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The Interventions in Kosovo and Libya: a Two-Level Approach to German Foreign Policy Decision-Making

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List of abbreviations

AWACS	Airborne Early Warning and Control System
BRIC	Brazil, Russia, India, China
CDU	Christian Democratic Union
CSU	Christian Social Union
EU	European Union
FAZ	Frankfurter Allgemeine Zeitung
FDP	Free Democratic Party
FYR	Federal Republic of Yugoslavia
G8	Group of Eight
MPs	Members of Parliament
NATO	North-Atlantic Treaty Organization
OAF	Operation Allied Force
OUP	Operation Unified Protector
RECCE	Reconnaissance
ACTORD	Activation Order
SPD	Social Democratic Party of Germany
SZ	Süddeutsche Zeitung
UCK	Ushtria Clirimtare e Kosoves (Kosovo Liberation Army)
UN	United Nations
UNIFIL	United Nations Interim Force in Lebanon
UNSC	United Nations Security Council
USA	United States of America

1. Introduction

When on March 17, 2011 Germany abstained on United Nation Security Council (UNSC) resolution 1973, which called for the creation of a no-fly zone over Libya, it faced harsh criticism. According to commentators, the German decision was based on a “misplaced pacifist reflex, poor strategic thinking, and an incompetent Foreign Minister” (Berenskoetter 2011: 10), it also “caused quite a stir” (Lindström and Zetterlund 2012: 25) among Germany’s allies. The criticism culminated as observers posed the question whether German foreign policy has gotten into a crisis (Maull 2011: 95).

Exactly twelve years earlier, German combat forces participated in the war against the Federal Republic of Yugoslavia (FRY), which in contrast was not backed by a UNSC resolution and appeared to be a “sign of growing maturity” (Mirow 2009: 47) of German foreign and security policy: for the first time since World War II, the country aggressively used force in international relations (Miskimmon 2009: 561), thereby marking a defining moment in the country’s post-Cold War history. Looking at both cases in a comparative manner, at first sight each decision—i.e. the outcome of the decision-making process—constitutes a puzzle. Both cases exhibit striking similarities (Maull 2011: 105) whereas Germany’s reaction differs immensely. In 1999 and 2011 alike, a Western alliance used military power to save the population of a sovereign country from atrocities committed by their leaders. The puzzle manifests whilst looking at the differences in both cases. 1999’s Operation Allied Force (OAF) was conducted without a United Nations (UN)-backed mandate by a German coalition government composed of the Social Democratic Party of Germany (SPD) and the Alliance ‘90/The Greens, which has its ideological roots in the pacifist movement (Brunstetter and Brunstetter 2011: 68; Mirow: 47). Indeed, the coalition agreement postulated that “*Deutsche Außenpolitik ist Friedenspolitik*” (Sedlmayr 2008: 50). It also placed “particular emphasis on strengthening the United Nations” (Maull 2000: 5), which makes the decision even more surprising. However, Germany’s role in the Kosovo War was considered to have a positive impact, as it “demonstrated a maturity and seriousness found in very few other countries” (Hyde-Price 2001: 31). In the case of 2011’s Operation Unified Protector (OUP) instead, an internationally legitimized alliance intervened in Libya and the German governing coalition was not in principle averse to the use of force. Moreover, in the eleven years in between, the Federal

Republic of Germany overcame its reluctance to the use of force (Baumann and Hellmann 2001: 61) when it participated in the War in Afghanistan, as it did in Kosovo earlier. It follows that an intervention in Libya should have been more likely than in Kosovo.

Thus, this thesis strives to ascertain why Germany took part in the intervention in Kosovo, not being legitimized by the international community, whereas it opposed the intervention in Libya, which was in accordance with international law.

The thesis shall shed light on both cases by employing Robert Putnam's two-level games theory (Putnam: 1988). Its core assumption is a government playing two simultaneous, intertwined games when negotiating a deal with a foreign country. The games on the domestic and the international level exert influence on each other. It is the executive negotiator's job to balance the two interacting games (Beach 2012: 180). Putnam's theory can be used in a twofold way: it may describe and explain the outcomes of international negotiations or it may help analyze the outcome of domestic bargaining over a foreign policy issue. Since this paper's objective is to explain why a certain foreign policy option was chosen, it will be utilized in the latter way.

Although Putnam's theory is the theoretical foundation of this analysis, it will be enhanced by various aspects which were found to be essential in different empirical studies and seem to be enriching when focusing on German policy making. In order to provide an analytical framework that best describes the outcomes of both empirical observations, the thesis will furthermore draw upon the role conception of Germany as a Civilian Power (Harnisch and Maull 2001: 3). This serves two distinct purposes: First, it helps identifying and defining the determinants of especially German foreign policy decision-making, which is a conceptual weakness of Putnam's theory (Oppermann 2008: 28), second, it helps understand policy change and takes into account long-term interests, which Putnam's theory does not, but which are crucial for answering the research question.

The method employed is structured, focused comparison according to George and Bennett (2005). It is structured since a set of "questions"—derived from the research question and theoretical preliminary considerations—shall be applied to each case. It

is focused as the case studies focus only on certain aspects of the respective empirical phenomenon. In this way, comparable results can be generated.

With the research design in hand, a contribution to understanding German foreign policy decision-making can be achieved. Most examinations of the abstention on Resolution 1973 were more of an essayistic or descriptive nature than theory-driven. A comparison with the case of Kosovo that takes into account relevant domestic influences on the decision-making process can hold against the notion that German foreign policy is erratic. It rather illustrates how each decision followed a rationale and—to a less important degree—how the foreign policy of Germany evolved between 1999 and 2011 and how this very evolution affected the decision in March 2011 on the use of force against Libya's then-ruler Muammaral Gaddafi. In the end, the findings may contribute to a more predictable German foreign policy.

To begin with, the theoretical basis of the thesis shall be outlined. The two-level games approach will reveal systemic and sub-systemic factors that influence foreign policy decision-making. With a narrow perspective on Germany, constraining elements in the domestic realm shall be described. Moreover, the influences of the international bargaining process on domestic decision-making will be laid out. Certain aspects which go beyond Putnam's original formulation of two-level games—such as the role of public opinion—will be elaborated on. Having introduced the factors relevant for analysis according to the two-level theory, the role concept of Germany as a Civilian Power will be integrated into the analytical framework based on the assumption that only systemic and sub-systemic do not sufficiently explain the decisions in Kosovo and Libya. Subsequently, the most pertinent institutions of the domestic decision-making process will be delineated quickly. Four hypotheses will then be generated that guide the empirical part. By means of applying those to each case, the domestic actors and their preferences will be examined. In a second step, the costs and benefits which are relevant to those actors and which shape the actors' preferences will be evaluated. The influence of the chief negotiator on the domestic outcome is another aspect central to the analysis of the case studies. Finally, the influences of the international level on the decision shall be clarified. Conclusively, the results will be discussed to develop a useful synthesis.

2. The Theoretical Framework of Analysis

The starting point of this analysis is to lay out the theoretical framework. It will be shown that the two-level games theory, while looking closely at domestic factors of foreign policy decision-making, can be specified by combining its assumptions with the role concept of Germany.

2.1 A Game on Two Levels: Domestic Constraints of Foreign Policy Decision-Making

As Moravcsik (1993) assessed, “all sophisticated theories of international relations [...] concede that domestic actors are active participants in foreign policy-making.” Putnam’s theory contributed significantly to opening up the black box of states as unitary actors in foreign policy. Not only did he achieve to connect systemic and sub-systemic variables, he also drove forward the exchange between two sub-disciplines of political science, namely International Relations and Comparative Politics. His approach may therefore be classified as a neo-institutionalist one (Oppermann 2008: 18-21).

The core assumption of Putnam’s theory is the metaphor of a statesman simultaneously negotiating on two levels: on the domestic level, called Level II, he depends on the preferences and relative bargaining power of domestic actors, on the international level, called Level I, he seeks to maximize the outcome of international agreements (Moravcsik 1993: 15). Functioning as the *gatekeeper* between the two levels, he has to balance domestic and international imperatives. Level I and II are interrelated by the theoretical concept of ratification: every agreement on Level II has to be ratified on Level I (Oppermann 2008: 23; Putnam 1988: 436).

For the purpose of this thesis, Putnam’s theory will not be used as a theory of international negotiations but as an instrument of foreign policy-making analysis, because it examines national government’s incentives for actions, the possible policy options and choices of strategy (Oppermann 2008: 37). Thus, foreign policy is the simultaneous interaction of both levels (Tilly 2011: 162). Putnam introduces four determinants with whom the domestic win-set can be identified.

2.1.1 Determining the Domestic Win-Set

Prior to detailing the determinants, one must define the term most essential to the analysis: a win-set can be defined

“for a given Level II constituency as the set of all possible Level I agreements that would ‘win’—that is, gain the necessary majority among the constituents—when simply voted up or down” (Putnam 1988: 437).

