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OPENING PANDORA'S BOX ON THE BALKANS?

**THE POSSIBILITY OF LAND SWAPS AS CONFLICT
RESOLUTION FOR KOSOVO**

Master Thesis

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I have written this Master's thesis independently. All viewpoints of other authors, literary sources and data from elsewhere used for writing this paper have been referenced.

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Abstract

The thesis will consider the recent debate about land swaps as a possibility of final settlement between Serbia and Kosovo. While Kosovo has declared its independence unilaterally ten years ago and built its institutions with international support, Serbia has not recognized its former region as an independent state. The theoretical part will discuss power-sharing and partition as possible tools of conflict management. Both approaches include empirical and normative arguments for their theory. Land swaps in this context are discussed as a form of partition. The empirical part will analyse past attempts of negotiations since 1999. The idea of land swaps appeared within the framework of the EU facilitated dialogue; and the support and objection of relevant actors are analysed.

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Abbreviations

EEAS	European External Action Service
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
ICG	International Crisis Group
ICJ	International Court of Justice
KFOR	Kosovo Force
KLA	Kosovo Liberation Army
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organization
SC	Security Council
UN	United Nations
UNMIK	United Nations Mission in Kosovo

Introduction

The youngest of the Western Balkan states, Kosovo, celebrated its tenth anniversary of independence just in 2018. However, Serbia has still not recognized its former province as an independent state. Numerous attempts of international mediators have accompanied all stages of the conflict but even though the threat of war is very low, no ultimate settlement has been reached so far. Yet, Pristina and Belgrade continue to negotiate for a conflict resolution, for the past years under the auspices of the European Union. These negotiations received increased attention last year when the stalled talks produced a controversial proposal: so-called land swaps. The idea was further presented by a very unlikely combination of proponents: Kosovar President Hashim Thaçi and Serbian President Aleksandar Vučić. They mentioned the land swaps for the first time publicly at the European Forum Alpbach in Austria in August 2018 (European Forum Alpbach 2018). The idea was not outlined very precisely but would certainly include border changes.

The proposal created fears that Pandora's box would be opened on the Balkans (Gray and Heath 2018): Allowing for border changes among two countries could potentially lead to re-negotiating of borders in a whole region where the wounds of civil war are only slowly healing. So far, these fears did not materialise – but because the land swaps did not occur yet. Considering the political developments since August 2018 a political compromise between Belgrade and Pristina appears more distant again.

A study trip to Kosovo in autumn 2018 refocused my own existing research interest in conflicts about sovereignty onto a new region. Kosovo as a case study has been used as an illustration in different approaches of conflict studies. The two approaches that are presented in this thesis are power-sharing designs based on Arend Lijphart's consociationalism and partition theory most prominently associated with Chaim Kaufmann.

Should the Kosovo case study thus only be reconsidered because it received increased political attention, or can it bring new theoretical insights? It is indeed necessary to look in-depth at the case of Kosovo. It is not the only conflict that has been coded ambiguously in large-n studies about conflict resolution. A case study can help to identify the most important factors for an improved conceptualization. The land swaps are regarded as a

proposal in line with partition theory. Even though the idea has not been realized so far, the support and rejection of it can be studied extensively with existing sources. Thus, the study can contribute with insights into negotiation processes and explain motivations for involved actors, both domestic and international, in support of a certain outcome. Further, this debate is not only an academic debate but one that has real-life consequences on conflicts. Scholars in conflict studies are not solely confirming or disproving a hypothesis that presents an academic curiosity. Recommendations for policies have to be carefully weighted. Therefore, a general understanding of structural patterns of conflict resolution is as important as detailed knowledge about the actors in a specific case.

The thesis begins with a review of the existing literature on power-sharing and partition theory, with a focus on the latter to ultimately conceptualize the proposal of land swaps as a form of partition. The first chapter also includes a section about the applied methodology and derives at two hypotheses that are then tested in the following chapters.

The second and third chapter consider the case study of Kosovo. The second chapter gives an overview of the negotiations up to 2017 while looking into whether a form of land swap has played a role previously. The third chapter is concerned with the developments in 2018 surrounding the land swap debate. It analyses in detail the actions and statements of international and domestic actors to conclude who supported the land swap proposal and why as well as looking into the motivation of its opponents.

The literature review reveals the differences in understanding of what a partition actually constitutes of. Thus, the case study of Kosovo is used to see whether a certain conceptualization does fit the development of this conflict. Since it is a well-researched case, a variety of existing studies were used for summarizing the developments up to 2017 in chapter two. Ideal data for the third chapter would have been interviews with the involved negotiators and content analysis of concrete agreements. However, the negotiations facilitated by the EU are of secret nature and direct material is difficult to obtain even for well-established researchers (see for instance Bieber 2015 and 2018). Due to the scope of this thesis, statements of all involved actors are analysed to study how each party experience the relevant events and how they communicate it to other actors. They are based on media reports and direct statements of the actors.

Further, the case study of Kosovo shows that this debate remains significant even years after the actual phase of violent conflict on which theories usually focus. And since the dialogue facilitated by the EU has not produced any tangible outcomes yet, it is valuable to assess previous failures to improve the negotiation format.

Chapter 1

Literature review on power-sharing and partition

Conflict studies cover many aspects of war and peace. The mere elaboration of typology of conflicts created a significant amount of literature (Kaufmann 1996).¹ Summarizing some descriptions of the Kosovo conflict gives an overview of which aspects are of significance for the following literature review: demands for self-determination with mutual exclusive claims for territory cumulated in violent clashes; the warring parties were separated by a third party; negotiations attempt to find institutional arrangement that accommodate minority demands. Two prominent theories are discussed below that present solutions to the long-term end of ethnic civil war.

Yet more possibilities exist to end an ethnic civil war. Military victory of one side and subsequently the exclusion of the losing party in post-conflict institutions is indeed one possibility. Even though both proponents of power-sharing and partition regard the respective other idea as unfitting to solve the conflict in the long-term, they agree that military victory is not a desirable option (Kaufmann 1996; O’Leary 2006). Scholars argue that the frameworks for power-sharing or partition used as a tool in conflict management can prevent the reoccurrence of violence, or at least keep it under a certain threshold, and achieve stability. Broadly speaking, proponents of power-sharing assume that it is best to bring former warring parties into a shared responsibility over their territory while partition theory assumes that it is better to separate conflict parties (Berg and Ben-Porat 2008, 29). Those specific frameworks do not exist as a dichotomy but rather on a continuous scale. In some debates, clear distinctions have been missing and this “conceptual muddle” (Chapman and Roeder 2007, 678) contributed to sometimes contradicting hypotheses.

This has not only implications for arguments in scholarly debates but may affect real life solutions. Especially post-conflict institution building in former Yugoslavia has been accompanied by diverse opinions in academia (Baliqi 2018; Fawn and Richmond 2009; Jarstad 2007; Jenne 2006; Kaufmann 1996, 1998; Ker-Lindsay 2011; Mearsheimer and Evera 1995). Thus, to provide any insight into the current situation for the selected case it is necessary to carefully review the existing debate and thereby clarify all applied concepts. Below, both power-sharing and partition are discussed; however, as this thesis

¹ See Kaufmann’s discussion on the term ‘ethnic civil war’, p. 138-151

focuses on partition, a greater share is devoted to aspects of this theory. After discussing different definitions of partition as well as its advantages and disadvantages for conflict resolution, a conceptualization of partition for the studied case of Kosovo follows.

Power-sharing

Whether or not they support power-sharing frameworks, most authors acknowledge that it is in fact the preferred solution when third parties negotiate the ending of an ethnic civil war (Johnson 2010; Kaufmann 1996). There is also a great variance in specific models of power-sharing, some are closer to a partition solution, depending on from which end of the spectrum the author comes.²

Generally, power-sharing aims at overcoming the perception of the conflict as a zero-sum game between ethnic groups (Berg and Ben-Porat 2008, 33). Cleavages along ethnic lines exist and may result in conflict. But O’Leary argues that this plurality is not inherently bad or necessarily leads to protracted conflict. On the other hand, he also warns against “a romantic celebration [of plurality] of a thousand different flowers” (O’Leary 2005, 9). Power-sharing is yet not the end-point in conflict resolution, it is a tool to manage these differences: “[Power-sharing] arrangements *alone* are not enough to pacify a nationalist community with authentic and feasible irredentist or secessionist ambitions [...] but they may, nonetheless, constitute a fundamental *part* of a stable settlement” (O’Leary 2005, 26). Thus, power-sharing and partition have different premises about the process of conflict management and the role of their respective tools in this process. What does power-sharing in practice constitute of?

Overall, power as means of sovereignty should be shared between ethnic groups. Arrangements for this can occur on the central level, at sub-levels or encompass autonomy bound to certain territory. The aspect of territoriality is especially significant in conflicts about self-determination where one group has so far not fully realized these claims. They have a “deep attachment to a homeland, viewing it as an essential piece of their identity and a key to their cultural and physical security ” (Downes 2004, 241). The attachment can arise from a mythical story of identity formation or from economic considerations about resources. Federal arrangements or another form of shared

² This applies mostly to territorially assigned autonomy. The merits of *de facto*, *de jure* partition and variations from federalism to separate nation-states are discussed in more detail in the subchapter on partition.

sovereignty may address conflicts about the uneven distribution of power but depending on the nature of the claims it is difficult to solve the underlying zero-sum assumptions (Berg 2007, 204).

A further problem when designing accommodative institutions is the numerical distribution of ethnicities. A typical majoritarian system falls short of equally representing minorities. The system therefore needs some built-in guarantees to allow the participation of minorities. For those influences on majority formation power-sharing arrangements have been criticized for being of undemocratic nature (O’Leary 2005, 6). O’Leary reminds us of Mill’s notion of the tyranny of majority but then goes on to question of what majority should rule. “Rather than *the* majority or *the* plurality” other majoritarian constellations allow stable institutions to function and civil society to strive (O’Leary 2005, 6).

The classic model of power-sharing can be ascribed to Arend Lijphart. Though he is not credited with its invention, he termed this theory “consociationalism” (O’Leary 2005, 3). His article “Consociational Democracy”, published in 1969, defines the elements of institutions of “fragmented but stable democracies” (Lijphart 1969, 211). His original study derived the model from observations in stable democracies like the Netherlands, Belgium or Switzerland – therefore its applicability in conflict-ridden societies has been questioned (Kaufmann 1996, 155). As the working of those institutions is based on mutual acceptance of them, the classical theory “was dismissive of the possibility of external intervention in designing a successful consociational system” (Qirezi 2014, 16).³ However, the growing body of literature has contributed many details on actual consociational democracies. Lijphart re-summarizes this debate in his article on “Constitutional Design for Divided Societies” (2004). Here, the original theory with later additions is briefly discussed. Kaufmann, before going on to criticize power-sharing strongly, captures the four main elements of consociational theory: “1) joint exercise of governmental power; 2) proportional distribution of government funds and jobs; 3) autonomy on ethnic issues [...]; and 4) and a minority veto on issues of vital importance to each group” (Kaufmann 1996, 155).

³ Qirezi argues that the influence of international actors has paradoxically led to increased *de facto* partition. Again, the role of third actors is discussed more in detail below.

According to Lijphart, the best model to ensure a joint exercise of power at the executive level is a parliamentary system. Electing a president by popular vote, even for purely ceremonial purposes, produces a dangerous ‘winner-take-all’-mentality (Lijphart 2004, 101, 104). The government, though required to effectively work on general issues, needs to represent the diverging groups in some form. Usually, this leads to a certain overrepresentation of minorities at this decision-making level, but Lijphart regards this as positive (Lijphart 2004, 103). Guaranteeing minority spots can be arranged through individual or political party designation. Corporately consociational models begin with “separate electoral rolls for each ethnic community” (O’Leary 2005, 15), thus political responsibility can be clearly assigned to the majority of a distinctive group. O’Leary addresses the concern that this approach might, in fact, perpetuate ethnic cleavages with the optimistic proposal to abolish the system at the right moment. The right moment would arrive when voters who do not base their electoral behaviour on group representation form the majority – then “it is likely that consociational arrangements will dissolve” (O’Leary 2005, 16). However, it is unclear how the electorate can adequately express their dissatisfaction with ethnic designation and how to identify the moment when they become majority. The alternative liberal approach would allow ethnic parties to run based on their affiliation but combine the whole electorate in one registry (O’Leary 2005, 16). This can strengthen election campaigns based on cross-community issues but then weakens the ensuring of ethnic representation within the government. Weighing stability, fair representation and effective governance, Lijphart still supports a parliamentary system, albeit includes also mechanisms to express ‘no confidence’ in the government (Lijphart 2004, 103). Power-sharing at the executive level further requires the “deliberate joint effort by the elite to stabilize the system” (Lijphart 1969, 213). Both sides have to perceive the system as beneficial for them and trust the other side not to abuse the deliberating mechanisms. While this process in general is not questioned, critiques argue that the necessary trust to establish the system is not given after violent conflict (Johnson 2010, 111).

The second key element which Kaufmann summarized as “proportional distribution of government funds and jobs” (Kaufmann 1996, 155) indeed captures only a small area where consociational theorists regard proportionality as necessary. Proportionality should apply to positions at all levels, including civil service and military. Proponents of partition

theory are also concerned with the role of security forces but under the premises of ethnic mobilization in relation to offensive and defensive capabilities of different security forces (Kaufmann 1996, 149). Instead of the Anglo-American model that gives preference to the strongest group, proportionality allows the representation of minorities that otherwise might disappear behind a threshold. The best version, on some accounts, would be closed-list proportional system (Lijphart 2004, 101). At the same time it has to be ensured that intra-ethnic competition between hardliners and moderates of each group is balanced, which could be best achieved with the single transferable vote (O’Leary 2005, 29). The aim of achieving a proportionate representation of ethnic groups can thus depend on technicalities of electoral systems. Therefore, a detailed design of power-sharing needs to be developed.

Autonomy on ethnic issues can be achieved through different versions of power devolution and thereby Lijphart also defends consociationalism against claims to be only a ‘one size fits all’ model (Lijphart 2004, 99). Every divided society has specific requirements and failure of one consociational model should not rule out similar alternatives. Interestingly, proponents of power-sharing or partition defend their theory based on the same logic: The failure in practice does not indicate a general failure of theory but can rather result from a faulty implementation of the idea (Downes 2004; O’Leary 2005, 2006). The alternatives for autonomy on ethnic issues depend very much on demography, namely the distribution of minority population. Arrangements for a geographically concentrated minority are probably easier to implement. Federalism could be one solution, with the degree of autonomy still varying (with possibly even a loose confederation). Here, we are confronted with the “conceptual muddle” that Chapman and Roeder identified in the partition debate (Chapman and Roeder 2007, 678). Federalism can be regarded as an enforcing, yet distinct tool from consociationalism (Berg and Ben-Porat 2008, 33), while some partition theorists include regional autonomy already in their definition of a partition (Johnson 2008; Kaufmann 1996, 1998). An even bigger “muddle” appears when all forms of *de jure* and *de facto* power devolution are included in the comparison. This clearly shows that the toolbox for conflict management is not a dichotomy.

