Disambiguating the Brussels agreement

A study of ambiguity in the Serbia-Kosovo normalisation process

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Abstract

Most studies that discuss the normalisation process between Kosovo and Serbia note that the Brussels agreement from April 2013 was a remarkable achievement. Some opinion-makers even go so far as to suggest that a Nobel Peace Prize is due. The process allowed the parties to the agreement to bridge a seemingly irreconcilable gap, yet few scholars have tried to discern the mechanisms of how striking a deal became politically feasible. This study shows how the Brussels agreement was shaped by ambiguity, and how it in turn affected the narratives of the post-agreement phase. A theoretical framework is constructed as a part of the research design, and by using the Brussels agreement as a typical case for ambiguous post-conflict negotiation, the study also argues that ambiguity as a concept deserves a place in the limelight. Findings suggest that theory on the subject is in dire need of development, in particular that future research should focus on ambiguous processes, in contrast to the current fixation on language.

Key words: ambiguity, negotiations, Kosovo, Serbia, normalisation
*Words:*17283

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1   Reconciling the irreconcilable

After four long hours of negotiations on 19 April 2013, the prime ministers of Kosovo and Serbia agreed on a document containing fifteen bullet points whose significance was received as an "an earthquake in Balkan politics: the ground lurched, familiar landmarks toppled, the aftershocks are still rumbling and the new contours are only slowly emerging".[1] To the European Union and its high representative, under whose auspices the accord had been brokered, the tedious campaign to bridge a seemingly irreconcilable gap between the two parties finally seemed to yield results. The fifteen articles stipulated rules and steps aimed at setting the framework for normalised relations. Much of the attention was devoted to northern Kosovo,[2] a geographical area that had proven to be highly sensitive in the interaction between Belgrade and Pristina. An implementation committee was to be formed within two weeks to put into effect what has since been labelled the 'Brussels agreement'.

The content and extent of the agreement were surprising, as official the exchange between the two governments since long had evoked strong reactions domestically, not least regarding the question of Kosovo's political status. Whereas Kosovo declared its independence in 2008, the preamble of Serbia's constitution obliges "all state bodies to uphold and protect the state interests of Serbia in Kosovo".[3] In light of these obstacles, the question inevitably arises of how the decision-makers could find common ground, when the electorate, the political opposition and even the constitutions pointed in another direction. It is against this backdrop that the Brussels agreement becomes so intriguing; *how could the parties manage the problem of reconciling the seemingly irreconcilable?*

1.1   Flexibility through ambiguity

Accompanied by an air of finalisation, high-level agreements typically convey a perception of a self-regulatory post-contract period. Yet history has repeatedly shown that the ink on an accord barely has had the time to dry before another vital phase commences – the struggle over interpretations. This is no less true in the case

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[1] M. Prelec, The Kosovo-Serbia Agreement: Why less is more, *Europe and Central Asia*, [web blog], 7 May 2013, http://blog.crisisgroup.org/europe-central-asia/2013/05/07/the-kosovo-serbia-agreement-why-less-is-more/, (accessed 22 April 2015).
[2] The municipalities concerned are North Mitrovica, Leposavić, Zvečan and Zubin Potok.
[3] Republic of Serbia: Government, *Constitution of the Republic of Serbia*, http://www.srbija.gov.rs/cinjenice_o_srbiji/ustav.php?change_lang=en, (accessed 22 October 2015).

of the Brussels agreement, where the delegations shared their differing views with the media, already as they were leaving the negotiation facilities.[4] The fact that contractual language, agreed upon by both parties, allows for contradictory interpretations suggests a notable amount of flexibility. This flexibility in interpretation is a result of the concept that is to lie at the heart of this study: *ambiguity*.

Some theorist and opinion-makers would answer the question posed above by referring to the use of ambiguity as an enabling strategy, arguing that it was a prerequisite for reaching the Brussels agreement – both from the view of the negotiating parties and from the side of the EU. However, the occurrences of ambiguity in carefully negotiated texts seem to pose yet another conundrum: why would stakeholders allow uncertainty in high-stake agreements that seemingly have as sole purpose to regulate the resolution of conflicting interests? Intuitively, using precise and exhaustive language should be the first priority when negotiating solutions to sensitive issues. Ambiguity theorists would claim that the opposite is true. In their view, actors resort to vagueness in situations where the use of precise language could result in unwanted outcomes. Imagine, for example, decision-makers facing an imminent collapse of negotiations or confronting a situation in which their electoral support is in jeopardy. In these situations, ambiguous language can cloak concessions or give an appearance of progress. But at the same time, scholars emphasise that ambiguity also inherently infuse risks to a negotiation process. They argue that that ensuring compliance is made more difficult and that the parties can become trapped into lowest-common-denominator processes.

1.2   Towards a greater understanding of ambiguity

The social sciences literature offers quite a mosaic image of ambiguity as a concept, often only providing snippets of its underlying logic, or mentioning it in the passing. Most theorists take the written word as the point of departure while a few have seen the processes within negotiations as more pertinent for scrutiny. Others note with concern that ambiguity "has slipped from our conceptual vocabulary in recent years".[5] It is against this scattered picture that this study takes its departure, as an effort to investigate how ambiguity came to shape the processes of normalisation through the Brussels agreement. Simply put – ambiguity as an agent for change.

There are several reasons for why exploring the ambiguity in the Brussels agreement is particularly relevant. First, although the term 'ambiguous' was mentioned frequently as the agreement was made public, the degree to which this correlates with existing theory has not been examined. Second, and in a broader

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[4] EurActiv, *After deal with Kosovo, Serbia to seek date for EU accession talks*, 22 April 2013, http://www.euractiv.com/enlargement/serbia-request-date-opening-eu-a-news-519254, (accessed 15 August 2015).

[5] J. Best, 'Ambiguity, Uncertainty and Risk: Rethinking Indeterminacy', *International Political Sociology*, vol. 2, no. 4, 2008, p. 356.

perspective, the lack of coherent theory of ambiguity as phenomena open up for venturing into uncharted territory. This could notably benefit the field of peace and conflict studies in general, and of mediation and conflict management processes in particular. Third, the increasingly ambitious and comprehensive external policy of the EU has been cemented both in treaty and in strategy.[6] Investigating the Union's mediatory role becomes more relevant as its engagement in the proximity deepens, its mediating role becomes more commonplace and integration with the Enlargement and Neighbourhood countries intensifies. Taken together, the ambiguous Brussels agreement warrants careful scrutiny. Consequently, this study will be guided by the following research questions:

- *How was the Brussels agreement, including its immediate aftermath, shaped by ambiguity?*

With a descriptive research question, such as the one leading this inquiry, the ambition is to "give maximal information about the specific features and characteristics of a particular social phenomenon".[7] Accordingly, a design suited for that purpose will be outlined in the next chapter.

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[6] See for example European Union, 'Chapter 2 Specific Provisions on the Common Foreign and Security Policy', *Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union*, (2008/C 115/01), 2008.; and J. Solana, *A Secure Europe in a Better World: European Security Strategy*, European Council, 2003, http://www.eeas.europa.eu/csdp/about-csdp/european-security-strategy/, (accessed 1 November 2015).

[7] I. Bleijenbergh, 'Case selection', in A.J. Mills, G. Durepos and E. Wiebe (eds.), *Encyclopaedia of Case Study Research*, Thousand Oaks CA, SAGE, 2009, p. 61.

2 Research design

In a domain often characterised by the dichotomy of qualitative and quantitative designs, it should be pointed out early that this study belongs to the former category, and thus will move within the realm of concepts that are not easily enumerated. The research operationalisation will follow the common path of qualitative endeavours, which traditionally have investigated topics such as ideas, events, decisions, institutions and legislation.[8] It might be worth recalling, however, that the tension between the qualitative and quantitative schools of thought is artificial since both designs share the same goal: to make "inferences from available evidence".[9] Methodology scholars have called for proper accounts of the basic logics of the chosen method according to "rules of scientific inference" – a practice that otherwise tend to be more prevalent in quantitative studies.[10] For that reason, one aim of this study is to be clear and precise about theoretical claims, assumptions and conclusions.

Another longstanding debate concerns what method to use, based on their particular pros and cons. My perspective echoes that of George and Bennet, in that a healthy dialogue on methodological choices requires an "understanding of the comparative strengths and limits of various methods, and how they complement each other".[11] In other words, while a certain method is suited for answering a particular type of question, it may very well be inept at addressing another. Most fitting for this inquiry is to gravitate towards *describing* and *interpreting* rather than trying to fully *explain*. This is partly motivated by the conviction that a thorough description has immensely greater value than a poor portrayal of cause and effect.[12] In a sense, the purpose is to scratch the surface in terms of mapping actor's strategies, which could be seen more like "a starting point" towards a question beginning with a 'why'.[13]

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[8] King, Keohane, and Verba, *Designing social inquiry*, pp. 4–5.

[9] T. Landman, *Issues and methods in comparative politics: an introduction*, New York, Routledge, 2008, p. 20.

[10] King, Keohane, and Verba, pp. 4–5.

[11] A.L. George and A. Bennett, *Case studies and theory development in the Social Sciences*, Cambridge, MIT Press, 2005, p. 5.

[12] R. Hague and M. Harrop, *Comparative Government and Politics: An Introduction*, Basingstoke, Palgrave Macmillan, 2004, pp. 80–81.

[13] M. Hollis and S. Smith, *Explaining and Understanding International Relations*, Oxford, Oxford University Press, 1990, p. 100.

2.1 The Brussels agreement as a single-case

This study is a *case study*, which has been described as a "detailed examination of an aspect of a historical episode to develop or test historical explanations that may be generalizable to other events"[14] that in turn is "cumulated into a body of general knowledge".[15] Case studies are useful where conceptual complexity is high and for developing theory.[16] They also suited for in-depth examinations of multiple variables within one single event and have strong potential for generating new hypotheses.[17] A thorough examination of a case also has the benefit of resulting in a "detailed and elaborate description of the phenomenon".[18]

A case should also be understood as "an instance of a class of events". Examples of these 'classes' are forms of governments, peace processes or policies.[19] However, since single historical events always consist of several cases, the researcher must choose what particularities to study. The event that is in focus in this paper, for example, can be seen as a case of a reconciliation process, as well as a case of individual political leadership, and a case of treaty design, and so on.[20] 'Ambiguous post-conflict agreements' is the primary class of events to which knowledge might be generalised from this study, and the Brussels agreement is the single case from which knowledge will be generated.

