Serbian Compliance Patterns towards EU Integration under the Progressive Party: An Exercise in Statecraft

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Abstract

The overarching focus of this thesis is Serbian government strategies under the Serbian Progressive Party towards European integration based on a rationalist approach to Europe. Current research on Serbia assumes the rationalist approach whereby Serbian elites' strategies towards EU integration are driven by the logic of consequences, in the calculation of benefits and losses resulting from EU membership. This study will take the analysis further by examining Serbian government strategies towards EU accession through the prism of rationalism as well as statecraft where the desire for power has been one of the main driving forces for the Progressives' strategy to EU conditionality. The research will be a comparative case study using two distinct policy areas of Kosovo and media freedom in Serbia and argue that the Progressives have engaged in partial compliance with regard to Kosovo and fake compliance in the area of media freedom. Both cases have reputational costs of compliance but the differences in outcomes can be attributed to the extent of the EU's competencies in each policy area and the visibility of Serbian compliance to conditionality. Media freedom, an internal issue, is a low visible area as media freedom legislation is namely in the hands of national governments, thereby limiting the EU's capacity to regulate and enforce media freedom in some of its own member states as well applicants. Kosovo is a highly visible policy area as a consequence of the presence of external actors monitoring Serbian compliance, thereby increasing the EU's capacity in this field and making Serbian compliance/non-compliance difficult to hide.

Previous scholarship on EU integration in applicant states analyses the EU's conditionality-driven approach which enforces compliance on acceding countries. However, the thesis seeks to contribute to the existing research by questioning the sustainability of such an approach and the EU's legitimacy as a normative power seeking to export its values to accession countries. Serbia, is an example within a national context, that seeks to elucidate this argument especially in light of the EU's exchange of regional stability (Kosovo) for external lenience on matters of democracy (media freedom).

For Oliver Ivanović (1953-2018), Serbian politician in Kosovo:

May he see the work he dedicated himself to, finished.

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Abbreviations

ANEM-Association of Electronic Independent Media

ASM-Association/Community of Serb Majority Municipalities

BCSP-Belgrade Centre for Security Policy

BIRN-Balkan Investigative Reporting Network

CEECs-Central and East European countries

CESID-Centre for Free Elections and Democracy

CP-Civil Protection

DDOS -distributed denial of service

DI-Discursive Institutionalism

DOS-Democratic Opposition of Serbia

DS-*Demokratska Stranka*, Democratic Party

DSS-*Demokratska Stranka Srbije*, Democratic Party of Serbia

EC-European Community

EU-European Union

EULEX-European Union Rule of Law Mission in Kosovo

EMU-European Monetary Union

ERM-European Exchange Rate Mechanism

FYROM-Former Yugoslav Republic of Macedonia

ICTY-International Criminal Tribunal for the Former Yugoslavia

IR-International Relations

ITU-International Telecommunications Union

KEK- Korporata Energjetike e Kosovë

KFOR-Kosovo Police Force

KiM-*Kosovo i Metohija,* Kosovo and Metohija

KLA-Kosovo Liberation Army

KRIK- Crime and Corruption Reporting Network (Serbia)

LDP-*Liberalno-Demokratska Partija*, Liberal Democratic Party

MP-Member of Parliament

MUP/MOI-*Ministarstvo Unutrašnjih Poslova*, Ministry of Internal Affairs.

NATO-North Atlantic Treaty Organisation

NDNV- Independent Journalists' Association of Vojvodina

NGO-Nongovernmental organisation

NMHH-National Media and Telecommunications Authority

NS-*Nova Srbija*, New Serbia

NUNS- Independent Journalists' Association of Serbia

OSCE-Organisation for Security and Cooperation in Europe

PISG-Provisional Institutions of Self-Government

PM-Prime Minister

RS-Republika Srpska (Bosnia and Herzegovina)

RTS-Radio Televizija Srbije, Radio Television Serbia

RTV-Radio Televizija Vojvodine/Radio Television Vojvodina

SAA-Stabilisation and Association Agreement

SAP-Stabilisation and Association Process

SDP-*Socijaldemokratska Partija Srbije*/Social Democratic Party of Serbia

SNS-*Srpska Napredna Stranka*, Serbian Progressive Party

SPS-*Socijalistička Partija Srbije*, Socialist Party of Serbia

SRS-*Srpska Radikalna Stranka*, Serbian Radical Party

TEU-Treaty on European Union

UDI-Unilateral declaration of independence

UN-United Nations

UNS- Journalists' Association of Serbia

UNMIK-United Nations Mission in Kosovo

List of Contents

Chapter 6: Conclusion

List of Figures and Tables

Chapter 1: Introduction

1.1 Introduction

While the EU was preoccupied with its expansion towards the Central and Eastern European countries (CEECs) at the beginning of 2000, the Western Balkans had just emerged out of a violent civil war, leaving behind failed and weak states with contested borders and limited state capacities. Concerned over the prospect of future wars and regional instability, the EU expanded its transformative power to its southeast European neighbours, offering the possibility, albeit tenuously, of eventual accession to the EU. The aim of the Stabilisation and Association Process (SAP), which became the EU's policy towards the Western Balkans, was the overall transformation rather than accession of these newly formed states (Fakiolas and Tzifakis 2008, p. 387). The SAP, launched in 1999, led to the signing of the Stabilisation and Association Agreements (SAAs) which complemented the political, economic and legal conditions arising from the Copenhagen Criteria, also a prerequisite for accession. The political conditions stemming from the Copenhagen criteria included: the "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;" the economic conditions pertained to a functioning market economy and the capacity to cope with competition and market forces" while the legal criteria dealt with the implementation of the acquis (European Council 1993). Similar to the European Commission's Association Agreements with the Central and East European countries, the SAAs included additional conditionality of cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), regional cooperation, good neighbourly relations, and the development of civil society and institution building (Papadimitriou 2001, p. 77).

Serbia's European integration process officially commenced shortly following the overthrow of the Milošević regime by the Democratic Opposition of Serbia (DOS)[1] in 2000. The EU then offered the prospects of both Europeanisation and democratisation to Serbia to support the new change in government by lifting its economic sanctions, providing reconstruction assistance through financial aid

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[1] The DOS was a coalition of eighteen ideologically very different parties that had opposed the Milošević regime, and had successfully ousted him on 5 October 2000, marking the beginning of Serbia's democratic transition (Subotić 2014).

packages and signing trade agreements (Radeljić 2014, p. 245). In 2003, the EU confirmed Serbia as a potential candidate for membership at the Thessaloniki EU Council Summit (European Commission 2016b). Since then, Serbia has begun its slow democratic transition away from its nationalistic past and moving towards a more European future. However, the process of EU integration in the Western Balkans, primarily in Serbia, has been slow with setbacks and the freezing of negotiations. Unlike its neighbours, the Serbian case represents a dynamic and complex political shift that still has elements of nationalism but since 2012, the election of the Serbian Progressive Party (SNS) has demonstrated what other previous governments were unable to achieve including the normalisation of relations with Kosovo-an enormous milestone in Serbian-EU relations. These achievements are mainly a result of the policies of the Serbian Progressive Party, the party responsible for spearheading Serbia's European integration process. Some of the most prominent and influential members of the SNS, namely Serb President and leader of the SNS, Aleksandar Vučić, and former President Tomislav Nikolić[2], were once members of the Serbian Radical Party (SRS) under Milošević, an extremist, nationalist party that promoted anti-Western and anti-European foreign policy, an ideology of anti-globalism as well as a Greater Serbia. As a result, their pro-European policies are questioned even today and some argue, have similarities from when they were in power under the Milošević regime.

Thus, this thesis seeks to analyse the strategies of the Progressive-led government vis-à-vis EU integration using the two case studies of Kosovo and media freedom in order to assess why the policy changes of the Progressive-led government relate to a rationalist rather than a constructivist approach to EU accession. The rationalist approach posits that applicant states accede according to careful cost-benefit calculations of the material incentives arising out of membership while the constructivist approach follows the logic of appropriateness where norms and values are considered to be the drivers of policy change. The research in particular will examine Serbia as a case study where the rationalist argument of EU rewards relating to economic benefits as being the drivers of domestic change can come into conflict with EU values in the accession process, thereby elucidating the problems of the EU's ability in exporting its norms and values to candidates and member states.

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[2] Aleksandar Vučić was Prime Minister from April 2014-2017, after which he cemented his victory as Serbian President, replacing Nikolić following the presidential elections in Serbia.

The introduction is divided into two parts, with the first part framing the research and setting out the questions and central argument(s) while the second part aims to provide a brief contextual overview of the Serbian Progressive Party. Section 1.2 will provide an analysis of the focus and aims of the thesis, outlining how the research seeks to contribute to the existing field of scholarship on Europeanisation vis-à-vis the EU's conditionality approach, and the repercussions this would have for the wider constructivist argument. Then, we set out the research questions in relation to the study (1.3) and how they contribute to the overall argument (1.4). We also provide a preliminary outline of the current state of research, which will be discussed in more depth in the Literature Review and how the study seeks to identify the gaps in the literature on Serbian government strategy towards accession under the Progressive-led government (1.5). In the second half of the introduction, we use Marko Stojić's (2013, 2014) theoretical framework for categorising Serbian political parties based on their position on the EU and Serbia's EU membership respectively in order to analyse the trajectory of the Serbian Progressive Party from being a far right, anti-EU party to one adopting a pro-EU policy. We evaluate Stojić's (2013, 2014) conceptual framework as insufficient when examining the political shift of the Serbian Progressive Party, and thus employ both rationalist theory and statecraft when analysing the trajectory of the SNS. We conclude with an outline of the thesis chapters.

1.2 Aims and Focus

Although not yet a member state of the EU, Serbia's candidacy for accession was confirmed in March 2012 by the European Commission shortly after it had delivered its Opinion on Serbia's EU membership application (European Council 2012). This announcement came shortly preceding the victory of the Progressive Party and the ousting of the Democrats during the May 2012 parliamentary and presidential elections in Serbia. As the thesis will seek to argue, following their victory and the formation of a new coalition government with the Socialist Party of Serbia (SPS), the Progressives remained committed to their mandate of achieving EU membership, accomplishing far more than any of the previous governments when it came to European integration. This included the opening of accession negotiations in January 2014 and eight out of thirty-five chapters. Additionally, they were responsible for signing a landmark deal with Kosovo (the "Brussels Agreement"), a feat that the previous governments'- including Tadić's Democratic "For A European Serbia" coalition-were unable to

achieve. Although the Progressives and their leader, Aleksandar Vučić, became the drivers of political change, many scholars and experts (Bieber 2015; Economides and Ker-Lindsay 2015; Kostovicova 2014a and 2014b; Stahl 2013; Prelec, T. 2016, Irion 2014) have questioned whether the government's sudden shift in adapting pro-EU policies represented a conformity and acceptance of European values and norms in line with the constructivist argument. Given the nationalist background of the Progressives, particularly evident in the fact that the Progressives emerged from a schism in the extreme right, nationalist Serbian Radical Party, this is not so surprising.

The focus of the thesis is centred on the Progressive-led Serbian government from May 2012-December 2017 and the strategies they employed towards European integration in the two key policy areas of Kosovo and freedom of the media, which will be treated as separate case studies in the research. The central aim of the thesis is to examine how Serbia fits into the wider scholarship debate about how countries may accede while not adopting an EU 'mindset,' and the issues this may cause for the EU. In this regard, the single country study on Serbia will contribute to the research and existing literature regarding the EU's carrot-and-stick conditionality approach where countries accede as a consequence of the material benefits arising out of EU accession in line with rationalist theory. Although applicant states can positively identify with the EU, this does not necessarily lead to a change in values or the adoption of EU standards in the constructivist sense. These have been cases regarding the Central and East European countries, which joined the EU in the 2004 and 2007 enlargements, particularly Romania, Bulgaria, Hungary and Poland. Both Bulgaria and Romania suffered an increase in organised crime and corruption in the post-accession period, while the Polish government's anti-discriminatory policies against the LGBT community (including in banning pride parades and hate speech) between 2005-2007 did not reflect a resonance with EU norms and values (Ganev 2013; O'Dwyer 2012, pp. 344-348). The case of Hungary, on the other hand, witnessed a decline in media standards particularly with the election of Viktor Orbán's Christian, national, and conservative government in 2010 which had resulted in a one-party colonisation of the media, thereby restricting media freedoms (Bajomi-Lázár 2013, p. 85). The examples of Bulgaria, Romania, Hungary and Poland fit into the wider debate of whether the EU can impose values when the "carrot" is economic. In this regard, the future of the EU as a normative power, or an upholder of the values it seeks to export to both member states and non-applicants, is called into question.

Serbia offers a unique perspective in part due to its nationalist predisposition towards preserving Kosovo, which has more often than not hindered and even suspended Serbia's Europeanisation process. Therefore, it can be argued that the various governments' policies towards retaining Kosovo are considered to be at odds with EU values and norms of democracy.[3] Hudson (2010) argues that the existence of the Kosovo issue "proves that Serbia's national identity is still based primarily in ethnicity as opposed to democratic civic norms" (p. 28). The thesis will seek to argue that this is present even in the pro-EU policies of the Serbian Progressive Party where EU integration was used as means to protect Serbian national interests in Kosovo and thus, did not represent congruence with EU norms and Serbian national interest and discourse. Therefore, the thesis will explore how Serbian government strategy under the Progressive Party towards European integration fits into the wider existing framework of the EU's conditionality mechanism where material incentives are the drivers of domestic change although this change may not result in an institutionalisation of norms. This rationalist approach considerably weakens the constructivist argument and the EU's capacity to expand while exporting its values.

1.3 Research Questions and Overview of the Methodological Framework

The main research questions that surround the focus of the overall thesis are:

- What is the Serbian government strategy, under the Progressive Party, towards EU accession?
- What are the implications of the political shift of the Serbian Progressive Party for Serbia's accession strategy?

Drawing on this, three more questions were developed to examine and analyse Serbian government strategy vis-à-vis European integration using a theoretical framework, which will be explored in depth in both the Literature Review and Methodology chapters.

- Is the Serbian government's accession strategy guided by a rationalist cost-benefit argument, based on material incentives arising from

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[3] This is relevant even today with the Serbian Progressive Party-led government despite its efforts to normalise relations with Kosovo as the case study on Kosovo will argue.

accession as opposed to the constructivist approach where EU norms are the drivers of change?