The second option for autonomy on ethnic issues is closely linked with the fourth key element, the minority veto. Minorities should have a say in policies that affect their

community. A typical example would be education policy where broad freedoms can be given when common minimum standards have been formulated (Lijphart 2004, 105). Without geographic concentration the minority still needs to form “cohesive political blocs” to ensure adequate representation of minority concerns (Lijphart 1969, 221).

Finally, O’Leary contemplates on ‘complex’ consociationalism which emphasizes the role of third parties in power-sharing institutions in post-conflict societies (O’Leary 2005, 33–36). He gives Northern Ireland and Bosnia-Herzegovina as examples for such arrangements. They address the issue of self-determination “by institutionally recognizing more than one people, nation or society and providing institutional architecture within which more than one people can co-exist” (O’Leary 2005, 34). Very significant is his understanding of post-conflict arrangements: consociationalism plays only a partial role and is necessarily supported and enforced by other conflict management strategies. At all this levels, third parties (which can be also diverse: neighbouring countries, international organizations or great powers) can use their influence “in the making, ratification, and maintenance of the relevant [...] settlements” (O’Leary 2005, 35).

All in all, power-sharing is not praised as an easy way out by its proponents. But they claim that no better alternative to end ethnic conflicts has emerged so far. For them, partition has failed the reality check. Power-sharing may not be regarded as ideal by any side but can be a compromise where self-determination would require clean cuts that are impossible to make. Within this line of argument, O’Leary also questions the normative assumption that only an own sovereign state can be the right solution to self-determination. His critique comes from two sides: First, it could leave us with cutting the symbolical cake in too many small pieces and secondly he ponders the practical justice of fulfilling self-determination claims (O’Leary 2006).

Partitionists, as we will see below, have not argued against consociationalism *per se*. They however claim that this conflict management model has failed its record in conflict zones. Some studies are considered in more detail to understand the contradicting statements from the seemingly same empirics. Further attention has to be paid to the understanding of causes and consequences in the transition from violent conflict through partition to a possible stable outcome.

Partition theory

Partition theory, in general, is less optimistic about the peaceful co-existence of former warring parties. Scholars argue that after ethnic civil war a situation can arise where the level of trust is too low for co-existence under power-sharing to prevent the recurring of war. Only separation can do so (Johnson 2008; Kaufmann 1996). A common analogy is that of divorce as the healthy solution for a couple in constant fighting. Only then the partners “will not interfere [...] with one another’s identity, pride and emotions” (O’Leary 2006, 3–4).

The most influential proponent of partition theory is undoubtedly Chaim Kaufmann. In the late 90s he published the two articles “Possible and Impossible Solutions to Ethnic Civil War” and “When all else fails: Ethnic Population Transfers and Partitions in the Twentieth Century” as his academic observation on the proliferation of third-party interventions in ethnic intra-state conflicts.

“Possible and Impossible Solutions” is the article that can be credited with starting the debate on finding lasting solutions for ethnic conflict. He envisions an intervention strategy for a case where “ethnic identities [are hardened] to the point that cross-ethnic political appeals become futile” (Kaufmann 1996, 139) and an ethnic security dilemma is persistent. He credits the viability of power-sharing arrangements currently in place to the continuous third-party presence and doubts they would last without this external pressure. However, he intends to propose a long-lasting solution beyond the direct third-party intervention. Kaufmann begins with outlining the concept and causes of ethnic civil war. A key variable to consider partition is the fear of survival. This fear may reach a level where one group cannot trust the other to live next to each other without presenting a threat to survival (Kaufmann 1996, 148). Kuperman rightly criticizes that Kaufmann does not qualify the exact threshold (Kuperman 2004, 317). To end the conflict, it is necessary to avoid the threatening proximity. “Ethnic separation does not guarantee peace, but it allows it” (Kaufmann 1996, 150). For Kaufmann, the most important is physical separation of ethnic groups and not formal partition. Formal partition without separation is an even more dangerous arrangement. Large, separate homogenous settlements decrease the vulnerability of each group while at the same time strengthening their defense capability. Small enclaves, on the contrary, are easy to attack and difficult

to defend. Additionally, the new borders should be drawn along naturally short, defensible borders, e.g. following a river or a mountain range (Kaufmann 1996).

In his second article “When all Else fails” Kaufmann provides examples for the varying degrees of partition, or better of the success and failure of ethnic separation. He uses the examples of Ireland, India, Palestine and Cyprus, stating that in all cases the subsequent level of violence remained lower. The existing violence, like in case of the partition of former British India, can be explained by incomplete partition and wrongly implemented measures. Instead, population transfers should be organized orderly – in his view, still a preferable solution compared to the chaos and suffering created by ethnic cleansing. Attacking a further argument of critiques, he does not find the new states to be less democratic than their predecessors (Kaufmann 1998).

Kaufmann’s clear arguments continue to be controversial. “The concept of partition has never been normatively appealing” note Hudson and Kitchen and that “partition is a ‘dirty word’ among western leaders and scholars” (Hudson and Kitchen 2011, 1). Bloom and Licklider brought together a special issue of *Security Studies* on discussing the legacy of Kaufmann’s theory. The precluding conference struggled to find high level participants: “One of the most respected and temperate people in the field refused an invitation to the conference [...] saying that he did not want to dignify Kaufmann’s ideas by his participation” (Bloom and Licklider 2004, 227). Moral concerns aside (or on the contrary – sometimes strongly motivated by them), several proponents and opponents of partition theory have continued the debate. To understand why contradicting results exist, we need to look at the conceptualizations of partition and how this speaks of success and failure of specific conflict resolution attempts.

Kaufmann defines partition as the creation of “true national homelands. Sovereignty is secondary: defensible ethnic enclaves reduce violence with or without independent sovereignty, while partition without separation does nothing to stop mass killing” (Kaufmann 1996, 137). Thus, institutional arrangements matter less than the ethnic separation on the ground. He uses the example of Ireland to illustrate this: Ireland was partitioned into the republic in the south and Northern Ireland. Ireland in the south is relatively peaceful, the North not (Kaufmann wrote his article before the Good Friday Agreement). According to Kaufmann, the Irish Republic marks a complete partition with

a minority “far too small and too thinly spread to constitute a possible political or military force” (Kaufmann 1998, 127). Protestants contained less than 10 percent of the population, but Northern Ireland had a much more mixed ethnic pattern. This led to a continued security dilemma which partition actually aims to solve. The security dilemma does not arise from the fact that two ethnic groups share the same sovereign territory. But a prolonged conflict mobilizes the ethnic groups for their own security, for instance in the wake of decolonization. “Under conditions of anarchy, each group’s mobilization constitutes a real threat to the security of others” (Kaufmann 1996, 147). Whether we accept ethnicity as a primordial marker or as constructed⁴, once accepted for group identification it becomes a quite rigid concept. Identifying becomes easy – Kaufmann notes, that this effect also exists when identity is prescribed from the outside as the Nazi Germany classification of Jews (Kaufmann 1996, 144). The security dilemma can also be carried further by refugees seeking shelter among their communities in other places. The security dilemma does not only exist in the perception of ethnic groups but has consequences, e.g. for the use of military.

The more mixed the opposing groups, the stronger the offense in relation to the defense; the more separated they are, the stronger the defense in relation to offense. When settlement patterns are extremely mixed, both sides are vulnerable to attack not only by organized military forces but also by local militias or gangs from adjacent towns or neighborhoods. (Kaufmann 1996, 148)

O’Leary on the other hand claims that “partitionists [...] generate a self-fulfilling security dilemma” (O’Leary 2006, 12). Kaufmann points again at cases of wrongly implemented partitions that lead to strongly mixed entities like Northern Ireland. The partition of the island was “unavoidable” (Kaufmann 1998, 131) but the border should have not followed pre-existing boundaries – but rather re-drawn to include as many Catholics as possible into the republic. Thus, he argues against the principle of *uti posseditis juris* – a legal norm that grants sovereignty “only to the next highest level of administrative unit within the state” (Hughes 2013, 996). This principle was used during decolonization but also originally applied to the breakup of Yugoslavia (Hughes 2013, 996).⁵

⁴ See for the roots of ethnicity O’Leary, 2004, p. 2 and Kaufmann, 1996, pp. 140-147.

⁵ For arguments of Kosovo’s independence during different negotiations see Chapter 2.

A further study speaking out in favour of partition is Johnson's "Partitioning to Peace" (2008). He codes also secessions as partitions. Again, for him the decisive factor whether partition indeed took place is the demographic composition in the new (sub-)entities. To assess the success of partitions after conflicts he developed the Postpartition Ethnic Homogeneity Index (PEHI). It is a measurement to see whether the ethnic homogeneity increased in the new entities after partition. Therefore, three factors are necessary for the calculation of the PEHI:

(1) the percentage of the minority group in the original country (recorded as OSM, for original state minority); (2) the percentage of the original minority left in the rump state (RSM, for rump state minority); and (3) the percentage of the original titular group now found as a minority inside the new state (NSM, for new state minority) (Johnson 2008, 156).

The higher the resulting score on the Index, the higher the degree of ethnic separation achieved. Johnson assumes a 95% percent threshold necessary but after testing the PEHI on the data set, he suggests that already a 70% threshold could be enough to prevent the recurrence of war. The data set he uses is adopted from Sambani's study on the recurrence of war after partition. This large-n study rejects partition as an effective tool to prevent war recurrence (Sambani 2000). Using his modified definition of partition, Johnson tests the data set against recurrence of war after two and five years. Ultimately, Johnson reaffirms partition theory but for policy advice he cautions to use it "only where populations are already largely separated at the time of intervention, or where interveners are prepared to separate groups using mass population transfers" (Johnson 2008, 165).

In their review of large-n studies on partition, Hudson and Kitchen identify Sambani's work as the strongest contribution speaking out against partition. They also note the differences in definitions and case universes that led to contradicting conclusions of different scholars. They contemplate whether Sambani's inclusion of all civil wars can explain the difference to Kaufmann's conclusion limited to *ethnic* civil wars (Hudson and Kitchen 2011, 4). For their qualitative testing they define partition as the "territorial division of the pre-war state, [...] but [limited to] the creation of a new state" (Hudson and Kitchen 2011, 5). While they exclude arrangements as regional autonomy or federalism, both *de facto* and *de jure* partitions are tested. Based on this conceptualization

of partition, their case study finds an 80 percent success rate of partition (Hudson and Kitchen 2011, 19).

Even proponents of partition theory notice the differences in their understanding of partition. Johnson mentions that scholars, among them Alexander Downes, deem “both political sovereignty (i.e., independence) as well as the separation of ethnic groups” necessary for a successful partition (Johnson 2008, 149). While O’Leary criticizes many elements of partition theory, he does not elaborate further on the differences of the substance matter but restricts his definition to “a fresh political border cut through at least one community’s national homeland. It is thereby distinguished from adjacent but distinct phenomena, such as secessions which are attempted within existing recognized units” (O’Leary 2006, 1). Chapman and Roeder look at the role of institutions which sometimes have been coded as partition and sometimes as power-sharing. According to them a complete partition exists only when it “resulted in the establishment of independent states, each of which maintained diplomatic relations with at least one of the great powers (the permanent members of the Security Council)” (Chapman and Roeder 2007, 684). They also test for three other alternative solutions: *de facto* separations (without new legislative arrangements but “leav[ing] the secessionists in effective control of their region and population”) and “autonomy that grants self-rule to a region or population” (Chapman and Roeder 2007, 678). The last option is unitarism as the “baseline category” (Chapman and Roeder 2007, 684). Based on this model they find that “partition is more effective than alternative institutions at reducing the likelihood of a recurrence of violence” (Chapman and Roeder 2007, 677). They however notice in particular the failure of autonomous arrangement which is usually the most commonly presented alternative to the creation of completely new states (Chapman and Roeder 2007, 684).

Another contribution to clear the “conceptual muddle” is presented by Alan Kuperman. Unlike Chapman and Roeder who focus on a range of partitioning solutions, he returns to existing conceptualizations of a very narrow understanding of partition. By only re-testing two data sets, with applying their respective other operationalization, he reveals the importance of details and the short-comings of the relevant large-n studies (Kuperman 2004). The data sets Kuperman uses are from Kaufmann (1996) and from Mason and Fett (also 1996). They contain very few overlapping cases, some can be explained by the selected timeframe but most significant is the operationalization of partition. Kaufmann,

with a focus on demographic separation, codes regional autonomy as partition, while Mason and Fett define these arrangements as negotiated settlements. Kuperman then continues with a small qualitative case study that defy Kaufmann's hypotheses. However, the most important conclusion of Kuperman is a call for a "comprehensive, rigorously defined database" (Kuperman 2004, 345). Considering the current absence of more conclusive results, it would be "irresponsible to tout any solution – whether partition or power-sharing – as a silver bullet to resolve ethnic conflict" (Kuperman 2004, 349).

The existing large-n studies have so far not defied the success of partition, although we have to carefully consider such results when they are mixed with other institutional arrangements closer to power-sharing. However, the debate about the value of partition is not only based on giving an overall proof with large data sets. Rather, there exists a multitude of other claims against partition theory that are often discussed on a case to case base or in small qualitative comparison. The following section considers some of those claims, referring to the case of Bosnia and Herzegovina.

The 1995 Dayton agreement which established the current institutions in Bosnia is a prominent case within conflict resolution theory (Berg 2009; Jenne 2006, 2009; Kaufmann 1996; Mearsheimer and Evera 1995; Pape 1997). While the conflict was still ongoing, several negotiation attempts, such as the Vance-Owen plan failed, while especially John Mearsheimer vigorously argued for a partition of Bosnia (Mearsheimer 1993; Mearsheimer and Evera 1995). In 1995, after three and a half years, the civil war in Bosnia ended with an internationally negotiated settlement, the Dayton Peace Accords. International negotiators however "were unable to avoid a deal based on ethnically-defined entities, but unwilling to abandon the ideal of a multi-ethnic Bosnia, [and thus] incorporated aspects of both into the final settlement" (Downes 2004, 251). This might explain why both opponents and proponents of partition theory have criticized various elements of the agreement. The Dayton framework foresees a multi-ethnic state, consisting territorially to 51 percent of the Bosnian-Croatian Federation Bosnia and Herzegovina and to 49 percent of the Republika Srpska (Berg 2007, 209). It includes some power-sharing mechanisms to accommodate the three ethnic groups, as by sharing the presidency and minority veto rights (Downes 2004, 252).

How do conflict management tools attempt to affect the violent conflict situation? As discussed above, proponents of each theory base their analysis on different premises about the nature of the conflict and thereafter its consequences. A general problem of policy advice is of course that one can hardly know the ideal solution beforehand and no laboratory is available for testing alternatives. But can we define that moment at which taking action becomes ultimately necessary? Kaufmann suggests a certain threshold, yet he does not qualify that further. Whether we consider absolute death toll, effect on civilians, duration of conflict – certainly a relative high level of violence will occur beforehand. Thus, partition would come in as a ‘last resort.’ O’Leary argues against partition in principle, including both paternalistic approaches resembling neo-colonialism as well as procedural-based approaches (O’Leary 2006, 5–9). His concern is about the practical feasibility in the conflict situation and indeed, he lists problematic decisions. But this “choices of units” (O’Leary 2006, 13–14), in many circumstances, will have to be made in a power-sharing arrangement as well, for instance for electoral design.