The choice of investigating only one or a few cases should not be made without consideration. In his critique of comparative studies, Lijphart pointed out the main weakness eloquently: "many variables, small number of cases".[21] George and Bennet repeat this aspect in their book on case studies and theoretical development and stress that such designs are restricted to making "only tentative conclusions" on the impact of a specific variable. Nonetheless, in the trade-off between scale and depth, case studies come out strong in their potential for investigating the borders and scope of theories in greater detail. And it is exactly at this point that the present study will be aware of its limitations and strengths. Rather than faulty assumptions of wide-reaching applicability, it has a more modest ambition of adding to the accumulation of theory and shedding light on the phenomena of ambiguity in negotiation processes. In the words of George and Bennet: "case studies remain much stronger at assessing *whether* and *how* a variable mattered to the outcome than at assessing *how much* it mattered".[22] As such, the single-case design will be used the way it usually is – by developing theory.[23]

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[14] George and Bennett, *Case studies and theory development in the Social Sciences*, p. 5.

[15] Hague and Harrop, *Comparative Government and Politics*, pp. 80–81.

[16] H. Xiao, 'Single Case-studies', in A.J. Mills, G. Durepos and E. Wiebe (eds.), *Encyclopaedia of Case Study Research*, Thousand Oaks CA, SAGE, 2009, p. 869.

[17] George and Bennett, p. 5.

[18] Bleijenbergh, *Encyclopedia of Case Study Research*, p. 61.

[19] George and Bennett, p. 17.

[20] George and Bennett, p. 18.

[21] A. Lijphart, 'Comparative Politics and the Comparative Method', *The American Political Science Review,* vol. 65, no. 3, 1971, p. 685.

[22] George and Bennett, p 25.

[23] Xiao, *Encyclopedia of Case Study Research*, p. 869.

Another reoccurring topic of debate is the risk that selecting cases based on the dependent variable can cause bias. Yet, even studies based on single cases can be valuable, for example by locating unnecessary variables or circumstances. Moreover, case studies prepare the ground for further research where the variables can be modified.[24] Investigations in which the researcher is acquainted with a case beforehand have also received criticism on the grounds that formulation of hypotheses can become skewed. However, that argument has been rebutted by scholars showing that foreknowledge is useful in the process of selecting cases.[25]

2.2   The agreement as a typical case

Within its class of events mentioned above, the negotiation between Kosovo and Serbia is a *typical case*. That means that it belongs to the most common category of case studies,[26] which "are as useful as they are undramatic".[27] When designing a typical case-study, the objective is to identify an event that is representative of a particular phenomenon.[28] They are "often used as a caricature of an event" from which knowledge can be deduced.[29] In order to meet the basic prerequisite of having relevance, the case must have a potential to "provide insights to a broader phenomenon" and be representative of a wider set of cases.[30] It should ideally also be selected deliberately rather than through a process of chance.[31]

For these reasons, a few basic parameters were defined that the case had to fulfil: 1) the negotiation outcome contained ambiguities; 2) the parties had previously been in open conflict; and 3) the agreement concerned 'high-stake issues'. This class of events is wide enough to encompass several interesting cases, such as the peace negotiations in Northern Ireland in the 1990s or the recent peace agreement in South Sudan. To pass the 'representative test', the Brussels agreement had to be at least as characteristic of the class, as for example these two. Here Yin emphasises that the researcher must be attentive so as to avoid that the case "later turn out not to be what it was thought to be".[32] In that spirit, the question of representability will be touched upon in the concluding chapter.

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[24] George and Bennett, p. 23.
[25] George and Bennett, p. 24.
[26] Hague and Harrop, pp. 80-81.
[27] J. Gerring and J. Seawright, 'Techniques for choosing cases', in J. Gerring (ed.), *Case study research: Principles and practices*, New York, Cambridge University Press 2007, p. 91.
[28] Bleijenbergh, *Encyclopedia of Case Study Research*, p. 61.
[29] Xiao, p. 867.
[30] Gerring and Seawright, *Case study research: Principles and practices*, p. 91.
[31] Bleijenbergh, p. 61.
[32] R.K. Yin, *Case study research: Design and methods*, Thousand Oaks, SAGE publications, 2013, pp. 49–50.

2.3 Delimitations and empirical material

Most, if not all, academic endeavours are forced to adapt to the constraints of space, coherence and priority. Many of the ideas, concepts and events mentioned in this study are interesting enough to deserve ample room for discussion. Yet, allowing for the pursuit of one line of thought always comes at the cost of excluding or reducing another. Hopefully, though, the choices made have resulted in a product that strikes the right balance between focus and information. Along those lines, and as a first consideration on the scope of this study, it should be noted that the Brussels agreement will not be analysed in its entirety. Rather than briefly describing the extent to which each sentence is ambiguous, three themes – *recognition and international representation* and *self-governance* – covering just over half of the provisions, will be subject to analysis. Such an approach grants depth as well as space for elaboration on the much-needed context. Moreover, these themes are arguably the most delicate and, therefore, vital for the sustainability of the agreement.

Regarding theoretical ambitions, it should be mentioned in the outset that there is no coherent framework for analysis on ambiguity. At best, there are bits and pieces that can be fitted together. Constructing a platform for analysis will therefore be a necessary enterprise, which also requires a design that starts with the basic tenets of communication. The perspective of this study rejects the 'classical-structuralist' view on language as a "'optimal' model of communication". Instead, it adheres to the side of communication theorists that see language as having a rhetorical dimension, where linguistic symbols – ambiguous or specific – are used as a means to achieve objectives.[33] As will be developed further in the theoretical chapter, ambiguity is much – but certainly not all – about language.

In terms of the various implications of ambiguity, some scholars have argued against any use of 'soft law' since it might cripple the "international normative system".[34] When manoeuvring between politics and law, there are reasons to thread carefully. Typically, law is either seen as a "tool for political purpose" or as an "autopoietic system that has its own operational logic".[35] Like Slominski's article of ambiguities in the legalisation of EU border controls, this study will follow in the footsteps of those institutionalist political scientists who argue that international law often is subordinated to political interests.

Others have pointed towards the moral considerations associated with using ambiguity to conceal conflict, not seldom deeming it unfair. The principal argument is that a norm must be understandable in order for it to be fair. If a normative

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[33] E.M. Eisenberg, 'Ambiguity as strategy in organizational communication', in *Communication monographs*, vol. 51, no. 3, 1984, pp. 227–228.

[34] K. Abbott and D. Snidal, 'Hard and Soft Law in International Governance', *International Organization*, vol. 54, no. 3, 2000, p. 422. See also chapter 4.

[35] P. Slominski, 'The Ambiguities of Legalization and the EU's Strategy of Extraterritorial Border Control', *European Foreign Affairs Review*, no. 2, vol. 1, 2012, p. 21.

framework is equivocal, it automatically becomes unjust.[36] In reply, theorists such as Eisenberg accurately points out that actors and their goals ought to be morally evaluated, not their strategy of choice.[37] It is also appropriate to mention Pehar's critique on the matter, arguing that parties to an agreement most often are perfectly aware of the vagueness it contains.[38]

The notion of *agency* is a final delimitation. There are, doubtlessly, instances where ambiguities are unintended components of treaty design, rather the consequence of chance, structures or context.[39] It goes without saying that these ambiguities might be just as vital for the outcome as provisions put there on purpose. Unforeseen game changers, for example, could move previously noncontroversial formulations into the spotlight. Nonetheless, since this study is primarily concerned with the intentional ambiguities other types will not be subject to consideration in the theory chapter. Once again, and as also pointed out by former EU facilitator in the Kosovo-Serbia dialogue, Robert Cooper, there is little doubt that the parties themselves have been deliberate when agreeing on ambiguous texts.[40] Moreover, ambiguities that are not part of the design are per definition not contested during the negotiations and thus fall outside of the scope of the purpose of this study.

Lastly, a few words on the empirical material. Although this study relies on official statements, reports and peer-reviewed articles, the most importance piece of material is the Brussels agreement in itself. The agreement is a footprint and a testament of a long series of negotiations, concessions and considerations, but it is also a roadmap and framework for future behaviour. It is upon this single document that much of the analysis is based. But context always matter, and I have therefore had great use of statements made by government representatives, to interpret how they portrayed their actions domestically after the final session of negotiations. All sources, be they newsprints, think-tank reports or articles published in journals, have been approached with caution. The risk of sources erring is particularly high in the immediate frenzy after a long-awaited agreement, and the risk of bias is always strong in such sensitive matters as state sovereignty. A rule of thumb has been to consistently cross-reference sources to make sure that my interpretation correlates with others.

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[36] D. Pehar, 'Use of ambiguities in peace agreements', J. Kurbalija and H. Slavik (eds.), *Language and diplomacy*, Msida, Diploprojects, 2001, p. 184.
[37] Eisenberg, *Communication monographs*, p. 228.
[38] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 187.
[39] N. Zahariadis, 'Ambiguity and choice in European public policy', *Journal of European Public Policy*, vol. 15, no. 4, 2008, p. 517.
[40] V. Hopkins, 'Robert Cooper on Reaching Agreements between Kosovo and Serbia', *Big Deal*, [web blog], 5 February 2015, http://www.balkaninsight.com/en/blog/robert-cooper-on-reaching-agreements-between-kosovo-and-serbia, (accessed 4 May 2015).

2.4 Outline of study

The next chapter will explore the most basic aspects of ambiguous communication and its use in international politics. Thereafter follows the construction of a theoretical platform in chapter four, based on the virtues, risks and remedies of using ambiguity in negotiation. The fifth chapter covers the political landscape as it was in the period leading up to the Brussels agreement. The latter will, in turn, be analysed in chapter six. Finally, chapter seven contains a summary of the findings, as well as conclusions and recommendations for future research.

3   Ambiguity in theory and practice

Before studying the particularities of the Brussels agreement and its ambiguities, it is wise to address one of the guiding questions posed in the introduction: *why would stakeholders allow uncertainty in high-stake agreements that seemingly have as sole purpose to regulate the resolution of conflicting interests?* In an attempt to formulate an answer, the following section will take stock of available research and theoretical perspectives on ambiguity. A first observation is that a comprehensive and thorough review of the various aspects of ambiguity as a diplomatic tool is lacking. Instead, most scholars tend to focus only on a few aspects and dimensions of the concept. Therefore, and as mentioned above, this and the subsequent chapter aims at going beyond mere repetition and will instead attempt to offer a framework that more correctly reflects the complex nature of ambiguity. It will be shown that a lack of specificity should not be thought of as having a singular cause, purpose or configuration. On the contrary, ambiguity can have several rationales and comes in a variety of shapes. A binary perspective of language, with ambiguity in one end and perfect clarity at the other, will in the same vain skew the understanding of what essentially is a multifaceted phenomenon. More useful would be to envisage a continuum, where different components of an agreement are likely to hold varying degrees of specificity.

    In an effort to pin down the basics first and then move on to a larger perspective, this chapter will begin by studying the various definitions offered in the literature. Thereafter follows an examination the communicative function of ambiguity and, lastly, the different umbrella terms used by scholars of political science.