- Drawing on the two analytical frameworks of rationalism and constructivism, can the complexity of Serbian government strategy additionally be explained by a third approach to EU integration, one related to national as well as the political, party interest of the Serbian Progressive Party as posited by statecraft theory?

The recent scholarship on Serbia's EU integration process has attributed the political shift of the Serbian Progressive Party to rational choice institutionalism where the decisions and actions of the party and its leaders were guided by the material incentives EU accession would bring to Serbia (Ejdus 2014; Ejdus and Subotić 2014; Kostovicova 2014b; Bieber 2015; Economides and Ker-Lindsay 2015) . Given the nationalist background of the Progressives, the thesis will argue that the rationalist approach seems more appropriate in the Serbian case, as the expectation would be that Serbian national interests would predominate. This is in opposition to the constructivist argument where EU norms and values are the drivers of policy change. However, the complexities and contradictions of Serbian government policy vis-à-vis EU integration cannot solely be determined using rationalist theory; therefore, the research aims to contribute to the existing field of scholarship, by positing that electoral considerations based on Jim Bulpitt's (1986) concept of statecraft, were the main drivers of the pro-EU policy shift of the Serbian Progressive Party. The thesis will employ a case study approach in order to analyse the Serbian government strategy towards EU accession through forms of compliance (genuine, fake, partial, imposed, non-compliance) to EU conditionality in the areas of Kosovo and freedom of the media.

The two cases were chosen due to the presence of different external and internal actors where Kosovo as an area of foreign policy is expected to have numerous external actors (i.e. the EU, Kosovo, the international community), which would be expected to make non-compliance difficult to hide. Freedom of expression, on the other hand, is an internal issue and thus, the EU's capacity to enforce compliance with media freedom conditionality is limited. As a result, the presence of different internal and external actors in the two case studies are expected to produce different forms of compliance in each policy area. Arguably, the EU has placed both issues on top of its agenda, particularly with regard to Serbia's compliance with Kosovo conditionality as a precursor to regional stability. However, by analysing Serbian compliance to media freedom conditions, the

thesis will examine whether the EU has traded democracy for regional stability, thereby diminishing the rule of law in the Western Balkans and allowing applicant countries such as Serbia to join without adopting EU norms and values that are the building blocks of a consolidated democracy. As a starting point in examining the compliance patterns of the Progressives towards EU conditionality, the thesis attempts to analyse the trajectory of the former Radicals using Marko Stojić's (2013, 2014) theoretical framework of party attitudes towards the EU and Serbia's accession.

1.4 Theoretical framework: A study of party attitudes towards the EU and Serbia's EU membership

The following section presents an overview of Marko Stojić's (2013, 2014) conceptual framework for classifying Serbian political parties' position on Europe since 2000. He splits these into four categories: Hard Eurosceptic, Soft Eurosceptic, Hard Euroenthusiast and Soft Euroenthusiast. The parties that support Serbia's EU membership and the EU are characterised as Hard Euroenthusiasts, while parties that expressed a negative stance or attitude on both issues are categorised as Hard Eurosceptics. Parties which support Serbian EU membership but have a neutral position on the EU itself, or combine both positive and negative stances (on the EU), or have critical but not opposing attitudes towards the EU are termed Soft Euroenthusiasts, while those with similar attitudes towards the EU but who are opposed to Serbian EU membership are classified as Soft Eurosceptics (Stojić 2013, p. 137). Stojić's conceptual framework also aims to address whether parties' positions on Europe are ideologically- or strategically-driven. According to Stojić (2013), Hard Euroenthusiast and Hard Eurosceptic parties are primarily ideologically driven (p. 137). Drawing on this, Stojić (2014) further posits that "these parties are not likely to compromise on this issue and moderate their stances, even if the logic of party competition or an overwhelmingly pro-EU electorate creates incentives to do so. They are therefore not expected to change their negative position on Europe over time, although they may sometimes moderate rhetoric for strategic electoral reasons" (p. 62). However, in this case, Stojić does not take account of Bulpitt's (1986) statecraft theory where parties that are ideologically-driven may desire power, and are therefore likely to abandon party positions altogether or water down the party's principled ideology in exchange for popular support.

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On the other side of the spectrum, the attitudes of parties that are Soft Eurosceptic and Soft Euroenthusiast have primarily been pragmatically formed, meaning that these parties are guided by strategic, electoral considerations rather than ideological principles. Stojić (2013) argues "that this has been evidenced by the fact that they have fundamentally changed positions on Serbian EU membership in the past decade in an attempt to gain political power" which is elucidated by the concept of statecraft (p. 138). Soft Euroenthusiasts do not have a firm ideological view on European integration and thus they will assess Serbia's membership of the EU positively because they see it as profitable for their country or electorally desirable, meaning they would gain enough votes to secure their power and position in Parliament. The following table 1.1 presents an overview of Marko Stojić's conceptual framework for analysing political party positions in Serbia.

Table 1.1 Serbian Party Positions on the EU and Serbian Accession

Hard Euroenthusiasm: Principled pro-accession and support for EU	**Soft Euroenthusiasm:** Contingent pro-accession; neutral/moderate towards EU	**Soft Euroscepticism:** Contingent anti-accession; sceptical towards EU	**Hard Euroscepticism:** Principled opposition to the EU and Serbian accession
Democratic Party (DS) G17+ Liberal Democratic Party (LDP)	Serbian Progressive Party (SNS) Socialist Party of Serbia (SPS)	Democratic Party of Serbia (DSS) New Serbia (NS)	Serbian Radical Party (SRS) Dveri

(Source: Stojić 2014, p. 65).

For the purpose of the research, two parties: the Serbian Radical Party and the Serbian Progressive Party will be analysed. The Serbian Progressive Party is a relatively new party that entered the political scene when it was first formed in September 2008, and is the focus of this research as it is the current government under the Progressive Party leadership that is spearheading Serbia's European integration. The formation of this party, which had developed from a schism in the far right, nationalist Serbian Radical Party is crucial to understanding the significance of former Radicals that are currently leading Serbia's EU integration

process. A significant portion[4] of the Serbian Radical Party had shifted from being both against EU membership and the EU in general to developing a positive stance on the EU as well as Serbia's membership. This shift can be classified as moving from an ideological to a strategic position. The following sections provide a trajectory of the formation of the Serbian Progressive Party beginning with the schism of the Serbian Radical Party in 2008, and focuses on the political reorientation of the Serbian Progressive Party until the present day (i.e. 2017).

1.5 The Serbian Radical Party

1.5.1 Introduction

During the Wars of Yugoslav Secession from 1990-1999, the Serbian Radical Party (SRS, which was founded in 1991), advocated policies of extreme nationalism, including projects of carving out a Greater Serbia from the former Yugoslav republics, and advocating paramilitary operations of ethnic cleansing in Croatia, the Serb province of Vojvodina, Bosnia and Kosovo. Shortly after the wars and the NATO campaign in Kosovo in 1999, the Serbian Radical Party continued its nationalist tendencies even after its leader and president Dr. Vojislav Šešelj surrendered to The Hague to answer for war crimes/crimes against humanity for his actions in the Balkan War. The SRS, although never able to form a coalition government, had been part of the opposition and the largest party, which was strongly against EU policies and conditionality of cooperating with the International Criminal Tribunal for the Former Yugoslavia (ICTY), which included the extradition of war criminals. It was not until 2008 when a few dissident Radicals, including Aleksandar Vučić and Tomislav Nikolić left the party to form the new Serbian Progressive Party (SNS) that they began advocating Serbian EU membership. Initially, the Progressives were unable to claim victory in the May 2008 elections in which President Boris Tadić and the Democratic Party (DS) won. However, four years later, the former Radicals ousted Tadić and the Democrats in the May 2012 elections. Although with the Progressives, "many expected a slowdown in European integration, complication of relations with Priština and a potential U-turn towards Russia," the Serbian Progressive Party soon found themselves to be in the driver's seat of Serbia's European integration process, leading to the start of negotiations and the opening of eight chapters (Ejdus 2014,

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[4] Twenty of its members, including Vučić and Nikolić, had left to form the SNS in 2008.

p. 3). In the following section, we will use Marko Stojić's conceptual framework to present a brief analysis of the policies and orientation of the Serbian Radical Party.

1.5.2 Categorisation of the Serbian Radical Party according to Stojić's conceptual framework

It is difficult to categorise the Serbian Radical Party due to the intra-party power struggles which led to different, sometimes opposing attitudes towards the EU including Serbia's membership among the Radicals. Stojić (2013) argues that although the Radical Party's attitude towards the EU was largely absent from the party documents and public rhetoric prior to 2008, the party has always expressed firm opposition to Serbian integration into the EU, despite occasional moderation of its discourse in the mid-2000s, which would make it a Hard Eurosceptic party (p. 139). This represents an apparent contradiction. We argue that the moderated discourse of Serbia's membership of the EU occurred following the extradition of the party leader, Vojislav Šešelj to the ICTY when the party deputy president, Tomislav Nikolić and the secretary-general Aleksandar Vučić took over the party leadership. Both Nikolić and Vučić were pragmatic nationalists, and their attitudes towards both the EU and Serbia's EU integration can be described as strategic, due to concerns for electoral gains. It was under their leadership that in the 2003, 2007, and 2008 elections, the Radicals became the largest party in the parliament, securing up to 29% of the total votes (Stojić 2013, p. 140).

The winning of elections by the Radicals under the Nikolić and Vučić leadership was primarily due to a moderated nationalist rhetoric that emphasised socioeconomic issues (i.e. unemployment, privatisation and corruption) instead of ethnic nationalism, in addition to the party's decision to tone down its opposition to Serbian EU accession (Stojić 2013, p. 140). Nikolić even declared in the 2003 presidential election that "he and his party will provide a full contribution to Serbian accession to all European institutions and organisations, particularly the EU, but by preserving the Serbian identity, national pride, honour and dignity" (Komšić 2007, p. 15). Stojić (2013) additionally argued that the "strategic nature of the Radicals' rhetorical shift was, however, visible at times when electoral concerns were less important, that is in the period immediately after the elections" (p. 142). For example, with regard to Serbia's EU accession, Nikolić, as temporary speaker of the parliament in May 2007 argued that, Serbia should seek closer ties with Russia and not the West, and stated that Russia would bring together "nations that

will stand up against the hegemony of America and the European Union" (Radio Free Europe Radio Liberty 2007).

According to Stojić's conceptual framework, Hard Eurosceptic parties have negative positions towards Serbia's EU membership as well towards the EU. With regard to the Radical Party's attitude towards the EU, Stojić (2013) argues that the "absence of specifically anti-EU discourse can be explained by the fact that the essence of European integration was unknown to the Serbian public and voters, and therefore criticism of the EU could not bring considerable political gains, unlike a strong party objection to the EU's policy towards Serbia" (pp. 139-140). It had not been until the 2008 financial crisis when the Radicals began to think of the EU as a "failed experiment" that would only benefit the largest exporters. According to a Radical MP who had also joined the Progressive Party, Igor Mirović (2011), "the EU is only useful for western European members, while it is absolutely useless for Eastern Europe. The very evidence of the EU is the result of the interests of the largest exporters and in any case it is not in the interest of small nations" (cited in Stojić 2013, p. 140). Mirović posits that Serbia would fall into the nations that would not benefit from EU membership.

We have demonstrated the difficulty in firmly categorising the Radical Party into either Hard Eurosceptic or even Soft Eurosceptic due to the intra-party struggles and different attitudes of the leaders towards both the EU and Serbia's EU membership. However, we argue that the party's original leader Šešelj was a Hard Eurosceptic whose ideology was firmly rooted in nationalist, anti-Western principles while some of the other more dissident members like Vučić and Nikolić were more concerned with electoral gains and thus, their attitudes and decisions were based on strategic and not firm ideological reasons. Thus, although a good starting point, Stojić's framework does not take account that parties may shift their initial positions based on political pragmatism arising from a desire for power. It was strategic reasons that had led to the split of the Radicals in which some of the more dissident members of the party left to form the more pragmatic, pro-EU Serbian Progressive Party. This seems to suggest that the dissidents left to form a new party because the Radicals were Hard Eurosceptics who were ideologically-driven and therefore, not amenable to change.

1.6 The Schism of the Serbian Radical Party, 2008

The circumstances of the split between some of the more pragmatic Radicals (such as Nikolić and Vučić) and the Serbian Radical Party are crucial to

the understanding of this political shift of the SRS and the subsequent formation of the Serbian Progressive Party. The signing of the Stabilisation and Association Agreement with the EU was not the main reason for the split of the Radicals, but it had nevertheless been the catalyst (Gačevičovà 2014, p. 28). Nikolić, one of the more pragmatic Radicals, had promised the then ruling coalition that the Radicals would vote in favour of the SAA in 2008, with the amendment that included a clause emphasising that Kosovo was an integral part of Serbia.[5] Despite the approval of this amendment, Šešelj decided instead to not vote for the Agreement, causing discord among Nikolić and some of the dissident members of the Radical Party. Vučić had not been as outspoken as Nikolić regarding the signing of the SAA and subsequent split of the Radicals and remained in the middle between the SRS and Nikolić's "Forward Serbia" bloc. Nonetheless, he had decided to join "Forward Serbia" which would later become the Serbian Progressive Party. Even though Nikolić and the dissident Radicals who had joined the Forward Serbia bloc had decided not to vote for the SAA in the end, their initial position to support the signing of the SAA, suggests the beginnings of the party's shift towards a pro-EU policy.

Shortly after the formation of the Serbian Progressive Party in October 2008, the Progressives began advocating Serbian EU membership: "the party supports the European integration process aimed at institutional and economic strengthening of Serbia, and it believes that Serbian EU accession is in the best, long-term interests of all citizens" (Srpska Napredna Stranka 2011, p. 40). In relation to Kosovo, "[the Serbian Progressive Party's] initial programmatic principles declared that Serbia could only join the EU as a whole state, with Kosovo as its integral part" (cited in Stojić 2013, p. 147). However, the reference to Kosovo in relation to EU accession was later excluded from the party's programme and was also excluded from the 2013 party statute, which means that the party put priority on Serbia's integration into the EU and did not focus so much on keeping Kosovo as a part of Serbia. It had been a part of the EU's conditionality to resolve the Kosovo issue prior to accession and that Kosovo could no longer remain an integral part of Serbia, hence the party's focus and priority being on the EU.