From this definition becomes evident that the win-set is the explaining variable which allows it to assess the policy option an executive has. This in turn renders it possible to draw conclusions with regards to the decisions of those executives (Oppermann 2008: 37f). According to Putnam, the size of the win-set depends on the one hand “on the distribution of power, preferences, and possible coalitions among Level II constituents” (Putnam 1988: 442). Preferences in turn are formed by costs and benefits, and coalitions are formed according to the distribution of costs and benefits (Moravcsik 1993: 24). The higher either costs or benefits from a Level I agreement, the more a domestic actor will exert pressure on the executive to pursue his interest (Putnam 1988: 445).¹ Coalitions may be interest groups, political parties, individuals etc. Another noteworthy factor is the degree to which an issue is politicized, for this has an effect on the mobilization of domestic actors and equally on the size of the win-set (Oppermann 2008: 40; Putnam 1988: 445).

On the other hand, the “size of the win-set depends on the Level II political institutions” (Putnam 1988: 448). The institutional rules attribute relative power to the domestic actors and the executive and thereby determine which Level II constituents possess (formal or informal) veto power as well as the state’s degree of autonomy. As a general rule the size of the win-set increases if the autonomy of decision-makers does (Putnam 1988: 449). On a related note: the longer international negotiations endure, and by this, the “more clearly international options become defined, the more leaders are constrained by mobilized interest groups” (Evans 1993: 399). If the preferences of executive and domestic actor are not congruent, the ratification process is the constraining element (Oppermann 2008: 39). But only

¹ It should be noted that the executive also pursues interests and forms coalitions among the Level II constituents. Its overall interest is to safeguard its power (Putnam 1988: 435).

those actors with veto power (be it formal or informal) have the power to hamper ratification (Mo 1994: 405; Zangl 1994: 296f). Hence, the ratification process is key for understanding the constraints a decision-maker is subject to:

“the requirement that any Level I agreement must, in the end, be ratified at Level II imposes a crucial theoretical link between the two levels. ‘Ratification’ may entail [...] any decision-process at Level II that is required to endorse or implement a Level I agreement, whether formally or informally” (Putnam 1988: 436).

Ratification is understood in an extensive scope: it encompasses formal ratification such as a parliamentary voting which is dichotomous—the ratifier simply votes up or down—or informal ratification which “provides a continuous constraint on the executive” (Pahre 2003: 3), such as public opinion. Preferences are constant during the ratification procedure, yet the statesman has numerous possibilities to manipulate it: for example, the influence may extend to manipulating voting rules, setting the agenda, changing the domestic balance by means of *side-payments*, or using information asymmetries in their favor (Oppermann 2008: 23). The statesman’s leeway to influence domestic constraints rests on different factors: the concentration of domestic groups and the extent to which they are informed about a certain agreement as well the effects of a potential pre-commitment. In this context, “the more diffuse the costs and benefits of the proposed agreement, the more possibilities for statesmen to target swing groups and gain their support at relatively low costs” (Moravcsik 1993: 26; see: 2.1.3).

The failure of ratification poses a risk to international (non-enforceable) agreements. Two types of defection may occur: a “rational egoist” (Putnam 1988: 438) may defect from an agreement if this is advantageous to him (*voluntary defection*). Although this is a particular problem of collective action, *voluntary defection* bears little incentive for policy-makers which are reiteratively engaged in negotiations (Putnam 1988: 438). The event of a negotiator not being able to comply with its promises (*Involuntary defection*), however, is more frequent. The smaller the win-set is, the higher the risk of defecting involuntarily. Due to situations of uncertainty and domestic asymmetrical

information, “negotiators themselves are uncertain about their own constraints, [so those] make successful international agreement difficult by entailing ‘involuntary defection’” (Lida 1993: 417). Or put differently, governments may overestimate their win-set, which results in the effect of an agreement not being ratified ex-post.

Any government has an electoral interest to aim for domestic approval of international agreements (Oppermann 2008: 27). Due to this calculation, “perceptions of domestic constraints are just as important as the actual constraints themselves” (Lida 1993: 418). In order to advance Putnam’s theory, Lida (1993) elaborated on uncertainty about domestic politics. In reality, complete information is not given and as a result, the negotiator may perceive domestic constraints—be they factual or not—which limit his scope of action.

The idea that governments have an electoral interest and the public, as follows, can never be ignored by decision-makers, was promoted by Pahre (2003). Even if the public does not exercise formal veto power, the activities of non-veto powers may impose high electoral costs on the government. The anticipation of such “audience costs” (Pahre 2003: 15) can have a significant impact on the decision-making process of the government. In furtherance of understanding the weight of electoral costs, Shamir and Shikaki (2005) untangled the vague specification of public opinion in two-level theory literature.² According to their research, public opinion goes beyond the figures depicted in opinion polls and is far more multifaceted. Public opinion also contains a normative component which is “referred to as the ‘climate of opinion’, the ‘national spirit’ [...] or *Zeitgeist*” (Shamir and Shikaki 2005: 312) and a behavioral component which delves into the forms of expressions, e.g. public speeches and debates. Moreover, public opinion is more susceptible to “framing efforts [than] other level II actors” (Shamir and Shikaki 2005: 313). Public opinion is shaped by and large by two things: the interpretation and information about events by the media and “symbolic gestures [...], such as historical responsibility acknowledgements” (Shamir and Shikaki 2005: 313), to which it reacts sensitively. “Thus, when disputes have an acute symbolic dimension, negotiators have an incentive to converge on ambiguous formulations in the hope of facilitating public approval” (Shamir and Shikaki 2005:

² As aforementioned, the development of the theory seeks an optimal operationalization with a view to German foreign policy-making. It will be shown that public opinion is a key element in analyzing the empirical cases and therefore, it is extensively developed here.

313f).³ Notably, not only may negotiators influence their own domestic win-set, but also the wins-set of their bargaining partners (Shamir and Shikaki 2005: 325). This feature of two-level games—the repercussions of Level I players—will be presented in the following.

2.1.2 Level I Influences: Strategies of Bargaining Partners

Being present on both levels, governments obtain strategic autonomy of action (Moravcsik 1993: 15; Milner 1997: 34). Similar to Level II behavior, they try to manipulate the international level in a like manner (Oppermann 2008: 40). So as to enlarge the win-set of bargaining partners, they can make use of three strategies.

One of those strategies is *reverberation*. Actions in one state directly influence the win-set of the bargaining partner, either by concessions or by threats from the foreign country, which can either have positive effects on domestic constraints (i.e. expanding the domestic win-set) or create an unintended backlash, hence making international agreement more difficult as the win-set shrinks (Putnam 1988: 454ff; Dash 2008: 25). Another tactic would be to “raise the cost of no-agreement to key constituents on the other side” (Moravcsik 1993: 29). This can be facilitated by employing transnational *side-payments* or *issue linkages* which are aimed at powerful domestic actors (Oppermann 2008: 29f). *Side-payments* are understood as measures to generate higher benefits for a certain group (Putnam 1988: 450). *Issue linkage* is the “strategicpooling of distinct bargaining items into a package deal” (Oppermann 2008: 28; author’s translation). Finally, the strategy of *collusion* is used to the advantage of arranging an agreement. Another government is strengthened by its partners through raising its domestic popularity, e.g. by attributing certain negotiation successes to the respective government whose domestic support is then reinforced vis-à-vis strong domestic opponents of the international agreement (Oppermann 2008: 31; Zangl 1995: 402).

A commonly mentioned concept of Level I-Level II interdependence is related to reshaping domestic constraints in order to reach a more favorable bargaining position (Moravcsik 1993: 28). Negotiators may attempt to use the strategy of *tying*

³ The fourth facet outlined in this research, the “prospective informational facet [as] public opinion in the world of economists” (Shamir and Shikaki 2005: 313) will be omitted for the sake of simplicity.

hands (reducing the size of the win-set to gain more bargaining power) or of *cutting slack* (enlarging the size of the win-set to make international agreement more likely) (Putnam 1988: 449; Moravcsik 1993: 28). However, it has been demonstrated empirically that governments, in general, do have more incentive to *cut slack* than to *tie hands* (Evans 1993: 399; Mo 1994: 403; Moravcsik 1994: 56; Oppermann 2008: 36).

2.1.3 The Role of the Chief Negotiator

Given the strategically central role of the *gatekeeper*, his own preferences have a remarkable impact on the outcome of international negotiations. Precisely because he holds the monopoly of representation at Level I, a rational chief negotiator may pursue his own interests at Level I and influence domestic constraints at Level II. He does so under circumstances of uncertainty and incomplete information (Moravcsik 1993: 23; Oppermann 2008: 24f).

