies at Oxford, Occasional Paper No. 11/10* October 2010, p. 6.

⁷⁵⁴ This argument is discussed in detail by Del Mar, K. (2013) ‘The myth of remedial secession’ in French, D. eds. (2013) *Statehood and Self-determination – Reconciling tradition and Modernity in International Law*, Cambridge: Cambridge University Press, p. 79-108, specifically p. 107.

⁷⁵⁵ For a review on the literature on remedial secession and earned sovereignty see Bolton and Visoka (2010); Ker-Lindsay (2012) *The foreign policy of counter secession: preventing the recognition of contested states*, Oxford: Oxford University Press; French (2013); Vidmar, J. (2009) *International Legal Responses to Kosovo’s Declaration of Independence*, *Vanderbilt Journal of Transnational Law*, 42, 3, pp. 779–851; Roseberry, P. (2013) ‘Mass violence and the recognition of Kosovo: suffering and

development in the practice of recognition, but also in the justification of recognition, demonstrates a clear continued intertwining of attempts of conflict management and recognition.⁷⁵⁶

These concepts and justifications are however highly contested by those states who do not recognise Kosovan independence and reject arguments of *sui generis*, remedial secession or earned sovereignty. Those who opposed the independence refer to the UDI as illegal under International Law more generally, but particularly towards the territorial integrity of Serbia. Additionally, non-recognising states highlight the role of the United Nations but, unlike those who recognise Kosovo, they do not stress the presence of the UNMIK mission but rather focus on the need for unity in the Security Council. Finally, they reject *sui generis*, maintaining that it might still set a dangerous precedent for other independence movements.⁷⁵⁷

The recognisers and non-recognisers particularly contested the following: Firstly, the application of international law: those who recognised consider the question of recognition a so-called ‘grey area’ in law, which thus requires a more creative and flexible approach, such as by appeal to ‘*sui generis*’.⁷⁵⁸ Those opposing focused instead on the territorial integrity of Serbia and upheld this as the most fundamental legal principle, referring back to the framework agreed by the EU under *uti possidetis* in the early 1990s. Secondly, the multilateral aspect of the Kosovo issues: recognisers saw the UN’s involvement as diminishing Serbia’s *de facto* sovereignty over the territory. Those not recognising focused instead on the need for agreement by the P5 in the Security Council on the new status. Finally, the recognisers proposed the argument for using recognition as conflict management in the conflict to stabilise the region. On the other side, some non-recognisers criticised the geo-political intervention of Western states in the region.

recognition, *Europe-Asia Studies*, 65: 857; Wolff, S. and Rodt, A.P. (2013) Self-determination after Kosovo’ *Europe-Asia Studies* Vol. 65, No. 5, July 2013, 799–822.

⁷⁵⁶ Almqvist (2013) p. 177-178.

⁷⁵⁷ Ibid.

⁷⁵⁸ Ibid, p. 175.

In analysis of the EU's recognition of Croatia as conflict management, both Zaum and Caplan have highlighted *uti possidetis* and policy conditionality as two aspects that acted as means for conflict management. As I have demonstrated in the case of Kosovo, *uti possidetis* was not upheld but no new concept was agreed upon by the international community either. Alternative justifications were thus used by recognising states and included the involvement of the international community in the governance of the territory. These arguments show a continuation of the close connection of conflict intervention and recognition policy. Thus internationalisation in the case of Croatia was considered the means to allow for greater interventionism while in the case of Kosovo it was partly argued internationalising should be a consequence of the high level of interventionism. After having discussed the issue of conflict management through internationalisation, I will now turn to conditional recognition.

Conditionality and Recognition of Kosovo

In the process of the dissolution of the former Yugoslavia, the conditionality established by the Badinter Commission was central to the recognition policy of the EU as it used recognition to manage the conflict.⁷⁵⁹ Regarding Kosovo, conditionality became an even greater aspect of European policy and international policy towards statehood.

Since the 1990s, and particularly in the early 2000s, EU policy developed a dual strategy of state building and European integration. This involved a variety of international actors, not only the EU, and affected several countries in the region, including Bosnia and Herzegovina, Serbia and Montenegro, and Kosovo. Over the years, conditionality towards statehood had become tied to EU conditions for accession. Bieber has described this as a shift from direct to more indirect intervention

⁷⁵⁹ See Chapter One, 1.6.2 Conditional Recognition.

or ‘long-distance’ state building.⁷⁶⁰ This was possible as the EU linked statehood conditionality increasingly with EU accession promises.⁷⁶¹

The conditionality towards Kosovan statehood became most evident with the Standards before Status policy of the United Nations, which was supported strongly by the UN Security Council and the European Union. The UN Secretary General's Special Representative and the UNMIK mission oversaw the policy, which had eight key areas and a particular focus on rule of law and the building of democratic institutions.⁷⁶² The implementation of these standards was to be connected with the revision of the status of Kosovo and hence work as a conditionality for Kosovans.⁷⁶³ Zaum has referred to these practices as ‘state building without a state’. Although the future status of Kosovo was not determined, the standards became central to ‘state-building’.⁷⁶⁴ The Standards before Status policy failed, however, and the status question re-emerged.⁷⁶⁵ The UN led talks under Special Envoy Martti Ahtisaari resulted in the ‘Comprehensive proposal for the Kosovo Status Settlement’ in 2007.⁷⁶⁶ At the end of this process, Ahtisaari recommended a supervised independence for Kosovo. He also suggested specific provisions for governance, minority rights, political structure, the economy and security, all of which were very much in line with the more general standards and conditions put forward by the UN and the EU.⁷⁶⁷

The UN’s conditions were closely linked to the EU’s efforts in the Western Balkans as well. The EU’s policy and presence in Kosovo was also defined by its enlargement policy and conditionality. This had been initiated in the 2003 Thessaloniki Council,

⁷⁶⁰ Bieber, F. (2011) Building impossible states - State building strategies and EU membership in the Western Balkans, *Europe-Asia Studies*, Vol 63, no 10, December 2011, 1783-1802, p. 1791.

⁷⁶¹ Noutcheva, G. (2009) Fake, partial and imposed compliance: the limits of the EU's normative power in the Western Balkans, *Journal of European Public Policy*, 16:7.

⁷⁶² Ker-Lindsay (2009) p. 149. This policy was discussed in Chapter Three 3.7 The early UNMIK years.

⁷⁶³ Weller (2008) p. 19.

⁷⁶⁴ Zaum (2007) p. 127.

⁷⁶⁵ Weller (2008) p. 21.

⁷⁶⁶ United Nations (2007a) UN Security Council, Letter dated 26 March 2007 from the Secretary-General addressed to the President of the Security Council (Report of the Special Envoy of the Secretary-General on Kosovo's Future Status) S/2007/168, 26 March 2007.

⁷⁶⁷ Ibid.

which provided the Western Balkans with a ‘European perspective’, including Kosovo, in the ‘European Partnership’ for the Western Balkans and the EU Commission’s 2005 initiative of ‘a European future for Kosovo’.⁷⁶⁸ These established standards for Kosovo’s economic, financial, and institutional development, as well as for its integration in the wider region, were to give Kosovo a European perspective along with its regional neighbours under the Stabilisation and Association Process.⁷⁶⁹ Also, the EU’s increasing institutional presence prepared its clear state building role in Kosovo from the early 2000s onwards.⁷⁷⁰ The effectiveness of state building activities is beyond the scope of this thesis, however, the influence of the international community’s conditionality framework on an independent Kosovo was significant. This is also evident from the fact that some recognising states in 2008 stressed the supervised nature of Kosovo’s independence and the importance of the international presence in the state building of Kosovo.⁷⁷¹

The overall conditionality regime by the EU towards the Western Balkans has been described as highly interventionist by some authors.⁷⁷² An understanding of further European integration and its relation to conflict management has also been discussed by Belloni. He argues that managing the consequences of the Yugoslav war developed into management of integrating the Balkans and criticises the assumption of greater stability through integration.⁷⁷³ The EU policy to reduce and contain secessionism

⁷⁶⁸ European Union (2004) Council Decision of 14 June 2004 on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999 (2004/520/EC) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004D0520:EN:HTML>

(last accessed 25 September 2016); European Union (2005) EU Commission, Communication From The Commission, A European Future for Kosovo COM (2005) 156 Brussels, 20 April 2005, http://eeas.europa.eu/delegations/kosovo/documents/eu_kosovo/com_2005_156_en.pdf (last accessed 25 September 2016).

⁷⁶⁹ Ibid.

⁷⁷⁰ See Papadimitriou, D. et al (2007) To Build a State: Europeanization, EU Actorness and State-Building in Kosovo, *European Foreign Affairs Review*, 12, 2, 2007, pp. 331, 230 discussed in Chapter Three, 3.8 Violence of 2004 and Eide Report.

⁷⁷¹ Almqvist (2013) p. 176.

⁷⁷² Pippan, C. (2004) The Rocky Road to Europe: The EU’s Stabilisation and Association Process for the Western Balkans and the Principle of Conditionality, *European Foreign Affairs Review* 9: 219–245, p. 243.

⁷⁷³ Belloni, R. (2009) European integration and the Western Balkans: lessons, prospects and obstacles, *Journal of Balkan and Near Eastern Studies*, 11:3, 313–331, p. 319.

through *uti possidetis* and conditionality failed according to Biermann. He argues that secessionism has not been undermined by EU conditionality: while the EU has tried to make secessionism taboo, it has continued to emerge as an issue.⁷⁷⁴ In the case of Montenegro's independence in 2006, although it qualified under *uti possidetis* and a process had been agreed with Serbia, the EU still tried to maintain the union of the FRY. The EU had hoped to avoid secessions from Serbia through EU enlargement prospects. The Thessaloniki Council meeting of 2003 and the establishment of the Stability and Association Agreement were supposed to be important aspects of this.⁷⁷⁵ These efforts failed however and Montenegro became independent.⁷⁷⁶

The difficulties encountered by the EU in the Western Balkans has led authors to argue that the EU is simply not fit as a state builder and unable to stop secessionism. Börzel argues for examples that by seeking to uphold existing states and achieve agreements in line with EU integration for the sake of regional stability, the EU risks propping up undemocratic regimes.⁷⁷⁷ If EU integration and Europeanisation only focus on elites who play along with 'fake compliance',⁷⁷⁸ the EU will find itself in a vulnerable position, creating instability in the region in the long term. Obradović-Wochnik and Wochnik support this argument by stating that the Kosovo question has not been 'Europeanised' away for Serbia.⁷⁷⁹

The interventionism of the international community in the Western Balkans since the dissolution of Yugoslavia has been increasing and was also evident in the rationale for recognition. For many recognising states an independent Kosovo had to be supervised by the international community and the EU in particular. This implied also applying

⁷⁷⁴ Biermann, R. (2014) Coercive Europeanization, The EU's struggle to contain secessionism in the Balkans, *European Security*, 23:4, 2014, pp. 484-508.