An important, but maybe not obvious question is: What do we want to achieve with partition? It might seem clear but prevention of recurrence of war does not equal positive peace and the achieved stability does not parallel democratic development. For this, Chapman and Roeder argue, arises firstly the need “to identify carefully the problems that we seek to resolve” (Chapman and Roeder 2007, 689). All those choices come with trade-offs between stability and democracy. Creating entirely new institutions through partition strengthens the defense capabilities but also introduces higher uncertainties. On the other hand, the relatively minor changes occurring through *de facto* partition have smaller impact on the expectations of victory (Chapman and Roeder 2007, 682). Testing against other claims by opponents of partition theory they do not have concerns about the democratization or disruptive nature of states in the international system, at least compared to states coming into existence by other means than partition (Chapman and Roeder 2007, 687).

Bosnia was not partitioned into new states. But keeping the state together as a whole did not mean that building of shared institutions worked without problems as the slow progress in building joint security forces and command structures reveal. Again, both sides claim allowing too much power-sharing or partition respectively for problems of implementation. The returning of refugees is a mistake according to Kaufmann, because

it decreases the homogeneity of the sub-units. Others claim that the creation of the separate Republika Srpska led to a *de facto* partition, undermining the envisioned power-sharing (Jenne 2009).

Border corrections and the related population transfers are undoubtedly the most sensitive issue within the whole partition debate. They also depend very much on underlying moral concepts which may focus on processes or consequences of decisions. For Kaufmann, the aim of ordered population transfer is to reduce human suffering in comparison to violent ethnic cleansing. Movements of ethnic groups will occur and the action of leaders on all sides depends whether they move as refugees, are killed or resettled. (Kaufmann 1998, 124) For O’Leary, population transfer is just a euphemism for ethnic expulsion (O’Leary 2006, 18). Fearon also brings strong moral arguments against ethnic separation:

I find the idea of internationally sponsored and legitimized ethnic cleansing loathsome [...]. Advocates of partition often seem to make the sole moral standard the number killed due to ethnic fighting, at the expense of considerations of justice on other dimensions. Is it right that people should be uprooted from homes of longstanding and made permanent refugees? (Fearon 2004, 405)

This statement also touches upon a concern more grounded in practicality: Ethnic groups do not only live among their fellows, they also live at a certain place and this territorial attachment may be strong enough to refuse following orders of transfer. Within in this debate, the cleavages do not run along typical International Relations theories. Fearon speaks of the consequences of Wilsonian state-building, but other liberal thinkers have regarded population transfers at the aftermath of the Second World War as ultimately positive (Fearon 2004; Kaufmann 1998, 125). O’Leary strongly warns “radical homogenization” was mostly a product of Nazism and Stalinism (O’Leary 2006, 20).

Border corrections, or “fresh cuts” as O’Leary calls them, have also occurred on the sub-state level as in the case of Bosnia. The Republika Srpska is not based on pre-war borders. Allowing such new borders to separate sovereign states is met with the concern for violence on the international level. Johnson argues that this would frame the conflict at least within international law as no longer a domestic issue (Johnson 2008, 151). According to Chapman and Roeder, inter-state instead of intra-state borders also change the cost calculation for conflict escalation. There are fewer occasions for joint decision-making, making it unlikely that “salami tactics” allow for “each escalatory step [to] be

taken at relatively low cost” (Chapman and Roeder 2007, 681). On the contrary, it leaves the conflict parties only with costly options for escalation while autonomy “even expand[s] the menu of escalatory options,” leading to deadlocks due to mutual vetoes (Chapman and Roeder 2007, 681). All in all, there are good arguments for even careful border corrections contributing to conflict de-escalation while the ethical dilemma of population transfer remains because human suffering seems to be inevitable with all options.

Regarding the role of third-party intervention, Pischedda notes it would be “premature to write off [one] strategy of conflict resolution” (Pischedda 2008, 114–15). It seems to have played a role both in successful power-sharing and partitions. The dynamics have to be better researched but it is doubtful whether in practice the necessary political will of the international community will always be present. No camp in our debate argues outright for or against third party intervention. O’Leary worries about the level of coercion it will bring about the conflict parties, both open or, worse, hidden (O’Leary 2006, 6). Kaufmann argues that existing power-sharing is only viable due to the international coercion. In Bosnia, “concrete developments have usually come about because of external pressure rather than domestic will” (Berg 2007, 211). This is relevant for our further debate, because both the example here, Bosnia, and the following case study of Kosovo, enjoy a continued high level of international presence. International actors significantly influence the post-conflict institutional design. This can also contradict initial policies as Qirezi’s study of creeping *de facto* partition under consociational arrangements in Kosovo reveals (Qirezi 2014).

The domino effect is one of partition theory’s opponents biggest concern. Conflicts do not exist in isolation and thus post-conflict arrangements have many implications for the international system. The domino effect would trigger new partitions in other conflicts once one partition is endorsed. Reviewing the literature, Pischedda finds arguments against the domino effect: a real influence would require similar views from too many actors; then secession is also costly. However, analysing the empirical evidence, “the uncomfortable bottom line is that partition may be an effective conflict management strategy, but risks generating incentives for new separatist rebellions” (Pischedda 2008, 117). Contrarily, Chapman and Roeder do not come to this conclusion. One possible bias within this analysis could be the prejudice for the *status quo* of the international state

system, unwelcoming to challengers of established states (Berg 2007, 203). But looking at the situation in Bosnia, and also Kosovo, this debate should not remain an abstract game. Between the two cases, a variety of linkage exists, on several levels (among actors, the regional dimension etc.). Whatever effect we might observe here, it is questionable, whether a domino effect could also be triggered in cases with much less linkages. In some way, the leaders of the Republika Srpska and of Kosovo are in a similar argumentative situation even though they have opposition views on Serbia. Depending on which line of argument weights stronger, any development can be used as a precedent. But exactly this is why Downes argues against the domino effect: The power-sharing arrangements in Bosnia have not prevented the Albanians in Kosovo from demanding full independence (Downes 2004, 278).

Thus far, we have considered several aspects of partition theory that should be carefully analysed in the following case study. However, before applying partition theory it is first of all necessary to conceptualize partition here. The term used in the recent debate is land swap which indeed can be understood as partition because it would consist of “fresh cuts” demanding the redrawing of borders. This chapter does not yet discuss the substance of possible land swaps but places it within the existing debate of partition.

Clearly, ethnic separation, defining partition according to Kaufmann and Johnson, is not telling enough for Kosovo. Kosovo and Serbia are relatively homogenous entities, we would not have to continue the debate about a final status if that had resolved the present issues already. The definition best suitable for our case so far comes from Chapman and Roeder, with a clear focus on institutional design. A problem remains: their requirement of Security Council (SC) member state recognition is met by both conflict parties. Serbia’s sovereignty over Kosovo is backed by Russia and China, whilst the US, France and the United Kingdom recognize an independent Kosovo. Instead of going deeper into the intriguing debate about empirical, not only *de jure/ de facto* statehood at this point, we will follow the much stricter definition of an opponent of partition theory: Fearon regards partition possible and legitimate when a “mutual consent” arises (Fearon 2004, 394). The mutual consent should at least include the acceptance of each other’s territory and boundaries. Consociationalism, as applied in Kosovo, has so far abstained from providing a solution in this question.

It still leaves us with a very high threshold for complete partition: accepting the other side's demand, on a very substantial issue. However, other thresholds are not able to explain why the current debate about partition has emerged. Kaufmann's level of violence would be considered too low between Serbia and Kosovo to make partition demands necessary – yet 'land swaps', or border corrections, are not completely off the table.

What if then, partition (as mutually accepted sovereignty) is a form of very 'last resort'? After all, even advocates of consociationalism have not argued against partition when power-sharing has failed and careful arrangements are jointly accepted (Berg 2007, 205; O'Leary 2006, 6). Consociational institutions were established in Kosovo, which presents itself as a multi-ethnic sovereign state – a claim for statehood not recognized at all by Serbia despite all international negotiations.

The role of external actors so far has been understudied, resulting in ambiguous records for international involvement in power-sharing or partition (Downes 2004; Kuperman 2004; Pischedda 2008). The position of international actors in the case of Kosovo should be analysed further, retaining that external factors can be decisive for each alternative solution.

Both power-sharing and partition are presented by their proponents as the empirically most successful solution to ethnic violence. However, this says little about how actors influence the success of each settlement. Zartman's concept of mutually hurting stalemate as the 'ripe' moment for success in negotiation is helpful here. A stalemate is mutually hurting "when this deadlock is painful for both of them" (Zartman 2001, 8). The reason for this changed perception are multiple and can even resonate from external factors. As a theoretical concept it may not predict the successful outcome of a conflict but "identify the elements necessary [...] for the productive inauguration of negotiations" (Zartman 2001, 9). From this theory Hudson and Kitchen derive their hypothesis number four: "Partitions will be successful when the conflict has ended as a result of a mutually hurting stalemate" (Hudson and Kitchen 2011, 6). In their case universe this was ultimately of no significance but looking at the details of selected negotiation processes, these thoughts combined may at least explain why actors enter the negotiations anew.

Methodology

This chapter has so far looked at the general debate about power-sharing versus partition. The remaining chapters focus on the events and debates in Kosovo, especially the recently proposed land swaps. It does so with a qualitative case study of Kosovo.

The literature review reveals one central problem when discussing the results of different large-n studies: the definitions applied for operationalization are so diverse that this alone explains part of the outcome variations. There is little value in comparing the results of studies based on so different assumptions. The issue of conceptualization has to be studied more in-depth before it can be applied on a variety of cases. Another method offers several advantages “in studying complex and relatively unstructured and infrequent phenomena” (Bennett and Elman 2007, 171): a single case study. First of all, it can provide a thorough and detailed application of one definition and thereby highlight strength or weakness of the particular definition. The definition of partition applied in the case study has already been outlined above.

Surprisingly, the debate about land swaps (at this high political level) has only emerged in 2018, defying several conditions of post-conflict societies that are generally assumed in power-sharing or partition theory. This leads to the question: *Why are land swaps currently discussed (and not earlier)?* The proposed land swaps as partition are a relative unique phenomenon for the selected case study but are not the only geographical possibility of a partition. Therefore, a more general question will guide the following research:

Under which conditions do political actors favour partition as a lasting conflict resolution?

Several aspects of this research questions require a further elaboration. What is a ‘lasting’ conflict resolution supposed to be? Partition theory and power-sharing arrangement so far are mostly discussed directly after a violent conflict, achieved by a ceasefire or a peace agreement. Of course, a debate about political institutions has occurred in Kosovo before but a mutually accepted result for Serbia and Kosovo has so far not been achieved, despite Kosovo’s progressing recognition race. The immediate threat of war is absent (at least we assume so), and instead of a temporary solution, the negotiating parties seem to search for a long-lasting conflict resolution. A close analysis of the case may explain whether a

mutually hurting stalemate still influences decision-making and the detailed process-tracing gives the chance to uncover alternative mechanisms.

Who are the political actors that can make these decisions? The complex interplay of domestic and international actors is well-captured in Putnam's metaphor of the two-level game (Putnam 1988). Ethnic civil war and conflict over sovereignty, discussed in international negotiations, add another layer of complexity to the situation. In his study of the Turkish government and the Kurdish movement, Paul Kubicek widens this approach to the logic of a three-level game (Kubicek 1997). Each level gives space for more than one actor, they are not unitary as realism assumes. Therefore, the conflict is a "multi-dimensional phenomenon. In other words, the lines of conflict are not drawn between a monolithic state and a monolithic Kurdish [or Albanian] movement." (Kubicek 1997, 80) Thus, the selected case study consists of the levels of international actors, and of Serbia and Kosovo. In the present case study additionally an enormous change occurred: Kosovo transformed from a Yugoslav province revoked of its autonomy into an independent state. The period covered here would be incomplete when calling Kosovar actors only an "Albanian movement." The full evolution is not recognized by Serbia, the second conflict party. For the sake of analytical clarity, Kosovo and its institutions are treated as a state, with actors before declaration of independence holding a similar relevance coded as politically preceding institutions to allow a continuous analysis of Kosovar Albanian actors. The complexity on the third, the international level should be limited, therefore states and organizations are only analysed in so far that their institutions are involved in the negotiations. The EU and its negotiation team is analysed distinctly from member states' opinion. Relevant member states are those who were also part of the so-called Quint group in early negotiations and those five member states who do not recognize Kosovo as an independent state. Other important international actors are the remaining three permanent Security Council members USA, Russia and China.

The Kosovar and Serbian states are further analysed at the sub-level of domestic actors: president, political parties (in executive and legislative bodies) and the general public discourse. Besides the political and societal dialogue, the presidents are analysed as separate actors because it were Hashim Thaçi and Aleksandar Vučić in their capacity as presidents to introduce the idea of land swaps. The focus is here both on the office of president and the individual politician. Both politicians held important offices in their

respective countries before and it is interesting to observe whether the president as a political institution or the individual politician brought relevance into negotiations. The role of individual leaders in the Balkans, as heads of parties, and then subsequently as heads of states has been studied in detail (Passarelli 2019). The trend of “presidentialisation” (Passarelli 2019) supports the close focus on the presidents in the given analysis. Despite their only recent political changes and still ongoing processes, both Serbia and Kosovo are democracies⁶ and therefore other domestic political actors involved in decision-making processes should be analysed as well. Again, it is important to notice that the institutional design is one factor, but how it is implemented by the political parties in power is another one. The public discourse is an attempt to capture the various voices of civil society, mostly presented through media opinion pieces and reports by different institutions. Due the nature of the conflict, particular focus is put on the two main ethnic groups; Albanians and Serbs. A significant element of the unresolved conflict is the presence of minorities in the respective other state. It has to be noted that political actors engage in a certain kinship communication, directed to members of their own ethnic group across borders.

How do we expect the political actors to behave in negotiations then? Two hypotheses are formulated which address both the international and the domestic level of the conflict. They derive from the discussed literature on power-sharing and partition theory and are tested in a disciplined, interpretative case study.

Hypothesis 1: *“The more an international actor is involved, the more likely it is that their favoured conflict resolution (partition/ power-sharing) is realized.”*

The role and motivation of international actors in conflict settlement is understudied with inconclusive results so far. But a certain level of influence – and bias – has been theorized. The case of Kosovo shows a high level of international involvement at several moments, so it can be hypothesized that this influenced the extraordinary political transformation of Kosovo. Supporters and opponents of power-sharing both note the high level of involvement when power-sharing institutions are in place. Critics doubt the stability of such institutions by solely domestic support. However, in the case of Kosovo, there are

⁶ See Chapter 3 for a more detailed discussion on the relation of president and other institutions for this definition.

also several international actors with not always the same interest. Thus, the position towards power-sharing and partition of each of them should be considered at different stages of negotiations. Both the level of involvement and the motivation for various forms of conflict resolution are studied to understand whether land swaps are indeed so opposed as first reaction may have indicated.