3.1   Towards conceptual clarity

How do we disambiguate ambiguity? Scrutinising the various definitions offered in the social sciences is a suitable start. Most characterisations of ambiguity take as their point of departure that some type of vagueness has been embedded in language, after which it usually follow that more than one interpretation is made possible. Scholars have pinned down the essentials: "a linguistic form is ambiguous if it can map to more than one possible meaning",[41] and is hence an "obstacle to any reflection on language".[42] Hence, the "inherent slipperiness of interpretation is

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[41] S.T. Piantadosia, H. Tily and E. Gibson, 'The communicative function of ambiguity in language', *Cognition*, vol. 122, no. 3, 2012, p. 282.
[42] Pehar, 'Use of ambiguities in peace agreements', *Language and Diplomacy*, p. 163.

at the heart of ambiguity".[43] In other words, it has been described as the polar opposite of clear and specific communication. Variations on the theme include *indirectness*, *vagueness*, *disqualification* and even *under-specification*.

It is important to distinguish between communication lacking information, which conceptually lies closer to being vague, and the feature of holding several interpretations, which is associated with ambiguity. The latter feature is perhaps best illustrated by using idioms, as they perfectly encapsulate the way a sentence may hold two interpretations. A listener hearing you utter that you had a "change of heart" likely concludes that your mind has changed regarding a certain issue, whilst the literal and perhaps less likely meaning would mean that you had undergone a heart transplant.

Intuitively, language is often presumed to be the transmission of information between individuals. Accordingly, ambiguity could be considered to act reversely to this basic purpose. It adds further abstraction to the data, and it is not seldom the case that confusion and frustration arise as consumers of language notice that there are two irreconcilable meanings within a message.[44] However, such a narrow understanding of language, that is a mere conveyer of massages, would prevent a thorough analysis. Theorists from different schools of thought have ardently argued against a fixation towards "clarity".[45] Other usages could be easily be identified, including the *expression* of feelings, interests and preferences (expressive function) but also as a means to *influence other persons'* feelings, interests and preferences (vocative function).[46] Moreover, ambiguity should not be perceived as a peripheral phenomenon, but rather a widespread and established feature of language.[47] Therefore, when elaborating on the concept of ambiguity, we should not be restrained to think of it as just a diluent of communication.

Whilst basic definitions of ambiguity largely could be considered to overlap, some diverging opinions, limitations or extensions of the concept have been provided. Pehar, for example, argues that for language to be recognised as ambiguous, it must have incompatible meanings.[48] Others, like Piantadosia, Tily and Gibson, underscores that a full understanding never can be achieved without context.[49] This viewpoint has been echoed Pehar, who argues that ambiguity is grounded in ignorance.[50]

Best points out that ambiguity must be separated from the notion of *uncertainty*. The difference is most easily explained through the formers accentuation of interpretations: "[w]hile uncertainty can be reduced through more and better information, ambiguity will still persist as long as there is room for interpretation"

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[43] Best, 'Ambiguity, Uncertainty and Risk: Rethinking Indeterminacy', *International Political Sociology*, p. 356.
[44] D. Pehar, 'Diplomatic Ambiguity: From the Power-Centric Practice To a Reasoned Theory', *Polemos*, vol. 8, no. 1–2, 2005, p. 155.
[45] Eisenberg, p. 228.
[46] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, pp. 163–164.
[47] Piantadosia, Tily and Gibson, *Cognition*, p. 1.
[48] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 164.
[49] Piantadosia, Tily and Edward Gibson, p. 1.
[50] Pehar, 'Diplomatic Ambiguity: From the Power-Centric Practice To a Reasoned Theory', *Polemos*, p. 155.

and "unlike computers, whose binary language is of 1s and 0s is free from ambiguity, people need to communicate through language and action – both of which can be open to multiple interpretations".[51]

3.2   Typology

At this point, it has been shown that the level of clarity often varies in communication. However, in order to be able to identify ambiguity, it is also essential to study some of the shapes appears in. A brief acquaintance with the area of linguistics is enough to realise that attempts to neatly package these shapes into a neat typology are doomed to fall short of its objective. With that caveat in mind, the remainder of this segment will provide a short review of four types of ambiguities – *lexical*, *referential*, *syntactic* and *cross-textual* – that that reoccur in the literature on the subject.

Lexical ambiguity stems from the use of a word or a phrase that is associated with two or more meanings. The word 'right' is an example "that do not have a one-to-one mapping between form and meaning".[52] It can be used to point out a direction, but is also as an opposite to the word 'wrong'. When a word has multiple meanings it is known as a *homonym*. The risk of confusion is even higher in speech, not least because of what is known as *morphemes* and *homophones*. Regarding morphemes, think of the ending -s in the English language that could mean a plural noun such as sticks, a possessive like Lisa's, or a present tense verb conjugation such as eats. With homophones the listener must figure out whether the speaker says for example right, rite, wright or write, or sense whether the words spoken ought to be separated before the s-sound in I scream and ice-cream.[53]

Referential ambiguity is a word or phrase that give a person an understanding of what category the sender is referring to, but not the specific object.[54] A common example, from Greek mythology, is the meeting in which Croesus consults the Delphi oracle on his plans for war with the Persians. The oracle predicts the downfall of 'a mighty empire' and Croesus assumes that this means the Persian empire, not his own or, for that matter, another empire.[55] Croesus' empire falls, and we learn his lesson by understanding that while categories matter, so does the intended object.

Syntactical ambiguity is a consequence of the structure of language. It arises when the composition of a sentence is diffuse and allow for multiple

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[51] J. Best, 'Ambiguity and Uncertainty in International Organizations: A History of Debating IMF Conditionality', *International Studies Quarterly*, vol. 56, no. 4, 2012, p. 677.

[52] J.M. Rodd, M.G. Gaskell and W.D. Marslen-Wilson, 'Modelling the effects of semantic ambiguity in word recognition', *Cognitive Science*, vol. 28, no. 1, 2004, p. 90.

[53] Piantadosia, Tily and Gibson, p. 1.

[54] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 165.

[55] M.S. Nieuwland and J. Van Berkum, 'The Neurocognition of Referential Ambiguity in Language Comprehension, *Language and Linguistics Compass*, vol. 2, no. 4, 2008, pp. 603-604.

interpretations.[56] This phenomenon is also known as amphiboly, and has related concepts in the literature, such as grammatical or structural ambiguity.[57] Unlike lexical ambiguity, syntactical ambiguity is not caused by a single word or phrase. The famous line uttered by Groucho Marx in the movie Animal Crackers is a beautiful and oft-repeated example of the effect of vagueness, which also provides a schoolbook example of syntactical ambiguity: "One morning I shot an elephant in my pajamas". The syntactical ambiguity, of course, concern who was wearing the night-clothes. As a viewer, we likely conclude that it is Groucho himself, a fact that opens up for a comical effect as Groucho continues: "How he got in my pajamas, I don't know".[58] Another well-known example occurred after a Russian prisoner had written a pledge of release from a Siberian prison to the ruling Tsar. The Tsar concisely replied: 'Pardon Impossible To Be Executed' and intended for the prisoner to be put to death. Instead of reading the text as the Tsar had foreseen, with punctuation after the word 'Impossible', the guard placed his punctuation after 'Pardon', in effect giving the sentence an opposite meaning. Syntactical ambiguity thus resulted in his immediate release.[59]

The final type is cross-textual ambiguity, which occurs as a result of the interplay between "inter-related sentences".[60] In a larger set of sentences, for example in a contract, two or more segments are in conflict, which causes the reader to deduce that more than one interpretation is possible. Unlike lexical and syntactical ambiguity then, it is not a specific word or the structure of a sentence that make multiple interpretations possible. Here we can think of a peace accord that regulates the division of power between states and a federal government.[61] One single document may contain what seems to be an exhaustive list of competences, that counterintuitively is complemented with a phrasing that stipulates that one actor (typically the central authority) also *may* "exercise other additional competences".[62]

In summary, the four categories show how differing interpretations can arise by the use of a single word, as a result of the structure in a sentence, or even between contradicting segments of a larger body of text. Naturally, other sub-categories and adjacent concepts are found in the literature. However, these either tend to overlap with the already mentioned categories or lack relevance for this type of study.

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[56] C.E. Dunlop and J.H. Fetzer, *Glossary of cognitive science*, New York, Paragon House, 1993, p. 3.

[57] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 164.

[58] J.C. Cutting, 'Comprehension vs. production', S. Dominiek, J-O. Östman and J. Verschueren (eds), *Cognition and pragmatics*, 3rd vol., John Benjamins Publishing, Amsterdam, 2009, pp. 115–116.

[59] M. Engels, *The Fallacies and Pitfalls of Language: The Language Trap*, New York, Courier Dover Publications, 2012, p. 22.

[60] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 167.

[61] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 167.

[62] Republic of Kosovo: Office of the Prime Minister *First Agreement of Principles Governing the Normalisation of Relations*, [website], 2013, http://www.kryeministri-ks.net/repository/docs/FIRST_AGREEMENT_OF_PRINCIPLES_GOVERNING_THE_NORMA LIZATION_OF_RELATIONS,_APRIL_19,_2013_BRUSSELS_en.pdf, (accessed 6 October 2015). For more on this dimension, see chapter 6.

3.3   The many labels

Practitioners and students of negotiations are often acquainted with ambiguity. In diplomatic lingo, conflict studies and IR-theory, the concept *constructive ambiguity* is probably the most commonly used, which has been defined as "the deliberate use of ambiguous language on a sensitive issue in order to advance some political purpose".[63] The label tends to be associated with the undertakings of former American Secretary of State, Henry Kissinger, and intimately linked with his diplomacy in the Middle East. Nonetheless, scholars have leaned on a rich set of cases to show that ambiguous treaties have been a reoccurring feature throughout diplomatic history. One of the oldest examples is the agreement between Egyptians and Hittites in around 1280 BC, which was formulated in such a clever way that both sides could insist that the other side had yielded.[64]Another oft-cited example is the outcome of the Yalta Conference of 1945, perceived by some as having provided the basis for the Cold War.[65] A few sections were considered particularly ambiguous and famously described by the American diplomat George Kennan in 1954 "as the shabbiest sort of equivocation".[66] The negotiations of UN Security Resolution 242, regarding withdrawal of Israeli troops from territories occupied during the Six Days War, is another example that has been studied at length.[67]

A second useful lens for understanding the ambiguous language in treaties is what is referred to as *soft law*. The hard law covers agreements that are binding, has a great level of detail and outlines monitoring functions. Whereas hard law helps parties in conflict to "reduce transactions costs, strengthen the credibility of their commitments, expand their available political strategies, and resolve problems of incomplete contracting",[68] soft law fill several other, but by no means less important, functions. An agreement is an example of soft law if it is constructed less sturdy due to more imprecise provisions, unclear definitions of responsibilities or weak mandates for enforcement and interpretation. These characteristics have been argued to make it easier to negotiate and more flexible, as the traits of soft law enables post-agreement reinterpretations and cloaks concessions.[69]

A third and final concept is that of *strategic ambiguity*. First introduced by Eisenberg, it was an elaboration on how individuals within organisations

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[63] G. Berridge and A. James, *A Dictionary Of Diplomacy*, Basingstoke, Palgrave MacMillan, 2003, p. 73.