⁷⁷⁵ Calic (2004) p. 32, Noutcheva (2009) p. 1069.

⁷⁷⁶ On Montenegro's independence see Chapter One 1.3.3 Dissolution at the End of the Cold War note 99.

⁷⁷⁷ Börzel, T. (2013) When Europeanization hits limited Statehood - The Western Balkans as a Test Case for the transformative power of Europe' *Working Paper KFG The Transformative power Europe*, No 30. September 2011, Freie Universität Berlin.

⁷⁷⁸ Noutcheva (2009).

⁷⁷⁹ Obradović- Wochnik, J. & Wochnik, A. (2012) Europeanising the 'Kosovo Question': Serbia's Policies in the Context of EU Integration, *West European Politics*, 35:5, 1158-1181.

conditionality towards Kosovo prior and after its declaration of independence. I will now review how this embedded interventionist aspect of the recognition of Kosovo affected the policy by Germany and its position towards the status.

Germany and the Recognition of Kosovo as Conflict Management

Germany's policy to use the recognition as intervention in conflict stirred a debate in the literature in regards to Croatia. This perceived break with multilateralism was considered incompatible with the German Civilian Power role.⁷⁸⁰ The concept of Civilian Power, which had been coined in regards to Germany by Maull, described Germany as committed to multilateralism and international law and its rejection of military power. As Germany's recognition of Croatia was considered a break from multilateralism, this played into the debate in the literature on a possible return to German *Realpolitik* after unification.⁷⁸¹ Those who were less critical of Germany's role in the recognition process point at the final agreement over Croatia, as it was recognised by all EU member states and also joined the UN.⁷⁸² In the case of Kosovo however this resolution was not reached, therefore raising the question of how the interventionist approach towards recognition was approached by actors in German foreign policy. Therefore, in this thesis, I have approached the German position on the status of Kosovo particularly in regards to how domestic actors considered the issue of intervention and multilateralism and how Germany acted in the international negotiations.

Germany's domestic position on recognition

⁷⁸⁰ See Crawford, B. (2007) *Power and German Foreign Policy - Embedded Hegemony in Europe*, Houndmills: Palgrave Macmillan; Glaurdic, J. (2011) *The Hour of Europe. Western Powers and the Break-Up of Yugoslavia*, New Haven: Yale University Press; Caplan (2005); Lucarelli, S. (1997): *Germany's recognition of Slovenia and Croatia: An institutionalist perspective*, *The International Spectator: Italian Journal of International Affairs*, 32:2, 65-91; Augter, S. (2002) *Negotiating Croatia's recognition: German foreign policy as a two-level game*, PhD in International Relations, London School of Economics and Political Science.

⁷⁸¹ Ibid.

⁷⁸² Augter (2002); Caplan (2005).

The role of the domestic actors in the decision to recognise Kosovo has been a focus of this thesis for two reasons. Firstly, as described in Chapter Two domestic political actors play a significant role in German foreign policy. This is due to the committed foreign policy outlook of political parties, the effect this has on the government coalition, and the role of the *Bundestag* as a forum for discussion.⁷⁸³ The role of domestic actors in regards to the question of recognition had been highlighted in the literature in regards to the recognition of Croatia in the early 1990s.⁷⁸⁴ The consensus among political parties for independence was considered to have exerted considerable pressure on the government at the time to support early recognition. In the case of Kosovo, Germany appeared less committed to independence. Thus, the position among domestic actors was likely to be more diverse or more likely to be against recognition. From tracing the position of domestic parties in Chapters Three and Four, it became evident that the domestic position in Germany shifted several times since the dissolution of Yugoslavia and that until the last few months of negotiations there was no consensus in support of recognising a UDI of Kosovo among parliamentary parties. At the same time, it appears that within the Ministry of Foreign Affairs there was greater acceptance at an earlier stage that a recognition would be likely, particularly in light of pressure from international actors and the preparation of the future EU mission in Kosovo.⁷⁸⁵

In the period since the dissolution of Yugoslavia until the UDI in 2008 there were three different coalition governments in Germany. Until 1998 the Christian Democrats and Free Democrats mainly oversaw the policy of recognition of Croatia and Slovenia. The Social Democrats and Greens came to power in the fall of 1998 and remained until 2005. This government was defined by the military intervention in Kosovo and its aftermath. The German Green Party Foreign Minister Fischer sought to increase Germany's role with the Fischer Plan, which was to promote new negotiations and a

⁷⁸³ See Chapter Two, 2.2 Domestic Actors in German Foreign Policy and particularly 2.2.6 The Legislative in this thesis.

⁷⁸⁴ Crawford, B. (2007) and Caplan (2005).

⁷⁸⁵ See specifically Chapter Three, 3.2 Kosovo in the dissolution of Yugoslavia, 3.3.3 German domestic position on Kosovo post UNSC 1244, 3.9.1 German position before Ahtisaari, 3.9.4 Germany's multilateral role and position during the Ahtisaari process and Chapter Four 4.3 German position after Ahtisaari 4.2 The German domestic position during the Troika negotiations.

political solution to the conflict. After the establishment of UN Security Council Resolution 1244 and UNMIK and the subsequent regime change in Serbia, domestic actors in Germany began to develop differing positions on the status of Kosovo. From 2005 onwards a grand coalition was in place under Chancellor Merkel of the Christian Democrats and with Steinmeier as minister of foreign affairs. This government oversaw the final negotiations for the Ahtisaari Process and the Troika negotiations. Here, particularly the relationship of the SPD becoming junior partners influenced the position of Germany and the return of the CDU to the government also left a mark.⁷⁸⁶

In the early 1990s, some sympathies for Kosovan claims for independence existed among German politicians in different political parties. However, the backlash from the recognition of Croatia and Slovenia resulted in Germany following international policy more closely and not pursuing a greater support for Kosovan independence.⁷⁸⁷ This also indicates that the principle of *uti possidetis*, as it was applied by the Badinter Commission on the dissolution of Yugoslavia, was not considered a fundamental principle among German actors but rather a way of managing the conflict between Serbs and Croats. While German diplomats made attempts to raise the issue of Kosovan independence during the 1990s, the international negotiations were dominated by the United States and the United Kingdom's effort to contain Milosevic.⁷⁸⁸ When it came to the war of 1999 the debate in Germany was focused on the military intervention rather than the status question. In the aftermath, the Social Democrat-Green government supported the status neutral approach of the international community while the Christian Democrats in opposition pressured the government to reinstate new status talks.⁷⁸⁹ The Social Democrats were keen on the talks to create a solution which could be accepted by the Serbs while the Christian Democrats criticised

⁷⁸⁶ See Chapters Three and Four for greater detail.

⁷⁸⁷ Friedrich, R. (2005) *Die deutsche Außenpolitik im Kosovo-Konflikt*, Wiesbaden: VS Verlag für Sozialwissenschaften, p. 27; discussed in Chapter Four 4.2 Kosovo in the Dissolution of Yugoslavia.

⁷⁸⁸ Krause, J. (2000) *Deutschland und die Kosovo-Krise*, in Teuter, J. and Clewing, C. (eds) *Der Kosovo-Konflikt Ursachen, Verlauf, Perspektiven*, Klagenfurt: Wieser Verlag, p. 396 and see 4.2 in this thesis for more details.

⁷⁸⁹ This is discussed in greater detail in Chapter Three 3.6 German position on Kosovo post-UNSC 1244 with specific reference to the debate in the German parliament in *Deutscher Bundestag (2000a) Plenarprotokoll 14/84. Stenographischer Bericht. 84. Sitzung 14 Wahlperiode. Berlin, 27 January 2000.*

again the slow progress. After the end of the Ahtisaari talks the international consensus fell apart with Russia rejecting the Ahtisaari Plan and EU members expressing openly their consternation about a possible UDI.⁷⁹⁰

In light of this new conflict over the future status, German domestic actors all responded with a rejection of recognising a possible UDI by Kosovo. However, the expectations for future policy differed between parties. Few had the expectation of resolving the conflict between Kosovo and Serbia at this stage. Instead the focus was on the international response. The Christian Democrats sought a new UN resolution by putting significant pressure on Russia. The Social Democrats on the other hand sought an extension of the negotiations and emphasised the need to take Russian and Serbian positions into consideration. The CDU, SPD, Greens and especially the Free Democrats were keen on reaching a common EU position.⁷⁹¹ After the Troika negotiation however none of the conditions set out by the different parties were reached in the talks. Neither a new UN Security Council resolution nor a common EU position had been achieved. At this stage the CDU came out more openly in support of recognising a UDI and embraced the *sui generis* justification by those states which were keen to recognise Kosovo. Most parties, except Die Linke, considered the need for a common EU position or policy essential. Nonetheless, some opposition parties, the Greens and the FDP raised concerns about the new planned EU mission for Kosovo. In the discussion in the *Bundestag* following the recognition of Kosovo only Die Linke opposed this policy. The acceptance from the parties differed however. All expressed concerns over the risk of the UDI and the failed international negotiations. The tenor of the discussion was that all possible options had been discussed and negotiations had been exhausted. Again, here only Die Linke called for further negotiations. Similarly, to the speech of the German foreign minister Steinmeier that I cited in the introduction of this thesis, MPs used careful language. Even the CDU,

⁷⁹⁰ See an analysis of the debates in the Bundestag in 3.9.1 German position before Ahtisaari and Chapter Four, 4.2 German position after Ahtisaari.