Hypothesis 2: *“The less satisfied domestic political actors are with the status quo, the more likely it is that they will support an unpopular or unusual conflict resolution proposal (like partition).”*

This hypothesis builds on the mutually hurting stalemate. The hope for improving the unsatisfying *status quo* may encourage to re-enter negotiations with new, untested approaches. The stalemate can be perceived by the representatives (i.e. the presidents) who are directly involved in the negotiations but also by other actors. Further, it is important to distinguish the different domestic political actors and whether they perceive the same level of dissatisfaction. A detailed case study allows to analyse the interaction among the domestic actors but also with international actors when it comes towards concrete negotiations.

The hypotheses are tested in a cross-time case study of Kosovo with qualitative methods. Content analysis is used to dissect the opinion of relevant actors. The second chapter focuses on the previous negotiation rounds at Rambouillet, the Vienna talks under former Finnish president Marti Ahtisaari and the beginning of the EU facilitated dialogue. The third chapter focuses on the idea of land swaps and the surrounding events in 2018.

All sources used for the analysis were in English. Without knowledge of a regional language, neither Serbian nor Albanian, it was not possible to directly consult sources in local languages. However, information, even from local sources, is widely available due to the international interest in the conflict. For instance, UNMIK offers a media observer with daily summaries of local news outlets. Official documents about the EU facilitated dialogue are available in English, and institutions in both countries provide further information in English. It has to be noted though that the Kosovar side is more active with regular English updates. The variety of sources used, both from official side and NGOs, tries to balance this bias. The second chapter relies mostly on academic articles about the well-researched negotiation rounds but also on further studies, for instance on the

implementation of agreements. As the third chapter covers events of 2018, the academic reflection of such recent events is relatively limited. Sources used are often direct statements from all sides retrieved through official websites, shorter policy papers by NGOs and think tanks and Balkan Insight as well as UNMIK media observer. Media reports are mostly used to confirm the chronology of events and when statements of officials were not otherwise available. Documents of the EU facilitated dialogue are not available directly, since the nature of the talks is diplomatic and the concrete agreements are kept secret. The reasons for this are elaborated further below. However, press statements from all involved parties after each meeting provide general information about the topic of the gathering and to what extent each side regards it as successful. Several opinion polls by think tanks and media outlets illustrate the general opinion about political developments. However, as there is not one source with a continuous survey using the same methodology, they can provide a support for observations from other sources but no indefinite confirmation. Further, a video recording of the central debate about land swaps is publicly available and analysed in the third chapter.

Chapter 2: Past attempts of conflict resolution

It is necessary to look at the history of the conflict between Kosovo and Serbia to understand the claims that each side has to the territory and how past wrong-doings are used in the current debate. This chapter then highlights the positions of various actors at different rounds of negotiation over the future of Kosovo. Besides providing an overview of the negotiations at Rambouillet, the Vienna talks under Ahtisaari and the EU facilitated dialogue this approach will reveal whether partition has been a viable conflict solution proposal before.

Historic overview

Serbia's claims to the territory of present-day Kosovo date back as far as 1389. The area was the site of the Kosovo battle of the troops of King Lazar, a mythical founding figure for Serbian history, against the Ottomans. King Lazar called for God's support: The Serbian troops in fact lost on the battlefield but in return gained an eternal kingdom. Serbia did not control the territory for the following centuries – Kosovo only became part of Serbia about hundred years ago, in 1913. But the early history and its significance in Serbian history overall give it a deep spiritual meaning for Serbs. Therefore, many Orthodox churches and monasteries are located there. This non-removable cultural heritage will be a decisive factor in later negotiations (Qirezi 2016).

Interestingly, the battle at Kosovo Pole does play a role in Albanian narrative as well, however with other ethnicities of the main characters. The Albanians derive their claim to Kosovo from the fact that they have lived there and represented the majority population for centuries – even during Serbian rule in the 20th century. Throughout history they underline their victimhood against Slavic domination (Qirezi 2016, 44). The claims are incompatible because the narratives do not address the same narrative of sovereign rights (Pinos 2015, 222)

The Ambassador's Conference in London in 1913 supported Belgrade's claim to the region when new borders divided the dissolving Ottoman Empire. The conference left Albanians split in different countries, *inter alia* Greece and Macedonia and Albania. Kosovo remained part of Serbia when Yugoslavia transformed into a socialist federation. Only in 1974 the Constitution was amended to grant Kosovo an autonomous status. But unlike other fully fledged republics in Yugoslavia, Kosovo's status remained "dual and

unique” (Qirezi 2016, 39). However, it was supposed to ease the growing tensions between the Albanian majority and the Serbian minority in the province. So far, Albanians were underrepresented in civil service employment and the education in Albanian language was limited.

The autonomous status was revoked in 1989, with the official endorsement of the Kosovo Assembly. However, it was not endorsed by the majority of Albanians living in Kosovo at that time. The return to a unitary state has given rise to justification for the later secession: Albanians constituted a minority in Serbia and their rights were unrightfully limited (Pinos 2015, 228). The granting of autonomy and the subsequent revocation of these rights also show the fears of minorities and majority in this form of power-sharing arrangement: The majority fears to give too many rights which could feed the desire for full independence and this fear eventually fosters a return to unitarism. The unwillingness of the majority to fulfil their demands leaves the minority with distrust whether their rights will really be respected and see their concerns in return materialized when the autonomy rights were revoked again. This experience makes it difficult for both sides to consider a similar solution again (Downes 2004, 243).

When Yugoslav republics declared independence one by one, also Kosovo declared its independence on 2 June 1990. It was preceded by a secret referendum in which a majority expressed their desire for an own state. Back then Kosovar Albanian claims were largely ignored by international actors, the results of the referendum could not be verified due to the lack of oversight of procedures. At the 1992 Balkan conference, yet another conference about the dissolution of a former empire, the leaders of Kosovar Albanians were not invited to equally discuss their border demarcation. Yugoslavia continued to exist in the name of the Yugoslavian Federation – at that time Serbia, Montenegro and Kosovo were internationally recognized to be part of that federation (Qirezi 2016).

Throughout the nineties the means of opposition against Serbian rule remained peaceful resistance with parallel state structures. Ibrahim Rugova was the key figure and first president of Kosovo. However, the situation of the Albanian population did not improve. Developments in the neighbourhood encouraged parts of the Albanian resistance to voice their demands of independence stronger. The Dayton Agreement has kept Bosnia as a state whole but the Republika Srpska was established as an internal, yet distinct entity of

Serbian character. It is not without irony that the defensive strategies of Albanian and Serbian minorities in the Balkan republics have structural similarities and yet have been directed against each other so often.

The Albanian opposition split, and the Kosovo Liberation Army (KLA) used violence to achieve their political goals but provoked strong Serbian counterreaction. This led to increased international attention for Kosovo. Under all circumstances, a second Srebrenica was to be prevented. Negotiations under international mediation took place in France, at the Rambouillet castle. The international Contact Group consisted of the United States, the United Kingdom, France, Italy, Germany and Russia. The Western States, also later known as the Quint Group, wanted to pressure Serbian president Slobodan Milošević to stop the violent campaign against Kosovar Albanians that had begun to flee their homes. The Kosovar Albanians delegation consisted also of KLA members. Already here Hashim Thaçi was a decisive leader before his eventual career in Kosovo's official institutions. The negotiations were marked by a distinctive lack of trust between the conflict parties. Eventually, the proposed agreement of the Contact Group was accepted by the Kosovar Albanian delegation but not by the Serbian delegation. Milošević feared for his domestic standing if he could not keep hold of Kosovo, a place with such significance for Serbian identity (Qirezi 2016).

On 23 March 1999 NATO began with air strikes against Serbia. The operation has been covered extensively in literature. Legal, moral and military questions have all been raised (Harzl 2008; Hughes 2013; Pinos 2015; Seymour 2017). The military campaign ending on 10 June 1999 was the first NATO mission out of area and profoundly changed the alliance but also the understanding of international intervention. What remains is the description of an “illegal but legitimate” military intervention (Seymour 2017, 824). While NATO's involvement resulted in a physical separation of the ethnic groups, the member states did not immediately call for partition into separate states. Instead, the Security Council passed Resolution 1244 that was to thereafter guarantee sovereignty of Serbia and self-determination to Kosovar Albanians. It set the beginning of a

political process towards the establishment of an interim political framework agreement providing for substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and

territorial integrity of the Federal Republic of Yugoslavia. (United Nations Security Council 1999)

The ambiguous language of the resolution allows both sides to interpret it as a victory for their political agenda. Serbia regarded its sovereignty protected while the reference to Rambouillet encouraged Albanians to pursue independence.

The Resolution established also UNMIK: the international community would build democratic institutions in Kosovo but remained status-neutral. Security was further provided by international KFOR soldiers. The refugee movements of Albanians before the NATO campaign and of Serbs after the military intervention had created an already relatively homogenous Kosovo. The Serbian population has mostly fled to the North, where a majority of them resided already in Yugoslav times. Some Serbs remained in smaller settlements spread throughout the country. One of the pillars of UNMIK, which was carried out by OSCE was supposed to built trust between the two ethnic groups. The final status of Kosovo would be settled only after the establishment of democratic, self-governing institutions. Both Kosovar Albanians and Serbs have heavily complained about the international presence, which assumingly gave preference to the political objectives of the respective other party. By 2004 the tensions were so high that a local incident led to Kosovo-wide riots, leaving at least eight Serbs and eleven Albanians dead and many Serbian cultural sites damaged (Serwer 2019).

Ahtisaari Round

The Contact Group agreed to leave their guideline “standards before status” aside and start negotiations about the future status of Kosovo. The situation on the ground made the working conditions for UNMIK personnel difficult. Thus, the status quo was also undesirable for the international negotiators and the perception of a stalemate strongly derived from this third perspective (Fridl 2009, 78).

Initially, the Contact Group agreed upon ten guiding principles that would set the threshold for independence very high. The principles were a political bargaining between Russia and the Western members of the Contact Group and ruled out partition. “Furthermore, any solution that was ‘unilateral or results from the use of force’ was ruled out as ‘unacceptable’” (Hughes 2013, 1009).

The Vienna talks were mediated by the special envoy Marti Ahtisaari had been involved in earlier negotiations. For this new attempt of peace talks he was appointed on 10 November 2005 (Fridl 2009, 75). He led the first round of talks between the conflict parties, a second round of talks was the UN debate on his report and the Comprehensive Proposal. A third round of negotiations with a troika team followed when Russia made clear it would veto the Proposal in the Security Council (Fridl 2009, 75).

Post-Milošević Serbia entered the negotiations at difficult times. The beginning coincided with the establishment of a new government and later the referendum on Montenegro took place. The split of the last remaining federation of Yugoslavia in 2006 was an invitation for Serbian politicians to play the nationalist cards in further negotiations (Fridl 2009). Further, the Serbian side lacked trust in an unbiased mediator. Several sources describe Ahtisaari as openly supporting the Albanian cause but with numerous explanations for his motivation. Hughes believes that his family background – Ahtisaari was born on what is now Russian territory – convinced him of independence as the best option for Kosovo (Hughes 2013, 1009). Ahtisaari also stated that the past wrong-doings left no option of Kosovo remaining part of Serbia (Fridl 2009, 83). Thus, Serbia was in a very defensive position. While seeing international law on its side, all proposed concessions remained short of independence.

Officially, also the Serbian government condemned the idea of partition. While it was ruled out in official negotiations, there were proponents for a partition both in Kosovo and in Serbia. Official voices supporting this are rare in Serbia but the leading officer of the Serbian Coordination Centre to provide support for Kosovar Serbs considered partition as one option (ICG 2007, 12). Some feared this would mean an automatic recognition of Kosovo's independence, while others would be willing to accept that based on the compensation logic of “better something than nothing” (ICG 2007, 13).

The support for partition in Kosovo was more low-scale albeit exists. It derives from the logic of Pan-Albanian thinking. The creation of Greater Albania “implied drawing an ethnic border between the region's Albanian and Slav-inhabited lands” (ICG 2007, 11). It had no official backing: the members of a cross-party “Unity Team” in support of Ahtisaari's plan were competing among each other to distance themselves from the Albanian nationalist Vetevendosje [Self-determination] movement (ICG 2007, 29).

Ahtisaari's Proposal also excludes partition and/ or the subsequent unification with another state (Comprehensive Proposal, 2007, General Principles). The Proposal and thus the general principles are endorsed by the Kosovo Constitution – originally an annex to the Proposal but later fully adopted by the Kosovo Assembly. The Proposal also defines further important elements of a Kosovar state: "Kosovo shall be a multi-ethnic society" (Comprehensive Proposal, 2007, General Principles), both Albanian and Serbian will function as state languages, there will be no state religion and an extensive scheme of minority rights will, *inter alia* be realized through a decentralisation framework (Comprehensive Proposal, 2007). The plan envisioned a 120-day transition period of supervised independence under UNMIK governance. However, full sovereignty will not happen in all aspects automatically. "The EU and NATO respectively will keep the Kosovo police and nascent security force under their tutelage" (ICG 2007, 20).

Serbia strongly opposed Ahtisaari's Proposal and was backed by Russia in the Security Council. Therefore, an EU-US-Russian troika of experienced diplomats tried to renegotiate possible solutions. For instance, the EU envoy Wolfgang Ischinger presented a plan in the spirit of the two Germanys 1972 treaty which would allow neutral position on each other's international cooperation and sovereignty. But the Albanian side felt already sure it will achieve independence, albeit with the concessions for strong Serbian minority protection. Russia ultimately vetoed Ahtisaari's plan in the Security Council, leading to the unilateral declaration of independence of Kosovo on 17 February 2008 (Fridl 2009).

Indeed, the Albanians, though also complaining about certain aspects of international missions in Kosovo, achieved far more than the Serbian side since 1999. "It got less what Albanian Kosovars wanted, but it never slid backwards" (Serwer 2019, 84). The declaration of independence might have been unilateral, at least from Serbian perspective, and therefore against the very first guiding principles. But Western members of the Contact Group and many other states quickly followed in recognizing Kosovar independence.

EU facilitated dialogue

The EU became more involved in Kosovo already in 2008 when, alongside the declaration of independence, the EULEX mission for supporting the rule of law was

established. UNMIK “has both engaged in a process of state building and prevented its culmination” (ICG, 2007, 2) and EULEX continued this ambiguous support – at least regarding the Northern municipalities. Serbs feared they would be bypassed by EU officials and were more hesitant to cooperate, unlike with the Security Council backed UNMIK. “Initial plans to deploy EULEX, including in the Serb-dominated northern areas, at an early stage, were stalled” (Gow 2009, 250). This was however only the beginning of enhanced EU involvement in Kosovo.