Initially, the chief negotiator's motives should be summarized briefly. He may either work towards a better political position at Level II, or he may as well pursue his personally favored concepts at Level I (Putnam 1988: 457). It is assumed that his primary objective is to stay in power (Oppermann 2008: 25). So at the beginning, his ways of influencing domestic constraints by using the power resources at his disposal which has already been mentioned above (see 2.1.1), will be evaluated. Similar to Level I behavior, chief negotiators can use *issue linkages* to gain the necessary approval among constituents within the nation state. Next and also analogous to Level I, *side-payments* are aimed at actors whose consent is critical for facilitating international agreement. The chief negotiator may also choose to exploit his control over information. This enables him to mobilize important actors selectively (Oppermann 2008: 26-33). The extent to which he is able to influence domestic constraints and thereby, the win-set, solely depends on his relative bargaining power vis-à-vis domestic actors. Moravcsik (1994: 4) offers four political resources describing this relative bargaining power. For the analysis, the control over agenda setting power (*initiative*), procedural rules for ratification of an international agreement (*institution*), political and technical knowledge and costs of collecting and analyzing information (*information*), and justification of policies "with reference to the

realization of common abstract values” (Moravcsik 1994: 14) (*ideas*) can be looked at.

Of course, a statesman has the power to veto any agreement (Putnam 1988: 457). Aside from that fact, his own preferences do have crucial impact on the outcome of the international bargaining process. So, within the scope of the domestic win-set, he may negotiate according to his own preferences (Moravcsik 1993: 23), or in other words, his *acceptability-set* (Moravcsik 1993: 30).⁴ This concept is based on the assumption that executive and legislative are subject to a principal-agent relationship (Putnam 1988: 456; Tilly 2011: 163). Accordingly, three distinct types of chief negotiators exist. Acting as an agent of the domestic constituents, the chief negotiator’s *acceptability-set*“ reflects the interests of the median domestic group and is encompassed by the domestic win-set” (Moravcsik 1993: 31). In the case of the chief-negotiator being a dove, his *acceptability-set* is closer to the *acceptability-set* of bargaining partners than the domestic win-set. Finally, in the case of an executive acting as hawk, his *acceptability set* is “further from the opposing win-set” (Moravcsik 1993: 31) than the domestic win-set (Evans 1993: 406; Moravcsik 1993: 31; Tilly 2011: 163; Zangl 1995: 403).

Taken as a whole, the chief negotiator has a rich array of strategies he can use, which substantially alter the games on Level I and Level II. From the explication above, the most important restraining parameters of foreign-policy making became clear, as well as the interaction of bargaining and ratification phase and the pitfalls revolving around it. Despite Putnam’s valuable input for studying domestic influences on foreign policy, his theory lacks a coherent identification and conceptualization of the determinants which are central to the analysis of win-sets (Oppermann 2008: 11). These factors are not systematically integrated in a general analytical frame in a way that they could be generalizably operationalized (Milner 1997: 233f; Oppermann 2008: 41). The integration of the German role concept may partially compensate for these conceptual weaknesses.

⁴ The concept of the specification of the statesmen’s preferences was introduced by Moravcsik (1993) in order to mirror not only the preferences of the society—as Putnam (1988) initially did—but also the preferences of the executive (Zangl 1995: 399).

2.2 Germany's Role Conception: an Attempt to Enhancing Putnam's Theory

In Putnam's rational choice theory, costs and benefits are of pivotal interest since approval of and opposition to an international agreement are fostered by the distribution of gains and losses (Evans 1993: 399). Since the analysis covers German policy-making exclusively, one cannot sufficiently examine the cost-benefit-relation if one does not take into account the expectations of bargaining partners towards German decision-making. They are especially important in the case of post-unification Germany foreign policy. To that end, the German role concept as a Civilian Power is considered to enrich the analysis for it grasps central factors which inevitably influence German foreign policy-making to a high degree.

Prior to integrating the role concept in the two-level theory, one must define this constructivist (Maull 2007: 75) approach. States can have different role conceptions which are expressed in guiding principles of foreign policy (Maull 2007: 74). The particular German "role concept as Civilian Power describes a basic foreign policy orientation which aims at civilizing politics altogether and international relations in particular" (Maull 2007: 74; author's translation). Thus, it is a

"state that sought to pursue its foreign and domestic objectives primarily through political and economic means, and which was committed to multilateral co-operation and strengthening international law" (Hyde-Price 2001: 31).

Specifically, this role concept translates into the values of *Westbindung* (West integration), a multilateral character of foreign policy and a profound skepticism of military means in international relations (Gareis 2006: 50; Kudnani 2011: 31f). The concomitant "complex bundle of norms, beliefs, attitudes and perceptions" (Maull 2000: 14) does not only shape Germany's foreign policy behavior and deeply affect foreign policy goals, but also the expectations of its international partners (Maull 2007: 74). The basic guidelines shape foreign policy conduct because they are embedded in the self-perception of the political elite and the population (Maull 2007: 81).

Despite the permanence of the role concept, changes and modifications may occur. They are indicated by learning processes which in turn are fuelled by effects of socialization and significant historical experiences (Maull 2000: 14). Drawing upon this concept can help to assess modifications in German foreign policy behavior (Greis 2013: 234).

Bearing in mind that this thesis will explain the use of force or the refusal to do so, it is worth to briefly examine the concept's propositions regarding coercive policy. Skepticism about military means is not equal with "a pacifist renunciation of the use of military force under any circumstances" (Hyde-Price 2001: 32), but it is rather a means of last resort. If several criteria are met, like the exhaustion of civil conflict resolution mechanisms, the multilateral character of coercive measures, and a manner proportionate to the goals of the use of force, armed intervention is consistent with the Civilian Power concept (Raith 2005: 53). Although Germany's foreign policy is based on normative values, those values may not always be compatible (Maull 2000: 15). Yet the essence of the section is the provision of a framework that enables to adequately analyze the relevant factors that constrain German foreign policy-making.

3. Structural Conditions of German Foreign Policy Decision-Making

Before one may assess the de facto constraints of the Kosovo and Libya cases, the institutional configuration of German decision-making has to be elucidated. The formal rules are the foundation of foreign policy-making. According to the Basic Law, foreign policy is the prerogative of the Federal Government, holding the right of initiative, and within the government, the Federal Chancellor who has the right to set guidelines (Gareis 2006: 35f).

The *Bundestag* may "oppose military action at any time" (Miskimmon 2009: 569). In a judgment in 1994, the Federal Constitutional Court ruled that the deployment of the *Bundeswehr* requires a simple majority (Geis 2013: 232). This implies that the parliament cannot amend any proposal by the executive but it can only approve or oppose (Gareis 2006: 40f).

Beside the central institutional position of the Federal Chancellor, the foreign minister and the minister of defense have an important function in foreign policy-making. The

foreign minister as chief of the Federal Foreign Office is responsible for foreign policy (Gareis 2006: 37f). The relation of chancellor and foreign minister may be dualistic—if they are from separate parties, the foreign minister is relatively strong vis-à-vis the chancellor (Collschen 2010: 69). The minister of defense is the commander-in-chief in peacetimes and responsible for military policy (Geis 2013: 232).

All in all, Germany's parliamentary governmental institutional structure is a crucial restraining element in foreign policy (Auerswald 2004: 642). It is characterized by decentralized division of competences (Gareis 2006: 35).

The theoretical framework—a two-level theory brought together with the Civilian Power role concept—now opens up the possibility to develop guiding questions that can be equally applied to the Kosovo and the Libya case to the end that the respective win-set is extracted from the analysis, or rather: the exact point within the win-set that is the result of the decision-making process—intervention or non-intervention. First, the configuration of relevant domestic actors will be evaluated as well as the formal and informal constraints of ratification. Second, the preferences of the relevant actors will be looked at closely since coalitions align along the costs and benefits. Third, the distinct role of the chief negotiator will be examined, i.e. his influence on domestic constraints and his own *acceptability-set*. Fourth, the influences of Level I on the domestic level shall be explored which are twofold: Influences are on the one hand strategies of bargaining partners trying to extending the German win-set in their favor, on the other hand the expectations of Germany's bargaining partners (in terms of the role concept) which influence domestic decision-making. Each question, during the course of examination, will make recourse to the theoretical premises outlined in the sections above.

4. Comparison of the Interventions in Kosovo and Libya

In both cases, the decision-making process is the center of analysis. Nevertheless, where it seems appropriate, events after the decision-making process will be included into the research ex post. This will only be done insofar as it helps shedding light on decisions made.

4.1 Germany's Participation in the Kosovo War 1998-99

In spite of a looming major international crisis in Kosovo, the electoral campaign in Germany did not attach high importance to this foreign policy issue. The more fateful its impact for the newly elected Red-Green government was when it had to pass its first litmus test even before it assumed office (Sedlmayr 2008: 51). The situation in Kosovo worsened from spring 1998 on. The fights between the Kosovo Liberation Army (*Ushtria Clirimtare e Kosove* – UCK) and Serb forces under the command of Milosevic became more frequent and more severe. Just at this stage, the international community became involved in the conflict. It was not until September 1998—during and after the election phase in Germany—that the German government took a decision (Krause 2000: 406f). This thesis will narrow down the time frame especially to the time after September 1998, since “domestically, the most important decisions were taken within the transitional phase” (Geis 2013: 252). Certainly, relevant events prior to September 1998 will be taken into account when necessary.