However, the SNS did emphasise and repeatedly state in its rhetoric that recognition of Kosovo was not and would not be a condition for Serbia's EU

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[5] Nikolić was one of the dissident, more pragmatic Radicals who had left the SRS in 2008. Unlike Šešelj and the other non-dissidents, his policies were more strategically driven, and therefore, he was more amenable to change.

membership and if the EU ever put such conditionality on Serbia, the citizens should then be able to vote in a referendum on this EU decision (Srpska Napredna Stranka 2010a). This seems to represent a paradox as Serbian's non-recognition of Kosovo policy is the same as its declaration of accession to the EU as a whole state with Kosovo as its integral part. The omission of Kosovo in relation to Serbia's EU accession in the SNS party programme while at the same time repetitive claims that recognition of Kosovo would not be a condition for Serbia's EU membership demonstrates a strategy of pragmatic nationalism. In this regard, the Serbian Progressive Party is trying to appease both the EU and its nationalist constituency at home. This multilevel games strategy with regard to Kosovo has been the Progressive strategy since their entering into government following the May 2012 parliamentary elections, and will be examined in greater depth in the Kosovo case study chapter.

1.7 The Serbian Progressive Party, May 2012-2017

In this section, we analyse the period following the election of the former Serbian Radicals in May 2012 that ousted the democratic/European coalition. Leader of the Democrats and Serb President Boris Tadić[6] ruled the government under the "For A European Serbia" coalition, which won the parliamentary elections in May 2008, a major breakthrough in Serbian politics. Tadić's government was able to accomplish cooperation with the ICTY-part of the EU's conditionality-by arresting and extraditing the two remaining war criminals at large: Ratko Mladić and Radovan Karadžić. In March 2012, Serbia was granted candidate status, another major step towards membership that had mainly been advocated by the EU to offer further democratic support towards Tadić and his government "as the only hope for a reasonable, pro-western, pro-EU government for Serbia" (Vachudova 2014, p. 130). However, Tadić and his pro-EU government failed to convince the public why they should stay in power (Radeljić 2014, p. 244).[7] Despite warnings from the EU of the repercussions of nationalists coming into power, the Serbian Progressive Party had managed to win the parliamentary and presidential elections in May 2012, thus paving the way for a new government in which Nikolić became President of Serbia while Vučić became the leader of the

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[6] Boris Tadić was Serbian President from 2004-2012.

[7] Tadić's government was unsuccessful in resolving the country's economic decline; coupled with this, the intra-party struggles between members of the DS resulted in the overall party's failure to secure electoral votes in the May 2012 general elections.

Progressives. They entered into a coalition government with the Socialist Party of Serbia, New Serbia and G17+ while the Democrats became the opposition party (Stojić 2014, p. 14).

Shortly following the election of the Progressives, the new government remained committed to the continuation of Tadić's European policy, which is evidenced through both Nikolić's first official foreign visit to Brussels and the signing of the Brussels Agreement. The President of the European Commission at the time, Jose Manuel Barosso, indicated that Nikolić's visit was "a clear sign of the priority the President and Serbia attach to their European reform agenda" (European Commission 2012). The most significant step in the SNS's EU policy alignment was the signing of the Brussels Agreement on 19 April 2013 on the normalisation of relations with Kosovo, a key step for Serbia's membership prospects, signed between both the Kosovan and Serb governments under the auspices of the EU's High Representative for Foreign Affairs, Catherine Ashton. This decision allowed the EU to open accession negotiations with Serbia on 21 January 2014, leading to the opening up of the first two chapters: Chapter 32 on Financial Control and Chapter 35 on Kosovo (Poznatov 2015). It was also in 2014 when Aleksandar Vučić became prime minister in a snap election he called to boost legitimacy to carry out necessary reforms, which were mainly related to the EU and Serbia's economy (Poznatov 2014). His decision in carrying out a snap election was also a move to cement his power and diminish the power of the leader of the Socialist Party of Serbia, Ivica Dačić who had been Prime Minister at the time and became the Foreign Minister following the snap elections.

The political shift of the former Serbian Radicals to advocates of European integration can be described through the prism of rationalism and statecraft where their decision to reorient themselves towards the EU is mainly a result of their interest-driven motives in gaining political power. Statecraft posits that politicians are rational actors driven by self-interest and their perception of what national interests are, in order to demonstrate their governing competence to gain and then maintain power through winning elections. The support for the EU prior to the election of the Progressives as demonstrated in Figure 1.2 suggests that the newly formed party realised that adopting a pro-EU policy was the only hope in gaining electoral votes. Therefore, their trajectory was not a reflection of an "identity match" with the EU in the constructivist sense, where EU norms resonated with domestic policy and rhetoric; rather the political shift of the Progressives was solely based on pragmatism of the best way to attain power. The EU integration process became a means to achieve material economic benefits as was reflected in the

SNS's party programme in addition to protecting Serbian national interests vis-à-vis Kosovo.

Figure 1.2 Support for Serbian Accession to the EU
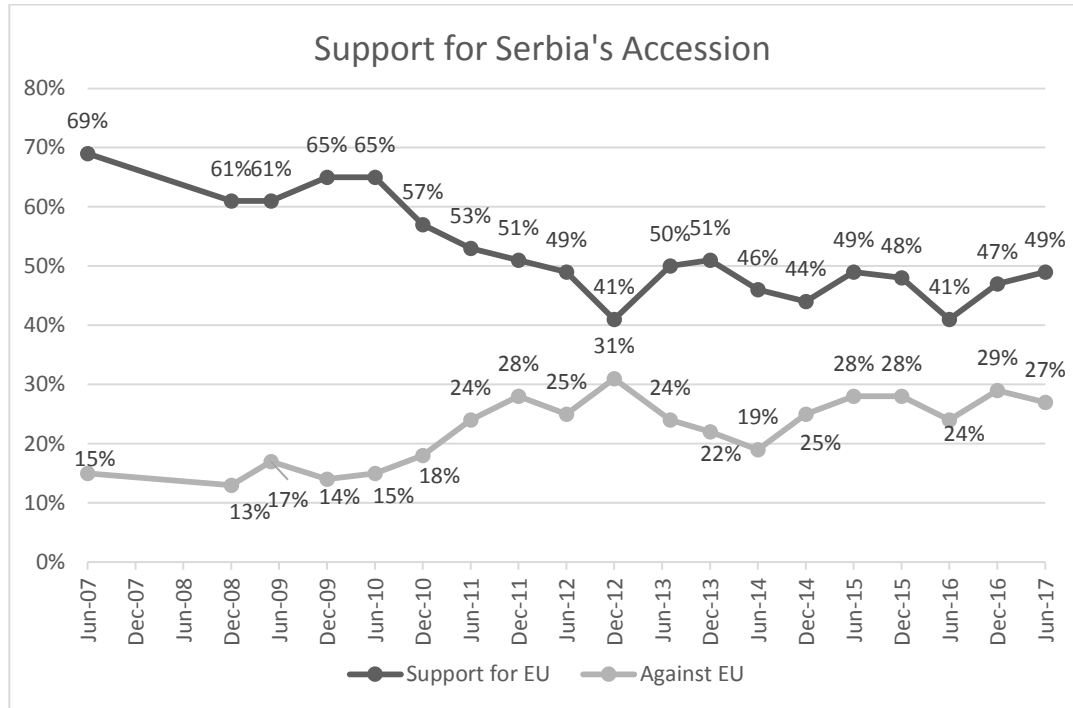
(Source: Government of Serbia, Ministry for European Integration 2007-2017).

Figure 1.2 depicts the high support for Serbia's EU accession prior to the Progressives coming to power in the May 2012 elections. Even following the elections and the formation of the Progressive-led party government post 2012, nearly half the population still supported Serbia's EU membership. Therefore, electoral considerations of choosing to support Serbia's EU integration and developing a pro-EU policy because Serbian EU accession was supported by half of the population was part of the winning electoral strategy that Progressives like Vučić and Nikolić advocated in order to win the May 2012 elections and consequently gain power. Both Vučić and Nikolić came to the realisation that the Serbian Radical Party had never been able to form a coalition in government, due to their anti-EU, hardline nationalist stance. Considering this, they realised long ago, after having left the party in 2008, that the only way to raise their popularity was to appeal to the electorate and they could not do so until they had abandoned the Radical anti-EU rhetoric. Nikolić also did not hide this fact when he stated that the SNS was a "pro-European party" and "if we stand against the EU, we will never be able to win the elections in Serbia" (cited in Stojić 2013, p. 147). Therefore, the

Serbian Progressive Party government led by Vučić promised not only to improve the economic situation but made promises towards strengthening Serbian ties with the EU and increasing the pace for Serbia's EU accession. According to Stojić (2013), their position on the EU was both neutral and negative while Serbia's membership was seen as positive and a primary goal of the government. The goal of EU accession is emphasised in the Serbian Progressive Party's programme titled, *The White Book: Programme to Change*: "the Serbian Progressive Party supports the process of European integration for the objective of institutional and economic strengthening of Serbia, believing that it is in the best, long-term interest of all our citizens" (Srpska Napredna Stranka 2011, p. 41).

The goal of EU membership was linked to economic prosperity, where in his inaugural speech, Nikolić mentioned that the European path represents the "path of the future, and the path of economic prosperity" (cited in Gačevičovà 2014, p. 32). A significant portion of the population in Serbia supported the EU integration process and believed it would lead to a better life, employment opportunities and economic benefits. Therefore, the policy shift of the Progressives towards a collective goal of Serbian EU membership can be seen from a rationalist perspective, where Nikolić, Vučić and the new government saw the potential material incentives (i.e. economic benefits) of EU membership as outweighing the costs of being left out of the EU in the long term. As Ivan Krastev (2011) stated,

> "the [2008] crisis in the EU has convinced Balkan publics that Brussels is not the Eden they hoped it would be, but at the same time the crisis made it more obvious than ever that the small and dysfunctional Balkan states cannot hope for a better future outside the European project… For the citizens of the Balkans it is clear that if they have any realistic hope of a better life and political stability, it is related to their countries' EU prospects" (Krastev 2011, p. 17).

This view was also reflected in a statement by Aleksandar Vučić who stressed the significance of accession to the EU:

> "I ask those who are against the EU today - because it was normal to be against Europeans at times when they were beating and killing our country - what will we do if they withdrew cross-border loans? What and whose money are we going to use to rebuild the economy? How are we going to open new factories? If someone tells me that all of this is possible without Europe, I congratulate him and give him power. […] I personally think that is impossible. We need Europe more than it needs us" (Srpska Napredna Stranka 2010b).

In line with the statecraft argument, SNS leaders saw the collective goal, economic prosperity, as best achieved through Serbia's membership of the EU, as it would

benefit the country and citizens and in turn, would potentially facilitate their re-election.

Referring once more back to Stojić's categorisation of the SNS as a Soft Euroenthusiast Party, part of the explanation for the trajectory of the Progressives was due to the pragmatic view of how to accomplish preconceived nationalist goals through EU membership. Such objectives could include the economic benefits accession would bring to a small and dysfunctional Balkan state like Serbia, where Serbia sees the EU as an important economic partner (Gačevičova 2014, p. 19). However, other goals of the Progressive Party are more strictly related to nation-building policies and protection of national interests (Srpska Napredna Stranka 2011, p. 3). For example, in the party programme, the SNS acknowledges that "its relations with other countries and international organisations directly depends on the success in the struggle for the realisation of their vital state and national interests in almost all fields" (Srpska Napredna Stranka 2011, p. 40). Accession to the EU, which is listed as a primary goal of the Progressive Party, would help the party to realise and protect their nationalist interests, predominantly when it came to the question of Kosovo.

The preservation of Kosovo remains vital to Serbian national interests, and has clashed on many occasions with Serbia's membership aspirations, resulting in the hindering and even freezing of EU negotiations in the past. Stojić (2014) argues that "the Serbian Progressive Party was not fully ideologically profiled" and that "its programme was not a reflection of any clear ideological concept" (p. 109). Furthermore, he posited that the shift of the political trajectory of the SNS represented a fundamental ideological transformation from being former nationalists and Eurosceptics to advocates of European integration. This would seem to suggest that the party is devoid of any deeply rooted nationalist ideology. This thesis argues that the SNS's uncompromising non-recognition policy of Kosovo coupled with using the EU integration process to protect Serbian national interests in Kosovo, indicates that nationalism still remains grounded in the Progressives' ideology.

The type of Serbian ethnic nationalism vis-à-vis Kosovo can best be attributed to Hobsbawm's (1983) definition of a nation as an "invented tradition" that establishes continuity with a suitable past and "uses history as a legitimator of action and cement of group cohesion" (cited in Özkirimli 2010 p. 94). In this regard, the 1389 Battle of Kosovo, central to Serbian nation-building aspirations, has been used repeatedly throughout history to legitimise Serbia's claim over its southern province. Serbian national identity is encompassed by the Kosovo myth,

as the case study chapter on Kosovo and methodological chapter will examine. This myth alludes to the sacrifice and victimisation of the Serbian people under the Kosovan Albanians. Armstrong (1982) argues that myths, which imbue a nation with its identity, "are usually more persistent than purely material factors" in ethnic nationalisms and argues that these myths can be transferred for political purposes" (cited in Őzkirimli 2010, pp. 146-147). Since Milošević, the Kosovo myth has been evoked by each consecutive Serbian government to justify domestic policy with regard to Kosovo, including control over the North where there remained a Serb majority. Serbian ethnologist Ivan Čolović (2002), remarks that "the use of symbols in politics is not just a means for achieving and maintaining political power" but rather that "the power over the use of symbols is an integral part of political struggle" (cited in Vujačić 2003, p. 95). This type of nationalism embodied by the Kosovo myth is still present in the Progressives' ideology and domestic policy vis-à-vis Kosovo. However, the thesis argues that with the increasing EU demands to normalise relations with Kosovo, it became imperative for the Progressives to find a way to manage both tensions in order to appease both the EU and progress forwards in the accession negotiations while at the same time satisfying their nationalist constituency at home.