⁷⁹¹ These positions are compiled in Chapter Three, Table 2: Overview of political party positions in June of 2007 on Question of Kosovo status, based on Kosovo/KFOR Debate Deutscher Bundestag (2007b) Plenarprotokoll 16/105. Stenographischer Bericht. 105. Sitzung 16. Wahlperiode. Berlin, 21 June 2007.

who would have been most supportive of independence overall, stressed repeatedly the importance of the supervised nature of this independence, the role of the European Union and the wider international community in overseeing this process.⁷⁹²

Germany's position, therefore, had changed since the early 1990s when some actors included Kosovo in the arguments for self-determination for the people in the former Yugoslavia through independence. This self-determination argument however was not put forward by German politicians in 2008. Instead, in the 2000s and during the new status negotiations, the arguments used in support of recognition were focused on conflict management. The concern was regional stability, the importance of EU integration and a resolution for both Serbia and Kosovo. Striking in comparison with the case of Croatia is the fact that for a long time there was no clear consensus among parties for or against recognition.

Within the conflict management approach, the fall-out with Russia was considered major obstacle and was addressed by the parliamentary parties. All parties had significant concerns, although these differed from one to the other. While the CDU stressed repeatedly the delay and the risk of an unresolved status, the SPD was focused more on the importance of finding a solution which would be accepted by Serbia and Russia.⁷⁹³ In contrast to the period in the early 1990s when the Cold War had just come to an end and supporting self-determination was considered a support for democracy and integration into the West, this was not the case in 2008. The new regime in Serbia was considered democratic and legitimate. Prime Minister Koštunica was recognised as having brought change to Serbia although his position on Kosovo was uncompromising. The opposition parties, both the FDP and the Greens who had supported Croatian independence very strongly and were also sympathetic to Kosovan independence in the early 1990s were sceptical of the way a UDI was coming into being and the risks of a legal uncertainty for a future EU mission. Thus, domestically

⁷⁹² See Chapter Four, 4.5.3 Final Bundestag debate on Recognition.

⁷⁹³ Ibid and specifically Deutscher Bundestag (2008c) Plenarprotokoll 16/144. Stenographischer Bericht. 144. Sitzung 16. Wahlperiode. Berlin, 20 February 2008.

in political parties the position on the status of Kosovo was less certain or committed this therefore affected the behaviour of the government.

The diverse and inconsistent position on the internationalisation of the Kosovo conflict among German political parties is partly based on their understanding of the conflict. In the case of Croatia, the conflict with Serbia had been considered an ethno-political conflict with the Milosevic regime seen as an aggressor against Croatia. In Kosovo, by the 2000s, the interpretation of the conflict parties was more diverse. Most German policy makers considered the new Serbian leadership an ally for a democratic transition. The uncompromising position of Prime Minister Koštunica was interpreted as being tied to a specific party policy. The position of President Tadic was interpreted as more lenient towards Kosovo and raised hopes in Germany, and the international community, that a future Serbian government would be willing to accept a Kosovan independence.⁷⁹⁴ The deadlock on the question of Kosovo was therefore considered a party political issue rather than in terms of a nationalist or potential ethnic conflict. From a German perspective and among other members of the international community, the support for the leadership in Pristina was also rather pragmatic. After the war of 1999 German MPs were reluctant to engage politically with the leadership of the KLA. In the early 1990 German politicians considered Kosovan independence to support of Rugova's pacifist movement. By the time of the UDI, Germany had come to terms with the continued political involvement of the former paramilitary group. However, this more complex relationship to the Kosovan leadership led to an even greater interventionist approach for the future governance of Kosovo, to avoid the emergence of undemocratic structures.⁷⁹⁵

⁷⁹⁴ For an interpretation of the political divisions in the Serbian delegation by German diplomats see Chapter Four, 4.3.2 Positions of the Serbian and Kosovan delegations and 4.3.1 The end of the Troika negotiations.

⁷⁹⁵ These concerns became evident in the travel report from German MdBs travelling to the region. See Annex III Travel Report of German Green Party Members of the Bundestag to Serbia and Kosovo December 2007 and are discussed in 4.5.1 Position of Political Parties in the Bundestag after the Troika Process in this thesis.

The positions of the political parties stood in contrast to the position which had developed in the Foreign Office. Due to the involvement of German diplomats and civil servant in the Contact Group negotiations and the UNMIK mission they were aware of the the inclination towards accepting a future Kosovo independence within the Quint, mainly under pressure from the United States. Although the *Bundestag* did not have a vote on the issue of recognition, the government considered potential political divisions in the coalition and among parties as a risk for the coalition government. In regards to Kosovo, divisions could also lead to difficulties for the future EU mission. Therefore, to the government, the Troika negotiations were an opportunity to involve domestic actors in Germany more in the international negotiations and generate greater support for recognising a UDI.⁷⁹⁶ Although Germany had been part of the Contact Group, the Troika gave the opportunity to the chief negotiator Wolfgang Ischinger to meet with the political parties and explain the progress of the negotiations. Here, particularly within the Social Democrats, MPs were keen to see a genuine effort in engaging Serbia and responding to concerns from Belgrade. The use of the international negotiations from the perspective of the Foreign Office was to convince domestic actors to accept a policy path which had been prepared internationally.⁷⁹⁷

There were, therefore, clearly diverging approaches among the executive and legislative actors in Germany to the recognition and the willingness to use such recognition in response to the unresolved conflict. For political parties, it was important to demonstrate that the recognition was not enforced from outside, mainly from the United States or other recognisers, but instead that it had been proven to be the only remaining solution. This is very striking in comparison to the Croatian case, when it was Germany who was perceived as pushing others towards intervention. By 2008, the increasing interventionism and the contestation of military intervention in Kosovo and Afghanistan, as well as the debate on the Iraq war, appeared to have led

⁷⁹⁶ See Chapter Four, 4.3.1 The role of the Troika Chair specifically based on interviews.

⁷⁹⁷ Ibid.

to a reluctance by some domestic actors to embrace more interventionism in contested situations.⁷⁹⁸

Germany's Multilateral Role

Chapter Two reviewed the literature on Civilian Power Germany and Civilian Power Europe.⁷⁹⁹ I discussed the Civilian Power role in the context of role theory and particularly multilateralism. In regards to Germany's Civilian Power role, I pointed out that in Germany there was not one homogenous approach to what kind of multilateralism Germany should pursue. Policies such as *Ostpolitik* were highly contested domestically.⁸⁰⁰ After the Cold War, Germany's multilateralism was questioned and re-evaluated at different stages including around the recognition of Croatia, the contribution to the military NATO campaign in Kosovo and the Iraq war. This debate around Germany's multilateralism was related also to the emergence of military intervention in the late 1990s and early 2000s.⁸⁰¹ The debate in the literature therefore focused on firstly whether Germany remained an intrinsically multilateral actor and how it was developing in relation to its close allies and to the institutions it had been strongly committed to including the UN, the EU, NATO and the OSCE. The most controversial use of Germany's military force remains the Kosovo war as it had no UNSC approval and was the first out of area operation. As German troops remained stationed in Kosovo with KFOR, the military component of Germany's multilateral presence affected Germany's position on Kosovo as well.⁸⁰²

In regards to the status of Kosovo, at a multilateral level, Germany's role had evolved significantly since the early 1990s. Although Germany was involved in the Contact Group from its inception, its role in the international negotiations was limited and it was often excluded from the main negotiations in the lead up to the NATO intervention

⁷⁹⁸ Chapter Two, 2.5.1 Military Interventions: Kosovo, Afghanistan, and Iraq.

⁷⁹⁹ 2.3 Civilian Power Germany provides an introduction and 2.4.5 Post-War Germany – More than a Civilian Power provides a more detailed analysis in regards to Germany.

⁸⁰⁰ See Chapter Two 2.4.2.1 Domestic and International Debate over Brandt's *Ostpolitik*.

⁸⁰¹ Chapter Two 2.5.2 Continuity or Change? The Academic Debate on Interventions and Multilateralism in German Foreign Policy.

⁸⁰² Chapter Two, 2.5.1 Military Interventions: Kosovo, Afghanistan, and Iraq.

of 1999. In the aftermath, Germany combined its role in the Contact Group, the G8 and the EU to gain more weight in the negotiations. Germany was also increasingly considered a mediator with Russia within the Contact Group and had therefore developed a distinct role. It was also central to establishing the institutional presence of the international community in Kosovo. Its role with German diplomats heading UNMIK, such as Michael Steiner, and the German government as the driving force behind EU enlargement policy towards Kosovo made Germany increasingly a central actor in Kosovo. It was mainly its position as the chair of the final Troika negotiations representing the European Union that gave Germany a central function in the coordination of the international talks on the status of Kosovo.⁸⁰³

These developments took place simultaneously with the changes of the role of Germany internationally. In this period, Germany was also very involved in establishing greater conditionality for the Western Balkans. In the case of Croatia, Germany had been considered to have undermined the conditionality established by the European Union, as it prematurely recognised Croatia and Slovenia. In contrast, in relation to Kosovo, Germany was essential in establishing conditionality. It was a strong supporter of the Standards before Status policy, which was overseen by the German UNMIK head, Michael Steiner. Following UN Resolution 1244, the wait-and-see approach of this policy was also in line with Germany's attempt to balance US and Russian interests. However, the conditionality for Standards before Status was later considered to have generated contempt among Kosovans, as the lack of progress in governance reforms and economic development fuelled the conflict again. More prominently, however, Germany was key in establishing the EU enlargement policy with which significant conditionality was associated. Germany's role in establishing and enforcing conditionality for EU enlargement and its belief in this policy underpinned a commitment to EU integration through greater intervention.⁸⁰⁴

⁸⁰³ The development of Germany's role in Kosovo is described in detail Chapter Three, 3.4 German multilateral diplomacy and the Fischer Plan, 3.7 The early UNMIK years.

⁸⁰⁴ 3.7 The early UNMIK years and specifically Weller (2009) p. 185 for a discussion of the failure of the Standards before Status policy.