Another important remark is referring to the formal decision by the *Bundestag* on October 16, 1998. This cannot be mistakenly seen as the endpoint of the decision-making process, on the contrary: the theory implies that informal ratification, e.g. approval by public opinion or party conventions, is equally important; as long as the agreement is not implemented (i.e. as long as the air strikes are not successfully executed), defection is possible.⁵ This crucial implication of the theory has consequences for the timeframe being analyzed. Also, the Schröder government could have introduced “another motion to the *Bundestag* in which the decision to participate in a possible NATO campaign would be taken back, or it could have refused to deploy any soldiers and aircraft when the operation would be launched” (Brummer 2012: 279). Likewise, this justifies the research period.

⁵ One may refer to the Green's special party convention that was held after the airstrikes were launched. If the party had not approved, this would have possibly resulted in a breakdown of the government coalition (Miskimmon 2009: 564f). In light of the theory, this would have constituted an instance of *involuntary defection*. According to the theory, this would have initiated a new game on Level II (Oppermann 2008: 27).

4.1.1 The Domestic Actors

“[R]atification takes the form of allowing the executive to stay in office and prosecute the conflict” (Auerswald 2004: 658). Due to that, three domestic actors can be identified which were of exorbitant importance: the *Bundestag*, the public opinion and the Greens party.

The *Bundestag* was overall supportive of mandating the *Bundeswehr* to intervene in Kosovo in the event that the situation would further deteriorate (Friedrich 2005: 55). The causes for this can be seen in a unique situation: after the elections, the new *Bundestag* has not yet been constituted (Friedrich 2005: 54). A timely approval of the *Bundestag* had to be reached after the government decided to contribute militarily to a possible NATO mission in Kosovo (Deutscher Bundestag 1998b: 1). So the opposition—still the SPD and the Greens—and the government agreed upon convening a special session of the *Bundestag* on October 16, 1998. The request of the government for a “Beteiligung an den von der NATO geplanten und in Phasen durchzuführenden Luftoperationen zur Abwendung einer humanitären Katastrophe im Kosovo-Konflikt”⁶ (Deutscher Bundestag 1998b: 1) was approved by a large majority (Loquai 2000: 113f). 500 Members of Parliament (MPs) voted in favor, 62 rejected and 18 abstained from the vote (Geis 2013: 249). Indeed, the “debate was remarkable for its lack of controversy” (Hyde-Price 2001: 21).

The absence of strong opposition is of course due to fact that the old and the new government worked closely together. On October 12, Kohl summoned the old and new foreign ministers, Kinkel and Fischer, as well as the soon-to-be-Chancellor Schröder for finding a decision on a possible German contribution to the NATO intervention (Friedrich 2005: 54).⁷ The old governing parties, the Christian Democratic Union (CDU)/Christian Social Union (CSU) and Free Democratic Party (FDP) coalition, worked in the preface of the escalation of the Kosovo conflict towards its resolution. As Kinkel said in a *Bundestag* plenary session as early as June 1998: “Wir werden alles tun, um der Gewalt im Kosovo ein Ende zu bereiten”⁸ (Deutscher Bundestag 1998a: 22419). When four months later, the designated

⁶ Author’s translation: contribution to the NATO-planned airstrike, which is to be implemented in phases, for the prevention of humanitarian catastrophe in the Kosovo conflict.

⁷ Already on September 30, the old government decided to make eleven Tornado jet fighters available for NATO operation. Even this decision was taken in accordance with Fischer and Schröder as they were involved in all decisions—at least—since the day of their electoral victory (Friedrich 2005: 50).

⁸ Author’s translation: We will do everything to put an end to violence in Kosovo.

Foreign Minister Joschka Fischer reinforced Kinkel's statement in the *Bundestag*, the old and the new government were completely in line:

“Wir entscheiden heute über die Beteiligung der Bundeswehr an einem Militäreinsatz der NATO, von dem wir alle hoffen und Gott sei Dank begründet hoffen können, daß [sic!] er niemals stattfinden muß [sic!] und stattfinden wird“ (Bundestag 1998c: 23141).

The goal of the air strikes against Serbia was the desire to stop a humanitarian catastrophe. Moreover, a frequently used argument was to utilize the use of force as a deterrent against Milosevic who would, according to the advocates of an intervention, not give in. The need of Germany to show *Bündnisfähigkeit*, with recurrence to the German history and also the failures during the Bosnia conflict which led to the massacre of Srebrenica were often articulated too (Geis 2013: 249f). The only formal veto-power—aside from the executive—was highly supportive of an intervention. The *Bundestag's* consensus was of long continuance. Hypothetically, the mandate could have been revised under specific circumstances, but its character as a “*Vorratsbeschluss*” was confirmed by the Federal Ministry of Justice (Friedrich 2005: 70). Defection of this actor was rather unlikely, so its role in augmenting domestic support was significant.

The broad consent within the array of political parties resembled the sentiment of the public opinion. Popular support of the war against Serb forces even was „surprisingly strong” (Auerswald 2004: 640). A poll conducted in July 1998 indicated 48 percent approval for a potential intervention and 48 percent opposition to it. The support grew as the tensions in Kosovo rose: After the beginning of the air strikes, 60 percent approved of the German participation in the military action against Milosevic's forces (Geis 2013: 252). 52 percent of Germans even were willing to accept the loss of lives of German soldiers, 72 percent approved of the use of force (Maull 2000: 10). Such figures depict that the decision “represent[s] the[...] views of a majority of the electorate” (Auerswald 2004: 640).

The change of the reluctance to the use of force in the German public can be traced back the events in former Yugoslavia (Maull 2000: 9), as to the coercive force was

seen as an indispensable step to prevent a possible genocide in Kosovo (Eilders and Lüter 2000: 423). The justification of the war was driven forward by framing efforts of the government: As a member of NATO and due to a moral obligation towards the Kosovar-Albanian population the government justified its actions (Eilders and Lüter 2000: 417). It furthermore called upon the sense of responsibility which stems from the lessons learnt during World War II (Eilders and Lüter 2000: 421). The government's framing strategy was underpinned by the debate in the media. Two of the largest German newspapers, the *Frankfurter Allgemeine Zeitung* (FAZ) and the *Süddeutsche Zeitung* (SZ), made the case for the necessity of intervening for humanitarian causes. Although their coverage differed, the tenor was consensual (Geis 2013: 251). Clearly, the government successfully attempted to influence domestic constraints. Among the electorate, there was a decisive aversion to the deployment of ground troops (Maull 2000: 10), which has never been genuinely discussed in the German political realm. There have not been any large demonstrations (Geis 2013: 251), so the German government did not have to fear significant audience costs. The German Red-Green government could also build on additional legitimization: it was always highly skeptical of the use of the *Bundeswehr* and accordingly, it enjoyed greater credibility in military affairs (Geis 2013: 251; Schwab-Trapp 2002: 291).

Closely related with this is the role of the German Green party, which has never before participated in government. As the junior partner in the governing coalition, its hypothetical opposition to the intervention would have resulted in a breakdown of the SPD/The Greens coalition (Auerswald 2004: 656; Brummer 2012: 286). The Greens have their roots in pacifism, manifested in its strong pacifist wing (Brunstetter and Brunstetter 2011: 65; Maull 2000: 7) and therefore, the decision to take part in the air campaign against Serb forces was highly controversial (Eilders and Lüter 2000: 416; Hyde-Price 2001: 25). Indeed, "this was a crisis even bigger and more threatening than any other the party had weathered over two decades" (Hockenos 2008: 268). The intra-party dispute divided over the distinct German, history-induced axiom of "never again" and the conclusions for German politics: Whereas the radical pacifist wing interpreted the very essence of the party as "never again war", the *realo*-wing adhered to "never again Auschwitz", which meant not to tolerate ethnic cleansing

(Brunstetter and Brunstetter 2011: 72). At the special party convention on May 13, 1999, solely dealing with the Kosovo crisis, 58 percent of the delegates tolerated the decision of the government to intervene (Krause 2000: 20). This result was only accounted for by the persistent attempts of Fischer to resolve the conflict diplomatically (Brummer 2012: 286; Brunstetter and Brunstetter 2011: 73), thereby containing opposition and living up to the pacifist ideals of the party (Hyde-Price 2001: 27).

It can be inferred from the aforesaid that no domestic actor vetoed the agreement, and the possibility of defection was minimized by the executive influencing the public—by means of its agenda-setting power—and acknowledging the Green party's pacifist ideals. Ratification therefore effected by means of approval. Acting in line with the public's preference safeguarded the retention of power. As postulated by the theory, insights on the scope of action allow conclusions to be drawn about the behavior of the government (Oppermann 2008: 38). So far, the choice pro intervention seems to be the logical result while looking at the domestic actors. The following section will unravel the costs and benefits.