The 2013 Brussels Agreement, which both the Serbian and Kosovan governments signed under the auspices of the EU, was an example of protecting Serbian national interests through international mediation. According to Ejdus (2014), through this Agreement, the Serbian government under the Progressives not only avoided recognition of Kosovo as the Brussels Agreement maintains the notion that Kosovo is status neutral, but also "Serbia effectively used political dialogue to the benefit of Kosovo Serbs" (Ejdus 2014, p. 6). The objective of the Brussels Agreement was to normalise relations between both Kosovo and Serbia in a way that would resolve the issue of the North, an area where there is a dominant Serbian majority and where Serbs have clashed with Kosovar Albanians. The cornerstone of the Brussels Agreement was the establishment of the Association of Serbian Municipalities, whose aim was to protect Serbian interests in Kosovo. Therefore, the Serbian Progressive Party's orientation to that of a Soft Euroenthusiast party as elucidated by Stojić, seems to suggest that this political shift from Hard Euroscepticism to Soft Euroenthusiasm is not incompatible with nationalism. The Progressives see Serbia's membership as a means to achieve preconceived nationalist goals, primarily the protection of Serbian interests in Kosovo, which would also include the continuation of Serbia's non-recognition policy on Kosovo. Kuzio (2000) defines pragmatic nationalists as

"nationalists who prioritise sovereignty and seek to defend by all means state and national interests" (Kuzio 2000, p. 83). Although Light (1996) has pointed out that "pragmatic nationalists represent the standard view one might expect the foreign policy elite to hold in any country," this particular brand of nationalism can lead to ethnic hostilities especially if a country like Serbia perceives its national interests vis-à-vis Kosovo as threatened by another state or nation such as the Kosovan Albanians in the central government in Priština (cited in Kuzio 2000).

The Serbian government had also successfully used the Brussels Agreement to open accession negotiations in 2014; however, despite the initial success, the Agreement still did not entail recognition of Kosovo's independence by Serbia and there are some ambiguities in the formal text that could be wilfully misinterpreted by both sides. This means that the ambiguity of the agreement allowed for both sides to interpret what they have signed in starkly different ways and in line with their own preferences as will be examined in the chapter on Kosovo. This is a consequence of the EU's own constructive ambiguity in which the EU prompted both Serbia and Kosovo to normalise relations in a way that would ensure lasting political stability, good neighbourly relations and regional cooperation, but avoiding the status issue entirely. Such a deliberate attempt on the EU to fudge this issue allowed Serbia to continue to officially not recognise Kosovo as a state in addition to allowing both sides to come to different interpretations which would have consequences later in the accession negotiations. According to Subotić (2014) "Kosovo interpreted the agreement as Serbia's *de facto* acceptance of Kosovo's sovereignty" while "Serbia, however, understood the agreement as the continuation of the status quo, allowing Serbia more control within Kosovo" (p. 18). The reaction to the Brussels Agreement was therefore, an example of this pragmatic nationalism on behalf of the Progressives where the Agreement allowed for the Serbian government to protect their national interest through EU integration.

To sum up, the thesis will argue that the pro-EU reorientation of the Serbian Progressive Party can best be explained by rationalism where the Progressives see the economic and social benefits tied with EU accession as greater than the costs of being left out of the EU entirely. Therefore, the interest in the material incentives, that is the economic prosperity of Serbia vis-a-vis EU accession, was a principal motive for the adoption of a pro-EU policy. Economic prosperity became linked to national interest in addition to the question over Kosovo. The Serbian elites viewed EU integration as a means of achieving a collective goal of protecting their interests in Kosovo, including their non-recognition policy as they managed

to realise through the Brussels Agreement. The pro-EU policy shift was thus not a means to *Europeanise* Serbia in the constructivist sense where EU norms and patterns of behaviour would be adopted and internalised into society and political elites' attitudes would be transformed into a European way of thinking, but instead, focused on *Serbia's EU membership* according to a careful cost-benefit analysis as rationalism posits. This is evidenced in a statement regarding the EU by Progressive Party leader Aleksandar Vučić: "I do not care for them. I just respect them. I neither love them nor are they particularly dear to me, but we, as responsible people, have to take care of our country" (Srpska Napredna Stranka 2010b). He also added that, "we need a rational, realistic and serious approach to national politics in order to get the most we could for the country and lose the least" (Srpska Napredna Stranka 2010b). The logic of appropriateness, related to constructivist theory, assumed that political actions are influenced and determined by the identities, norms, values and rules that make up the EU. March and Olsen (1989) argue that "the actions of the agents are determined by a rule-based search for legitimate or appropriate behaviour in a particular situation and the role that the agent fulfils" (cited in Gačevičova 2014, p. 11). This was not the case in Serbia where, instead, the Progressives' motivations were driven by the logic of consequences, in the calculation of benefits and losses resulting from EU membership.

However, the analysis can be developed on another level to argue that statecraft complements rationalist theory in explaining the policy shift of the Progressives. The Radical Party remained in the opposition because of their radical ideology and hardline nationalism, which included an anti-EU stance at a time when there was a majority support for Serbia's EU integration. This had originally prompted some of the more dissident Radicals to leave the party and abandon the Radical rhetoric for a more pro-EU policy, thus cementing their victory in the May 2012 Serbian parliamentary and presidential elections. Serbia's EU integration also became a policy tool by which to achieve not only the long term goal of membership, but was also used as a means to protect national interests in Kosovo. Therefore, we argue that the Progressives are pragmatic nationalists who saw a pro-EU campaign as part of a strategy that would raise their popularity and allow to them to win elections and maintain their power, as the statecraft argument would posit. As a consequence, the political shift of the Progressives did not represent a real ideological change and thus, represent a paradox of former Radicals spearheading Serbia's EU integration. Rather, as Stojić (2018) argues, the political shift of the Radicals to start advocating Serbian accession to the EU,

can be primarily interpreted as "the result of electoral tactics to come to power, secure political future and obtain 'European legitimacy'" (p. 78). The government's goal to achieve European legitimacy represents a paradox especially given the declining media environment in Serbia where the Progressives' and Vučić's autocratic control over the media outlets and continuous attacks on journalists seems to suggest that EU norms and values were not being accepted or adopted. The Progressives were instead focused on the implications of obtaining EU membership for a small and economically dysfunctional country like Serbia and the subsequent benefits arising out of accession in terms of maintaining power and enjoying popular support. Hence, their motives did not follow the logic of appropriateness where their actions and decisions were guided by the influential power of EU norms and values but rather the rationalist logic of consequences in maximising benefits in terms of power or EU rewards (i.e. economic benefits).

Returning to Stojić's four categories of party attitudes towards the EU and EU integration, the Progressives' stance and change in attitude and party orientation was primarily strategically-driven based on rationalist cost-benefit calculations of what would help them realise their nationalist goals and achieve power. Stojić even goes on to term the Progressives as "Unproven Europeans." This is because "the party has never articulated attitudes towards the EU, since its focus was on Serbia's EU membership" (Stojić 2013, p. 146). He further argues that, "one cannot expect any reflection on the principles of European integration given that it is a new, pragmatic party, whose politics towards the EU is devoid of principled positions on the desirable form of a community that brings together European nations" (Stojić 2013, p. 146). "Its Euroenthusiasm was therefore instrumental, and there was no evidence that the EU had any intrinsic value for the party" nor did the positive identification with the EU mean that Serbian identity was being transformed to reflect EU norms and values (Stojić 2014, p. 142). The presence of the Kosovo issue in Serbian domestic policy and discourse is testament that Serbian identity was still based on ethnic nationalism rather than democratic civic norms with regard to freedom of expression. However, this type of nationalism had been radically transformed from being the destructive, hardline nationalism evoked by the Serbian Radical Party to becoming more pragmatic, where EU integration was used as a policy tool by the dissident Radicals to achieve preconceived nationalist goals vis-à-vis Kosovo.

Additionally, evidence of the party's concern for electoral gains as the primary motivation for their political shift and adoption of a pro-EU policy is reflected in its objective of accommodating both nationalists as well as pro-EU

voters. Stojić argues that for this reason the Serbian Progressive Party can be classified as a "catch-all" party, "driven to reach out to Eurosceptic and pro-Russian segments of the electorate in order to maximise its electoral gains. (Stojić 2016). The desire to appeal to both the nationalist segments of the population and their pro-EU electorate is also visible in its policies on Kosovo as we will examine in the case study chapter on Kosovo. The next section presents the outline of the chapters.

1.8 Chapter Outline

This thesis is divided into two major parts. The first part constitutes the introductory chapter, the literature review where we present the theoretical framework that will be used for the main case study chapters and the methodology where we develop and introduce the hypotheses that will be tested. The second part includes the two main case studies of Kosovo and media freedom, and the concluding chapter. The case study chapters constitute the application of the theoretical framework and the testing of the hypotheses. The entire research study is based on Serbian government patterns of compliance to EU conditionality with regard to Chapter 35 on Kosovo and media freedom as outlined in Chapter 23 on Justice and Fundamental Rights.

In this introductory chapter, the research identified the aims, focus and central arguments based on the research questions the thesis will explore. The second part of the introduction analysed the trajectory of the Serbian Radical Party to the Serbian Progressive Party which developed as a result of schism in the Radical Party. We examined this trajectory using Stojić's (2013, 2014) theoretical framework for classifying party positions on Europe in order to explain the shift from the Hard Euroscepticism of the Radicals to the Soft Euroenthusiasm of the Progressive Party. Additionally, we explain this political shift through the prism of rationalist and statecraft theory where the reorientation of the former Radicals to support for the EU and Serbia's accession was mainly due to strategic reasons resulting from electoral concerns and the desire to come to power because EU membership was supported by more than half the population. EU integration leading to accession was also seen as a mechanism by the Progressives to protect national interests such as those with regard to Kosovo, thus, accession to the EU was not incompatible with nationalism. This raises questions over whether this political reorientation really represented a paradox of former Radicals

spearheading Serbia's EU integration or whether this was just pragmatic nationalism at best.

The second chapter is divided into two parts, the first part laying out the analytical framework with the second part focusing on the literature around Serbia's European integration process. The first part will review the existing literature and attempt, through this, to explain EU integration and state/government actions and strategies in relation to Europeanisation. It will do so by looking at the literature on democratisation and Europeanisation; compliance with the EU's conditionality (fake, genuine, imposed, partial or non-compliance) as well looking into the theoretical literature on European integration theory (constructivist-rationalist argument) in order to develop and test hypotheses. Additionally, because theories of European integration and patterns of compliance are insufficient in explaining Serbian governments' strategies towards EU integration and compliance to EU conditions, the thesis also examines a third approach related to Jim Bulpitt's (1986) concept of statecraft. The second part of the literature review chapter will additionally analyse the recent, existing literature on the Serbian Progressive Party's strategies towards European integration. Then it will address the gaps in the current state of research on Serbia's EU integration, and how the thesis aims to contribute to the existing literature through the application of additional theories to explain the complexities and contradictions of Serbian government strategy vis-à-vis EU integration.

Chapter Three will deal with the methodology of the research. It will establish the approach of using two similar case studies of Kosovo and media freedom in order to test the initial hypotheses. Both cases are similar because, according to Mill's (1843) method of difference, a most similar systems design seeks to identify the key features that are different among similar case studies and which account for the observed outcome (Esser and Vliegenthard 2017, p. 6). The methodology also seeks to identify the different variables used in the study, including the explanatory variables that are expected to cause the different outcomes (i.e. forms of compliance) in both cases. Semi-structured interviews as well as primary and secondary sources ranging from journal and scholarly articles, press reports, EU documents, newspapers, government progress reports and Action Plans will be used in order to test the hypotheses. An in depth discussion on the use of content analysis will also be provided as the methodological approach used for analysing interviews and primary as well as secondary documents.

Chapter Four will then go on to offer analysis of the first case study, on Kosovo. In this chapter, we provide an analysis of the Brussels dialogue on the comprehensive normalisation of relations between Kosovo and Serbia, which forms much of the interim benchmarks for Chapter 35 in the accession negotiations. We will test for the type of compliance through comparing these benchmarks, (EU conditionality), alongside EU progress reports and both Kosovan and Serbian government progress reports. A number of additional evidence to support our findings will also be analysed which include data gathered from semi-structured interviews with representatives from the Kosovan government, NGO members and officials from the European Commission, EULEX and the European External Action Service, in addition to press releases from the European Union. We will also apply our theoretical framework from the literature review to offer an explanation for Serbian government strategy vis-à-vis Kosovo.

Chapter Five will analyse media freedom in Serbia. In this chapter, the focus will be more on issues related to transparency of the media (including in ownership and financing) and government interference in media outlets. This chapter will examine the latest media laws adopted by the Serbian government in 2014 and the government Action Plan for their implementation. It will compare and contrast the EU conditionality stemming from Chapter 23 on Justice and Fundamental Rights with the government's Action Plan in order to test for the type of compliance the Serbian Progressive-led government is practicing, including the political reasoning behind such a strategy. A variety of reports from journalists' organisations and interviews conducted with media analysts and journalists will be analysed to support the findings in this policy area.

The conclusion, Chapter 6, will analyse how the research fit into the wider scholarship and debate on the EU's conditionality-driven approach using Serbia as an examination of this issue and the problems this may cause for the EU in the long term. It will summarise the findings and provide a discussion on the current state of Europeanisation in Serbia, including the sustainability of its position on Kosovo. Finally, the thesis will discuss future directions for research, with a focus on examining how the single case study on Serbia can be applied to other applicant states that are also illiberal democracies, thus questioning the EU's legitimacy as a normative power.

Chapter 2: A Review of the Literature

2.1 Introduction

In the last chapter, we presented a historical overview and background on the Serbian Progressive Party and their ambition and strategy in positioning themselves as a pro-European party and one that has achieved the most when it comes to EU integration as opposed to all of the other previous ruling parties in Serbia since 2001. The focus of this chapter will be a review of the existing literature and through this, we examine EU integration and state/government actions and strategies in order to develop a theoretical framework for our case studies. We begin by explaining the process of and defining the term Europeanisation, where the EU acts as an exporter of values, policies and norms which acceding countries and even those not pursuing membership, will adopt and implement into their own national government structures. In the following section, theories of European integration are provided to explain this process of Europeanisation as well as to analyse the EU integration process in relation to state/government actions and strategies. In other words, this section will address why states/governments react or comply with conditionality imposed on their countries' individual processes of EU integration. Here we look at European integration theories of neofunctionalism, intergovernmentalism, constructivism, neorealism, rationalism and discursive institutionalism and decide which ones are a best fit for our theoretical framework and dismiss those which are not. Because some theories of EU integration are insufficient when examining Serbian government strategy, we also examine a third approach related to Bulpitt's (1986) concept of statecraft.