The recognition of Kosovo was coordinated from the Ahtisaari Process onwards mainly within the Contact Group, the G8 and the European Union. For Germany, the multilateral coordination of the recognition was key. The literature, as discussed in Chapter Two, has indicated a change in Germany's behaviour towards multilateralism. While the Civilian Power role implies a strong commitment to multilateralism, I have also outlined how after German unification a new approach to multilateralism can be described. Germany was more likely to use different international alliances and institutions and appeared more open to acting outside a consensus while within ad hoc multilateral alliances.⁸⁰⁵

In the recognition of Kosovo there was therefore a clear tension: on the one hand, the many multilateral aspects of managing the recognition and Germany's central role in these negotiations reflect Germany's commitment towards multilateralism and seeking consensus. On the other, however, Germany accepted the lack of consensus and recognised Kosovo nonetheless. Thus, Germany's behaviour was in line with the description of Germany acting still as a multilateral actor although unlikely to engage in overly long negotiations until a consensus was found. Germany did extend the negotiations for longer than some of its close allies would have wished. The United States, the United Kingdom and France in the Contact Group would have been willing to recognise Kosovo after the failed Ahtisaari Process.⁸⁰⁶ The Troika Chair, Wolfgang Ischinger, put all his efforts into demonstrating that the Troika talks were the 'last ditch effort' in which all possible remaining solutions to the conflict were being discussed. It was an opportunity to re-establish trust by Serbia and also by Russia in the international process on the status of Kosovo. The breakdown of the consensus on the talks during the Ahtisaari Process was criticised by many in Germany as well as by many non-recognisers as being pre-determined pro-independence with little opportunity for Serbia's concerns to be heard or alternative proposals to be considered. Within the German foreign office and Chancellery, the multilateral negotiations were

⁸⁰⁵ 2.5.2 Continuity or Change? The Academic Debate on Interventions and Multilateralism in German Foreign Policy see Aggestam, L. (2000) Germany, in Manner, I and Whitman, R. eds. *The Foreign policies of European Union Member States*, Manchester: University Press, p. 71 for a clear synopsis of tensions in the literature.

⁸⁰⁶ See Chapter Four, 4.2.1 Position in the *Auswärtige Amt*.

used to generate more support for recognition although a consensus was unlikely. Above I have highlighted how the extended negotiations allowed for a greater consensus among German domestic parties. At international level, for Germany, the Troika negotiations were also an opportunity for further mediation with Serbia, between Russia and the United States and finally for the European Union member states. The result of these talks was however a continued rejection of the UDI from Serbia and from Russia and still no agreement among EU members.⁸⁰⁷

The conflict parties, as was discussed in Chapter Four, did not change their position towards the status conflict. Kosovo remained committed to not accepting anything less than independence while Serbia would suggest different setups of autonomy just short of independence. However, the Troika negotiations were a vehicle to partly de-escalate tensions between Serbia and Kosovo and to regain the trust of Serbia in the international negotiations. The extent of this engagement was however limited and the Troika negotiations did not lead to a settlement. They did however generate a closer collaboration with Serbian politicians and led to a more optimistic approach towards a possible future recognition by Serbia.⁸⁰⁸

The setup of the Troika allowed Germany to take a much more significant role than it had in the past in the Contact Group. In chairing the talks, the German ambassador was working directly with his United States and Russian counterparts. The commitment to US recognition of a future UDI defined the talks and Germany's approach. Germany therefore sought to generate more support for independence internationally before being put in the position of having to recognise Kosovo as a contested state.⁸⁰⁹ The tension of Germany's role as mediator with Russia in the Contact Group on the one hand and the newly restored transatlantic relationship on the other was also reflected in Germany's behaviour. As described in Chapter Two, the

⁸⁰⁷ This 'leaving no stone unturned policy' is discussed in great detail in Chapter Four, particularly in 4.3.3 Troika Proposals.

⁸⁰⁸ See Chapter Four 4.3.2 Positions of the Serbian and Kosovan delegations and 4.3.4 End of the Troika negotiations.

⁸⁰⁹ Expressed repeatedly in Comments to the author, interview with Ambassador Wolfgang Ischinger, February 2015.

transatlantic relationship had been strained in the early 2000s and especially during the administration of President George W. Bush and the Iraq war and it remained tense. At the time, the United States had considered Germany's refusal to collaborate in the Iraq war as a breach of its multilateralism.⁸¹⁰ It became clear that from the states involved in the Iraq war, especially the United States, Germany's multilateralism was interpreted differently than from some German domestic actors: the focus was not on multilateralism generally but on a commitment to the West in particular. Washington was aware of the delays caused by Germany's reluctance, however, it was willing to agree to the extended talks if this meant greater support within Europe overall.⁸¹¹

The Russian position was perceived as increasingly non-collaborative at the end of the Ahtisaari Process.⁸¹² Within the Troika the German delegation was hesitant to add to the alienation of Moscow. Russia appeared to consider the talks as a genuine attempt for mediation between the conflict parties.⁸¹³ Thus, due the more positive developments and hoping to reach a solution, the German Foreign Office developed a proposal based on the German-German treaty (the *Grundlagenvertrag*). This proposal was modelled on the agreement between the two Germanys during the Cold War, who did not recognise each other but agreed not to disrupt each other's membership of international organisations and to cooperate on specific policy issues.⁸¹⁴ However, Russia, although initially interested, rejected the proposal. However, instead of declaring the talks as failed by the end of the three month period, Russia encouraged longer negotiations and did not accept the 'no stone left unturned' rhetoric by the Troika chair.⁸¹⁵ Germany, at the time of the Troika, seemed to be operating particularly multilaterally. Although from the United States this was partly considered to be holding back the agreement in the Quint, still its engagement with all actors was considered central to the progress of the negotiations. The split between the United States and Russia was significantly different from the recognition negotiations on

⁸¹⁰ See Chapter Two, 2.5.1 Military interventions Kosovo, Afghanistan and Iraq.

⁸¹¹ The US position is discussed in greater detail in 4.3.3 Troika Proposals.

⁸¹² Chapter Three discuss particularly the break down in relation to the missile defence system in Eastern Europe in 3.9.5 The Ahtisaari Proposal.

⁸¹³ In Chapter Four 4.4 Searching for consensus within the EU.

⁸¹⁴ See 4.4 Troika Proposals.

⁸¹⁵ Ibid.

Croatia. In the early 1990s, the Soviet Union was undergoing a similar process of dissolution to that of Yugoslavia and it had little influence on the dispute among EU members and the United States on the management of the process. By 2008, Russia had re-established itself as an international actor and the relations with the West had deteriorated over the missile defence programme in Eastern Europe. The relationship between Russia and the West had been strained already in regards to the Kosovo NATO operation in 1999 when Russia blocked the UN approval in the Security Council, however, Russia had also been central in negotiations after the end of the Kosovo war. In regards to the position of Germany between these two powers, the US and Russia, it was balancing a new geopolitical reality for Europe which would develop further the same year with the war in Georgia. In light of the re-emergence of tensions between Russia and the West after the Cold War, Germany's response of mediating and proposing a format coming from the Cold War, the German-German treaty is also telling of the difficulty for Germany to re-adapt to this new geopolitical situation.

Germany and the role of the EU

Maintaining harmony within the European Union was a central aspect to the multilateral efforts for the German Troika chair. The confidence in the Ahtisaari Process had been such that a separate negotiation on the future status of Kosovo among EU members was not considered necessary. As the consensus in the UN Security Council broke down however, and each member state would need to take a decision on the UDI, greater coordination between member states became a necessity. As described in Chapter Four, Ischinger's role was significantly about overcoming disagreements among EU member states.⁸¹⁶ German political parties had also stressed the importance for a common EU position.⁸¹⁷ Thus, the prioritisation of the positions of the EU member states was in line with the German policy to generate greater unity among EU members. Here again Germany appeared more willing to engage in extended multilateral negotiations in comparison to other Quint members. Some EU

⁸¹⁶ 4.4 Searching for Consensus within the EU.

⁸¹⁷ See Table 2. in Chapter Four.

members referred specifically to the role of Ischinger and the evidence of efforts to find a resolution for the conflict.⁸¹⁸ In Chapter Two, I discussed the debate in the literature of Germany's de-Europeanization or decreasing commitment to facilitating a consensus between EU members.⁸¹⁹ In the case of Kosovo, a continuous effort to generate greater consensus was clearly evident. However, while the exact number of non-recognisers was not clear until long after the UDI, full agreement among all twenty-seven member states was considered very unlikely at the beginning of the Troika talks. For the German foreign office, it was thus necessary to reach a higher number of recognisers, which would be considered sufficient to justify a recognition of the UDI from Germany.⁸²⁰

Another significant aspect was the operational preparation for the EU mission and I have outlined the interventionist implications above in this chapter. German domestic actors considered the presence of the EU after the UDI a guarantee for greater stability and security in the region.⁸²¹ The hopes for EU interventionism were also a response to the unease of German policy makers about the contingent of German troops still stationed in Kosovo. A return to violence in the Western Balkans would have potentially meant an engagement of these German troops. This would have been significant for Germany, since, as discussed in Chapter Two, any military intervention in Kosovo remained controversial.⁸²² Germany's interventionism in Kosovo after 1999 took the form of a dual policy of military and civilian intervention. KFOR remains the largest *Bundeswehr* contingent for Germany abroad. While this continued to raise attention in the German policy debate, the government was keen to stress the civilian aspects of Germany's policy particularly in regards to the EU enlargement policy. Also Germany's leading role in the EU effort for greater integration of the Western Balkans enforced the civilian nature of the EU policy. For Germany, a successful mission represented some degree of guarantee for stability which would also avoid any further

⁸¹⁸ Discussed in 4.4. Searching for Consensus within the EU.

⁸¹⁹ 2.5.3 Continuity or Change? The Academic Debate on Intervention and Multilateralism in German Foreign Policy

⁸²⁰ 4.4 Searching for Consensus with the EU.

⁸²¹ See Table 2 and related debate in Chapter Four, 4.2.2 Positions of the Political Parties in the *Bundestag*.

⁸²² Chapter Two 2.5.1 Military intervention: Kosovo, Afghanistan and Iraq.

German military action. Germany's role in the EU Troika delegation showed a continued commitment to reaching more agreement to be able to support such a mission and future EU engagement in the region, despite a divided EU on the status question. Thus, EU integration continued to be considered the solution to the conflict between Serbia and Kosovo in principle by most domestic actors.

A compromise was reached among EU members to de-couple the status question from the EU mission deployment. This demonstrated to German domestic actors that while there was a division among member states on the status question, the commitment of the EU towards the region remained and EU integration was still to be an aspect of the future of the region. This also allowed domestic actors in Germany to accept that the status question would be unresolved. To some extent, for domestic actors, the EU presence overrode the issue of the status dispute. For German foreign policy, the European aspect of the conflict management over the status of Kosovo was therefore essential and was pushed significantly within the domestic discourse and also considered a prospect for stability in the region. In the case of the status of Kosovo, Germany relied heavily on the EU as an international actor and considered it the only institution through which the conflict could be managed.