[64] D. Mitchell, 'Cooking the Fudge: Constructive Ambiguity and the Implementation of the Northern Ireland Agreement, 1998–2007', *Irish Political Studies*, vol. 24, no. 3, 2009, p. 323.

[65] D. Krogh, 'Foreword', in H.M.F. Caradon et al. (ed.), *U.N. Security Council Resolution 242: A case study in diplomatic ambiguity*, Washington D.C., Edmund A. Walsh School of Foreign Service Georgetown University, 1981, p. v.

[66] R. Edmonds, 'Yalta and Potsdam: forty years afterwards', *International Affairs*, vol. 62, no. 2, 1986, p. 201.

[67] J. Sisco,'Introduction', in H.M.F. Caradon et al. (ed.), *U.N. Security Council Resolution 242: A case study in diplomatic ambiguity*, Washington D.C., Edmund A. Walsh School of Foreign Service Georgetown University, 1981, p. ix.

[68] Abbott and Snidal, *International Organization*, p. 422.

[69] Abbott and Snidal, pp. 422–423.

strategically used ambiguity to realise their goals. Besides putting agency in the centre, Eisenberg's view urges us not to pass judgement on ambiguity in terms of ethics or effectiveness: "I am not suggesting a retreat from clarity. [...] What I am advocating is a shift in emphasis away from overly ideological adherence to clarity towards a more contingent, strategic orientation".[70] Bernheim and Whinston similarly use the term strategic ambiguity to label a specific type of what they call 'contractual incompleteness'. They argue that once ambiguity is present in an agreement, parties are prone to making other provisions ambiguous.[71]

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[70] E.M. Eisenberg, 'Ambiguity as strategy in organizational communication', in *Communication monographs*, Vol. 51, No. 3, 1984, p. 228.
[71] D.B. Bernheim and M.D. Whinston, 'Incomplete Contracts and Strategic Ambiguity', *The American Economic Review*, vol. 88, no. 4, 1998, pp. 903.

4 Virtues, risks and remedies

4.1 Ambiguity as an enabler

With the fundamentals of ambiguous communication covered in the previous chapter, a suitable next step is to explore the rationales for using ambiguity as a component in conflict management. The first virtue of ambiguity is the prospect of *securing additional time* to negotiate.[72] This specific rationale could be described by the following scenario: negotiators find their proceedings in deadlock or face an unavoidable deadline. To handle the situation, the delegates decides to use language that could be interpreted in a way that allows the parties to maintain their preferences and sustain their interpretation. This temporal dimension comes with several immediate advantages. Firstly, by enshrining language provisionally, the issues at hand can be revisited at a time more pertinent for the parties.[73] A second attribute is that potent drafts, ideas and roadmaps are given more time to develop and win acceptance. Thirdly, if time is scarce, perhaps due to the risk of an eruption of violence, negotiators may prefer to agree to a less precise accord now, rather than to gamble on a more detailed version at a later stage.[74]

A second way in which ambiguity can be useful is the possibility to *isolate contentious issues* in order to secure the advancement of negotiations. In this case, ambiguity is used to "defuse the power of an issue to scupper an overall deal".[75] It is easy to forget that while negotiations often revolve around one or a few core issues, a range of other questions usually also requires attention for an agreement to be sustainable in the long term. Ambiguity can, therefore, become an effective instrument in situations where parties can accept leaving some questions temporarily unresolved while moving forward on other issues.[76]

The third reason for inserting ambiguity is to *safeguard against internal criticism.* In this scenario ambiguity is of use for negotiators that are more prone to accept a solution than they perceive key domestic stakeholders to be. Ambiguity helps the negotiators by allowing them to create their own interpretations and

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[72] The process of hammering out the Rambouillet agreement between the Serbian and the Kosovar-Albanian delegation in 1999 provides an interesting case of an attempt to secure more time for negotiation. Interestingly, however, the attempt failed: "the Serb delegation did not accept the Rambouillet draft agreement, whereas the Albanian delegation accepted it in such an ambiguous fashion that its acceptance was just a bit better than the Serb refusal". For details, see Pehar, 'Use of ambiguities in peace agreements', in *Language and diplomacy*, 2001, p. 171.

[73] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 170.

[74] I. Fischhendler, 'When Ambiguity in Treaty Design Becomes Destructive: A Study of Transboundary Water', *Global Environmental Politics*, vol. 8, no. 1, 2008, pp. 111–112.

[75] Mitchell, *Irish Political Studies*, p. 323.

[76] Mitchell, p. 323.

narratives, for example that the other party was forced to concede, that it was a win-win situation or even that both parties were losers on equal terms. The beauty is, of course, that two parallel narratives can exist simultaneously. The political rationale is derived from the constant risks associated with taking decisions that run contrary to popular demand, such as putting re-election at stake or having to endure outspoken critique from intraparty competition. Creative euphemisms, softer language or avoidance of sensitive words and phrases are efficient ways of saving face of decision-makers,[77] who thereby can avoid being held accountable.[78] A parallel can be made to election campaigns, where politicians – often to the point of absurdity – refuse to take a clear position in order to avoid being caught acting contrary to what has been promised.[79]

A fourth benefit is the flexibility that creates *increased room for manoeuvre*.[80] Binding, precise and exhaustive rules in agreements are often created to raise costs of non-compliance. As a result, the range of options available to the parties decreases and any form of deviation will be obvious when measured against the agreed-upon framework. Inversely, with an imprecise language the set of options available to the parties increased. Thus "authors of legal provisions tend to decrease its level of precision, keeping it deliberately ambiguous so that all parties involved may have some room to manoeuvre in pursuit of their own interests".[81]

Finally, theorists have made a case for the way in which ambiguity can *initiate a sustainable negotiation process*. Firstly, by establishing a culture of compromise.[82] Secondly, by creating a new space that can serve as an arena for the conflict, ambiguity might actually make it "more channelled, orderly and predictable".[83]

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[77] It has been said that the contemporary politics of Northern Ireland cannot be properly understood without taking into account constructive ambiguity. The 'face saving' dynamics were notably present in Northern Ireland during the negotiation of the Belfast Agreement. By cleverly infusing elements that upheld the parties competing notions, the negotiators and mediators created the necessary preconditions for reaching a deal. The two sides could nurture and sustain their narratives, while simultaneously accepting the agreement: "A deal was made, concessions obscured, difficult issues were avoided so as not to block agreement and parties was satisfied that they had a credible interpretation to sell to their constituencies". For more details, see Mitchell, '*Irish Political Studies*, Vol. 24, No. 3, 2009, p. 324.
[78] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 164.
[79] B.I. Page, 'The Theory of Political Ambiguity', *The American Political Science Review*, vol. 70, no. 3, pp. 745.
[80] Abbott and Snidal, pp. 422–23; and Best, 'Ambiguity and Uncertainty in International Organizations: A History of Debating IMF Conditionality', *International Studies Quarterly*, p. 674.
[81] Slominski, *European Foreign Affairs Review*, p. 23.
[82] Abbott and Snidal, pp. 422–23.
[83] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*. p. 164.

4.2   Pitfalls of ambiguity

Ambiguity theorists are not undivided on ambiguity. On the contrary, they have at times been relentless in their critique, issuing warnings of "detrimental implications",[84] and viewed ambiguity as "a kind of Machiavellian manipulative device that brings but temporarily satisfaction"[85] or "a euphemism […] given by the powerful to their lying".[86] As a result, the risks associated with ambiguity has come to entrench a Janus-faced perception of ambiguity amongst scholars and caused practitioners to advice against it "whenever possible".[87] Together these form a category of rationales for avoiding what Fischhendler has labelled *ambiguity hazards*.[88]

The first reason for being wary of ambiguous agreements is the risk of *producing poor outcomes*. Brynen, for example, has shown that ambiguity used in settings that include numerous parties tend to result in "lowest-common-denominator outputs and pronouncements", and that it largely is a means to hide disagreement.[89] Others have argued that conflicts are sustained, prolonged and hidden, through the use of ambiguity, rather than being settled. According to this logic, each negotiating party has the "right to interpret ambiguities in their own irreconcilable ways and that is a right they will certainly, sooner or later, start exploiting".[90] Vague wording can, therefore, result in a post-agreement period that mirrors tensions from the negotiations, instead of creating the favourable milieu that proponents of ambiguity want to portrait. Pehar goes as far as to view ambiguity as a form of intellectual armament, that is ready to be used as soon as parties are pressured to deliver upon promises, and "for that reason implementation of an agreement is very likely to fail".[91]

A second risk is associated with the problem of *ensuring compliance*. Well-defined boundaries and enforcement mechanisms have been considered necessary components of a rule-based system.[92] Meyers emphasised the merits of straightforward language already in 1917: "[i]n treaties, above all other public documents, accuracy of language is essential to insure freedom from dispute".[93] Consequently, by inserting ambiguity into agreements, actors are at risk of making the system opaque and therefore disobedience difficult to penalise. Scholars that

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[84] Fischhendler, p. 113.
[85] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 172.
[86] Mitchell, p. 322.
[87] Krogh, *U.N. Security Council Resolution 242: A case study in diplomatic ambiguity*, p. v.
[88] Fischhendler, p. 113.
[89] R. Brynen, 'Much Ado About Nothing? The Refugee Working Group and the Perils of Multilateral Quasi-negotiation', *International Negotiation*, vol. 2, no. 2, 1997, 287–288.
[90] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 172.
[91] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 172.
[92] K. Raustiala and A-M. Slaughter, 'International law, international relations and compliance', in W. Carlnaes, T. Risse and B. Simmons (eds.), *Handbook of International Relations,* 2001, pp. 542–543.
[93] D.P. Myers, 'Treaty Violation and Defective Drafting', *The American Journal of International Law*, vol. 11, no. 3, 1917, p. 554.

are critical to the strategic use of ambiguity have similarly argued that without unequivocal rules and consequences, the costs of non-abidance decreases.[94] The trade-off comes in terms transactional costs in the post-contract period, as parties are able to claim that their violations are in line with agreed upon language.[95]

The third type of risk is the *cloaking of divisive intentions*, such as the use of ambiguity as a "pretext for a rupture of relationships".[96] In this scenario, a negotiator accepts ambiguous language in an agreement as a part of a strategy to create a rift in interpretations at a later stage. At a moment of its choosing, the actor can intentionally resurface its original position, in effect letting the agreement become a means to create conflict.[97] It also provides an opportunity to 'freeload' by capitalising on the benefits of entering into an agreement. Ambiguity thereby allows actors to await and act on a relatively stronger position in the future.