The next section will analyse how states use different strategies (patterns of compliance) to comply with the EU's accession conditions based on the socialisation and conditionality models (which are related to the rationalist and constructivist theories). Here, we examine and offer an analysis of the different types of compliance patterns and explain how certain actors will comply with EU conditionality based on rationalist decisions (cost-benefit analysis) and/or constructivist decisions based on legitimacy of the EU conditions. The final section will provide an analysis of the literature on Serbia, the gaps in the literature, and how the research study seeks to fulfil the existing gaps.

2.2 Europeanisation and Democratisation

The processes of Europeanisation and democratisation often go hand in hand. The term democratisation via Europeanisation is a term that describes the process whereby states will democratise by adopting the EU's distinctive structures of governance. Bacarani and Di Quirico (2005) consider "the interdependence between Europeanisation and democratisation, more precisely, the role the Europeanisation process plays in the consolidation and orientation toward the EU model of democracy of the newly admitted and neighbouring countries" (p. 11). According to this analysis, third countries and those aspiring to join will democratise by adopting the EU's distinctive structures of governance and these can take many forms: "political, legal, and social institutions; norms, guidelines, discourses; policy networks specialised in rule creation and enforcement toward the EU model of democracy of the newly admitted and neighbouring countries" (Bacarani and Di Quirico 2005, p. 11). Pridham (2010) argues that there is a strong relationship between conditionality stemming from the EU and post-communist democratisation, which started with the Central and East European countries (CEECs) in the 1990s after the fall of the Berlin Wall and ultimately, communism. It is a potentially reinforcing process because conditionality and Europeanisation reinforces the drive and will of the accession countries to democratise and consolidate their democracies because of a desire to join "Europe" and be "one of them." Thus, they will submit themselves to a wide range of EU conditionality albeit with some compulsion as will be discussed at length further in the chapter. Furthermore, according to Pridham (2010), political or democratic conditionality and democracy promotion became significant in the post-Cold War period and there is a growing literature to support this argument (p. 447).

There are many different definitions of Europeanisation and what this may entail. According to Radaelli (2003), it is defined as:

> "processes of (a) construction, (b) diffusion and (c) implementation of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things,' and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic discourse, identities, political structures and public policies" (p. 30).

Since the EU has always been seen as the centre of the debate around this dynamic process, it has often been termed as "EU-isation" (Anastasakis 2005, p. 78). Furthermore, Tanja Börzel (2003) states that Europeanisation is a two-way

process: the bottom up approach, which she also terms as uploading, is about constructing the EU system of governance and focuses on the role of national governments and to what extent they shape or take policies. The second approach is the top down approach, which she termed as downloading, which is about the domestic impact of EU policy. According to Pridham (2010), the EU seeks to impose Western norms on newly democratising societies irrespective of whether they are suitable (p. 447). In this way, the EU is coercing the states to adopt EU policies or to comply with conditionality and other demands. However, there is a third way or dimension of Europeanisation, where political actors will choose to make a move towards the EU to demonstrate governing competence which is related to Jim Bulpitt's (1986) concept of statecraft that will be discussed towards the end of the chapter.

Olsen (2002) describes five different processes of Europeanisation which include: "changes in external boundaries," "developing institutions at the European level," "central penetration of national systems of governance," "exporting forms of political organisation" and "political unification project" (pp. 923-924). "Changes in external boundaries" is taken to mean the extension of policies, rules, institutional arrangements, and values in the new member states. An example of this would be the accession of Bulgaria and Romania in 2007 and the last enlargement process with Croatia acceding in 2013, where the EU policies were extended to the new member states. "Developing institutions at the European level relates to the idea of central governance capacity in the EU, with its implications of constraints and opportunities for actors at the domestic level" (Bulmer 2007, p. 47). "Central penetration of national systems of governance is the core usage of Europeanisation and covers adjustment processes in respect of institutional structure, policy, patterns of behaviour, etc. at lower levels of the multilevel EU political system" (Bulmer 2007, p. 47). This means the ability of member states to adopt the EU's policies and "adjust" their national institutions in order to accommodate EU rules and patterns of behaviour. "Exporting forms of political organisation" is defined as the EU seeking to export its values and norms to countries not seeking membership through means and policies such as the European Neighbourhood Policy for example and other association agreements. "Political unification project" refers to how "the degree to which Europe is becoming a more unified and stronger political entity is related both to territorial space, centre-building, domestic adaptation, and how European developments impact and are impacted by systems of governance and events outside the European continent" (Olsen 2002, p. 924). All five of these elements relate to the

Europeanisation process and explain how the EU extends its norms and policies to acceding and non-acceding countries and how in turn, the applicant/non-applicant countries adopt and adjust to the EU's rules and policies. For the purpose of our research, we focus on Europeanisation as the impact of the EU on applicant states in the formal accession process. In this regard, this implies how applicant states with a 'European perspective' adopt and employ strategies towards EU integration. This concept of Europeanisation alludes to the fact that the EU employs its carrot-and-stick conditionality approach to pressure applicant states into compliance with EU demands. However, while conditionality forms a significant aspect of the accession negotiation process, it does not necessarily equate to Europeanisation as a process "centred around the gradual adoption of European norms and values and of basing decisions on, and taking decisions in, a 'European way'" (Economides and Ker-Lindsay 2015, p. 1030).

Economides and Ker-Lindsay (2015) make the distinction between Europeanisation as a process versus Europeanisation as a *policy*. They note the already growing body of literature that defines Europeanisation as a process, and according to Radaelli (2003) "it is a process of change that transcends the conventional legal and political transformations that occur through the technical process of integration centred on the *acquis communautaire*" (cited in Economides and Ker-Lindsay 2015, p. 1029). The growing literature has also led to the development of the notion of Europeanisation via enlargement. However, as Economides and Ker-Lindsay (2015) argue, there is an increasing danger in equating enlargement with Europeanisation as the latter will then lose its original and distinctive meaning [of Europeanisation] as a process about the general adoption of European norms and values (p. 1030). They further posit that "it is no longer necessarily about convergence, or adaptation, or socialisation, or absorption, or about 'the adoption of EU norms on a given issue ... for the purposes of EU integration'" (Economides and Ker-Lindsay 2015 p. 1030). Instead, Europeanisation in this regard is viewed as the act of fulfilling conditions required for membership as laid down by the EU. Economides and Ker-Lindsay (2015) argue that "Europeanisation is thus a conscious policy, relying on external incentives of the carrot-and-stick variety (conditionality) which are based on a cost–benefit calculation" and which follows the rationalist institutionalist approach based on the 'credible external incentives underpinning EU conditionality'" (pp. 1030-1031). Börzel and Risse (2011) posit that this suggests that, "candidate countries have to Europeanise as a condition and not a consequence of membership" (cited in Economides and Ker-Lindsay, p. 1031). We argue that this

type of rational institutionalist Europeanisation has been evident in the growing literature pertaining to the Central and Eastern Countries and is also applicable to the Western Balkans, in particular for our research on Serbia.

Börzel and Risse (2003) discuss the three different degrees of domestic change of politics, polity and policies in response to Europeanisation: absorption, accommodation and transformation. In the process of absorption, member states absorb policies and ideas into their domestic structures without modifying existing processes, policies and institutions and therefore, the degree of domestic change is low. In terms of accommodation, they may adapt existing processes, policies and institutions, in which the degree of domestic change is modest. Finally, transformation occurs when they alter existing processes, policies and institutions or even entirely replace them, in which the degree of domestic change is high (cited in Obradović-Wochnik and Wochnik 2012, p. 1161). As Börzel and Risse (2003) argue, in transformation, the member states or candidate countries may succumb to the pressures of Europeanisation (cited in Obradović-Wochnik and Wochnik 2012, p. 1161). Such countries have not only implemented policies but have adopted the EU values as well as norms and policies into their own national government structures. They have complied with the EU conditionality in addition to having adopted the patterns of behaviour and values that make up the EU. We will seek to argue that absorption and accommodation of EU policies are the norm in Serbia because the degree of domestic change in response to EU conditionality in Serbia is low or modest depending on the policy area (i.e. Kosovo versus media freedom). In the next section, we examine the EU's external governance model underpinning conditionality.

2.3 The EU's 'Governance through Conditionality' Approach

Enlargement has often been claimed as the EU's most successful foreign policy tool, contributing towards "democratic consolidation, respect for human rights, minority protection, conflict resolution, and stability" (Schimmelfennig 2008, p. 918). This has been particularly evident in the case of the Central and Eastern European countries that began their individual integration and accession process shortly following the fall of communism in 1989, and that had joined the EU in the 2004 and 2007 enlargements respectively. The EU's political accession conditionality has been viewed as being the pillar of this success, bringing about domestic change in candidates and encouraging the alignment of their interests with EU reforms as posited by Grabbe (2001) and Vachudova (2001) (cited in

Noutcheva 2012, p. 18). The scholarship on Europeanisation relates the EU's conditionality-driven approach with that of the EU's external governance model associated with rule transfer to applicant or third countries vis-à-vis conditionality. Schimmelfennig and Sedelmeier (2004) posit that "the dominant logic underpinning EU conditionality is a bargaining strategy of reinforcement by reward, under which the EU provides external incentives for a target government to comply with its conditions" (p. 662). In this regard, the EU sets demands or rules in the form of conditions applicant states have to comply with in order to receive the expected reward. Noutcheva (2012) posits that the EU can also withhold rewards or benefits rather than punish applicants for non-compliance which some scholars (Sedelmeier et al. 2006) have referred to as "reactive reinforcement" (p. 22). Such rewards could include the access to the EU's structural funds, the opening and closing of chapters in the accession negotiations leading towards membership, and other institutional and assistance ties ranging from trade to co-operation agreements via association agreements.

Given the fact that applicant states wishing to join the EU are rationalist actors who are interested in the maximisation of their own power and welfare as Schimmelfennig and Sedelmeier (2004) argue, they will only comply with EU conditions if the benefits of EU rewards exceed domestic adoption costs (pp. 663-664). Schimmelfennig and Sedelmeier (2004) further posit that the effectiveness of rule transfer depends on the determinacy of conditions, the size and speed of rewards, the credibility of threats and promises and the size of adoption costs (p. 664). *Determinacy* generally refers to both the clarity and formality of a rule where applicant countries are more likely to adopt conditions if they are clear on what they exactly are and what they have to do in order to receive the intended rewards. Also, if the EU conditions have a legal basis, the target governments are more likely to adopt them. Regarding the *size and speed of rewards*, applicant countries are more likely to adopt rules if they lead to large rewards such as the promise of eventual accession as opposed to an association agreement. In addition, target governments may be less likely to adopt the conditions quickly if the timescale of delivering the rewards is significant. Generally speaking, a country is more likely to comply with EU conditionality closer to membership. In terms of the *credibility of conditionality*, the EU must be able to withhold the rewards in the case of non-compliance as well as being capable of paying the rewards for compliance otherwise the target governments may be unlikely to adopt the rules. Finally, veto players and adoption costs can also have an impact on the effectiveness of rule transfer. Adoption costs can relate to anything from foregoing alternative rewards

offered by adopting rules other than EU ones to welfare and reputational costs for political actors which will be discussed in more detail in the section on rational choice institutionalism. Although these costs can be balanced by EU rewards such as the promise of accession, veto players (or "actors whose agreement is necessary for a change in the status quo") can choose not to comply with EU conditionality if they deem the costs as being too high. Therefore, Schimmelfennig and Sedelmeier (2004) posit that "the likelihood of rule adoption decreases with the number of veto players incurring net adoption costs" (p. 667).

Although applicant states may comply with EU rules if they are persuaded by their legitimacy and the "appropriateness" of their adoption according to the social learning and lesson drawing models, Schimmelfennig (2008) argues that these models are generally insufficient "to overcome domestic resistance against the adoption of democratic and human rights norms" (p. 920). Thus, the EU's carrot-and-stick conditionality approach has proven to be far more successful when it comes to rule adoption by applicant countries. This has been particularly evident in the case of the CEECs and the Western Balkan candidates and member states whose motives for domestic change were driven by the external incentives underpinning EU conditionality rather than any social learning or lesson drawing models where norms and values were considered to be the drivers of domestic change. In the next section, we examine theories of European integration, to explain why applicant states will employ strategies and make decisions to integrate.

2.4 Theories of European Integration

2.4.1 Neofunctionalist and Intergovernmentalist theories

Neofunctionalism is an attempt to theorise the strategies of the founding elites of post-war European unity and the subsequent development of the EU (Rosamund 2000, p. 51). Neofunctionalist theory primarily focuses on deepening the EU with regard to economic integration and spillover: the integration of economic sectors in areas of low politics such as coal and steel, for example would lead to further integration or a spillover effect in other economic sectors. Furthermore, a supranational organisation such as the EU is created and appointed to oversee this integration process. Moravcsik (an intergovernmentalist) coined, neofunctionalist theory as "supranationalist institutionalism" (Rosamund 2000, p. 142). The theory began as an attempt to explain post-war Europe when

the founding fathers of the European Community (EC), Jean Monnet and Robert Schuman, came up with a way to reconcile Germany and France by pooling their coal and steel sectors, thus ensuring peace and political stability. Franco-German reconciliation and the development of a European Coal and Steel Community was an example of this type of spillover according to which integration would deepen from economic to political and the result would be a union of states or the European Community.

The EMU or European Monetary Union is a perfect example of neofunctionalism and especially spillover. The idea of an EMU had been discussed as far back as 1956 in the negotiations on the Treaty of Rome but it was the Maastricht Treaty (1992), which set out the plan for economic and monetary union (Hix 1999, p. 282). The plan was split up into three stages which included establishment of free capital movement and the beginning of macroeconomic coordination between member state governments in the first stage; reform of the Treaties and the establishment of a European System of Central Banks overseen by the European Council and Parliament in the second stage, the fixing of exchange rates as well as the establishment of the European Central Bank with the goal of maintaining price stability in the third stage (Hix 1999, p. 283). In the final stage, the single currency, the "euro", was established. States integrated and ceded power as well as some degree of control over their own economies and national currencies in order to gain economic security. This was a primary example of economic integration and spillover as member states sought to integrate their economies and currencies into the EMU. Moreover, the Copenhagen Criteria also established as a condition a participation of a minimum of two years in the European Exchange Rate Mechanism (ERM II) in which candidate countries demonstrate economic convergence by maintaining limited deviation from their target rate against the Euro. Furthermore, there is also a spillover into social policy as well, as states coordinate their own domestic, social policies with the EU. However, social policies are still mainly in the hands of the member states but there are some directives in employment rights made by the EU. Although social and labour market policies are generally in the hands of the member states, they are constrained by the EMU. Social policies could include welfare, pensions, education and even employment/unemployment.