Germany's approach towards the recognition of Kosovo was fundamentally a multilateral endeavour. Different from most other Quint members, it pursued a wider coordination on recognition especially in regards to engaging Russia and within the EU. However, this case also shows that Germany was not willing to extend negotiations endlessly; only a small minority party, Die Linke, supported this. The notion that there had to be sufficient rather than full agreement on recognition shows that Germany was trying to achieve enough of a majority to reduce the controversy of the recognition. It also convinced the European Union that the UDI was the only option left and that all possible alternatives had been explored. Germany, therefore, framed its recognition as a multilateral effort and was able to recognise without a consensus in any of the main fora in which the negotiations had taken place, the Contact Group or the EU. Germany's role within the EU was strikingly different this time than in the

case of Croatia, where Germany had been perceived as coercing other EU members into recognition. In the case of Kosovo, Germany was considered more accommodating than the other Quint members and more willing to consider and assess the situation in other EU member states. However, unlike in the early 1990s in 2008, the Union, albeit much larger this time, did not reach an agreement on the status.

The controversy around Germany's recognition stems firstly from its acceptance of disagreement among its key allies in regards to the recognition of Kosovo and secondly from the disagreement among domestic actors on the recognition. By framing the status question of Kosovo in terms of conflict management, I have been able to highlight how much of the domestic tension derived from an unease regarding the increasing interventionism and the new geopolitical divide among Germany's close allies. I have also highlighted divisions among political parties towards intervention and the greater commitment of the executive to support the conflict management aspect of recognition. Finally, however, this general policy was accepted by most parties with minor objections. Despite these internal divisions and the hesitant recognition speech by the German minister with which I began this thesis, Germany was firmly among the first to recognise Kosovo in 2008. The debates among German domestic actors and among Germany's international partners show the continuing tensions on questions of more fundamental issues for German foreign policy, such as intervention and multilateralism, which continue to exist and continue to develop.

Avenues for Future Research

In this research, I have examined specifically the recognition question of Kosovo by focusing on Germany. By doing this, I was able to explore domestic debate within a recognising state and the arguments for and against recognition. This has also allowed me to explore the concept of recognition as conflict management through a specific recognition by one specific EU member state. However, with this approach comes the limitation that little analysis of other member states was provided in detail, member states who may have taken similar or very different positions.

Further, in regards to the negotiations on Kosovo, the declaration should not be seen as a cut off point for the international community's involvement. Instead, 2008 marked the beginning of intensified European Union involvement. Talks between Serbia and Kosovo began a few years later, this time under the auspices of the European Union rather than the United Nations.⁸²³ Germany's role in the Western Balkans in general and in Kosovo in particular also continued to evolve in relation to the status question. Therefore, there is particular scope for more research into how the conflict management approach of recognition and the compromise on the EU mission, has developed since 2008. Kosovo remains contested, although more countries have recognised since its declaration and it has been able to join some international institutions. However, five EU member states (Cyprus, Greece, Romania, Slovakia and Spain) as well as Russia and China, continue not to recognise it. Thus, the expectations of recognition to manage or resolve a conflict have not been met. Instead, the literature has been increasingly critical of the clumsy recognition process and the continued limbo in which Kosovo still finds itself.⁸²⁴ Nevertheless, the EU mission succeeded in being fully deployed and is now firmly present. The role of the EU has grown significantly in comparison to the remaining international community. The Belgrade-Pristina dialogue mediated by the European Union has reached some agreements on specific policies, however the status remains unresolved.⁸²⁵ Also, after the compromise in deploying the EU mission EULEX, continuous compromises have had to be reached among recognising and non-recognising states. Germany's presence within this process has increased and its relationships with the conflict parties, Serbia and Kosovo, have evolved.⁸²⁶ The concept of the recognition process as conflict

⁸²³ Burazer, N. (2015) Overview of the EU facilitated Dialogue between Belgrade and Pristina, Belgrade: Centar Savremene Politike.

⁸²⁴ Kolliaraki, G (2015) Recognition as a Second-Order Problem in the Resolution of Self-Determination Conflicts in Daase, C., Fehl, C., Geis, A. and Kolliarakis, G. *Recognition in International Relations*, New York: Palgrave Macmillan, p. 178 and Economides, S. (2011) The making of a failed state: the case of Kosovo, *European View*, 10 (2) are examples that document the difficulty of Kosovo existing as a contested state.

⁸²⁵ Ibid.

⁸²⁶ 'Germany's Angela Merkel ties Serbian EU hopes to Kosovo' BBC NEWS 23 August 2011 <http://www.bbc.co.uk/news/world-europe-14631297>(last accessed 25 September 2016); 'Merkel seeks to strengthen EU ties to Western Balkans' EurActiv , 19 August 2014, <http://www.euractiv.com/sections/europes-east/merkel-seeks-strengthen-eu-ties-western-balkans-308093>(last accessed 25 September 2016).

management in the conflict with the hope for further EU interaction is therefore relevant after the UDI and the partial recognition from member states. The developments post-UDI therefore offer the opportunity for further analysis of how Germany has developed *vis-a-vis* the contested statehood and the European Union's and other actors' developing multilateral engagement with the conflict.

Finally, the conceptual approach of considering recognition as a form of conflict management can be explored further. Here, it would be relevant to examine cases of contested statehood in the Western Balkan region but also beyond. In this thesis, the concept has been considered mainly in regards to the practice of the European Union, its member states and the United States. Therefore, there is further scope for an analysis of recognition practices in relation to conflict management to internationalise a conflict and impose conditionality onto new states.

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Skender Hyseni, Spokesperson of the Kosovo Delegation, Pristina, June 2015

Slobodan Samardžić, senior member of the Serbian delegation, interview Belgrade, June 2015.

Annex I

Travel report of German Green Party Members of the *Bundestag*
to Macedonia and Kosovo 27-28 July 1999

4 Kurzbericht Reise nach Mazedonien und Kosovo 26. 28.7.99

Ziele Die Fraktion Bündnis 90/Die Grünen hat seit Oktober 1998 die Politik der NATO Staaten gegenüber der Regierung Milosevic und den Einsatz der NATO zur Beendigung der Vertreibungen der Kosovo Albaner politisch unterstützt. Inzwischen ist der Krieg im Kosovo beendet, die UN Resolution vom 13. Juni wird durchgesetzt und die Bundeswehr ist im Rahmen von KFOR im Kosovo stationiert. Jetzt sollte mit Rezzo Schlauch als Ko Vorsitzendem der Fraktion und Angelika Beer als verteidigungspolitischer Sprecherin durch einen Besuch hochrangiger Vertreter der Fraktion die aktuelle Lage vor Ort eingeschätzt und ein Zeichen der Solidarität mit den Menschen im Kosovo, dem in den letzten Monaten wesentlich von den Auswirkungen des Krieges betroffenen Nachbarstaat Mazedonien und nicht zuletzt mit den im Krisengebiet eingesetzten Soldaten der Bundeswehr gesetzt werden.

Lage im Kosovo und Einsatz der Bundeswehr

Die Situation im Kosovo die Delegation konnte sich einen Überblick über den deutschen Sektor um Prizren verschaffen - ist gekennzeichnet durch Zerstörungen unterschiedlichen Grades, eine akute Notlage großer Teile der zurückgekehrten Bevölkerung und einen völligen Zusammenbruch der administrativen und ökonomischen Infrastruktur, In manchen Gebieten des deutschen Sektors sind die Dörfer nahezu vollständig zerstört, in anderen zum Teil, die Städte hingegen weisen nur einen geringen Zerstörungsgrad auf. Den Berichten der verantwortlichen Bundeswehrangehörigen zufolge kommt es täglich zu Übergriffen von Albanern gegen die verbliebene serbische Zivilbevölkerung Brandstiftungen, Plünderungen und Besetzungen der von Serben verlassenen Häuser sind an der Tagesordnung. Ein Großteil der serbischen Bevölkerung ist geflohen, andere verstecken sich in von KFOR bewachten orthodoxen Klöstern. Aber auch auf die orthodoxen Kirchen finden vermehrt Anschläge statt. Bedroht fühlen sich ebenso die Sinti und Roma, die wie die serbische Minderheit zunehmend nach Fluchtmöglichkeiten aus dem Kosovo suchen. Es besteht zudem die Gefahr der Ausbreitung organisierter Kriminalität. Die UCK versucht, sich nahezu flächendeckend unabhängig von Legitimationen seitens KFOR und der im Aufbau befindlichen internationalen Verwaltung UNMIK - als lokale Macht zu etablieren. Es bleibt unklar, welchen Grad an Organisiertheit und Koordination die UCK aufweist. Trotz Erfolgen bei der Demilitarisierung muß befürchtet werden, daß sie einen erheblichen Teil ihrer Waffen zurückhält. Das Auffinden eines bislang nicht gemeldeten Verstecks schwerer Waffen durch die Bundeswehr am 27. Juli zeigt dies deutlich. Gesprächspartner wiesen auf vermutete Waffenlager der UCK im Norden des nach wie vor instabilen Albanien hin. Vor dem Beginn der gezielten Vertreibung im Kosovo verwurzelte Strukturen mit positiver Wirkung für den Aufbau von ziviler Verwaltung wie die LDK sind durch die Dominanz der UCK offenbar massiv behindert und unfähig, ein Gegengewicht zu ihr zu bilden. Der Einsatz internationaler und anderer ausländischer NGOs, ebenso der UNMIK, ist noch im Anfangsstadium. Die KFOR Truppen außer der Bundeswehr im deutschen Sektor gegenwärtig vor allem niederländische Einheiten sowie erste russische und türkische Kontingente - sehen sich verpflichtet, neben der militärischen Sicherung humanitäre Hilfe zu leisten, polizeiliche und kriminalistische Aufgaben zu übernehmen sowie die administrative und technische Infrastruktur wiederaufzubauen, Die Erfahrungen mit den In der Regel von der UCK gestellten lokalen Partnern sind dabei sehr unterschiedlich. Die Bundeswehr leistet hier durchweg hervorragende Arbeit und zeigt enormes Engagement. Die Improvisationskunst und Einsatzbereitschaft der Soldaten und Offiziere, gerade bei der Lösung von Aufgaben, für die sie nicht ausgebildet sind, verdient höchstes Lob. Sie reicht von der täglichen Nahrungsversorgung in abgelegenen Bergdörfern, Mine Awareness und Minenräumung über die Organisation des Gefängnisses in Prizren bis zum Bau eines Spielplatzes für die Kinder in Suva Reka, Die CIMIC Gruppe hat begonnen, die Zerstörungen im deutschen Sektor zu kartieren, Mienenpläne zu erarbeiten und geuhöfe einzurichten, um bis zum ersten

Kälteeinbruch Ende September in den zerstörten Gebäuden zumindest provisorische Wohneinheiten herstellen zu können. Gespräche mit der KFOR-Einsatzleitung, mit THW und UNHCR vermittelten den Eindruck guter Koordinierung dieser Institutionen untereinander. Die allein im deutschen Sektor derzeit 60 anwesenden NGOs sollen über den UNHCR koordiniert werden. Dennoch muß gesagt werden, daß die Fülle der anstehenden dringlichen Aufgaben die Möglichkeiten des Bundeswehrrkontingents sowohl qualitativ als auch quantitativ überfordert. Der dringend notwendige Schutz der serbischen Bevölkerung, vieler Klöster, Kirchen und Denkmäler serbischer Geschichte ist angesichts der Gesamtsituation nicht zu garantieren, Trotz größter Bemühungen kann ein so schrecklicher Vorfall wie der Mord an 14 serbischen Bauern auch im deutschen Sektor nicht ausgeschlossen werden. Umso wichtiger ist es, daß UNMIK und OSZE mit internationaler Polizei, Medien und Verwaltung schnellstmöglich implementiert werden.