4.3   Remedies

Although the risks listed in the previous section can be deterring, mediators and stakeholders have methods to increase the level of control. Given that the problem relates to the uncertainty that arise in the post-agreement period, mechanisms that disambiguate the content can create conditions that lessen the chance of disobedient behaviour and encourages breakthrough on difficult issues. These mechanisms could come in the shape of a committee tasked with implementation of the agreement, or as a roadmap for how to proceed in the areas that were purposely left vague.[98]

Another strategy is to transfer "authority to a central party to implement, interpret, and adapt the agreement as circumstances unfold".[99] This particular counterweight to ambiguity could be difficult to achieve as it ultimately boils down to questions of state sovereignty and control. Still, a third party might be entrusted with some measure of authority, such as independent validation of progress on commitments set out in an agreement.

A third alternative is to design linkages between specific issues. This is put into practice by making the implementation of certain provisions conditioned on clearly defined progress in other areas.[100] The fulfilment of a commitment by one part of an agreement is thereby set to trigger an automatic reaction by the other part. Disarmament could, for example, be stipulated to begin once the ratification of an

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[94] Mitchell, p. 323.

[95] Abbott and Snidal, *International Organization*, p. 422.; and Pehar, 'Diplomatic Ambiguity: From the Power-Centric Practice To a Reasoned Theory', *Polemos*, pp. 158–159.

[96] Pehar, 'Diplomatic Ambiguity: From the Power-Centric Practice To a Reasoned Theory', *Polemos*, p. 158.

[97] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 164.

[98] Fischhendler, p. 114.

[99] Abbott and Snidal, *International Organization*, p. 441.

[100] Fischhendler, p. 114.

amnesty law is completed, and withdrawal from a territory initiated after ceasefire has lasted for a pre-defined period of time.

These mechanisms of mitigation listed do not necessarily have to be specified in advance. A regime or institution created in the post-agreement phase can be just as valuable. What is important is to create institutions, mechanisms or incentives that assist parties in honouring their agreements. This step-by-step type of conflict management have been called a 'gradualist approach', and has been championed by some for its potential to entrench a culture of compromise.[101]

Summing up, the last two chapters have outlined a platform for answering the research question posed in the introductory chapter. The nitty-gritty of ambiguity has been covered, as well as the mechanisms that makes it a strategic, although risky, choice. The next chapter will provide a short perspective on the break-up of Yugoslavia and the commitment by the EU towards the Western Balkans region, followed by a segment on the positions of the negotiating parties, as well as the formal mediator.

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[101] Fischhendler, p. 114.

5 Prelude – the road to agreement

In 1991, Jacques Poos, head of the Council of the European Union and Foreign Minister of Luxembourg Foreign Minister, uttered the infamous words that since have come to embody the European naivety at the advent of the Yugoslavian disintegration: "This is the hour of Europe, not the hour of the Americans".[102] The decade of wars, atrocities and regional tension that followed included the wars of Slovenian and Croatian independence, the Bosnian War and the Kosovo War, as well as the collapse of Albania and the crisis in Macedonia. Poos was proven wrong and statesmen around Europe became painfully aware of the limited capacity of both the EU and the individual countries on the continent.[103] It is a widely held perspective that the failure of Europe to prevent a violent implosion of Yugoslavia actually paved the way for a more coordinated take on security and foreign policy. As far as this study is concerned, however, this claim is far less interesting than another important shift in policy that followed: an EU perspective for the Western Balkans.[104]

The perspective was firstly expressed in June 2000 when the Feira Council declared the Western Balkans countries as "potential candidates for EU membership".[105] Three years later the commitment was consolidated through the integration mechanism known as the Stabilisation and Accession Process, and a grand promise stating that "[t]he future of the Balkans is within the European Union".[106] Although the process was ridden with setbacks, the countries gradually and in varying pace moved closer to the Union.

Constantly looming over the vision of an enlarged European Union was a fear that the difficulties in overcoming the hostilities between Serbia and Kosovo would be insurmountable. Although the enmity certainly has deep historical roots,[107] the disputes that needed solving surfaced in connection to the Kosovo War of 1998–

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[102] D.S. Hamilton, 'The United States: A Normative Power?', N. Tocci (ed.), *Who Is A Normative Foreign Policy Actor?* Brussels, Centre for European Policy Studies, 2008, p.102.

[103] C. Bickerton, B. Irondelle and A. Menon, 'Security Co-operation beyond the Nation-State: The EU's Common Security and Defence Policy', *Journal of Common Market Studies*, vol. 49, no. 1, 2011, p. 4.; and.B. Giegerich and W. Wallace, 'Not such a soft power: the external deployment of European forces', *Survival*, vol. 46, no. 2, 2004, pp. 164–165.

[104] M. Braniff, 'Transforming the Balkans? Lesson Learning and Institutional Reflexivity in the EU Enlargement Approach', *European Foreign Affairs Review*, vol. 14, 2009, p. 555.

[105] Presidency Conclusions, *Santa Maria de Feira European Council 19-20 June 2000*, para. 67, http://www.europarl.europa.eu/summits/fei1_en.htm, (accessed 12 March 2015)

[106] General Affairs Council, 16 June 2003, Annex A, http://www.consilium.europa.eu/en/workarea/downloadAsset.aspx?id=40802198187, (accessed 12 March 2015)

[107] For an excellent study of the importance of the Fields of blackbirds in the Serbian historical narrative, see T. Judah, *The Serbs: History, myth, and the destruction of Yugoslavia*, London, Yale University Press, 2009.

1999. With no peace in sight, NATO initiated a bombing campaign on 23 March 1999, forcing Serbia to surrender two and a half months later.[108] In June, UNSC Resolution 1244 was voted through, which "recogniz[ed] continued Yugoslav sovereignty over Kosovo" but also set out that the area would be subject to UN administration until a "process could be launched to reach a 'final settlement' on its status".[109] Although the matter of status certainly was the most contested issue, a wide range of other – and often related – disputes needed to be settled in order to achieve a lasting solution.

The EU initiated or embraced several attempts and strategies to resolve the tensions. These include the largely unsuccessful 'Standards before status'[110] and 'Standards implementation plan', the series of high-level meetings initiated in Vienna in 2005,[111] as well as the technical process facilitated by EU diplomat Robert Cooper from 2011. As we approach the landscape of negotiations as it appeared prior to the Brussels agreement, it is worth remembering that this process was far from the first initiative supported by the Union.

5.1   Serbia – a reluctant dialogue partner

The thought of negotiating on equal terms with Pristina was unfathomable in Belgrade after the war. Not equally sensitive, albeit far from entrenched in Serbian society, was the question of European integration. Yet these two issues ultimately came to be intertwined, with the latter acting as a pull factor for the former. The growing eagerness of Serbia to become a member of the EU made it possible for EU and its member states to start calling for normalised relations between Belgrade and Pristina. To explain the sudden leap forward prior to the Brussels agreement, several scholars have underlined changes in the internal and external political dynamics.

One these factors were the unanticipated ousting of the President, Boris Tadić, by the electorate in the presidential elections of 2012. Overnight it became apparent to the political cadre in Belgrade that the poor status of the state finances tended to worry voters more than the status of Kosovo.[112] Few had predicted the outcome of the presidential elections, and probably even fewer thought it would bring Serbia closer to the EU. Indeed, it has been argued the entire rationale for the West's

[108] J. Ker-Lindsay and S. Economides, 'Standards before status before accession: Kosovo's EU perspective', *Journal of Balkan and Near Eastern Studies*, vol. 14, no. 1, 2012, p. 78.
[109] Ker-Lindsay and Economides, *Journal of Balkan and Near Eastern Studies*, p. 78.
[110] UNMIK/PISG, *Standards for Kosovo*, 2003, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kos%20Standards.pdf, (accessed June 24 2015).
[111] B. Radeljić, 'Official Discrepancies: Kosovo Independence and Western European Rhetoric', *Perspectives on European Politics and Society*, vol. 15, no. 4, 2014, pp. 434–437, and M. Weller, 'The Vienna negotiations on the final status for Kosovo', *International Affairs*, vol. 84, no. 4, 2008, pp. 659-681.
[112] Weber, 'A Date for Belgrade? Conditionality, German Leadership and Serbia's Path to the EU', *Democratization Policy Council*, 2013, p. 3.

patience with the delinquency of Tadić and the Democratic Party, was the fear of what might come in their stead.[113]

A second and related factor was that the resistance against EU membership had decreased substantially prior to the 2012 parliamentary elections. By then, most of the Serbian parties had accepted the EU path as a key political objective. The U-turn of the Progressives was perhaps the most dramatic change, which in effect pushed the anti-western sentiment to the margins of the discourse. Vojislav Koštunica's Radical Party and other hard-liners found themselves at the fringes of the political spectra.[114] As a result, one of the desirables for pro-enlargement strategist around Europe was thus reality; a political dynamic had emerged in the shape of a race where parties tried to outbid each other with promises related to the EU-accession.

External factors are also thought to have set the stage. Germany had been building up pressure on Serbia since 2011 when Chancellor Angela Merkel "publicly read the riot act"[115] to President Tadić after a summer of raising tensions in northern Kosovo.[116] Alongside these expectations, Berlin and other capitals warned Belgrade of several deadlines that approached rapidly on the horizon, which would severely infringe on the available alternatives. These included the German federal elections of September 2013, the European parliament elections in May 2014 and the inertia associated with forming a new European Commission. As future efforts risked being eclipsed by external events, the new government understood that it was time to make "a tough choice between European integration and self-isolation".[117]

5.2   Kosovo – a hesitant yet impatient participant

At first glance, the negotiating team from Pristina might seem to have been in a more convenient position than their Serbian counterparts. With the United States firmly backing Kosovo statehood, and a large majority of the EU member states pushing for further integration, it is easy to envisage a steady and inevitable movement towards membership and recognition. Yet, as politicians in Kosovo have had to learn the hard way, even the smallest exchange with their northern neighbour causes ruckus internally. Media outlets and domestic actors are constantly attentive for concessions to Belgrade that would risk the statehood and functionality of

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[113] Weber, 'A Date for Belgrade? Conditionality, German Leader ship and Serbia's Path to the EU', *Democratization Policy Council*, pp. 2–3.
[114] E. Pond, 'Serbia Reinvents Itself', *Survival*, vol. 55, no. 4, 2013, p. 21.
[115] B. Barlovac, 'Tadic Plans New Kosovo Talks With Merkel', *Balkan Insight*, 29 August 2011, http://www.balkaninsight.com/en/article/tadic-to-continue-talks-on-northern-kosovo-with-merkel/1602/5, (accessed 15 April 2015).
[116] Pond, *Survival*, p. 20.
[117] Weber, 'A Date for Belgrade? Conditionality, German Leadership and Serbia's Path to the EU', *Democratization Policy Council*, p. 6.