Geographic spillover is another type of process in relation to neofunctionalist theory where blocs and supranational organisations such as the EU create centripetal forces that draw in other states as they create public goods that are too attractive to resist (for example, free trade, security, movement of

persons, etc.) However, this also seems to suggest that states passively accept such forces and do not elaborate their own strategies in line with their interests for joining/not joining, hence, a geographic spillover. This relates to the theory of public goods. According to Moravcsik, "geographic spillover only applies when closer cooperation causes negative externalities for outsiders. In the case of positive externalities, the threat of exclusion is bound to become powerless" (cited in Kolliker 2006, p. 38). That is to say, if some states integrate, then those outside the 'club' will seek integration if they are negatively affected by the formation of an integrated bloc – i.e. geographic spillover will occur. If, on the other hand, they benefit from being outside of the bloc, then any threat of exclusion from the bloc/club is meaningless, so there will be no rationale to integrate – i.e. no geographic spillover.

Neofunctionalism is a supranationalist theory, focusing mainly on economic integration, and spillover into other policy areas, of EU member states and applicant countries. It does explain why applicant countries would join but not the strategies that they would employ in order to do so because it assumes a passive acceptance of conditions, and not, potentially, any attempt to subvert or tailor these conditions to self-interest. Therefore, this theory does not provide a useful framework for a study that is focused on the strategies of the applicant state, and can be dismissed for the purpose of our research.

Intergovernmentalism developed as a theory to critique neofunctionalism and regards states as the primary drivers of European integration, not the institutions of the EU. Hoffman (1964, 1966) was one of the first intergovernmentalists who "provided an argument about the continued centrality of nation-states in-as well as in spite of-the post-war European experiment with integration" (Rosamund 2000, p. 76). His claim was also consistent with neorealism where states are the basic units in world politics (Rosamund 2000, p. 76). Hoffman also "emphasised the importance of national interests in the post-war international politics of Europe" (Rosamund 2000, p. 76). Furthermore, he emphasised the distinction between high and low politics "to explain why integration was possible in certain technocratic and uncontroversial areas and why it was likely to generate conflict in matters where the autonomy of governments or components of national identity were at stake" (Rosamund 2000, p. 77). Hansen (1969) also contributed to the debate and criticised the neofunctionalists. He argued that "neofunctionalism could explain low politics, but it could not say anything of substance about high politics. Nor could it generate productive ideas about the interaction between high and low politics" (cited in Rosamund 2000, p.

80). According to Hansen (1966), political integration was most likely to be the consequence of deliberate political decisions and not the logical corollary of economic restructuring (cited in Rosamund 2000, p. 80). Therefore, intergovernmentalism does not completely reject the idea of spillover but sees it as a result of intergovernmental bargaining. Policy outcomes and Treaties are the result of intergovernmental bargaining in which states act according to their own perceived interests. This theory tends to focus on the wider EU and interstate bargaining. However, it can be argued that there is a certain degree of membership bargaining that occurs between applicant or candidate countries and the EU in the accession and pre-accession negotiations. This type of bargaining can be seen in side payments. Side payments refer to when the EU makes concessions or offers certain rewards in order to persuade candidate countries to comply with certain conditionality they would otherwise be reluctant to comply with.

Intergovernmentalist theory focuses on the bargaining relationship between member states or even between an applicant country and the member states of the EU. Our study examines one side of this bargaining relationship in order to understand how accession/conditionality is mediated by government action in a "difficult case" such as Serbia. In other words, the bargaining relationship between the applicant country and the EU is not the focus of the study but state (Serbian) strategies are and the former can therefore be dismissed for the purpose of the research.

2.4.2 Constructivism

Constructivism is mainly a theory concerning the construction of the EU and idea of Europe. It pertains to the construction of norms and values of Europe through interaction with and among member states and therefore, how these norms and values are not only constructed, but exported to other non-EU countries. Therefore, according to Wendt (1992), one of the leading theorists in constructivism, identities and interests are not given as the neorealists would argue, they are created through interaction: it is the very interaction with others that "create and instantiate one structure of identities and interests rather than another; structure has no existence or causal powers apart from process" (p. 394). Wendt also points out that material power and state interests are formed by ideas and social interaction between states. Thus, states do not seek the use of force or military means to threaten other states or cause war because social interaction and cooperation can lead to more friendly outcomes and relationships between

states (Jackson and Sorensen 2006, p.169). This social interaction and cooperation between states also leads to norm diffusion as states are able to export their values and norms through processes of learning and lesson drawing.

Finnemore (2003) agrees with Wendt emphasising that state behaviour is defined by identity and interest. Identity and interests are defined by international actors and organisations that is, by the norms of behaviour that are embedded in international society (Jackson and Sorensen 2006, p. 169). The EU is one such type of organisation that believes in exporting its values of peace, democracy, security, and human rights to the rest of the world, most significantly to EU member states and potential and candidate countries like Serbia who have a desire to join. However, Finnemore's argument shows that constructivism has its limitations because although states can be influenced by international norms, they can also create and act in accordance with their own interests.

According to constructivism "social interaction is the mechanism for reproduction of structures" (Rosamund 2000, p. 172). These structures are the rules, norms and patterns of behaviour that are subject to change if and when the practice of actors changes but they can also be reproduced or exported by international organisations such as the EU. The process of EU integration can shape applicant states' identities and interests where "socialisation and social learning leads to the internalisation of new norms and development of new identities as a result of interaction with EU institutions and representatives" (Noutcheva 2012, p. 18). Socialisation or the social learning model is a different approach to the conditionality approach, and is also one based on learning and lesson-drawing through processes of interaction and greater exposure to the EU way of governance. This is how actors' identities and interests are transformed or change gradually over time to develop new, more European ways of thinking and behaving. Schimmelfennig (2001) argues that "socialisation also has a non-coercive 'logic of appropriateness' to it with domestic change taking place due to persuasion and the internalisation of a code of conduct universally recognised as the norm in Europe" (cited in Noutcheva 2012, p. 18). Sedelmeier (2011) further argues that "if a candidate country – elites and publics – positively identifies with the EU, or holds it in high regard, the government is more likely to be open to persuasion and to consider the rules that the EU promotes as legitimate and appropriate" (p. 16). In this respect, Sedelmeier (2011) posits that this positive identification with the EU can be a consequence of a "'cultural match' or [normative] 'resonance' between EU demands and domestic rules and political discourses, or at least an absence of countervailing norms, due to the 'novelty' of

a sector and previous policy failure" (p. 16). Thus, an applicant country will adopt and even internalise EU norms and values if it perceives them to be in line with their own values and political interests.

Constructivism can also explain spillover or economic, social and political integration. For example, Stahl (2013) mentions two different types of accessions: idealistic and strategic. An idealistic accession refers to accession based on the constructivist argument of norms and identity and joining out of a sense of cultural belonging, while a strategic accession is related to a rationalist agenda of joining for reasons of economic prosperity and political security. Stahl (2013) provides a distinguishable analysis between the two. He argues that the idealistic accession process is:

> "driven by intrinsically motivated elites (former dissidents) which perceive accession as the result of a far-reaching domestic transformation. Consequently, the candidates have adopted both the *acquis communautaire* and the *acquis politique* in its entirety and qualify themselves for membership based upon their own endeavours. The efforts of alignment therefore take place prior to accession and - according to the theory of sociological institutionalism – correspond to an 'exclusive strategy of community-building'" (p. 451).

Moreover, the applicant country shares the idealistic idea of European integration similar to the Franco-German partnership, which refers to conciliation and solidarity. EU values, rules and norms have not only been adapted and accepted but have been internalised as well (Stahl 2013, p. 6). They have been "Europeanised," which means not only complying with the EU's *acquis* but also becoming very much "European" through the adoption and internalisation of the EU's rules, norms and values.

A strategic accession goes against the constructivist theory. A strategic accession has several facets. One of these is that states simply join because others have done so. It is out of an economic or political necessity that they do not wish to become marginalised (Stahl 2013, p. 5). This also relates to the process of spillover as mentioned before, where states integrate in a number of sectors including economy, social policy as well as political integration. As will be discussed further on in the research study, Serbia's accession to the EU is important for its survival. The EU acts as a sort of "paymaster," which refers to the side payments and concessions it gives to Serbia and other applicant countries to persuade them to comply with certain strict conditionality they would otherwise be reluctant to adopt. The second facet refers to states joining for security and political stability purposes and this is obvious in Serbia's case, which had been once

plagued by bloody wars and genocide. Stahl (2013) argues that the efforts of alignment in the pre-accession process in a strategic accession are kept to a minimum (this is known as "fake or partial compliance" which will be discussed further on in the section on patterns of compliance.) In addition, a strategic accession is related to the theories of neorealism and rationalism where states act out of self-interest, which is the topic of the discussion in the following two sections.

2.4.3 Neorealism

Neorealism is a theory derived from classical realism, with roots in international relations theory (IR). The theory is about the "interaction of self-interested actors (states) in an essentially anarchic environment-a situation where there is no overarching authority to provide order on a global scale" (Rosamund 2000, p. 131). Furthermore, the theory tends to put emphasis on states being rational, unitary actors who derive their interests based on a careful evaluation of their position in the system of states (Rosamund 2000, p. 131). It is a competitive, self-help system where states are the most important actors, looking for their own security and survival in such a system where competition is high (Keohane 1986, pp. 164-166). Mearsheimer (2001) and Kissinger (1957) argue that security is obtained by maximising power in order to be able to eliminate or neutralise all potential rivals and establish hegemony over one's region (cited in Hyde-Price 2006, p. 221). It is about states strengthening their position relative to others so they can do better in an increasingly anarchic system of world politics. As Keohane (1986), one of the leading neorealists emphasised, "states seek power (both the ability to influence others and resources that can be used to exercise influence); and they calculate their interests in terms of power, whether as an end or as a necessary means to a variety of ends" (p. 165).

In neorealism, states are concerned with relative gains and will only engage in cooperation if they benefit as much or more than the other major powers. However, cooperation is limited due to states often seeing others as rivals or enemies. The anarchic environment can not only be highly competitive but there is also a prevailing sense of uncertainty where states do not know the intentions of others and also fear being cheated by others, which limits their will and ability to cooperate. This can be explained by the Prisoner's Dilemma, a component of game theory, where each state actor has the interest to not cooperate with the other while hoping the other will cooperate (Osborne 2002, pp. 12-19). The inability to cooperate by one actor is due to the lack of trust and lack of information about

the other actor's intentions. Neorealism offers a very pessimistic view of international politics while other theories such as constructivism offer a more positive or optimistic view. Neorealists tend to focus on power and security-based interests, but more so on power than anything else. In an anarchic system, the distribution of capabilities across states is significant because it reflects how much power they have relative to other states. These capabilities could entail military capabilities or power, economic power (this could entail how rich a country is in terms of GDP and growth as well as trade), social welfare, etc. When they see threats or adversaries in the international environment, they can use force and coercive means to achieve their benefits or relative gains. Whatever the strategy for advancing their relative capabilities, states are always seeking to maximise these capabilities in relation to others in the anarchic system of international politics.

In sum, neorealist critics such as Grieco (1988) argue that the major goal of states in any relationship is not to attain the highest possible individual gain or payoff as neoliberalists such as Robert Keohane would suggest. "Instead, the fundamental goal of states in any relationship is to prevent others from achieving advances in their relative capabilities" (Grieco 1988, p. 488). Thus, states seek to prevent increases in others' relative capabilities because they fear that their partners will achieve relatively greater gains that may endanger their own individual power and capabilities. As a result, cooperation is limited due to fear of cheating, uncertainty of the other states' intentions, as well as concern over the other states' gaining more in terms of their capabilities. In neorealism, competition is also high as states are constantly seeking means to advance their capabilities with regard to other states in the international arena. Conflict prevails when states feel threatened by the power of other competing states. Thus, this not only becomes a power struggle but a question over security and protecting one's interests. Moreover, as Grieco (1988) notes, "states in anarchy are preoccupied with power and security, are predisposed towards conflict and competition, and often fail to cooperate even in the face of common interests" (p. 488). We argue that neorealist theory cannot be entirely dismissed for the purpose of our study because although an applicant state like Serbia is seeking greater cooperation through EU membership, Serbia can certainly be seen to be advancing its own interests/capabilities through this process, which is also in line with neorealist thought. Such interests/capabilities for Serbia would include defending and protecting its interests in Kosovo.

Serbian government strategy towards Kosovo cannot only be explained by

the significance of Kosovo to Serbian national identity but also as a security issue for the Serbian majority residing in the North and southern enclaves. As a consequence of the Kosovo issue being the cause of decades long struggle and limited cooperation-something which can still be seen today in some areas of the Brussels Agreements between Priština and Belgrade-neorealism as a theory to explain Serbian government strategy cannot be entirely dismissed. However, we also will seek to argue in our study that despite efforts to not cooperate in some areas of the Brussels Agreement, there have been areas of cooperation between Serbia and Kosovo which can be explained by rationalist institutionalism. In addition, neorealism is argued to be under the theoretical umbrella of rationalism, therefore, because the two theories are interlinked, we cannot dismiss neorealism in its entirety.

2.4.4 Rationalism or Rationalist Institutionalism

Rationalism or rationalist institutionalism is a theory based on the theoretical assumptions of both neorealism and neoliberalism (Sisodia 2012, p. 8). Like neorealism, it has a focus on the power and interests of states. Also, like neorealist theory, states are the major actors and are unitary-rational agents. Schimmelfennig and Sedelmeier (2002) note that institutions share the same type of qualities and characteristics of materialism, egoism, instrumentalism and individualism that are the basis for neorealism (p. 509). The difference between neorealism and rationalism or rationalist institutionalism is that there is more cooperation in rationalism. There is an overarching authority (an institutional organisation such as the EU) that uses soft power instruments (diplomatic persuasion, negotiation and compromise (Hyde-Price 2011, p. 227) instead of hard power (use of force or coercive instruments), to intervene between actors' material interests and the material environment as well as the outcome. While neorealism appears to place emphasis on the sovereignty of states in an anarchic order, rationalism argues that institutions such as the European Union makes the system less anarchic than it would appear and as a result, encourages cooperation among states.