Gespräche mit Vertretern von Regierung und Parlament Mazedoniens

Die im Dezember vorigen Jahres neu gewählte Regierung Mazedoniens hat in der Krisensituation seit dem Frühjahr, als nahezu 300000 albanische Flüchtlinge ins Land kamen, große Umsicht und Souveränität bewiesen. Angesichts der Tatsache, daß in Mazedonien selbst eine Minderheit von gegenwärtig über 30 Prozent Albanern lebt, stellte diese Flüchtlingszahl nicht nur ein enormes ökonomisches, sondern auch politisches Problem dar. Hinzu kamen die riesigen ökonomischen Schäden infolge der geographischen Lage und historisch begründeten Orientierung auf die BRJ, die durch den Krieg im Kosovo für Mazedonien entstanden. Außenminister Dimitrov fordert deshalb jenseits der ausdrücklichen Würdigung des beschlossenen Stabilitätspaktes und der Rolle der Bundesregierung bei dessen Zustandekommen Entschädigungen sowie einen Sofort Fonds für die ökonomische Stabilisierung des Landes von der internationalen Staatengemeinschaft, Neutrale Beobachter wie die ECMM befürchten angesichts der gegenwärtigen Situation in dem rohstoffarmen und strukturschwachen Staat Mazedonien soziale Unruhen und ein neuerliches Aufflammen nationalistischer Gefahren.

Empfehlungen

Als erste Schlußfolgerungen aus der Reise können folgende Empfehlungen und Forderungen formuliert werden, Eine dauerhafte politische Lösung für das Kosovo kann nur im Rahmen eines demokratisierten und in den Stabilitätspakt eingebundenen Jugoslawien gefunden werden. Eine entscheidende Voraussetzung dafür ist die Überwindung des Regimes Milosevic und seiner politischen Grundlagen. Jede andere, internationale Grenzen verändernde Option enthält die Gefahr der Mobilisierung neuerlicher nationalistischer Ambitionen für die gesamte Region.

Die internationale Verwaltung im Kosovo muß forciert flächendeckend aufgebaut und ausreichend personell ausgestattet werden, um eine durchsetzbare Alternative zu den UCK Strukturen zu entwickeln. Bei der Partnersuche müssen auf albanischer Seite alle gemäßigten und zu konstruktiver Zusammenarbeit bereiten Kräfte gestärkt und unterstützt werden, darunter die LDK.

Personalstärke, Ausstattung und Einsatzfähigkeit der internationalen Polizei im Kosovo müssen massiv verstärkt werden, Nur so können die Grundlagen für Rechtssicherheit gelegt und auch der serbischen Bevölkerung ein Mindestmaß an Vertrauen für ein gesichertes Überleben in ihrer Heimat garantiert werden.

Die Bundeswehr und darüber hinaus die KFOR insgesamt müssen so schnell wie möglich von ausbildungsfremden Aufgaben entlastet werden, um sich voll auf die Herstellung von

militärischer Sicherheit konzentrieren zu können. Hierzu gehört nicht zuletzt die konsequente Demilitarisierung der UCK.

Die Implementierung humanitärer Hilfe und dringender Wiederaufbaumaßnahmen muß nach den Erfahrungen in Bosnien weitaus unbürokratischer und koordinierter organisiert werden. Dazu gehört der schnellstmögliche Aufbau einer EU - Agentur vor Ort, die mit hinreichender Entscheidungskompetenz für die Mittelvergabe ausgestattet sein muß. Finanzierungsmodelle und Abrechnungsverfahren müssen jenseits nationalen Prestigedenkens und EU interner Verfahren an der Effizienz der Leistung orientiert werden. Besonderes Augenmerk muß hierbei auf das Leistungsvermögen und die Flexibilität von NGOs gelenkt werden. Den vom Krieg im Kosovo besonders betroffenen Nachbarstaaten des Kosovo muß seitens der internationalen Staatengemeinschaft ungeachtet der langfristigen Perspektiven des Stabilitätspaktes für Südosteuropa unmittelbare Unterstützung in verstärktem Umfang geleistet werden. Dazu gehört die Anerkennung von Entschädigungsforderungen in angemessener Höhe wie auch die schnelle ökonomische Unterstützung politischer Stabilisierungsmaßnahmen.

Die freiwillige Rückkehr der Vertriebenen ins Kosovo und deren Bereitschaft, sich für den Wiederaufbau zu engagieren, ist zu unterstützen. Eine zwangsweise Rückführung traumatisierter Menschen oder jener, deren ökonomische Existenz zerstört ist, wäre nicht verantwortbar und ist abzulehnen.

Initiativen in Deutschland wie die Übernahme von Patenschaften für Schulen und Kindergärten und deren Wiederaufbau werden von Bündnis 90/Die Grünen unterstützt.

Rezzo Schlauch

Angelika Beer

Fraktionsvorsitzender Verteidigungspolitische Sprecherin

Reinhard Weißhuhn Wiss. Mitarbeiter

Annex II

Travel and Meeting Log of EU Troika delegation 30 July - 12 December
2007

VS- Nur für Dienstgebrauch

Chronologie der Troika

(Stand: 12.12.07)

2007

30.7.2007

Treffen mit Javier Solana, **Brüssel**

1.8.2007

Schreiben des VNGS zur Troika

3.8.2007

Treffen mit FRA-AM Kouchner, **Paris**

8.8.2007

Erstes Abendessen der Troika in **London**

9.8.2007

Erstes Treffen der Kontaktgruppe (Ebene Balkandirektoren) mit der Troika in **London** (FCO)

10.8.2007

Erste gemeinsame Troika-Reise nach Belgrad und Pristina

Gespräche in Belgrad

- Gespräch mit Präsident Boris Tadic, PM Vojislav Kostunica, AM Vuk Jeremic, Min. Slobodan Samardzic, Dusan Batakovic, Aleksandar Simic, Aleksandar Nikitovic, Miki Rakic, Vladeta Jankovic u.a.

- Debriefing der lokalen Kontaktgruppe (in US-Botschaft)

- Abendessen mit AM Jeremic, Min. Samardzic, Batakovic, Simic und Vasiljevic (Dep Chief of Protocol)

- *gemeinsame Press availability (doorstep)*

- *Kurze statements für B92 und Beta*

11.8.2007

Gespräche in Pristina

- Mittagessen mit COMKFOR Generalleutnant Roland Kather, PDSRSG Steven Schook

- Einzelgespräch mit PM Ceku

- Einzelgespräch mit Präsident Sejdiu

- Treffen mit Unity Team (Präsident Fatmir Sejdiu, PM Agim Ceku, Parlamentspräsident Kole Berisha, Hashim Thaci, Veton Surroi, Skender Hyseni und Blerim Shala

- Debriefing der lokalen Kontaktgruppe

- separater Termin mit COMKFOR GL Kather

- abends Empfang mit verschiedenen Akteuren in Pristina

gemeinsamer Presspoint im Parlamentsgebäude

12.8.2007

Vormittags Pristina

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29.8.2007

Gespräch in **Rom** mit ITA AM Massimo d'Alema und Stefano Sannino (dipl. Berater von Romano Prodi)

Interview mit „Il Riformista“ (Fr. Momigliano)

abends:

KG-Treffen in **Wien** (Ebene Balkandirektoren) in der Dt. Residenz

30.8.2007

Wien:

Gespräch mit Albert Rohan (Frühstück)

separate Gespräche mit den Parteien in Wien:

vormittags:

Kosovo-Albaner in Zusammensetzung Team of Unity

nachmittags:

Serben (Slobodan Samardzic, Vuk Jeremic, OSZE-Bo'in Beham, Starcevic, Alendar, Knezevic, Radosavljevic, Goran Bogdanovic, Marko Jaksic, u.a.)

anschl. Debriefing KG (Ebene Balkandirektoren) in ITA-Botschaft

abends: Abendessen mit AUT-AM'in Ursula Plassnik

- *Troika Press Point (Erklärung, keine Fragen)*

- *separate Interviews für Inforadio, "Der Standard" (Wölfl) und DLF*

31.8.2007

vormittags: **Pressburg**

Gespräch mit SVK-StS'in Strofova, SVK-PolDir Buzek u.a.

Radiointerview

nachmittags: **Budapest**

Gespräch mit HUN AM'in Kinga Göncz u.a.