Kosovo.[118] Expectations on advancing the process of recognition are therefore always present, just as the diametrically opposite is true for Serbian negotiators. It was, for example, through this prism that Kosovars viewed with suspicion that the European Union took over from the US as the main strategist for the Western Balkans. They feared a scenario in which Brussels would slow down or suspend talks about status, in order to also accommodate Serbian aspirations.[119]

Another case that bear witness of the internal pressure in Kosovo was the behaviour of the government in 2010. On 22 July, the International Court of Justice released its advisory opinion on the lawfulness of Kosovo's unilateral declaration of independence. Frustration within the ranks grew despite a ruling in Pristina's favour, stating that the: "declaration did not violate any applicable rule of international law".[120] The government decided to take action by sending a rapid-reaction task force to the northern parts of Kosovo, an area which had been perceived as an obstacle in the state-building process for years.[121] A policeman was fatally wounded and the border area came under lockdown by the KFOR, the NATO peace-keeping force. Unsurprisingly, the ongoing talks were put on hold.[122] Taken together, some of Kosovo's preconditions was strikingly different in comparison to Serbia. But when it comes to the high stakes and domestic pressure in relation to contacts with its counterpart, they shared a similar burden.

5.3   The EU – a stakeholder and a goal in itself

Structurally, the EU is not an ordinary mediator or, as it has been labelled throughout the process, a *facilitator*. Besides this role, the Union is also in itself a goal for the two parties, in the sense that they want to become members one day. This gives the EU a unique position, with substantial leverage. However, one feature that above any other defines the relations between Brussels on the one hand, and Pristina and Belgrade on the other, is the tense division between EU member states on the question of status. Out of the 28 member states, 23 have recognised Kosovo as a sovereign entity.[123] Nonetheless, formal as well as informal relations with Kosovo have been substantial, which at times required a creative use of language to circumvent the status issue.[124] The European Union should not be seen as a unitary actor, and few policies make that so abundantly clear as the disparate

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[118] B. Weber and K. Bassuener, 'Not Yet a Done Deal: Kosovo and the Pristina-Belgrade Agreement', *Democratization Policy Council Policy Paper*, 2013, p. 2.
[119] Radeljić, *Perspectives on European Politics and Society*, p. 435.
[120] International Court of Justice, *Accordance with international law of the unilateral declaration of independence in respect of Kosovo*, 22 July 2010, http://www.webcitation.org/5rRB9e3bz, (accessed 22 October 2015).
[121] Not only were a majority of the population loyal to Belgrade, but much of the social, judicial and governmental structures were beyond the reach of Pristina's influence.
[122] M. Lowen, 'Obstacles old and new in Kosovo as Serbs defy Nato', *BBC News*, 25 October 2011, http://www.bbc.com/news/world-europe-15435124, (accessed 14 October 2015).
[123] Cyprus, Greece, Romania, Slovakia and Spain have not recognised Kosovo.
[124] Ker-Lindsay and Economides, *Journal of Balkan and Near Eastern Studies*, p. 84.

views on Kosovo. Perhaps surprisingly, this division might simultaneously have contributed to the ability of the EU to act as a credible mediator. With members on both sides of the fence, its facilitating role is perhaps viewed with less suspicion.

The EU's firm hand on policies for Serbia's and Kosovo's political and economic future was initiated as late as 2010. By then, as mentioned above, Brussels had a long track record of unsuccessful attempts to get Kosovo and Serbia to commit to a mutual process. In 2010 a press release was issued in connection to the opinion by the International Court of Justice, reaffirming the European perspective of both Serbia and Kosovo, and stressing the principle of good neighbourly relations. More importantly though, a message was communicated that the EU was ready to act as a facilitator in a dialogue process.[125] In parallel, Belgrade was pressured to co-sponsor a EU-drafted resolution that mirrored the press statement.[126] The first step in a process that ultimately resulted in the Brussels agreement was thereby a fact and six months after the General Assembly resolution was voted through, the parties meet in Brussels for a first round of dialogue. The negotiations can be thought of as separated into two phases, the first from March 2011 to February 2012 under the leadership of the EU diplomat Robert Cooper. The second leg from October 2012 and onwards, directly supervised by the High representative.[127] I would argue that there are merits to this simplification, provided that the division is not drawn too far.

In conclusion, the brief examination of the period leading up to the negotiations indicates that several factors made the political landscape more pertinent for reaching an agreement. Some of the rationales that was mentioned in chapter four as conducive for ambiguity could be noted, such as the deadlines facing Serbia and the incentives of advancing in the EU-track. Another contextual component was the domestic settings in both Serbia and Kosovo, which made concessions and change in policy costly. A final parameter was the divide between member states on Kosovo's status, a question that ought to make ambiguity a comfortable solution also for the mediator.

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[125] European Union, *Declaration by High Representative Catherine Ashton on behalf of the European Union on the ICJ advisory opinion*, 22 July 2010, http://europa.eu/rapid/press-release_PESC-10-213_en.htm?locale=en, (accessed 1 November 2015).
[126] J. Bergmann and A. Niemann, 'Mediating International Conflicts: The European Union as an Effective Peacemaker?', *Journal of Common Market Studies*, vol. 53 no. 5, 2015, p. 965.
[127] Bergmann and Niemann, *Journal of Common Market Studies*, p. 964.

6   Describing the Brussels agreement

On 19 April 2013, under the auspices of High Representative Catherine Ashton, the Prime Ministers of Kosovo and Serbia, Ivica Dačić and Hashim Thaçi, inked their initials on a modest looking fifteen-point document titled *First Agreement of Principles Governing the Normalisation of Relations*. Together the paragraphs stipulated rules and steps aimed at setting the framework for normalisation. The agreement covered sensitive questions that included governance in northern Kosovo and integration into EU and was hailed as a critical juncture even before its ratification. Still, as the content was scrutinised and its effects explained to the public, two opposing interpretations emerged. One version claimed that Serbia had de facto recognised Kosovo as a sovereign entity with control over its entire territory. According to another interpretation, the legitimisation of Serbian-backed so-called 'parallel structures' in northern Kosovo would create "a Bosnian type of 'Republika Srpska' in Kosovo",[128] reinforcing existing fears of "a state within a state".[129] The domestic criticism that ensued in both Kosovo and Serbia could hardly have come as a surprise to the premiers, yet they still chose to accept the mediators bid.

In an effort to answer the research question posed in the introduction, this chapter will examine segments in the Brussels agreement and interpretations presented by the negotiating parties. Three themes of the negotiations have been chosen: *recognition and international representation*, *self-governance in northern Kosovo* and *security*.

6.1   Recognition and international representation

As evident from earlier segments, the most contentious dimension in the relationship between Kosovo and Serbia is the status issue. Two separate but interconnected aspirations Kosovo are worth mentioning: international recognition as a sovereign state and the ability to be represented in international organisations. Historically, Pristina has pursued a long-term strategy of trying to achieve the latter

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[128] The Bosnian entity Republika Srpska, meaning 'Serb Republic', is a product of the Dayton Agreement and is often seen as Serbia's greatest Foreign Policy achievement. The entity has also been viewed by some as a satellite under the influence of Belgrade. Citation from: A. Beha, 'Disputes over the 15-point agreement on normalization of relations between Kosovo and Serbia', *Nationalities Papers*, vol. 43, no. 1, 2014, p. 103.

[129] C. Hasselbach, 'Serbia and Kosovo sign historic agreement', *Deutche Welle*, 20 April 2013, http://www.dw.com/en/serbia-and-kosovo-sign-historic-agreement/a-16758946, (accessed 29 October 2015).

as a means to realise the former, through what is called 'indirect collective recognition'.[130] Meanwhile, Belgrade has with matching vigour refused any steps towards recognised independence, using its influence to prevent Pristina from getting any seats at tables in the international arena.[131] For these reasons, signs of recognition, representation and symbols of independence were much sought after by one side, and highly sensitive for the other side, throughout the negotiation process. An illustrative outcome of these dynamics within the Brussels agreement appears as one starts to look for what is not there. The stern refusal of any symbols of Kosovo's independence is a skill that Belgrade had perfected over the years, and consequently, the Brussels agreement lacks titles, state symbols and even names. This should be seen in the light of a form of recognition, in which explicit references to a state official is used to recognise the sovereignty of a state, and hence something Serbia keenly would avoid.[132]

Article 14 in the Brussels agreement is the only section which explicitly touches upon the question of international participation, yet it is limited to EU integration and does not even mention membership: "It is agreed that neither side will block, or encourage others to block, the other side's progress in their respective EU paths".[133] From an EU point of view, this safeguard is a necessity, as member states on bilateral grounds have been blocking acceding states, thus interfering with the principle of a merits-based process.[134] It is also a necessity for the non-recognising quintet. Just as the Union's policy towards Kosovo in general, article 14 is ambiguous on whether Kosovo one day will become a member state Although that the aspiration of Pristina, such a step would require "Kosovo's status to be solved definitely".[135] The fact that article 14 stipulates that Belgrade will not block Pristina's path towards EU does not settle the matter – the ambiguity remains.