4.1.2 Cost-Benefit Calculation

Preferences matter considerably: Coalitions shape alongside costs and benefits and they determine the stake an actor has in the game (Moravcsik 1993: 24). Oftentimes, costs and benefits are allocated diffusely between the actors, so that multiple actors may be affected by costs or benefits. Hence, the distribution of positive and negative gains for every relevant actor cannot be assessed exhaustively.

Only 438 of 38,000 operations were conducted by Germany, which accounts for 1.3 percent of all deployments (Friedrich 2005: 93). The monetary expenses are negligible. The benefits in terms of enhancing reputation are, on the contrary, not.

A strong interest of the German government in stabilizing the Balkan can be proofed. The alleged aspirations of the FYR to widen the influence in the Balkans were to be counteracted by Germany (Friedrich 2005: 125f; Sedlmayr 2008: 168). A destabilization of the Balkans was feared which could have had negative effects for the eastern enlargement of the European Union (EU) (Krause 2000: 400). The

Kosovo War even bore the risk to lead to a bigger war in Europe through spill-over effects (Baumann 2001: 174). The disintegration of Yugoslavia as a part of Europe would have caused disturbances of economic and political stability at the periphery of the EU. Germany, which sees the EU as a root cause for its wealth, had a substantial motivation to react to the threat of instability at its frontier (Daalder and O'Hanlon 2000: 12):

“Another large-scale civil war in Yugoslavia with uncontrollable consequences for Albania and Macedonia was seen as too big a threat for the rest of Europe” (Geis 2013: 253).⁹

This rather vague calculation can be enhanced in a more accurate manner. Not participating in an intervention could have proven far more costly: On the other hand, and similar to the German behavior in the forefront of the Gulf War 1990-1, a refusal to participate actively would have required the Germans to compensate by means of its “chequebook diplomacy” (Overhaus 2003: 55; Der Spiegel 1999). From a monetary cost minimization point of view the contribution of forces was more favorable than non-participation (Mahnke 2008: 64). The contribution to the Gulf War—DM 17 billion (Auswärtiges Amt 1995: 793)—exceeded the costs for the Kosovo War by far. The calculated sum the military contribution amounted to DM 620 million (Lambeck 1999). A more extensive conflict with ground troops, thereby producing higher costs, was not to be expected (Daalder and O'Hanlon 2000: 204) and the German government anticipated an impermanent war, inhering a calculable risk (Ignatieff 2000: 12).

The actions of the government were to a large extent driven by the refugee issue which has a political and an economic dimension. By June 1998, Germany had already received 140,000 refugees. According to Foreign Minister Kinkel on June 4, 1998, the priority for a NATO engagement would have to be to secure the Albanian and Macedonian borders in order to ensure that refugees remain in the region (Friedrich 2005: 41). This illustrates the importance the German government attached to the subject of refugees from the beginning of the conflict on. The situation

⁹ In fact, the situation regarding intra-ethnic tensions in Macedonia improved after stabilization of Kosovo (Troebst 2000: 227).

exacerbated in September when 270,000 people were fleeing (Friedrich 2005: 47) so that Germany could have expected the arrival of more refugees (Auerswald 2004: 639; Maull 2000: 13). As a reference value for the financial burdens, the costs for 300,000 refugees from the Bosnia Crisis may be brought in: up to 1999, the expenditures amounted to DM 20 billion (Deutscher Bundestag 1998a: 23136). Besides economic considerations, the electoral costs could have proven fatal since the German population predominantly showed a reluctant attitude towards receiving more refugees in addition to the 140,000 refugees present in Germany (Maull 2000: 4). And indeed, the 90 percent of the Kosovar-Albanian population that fled their homes were able to return to their homes after the war (Webber 2009: 454), proving the German calculus right.

A number of other factors are relevant in the face of cost-benefit-calculations, such as the costs inflicted by the loss of reliability when not joining OAF, or the damage to reputation when not stepping in for a humanitarian cause, as well as the power political gain from employing a diplomatic strategy. Those aspects will be dealt with when discussing the influence of the role conception.

4.1.3 The Role of the Chief-Negotiator

As discussed in the theoretical part, in the German political system two persons are of central interest: the chancellor and the foreign minister. The crisis in Kosovo coincided with a change of government in September 1988, so two persons have to be examined each.

Starting with Chancellor Kohl, he did not ambitiously join in the discussion when the crisis was escalating slowly (Friedrich 2005: 46). His policy towards the partners in the Balkan Contact Group can be described as rather reactive (Krause 2000: 404) and no personal preferences can be evaluated. It is therefore more rewarding to examine Schröder's personal preferences, i.e. his *acceptability set*.

Gerhard Schröder highlighted the notion that Germany's past demanded action and there was no alternative to actively engage in the possible NATO campaign (Brummer 2012: 280). His mindset can be exemplified by the "impassionate speech,

full of conviction and determination” (Hyde-Price 2001: 25) which he gave at the SPD’s special party convention:

“Die verantwortliche, sozialdemokratisch geführte Bundesregierung hatte keine andere Wahl, als alle, aber auch wirklich alle Mittel zu nutzen, um diesem Treiben Milosevics ein Ende zu bereiten. Dies ist das einzige Motiv für unser Handeln, das wir alle teilen“ (Vorstand der SPD 1999: 38f).

Not least because of Schröder’s efforts, a majority of SPD members supported the campaign against Milosevic’s forces (Hyde-Price 2001: 25).

What is equally important is Schröder’s motive to boost his political image. He strived to portray Germany as a reliable partner and show the Red-Green’s coalition ability to govern Germany (Brummer 2012: 284; Schröder 2007: 84). The background of his endeavors was criticism Schröder faced during the election campaign for a “lack of substance” (Hyde-Price 2001: 24). Germany’s allies were skeptical if Schröder’s government was as steadfast as the Kohl government (Friedrich 2005: 71), in particular in “times of significant changes” (Brummer 2012: 284). Schröder made clear that “[j]eder im In- und Ausland kann sich darauf verlassen, daß [sic!] diese Regierung zu ihrer politischen [...] Verantwortung steht“¹⁰ (Deutscher Bundestag 1998d: 49). Demonstrating his continuous support for the government’s decision on October 12, 1998, he bolstered his political standing.

Klaus Kinkel, the foreign minister of the CDU/CSU and FDP coalition, began promoting an intervention in early 1998 (Friedrich 2005: 35ff). Although he sought for reliability as a NATO member and acted according to this motivation (Friedrich 2005: 55), Fischer’s role is more central to the analysis as he was involved in decision-making from September on—as discussed, the very point in time when fundamental decisions were made.

Fischer’s own *acceptability-set* comprised humanitarian concerns which manifested in adherence to diplomacy: He proclaimed the notion of “never again Auschwitz” by declaring that “taking action against Milosevic’s regime was a moral imperative”

¹⁰ Author’s translation: everybody in Germany and abroad can rely on this government living up to its political responsibility.

(Brummer 2012: 281). Paying attention to his party, he engaged in vivid diplomacy. When the USA called for a military intervention after the massacre of Racak in mid-January 1999, Fischer persuaded Germany's allies to organize the Rambouillet conference as a last attempt to peacefully resolve the crisis in Kosovo (Friedrich 2005: 78; Maull 2000: 3; Brunstetter and Brunstetter 2011: 73). From January 1999 on, when Germany took over the EU Council Presidency and the chairmanship of the G8, Fischer intensively used those international fora to foster a peaceful solution of the crisis (Hyde-Price 2001: 27) and include all parties to the conflict in an international dialogue, notably also Russia (Friedrich 2005: 84). In line with these achievements is the Fischer-Plan which "significantly influenced the resolution of the Kosovo conflict" (Brunstetter and Brunstetter 2011: 75) even though the bombing of Yugoslavia had already started. His undertakings may as well be seen as attempts to display German *Bündnisfähigkeit* (Fischer 2008: 86)—very similar to Schröder's eagerness of demonstrating continuity and reliance to Germany's partners.

Since their parties had a strong pacifist wing, Schröder and Fischer struggled to contain those parts opposing an intervention in order to fulfill the agreement. Certainly, both parties—especially the Greens—constituted a serious domestic threat to the pro-intervention decision. By selectively mobilizing moderate groups of their parties, Schröder and Fischer could prevent *involuntary defection* (Hyde-Price 2001: 25). By gaining their parties' support, the chancellor and the foreign minister served the vested interest of retaining power. Apart from that, Schröder und Fischer bargained according to the domestic win-set, so their actions can be described as close to the ideal type agent. As could be observed, they used the justification of their actions by reference to immaterial values, referred to as "ideas" in the theoretical part of this thesis (Miskimmon 2009: 563).

4.1.4 The Influence of Level I on the Domestic Game

Not only the strategies of the chief negotiator influence the domestic win-set, but also the influences of other Level I negotiators and structures must be taken into account. The pressure which the USA exerted on Germany and the German self-perception shaping the expectation of Level I players stand out in this regard.