3.9./4.9. 2007

Erste informelle Informationsreise nach **Belgrad**

3.9.2007

- Mittagessen mit Sonja Biserko, Goran Svilanovic, Ivan Vejvoda und Milica Delevic-Djilas

- separate Gespräche mit Min. Samardzic und Cedomir Jovanovic (LDP)

- Abendessen mit Präsident Tadic und AM Jeremic (und Beratern)

4.9.2007

Gespräch mit -

- Vize-PM Bozidar Djelic

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- Gespräch mit Kosovo-Serben (u.a. Oliver Ivanovic, Goran Bogdanovic, Randjel Nojkic, Vesna Jovanovic, Petar Vasic, Slavisa Ristic, Min. Branislav Grbic, Dragisa Krstovic, Ljubisa Djurisc, Dragisa Milovic, Srboljub Milenkovic, Slavisa Staletovic, Zoran Krcmarevic, Ivan Stanojkovic)

- *Kurzinterviews mit ARD, Al Jazeera, BBC, Koha Ditore*
- *Radiointerview ORF, DLF und Deutschlandradio*
- *Press Point Bo Ischinger im Hotel (Reuters-Schlagzeile zu Partition)*

abends:

Gespräch mit Albert Rohan in **Wien**

13.8.2007

morgens:

Gespräch im AA, **Berlin** (Kosovo-Task-Force)

15.8.2007

Kontaktgruppe (Telefonkonferenz)

20.8.2007

Treffen mit Martti Ahtisaari in **Genf**

23.8.2007

Erste informelle Informationsreise nach Pristina

Einzelgespräche mit

- Präsident Sejdiu
- PM Ceku
- Abendessen mit Veton Surroi

24.8.2007

Einzelgespräche in **Pristina** mit

- Blerim Shala (Frühstück)
- Hashim Thaci
- Kole Berisha
- SRSG Dr. Joachim Rucker.
- Mittagessen mit Jonas Jonsson (ICO PT) und Casper Klynge (EUPT)

nachmittags:

Besuch der Florian-Ischinger-Schule

abends:

Gespräch in **Skopje** mit AM Antonio Milososki und Bo Breth.

28.8.2007

Reise nach **Stockholm**

Gespräch mit SWE AM Carl Bildt

Interview mit Dagens Nyheter

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- Milan Pajevic
- PM Kostunica, Min. Samardzic und Beratern
- Deriefing lokale KG (in DEU Botschaft)

- *Interview/HiGru mit NZZ (Woker)*
- *Hintergrund für Tageszeitung Danas*

Abendessen mit Stefan Lehne (**Brüssel**)

5.9.2007

- Gespräche in **Brüssel** mit
- Erweiterungskommissar Olli Rehn (Frühstück)
 - designiertem ESVP-Missionsleiter Yves de Kermabon
 - PRT Bo bei EU Carlos Pais

Erste Unterrichtung des **PSK** in **Brüssel**

- Mittagessen mit US-Bo Gray (Mittagessen)

abends :

- Botschafterkonferenz (**Berlin**)

6.9.2007

Weiterreise nach **Brüssel**
Gespräch mit **Javier Solana**

abends:

Weiterflug nach **Porto/Viana do Castelo (Portugal)**

7.9.2007

Gespräche mit ESP-AM **Moratinos**, CYP-AM **Korzaku-Markoulli**, SLV-AM **Rupel**

8.9.2007

Gespräch mit FRA-AM **Kouchner**
Unterrichtung der EU-Außenminister
Rückflug (inkl. Wochenende) mit SWE-AM Carl Bildt

12.-14.9.2007

Reise nach Bukarest und Sofia

Bukarest:

Gespräch mit Präsident Basescu
Gespräch mit Vize-AM Viritea
Interview Romania Libertate

Sofia:

Gespräch mit AM Kalfin
Gespräch mit Vize-AM Ky...
Interview mit TV und Dnevnik

17.9.2007

Berlin

Unterrichtung CDU/CSU-Fraktion (Dr. Schockenhoff)
Unterrichtung SPD-Fraktion
Treffen mit BM, D2, Task-Force
Interview Independent
Hintergrundgespräch mit deutschen Journalisten

18./19.9.2007

London

Gespräch mit Amb. Wisner
Gespräch mit Justice Breyer
Zweites Treffen mit den Parteien (London)
Separate Sitzungen mit Delegationen Belgrad und Pristina
Belgrad (AM Jeremic, Min. Samardzic und Berater)
Pristina: Team of Unity
Debriefing KG

22.-28.9.2007

New York-Woche

23.9.2007

Mittagessen mit VNGV-Präsident Srgjan Kerim

24.9.2007

Mittagessen mit Richard Holbrooke
Gespräch mit MNE Am Milan Rocen

25.9.2007

Gespräche mit:
- GRC-AM Dora Bakoyannis
- ESP-PolDir Rafael Dezcallar
- GBR Bo bei VN John Sawers
- Bo Botsan-Kharchenko

Javier Solana

Min. Samardzic (Frühstück)

26.9.2007

Gespräche mit:
- BEL Bo bei VN Johan Verbeke
- ROM AM Adrian Cioroianu
- BM Dr. Steinmeier
- FIN AM Ilkka Kanerva
- Abendessen mit Erweiterungskommissar Olli Rehn

27.9.2007

Gespräche mit:
- UN Undersecretary General (DPKO) Jean-Marie Guéhenno
- ITA-PolDir Bo Terzi und Generaldirektorin für Europa Mirachian
- EU-Troika Mittagessen mit PRT-Präsidentschaft, SLV, Kommission und Rat

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Kontaktgruppentreffen (Ministerebene) mit Teilnahme Troika, Briefing durch Bo Ischinger

abends: Empfang RUS-AM Lawrow

28.9.2007

Erstes Direkttreffen der Parteien

vormittags gemeinsame Sitzung:

Belgrad: Präsident Tadic, PM Kostunica, AM Jeremic, Min. Samardzic u.a.
Pristina: Unity Team

nachmittags: getrennte Sitzungen

KG-Debriefing (Ebene Balkandirektoren)
SEECF-Debriefing (Gastgeber BUL)

5.10.2007

Tag in **Brüssel**

Gespräche mit Joost Lagendijk (NDL), Rapporteur des Europäischen Parlaments zu Kosovo

Zweite Unterrichtung des PSK (1,5 h)

Gespräch mit Javier Solana

Mittagessen mit RUS-Botschafter Vladimir Chizhov

Gespräche mit

- Knut Vollebaek, OSCE High Commissioner on Minorities
- Stefan Lehne
- NATO SecGen Jaap de Hoop Scheffer
- Bo Duckwitz und Bo von Goetze

Interviews für WAZ/Pries und Palokaj und Vecernje Novosti (Pantelic)

7./8.10.2007

Reise nach **Moskau**

Gespräche mit

- AM Sergej Lawrow
- Vize-AM Titow,
- Ex-AM Igor Iwanow
- Bo. Botsan-Kharchenko

Interview Kommersant

9.10. 2007

Berlin

Politisches Frühstück mit Körber Stiftung

Unterrichtung der Fraktion Bündnis90/Die Grünen

Treffen mit MNE-AM Rocen

Treffen mit MinDg Dr. Christoph Heusgen (Kanzleramt)

Treffen mit Kosovo-Task-Force

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Interview Handelsblatt (Rinke)

10.10.2007

Berlin

Unterrichtung des Auswärtigen Ausschusses
Treffen mit Prof. Dr. Dr. h.c. Schneider

13.10.-15.10.2007 (**Brüssel**)

13.10.2007

Abendessen mit US/EU-Teile der Troika

14.10.2007

Troika-Sitzung am Vormittag
Zweites **Direkttreffen der Parteien** (Brüssel)

Belgrad:

Min. Samardzic, AM Jeremic, Prof. Fleiner, A. Simic, Starcevic, Knezevic,
Radosavljevic, Bogdanovic, Jaksic, Milos Jovanovic, etc.

Pristina:

Team of Unity

15.10.2007

Troika-Unterrichtung des **NATO-Russland-Rats**
Mittagessen mit US NATO-Bo **Victoria Nuland** und Botschaftern der Quint
KG-Debriefing am Nachmittag
Gespräch mit **Ron Asmus** (German Marshall Fund)

Pressstatement für Agenturen und Foto-/Kamera-Op

16.10.

Gespräch mit Kommissionspräsident José Manuel Barroso

*Hintergrundgespräch mit europäischen Zeitungen (FT, Le Monde, Corriere de
la Sera etc.)*

21.10.2007

Troika-Sitzung mit US (und RUS?)

21.-23.10.2007 **Wien**

21.10.2007

Troika-Sitzung

Interview mit "Die Presse", Wien (Herr Schneider)

22.10.

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Drittes Direkttreffen der Parteien (Wien)

Belgrad:
wie zuletzt plus Ivana Radić (Beraterin im Kosovo-Ministerium)

Pristina: ToU

Interview mit FAZ (Martens)

23.10.2007
Dritte Unterrichtung PSK

Gespräch mit Javier Solana
Gespräch mit Pieter Feith, design. Leiter ICO

Interview DW-TV (Herr Trippe)

25.10.
Gespräch mit HUN StS

26.-28.10.
Trilateral Commission **Wien**

28.-30. Berlin
Gespräch mit **BM Dr. Steinmeier**
Gespräch mit StS Silberberg
Gespräch mit D2
Gespräch mit Kosovo Task Force

Briefing BND

30./31.10.
Vortrag Anglo-German Club **Hamburg**

4.11.
Troika-Treffen in Wien

5.11.
Viertes Direkttreffen der Parteien (Wien)
SRB Delegation angeführt von Präsident Tadic und PM Kostunica
Pristina: Unity Team

Gespräche mit AUT BK Gusenbauer und BM'in Plassnik

6.11.
Telefonat PRT AM **Amado**

Interview DLF (Hafkemeyer)

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7.11.

Telefonate SWE AM Carl Bildt, HUN AM'in **Kinga Göncz**
Gespräch mit CZE Präsident **Vaclav Klaus**

8.11.

Vierte Unterrichtung PSK, **Brüssel**

9./10.11

Berlin

Gespräche mit Kosovo Task Force

11./12.11.

Lissabon

Gespräche mit AM **Luis Amado**

Mittagessen mit **Vasco Ramos** und Balkandirektor **Antonio Tanger Correa**

12.-16.11.

USA-Reise

12.11.

New York

Abendessen mit **Richard Holbrooke**

13.11.

New York

Briefing EU Heads of Mission

Mittagessen mit Jean-Marie Guéhenno

Washington

Diskussion mit Atlantic Council (*auch Presse anwesend*)

Key Note Speech in der Britischen Residenz (Carl Bildt, Nick Burns, Dan Fried etc.)

14.11.

Washington

Briefing der EU HoMs

Gespräch mit U/S Nicholas Burns und A/S Daniel Fried

Gespräch mit Jim Jeffries (D/Head NSC)

Mittagessen mit Frank Wisner, Bo Scharioth, Johannes Haindl, Jim Dobbins et al.

15.11.

Boston

Diskussion and der Fletcher School of Diplomacy (TUFTS)

18.-21.11.