International organisations, according to Schimmelfennig and Sedelmeier (2002), "render collective action more efficient, for example, by providing stable negotiating forums, pooling activities, elaborating norms, and acting as a neutral information provider, trustee, allocator, or arbiter" (p. 509). Swisa (2011) refers to rationalism/rationalist institutionalism, as neoliberal institutionalism or simply,

institutionalism. She argues that while realism tends to focus on the hard power capabilities of states and states' distribution of power within the anarchic system, "institutionalism focuses on the role that institutions play in affecting states' behaviour within the anarchic international system" (Swisa 2011, p. 130). Swisa also (2011) argues that institutions matter because they advocate democratic peace through the promotion of democracy, and interdependence or cooperation in areas of trade and other similar policy areas. She tends to focus on the trade aspect and how economic interdependence is about states liberalising trade markets and cooperating because they gain more: economic interdependence leads to increased benefits (p. 131). Therefore, states are rational actors because they calculate their interests in terms of costs/benefits. Furthermore, according to Snyder and Diesing (1977), "each actor attempts to maximise expected value across a given set of consistently ordered objectives, given the information actually available to the actor or which he could reasonably acquire in the time available for decision" (cited in Keohane 1986, p. 175). Thus, the argument here is that states are rational actors because they choose their actions consistently with regard to qualitative restriction. This means that states do not necessarily choose an action according to the nature of their likes and dislikes, but choose them rationally according to which action will give them the best maximum value. In this regard, political actors may adopt difficult policies, which they otherwise may not favour, if the policy will grant them the best possible outcome. This could be anything from securing victory in elections as posited by the statecraft argument, which will be discussed further on, to securing economic benefits for the state through membership of an international organisation such as the EU.

Grieco (1988) even argues that "although anarchy constrains the willingness of states to cooperate, states nevertheless can work together and can do so with the aid of international institutions" (p. 486) He also goes on to argue that it is more beneficial for states to cooperate. Institutions can enforce cooperation and mitigate cheating through conditional cooperation. According to Rosamund (2000), "institutions offer 'information-rich' venues where transparency prevails and where trust is high" (p. 114). Institutions build up trust through the constant exchange and negotiations between the institutions themselves and member states or applicant countries. However, we argue that this is not always the case. The case of Great Britain leaving the EU, coined effectively as "Brexit", demonstrates the lack of trust and confidence between the EU as a whole and member states such as the United Kingdom, especially in light of the Eurozone crisis. Additionally, the economic crisis has eroded confidence and trust in more

member states and applicant countries, particularly those "that have been hit the hardest by the [2007] great recession and the consequent EU and IMF imposed austerity measures" such as Portugal, Romania, Latvia, and Greece to name a few (Armingeon and Ceka 2014, pp. 92-93).

The institutions of the EU also "act as intervening variables between actor preferences and policy outcomes" (Rosamund 2000, p. 114). In this regard, the EU institutions have an impact on policy outcomes because they shape the behaviour of political actors and influence the formation of their preferences and the pursuit of their interests (Chryssochoou 2009, p. 65). However, we argue that applicant countries like Serbia can also use the accession process for EU-related gains as can be seen through negotiations and decisions on certain domestic policies, or side payments/concessions.

In a rationalist approach, actors or states in this case, elaborate strategies and engage in actions they perceive to be in line with their interests, or maximise their interests, on a costs/benefits analysis. Rationalism focuses on a cost/benefit analysis where: "expected individual costs and benefits determine the applicants' and the member states' enlargement preferences. States favour the kind and degree of horizontal institutionalisation that maximises their net benefits" (Schimmelfennig and Sedelmeier 2002, p. 510). Horizontal institutionalism, in this case, means integration or accession to an institution or organisation such as the EU. If states such as Serbia wish to join an international organisation like the EU, they then will do so under conditions that will reap positive net benefits and these benefits therefore exceed the costs or other benefits arising from another alternative, such as joining another organisation or staying out of the EU club entirely. Benefits reaped from membership could include anything from participating in important EU decisions that could affect accession countries like Serbia as a whole, participating in the EU club goods or having the opportunity for their goods to be traded on the market on a competitive basis with other EU member states. Cooperation will occur between states if the net benefits exceed the potential costs, and if it is in their line of interest to do so.

Schimmelfennig and Sedelmeier (2002) discuss different categories of costs and benefits, all of which can overlap. Transaction costs entail costs of communication, co-ordination and supervision between the EU, member states and applicant states. Such costs are more than likely to affect the member states as well as the applicant states who would have to reorganise their internal structure and services to be able to take on new member states. Part of the accession process for applicant states is reporting on progress in implementing

the *acquis*, which are then published as annual progress reports by the EU Commission. In order to report the progress states have made towards implementing the *acquis*, administrative posts/units would have to be created to oversee and report on progress made and this could result in a transaction cost.

Policy costs again deal with the EU and member states as a whole but states aspiring to join such as Serbia could benefit from being able to participate in club goods. However, this could also be a type of cost for accession countries because their governments would have to adjust some of their domestic policies to adhere to EU rules and conditionality in order to join. The EU has stated as early as the 1993 Copenhagen European Council Summit that adoption of the Community's formal rules and procedures or EU law/*acquis communautaire* is a precondition for membership. The conditionality can sometimes coincide with the accession country's national interest and domestic policy, mainly in dealing with the *acquis communautaire.*

Autonomy costs relate to the third cost which deals with states' loss of policy-making autonomy when joining the EU. However, as Schimmelfennig and Sedelmeier (2002) argue, it can be balanced by benefits where new states would be able to participate in EU decision-making as well as the EU providing protection of the states' autonomy. Some accession countries, such as Serbia, as will be examined later on in the research, have their very own policy agenda which may be quite sensitive and the loss of its own ability to make domestic policies could upset the general population. It is important to note that all three costs mentioned and discussed by Schimmelfennig and Sedelmeier relate to one another and converge. Transaction costs can relate to policy costs because of the restructuring and reorganisation of internal institutions. Autonomy costs correlate with policy costs because of loss of decision-making.

For the purpose of our research, we identify a fourth cost, the reputational cost, related to statecraft. Reputational costs refer to costs in which governments of applicant countries or even member states will lose popular support if they comply with a certain EU demand or condition of membership if it is perceived to be illegitimate. Reputational costs can also refer to the loss of popular support if a government failed to gain EU membership if this was supported by a majority of the population. This is in line with Bulpitt's (1986) theory of statecraft where parties and/or individuals will seek to gain and then maintain positions of power by employing strategies and making decisions that will demonstrate their governing competence and cement their victory in the elections.

Overall, the EU is seen by many non-member states as a vessel of

security, stability and peace that prevents future conflicts from arising. The EU has recently taken on Croatia in July 2013 as the second member state to join after Slovenia from the Former Yugoslavia. Croatia's accession also greatly influenced Serbia's aspiration to accelerate its EU integration process (Tolksdorf no date). However, the country's accession would also affect Serbia's relations with Croatia regarding a number of unresolved disputes that go back to the Balkan War of the 1990s and relate to "missing persons (Serbs and Croats), return of refugees and their rights, borders, war crime proceedings and genocide lawsuits" (B92 2013). Nonetheless, we argue that both Slovenia's and Croatia's accession made it pertinent for Serbia to not be left out of the EU.

Thus far, we have discussed theories of European integration, which aids in explaining why applicant states would join the EU, focusing on the theory of rationalism which argues that political actors employ a careful cost-benefit analysis when considering EU accession. In this regard, rationalism argues that politicians are self-interested actors driven by what will grant them the best possible outcome. The majority of scholarship focusing on the accession of the Central and East European countries (CEECs) employed a constructivist or rationalist approach where either norms or material benefits are the drivers of policy change. As emphasised in the introductory chapter, while the thesis does not seek to entirely undermine the constructivist argument, it aims to argue that the decisions of political actors are mainly driven by material concerns arising out of EU membership as accession did not lead to the internalisation of EU norms and values in many of the CEECs in the post-accession phase. This was the case in member states such as Bulgaria, Romania, Poland and even Hungary. However, the thesis argues that rationalism is insufficient to describe a "difficult case" like Serbia and Serbian government strategies towards EU integration because of the contradictions in their policy towards EU integration. Thus, we turn to another theory focused on the power of discourse to effect institutional change where the explanation for its causal power is centred on agents rather than on norms as in constructivism or incentives and structures as in rational institutionalism.

2.4.5 Discursive Institutionalism

Discursive institutionalism is an alternative to both the theories and concepts of constructivism and rationalist institutionalism. Kostovicova (2014b) argues that it is about the power of discourse to effect domestic change "while the explanation of its causal power is centred on agents [or state actors], rather than

on structures and incentives as in rational institutionalism or norms as in sociological institutionalism" (Kostovicova 2014b, p. 70). In this regard, the discursive institutionalist approach [DI] employed by state actors is used 'to persuade others of the necessity and/or appropriateness of a given course of action'" they may take (cited in Kostovicova 2014b, p. 70). With regard to EU integration, discourse becomes a means which political elites legitimise or justify compliance or non-compliance to EU conditionality. The premise of normative congruence between discourse and policy outcome refers to the concept that legitimation of discourse by actors will be favourable to policies advancing adaptation in line with EU rules and norms, and vice versa.

Kostovicova (2014b) does agree with the notion that compliance to EU conditionality can occur with legitimising discourse or it will not occur which is also known as non-compliance. However, Kostovicova (2014b) criticises the notion of normative congruence between discourse and policy change. She challenges this notion with normative incongruence-"policy convergence coexists with its discursive negation, including the rejection of European integration, which results in uneven Europeanisation between discourse and policy domains" (Kostovicova 2014b, p. 69). In other words, compliance could also occur despite discursive denial of this compliance.

While rational cost–benefit calculation by actors, are reliable predictors of the full scope of the domestic adjustment, the discursive institutionalist perspective provides an analytical tool to capture the incoherence and complexity of domestic adaptation in different domains of Europeanisation (Kostovicova 2014b, p. 68). Therefore, the discursive institutionalist approach provides a useful framework for our research study because it relates to the legitimisation of compliance/non-compliance, and/or a means of examining how compliance/non-compliance is masked to hide reputational costs, both strategies which the Serbian government has employed.

Thus far, we have outlined the different theories of EU integration and chose rational institutionalism in addition to discursive institutionalism as the basis for our theoretical framework when explaining Serbian government strategy towards EU integration. While theories of EU integration—namely the rational institutionalist approach--may account for a partial explanation as to why political actors in Serbia will engage in a certain type of compliance, this theory is insufficient in accounting for the complexities of Serbian government policy towards EU integration. This is because the theories of state action discussed above (rationalism, discursive institutionalism) neglect the fact that democratic

governments are also constrained by the need to win elections by appealing to the electorate, thus a third approach, based on Bulpitt's (1986) theory of statecraft, is needed for a full analysis of Serbian accession strategy. In this regard, the thesis attempts to employ Bulpitt's (1986) concept of statecraft in conjunction with rationalist theory, which the following section will examine. Moreover, the thesis argues how statecraft is also related to the discursive institutionalist approach of using discourse as a means to mask non-compliance/compliance to avoid reputational costs for governing elites.

2.5 The Statecraft Approach

The following section analyses and explains another approach as to why states and elites in government may want to Europeanise or move in the direction of the EU that also relates to rationalist theory mentioned earlier in the chapter. This concept of "statecraft" was first introduced by Bulpitt (1986) and is about political actors making decisions and acting in accordance with certain strategies in order to maximise perceived benefits and their own interests, which may or may not be the same as national interests. Such interests and goals of politicians can include acting or basing decisions in a way that would demonstrate their governing competence in order to gain power and maintain it (i.e. through winning elections). This concept is especially pertinent to the case study of Serbia, where compliance to EU conditionality has not always been genuine and cannot always be explained by mere rational choice institutionalism. We will now discuss this concept in more detail.

James (2012) posits that the statecraft approach "is the claim that an inner core of politicians in the central state (who Bulpitt terms the "Court" or "Centre") will seek to follow their own interests and maintain power through winning elections" (p. 66). "The Court" or "Centre" is defined as…"the formal Chief Executive plus his/her political friends and advisors" (Bulpitt 1995, p. 518). According to James (2012), Bulpitt makes several assumptions on the statecraft approach. First, "Bulpitt assumes that the Court will act as a unitary actor-through fear, greed, ambition or party pressures" (James 2012, p. 67). Second and controversially, Bulpitt (1988) argues that politicians are self-interested and act out of self-interest: "this ruling party elite will prefer their own interests and these may not be the same as the national interest or the interests of powerful domestic and external groups" (cited in James 2012, p. 68). However, we argue that political actors may govern in what their perception of what national interests are if this will

lead to their victory in the next election cycle. In this case, politicians are self-interested actors concerned with "winning and winning again" (James 2013, p. 10).

Bulpitt (1986) also outlined five major elements of statecraft, or in other words, methods in which statecraft is to be achieved which include party management, a winning electoral strategy, political argument hegemony, governing competence and another winning electoral strategy. All of these five elements demonstrate a government's or a political actor's decisions to gain and maintain power.

'Party management' includes management of parliamentary backbenchers, party bureaucracy, constituency associations and support pressure groups. This can be a problem for party leaders as it can involve them in sometimes difficult situations and relationships with the various components of the party. Effective management would ensure party unity and control and increase the need for party competition during elections, ensuring the party's victory.

'A winning electoral strategy' is about the manufacturing of a party policy package and image capable of being sold successfully to the electorate and stimulate members' belief that the party can win an election as well as govern effectively. This is also related to governing competence as political actors will make a decision or act according to a certain strategy in order to demonstrate their governing competence to win elections and thus, gain power.

'Political argument hegemony' entails a "predominance of the elite debate regarding political problems, policies and the general stance of government" (Bulpitt 1986, pp. 21-22). This means winning because either the framework of the party's arguments becomes generally acceptable or because its solutions to an important political problem seem more plausible than its opponents.