In March 1998, the US already pressed for quick sanctions in the Kosovo crisis (Friedrich 2005: 38). This attested their strong interest in resolving the conflict as soon as possible and if necessary, by military means. It was highly doubtful if Germany acceded to the NATO activation order (ACTORD) which initiated the planning of a NATO-led military campaign. Presumably, Milosevic counted on German rejection of the ACTORD, leading the USA to pile the pressure on Germany (Friedrich 2005: 52; Geis 2013: 248). Another reason was the quite unique German RECCE capacity needed for the air strikes (Overhaus 2009: 224ff). In the end, the US-strategy was one of success as it reverberated in Germany and influenced the German domestic win-set: by the end of September, US-President Clinton announced to vote in favor of air strikes (Friedrich 2005: 50). When Schröder and Fischer set forth on their first journey to Washington, DC on October 9, 1998, “Clinton assured that the final decision could wait until government was formed” (Geis 2013: 248). Notwithstanding his assurance, only three days later Clinton demanded an immediate decision which had than to be taken within 15 minutes (Friedrich 2005: 53; Maull 2000: 3), being “urged not to veto any NATO action” (Denison 2001: 163). In the special *Bundestag* session on October 16, Schröder and Fischer translated this pressure to the need for alliance solidarity in an effort to win the majority of the MPs (Friedrich 2005: 54; Miskimmon 2009: 563).

Alliance solidarity is also associated with the expectations of Germany’s allies. The West integration is a foreign policy orientation that is followed axiomatically during the Kosovo crisis and its impact on the German government has already been addressed in part (see 4.1.3). Not only did the fundamental idea of West integration shape the behavior of German policy-makers, but also German multilateralism and reluctance to the use of force point to the fact that Germany sought to live up to its role concept (Friedrich 2005: 48). Or put differently, it acted according to the prospects of its allies, corresponding with those ideals. Then again, those expectations are reflected in the domestic win-set.

As Russia successively retreated from the negotiations and the positions of Western and Russian negotiators hardened, Germany struggled to mediate the conflict (Friedrich 2005: 37). Later in the Kosovo war, after the Balkan Contact Group proceeded without Russian participation, a frequent exchange between Russian and

German diplomats took place. The pursuit of this strategy was successful when the G8 states under the chairmanship of Germany agreed on a set of principles which made a resolution of the conflict possible (Hyde-Price 2001: 28).

Beyond the involvement of Russia, Germany's multilateral actions aspired to include the UN to "gain some sort of *post facto* UN legitimisation of the military intervention" (Denison 2001: 164). Prior to the bombing, Germany intensively engaged in bilateral consultations with the UNSC members—above all Russia and USA—to reconcile the conflicting position (Friedrich 2005: 48), leading to UN resolution 1199 which demanded immediate ceasefire and retreat of the Serb forces from Kosovar territory (The Security Council of the United Nations 1998).

With "multilateralism at the very heart" (Maull 2000: 17) of the German foreign policy, it persistently went after a peaceful settlement of the conflict, even at last minute. After the Rambouillet conference—initiated at Germany's instigation—failed, Fischer travelled to Belgrade on March 8, 1999 in a last (and fruitless) attempt to peaceful resolution (Friedrich 2005: 81).

The usage of multilateral institutions was the paramount vehicle of German policy behavior on Level I (Maull 2000: 12). When diplomacy had reached its limits, Germany participated in the war to maintain its *Bündnisfähigkeit* and to stop the atrocities in Kosovo (Auerswald 2004: 636), but it never stopped attempts to "bring peace to the wider region" (Hyde-Price 2001: 27).

It has to be emphasized that all of the above described actions served the purpose to gain and maintain domestic support (Maull 2001: 660). Had Germany not acted multilaterally or prematurely aggressive, it is safe to assume that ratification would have not succeeded. Thus, the role concept constrained German behavior, and the activities on Level I influenced the domestic win-set (Maull 2000: 12).

4.2 Germany's Abstention on the Intervention in Libya 2011

During the course of the Arab Spring, Libya under the rule of Muammar al Gaddafi slipped into a civil war. The country was stricken by upheavals and was thus destabilized. As rebels gathered in the city of Benghazi and established an interim

transitional council, Gaddafi launched an offensive against the rebel stronghold (Lüders 2011: 106f). UNSC resolution 1970 condemned the use of violence against the population (The Security Council of the United Nations 2013a), but had no effect. So on March 17, 2013, the UNSC adopted resolution 1973, demanding a ceasefire and the establishment of a no-fly zone over Libya (The Security Council of the United Nations 2013b). Resolution 1973 was, according to the provisions of the operative clauses, implemented and enforced by a NATO-led coalition in the OUP. Although the state of affairs in Libya was similar to the situation in Yugoslavia (Maull 2011: 105), Germany abstained from the vote. For the purpose of this analysis, it can be assumed that the abstention is rather characterized as proactive opposition to the intervention in Libya than passive acquiescence (Miskimmon 2012: 401).

4.2.1 The Domestic Actors

Looking at this security policy decision in depth, one may find that two actors—the positioning of the parties in the *Bundestag* as well as the public opinion—and structural conditions of the German policy-making process play an outstanding role in delineating the win-set.

It has been sketched what central role the *Bundestag* plays when it comes to deployment of German armed forces, so its overall sentiment shall be determined. Opposition against and consent to a possible military intervention ran across party boundaries (Miskimmon 2012: 399). In one of two parliamentary debates concerning the situation in Libya, the opposition voiced concerns that Germany has to act according to the principle of Responsibility to Protect¹¹ (R2P) (Deutscher Bundestag 2011b: 11151). On the other hand, *Die Linke* was the only parliamentary group opposing an intervention. Apart from that, the parliamentary party leaders of both opposition and governing parties shared the skepticism towards a military intervention in conversations with Foreign Minister Westerwelle (Rinke 2011: 51). The FDP refused to take a clear position and argues rather vaguely, being observed in the speech of Rainer Stinner:

¹¹ The R2P describes that a state has the responsibility to protect its own citizens from atrocities. If a state fails to protect its people, “this responsibility should be borne by the international community that can decide enforcement measures, including the use of force as a last resort” (Cooper and Kohler 2006: V).

“Offen gesagt, stehe ich nicht mit einem fertigen Plan hier; den habe ich nicht. Das kann auch keiner erwarten. Ich sage Ihnen aber zu, dass wir dafür sorgen und einen Beitrag dazu leisten werden, dass die Bundesregierung alle Möglichkeiten ventiliert. Das fängt bei der Verstärkung der Sanktionen an. [...] Wir müssen überlegen, ob die Sanktionen noch ein ganzes Stück verstärkt werden müssen [...]“
(Deutscher Bundestag 2011b: 11149).

Observers argue that the FDP's positioning served to derive benefit from the situation with regard to upcoming federal elections and therefore, heavily shaped the decision-making behavior (Miskimmon 2012: 399; Oppermann 2012: 515). Moreover, in the week before the decision, the *Bundestag* was occupied with a variety of important issues, ranging from the Eurozone crisis to especially the nuclear disaster in Fukushima and its consequences for German nuclear energy policy (Deutscher Bundestag 2011a). Another obstacle to finding a consensus in the *Bundestag* was the “speed of the diplomacy moving to the resolution [which] caught the parties by surprise” (Miskimmon 2012: 398). This very fact struck the government in a decisive manner.

The German policy-making process tends to be slow as it is “based on a dispersal of power and a system of checks and balances” (Lindström and Zetterlund 2012: 27). Three days prior to the vote in the UNSC, Germany considered itself to be in line with the USA. This would have prevented that Germany, for the first time in its history, votes against its three closest allies, namely the USA, the United Kingdom and France. In the evening of March 15, Obama decided in favor of taking military action in Libya (Rinke 2011: 48). Germany only learned about the substantial change of position in the afternoon of March 16, and only then German officials first considered what position had to be taken in the UNSC voting (Rinke 2011: 49f). After few consultations, the government's choice had the character of an *ad-hoc* decision (Buchner 2013: 535; Greiner 2012: 75ff; Rinke 2011: 51). Voting in favor of the resolution within such a short amount of time, without extensive deliberations in the *Bundestag* which are typical for the policy-making process, could have likely resulted

in a failed ratification in the *Bundestag*, thereupon risking an immense loss of voters (Lindström and Zetterlund 2012: 27).