Brüssel

18.11.

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Gespräch mit **Javier Solana**
Informelle Diskussion mit **Politischen Direktoren der EU 27**

19.11.
Diskussionsrunde beim German Marshall Fund (*Hintergrundgespräch*)
Gespräch mit HUN AM Göncz
Unterrichtung RAA

20.11. Brüssel
Fünfte Runde der Direktgespräche mit den Parteien (8. Runde insgesamt)

Telefonat mit Hessischem Rundfunk
Statements für Agenturen
Photo Op

21.11.
Berlin
Gespräche mit Kosovo Task Force

Hintergrund mit deutschen Journalisten (Ref. 013)

23.11.
Telefonat mit BG Skodowski (JFC Naples)

Telefoninterview Irina Novakova (Capital, Bulgarien)
Interview mit James Blitz
Telefoninterview mit Frau Göb (SWR)

26.-28.11.

Konferenz in **Baden** bei Wien (Sechste Runde der Direktgespräche, neunte Runde insgesamt)
Delegationen: Unity Team Kosovo, Serb. Delegation mit Präsident Tadic und PM Kostunica

28.11.
Gespräch mit Bundespräsident Köhler

Telefoninterview mit FR (Mappes-Niediek), 26.11.
Pressekonferenz Baden, 28.11.
ARD O-Ton für Tagesschau, 28.11.
BBC Live Schaltung, 28.11.

29.11.
Berlin:
Unterrichtung der SPD-Fraktion
Interview mit Herrn Blome (Bild), nicht veröffentlicht

Paris:

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Teilnahme "The West and Russia - Towards a New Strategic Engagement"
Treffen mit Jean-David Levitte, Berater von Präsident Sarkozy

01.12.
London
Vortrag vor Fletcher School Alumni

02.12.
Wien
Troika-Besprechung

03.12.
Wien
Treffen mit KG (Ebene Balkandirektoren)
Belgrad
Gespräch mit serbischer Delegation
Pristina
Gespräch mit Kosovo-Delegation

04.12.
Frankfurt
Hintergrund FAZ

05.12.
Interview Expresso, Portugal

06.12.
Pressegespräch zu Kosovo im FCO

09.12.
Brüssel
Briefing der EVP-Außenminister

10.12.
Unterrichtung der EU Außenminister im RAA (Mittagessen)

O-Ton für ARD
Telefonate mit RBB und DW

11.12.
Interview Rheinischer Merkur

12.12.
Interview Focus

Annex III

Travel report of German Green Party Members of the *Bundestag*
to Serbia and Kosovo December 2007



Kosovo/Serbien/UN/EU

Unabhängig: Koordiniert oder Unilateral

Kosovo und Serbien im Dezember 2007

Vom 03. bis zum 06. Dezember führen die Abgeordneten *Marie Beck* und *Jürgen Trittin* nach Pristina und Belgrad, begleitet von ihrem Mitarbeiter *Reinhard Weißhuhn*. Ziel war eine Erkundung der Lage im Kosovo und in Serbien kurz vor dem 10. Dezember – dem Tag, zu dem die Troika aus EU, USA und Russland ihren Bericht bei UN-Generalsekretär *Ban Ki Moon* vorzulegen hatte.

Fazit

Europa steht vor der Unabhängigkeit des Kosovo. Die EU hat nur die Alternative, diesen Prozess koordiniert zu gestalten oder ihm naturwüchsig seinen Lauf zu lassen. Sie hat sich für das Erstere entschieden. Europa wird sich am Kosovo weder durch die USA noch durch Russland spalten lassen.

- ↳ Angesichts der Unvereinbarkeit der Verhandlungspositionen von Serben und Kosovaren ist eine Klärung des Status des Kosovo im Konsens nicht mehr zu erwarten. Es wird daher keine Sicherheitsratsentscheidung geben. Der Kosovo wird nicht von der UNO aufgenommen werden.
- ↳ Es wird mit hoher Wahrscheinlichkeit eine Unabhängigkeitserklärung des Kosovo im ersten Quartal 2008 geben. Im Gegenzug zur Anerkennung durch die Mehrheit der EU und der USA werden die Kosovaren die zentralen Elemente des Ahtisaari-Plans zum Schutz der Minderheiten und der serbischen Kulturgüter in der Verfassung verankern.
- ↳ Die internationale militärische Präsenz im Kosovo (KFOR) wird auf der Basis der – weiter geltenden - Sicherheitsratsresolution 1244 fortgesetzt - trotz ihrer inneren Widersprüche etwa zur Wahrung der territorialen Integrität Serbiens bis zur Klärung des Status. Angesichts möglicher Reaktionen auf eine Unabhängigkeitserklärung ist KFOR weiterhin notwendig – gerade zum

21763 ZEICHEN 3503 WÖRTE
REISEBERICHT PRISTINA BELGRAD 12.07 FINAL.DOC

KOSOVO

BÜRO BERLIN
PLATZ DER REPUBLIK 1
11011 BERLIN

5. DEZEMBER 2007

Schutz serbischer Enklaven und anderer Minderheiten. Perspektivisch sind hier jedoch mehr und mehr polizeiliche und weniger militärische Fähigkeiten gefragt.

- ↳ Die Übernahme der internationalen zivilen Präsenz von UNMIK durch die EU wird vorbereitet und kann in einem Zeitrahmen von 90 bis 120 Tagen nach der Unabhängigkeitserklärung vollzogen werden. Notwendig ist hierfür eine Erklärung des Generalsekretärs der Vereinten Nationen. An der notwendigen Einstimmigkeit bei einzelnen Enthaltungen der EU gibt es dann keinen Zweifel mehr.
- ↳ Serbien hat offiziell ausgeschlossen, auf eine Unabhängigkeitserklärung militärisch zu reagieren – ungeachtet anderer Stimmen. Mit Aktionen durch Provokateure und Agenten ist zu rechnen. Serbische Maßnahmen dürften dennoch eher wirtschaftlicher Natur sein: von einer temporären Blockade von Strom und Wasser bis zur Schließung der Grenzübergänge. Allerdings treffen all diese Maßnahmen auch Serbien und vor allem auch die im Kosovo lebenden Serben.
- ↳ Kein Gesprächspartner – auch nicht auf der serbischen Seite – rechnet mit einem Massen-Exodus der Kosovo-Serben. Zweidrittel der Kosovo-Serben leben im Süden, verstreut über diverse Enklaven und haben dort Landbesitz.
- ↳ Allerdings wird der weit überwiegend serbische Nord-Kosovo die Unabhängigkeitserklärung nicht akzeptieren und sich von Pristina lossagen. Damit kann sich vor der Haustür der EU ein *frozen conflict* entwickeln.
- ↳ Innerhalb Serbiens ist mit einer Verschärfung der innenpolitischen Lage bis hin zur Ausrufung des Ausnahmezustands zu rechnen. Der Annäherungsprozess an die EU dürfte unterbrochen, aber nicht abgebrochen werden. Deshalb ist das Stabilisierungs- und Assoziierungsabkommen wie eine offenere Visumspraxis der EU gegenüber Serbien essentiell.
- ↳ Die einseitigen Versuche der Serben nach Lösung der Republika Srpska aus dem bosnischen Staatsverbund werden sich verstärken. Kosovo wäre für sie ein Präzedenzfall und kann hier die Spannungen erhöhen. Die gemeinsame EU-Perspektive wirkt dem jedoch entgegen.
- ↳ International dürfte die Unabhängigkeit des Kosovo Präzedenzwirkung auch für solche *frozen conflicts* wie in Süd-Ossetien und Abchasien entwickeln.

Pristina

Pristina machte einen ruhigen, aber angespannten Eindruck. Die Pressekonferenz der Troika aus EU, USA und RUS wurde nur von wenigen Demonstranten des unter Hausarrest stehenden Extremisten Albin Kurti begleitet. Sie trugen Plakate mit der Aufschrift „Ahtisaari = HIV+“, konnten aber von nur wenigen Polizisten vor dem Parlamentsgebäude in Schach gehalten werden.

Die Pressekonferenz, an der wir teilnahmen, brachte außer der Botschaft, dass ein Kompromiss nicht gefunden worden sei, obwohl alle denkbaren Steine umgedreht wurden, nichts Neues.

Briefing durch Deutsches Verbindungsbüro

Der Leiter des deutschen Verbindungsbüros, *Karl Wokalek*, verwies besonders auf die angespannte Energiesituation des Kosovo. Die Nachfrage betrage im Winter rund 1200 MW, im Kosovo könnten aber mit zwei veralteten Braunkohlekraftwerken nur 800 MW bereitgestellt werden. Projekte für ein neues größeres Kraftwerk zusammen mit RWE und EnBW würden frühestens in einigen Jahren realisiert. Aktuell muss der weitere Bedarf aus Serbien oder Mazedonien, Rumänien zu Spotmarktpreisen importiert werden. Dies könne sich noch verschärfen, wenn Serbien neben einer Stromblockade auch die Wasserzufuhr sperre, weil dann der 400 MW-Block des Kraftwerks nicht mehr gekühlt werden könne.

Zusammen mit einem allgemeinen Wirtschaftsboykott durch Serbien – 33% der Waren im Kosovo stammen von dort – wäre das der *worst case* nach einer Unabhängigkeitserklärung des Kosovo. *Wokalek* unterstrich, dass es auf jeden Fall zu einer Ausweitung der serbischen und von Serbien bezahlten Parallelstrukturen kommen würde. Im Kern gäbe es diese aber heute auch schon. So wäre die Ausrufung der Unabhängigkeit samt der Separation des Nordkosovos nichts anderes als die notarielle Beglaubigung des Faktischen. Mit Russland gebe es ein agreement, den Status quo der faktischen serbischen Hoheit über das Nordkosovo aufrechtzuerhalten.

Zu den Wahlen sei festzustellen, dass *Thaci* der Sieger sei. Er rechne nach Feststellung der Kommunalwahlergebnisse Mitte Dezember mit Koalitionsverhandlungen, die auf eine Regierung von PDK, AKR und LDD hinaus liefe. Der weitgehende serbische Wahlboykott sei von Serbien mit der Drohung durchgesetzt worden, die Gehaltszahlungen an alle staatlich bezahlten Angestellten im Nordkosovo und den Enklaven einzustellen. Nur Landwirte hätten sich dem wegen ihrer größeren Unabhängigkeit entziehen können.