A new window of opportunity opened with the ruling of the International Court Justice (ICJ) on the legality of Kosovo’s unilateral declaration of independence. In 2010 the ICJ ruled that “the adoption of the declaration of independence of 17 February 2008 did not violate general international law, Security Council resolution 1244 (1999) or the Constitutional Framework” (ICJ 2010). This was certainly not the desired answer for Serbia but also Kosovo at that time faced difficulties because Serbia’s diplomatic counter offenses prevented Kosovo’s regional and international cooperation (Economides and Ker-Lindsay 2015, 1033). The EU sensed that this would be a chance to change the frozen status quo. On 9 September 2010 the United Nations General Assembly passed a resolution, previously accepted by Serbia, that welcomed “the readiness of the European Union to facilitate a dialogue between the parties” (General Assembly 2010). The facilitation of the dialogue would, like earlier international missions, remain status neutral and not initially work on status resolution. The EU was limited here by the five non-recognizing member states in its own rows. All EU publications list *Kosovo** and the asterisk bears the following explanation: “This designation is without prejudice to positions on status, and in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.” Thus, in its official communication the EU remains neutral on Kosovo’s status due to the lack of unity among its member states.

The first talks under the dialogue framework began in 2011 and several separate agreements on technical issues were achieved. The so far most comprehensive agreement was signed in 2013, the so-called Brussels Agreement. The implementation of the agreements is slow and in many cases far behind schedule. At the EU level, the dialogue is a project of the EU diplomatic service. Some claim that the dialogue was only started because the newly founded European External Action Service (EEAS) “needed a success in its early days” (Bieber 2015, 297). The office of the High Representative, responsible

for the dialogue, was first held by Catherine Ashton and is currently held by Federica Mogherini.

Most of the dialogue meetings are prepared at a working group level with representatives from Serbia and Kosovo. Gradually, over time, the format gained more political attention and thus the representatives show this as well. Originally, “Serbia appointed a junior official without a diplomatic background” (Bieber 2015, 305). In 2012 the new Serbian president Tomislav Nikolic handed EU and Kosovo affairs to then deputy Prime minister Vučić (Serwer 2019, 87). The dialogue continued on the prime ministerial level, first with Thaçi and as his Serbian counterpart Ivica Dacić, then Vučić. Both Thaçi and Vučić carried their responsibility for it into their new offices as presidents.

What has been the strategy of the EU and what is the status of implementation of the agreements? In the beginning, the dialogue was started without a long-term strategy, it was rather an attempt to bring the conflict parties back to the table (Bieber 2015, 300). “The EU does not condition or propose any viable formula to resolve the Kosovo conflict, nor does it officially favour any possible solution to negotiations” (Beysoylu 2018, 209). This approach of a neo-functional peace had hoped for a spill-over effect from technical agreements turned into political trust (Beysoylu 2018, 209). Therefore, it is also not surprising that the powerful carrots that the EU offered were not related with the conflict directly but with EU enlargement: As a reward for the Brussels Agreement Serbia was invited to accession talks and Kosovo signed as the last Western Balkan country a Stabilization and Association Agreement (SAA). The “normalization of relations with Kosovo is included in Chapter 35 of Serbia’s accession negotiations” (Bieber 2015, 316).

The issues about which agreements were negotiated moved from a technical to a more political level. The agreements reached so far concern freedom of movement, with additional agreements on vehicle insurance and the bridge that connects divided town of Mitrovica; custom stamps; the return of documents for civil registry and cadastre; the mutual recognition of university diplomas; the IBM; regional cooperation; energy and telecommunication (Emini and Stakic 2018). But also seemingly technical agreements are politically sensitive. What is the IBM for instance? It is the Integrated Boundary/Border Management – depending on whether the contract party regards it as a provincial boundary or a state border. Thus, only the abbreviation is commonly used.

The different meanings ascribed to an agreement become a problem during implementation, and therefore there is so little advancement. Further, the dialogue has been halted several times during election periods for any of the three negotiating sides. The political discussions in Brussels take place “under a thick veil of secrecy and the high the profile of those involved, the less transparent the dialogue became” (Mehmeti 2016, 229). Secrecy and lack of transparency are problematic, however also part of the deliberate technique applied by the EU. Agreements are reached with a ‘constructive ambiguity’ where the real meaning is established in the process of implementation. This approach has several advantages and certainly helped to achieve the relatively high number of agreements. It is also a reaction to the Ahtisaari round, “where the status designation led to the failure of a mutually accepted compromise” (Bieber 2015, 339) The ambiguity allows both conflict parties to sell the agreement back home while also leaving space for the EU to design the details of implementation. Thus, it is possible to “postpone implementation of more sensitive until a moment when more trust has been built” (Emini and Stakic 2018, 3). Ambiguity however also bears risks: The real consensus might be slimmer than the paper it is written on and the problems will only become visible during implementation – as they have in several cases (Emini and Stakic 2018). The secret nature of the talks naturally leaves out many domestic stakeholders and thus does little to broaden the sense of ownership. “The failure of local political elites to deliver on their statements has gradually lowered the overall trust in the normalization process. [Ambiguity] has served as an excuse for both parties to justify their lack of progress.” (Emini and Stakic 2018, 3) Therefore, ‘constructive ambiguity’ explains both the success but also the challenges in the implementation.

This is especially true in case of the Brussels Agreement. It bears the full name of First Agreement of Principles Governing the Normalisation of Relations and was signed on 19 April 2013 (Emini and Stakic 2018, 1). Not even the term ‘normalisation’ was defined (Muharremi 2018). Thus, it does not demand Serbia to legally recognize Kosovo but some fear that already the dialogue and the First Agreement are an implicit recognition (Serwer 2019, 85). The dialogue by its name takes place between Belgrade and Pristina, not between Serbia and Kosovo. But for Kosovo it equals the beginning of diplomatic relations (Bieber 2015, 305).

In 2013 all three negotiation parties were under electoral pressure, it was necessary to reach an agreement before domestic post-election debates halted the process (Beysoylu 2018, 210). The Brussels Agreement is firstly a written agreement of Kosovo and Serbia that “neither side will block, or encourage others to block, the other’s side progress in their respective EU paths” (Radio Free Europe/ Radio Liberty 2013). It also outlined an Association of Serb municipalities. Already Ahtisaari’s Comprehensive Proposal envisioned a greater autonomy for municipalities with Serb majority. But domestic opposition in Kosovo was fierce, especially from the Vetevendosje movement (Beha 2015). They demanded a review by the Constitutional Court. The Kosovar Constitution does grant self-governing rights to municipalities – but only to individual municipalities and not an intermediate associational layer. A second review by the Court in 2015 on the more detailed follow-up agreement ruled the Association law unconstitutional and since then the implementation did not progress (Emini and Stakic 2018, 6).

Throughout the facilitated dialogue the EU as mediator did not push for a concrete status resolution. A plan for partition was not sponsored or supported as of 2017 but neither was it explicitly ruled out. But again, we can see a *de facto* support for a dual sovereignty approach (Bieber 2015). Each side fears that the other side will thereby gain more control on the ground. While the Serbian side fears an implicit recognition through the dialogue, the Kosovar side is afraid that a legal framework of Serbian municipalities is yet another door for Belgrade to exercise power in Kosovo.

The dialogue has faced nationalist opposition and the involved politicians therefore use a dual narrative:

The narrative crafted for international audience [...] is marked by a full commitment to the normalisation of relations, a readiness for compromise, and great concern for the well-being of citizens. [...] The domestic narrative, however, is nationalist, identitarian and structure according to a zero-sum logic [...]. (Emini and Stakic 2018, 2).

The ambiguity that the EU has left initially after each agreement has furthered the dual narrative. While showing commitment to international agreement, it still allows involved politicians to present themselves as the more successful negotiator back home. This will be more visible in the third chapter where specific statements from 2018 are analysed.

Chapter 3: Land swaps as a new idea of conflict resolution

This chapter covers the recent debate about land swaps as well as the surrounding important events in Kosovar-Serbian relations. Despite the seemingly cooperative nature of the meetings between the two presidents, 2018 was marked by several events increasing the tensions between Kosovo and Serbia. In January, the Kosovar Serb politician Oliver Ivanović was murdered in North Kosovo. In March, the Serbian representative for the Dialogue, Marko Djurić, was arrested when he attempted to enter Kosovo and sent back. On 25 August, at the European Alpbach Forum, the two presidents participated at a panel where they for the first time publicly mentioned land swaps. In the second half of the year the relations further deteriorated: When Serbia blocked Kosovo's Interpol membership bid, Pristina imposed first 10%, then 100% taxes on Serbian and Bosnian goods. In December Kosovo announced to transform its security forces into a full army, a step heavily criticized by Serbia, also at UN meetings (Russel 2019).

It first of all defines the substance matter, looking at why 'land swaps' can be regarded as partition. The remaining part consists of analysis of the different actors' position towards land swaps to possibly explain why the idea has emerged at this certain moment and what effect it can have on the conflict according to different conflict parties.

Concept

The debate about 'land swaps' that emerged last year has remained somewhat unclear about the actual substance, of which territory will be swapped. Several ideas have been proposed and this subchapter summarizes them accordingly to the definition of partition. As stated in the first chapter of this thesis, a partition includes a "fresh cut", meaning that the division of territory does not necessarily follow the *utis posseditis juris* but more importantly has to be mutually accepted by the conflict parties. In the classic understanding of a conflict resolution tool, partition can be the last resort after a particularly violent conflict. It also has been argued that it is a valid legal remedy when sovereign rights are violated. However, then the debate about partition should have ceased some time after the direct violent confrontation of ethnic groups and not continued for over two decades after the ending of fighting.

The previous chapter has proven that the idea of partition was somewhat present in all past rounds of negotiations. Partition of Kosovo and Serbia along the borders of the sub-

state province from Yugoslav times slowly gained more support and was at least by Western allies supported when Kosovo declared independence in 2008. A redrawing of borders, thus ignoring pre-existing administrative divisions was prevalent as well but only in 2018 under different circumstances: Political leaders who have been extreme supporters of their respective camp presented it – against the wishes of the majority of their citizens. For the first time, Vučić and Taçi voiced a partition plan with land swaps at the Forum Alpbach, a high-level interdisciplinary seminar series in Austria. At that debate it was brought forward without concrete plans or maps but possible border drawings have then been discussed in detail, especially by critics of the idea. They have condemned it for its potential to open Pandora's box and bringing instability to the region (Gray and Heath 2018; Rossi 2018).

The meeting at Forum Alpbach where both presidents for the first time publicly mentioned land swaps occurred at a high-level panel debate. Besides Vučić and Taçi the EU Commissioner for Enlargement Johannes Hahn, the Austrian president Alexander van der Bellen and the Slovenian president Borut Pahor were present. Further two young scholars joined the group to comment on recent developments in the Balkans from a political science perspective.⁷ Such a setting ensured that the meeting would receive the expected political and medial attention in the aftermath. Politico, whose journalist moderated the panel, was just one of the sites publishing and commenting on it extensively (Gray and Heath 2018).

The panel gave each participant first the opportunity for a keynote speech during which they laid out their ideas about the Western Balkan EU enlargement, followed by the actual panel debate during which Vučić and Taçi were placed next to each other. Both of them were not reluctant to voice their opinion about each other, which can be described as a tense ideological dislike. However, they equally stressed their common commitment to make use of a window of opportunity. While not completely giving up their national rhetoric they simultaneously underlined that the idea of land swaps would not lead to a

⁷ A recording of the panel debate is available on the website of the Forum Alpbach (see bibliography). The following analysis is based on additional literature as indicated below and own analysis of the recording.

further division of Kosovar Albanians and Serbs but would bring them closer together (European Forum Alpbach 2018).

There is of course an undeniable paradox in this narrative that tries to address both the international community (which largely supports multi-ethnic conflict resolutions) and the domestic audience that regards an ethnic conflict as a zero-sum game. The most likely scenario of land swaps would indeed enhance the homogeneity of each state.

In order to dissect the idea in more detail several question will be considered: what land will be swapped? What would be the costs of such a scenario, both human and economy wise? Will this lead eventually to recognition of Kosovo by Serbia? A successful partition relies on mutual agreement of the partition line.

The general idea of land swaps can be outlined as follows: Serbia will receive the part of Northern Kosovo which it *de facto* controls already now. This includes North Mitrovica, the Serb majoritarian half of the city and the surrounding villages, also with a local Serbian majority. Kosovo in return would receive the area of the Presevo valley, now South-Western Serbia and the biggest remaining community of Albanians in Serbia.

There are indeed arguments in favour for this broad conceptualization of land swaps. Northern Kosovo, or at least the region of Leposavic, was not part of the ‘historic Kosovo’ but only attached to the province following the Second World War. Instead, the Presevo valley used to be part of Kosovo back then (Muharremi 2018, 29). Several media that discussed possible border re-drawings used maps for illustration. The annex of this thesis also provides such examples.

Realists argue that this correction on the map would simply be a reflection of the political reality: Serbia is the *de facto* power in northern Kosovo, Pristina does not exercise its sovereignty there. The implementation of power-sharing mechanism with enhanced self-governing rights for Serbian municipalities has failed to unfold. The status quo has been supported by KFOR troops when they made North Mitrovica a protection zone for fleeing Serbs in 1999 (Muharremi 2018, 30).

Even though partition is discussed mainly from the perspective of identity issue, exchanging the two designated territories in both cases has economic impact (Russel 2019). Northern Kosovo compromises of the Trepca mines but Muharremi argues that

the more economically viable mines are located south of the river Ibar and would remain with Kosovo (Muharremi 2018, 34). The lake Gazivoda which is both regionally important for drinking water and electricity production constitutes a bigger problem. Serbia would literally have the power to dry out Kosovo. In Presevo, Serbia placed an army base and also plans to build a large street corridor to deepen the regional integration. The sensitive military infrastructure and a large building project would be swapped with Kosovo (Muharremi 2018, 34).

A big concern is the possible population transfer that would follow a new border demarcation. Indeed, both countries would become more homogenous; losing minority citizens, gaining new citizens. But the regions considered for land swap are of course not completely homogenous. Should a zig-zag border go around Albanian villages in northern Kosovo? Also, becoming part of the majority in a new state might actually not be in the interest of the local minorities. Albanians in Presevo have extensive minority rights and several groups outside the control of Belgrade have profited from the unclear status of Northern Kosovo (Rossi 2018). There might be little motivation for them to change the status quo, even if it looks uncomfortable from the outside.

A further, very significant question remains: Will Serbia eventually recognize Kosovo – without northern Kosovo but possibly with the Presevo valley? Again, the wording here is of significance: At the Alpbach Forum, Vučić stressed that whatever form the agreement will take, he does not speak of “border *correction*” – after all, Serbia does not recognize that a border between Serbia and Kosovo already exists (European Forum Alpbach 2018). The land swap would also not include the areas that are so vital for Serbia’s claim to the territory: the southern enclave with the Orthodox heritage. Further, the majority of the Serbian population in Kosovo lives in that region. North Mitrovica might be the administrative stronghold for Belgrade but the land swap would leave behind most of the citizens it claims to protect. The Orthodox church has announced it would oppose any such agreement of land swaps (Rossi 2018).

A small but significant detail is also that both constitutions need to be changed for a land swap. The Kosovar as well as the Serbian constitution clearly lay out the territory of their respective state, in Kosovo even the flag includes the territory. This requires the broad

support of the legislature for the land swaps (Bojovic and Burazer 2018). The position of the relevant actors is considered below in more detail.

There has been no concrete proposal of land swaps but the outline above shows that possible territorial adjustments face pragmatic, ideological and human concerns.