Jeopardizing the upcoming federal elections by conceding to the resolution was not completely improbable. The “pacifist preferences” (Stahl 2012: 597, author’s translation) of the German population became apparent in the weeks of the heightening debate over the Libya issue. 69 percent supported the abstention of the government (Oppermann 2012: 514f.) A poll on the day of the UNSC decision found that 86 percent opposed the involvement of German ground troops, whereas 56 percent supported a no-fly zone with 34 percent opposing it (Stern 2011). This tendency is backed by another poll which found that 62 percent of Germans are supporting military engagement in Libya, but only 29 percent advocating participation of the *Bundeswehr* with 65 percent against it (Die Welt 2011). The German public opinion was not guided by influences of German decision-makers or the debate in newspapers since “the arguments in German newspapers changed from week-to-week” (Buchner 2013: 535). Additionally, the German public was intervention-weary (Hellmann 2011: 21) being constantly confronted with the experience of a war in Afghanistan in which German soldiers are engaged. In June 2011, 51 percent favored a retreat from Afghanistan, 19 percent at least a reduction of troops (Lindström and Zetterlund 2012: 28). By no means, the German public wanted another participation of the *Bundeswehr* in a military conflict (Maull 2011: 110), having in mind that 7200 troops were already on duty outside of Germany (Miskimmon 2012: 567). The “culture of antimilitarism” (Oppermann 2012: 509) in combination with a population skeptical of any further intervention clearly showed the public’s stand.

In the event of joining the intervention in Libya, the *Bundestag* would have had to decide about the deployment of forces. In light of the diverging opinions—within the parties in the *Bundestag* and the public opinion—gaining a majority would have been a doubtful and uncertain endeavor. Abstaining from the vote in the UNSC did not require putting the decision before the *Bundestag* for a vote—or through the lens of two-level theory: the perception of a constraint mattered.

4.2.2 Cost-Benefit Calculation

In order to uncover the preferences of the actors, the costs and benefits of the German decision to abstain have to be contrasted. Economic and security policy considerations come to the fore as well as populist and long-term consideration when going to war.

First of all, Germany voted side-by-side with the BRIC (Brazil, Russia, India, China) states, the biggest developing countries in the world economy. German ties with those countries are close and focal for the German economy which is largely dependent on exports (Kudnani 2011: 36). Taking into account the concept of Germany as a geo-economic power which “increasingly define[s] its national interest in economic terms” (Kudnani 2011: 36), voting in accordance with these emerging nations could have politically substantiated the economic relations. This argument can be contrasted with the weak economic ties with Libya: in terms of export volume, it only ranked 66th, at the same time it ranked 38th for imports to Germany (Miskimmon 2012: 402).

Simultaneously, the situation in Libya constituted no relevant security threat to Germany. Certainly, Germany had a vital interest in energy security, containment of migration, and the fight against terrorism (Werenfels 2009: 7), but the government was not willing to defend those interests by military means (Hacke 2011: 30). By early 2011, the government was occupied with the crisis of the Eurozone and on these grounds already deeply involved in multi-national crisis management. Opening up another frontline of crisis management could have overstretched Germany’s willingness to provide multilateral capacities (Miskimmon 2012: 392-402). This falls into line with reforms of the *Bundeswehr* that restricted its use “by the imperatives of budgetary consolidation” (Oppermann 2013: 28) and scaled down its capacities. Statements of Westerwelle provide evidence for this “combination of economic assertiveness and military abstinence” (Kudnani 2011: 42):

“Die Autorität unseres Landes in der Welt hängt nicht zuerst damit zusammen, dass wir über besonders starke Armeen oder militärische Ausrichtung verfügen, sondern dass wir mit einem besonders stark sind: mit unserer Wirtschaft.“ (Meiers 2011a: 165)

Of course, it may be countered that these economic realignments are associated with a loss of trust among the allies (Annen 2011: 14). But it is justifiable to argue that the executive did not “expect significant international costs from its non-participation in the intervention” (Oppermann 2013: 29). Equally, as has been described above, Germany considered itself to be in line with the US reluctance.

The role of the upcoming federal elections in Baden-Wuerttemberg and Rhineland-Palatinate in the sense of retention of power is another facet of the cost-benefit-calculations (Jones 2011: 55). Only four months before the elections took place, the FDP’s poll rating dropped to a 15-year low of 3 percent (Spiegel Online 2010a). Bearing in mind the sentiment of the public, the foreign minister’s actions were driven by the desire to influence the outcome of the elections. By “adopting a high-profile and outspoken anti-war stance” (Oppermann 2013: 5), the ever so important 5 percent threshold to be elected into the federal government ought to be reached (Miskimmon 2012: 399). Another aspect of the FDP’s electoral strategy was to not provide the opposition with a target when voting in favor of a war (Hacke 2011: 52). Nevertheless, the tactics did not work as it was likely revealed as a “tactical maneuver” (Maull 2011: 113).

The argument featured most prominently was the concern about the uncertainty about the outcome of the military option. This notion was motivated by the experiences from Bosnia, Kosovo, and Afghanistan where costly nation-building in the aftermath of the intervention had to be performed (Hacke 2011: 50; Miskimmon 2012: 396f). One point put forward was that participating in the intervention could have resulted in Germany being drawn into a long-lasting military conflict with the “likelihood of large-scale loss of life [...] and [a] military conflict that could draw into the wider region” (Lindström and Zetterlund 2012: 25). The military involvements in Afghanistan and Kosovo were still on-going, and in both cases an end to the engagement was not yet feasible (Meiers 2011a: 164; Katsioulis 2011: 30). As Westerwelle put it,

“[d]ie Bundesregierung betrachtet deshalb ein militärisches Eingreifen in Form einer Flugverbotszone mit großer Skepsis. Wir wollen und dürfen

nicht Kriegspartei in einem Bürgerkrieg in Nordafrika werden. Wir wollen nicht auf eine schiefe Ebene geraten, an deren Ende dann deutsche Soldaten Teil eines Krieges in Libyen sind. Aber was geschieht, wenn die Angriffe am Boden weitergehen? Müssen wir Gaddafis Panzer dann aus der Luft bekämpfen? Und wenn das nicht reicht, müssen wir dann Bodentruppen schicken?“ (Deutscher Bundestag 2011c: 10815f)

The concern that an air campaign might not be efficient and require the subsequent use of troops on the ground (Stahl 2011: 590) is reflected in the lack of intelligence about who the rebels were exactly and what objectives they were pursuing (Rinke 2011: 47). Those doubts were publicly brought forward by Germany's allies as well, which reassured them of their assessments (Rühl 2011: 6).

The government of Germany anticipated costs and benefits under circumstances of high uncertainty: It was neither certain if the strategy aimed at the electorate would outweigh the costs of alliance disloyalty or if the intervention would lead to protracted military conflict that spread throughout the Maghreb. If the conflict had escalated according to the concerns, Germany would have relatively "gained" from its decision. All in all, the principle of *respice finem* was at the core of the German decision-making process (Ischinger 2011: 48). Despite uncertainty, the facets outlined give an account of the calculations that ultimately led to the German decision.

4.2.3 The Role of the Chief-Negotiator

Observing individual behavior and measuring its impact on decision-making always goes along with uncertainty. It can nevertheless be registered that Foreign Minister Westerwelle played a big part, whereas Chancellor Merkel's and Defense Minister de Maizière's roles were secondary (Lindström and Zetterlund 2012: 27).

Although Angela Merkel adopted a clear-cut position, viewing a military intervention with utter skepticism (Rinke 2011: 50), she was preoccupied with other pressing issues. The defense minister took office on March 2, thus it can be assumed that his influence was still marginalized by mid-March (Lindström and Zetterlund 2012: 27).

On the one hand, Westerwelle strived to distinguish himself as FDP's party chairman with regard to the upcoming regional elections and his own profile as foreign minister (Oppermann 2012: 515). By taking a decisive position, he sought to convey the impression of not being predominantly involved in domestic affairs, for this fact was frequently criticized (Spiegel Online 2010a). His rhetoric in the run-up to the UNSC decision was characterized by parallelizing the decision situation with regards to Libya to the one in the run-up of the Iraq war 2003: e.g. did he use terms that are mostly negatively associated in the German public, like "coalition of the willing" (Auswärtiges Amt 2011).

On the other hand, his preferences have moreover been shaped by the beliefs he held and whose pursuance was demanded by his party (Oppermann 2013: 27). As a proponent of the German culture of restraint, he was in principal skeptical about the use of the *Bundeswehr* in foreign affairs (Spiegel Online 2010b). During the term of the grand coalition, he argued "against German participation in specific multilateral missions", such as the UNIFIL mission in Lebanon (Oppermann 2013: 27). During the uprising in the Arab world, he encouraged the revolutionists to take care of their fate themselves and nourished an aversion to outside intervention (Oppermann 2013: 23).

All things considered, Westerwelle was not an ideal type agent. According to reports, Westerwelle even considered to vote against resolution 1973 (Lindström and Zetterlund 2012: 27; Oppermann 2012: 515). This constitutes a considerable deviation from the domestic win-set and can be considered to be in a hawkish direction. Notably, Merkel forbade a "no"—the only instance when her influence was relevant to the outcome. Westerwelle's *acceptability-set* was shaped by his beliefs and led by the desire to win popular support for his party and his own personality. By employing strategies of framing, he strived to influence the domestic actors.

4.2.4 The Influence of Level I on the Domestic Game

Influences of Level I on the domestic win-set are complex in the case of Libya. The behavior of Germany's bargaining partners had a relevant impact on the decision whether to abstain from voting or to reject resolution 1973 in the UNSC, yet their

actions' effect was moderate. This can be understood by looking at the policy shift through the "filter" of the role conception, which still affected the decision-making process, but also illustrates the evolution of how external expectations shape Germany's preferences: it did not put a premium on voting in accordance with its partners anymore—this is why Level I behavior only had a moderate impact.