Studying how the status issue was described by stakeholders to the agreement is a rewarding exercise in understanding ambiguity surrounding article 14 as well as the legal status of the document. On the day of the agreement, the Serbian Prime Minister Dačić told the press how the Serbian negotiation team successfully managed to avoid the far-reaching demands made by Kosovo. A formulation stipulating that Kosovo would be able to join regional and international organisations, such as NATO and the UN, was said to have been on the table at an earlier stage, put forward by High Representative Ashton. Instead, Dačić's interpretation of the outcome was that it "only states that Serbia must not stand in

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[130] J. Ker-Lindsay, 'Engagement without recognition: the limits of diplomatic interaction with contested states', *International* Affairs, vol. 91, No. 2, p. 274.
[131] M. Brunwasser, 'Kosovo and Serbia Reach Key Deal', *New York Times*, 24 February 2012, http://www.nytimes.com/2012/02/25/world/europe/25iht-kosovo25.html, (accessed 20 October 2015).
[132] Ker-Lindsay, *International Affairs,* p. 272.
[133] Republic of Kosovo: Office of the Prime Minister, *First Agreement of Principles Governing the Normalisation of Relations*.
[134] Think for example of Greece and Macedonia, in which the question of the latter's name is an obstacle standing in the way for getting a status as candidate. Another well know case is the disputed demarcation line in the Gulf of Piran, in which Slovenia obstructed Croatia's accession.
[135] J. Ker-Lindsay and S. Economides, 'Standards before status before accession: Kosovo's EU perspective', *Journal of Balkan and Near Eastern Studies*, p. 78.

the way for Kosovo's European integration".[136] At the same time, Deputy Prime Minister Vučić told reporters that Kosovo had "accepted all Serbian suggestions".[137] Taking the interpretation one step further, Serbian presidential advisor Marko Đurić made the following statement: "With this agreement we have received a permanent guarantee that Serbia does not have to accept Kosovo's UN membership", adding that "it will not be forced to recognize its independence". Continuing, he added that "No one, from Catalonia to Basque Country, has managed to get what we have. We did not let them join international organizations and we will create institutions that will be controlled by the Serbs".[138]

Meanwhile, in Pristina, the opposition party Lëvizja Vetëvendosje voiced a similar interpretation, arguing that the agreement effectively had "suspended entirely state-building of Kosovo".[139] In stark contrast to these readings, government representatives stated that the deal meant a "factual recognition of Kosovo".[140] Enver Hoxhaj, Kosovo's foreign minister, used social media to communicate his view on the outcome, suggesting that "with this agreement Serbia has accepted Kosovo's international subjectivity, sovereignty, territorial integrity and the constitution and laws".[141] These types of statements were criticised by Serbia as being manipulative lies,[142] but some Serbian law experts have argued along the same lines. According to them, by allowing northern Kosovo to be integrated into the Kosovo, and by withdrawing support for the so-called parallel institutions, Serbia both *de facto* and *de jure* recognised the independence of Kosovo.[143] Similarly, Ker-Lindsay sees the agreement as "an implicit acceptance of the existence of an autonomous Kosovo, the legitimisation of its government and the acceptance of its separate EU integration process […]. This was an enormous sacrifice for any Serbian government".[144] It should perhaps be stressed at this point that the legal effects are of no relevance for this study. What *is* of interest is the way ambiguity of the agreement helped both actors to manage their internal political situation, by offering wiggle room for interpretations and further negotiations.

To recapitulate, the political leaders had provided vastly different interpretations of the same text through their descriptions, as would have been predicted by ambiguity theorists. By doing so, they could try to safeguard against

[136] B92, *Belgrade, Priština initial agreement in Brussels*, 19 April 2013, http://www.b92.net/eng/news/politics.php?yyyy=2013&mm=04&dd=19&nav_id=85780, (accessed 14 November 2015).
[137] B92, *Belgrade, Priština initial agreement in Brussels*.
[138] B92, *Agreement will prevent Kosovo from getting UN seat*, 21 April 2013, http://www.b92.net/eng/news/politics.php?yyyy=2013&mm=04&dd=21&nav_id=85827, (accessed 14 November 2015).
[139] Beha, *Nationalities Papers*, p. 109.
[140] Beha, p. 109.
[141] Deusche Welle, *Serbia and Kosovo sign deal to normalize ties*, 19 April 2013, http://www.dw.com/en/serbia-and-kosovo-sign-deal-to-normalize-ties/a-16758588 (accessed 14 November 2015).
[142] B92, *Belgrade, Priština initial agreement in Brussels*.
[143] Weber, 'A Date for Belgrade? Conditionality, German Leadership and Serbia's Path to the EU', *Democratization Policy Council Policy Paper*, p. 6.
[144] J. Ker-Lindsay and S. Economides, '"Pre-Accession Europeanization": The Case of Serbia and Kosovo', *Journal of Common Market Studies*, vol. 53, no. 5, 2015, p. 1035.

domestic critique. Alongside the rhetoric on governance issues, the outcome also suggests that Serbia managed to isolate the contentious status issue, whilst accepting advancement on other issues in order to secure benefits from EU accession process.[145] Given the concession made, the issue was defused in a clever way, as no language hinted that the position on recognition had changed.

Lastly, a point on theory. The argument concerning whether Kosovo was recognised or prevented from gaining a UN seat illustrate an important gap in the framework presented in chapter 4. In it, nothing was mentioned about ambiguous processes or legal considerations of the actions of states. The contrasting statements were not solely derived from the text of the agreement, but also from a tradition of how states are recognised in the international community.[146] This observation suggests that theory on ambiguity has a blind spot, to which I will return in the concluding chapter.

6.2   Self-governance in northern Kosovo

Negotiating the future governance of northern Kosovo may, at first, be mistaken for a simple matter of deciding statutes for a cooperative body of municipalities. In reality, it is more like a miniature version of managing the question of Kosovo's status, and has for good reasons been called "a litmus test not only for the consolidation of Kosovo's statehood but also for the normalization of relations".[147] Beneath the surface lies several disputes over fundamental questions that require compromises and attention to detail.

A general challenge is to incorporate the independent Serb-dominated areas in the north into the Kosovo state structure while simultaneously ensuring minority demands of subsidiarity and rights to participation.[148] Institutionally, this means merging the local police, court and government structures into the existing system governed by Pristina. Another six municipalities with Serb majority population below the Ibar River are to be a part of the cooperation, but these are already fully integrated and less prone to voice their critique against Belgrade. In 2007, one of the most detailed and ambitious attempts to outline such a scheme was the 'Comprehensive Proposal for the Kosovo Status Settlement in 2007', also known as the Ahtisaari plan.[149] A variation of this proposal was presented by Serbian president Tadic in 2008, but neither of the two resulted in any successful measures.

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[145] Ker-Lindsay and Economides, '"Pre-Accession Europeanization": The Case of Serbia and Kosovo', *Journal of Common Market Studies*, p. 1035.

[146] For a discussion forms of recognition, see Ker-Lindsay, *International* Affairs, p. 274.

[147] Beha, p. 103.

[148] J. Hanson, 'Five minutes with sir Robert Cooper: "the Brussels Agreement between Serbia and Kosovo was based on conversation, not EU pressure', Europp, [web blog], 6 February 2015, (accessed 16 November 2015).

[149] UN Security Council, *Report of the Special Envoy of the Secretary General on Kosovo's Future Status*, addendum to letter dated 26 March 2007 from the Secretary-General addressed to the

Given the above, it should come as no surprise that one of the most explicit ambiguities in *the First agreement* concerns governance in the north. It is a referential type of ambiguity and can be found already in the opening article. The purpose is to introduce the establishment of a cooperative entity of municipalities, but the language chosen for the label is purposely diffuse: "There will be an *Association/Community* of Serb majority municipalities in Kosovo" (emphasis added).[150] Here, the negotiating parties could not agree on what type of entity the group of Municipalities should become, and hence decided to use both 'Association' and 'Community', separated by a slash.[151] Evidently, no single agreeable word could encompass both parties interpretations, and the resulting ambiguity became remarkably visible. In the remainder of the document, the two words shift order back and forth between 'Association/Community' and 'Community/Association', suggesting that even the sequence was deemed important. As the implementation phase would show, these details are expressions of the wide rift between the negotiating parties, that ultimately relates to the future status and function for this entity within the Kosovo's governance system. Or, as another scholar has pointed out, "[t]he word 'association' will become the most important word" in the agreement.[152]

Another instance of ambiguity is found under articles four and five. Together they stipulate that the "Association/Community will have *full overview* of the areas of economic development, education, health, urban and rural planning" and that it "*will* exercise other additional competences as *may* be delegated by the central authorities" (emphasis added).[153] The keywords in these sentences are 'full overview', 'will' and 'may'. Whereas the former fail to disclose the exact degree of competence distribution, the latter two adds substantial ambiguity in specifying whether additional competences will be added at all. Taken together, in a typical case of cross-textual ambiguity, uncertainty is created regarding the distribution of powers.

The articles on governance were ridden with ambiguity, and again the negotiating parties shared with the media their contrasting interpretations. Immediately after the agreement was struck, the government of Kosovo's government announced that the deal would ensure the "integration of northern Kosovo", and that it would "put an end to illegal structures".[154] The Serbian perspective underscored that it would become an 'ethnic-Serbian institution' and went as far as to claim that it would be "recognized by Pristina and the EU".[155] The

President of the Security Council, S/2007/168, http://www.un.org/en/peacekeeping/missions/unmik/letters.shtml (accessed 10 October 2015).

[150] Republic of Kosovo: Office of the Prime Minister, *First Agreement of Principles Governing the Normalisation of Relations*.

[151] A. Nagy, 'North Kosovo as a Political and Administrative Phenomenon', *Revista De Stiinte Politice*, no. 42, 2014, p. 31.

[152] Beha, p. 103.

[153] Republic of Kosovo: Office of the Prime Minister, *First Agreement of Principles Governing the Normalisation of Relations*.

[154] Beha, p. 109.

[155] A. Ernst, 'The April Agreement – A Step towards Normalization between Belgrade and Pristina?', *Contemporary Southeastern Europe*, vol. 1, no. 1, 2014, pp. 123.

Presidential advisor Marko Đurić explained to the domestic media how the Brussels agreement ensured "legalized Serbian institutions" and that Serbia – not Serbs in northern Kosovo – would have "more powers in education system, health, public information and spatial planning".[156] These were the interpretations that would allow the parliaments to accept the historic deal. Of course, both sides questioned the other sides understandings of the agreement, and in both capitals, the governments face tough resistance from opposition parties. Serbian politicians marched, chanting "Treason, treason" and "We won't give up Kosovo"[157]. Meanwhile in Pristina, parliamentarians raised banners that described the bill of approval as "The resolution of submission to Serbia", and told media that "Kosovo is turning into a Bosnia… the north of Mitrovica is becoming like [the capital of Serb-run Bosnian entity Republika Srpska] Banja Luka".[158]

Summing up, is safe to conclude that if put on a spectrum, these interpretations would create quite a polarised picture. The negotiating parties used the virtues of ambiguity mentioned in chapter four, thus creating enough room of manoeuvre to try to minimize the critique. Hereby the appealing power offered by ambiguity is illustrated. Furthermore, by exploring the importance attached to the municipal entity, we can understand both the difficulty in agreeing on a name and the vigorous attempts to establish their own definition. In Serbia, they discuss an 'entity', while in Kosovo they refer to an 'NGO', "thus it is not without Irony that Lady Ashton who brokered the deal applauded the two sides for having found common language". [159]

6.3   Security

The third and final dimension of the Brussels agreement concerns security. In divided communities, such as those in northern Kosovo, with contested authority and history of violence,[160] security is naturally a vital component. After the war, displaced Serbs from the south built an independent system in the North, mirroring that of Pristina, which was managed by United Nations Interim Administration in Kosovo. Since the latter derived its authority from resolution 1244, which also ended Yugoslav sovereignty in Kosovo, the Serbian municipalities denied any form of cooperation with the UN representation.[161] The local security structures consisted

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[156] B92, *Agreement will prevent Kosovo from getting UN seat*.
[157] Balkan Insight, *Opposition Protest in Belgrade over Kosovo Deal*, 22 April 2013, http://www.balkaninsight.com/en/article/opposition-to-protest-in-belgrade-over-kosovo-deal, (accessed 17 November 2015).
[158] Balkan Insight, *Kosovo Approves Resolution on Agreement With Serbia*, 22 April 2013, http://www.balkaninsight.com/en/article/kosovo-approves-resolution-on-agreement-with-serbia, (accessed 17 November 20151). Brackets in original.
[159] Ernst, *Contemporary Southeastern Europe*, pp. 123.
[160] Not least in Northern Mitrovicë/a, where the Serbian side constantly had 'bridge-watchers' keeping a lookout for visitors from the Albanian side. See: J.N. Clark, 'Kosovo's Gordian knot: the contested north and the search for a solution', *Nationalities Papers*, vol. 42, no. 3, 2014, p. 533.
[161] Beha, p. 109.

of approximately 500–600 individuals through the Serbian Ministry of Internal Affairs and Security Information Agency. Adding to that, 67 smuggler organisations acted in the area.[162] The lack of control over the territory became increasingly difficult to handle for politicians in Pristina, as the deployment of rapid action police forces in 2011 became a testament for.