International Actors

The involvement of international actors in Kosovo has remained high throughout the analysed time period. However, it was never marked by unity, the divide arising from Russia and China siding with Serbia in the Security Council. Thus, the UN, represented on the ground through UNMIK, was status neutral and officially not favouring nor prohibiting partition.

But even the seemingly united Western allies reacted with different voices to the land swap idea. This is not limited to the non-recognizers within the EU. The following section analyses whether the international actors support or reject partition and why some policies might have changed. Besides the EU and their member states, the SC veto powers USA, Russia and China are analysed.

EU and its member states

As outlined in the previous chapter, the EU became over time the most involved international actor in the conflict. The High Representative uses the approach of constructive ambiguity for the EU facilitated dialogue which so far was conducted with an open end.

In 2018 a new urgency is added to the matter. In February the European Commission publishes its new strategy for enlargement titled *A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*. The strategy describes what measures are necessary from the side of the candidate countries as well as of the EU itself to progress in all spheres of accession. One subchapter is dedicated to good neighbourly relations and describes the necessary measures for bilateral disputes in general and then mentions the Belgrade – Prishtina dialogue specifically.

[T]he EU cannot and will not import bilateral disputes. They must be solved as a matter of urgency by the responsible parties. [...] Where border disputes are not

resolved bilaterally, parties should submit them unconditionally to binding, final international arbitration, the rulings of which should be fully applied and respected by both parties before accession [...]. The Commission will pay particular attention to the process of resolving these disputes and provide support as appropriate. (European Commission 2018, 7)

It is not a new policy in itself that the EU does not want to allow unresolved conflicts to pass through accession. This lesson was learned when accepting Cyprus as a member state, with the hope that the conflict will be solved through accession. However, Cyprus continues to be a divided island, and the EU has been unable to resolve the conflict after enlargement (Cavoski 2015, 282). The new strategy for enlargement states very clearly that this scenario will not occur again. Simply a political commitment to resolving a conflict is not enough. Further the Commission warns that countries should not use unresolved conflicts to block each other's path towards accession (European Commission 2018, 7).

While the unresolved status of Kosovo is not the only dispute in the region, it is highlighted as a factor for regional stability. And yet again the Commission stresses that “a comprehensive, legally binding normalisation agreement is urgent and crucial so that Serbia and Kosovo can advance on their respective European paths” (European Commission 2018, 7). The content of the agreement is not specified, neither is a concrete deadline given. The new urgent call however has an implicit deadline: the next European Parliamentary elections in May 2019. No one knows how much the new Commission will be dedicated to a Western Balkan enlargement in general and the new High Representative to the dialogue specifically (Bojovic and Burazer 2018, 13). This view was also confirmed with the author by EU officials at the liaison office in Prishtina in October 2018. The EU will draw a lot of attention to other issues, as Brexit, and right-wing populists with EU sceptic views are likely to gain more seats in the new parliament.

Thus, 2018 became the decisive year for settlement of disputes before the EU itself causes an (at least) temporary stand still in the accession process. This window of opportunity existed also for the name dispute between Macedonia and Greece and the rather positive outlook there might have raised hopes for other conflicts as well (Djolai and Nechev 2018).

This new outspoken policy has been voiced by EU officials at relevant occasions. At the very same panel at which Vučić and Thaçi presented their land swap proposal, Commissioner Hahn stressed that the EU “will export stability, not import instability” (European Forum Alpbach 2018). He again is also careful not to set a concrete deadline.

The Dialogue continued in 2018 despite tensions in the political environment. In fact, the very day that Kosovar Serb politician Oliver Ivanovic was murdered, a working group meeting had been scheduled in Brussels. The Serbian delegation immediately returned to Belgrade (UNMIK Media Observer 2018c). The situation in northern Kosovo remained tense and a new escalation was reached when the Serbian negotiator in the Dialogue Djuric was arrested by Kosovar police for entering Kosovo (Balkan Insight 2018b). This occurred just shortly after the second completed working group. They took place in February and March, for two and three days respectively. “While the discussions were thorough, no further progress was achieved” reads an EU press statement afterwards (EEAS 2018e). Mogherini further conducted three high level meetings with Vučić and Thaçi in March, June and July (EEAS 2018b, 2018a, 2018d). Two further meetings occurred after the public presentation of the land swap idea. But the one in September did not involve a direct bilateral meeting (Balkan Insight 2018l).

Despite the events that elevated tensions, the EU continued its verbal commitment to enlargement in preparation for the Balkan Summit in Sofia in May – another occasion to meet with the two heads of state. Before that, Donald Tusk, President of the European Council, visited the Western Balkans in April, and stopped in Belgrade and Prishtina. He encourages the ongoing processes, highlighting achievements like the ratification of the border demarcation between Kosovo and Montenegro. Yet he also stresses the need for an agreement: “Without a comprehensive normalisation of relations with Serbia and full implementation of the agreement, I do not see how a breakthrough in relations with the EU could be achieved. I know it’s going to be hard but I am still a cautious optimist.” (Tusk 2018b). In Belgrade he states that this decision is solely taken within the countries themselves, just as the Commission’s strategy paper called regional leaders to “take full ownership and lead by example” (European Commission 2018, 7). Tusk on his visit in Serbia tells “that the European Union is precisely the place where nobody imposes anything on anyone. We have built this community so that nobody would ever pay with their blood for their independence” (Tusk 2018a). Again, the EU is not to dictate the

circumstances for conflict resolution. He further thanks both leaders for their individual commitment to the Dialogue as he is aware that it is “a difficult and emotionally charged issue for both sides” (Tusk 2018b). Throughout 2018 Vučić struggles with accusations of not bringing about the truly necessary reforms. This has been noted in the literature previously: Economic reforms are developed but “without any normative or value-based transformation having taken place” (Economides and Ker-Lindsay 2015, 1040).

As mentioned before, Commissioner Hahn participated also at the Forum Alpbach panel in August 2018. The urgency to use the existing window of opportunity is seen in his remarks on this “historic moment.” His statements are very cautious regarding the just proposed land swaps. But he supports the local ownership of the dialogue and defends that Thaçi and Vučić negotiate discretely before announcing a final settlement (European Forum Alpbach 2018). In short, he provides a good example of the use of constructive ambiguity and the coherence in the Commission’s strategic communication on accession.

After the Alpbach Forum, the relations between Serbia and Kosovo deteriorate around the issue of the establishment of a Kosovo army and the imposed sanctions on Serbia and Bosnia. The EU leaders use other opportunities than official Dialogue meetings to keep the dialogue ongoing nevertheless. Mogherini and Hahn met with all Western Balkan leaders for a working dinner at the side of the UN General Assembly in September and the High Representative also hosted an informal meeting of regional leaders in December (EEAS 2018c).

The EU continued to facilitate the dialogue leading to a comprehensive agreement amid the criticism that the proposal about land swaps as caused. Mogherini at the press conference of a Council meeting assures her

full support for the dialogue to continue, for the dialogue to come to a positive outcome – and a positive outcome would be a legally binding, comprehensive agreement that would address and solve all issues related to normalisation of relations – all, none excluded. (Mogherini 2018, emphasis added)

However, she addresses the fears about ethnic partition:

[T]his would mean no ethnical divisions among countries. To be more explicit, this would mean that whatever adjustment the two parties might discuss in the future, it would never lead to ethnically pure countries – sorry to use a disturbing

expression [...]. In any case, there will be a multi-ethnic country on one side and the other. (Mogherini 2018)

This indicates that the EU will not allow Kosovo to loosen its minority rights, even after a partition. The multi-ethnic spirit should prevail – how much of that has and will exist on the ground is of course another analysis. The limits that the EU sets are of principles.

We offer them facilitation, space and advice, but is up to them to define the agenda, define the speed and the depth of discussions and it is for them to define the outcome of the dialogue. It is definitely not for Member States to say what the outcome should be. (Mogherini 2018)

Again, ambiguity is continuously applied in Mogherini's statements. She shows vocal support for Thaçi and Vučić to engage in the dialogue despite domestic pressure or criticism of EU member states.

The opinion of member states is comparatively diverse. The division, however, not only runs between countries that do or do not recognize Kosovo. Countries can also be divided according to their overall level of engagement (Ker-Lindsay and Armakolas 2017, 10). The five countries that do not recognize Kosovo – Greece, Spain, Romania, Slovakia and Cyprus – remain critical for the future accession process. The EU can hold accession negotiations only with another *state*, without this status recognition not even the candidate status can be granted. The non-recognition is generally not based on a direct involvement in the conflict but rather based on domestic issues, often related to minority or secessionist issues. Greece that solved the name dispute with its neighbour now called North Macedonia might change its position on Kosovo's recognition. However, a mutual agreement between Kosovo and Serbia would probably make it easier to change policies for all non-recognizers. But not even Serbia's recognition bid can trigger an automatic response from EU states. Spain, with increasing secessionist tensions, and Cyprus, with its unresolved conflict with the Turkish Cypriotes, are unlikely to react positively (Ker-Lindsay and Armakolas 2017).

In the second half of 2018, Austria held the EU presidency. Due to historic reasons, the country has close ties to the Balkans. Chancellor Sebastian Kurz voiced his support for partition (Thaçi 2018a). United Kingdom, as a long-standing member of the Quint, has been largely preoccupied with its own exit from the Union and not the enlargement of the latter. Germany, as another member of the Quint group, was the most vocal in its criticism

of the land swaps (Gray 2018). Germany is generally very vocal when it comes to Western Balkan enlargement, after all the Berlin Process is an important forum. Chancellor Angela Merkel made her statements at a press conference with Bosnian prime minister Denis Zvizdić, underlining the fear that land swaps would destabilize the political order of the Dayton agreement (Gray 2018). Except for Germany, member states have remained relatively quiet on the dialogue, leaving it to EU representatives to manage the dialogue.

UN veto powers: the USA, Russia and China

The United States have been one of the most loyal envoys for Kosovo. The US generally support Kosovo with their votes in the Security Council and have been vital for the NATO operation that ended Milošević ' control of Kosovo. Kosovars have expressed their gratitude in various ways, *inter alia* with the most unique sculpture of former President Clinton in Pristina.

The US have gradually left the floor to the Europeans with EULEX and the EU facilitated dialogue taking over in state-building and reconciliation. It is difficult to assess whether Trump administration's foreign policy will experience major shifts on the Balkans as well – as it is difficult in general to assess any broader strategy in his foreign policy. But it seems that he continues reducing the leverage in the Balkans as Obama did before him. While active engagement may be reduced, the passive engagement as a role model bears the potential danger to sponsor nationalism in the Balkans (Hulsey 2017).

Economically, the United States remain an important donor for Kosovo (Morelli 2018). Diplomatically, its engagement has shifted to the second row after EU but in times of crisis the necessary pressure to pursue its policies has been applied (Bieber 2018).

Remarks of US officials throughout 2018 hint at a policy shift towards the partition debate in Kosovo. Initially, the American ambassador in Pristina was reluctant to condemn the proposed land swaps (Balkan Insight 2018p). John Bolton, Trump's security advisor, was more outspoken in his support of the new proposal. In August he stated that “if the two parties can work it out between themselves and reach an agreement, we don't exclude territorial adjustment. It's really not for us to say” (Bolton 2018). Like the EU, the US seems to have revoked its opposition to territorial changes. In December President Trump wrote a letter to president Thaçi reading he welcomes “your [Thaçi's] current reconciliation efforts with Serbia. Failure to capitalize on this unique opportunity would

be a tragic setback, as another change for a comprehensive peace is unlikely to occur again soon” (President of Kosovo press office 2018c). The pressure to make use of the window of opportunity also comes from the US.

Thaçi is aware of the significance of US support for his proposal. In November he travelled to the US, meeting with then Secretary of State Mike Pompeo and John Bolton (President of Kosovo press office 2018e).

Russia, on the other hand, has been a long-standing ally of Serbia, upholding Resolution 1244 as the basis for any future agreement. Foreign minister Sergei Lavrov reaffirmed his support for Serbia at his visit in February 2018 (Balkan Insight 2018i). It is often argued that the solidarity derives from the shared Slavic and Orthodox background. The close cultural ties of the Orthodox churches have even played an important role in certain fields of diplomacy. The Russian Orthodox Church lobbied successfully against Kosovo’s UNESCO membership application. Currently, the cultural and religious sites like monasteries are listed as Serbian heritage at UNESCO. The Church regarded “potential membership as a transfer of the [Serbian Orthodox] monuments in Kosovo to those that destroyed them” (Kallaba 2017, 13).

Russia also uses other non-political channels to express its support for Serbia. It uses its media portals in Serbian, but also in English and French (UNESCO is seated in Paris) to traject a negative image of Kosovo (Kallaba 2017, 26).

In April, Russia’s position seems to soften, presumably following the intensified attempts of Vučić to reach an agreement. Again, the support for Serbia is underlined but also the willingness to support any advancement of Serbia’s interest. Lavrov stated that “we have repeatedly emphasized that that we will accept any solution that suits Serbia” (B92.net 2018). Russia has the leverage to support such agreements regionally and in the Security Council of course. Russia’s strengthened position in the Balkans has little to do with increasing own leverage. The country “has merely opportunistically used the disinterest of the EU and the United States to its own advantage” (Bieber 2018).

Russia can use the potential outcome of an agreement two-fold: A failure of the agreement would slow down Serbia’s EU accession process, and thus bring it probably closer to Russia. On the other hand, a mutually recognized agreement can be used politically to

revive the ‘Kosovo precedent’ as it has been applied in Russian foreign policy as a justification for military interventions in Georgia and Ukraine (Rotaru and Troncotă 2017). Therefore, Russia is unlikely to pressure Serbia but allow any outcome of the Dialogue.

China is the other veto power in the Security Council that has not recognized Kosovo’s independence. China’s recognition is however not decisive for the EU accession process, but Kosovar politicians have stated that a mutual agreement will ultimately lead to UN membership as well (President of Kosovo press office 2018b). China, unlike Russia, is not a traditional ally of Serbia. Its opposition against Kosovo’s statehood is mainly derived from own secessionist conflicts, for instance with Tibet and Taiwan (Tibetan Review 2008). This principled opposition is unlikely to change even in the case of a mutually recognized agreement between Kosovo and Serbia. This could set a precedent of the other conflict party being ultimately an equal party in conflict resolution. China upholds strongly the norm of non-intervention into domestic affairs of sovereign states to debunk any criticism for the treatment of minority conflicts.

China still keeps a close track of the developments in the Balkans. Serbian president Vučić and prime minister Ana Brnabić met with Chinese ambassador in Belgrade when tensions rose in autumn 2018 (Government of Serbia 2018b). In recent years, China has invested in the Balkans through the 16+1 initiative to include Central and South Eastern Europe in its Silk Road project. Among the Western Balkan countries, Serbia receives the most investment, dubbing this connection the “Steel friendship.” China mostly builds large infrastructure projects, and can avoid EU competition standards. (Vladisavljev 2019). But participation of EU member states in the Belt and Road Initiative show that a halt of EU accession would not necessarily be desirable for China to implement investment projects in other states.

Kosovo

The idea of partition was proposed by the presidents of Kosovo and Serbia. President Thaçi experienced a domestic backlash for his proposal. What factors have driven the president to take a seemingly unpopular decision, not even backed in his own political family?