Germany supported the goals of UNSC resolution 1970 which condemned the violence of the Libyan regime, imposed an arms embargo and authorized the International Criminal Court with investigating war crimes in Libya (Mauil 2011: 109; The Security Council of the United Nations 2013a). Germany nonetheless probably never intended to vote "yes" on military actions against Libya and support such an endeavor (Sinjen 2011: 79). One indicator is the fact that Germany was resentful of French-British solo actions in a Brussels EU foreign ministers summit to conduct military action against Libya. German negotiators thus prevented the reference to a no-fly zone being included in the closing statement of the summit (Rinke 2011: 52). In Merkel's view, a big country like Germany would have to actively engaged in a military operation when voting in favor of a no-fly zone (Lindström and Zetterlund 2012: 27), which was thus never an likely option.

When the possibility of a resolution occurred rapidly, Germany had to decide whether to reject the resolution or abstain from voting. German policy-makers did not consider themselves to be isolated among the traditional NATO partners. After the USA questioned the French proposal to establish a no-fly zone and Portugal also opposed an intervention, this consideration seemed evident (Rinke 2011: 48-52; Stahl 2011: 588). As has been showed above, events unfolded too quickly to provide the German government with sufficient time to make a choice.

Even if the temporal factor had a slight impact on the government's decision-making process, its "decisions on the use of force [...] have become altogether less driven by a preoccupation with meeting the expectations of the Federal Republic's partners" (Oppermann 2013: 30). Clearly, the relevance of West integration, axiomatic multilateralism and reluctance to the use of force has lessened (Oppermann 2012: 504ff). This evolution is embedded in an ongoing process since German reunification. The "costs" of the role conception were great and concerns about the damage of reputation among the allies were not, for Germany does not benefit to such an extent from the Western alliance anymore. Germany's long-term foreign

policy priorities do not perfectly correlate with those of its partners, so the obligations from the role concept are being perceived as burdening (Maull 2011: 114). With this new “self-confident foreign policy” (Oppermann 2013: 30), domestic concerns take precedence over external expectations. Still, Germany remains a Civilian Power, adhering to peaceful mechanisms of conflict resolution and supporting non-military sanctions in the framework of the EU and the UN (Maull 2011: 107; Meiers 2011a: 172). In addition to that, Germany’s behavior is barely unilateral: Within the NATO, the initiating directive for the no-fly zone—a routine preparation ahead of NATO operations—was backed by Germany. Germany also provided 300 additional soldiers for the AWACS reconnaissance mission in Afghanistan in compensation for the non-participation in Libya (Maull 2011: 110; Meiers 2011b: 678; Oppermann 2012: 514). Germany debated as well about deploying the *Bundeswehr* for a mission to protect humanitarian campaigns for Libyan civilians (Meiers 2011b: 679).

Due to the short sequences of events that led to the adoption of resolution 1973, no reverberations could take place. Level I had, nevertheless, an effect on the German government and therefore on the domestic win-set due to the interaction of both Levels. It can be inferred that the domestic level played the pre-eminent role what has been shown by elaborating on the role concept gradually evolving and diminishing the effects of external expectations on the win-set. All in all, the sanctioning elements of non-compliance with the traditional partners were so little that the main driver of Germany’s decision is found on the domestic level.

5. Conclusion: Review of the Empirical Findings

Two similar cases have been examined by considering systemic and sub-systemic effects on the decisions the German government took. The puzzle of an unpredictable foreign policy that lacks orientation (Maull 2011) has been unraveled by employing a two-level approach to foreign policy decision-making.

The selection of both cases seems viable, although there are important disparities between the Kosovo and the Libya case. The decision-making in Kosovo unfolded over a long period of time as the crisis slowly developed. Over the months, the structural conditions of German foreign policy decision-making were able to keep abreast with the events—the contrary happened in the Libya crisis.

An interesting finding is the reoccurrence of the same set of domestic actors. Apart from the executive, the constraining actors in both cases were the *Bundestag* due to its institutional role, but also the public opinion and the junior partner in the government. In 1998, the decision of the government to participate was put to vote before the *Bundestag*. In this instance, defection was unlikely as almost all parties were consensual and an overwhelming majority voted in favor of a military intervention. The possibility of defection—the perception that, if the parliament had to decide upon intervention, it could reject—was immanent in 2011. Policy makers did not involve the *Bundestag* since opposition to an intervention was strong throughout all parliamentary groups. This corresponded with the sentiment of the public opinion: Its resentments towards military action constituted a continuous constraint to the executive. As Putnam's theory predicts, a high degree of information leaves little room for hypothetically manipulating the public opinion. Neither agenda-setting nor the use of *side-payments* was exerted. In both cases, the informal veto-power of the public was crucial for the determination of the domestic win-set: the sanctioning element of audience costs, concomitant with the loss of votes, posed a serious and constant threat to the executives and the successful ratification of the international agreement.

The public was highly mobilized in both instances as the beliefs and values at stake touched the very core of the public sentiment: going to war is highly controversial. Thus, leaders faced a high pressure to justify their actions: especially the party leaders of the junior party in the government coalition—foreign ministers at the time of the respective decision—had a focal part in this regard.

The dichotomy of the decisions to intervene or not, respectively, was above all shaped by considerations in the domestic realm. Participating in an intervention in Kosovo seemed to be beneficial, even without a clear mandate by the UN. Germany could not only solve a serious problem with incoming refugees, the Balkans could also be stabilized in view of an imminent EU enlargement. In Libya, economic ties were not close and the security threat posed by an unstable Libya did not affect Germany as it affected other countries (Miskimmon 2012: 402f). Quite the contrary, being involved in a military operation could have resulted in a protracted military

conflict. This scenario should be excludable, with regards to electoral costs and economic loss. Costs and benefits shape preferences: The preferences in both cases are in accordance with the outcome of the German decision-making process. The respective decisions represent the overall domestic mindset of parties and public, i.e. they are in accordance with what Putnam's theory would predict as to the configuration of the domestic win-set.

The chief negotiators as *gatekeepers* between Level I and Level II used their influence to pursue their own goals. Their individual preferences were compound of personal beliefs and concepts and the desire to enhance the political reputation. On the one hand, *ideas* mattered significantly: Schröder, Fischer in 1998-9 and Westerwelle in 2011 had personal convictions and publicly emphasized those convictions. Whereas Fischer's beliefs comprised a strong advocacy of peaceful means which found expression in diplomatic engagement and stopping of atrocities, Westerwelle favored the non-interference in affairs of foreign countries. On the other hand, both Westerwelle and Schröder hoped to capitalize on the decisions in order to counter their image as inexperienced politicians.

It has been shown that a variety of Level I influences affected the domestic win-set. During the course of the Kosovo crisis, Germany acted according to its self-perception as Civilian Power. It fostered multilateralism by using international institutions like the G8, the EU, the UN and the Balkan Contact Group. When the negotiations gridlocked due to dissonance between the West and Russia, Germany strived to "keep Russia on board" (Friedrich 2005: 42; author's translation). The Rambouillet conference, as a last attempt to prevent the war, goes back to Germany's urging. As the war became unavoidable, Germany participated without contradicting the role concept (Raith 2005: 53).

Clearly, Germany's domestic win-set was far more constrained by external expectations in the case of Kosovo than in Libya. *Bündnisfähigkeit* was of utmost importance to the government and this attitude was backed by the public. The role concept still played a role in 2011, but it evolved during the decade between both interventions. With the historical experience made in Kosovo and Afghanistan, the traditional role concept became too "expensive". Germany granted itself more

freedom of action, since expectations of allies were now secondary and thus, domestic incentives moved into the focus of decision-making (Oppermann 2012: 503):

“Germany’s enhanced role in multilateral military interventions and the increased willingness of German governments to frame their decisions for and against military deployments in terms of national interests are given as evidence for the ‘normalisation’ of German foreign policy which is being portrayed as evermore power-conscious, assertive and self-confident” (Oppermann 2013: 2).

To sum up, the achievement of combining the theory of two-level games with the Civilian Power concepts is a more detailed account of domestic factors and considerations leading to opposing decisions in similar international circumstances. It becomes more clear-cut what determines the domestic win-set. But not only is the analysis restricted to one situation, but employing the role concept enables to take into account long-term developments. Equally useful is the possibility to shed light on the agency level, i.e. the individual level of the decision-makers since its position is so critical to the two-level theory. All in all, by looking at domestic imperatives in both cases, the decisions seem to follow a complex rationale.

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Eigenständigkeitserklärung

„Hiermit erkläre ich, dass ich die Arbeit selbstständig und ohne Benutzung anderer als der angegebenen Quellen und Hilfsmittel angefertigt habe.“

Kreuth, den 12.01.2014