Subsequent to the governance provisions in the Brussels agreement are articles that cover police, security and command structures. Article 7 establish that there will be only one "police force in Kosovo called the Kosovo Police. All police in Northern Kosovo Police shall be integrated in the Kosovo Police framework. Salaries will be only from KP".[163] Meanwhile, article 8 states that "Members of other Serbian security structures will be offered a place in equivalent Kosovo structures".[164] Whilst the provision on police merger is relatively straightforward, the article on security structures contain several ambiguities. First of all, in a case of referential ambiguity, it is unclear exactly what is meant by 'other security structures'. The same organisations are called 'civil protection groups' by Belgrade and 'paramilitary structures' Pristina.[165] Another dimension of interest is the payment solution. Whereas the procedure for salaries is made clear for the Kosovo Police, nothing is mentioned in relation to the security structures, nor the remaining institutions referred to in the agreement.

Once again the two narratives collide as government officials describe the content of the articles. Pristina put an emphasis on the dismantled presence of Serbia, which is to occur through the phasing out of Serbian security structures. Belgrade, on the other hand, portrays the outcome as an increase in security. An "ethnic-Serbian institution will be created, which for the first time will is recognized by Pristina and the EU".[166] In sum, just like the other two dimensions of the Brussels agreement, the security dimension also contained ambiguities. These were once again exacerbated through the interpretations shared by the negotiating parties, and a source of confusion.

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[162] Beha, p. 107.
[163] Republic of Kosovo: Office of the Prime Minister, *First Agreement of Principles Governing the Normalisation of Relations*.
[164] Republic of Kosovo: Office of the Prime Minister, *First Agreement of Principles Governing the Normalisation of Relations*.
[165] Republic of Kosovo: Government, *State of play in implementation of the Brussels Agreement*, 16 January 2014, http://www.kryeministri-ks.net/?page=2,252, (accessed 14 November 2015); and Republic of Serbia: Government, *Progress report on the dialogue between Belgrade and Pristina*, April 2015, http://www.kim.gov.rs/eng/pregovaracki-proces.php, (accessed 14 November 2015).
[166] A. Ernst, 'The April Agreement – A Step towards Normalization between Belgrade and Pristina?', *Contemporary Southeastern Europe*, vol. 1, no. 1, 2014, pp. 123.

7 Conclusion

7.1 An agreement disambiguated

This study argues that ambiguity was a fundamental component in how the Brussels agreement came to be shaped and presented. Before reiterating the findings that underpin such a claim, imagine for a moment that the outcome of the negotiations on 19 April 2013 would have to be put down in print, communicated and defended with a language that was exempt from the use of ambiguities. Needless to say, tangible compromises under such a setting is unfathomable. Instead, and as shown in the previous chapters, language that can sustain divergent interpretations give enough leeway for political leaders to face their publics, albeit armed to the teeth with euphemism and generous readings.

Unsurprisingly, not all components of the theoretical framework were reflected in the description of the case. An outbreak of violence was for example never a pressing issue, nor was there scope enough in this study to evaluate whether a culture of compromise could have been created. Yet other aspects contributed to understanding and describing the case, such as the immense pressure by constituents and opposition parties, and deadlines of elections that threatened to postpone progress in the EU track. The typology also improved the analysis by providing a way to label categories of ambiguities that otherwise are difficult to pinpoint.

When the agreed formulations were juxtaposed with the statements made by officials, the dynamics of ambiguity was illustrated beyond the initial expectations. Here the theoretical legwork paid off substantially, as descriptions of provisions and statements showed exactly how flexible language creates alternatives for decision-makers. Amongst other observations, the findings in chapter six suggest that ambiguity was used to safeguard against criticism, to isolate contentious issues and to increase the room for manoeuvre.

Most importantly, this study set out to see how ambiguity shaped the agreement and the way it was described by its stakeholders. Set against the summary above, that particular ambition ought to be fulfilled. As a final comment on the design, a few words should be mentioned regarding the choice of case. As far as these types of cases even can be considered representative of its class of events, I would argue that the Brussels agreement made the cut and fulfilled the parameters set out in the introduction.

7.2 A theory in development

A second ambition mentioned in the outset was to develop existing theory. To the extent that the patchwork of ambiguity collected in this study even can qualify as a proper theory, I would argue that it has theoretical relevance. Indeed, already by extensively exploring and listing the numerous rationales, risks and remedies, this study goes beyond comparable studies of ambiguity. And even though many components never were applicable to the case, there is merit in trying to get as comprehensive understanding of a puzzling phenomenon as possible.

Of even more value, although initially perhaps a sign of flaws with the theoretical framework, is the discovery of new phenomena related to ambiguity, that did not fit the predefined template. The first warrants further exploration is ambiguous *processes*, which in the present case came in the shape of a legal tradition. When the Serbian government had to argue against a notion that the agreement was a de jure recognition, it not only had to relate to the language of the text but also to a tradition of how states legitimise statehood. The fixation towards language is, therefore, something future researchers should try to overcome. A second observation relates to remedies and the design of linkages between of issues, with the purpose to ensure compliance. A version of this category has been discussed in the literature and was covered in chapter four. However, a description of situations with influential *third party incentives* is clearly lacking. In our case, Serbia's willingness to compromise was directly connected to rewards in the EU accession process. In brief, further research is needed to study how carrots from an external part can be included in a design to prevent non-abidance. A third finding that calls for further study is the way officials use ambiguity to paper over a leap made between an old and a new position. To some extent, this concept overlap with the face-saving rationale mentioned earlier, but there is still ample room for investigating the intersection between the concept of *framing* and ambiguity.

7.3   More or less ambiguity

Lastly a few words on how to view ambiguity in terms of efficiency. It has been written that "ambiguity in diplomatic documents must be avoided whenever possible, but it occurs nevertheless, sometimes by design, sometimes by inadvertence, sometimes by necessity".[167] In the case of Serbia and Kosovo, scholars and opinion-makers have disagreed on whether the normalisation process would benefit from more or less straightforwardness.[168] Based on findings from this study, it is easy to argue that ambiguity can work wonders in terms of making your

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[167] Krogh, U.N. Security Council Resolution 242: A case study in diplomatic ambiguity, p. v.
[168] T. Judah, 'Brussels Trumps "Inat"', *Eastern Approaches*, [web blog], 10 September 2010, http://www.economist.com/blogs/easternapproaches/2010/09/serbia_kosovo_and_un, (accessed 4 May 2015); and G. Krasniqi, 'Kosovo's political impasse and the limits of EU's 'creative ambiguity' approach', *ECFR Commentary*, [web blog], 19 November 2015, http://www.ecfr.eu/article/commentary_kosovos_political_impasse_and_the_limits_of_eus_5020, (accessed 24 November 2015).

preferred messages fit, but also that the aftermath can leave a lot to be desired. In many senses, ambiguity has been viewed upon as double-edged sword.[169]

Any perspective that holds ambiguity as the cause of an agreement would be built on faulty premises. On the contrary, treaties and accords are the results of actors' preferences and the context within which they exist. As hinted at earlier, ambiguity is better thought of as an enabler – tool that can curtail negative effects and provide new options. The outcome is more likely a consequence of the readiness to find common ground through compromise, rather than the result of design. For that reason, I would concur with theorists stressing that another mind-set is needed. If parties to a negotiation view ambiguous language as an undefined space, rather than a place where their own priorities must prevail, then ambiguity ultimately can provide lasting solutions. Accordingly, scholars have argued that mediators would benefit from be explicit about drafts and intentions. That would not only mean to clearly point out in which ways provisions are ambiguous. Mediators should also express expectations on the parties to set their imagination towards finding an acceptable middle-ground.[170]

If avoiding being precise can move a peace agenda forward, for example by gradually defusing tension around a contentious issue, then that is fine and dandy. But if the negotiation process and drafting process does not take the post-agreement phase into account, the risk of a backlash cannot be disregarded. Consequently, the sustainability of the Brussels agreement may very well be dependent on the consent of the population in northern Kosovo. Their cooperation rest on them being comfortable with integrating into the structures of Kosovo, recalling that "they have been told for three decades by Belgrade that they are an indivisible part of Serbia".[171] Yet one thing should not be lost in the measurement of progress: "the fight over interpretation is infinitely better than physical violence".[172] Furthermore, through the Brussels agreement something was created where there earlier was nothing. The loose structure of negotiation that has occurred on-and-off since April 2013 has a purpose (normalisation), a method (regular interaction) and plenty of carrots (accession and financial support) to offer. And the strength of incentives should not be underestimated:

> The union, after all, is in a mess. The euro could yet collapse, bringing economic mayhem. Besides, inside the EU, small states such as Serbia have very little influence over the way in which decisions are made. Yet so badly do Serbs and Kosovars want to join the bloc that they ignored those arguments, plus deep national scars and red lines, to cut a deal with each other on April 19.[173]

[169] Fischhendler, p. 113.

[170] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 189.

[171] B. Weber and K. Bassuener, 'Not Yet a Done Deal: Kosovo and the Pristina-Belgrade Agreement', *Democratization Policy Council Policy Paper*, 2013, p. 2.

[172] Pehar, 'Use of ambiguities in peace agreements', *Language and diplomacy*, p. 189.

[173] T. Judah, 'Kosovo Deal Shows the EU Deserved its Nobel Prize', *Bloomberg View*, 23 April 2013, http://www.bloombergview.com/articles/2013-04-23/kosovo-deal-shows-the-eu-deserved-its-nobel-prize, (accessed 20 May 2015).

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