President

Hashim Thaçi is the current president of Kosovo. He was elected by the Assembly in 2016 (Morelli 2018). Kosovo does not elect its president by popular vote, in line with Lijphart's recommendation for consociational democracy for societies with minority population (Lijphart 2004). This would otherwise have the potential to create a winner-takes-all mentality. Nevertheless, Thaçi is of the Albanian majority ethnicity.

Despite the constitutional design of a parliamentary democracy, the president holds broad competences in Foreign Affairs, Defence and Security, Judiciary and Legislation, Communities and Finances. "How the competences are exercised largely depends on the skills and abilities of the individual holding office" (Krasniqi 2019, 193). Unlike his predecessor, Thaçi acts as a very strong president – also proven by his role in the EU facilitated dialogue which used to be in the hands of the prime minister. That powers are linked to individual leaders instead of constitutional obligations of the office is yet another evidence of "the personalization of political parties and the system's leader-centric nature, which creates an increase in the role of individuals in politics" (Krasniqi 2019, 209).

The strong influence of Thaçi on Kosovo's politics is praised in his biography written by two American journalists, sometimes coming close to painting him as the Messiah of Kosovar Albanians (Boyles and Jagger 2018). Yet, he is undoubtedly one of the most influential politicians in Kosovo's recent history. He was involved in all episodes of state-building, even at times when his party was in opposition (ICG, 2007, 28). Thaçi was present as a KLA commander at Rambouillet, he was part of the Unity Team to support the Ahtisaari plan and led the EU facilitated dialogue as prime minister and now as president. Thus, he is in close contact with EU officials but also has to communicate the domestic disappointment about slow developments, for instance the still awaited visa liberalization. Visa liberalization was linked by the EU with the ratification of the agreement of border demarcation with Montenegro. The agreement, prepared already in 2015, was not implemented due to strong reservations in the Kosovo Assembly, including members of the executive (Morelli 2018).

In 2018, the Kosovo Assembly also finalised the legislation of another controversial law: establishing the Specialist Chamber which is supposed to rule over alleged war crimes committed or commenced in Kosovo, especially by the Kosovo Liberation Army (KLA).

The tribunal is legally part of Kosovo's judicial system but based in The Hague. Thaçi, as a central figure of the KLA, has been subject of earlier investigations. The European Council published a first report on alleged Albanian war crimes in Kosovo in 2011. This report also named Thaçi as "responsible for crimes against Serbs, Roma and Albanians, who were marked as collaborators or political opponents by the KLA" (Balkan Investigative Reporting Network 2017, 73) At this stage, it is not clear whether Thaçi – or other members of the government – will be trialled eventually. Political actors in Pristina have highlighted this personal concern for Thaçi in meetings with the author in October 2018. But already investigations will influence the domestic debate. "The court is expected to cause serious turmoil on the political scene, as many leading ex-KLA figures hold official positions and exercise major influence in many areas, including government and business" (Balkan Investigative Reporting Network 2017, 13). Thaçi's personal legacy as the one democratic leader increasing Kosovo's international standing could be endangered.

Thaçi continues to use the dual narrative of addressing the domestic and international actors differently. Domestically he focuses only on the gains of the dialogue, not mentioning possible compromises Kosovo will have to accept.

There will be somewhere around 400 kilometres or demarcation between Kosovo and Serbia, the correction of the borders between the [two] states [...]. But in any case, I assure the citizens of Presheva, Medvegja and Bujanoc that all to the end, I will endeavour to realize their political will and their historic right. (Thaçi 2018c)

He positions himself as a strong defender of Kosovar Albanians' rights by trying "to correct this historic injustice" (Thaçi 2018c). Internationally, he paints himself as honestly interested in finally resolving the conflict with Serbia. "I am working hard to achieve this goal [a legally binding agreement with Serbia]. That's why, we have decided to explore every possible option, including the border correction in order to make efforts to reach the deal" (Thaçi 2018d). Sometimes, these approaches are visible within one speech. This is one reason why the actual proposal of land swaps remains unclear, especially when defending border corrections because "this scenario will not be along the ethnic lines" (Thaçi 2018d). Due to these ambiguous statements Thaçi was accused of making land swaps sound more acceptable (Balkan Insight 2018e).

In several statements, Thaçi has underlined the urgency to arrive at an agreement and the historic opportunity to do so now – mirroring statements of the EU. He therefore urges other domestic actors to unite on this issue because it “transcends our temporary political mandates and goes beyond the actual relations between the governing parties and opposition ones [...]. It is all our interest and in the interest of the citizens of Kosovo” (President of Kosovo press office 2018a).

As being involved in the dialogue personally, Thaçi perceives the pressure and urgency differently from domestic actors. He accuses them of not having “the faintest idea on the dynamic developments on the international arena.” (Thaçi 2018c). At a scenario conference for an agreement he warns that “there is less and less patience for further talks in Brussels without a clear timetable for their finalization, without a clear goal of what kind of content the agreement between the two countries must have” (Thaçi 2018b). He clearly perceives a continuation of the status quo as unsatisfactory: “There can be no ‘Status quo’ or a kind of frozen situation in the relations between Kosovo and Serbia” (Thaçi 2018b). He is aware that the EU elections will put an indefinite pause on the dialogue, and it is unclear what might follow afterwards. Also, his domestic standing might change throughout this time. Surveys have already shown that there is little support to continue the dialogue on the presidential, and thus confidential, level (National Democratic Institute 2018).

Despite the domestic opposition against his proposal, Thaçi continued to present his idea. He travelled to the US to gain support of the Trump administration but also met with relevant regional stakeholders, for instance with civil society representatives of the Presevo valley (President of Kosovo press office 2018d).

Political Parties

For a most of the time of independent Kosovo the country has been ruled by parties with a legacy in the two streams of the fight for independence in the 90s. The Democratic League of Kosovo (LDK) is the party of Ibrahim Rugova who was also its leader until his death in 2006. The legacy of the KLA is represented through the Democratic Party of Kosovo (PDK) and the later established Alliance for the Future for Kosovo (AAK). They share the features of the “catch-all model: they lack a clear ideology, with centralised decision-making” (Krasniqi 2019, 193). Thus, only a few numbers of politicians are

involved in executive but also legislative decision-making processes due to the high level of centralization in the parties themselves. The current government is a coalition of AAK and PDK under prime minister Ramush Haradinaj.

Throughout the dialogue, some opposition parties, then switching to government, have voiced moderate support for the negotiations in Brussels (Kodrazi and Heler 2015). However, one party strongly opposed the dialogue with Belgrade: the Levizja Vetevendosje (VV) was born out of a social movement. Its “populism [combines] nationalist/ nativist elements with a leftist outlook in social and economic policies” (Yabanci 2016, 23). Earlier, they have been linked to the idea of partition in order to pursue a unification into a Greater Albania (ICG 2007, 11). But this was before Kosovo’s declaration of independence, now Kosovo has secured its territory which is internationally recognized (at least by the majority of states that have supported Kosovo’s sovereignty). The territorial inviolability has also been one the initial red lines set out by Kosovo’s negotiation team: “The sovereignty and territorial integrity of the Republic of Kosovo is inviolable, inalienable and indivisible and is defended by the means sanctioned by the Constitution and law” (Tahiri 2015, 11). The fifth Basic Principle for the dialogue is “mutual respect of state sovereignty and territorial integrity between the two states” (Tahiri 2015, 11). Kosovo aims at Serbia’s recognition under all circumstances but set out the policy to not allow any form of partition.

In 2018, the opposition parties in the Assembly show a growing impatience with the dialogue. The proposed Platform which intended to strengthen the Assembly’s involvement was criticized. Spokespersons of LDK and VV have dismissed it as a call to back president Thaçi (Balkan Insight 2018d). This is yet another criticism of the lack of transparency in the negotiations.

At the same time delays of international agreements, the Specialist Chamber and the border agreement with Montenegro, reveal a low support for international concessions because as such the agreements are perceived. US ambassador Greg Delawie warned that the protest, again mostly led by VV, during the ratification of the tribunal legislation “will be considered by the United States as a stab in the back” (Morelli 2018, 14). The delay in the ratification of the border agreement with Montenegro affected the pace in the visa liberalization process. VV’s protest is consistent with its general criticism of

international actors in Kosovo (Yabanci 2016). But the more widespread dissatisfaction might indicate that the carrot the EU provides is simply not big enough (Kodrazi and Heler 2015, 46).

The so far most controversial agreement of the dialogue, the Association of Serbian Municipalities, brings back the question about the quality of power-sharing arrangements and partition alternatives. So far, Kosovar Serbs are granted non-territorial power-sharing (Randazzo and Bargués 2012), albeit with problems in implementation. Especially northern Kosovo, which is now subject of the partition debate, functions largely outside of the sovereign control of Pristina (Fort 2018). But the Belgrade-backed Srpska Lista, the party representing Kosovar Serbs, was part of the government in Pristina. The political integration of Serbs into Kosovar institutions was a concession made by Serbia (Radio Free Europe/ Radio Liberty 2013). It was however a shaky attempt of cooperation. The tensions caused by the arrest of Serbian negotiator Djadić led to walk out of Srpska Lista from the government (Prishtina Insight 2018b).

The failed implementation of Association reveals the different understanding of how much this agreement would allow a further partition of Kosovo or strengthen power-sharing. A general fear is for “the possible creation of another Republika Srpska/ or a ‘Daytonization’ of Kosovo as a result of conceding to a ‘third layer of government’” (Troncotă 2018, 226). The Albanian parties want to keep the association as limited as possible, thus avoiding a new status for it. Implementation failed so far because the government in Pristina demands that the parallel institutions are abolished first (Troncotă 2018). The *de facto* partition leads to fears that power-sharing agreements would just deepen the existing *de facto* partition instead of enhancing the integration into Kosovar jurisdiction.

However, the north of Kosovo is an integral part of the country. Thaçi’s proposal of land swaps did not receive support but widespread critique, even from the government with his own party (Rossi 2018; UNMIK Media Observer 2018b). Some political parties are dissatisfied with already reached agreements which they regard as unnecessary concessions to Belgrade. Thus, land swaps pose a threat to the territorial integrity of Kosovo. This position is not only voiced by VV as an opposition party but also marks the red lines of earlier negotiation delegations.

Public discourse

The biggest criticism about the ongoing dialogue is certainly its lack of transparency, leaving citizens confused about the actual agreements (Big Deal. Civic Oversight of the Kosovo-Serbia Agreement Implementation 2015; National Democratic Institute 2018). Confusion arises for instance from the use of “competing narratives” (National Democratic Institute 2018), thus the different messages that are sent to domestic and international audience. People asked in various surveys express that they do not have a real understanding of what the dialogue contains. But the same surveys also reveal that the reconciliation with Serbia is not a high priority for Kosovar Albanians (National Democratic Institute 2018).

Citizens rather name other, but related issues: the delayed visa liberalization, the pervasive corruption and unemployment (National Democratic Institute 2018). Thus, the socio-economic situation is of more concern for Albanians than identity issues. At the same time, there is very low trust that the current political leadership will be able to solve those issues, mainly because they are part of the problem as in the case of corruption. Since there is little trust in the competencies of politicians to solve those issues, why would they fare better at complex conflict resolution? A high-level dialogue with little consultation with civil society just adds to existing fears. A survey published in June by the Kosovo Democratic Institute shows that people would prefer a different representation at the dialogue: Still 44 percent would like the president to continue but 25 percent regard the prime minister as more suitable for this position. And even more, 31 percent prefer the opposition to take the lead here (Prishtina Insight 2018a).

The immediate reaction to the proposed land swaps was very negative. “Among ethnic Albanians, Hashim Thaçi is risking becoming a persona non grata” (Rossi 2018, 2). A survey conducted in September found a majority of citizens unsatisfied (35.5%) or even very unsatisfied (39.6%) with Thaçi’s role in the Dialogue (Kosovo Democratic Institute 2018). Losing northern Kosovo would mean giving up the very idea of Kosovo’s territory and further constitutes of territory with economic significance. The years of reconciliation work and the spirit of a multi-ethnic society would also be endangered.

This however means neither that the dialogue should be halted nor that a better answer than the status quo arises. Respondents in surveys generally favour the continuation in

talks with Serbia, albeit little support for the current high level format (National Democratic Institute 2018; Research Institute of Development and European Affairs 2019). The dissatisfaction with the status quo is high. But neither increased power-sharing with the implementation of the Association of Serbian municipalities nor partition receive a significant support (Research Institute of Development and European Affairs 2019).

Thus, Taçi rightly perceived a growing impatience about the slow development towards the EU and the frustration about the status quo. However, his intended solution does not receive wide support.

Serbia

President

The president of Serbia is directly elected. The constitution prescribes him with the obligation “to uphold and protect the state interests of Serbia in Kosovo and Metohija in all internal and foreign political relations” (Constitution, Preamble as in (Bojovic and Burazer 2018, 28). This is further laid out in the oath of the president that requires him to protect the territorial integrity of Serbia. The Constitution was only adopted after the dissolution of the Yugoslav federation into the separate states Montenegro and Serbia and thus reflects the political significance of Kosovo for Serbia (Bojovic and Burazer 2018).

The *de facto* power of the president depends on the relation between president and prime minister (Spasojevic and Stojiljkovic 2019, 53). Vučić, like his Kosovar counterpart, is a strong president. He as well kept the Dialogue in his portfolio when he switched from prime minister to presidential office. Like other members of his Progressive Party (SNS) Vučić has a background as a hardliner (Kodrazi and Heler 2015, 34) and was part of Milošević’ government. The EU was initially afraid of a complicated cooperation when SNS won the election but Vučić and his fellow party officials turned out to be more pragmatic in their approach towards the EU (Economides and Ker-Lindsay 2015).

However, in 2018 he became increasingly under pressure for his political style with authoritarian tendencies. Freedom House lowered Serbia’s status to partly free, especially because of the treatment of media organs and the irregularities at the local election in Belgrade (which was won by Vučić’ party) (Freedom House 2019). The EU is also criticized for backing such controversial politicians, allegedly for the guarantee of

stability. Thus, the term ‘stabilitocracy’ for such countries emerged (Emini and Stakic 2018, 6).

Vučić therefore had to create opportunities to present himself as providing stability and becoming irreplaceable as a compromise willing leader in the EU facilitated dialogue. At the same time, he does not abandon his nationalist narrative domestically. Another recurring theme in his speeches is how Serbia was treated unfairly by the international community (European Forum Alpbach 2018; Vučić 2018). This is further contrasted with his self-depiction as a modest leader who learned from the past. “I am just an ordinary man”, he stated (European Forum Alpbach 2018). In an opinion piece for Politico he admitted: “As a young man at the time, I did not see what could be gained from collaborating across the divide. But I know now that my country paid a high price for nationalist excesses” (Vučić 2018). Vučić also slowly paves the way for a compromise solution by keeping Kosovo high on his agenda throughout 2018 (Balkan Insight 2018k).

The very same compromise that Vučić and Thaçi offer is explained differently. After all, Serbia has not yet recognized Kosovo. Thus, it is wrong to speak of border corrections – for Serbs there is simply no border that could be corrected (European Forum Alpbach 2018). Whether northern Kosovo will be given to Serbia under a mutual agreement or the border north of Mitrovica is recognized as an international border, both scenarios will constitute a partition in the Serbian narrative. Vučić has to carefully balance promises to his Serbian electorate and the implementation efforts of the Brussels Agreement. However strongly he argues against recognition, the support for power-sharing among Albanians and Serbs within Kosovo could be regarded as an implicit recognition (European Forum Alpbach 2018).

But the EU does not state directly that Serbia has to officially recognize Kosovo’s independent statehood. A workable agreement is necessary nevertheless to remove a significant obstacle on the way towards EU accession. The Dialogue is enshrined into the 35th Chapter and thus directly linked to the progress on other accession chapters:

If ‘progress in the normalisation of relations with Kosovo, significantly lags behind progress in the negotiations overall, due to Serbia failing to act in good faith, in particular in the implementation of agreements reached between Serbia and Kosovo’, the Commission will [...] propose to withhold its recommendations to open and/or close other negotiating chapters. (European Commission 2015, 3)

Vučić may not live up to the European values that are also part of the spirit of the accession negotiations but he is committed to provide the economic progress possible through technical implementations (Economides and Ker-Lindsay 2015). Thus, he is also tied to deliver progress on the Dialogue and to not halt the overall accession process. He therefore presents himself as willing to find a compromise with Pristina, pushing together with Thaçi for one solution.

In September 2018, shortly after the panel debate at the Alpbach Forum, Vučić travelled to north Kosovo to hold a rally speech in North Mitrovica. His travel plans caused tensions as visits of other Serbian officials before that (Prishtina Insight 2018c). His speech contains many of the traditional elements of the nationalist narrative. He refers to Serbian heroes and poets, and highlights the special role of Kosovo for Serbia but at the same time puts the mythical images in the context of reality. “Not up there in heaven, but here in Kosovo and Metohija” (Vučić 2018) changes should occur. “And there are no mythical borders. I want ones within which live people [sic] who have rights belonging to them” (Vučić 2018). He also explains that a compromise, a final agreement, will improve Serbia’s standing in the world – that has suffered by unfair treatment but also from mistakes of own political leaders.

[W]e did not understand the position of Serbia and the world [...]. Milošević was a great Serbian leader, his intentions were certainly the best ones, but our results were much worse. Not because he, or anyone else, had wanted it so, but because our wishes were not realistic, and we neglected and underestimated strivings of other nations. And therefore, we paid the highest and the most difficult price. (Vučić 2018)

Interestingly, he speaks of the rights of Serbs that will be ensured by a compromise much more than of the territory that ought to be preserved:

I want to change your rights and I want us to do everything we can, to preserve everything we can in Kosovo and Metohija, because our situation is not the same like the situation thirty, fifty or sixty years ago, I want us to gain for you all those rights you are entitled to, and which are part of what is called the civilized world. And I want you to have the right to life; and your right to work; and your right to freedom. Safety. Movement, studying, medical treatments. And if for the sake of all those rights we must make compromises – both we and Albanians [...]. (Vučić 2018, emphasis added)

As the EU accession is generally supposed to improve living conditions, the compromise between Pristina and Belgrade will improve the situation of the Kosovar Serbs. However, Vučić' commitment to appear ready to compromise also knows red lines. The relations between Kosovo and Serbia deteriorate in the second half of the 2018 and Vučić refuses to continue the dialogue until the 100% tariffs by Pristina are abolished (Balkan Insight 2018n). He blames the Kosovar side for not negotiating in the "good faith" which the EU requests for the dialogue (European Commission 2015).

Political Parties

As mentioned before, the territorial integrity of Serbia, including Kosovo, plays a prominent role in Serbian Constitution and this is also mirrored in the political debate. Serbian politicians have vowed several time that they will "never give up Kosovo" (Bojovic and Burazer 2018). However, behind closed doors Serbian negotiators have already admitted in earlier rounds of status talks that Kosovo is lost for Serbia (ICG 2007; Fridl 2009).

As in other Balkan countries, the political landscape in Serbia is marked by a high centralization of power in party leaders. "Citizens frequently state that they voted for Vučić [...] or Dacic [...] instead of using the names of the parties" (Spasojevic and Stojiljkovic 2019, 49). Splits of parties resulted from divisions among party elites. Milošević' Socialist Party (SPS) was defeated in 2000 which meant the end of his rule but in recent years the party rose to power again. The country is currently ruled by a coalition of SPS and Vučić' SNS that resulted from a split with the more nationalist Radikalna Stranka (SRS). Current Foreign Minister Ivica Dacić held the Prime Minister office before Vučić and in this function was the first prime minister to meet with his Kosovar counterpart within the high-level framework of the Dialogue. Current prime minister is Ana Brnabic from SNS. Vučić, unlike Thaçi, remained party leader when he took over the president's office.

And unlike Thaçi, Vučić has the rhetorical support of the government. Brnabić in a meeting with German politicians reaffirmed Serbia's commitment to reforms while Dacić praised the meeting at Alpbach as a historic moment, opening new possibilities: "This is about whether we will get something or whether we will lose everything" (UNMIK Media Observer 2018a).

Admittedly, opposition parties face difficulties to voice their concerns due to the general decrease in democratization (Freedom House 2019). A special position is here that of the political organisations of Kosovar Serbs. Srpska Lista is the largest party representing Kosovar Serbs in Kosovo's institutions. They have enhanced their cooperation with Pristina only when advised by Belgrade to do so. Yet the Srpska Lista does not represent all Kosovar Serbs and some voice dissatisfaction with Vučić' control over the party. Oliver Ivanovic, the Kosovar Serb politician who was murdered in January 2018, was not part of the Srpska Lista. He experienced harassment from nationalists on both sides for his allegedly moderate stance. His warnings, addressed both at Pristina and Belgrade, about threats against him remained unheard in both capitals (Balkan Insight 2018o). Some arrests were made but the case is unresolved until today, with both sides accusing each other of leaving the murderer undiscovered so far (Balkan Insight 2019).

Despite the "good faith" that Vučić attempts to present his international counterparts, Serbia continues to lobby against Kosovo's statehood by various means. Serbian newspapers often report about the revocation of Kosovo's recognition by small states (Qehaja 2018, 44). Therefore, contradicting reports make it impossible to give an updated and proven number of Kosovo's recognizers. It is however also unlikely that Serbia will ever be able to shift the diplomatic balance back to its own benefit. Strategically, Serbian diplomats approach countries without direct ties to Kosovo but with domestic conflicts in order to highlight the similarity with the situation for Belgrade (Qehaja 2018, 48). Serbia also lobbies against Kosovo's membership in international organization. In 2018, they successfully stopped Pristina's application to Interpol (Balkan Insight 2018h).

On the other hand, Serbia also attempts to present itself as the side more engaged in the negotiations with Brussels. Every few months, the government publishes a progress report about the implementation of the normalization agreements. The latest publication, covering the episode of May till December 2018 reaffirms that "Serbia's commitment to Dialogue should not be interpreted as a weakness, throughout this phase of the Dialogue Priština acted as someone who may intimidate others and impose its will on them" (Government of Serbia 2018a, 1). The report also notices the political division in Pristina: Prime Minister Haradinaj

undertook a series of increasingly more provocative actions [imposition of 100% tariffs] aimed at weakening and discontinuing the Dialogue, since it is the President [Thaçi] in Priština who collects most of the political points in the internal arena on account of the success in the Dialogue (Government of Serbia 2018a, 4)

Such statements contrast the alleged chaos in Kosovo with a promoted unity among Serbian domestic actors. Despite international concerns about the democratic development in Serbia, the government presents itself as the guarantor for stability within the negotiations.

Serbian politicians have officially not stepped back from their claims to entire Kosovo and continue their diplomatic offence. However, they present the proposal of land swaps as success to their electorate and continuously attempt to show more willingness to cooperate by blaming the Kosovar side for failures.

Public Discourse

The loudest and strongest voice against any land swaps or concession towards Pristina is the Orthodox Church in Serbia. President Vučić is aware of its influence and met with Patriarch Irinej in August 2018 before the Alpbach Forum (Balkan Insight 2018m). However, the land swap idea will not receive any support from the Church because it would leave behind the southern enclaves where the religious heritage is located. In May the Church issued a statement describing Kosovo as “the very essence of our church and national being and existence” (Balkan Insight 2018a). Clerics have further called Vučić “a little Tito” (Balkan Insight 2018j) and issued an appeal to the government strongly opposing any form of border delimitation (Serbian Clerics in Kosovo Appeal Against Partition 2018). The Orthodox Church fears a return of violence against their people and sites as occurred during the riots in 2004.

Also Serbs support the continuation of the dialogue. However, they are less willing to make concessions on Kosovo to fast-track accession talks. In March, roughly 80 percent refuse recognition of Kosovo as a condition for EU accession (Institute for European Affairs 2018). Also in September, about 44 percent generally refused the separation of Kosovo. Further, a large number of respondents are unsure how to judge the current situation (17%) or indifferent about it (14%) (N1 2018). On the other hand, Kosovo is not a priority of most Serbs (Balkan Insight 2018c). The situation with Kosovar Serbs is

however different. It has to be noted that they themselves are also split due to their different living conditions which influence their political perceptions. There is first of all, the division between northern municipalities, bordering with Serbia proper and the enclaves in the south. Then further, the situation in the south depends on whether Serbs constitute a numerical minority or majority in their respective municipality (Fort 2018). A land swap would leave still half of the Serbian minority behind, with critics arguing that this would make it easier for Pristina to not implement minority rights (Rossi 2018). Johnson was aware of the stay-behind-minority but rather studied them from the perspective of the former oppressed minority, now majority in newly partitioned state. He concluded that a small enough minority would not pose a security threat (Johnson 2008, 161). However, the stay-behind-minority in Kosovo feels very threatened in daily life and Fort stresses the sense of security they receive through parallel institutions (Fort 2018). They are equally split and unsupportive of the Association implementation (albeit because of the condition for *de facto* recognition that is implicitly in the process) and the land swaps (Research Institute of Development and European Affairs 2019). Not surprisingly, the northern municipalities are more likely to support a land swap (National Democratic Institute 2018). But the inhabitants also express their concern about the lack of representation in the dialogue (Balkan Insight 2018f). And indeed, it remains unclear who in practice does represent the interest of the Kosovar Serb minority, given the fact that both countries generally face difficulties in legitimizing representation.

Navigating constructive ambiguity on the ground is not easy. The carrot of Europeanization is also unlikely to work on Kosovar Serbs as their unclear status and issues in accessing public services prevents them from enjoying the same rights as Kosovar Albanians or Serbs in Serbia (Balkan Insight 2018g). With powerful institutions like the Orthodox Church against land swaps and the most vulnerable group to the decision – Kosovar Serbs – unconvinced of any proposal, the land swaps have not gained widespread support outside the political discourse in Serbia.

Conclusion

When the land swaps were proposed in 2018, they were widely discussed but received few support. A thorough analysis, contrasting it with previous rounds of negotiations, allows several conclusions about the specific case of Kosovo and general implications for conflict resolution attempts.

In early rounds of negotiations, at Rambouillet and in Vienna, a partition as a “fresh cut” did not receive support among international negotiators. However, the Western members of the Quint group supported Kosovo’s independence along existing administrative borders. Back then, and until today, Serbia never accepted Kosovo’s sovereignty. Yet the idea of border changes was pushed when Serbia saw its own position as weakest during the Ahtisaari round and in 2018, when the accession process is linked to progress on the conflict resolution. Russia has always backed Serbia’s position, using its leverage in the Security Council. But this would go along with its own interest in the region: the further dissolution of the Yugoslav Republic was potentially decreasing Russia’s influence in the late 90s. Under the current circumstances, Russia can use several outcomes for its own interest and has thus indicated changes in its position. Kosovo demanded full independence and among Kosovar Albanians land swap ideas received only marginal support. Interestingly, the proponents of the idea changed with new international circumstances. Before independence, it was a step towards Greater Albania for VV which now strongly defends Kosovar statehood on current territory while Thaci uses it as possible compromise in negotiations.

The EU facilitated dialogue began without the aim of resolving the status question and the proposal of land swap appeared only when the EU as a mediator changed its approach in 2018. The new strategy for enlargement foresees that regional conflicts ought to be resolved before accession and only after the release of this statement the idea of land swaps began to appear.

This so far confirms the first hypotheses about the influence of international mediators. The level of engagement was decisive in all rounds of negotiations for beginning the talks but also to shape the outcome. The support for power-sharing or partition did not occur in isolation from positions of Kosovar or Serbian delegations but ultimately the independence of Kosovo was possible when a majority of the Quint group supported it.

International negotiators have a decisive influence through agenda-setting: during the EU facilitated dialogue and final status settlement was not discussed until the EU changed its position on what the “normalization” should look like.

The testing of the second hypothesis is providing rather mixed results. The level of dissatisfaction seems to have played a role for the readiness to enter negotiations: for Kosovar Albanians especially in 1999 but also in 2004 as well as for Serbs. But the level of dissatisfaction about the status quo is not decisive enough to further a certain proposal because even within one country, the studied actors perceived it differently. The case study also revealed the different causes for dissatisfaction. In general, the more involved domestic actors were in the negotiation process, the more they perceived the progress from the status quo depending on a status resolution.

The mutually hurting stalemate existed personally for Thaci and Vucic because their significance in office depends on how they can communicate the accession progress to other domestic actors. However, their willingness to compromise towards the mediators did not result in proposing a tangible solution. Overall, the strong opposition against the land swap has even harmed their image as guarantors of stability.

The case study of Kosovo is offering some insights that can be taken into account in future design of comparative or large-n studies about the success of partition and power-sharing. The single case study confirmed the hypotheses about the involvement of international actors but it should be further tested on other cases, possibly with different groups of international mediators to possibly observe a variation in cohesion among international actors. Further, it has been useful to study within-case variations across time because they indeed revealed circumstances under which actors change their support for a certain idea.

There is no strong confirmation or disproving of the second hypothesis in the selected case. The variation among domestic actors should however be considered when coding levels of support in large-n studies. However, it will be more conclusive to study selected cases when analysing the level of dissatisfaction to explore different reasons for it. The selected case of Kosovo however indicates that the interaction with international mediators is relevant for perceiving stalemates and windows of opportunity. This is something policymakers should consider when negotiation delegations are set up.

For Kosovo and Serbia, the current design of the dialogue has certain advantages but also bears risks: It is not to underestimate the progress that two former hardliners are even willing to negotiate. The ambiguity of agreements allows them to make concessions in Brussels but when it comes to resolve the status question this approach was rather counter-productive. A definitive solution would be necessary and instead the two presidents continued their dual narrative and describing their version of land swap as a territorial gain for their own side.

The land swaps have not opened pandora's box on the Balkans but albeit only because they have not been realized. The debate about this revealed another problem of the dialogue setting: the presentation of Kosovar Serbs. They are not a cohesive group that would win or lose from land swaps, nor are they fully represented by either side of the negotiators. However, they are most affected by the slow and troubled implementation of agreements. Under current circumstances, they also do not profit from the existing benefits of pre-accession Europeanization as their daily life is affected the unresolved status.

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Annex



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