'Governing competence' refers to the concept that government is about more than just policies but about creating a sense of competence. This can be related to policy choice or selection. Here, the government or a political actor will not only positively adopt a certain policy, but also choose which policies to reject or avoid. This may be a result of ideology but also implementation as parties in government may not necessarily adopt policies they are unable to implement.

Finally, '*another winning electoral strategy*' demonstrates that statecraft is a continuous cycle. In this respect, the cycle begins with the party in opposition, winning an election, demonstrating their governing competence and then winning another one (Bulpitt, 1986, p. 22).

As mentioned previously, the statecraft approach can be related to the IR/EU integration theory of rationalism where states and political actors make

rational choices according to their own interests which may or may not necessarily be related to national interests, especially if they want to gain and maintain power once having won elections. They can calculate their interests in terms of a cost/benefit analysis where they act according to what will give them the best, maximum benefits. In relation to EU integration, should membership be desired by the general populace, the governing party may use their statecraft to appear to be adhering to EU conditionality and favouring EU membership as a way of increasing their sense of governing competence in order to win elections or stay in power once winning. Additionally, the governing party may reject EU integration and accession if it is not supported by the general population.

Given that the Serbian government has to satisfy both the general populace as well as the EU in order to progress forwards in the EU negotiations while not losing domestic support, it can be argued that they are constrained by both the EU and their nationalist constituency at home. In this regard, Serbian politicians are thus "doubly constrained by both what is negotiable internationally and what is acceptable domestically" (Noutcheva 2006, p. 5). This concept relates to Robert Putnam's (1988) *logic of two-level games* where "any key player at the international table who is dissatisfied with the outcome may upset the game board, and conversely, any leader who fails to satisfy his fellow players at the domestic table risks being evicted from his seat" (p. 434). The Progressive Party and Vučić risk losing popular support which could also lead to their defeat in the next election cycle if they fail to act according to national interest. Similarly, if the EU becomes dissatisfied with the lack of Serbian compliance, it could sanction Serbia or withhold certain incentives such as the access to structural funds or the opening and closing of chapters in the accession negotiations. The thesis will seek to argue that Serbian politicians seek EU accession as this reaps economic and social benefits, while simultaneously addressing compliance issues according to what will satisfy their domestic constituency so as not to lose power. Thus, it is imperative to consider and apply Putnam's (1988) concept of two-level games in line with Bulpitt's (1986) statecraft theory when examining Serbian government strategy towards EU accession.

The research argues that theories of European integration (i.e. rationalism and discursive institutionalism) are inadequate to explain elite/government strategies vis-a-vis EU integration because neither rationalism nor discursive institutionalism take into account the desire for power. Both rationalism and discursive institutionalism do not take into account the fact that governments are also constrained by the need to win elections and appeal to the electorate; thus

this thesis also employs statecraft theory for a full examination of Serbian government strategy in terms of compliance to EU conditionality. In the next section, we use Noutcheva's (2006; 2012) analytical framework for discussing the different forms of compliance to EU conditions an applicant state may employ.

2.6 Patterns of Compliance

In a study by Noutcheva (2006, 2012), four types of compliance are established: genuine compliance, legitimacy-based or socialisation-driven compliance, rationality-based or conditionality-driven compliance, and non-compliance. In relation to the EU's coercive power in influencing compliance, there is also fake and imposed compliance to take into account.

Genuine compliance occurs when political actors comply with conditionality because the benefits are sufficient enough to compensate short-term compliance costs and the degree of legitimacy of EU conditionality is high (Noutcheva 2012, p. 30). In genuine compliance, elites carry out a transformation process of domestic structures to bring them up to European standards and sustain this transformation over time. Additionally, elites are open to constant exchange and interaction between their European peers and are therefore exposed to the "European" way of governance (Noutcheva 2012, p. 30). Noutcheva (2012) argues that "in these instances, socialisation and conditionality reinforce each other" (p. 30). However, we argue that genuine compliance can also occur when only one of these conditions -either benefits outweighing the costs or legitimacy of EU conditions being high- is in place. Rationalism would posit that genuine compliance can occur even when legitimacy is low because the saliency of EU conditionality can override the perceived illegitimacy of EU conditionality. As Grabbe (2006) argues, the likelihood of rule adoption increases when the EU pays increased attention to a given area subject to conditionality.

Socialisation-driven compliance is interchangeable with genuine compliance as actors view EU conditionality to be highly legitimate despite the costs of compliance. As in genuine compliance, actors' preferences and interests become defined by EU standards and norms. Compliance by acceding countries' governments is driven by the logic of appropriateness where the EU conditions are not challenged as lacking in legitimacy. Noutcheva (2006) posits that "if no political formation allows itself to challenge the EU demands and publicly campaign against them, then one can assume that there is no case against the "appropriateness" of EU conditions, hence, their legitimacy is high" (p. 11).

Noutcheva (2012) argues that ***conditionality-driven/rational-based compliance*** occurs when political actors see the benefits as outweighing the costs and identify their interests with the EU-demanded reforms but they do not view with EU conditionality as legitimate (Noutcheva 2006, p. 10; 2012, p. 30). This ties in with the rational choice model. We argue that conditionality-driven compliance can be genuine, fake or even partial. With *partial compliance*, benefits are seen as attractive enough to compensate for ruling elites' losses, but compliance is not substantial, may be unstable and subject to change.

In **fake compliance,** political leaders will simulate compliance because they believe that membership would bring benefits, including to themselves as national leaders, but are not prepared to pay the costs of genuine compliance or do not accept the legitimacy of the conditionality. By practicing fake compliance, they avoid the costs of genuine compliance with EU conditionality but also avoid the even higher costs of blatant confrontation, total refusal to comply and denial of a membership prospect (Noutcheva 2006, p. 11). In fake compliance, the EU is inconsistent or reluctant in putting pressure on political elites to comply with conditionality (Noutcheva 2012, p. 31). Additionally, when engaging in fake compliance, political leaders do not initiate and carry out a thorough transformation of domestic structures in order to bring them up to European standards with the firm intention of sustaining the initiated reform momentum as in genuine compliance (Noutcheva 2006, p. 11). Political actors are thus not open to socialisation by their European peers into the European way of governing and do not adopt the European model of values and norms. According to Noutcheva (2006), "*fake compliance* is cheaper than non-compliance because the costs of non-compliance are higher than the costs of simulating EU-compliant change in the short run while seeking ways of reversing that change and maximising profits in the long run" (p. 11).

Fake and partial compliance can often seem blurred, particularly in the Serbian case, where the EU has used its coercive power to attempt to produce compliance, thus it is important to note the difference between the two. We argue that costs can outweigh the benefits in either fake or partial compliance. Therefore, when seeking EU accession, compliance then depends on visibility and saliency of a given policy area. For example, in highly visible areas where there is an increased presence of external actors monitoring compliance and where the EU pays increased attention, partial compliance could occur. In areas of low visibility, there is a decrease in the presence of external actors such as with an internal issue, fake compliance is more likely to occur. We discuss this concept in more

detail in the methodological chapter.

Political actors will engage in **non-compliance** when compliance has a high short-term price where the costs exceed the benefits and which the long-term payoff is unable to offset, and the degree of legitimacy for EU demands is low (Noutcheva 2012, p. 30). This is when political elites refuse to comply with EU conditionality because it goes against their national interests, which they will use to challenge the EU's demands and to remain popular within their domestic sphere.

There is a third way that deals with other forms of compliance, which the EU uses to persuade countries when they are not complying. This is the EU's coercive mechanism, or "compliance through imposition." This is where the EU intervenes in the domestic affairs of accession countries in order to coerce them to comply with conditions and demands and instigate reform of domestic structures. The outcome then is **imposed compliance**. Moreover, "imposed compliance is possible in the context of power asymmetry with external tutelage in protectorates and semi-protectorates reflecting the subordinate position of incumbents. It necessitates continued external pressure to sustain the compliant outcome" (Noutcheva 2012, p. 31).

The following table as developed by Noutcheva helps to explain how actors will comply with the EU's conditionality according to their legitimacy and rationality (i.e. cost-benefits).

Table 2.1 Explaining the compliance behaviour of EU Accession States

	High legitimacy	**Low legitimacy**
Benefits>costs	Genuine compliance	Rationality-based/conditionality-driven compliance, genuine compliance, partial compliance
Costs>benefits	Legitimacy-based/socialisation-driven compliance	Non-compliance, fake compliance, partial compliance

(Source: Noutcheva 2012).

Noutcheva argues the only way to differentiate between fake and genuine compliance is to look at the implementation of certain legislation and policy areas. For example, if political elites pass legislation that complies with EU demands but there is no enforcement of the legislation and problems of a technical nature are not obvious, then it can be said that this is fake compliance as there is no political

will to initiate genuine reforms. Also, if the political actors set up institutions in response to EU conditionality, but these institutions remain empty shells and exist more in theory and on paper than in actuality, this can also be fake compliance (Noutcheva 2006, p. 11). For the purpose of this study, policies and legislation along with EU and Serbian governmental progress reports and Action Plans will be carefully analysed to examine whether or not they are correctly adopted as well as implemented over time to establish the type of compliance Serbian politicians are employing.

The final section of this chapter will deal with the current literature and state of research on Serbia and its European integration process, explaining the gaps in the literature and how this study will seek to fill in those particular gaps in order to contribute to the existing field of research.

2.7 The Serbian case

The more recent scholarship following the election of the Progressives spearheading Serbia's EU integration process assumes a rational-institutionalist approach whereby the Serbian government saw accession to the EU as linked with economic and social benefits such as trade, access to EU funds, better employment opportunities, etc. (Ejdus 2014; Economides and Ker-Lindsay 2015; Bieber 2015). Additionally, the process of EU integration led to many EU concessions or rewards for compliance, therefore, fostering Serbian domestic reforms in key policy areas that would bring them up to European standards. Kosovo became one of these major policy areas and a source of contention, for years at odds with Serbia's EU membership prospects. Leaving aside the crucial question of status of Kosovo, which unilaterally declared independence in February 2008, the EU sought to use its carrot-and-stick conditionality to pressure Serbia to normalise its relations with Kosovo in a way that promoted regional stability and ensured peace and regional cooperation. Following the election of the Progressive Party, there has been a political shift with regard to Serbia's EU accession prospects and its Kosovo policy in the signing of the 2013 Brussels Agreement which became the first step towards regional cooperation between both governments.

There has been an increase in the literature on Serbia-Kosovo relations, especially in light of Serbia's recent policy change under the new SNS leadership. Furthermore, according to Economides and Ker-Lindsay (2015), "in view of the major transformation that occurred in Serbia's policy towards Kosovo, there has

been a growing interest in both the academic and policy communities in understanding and explaining the factors underpinning this policy change" (p. 1028). However, although much of the scholarship (Ejdus 2014; Economides and Ker-Lindsay 2015; Bieber 2015; Beha 2015 and Kostovicova 2014b) would argue that there has been a shift in Serbia's policy towards Kosovo, the authors seem to agree that this change has not lead to transformation in the thinking and decision-making process of Serbian political elites that can be attributed to Europeanisation.

Ejdus (2014) implies a rationalist approach that is focused more on Serbian interests, positing that the Serbian government under the Progressive Party had managed to protect Serbia's national interests vis-à-vis the Brussels Agreement in addition to accelerating its EU integration process. This approach, we argue, relates to the concept of pragmatic nationalism whereby the Serbian government is seeking ways to protect their national interests in Kosovo through EU integration. Therefore, the dual strategy of protection of Serbia's interests in Kosovo and accession to the EU form part of a rationalist argument of maximising benefits—including economic and social benefits EU membership would bring in addition to achieving nationalist goals through European integration. Ejdus' (2014) research examines the policy outcomes of Serbian government strategy rather than the actual strategy itself. In fact, aside from Economides and Ker-Lindsay's research (2015), the majority of these studies focus on the policy outcomes of Serbia's strategy towards EU integration, primarily with regard to the benefits Serbia had gained in the accession process (i.e. opening up of Chapters, improving Serbia's international standing, avoiding recognition of Kosovo and protecting Serbian national interest). Our research instead focuses on Serbian government strategy perceived as a two-level game where Serbian political leaders are players at two tables- the EU and the domestic (electorate)– and are thus doubly constrained by both what is negotiable internationally and what is acceptable domestically (cited in Noutcheva 2006, p. 5). Because the domestic constituency can potentially constrain and even hinder Serbian government policy, the accession process could become problematic for the EU, therefore raising questions over the sustainability of Serbian policy over time, even following accession as the post-accession phases of some of the CEECs (Bulgaria, Romania and Hungary) have demonstrated.

Economides and Ker-Lindsay (2015) focus on the rationalist approach of material incentives arising out of EU accession, rather than protection of national interests vis-à-vis EU integration as Ejdus (2014) had argued. They also argue that the change in Serbia's policy towards Kosovo "is based on pragmatism and

political opportunism, rather than absorption, adaptation and convergence or identity formation" (Economides and Ker-Lindsay 2015, p. 1027). Material incentives related to economic benefits were the main driving force for the Serbian policy shift toward Kosovo as they realised EU accession would not be possible unless Serbia engaged in a dialogue of normalisation with Kosovo as the German Chancellor Angela Merkel had made in a statement during an official visit to Belgrade in 2011.

Economides and Ker-Lindsay (2015) argue that the "discussions over Kosovo coincided with a significant economic downturn in Serbia" (p. 1036). The World Bank (2013) noted that Serbia had been struggling to recover from the international economic and financial crisis which led to an increase in both poverty and unemployment (cited in Economides and Ker-Lindsay 2015, p. 1037). As was also mentioned in the introductory chapter, the EU was seen as the key to economic growth by both the Serbian government and the general populace. Moreover, as Economides and Ker-Lindsay (2015) stipulate, like all other Balkan countries, Serbia receives a significant amount of funds from the EU through the Instrument for Pre-Accession (IPA) (p. 1037). Therefore, the EU integration process under the Progressives did not reflect their decisions as being based on core European values, nor of processes of adaptation or socialisation as constructivism would argue. Nor did they suggest that Serbian identity was being transformed (Economides and Ker-Lindsay 2015, p. 1037). Instead, with pressure from the EU, the Serbian government under the Progressive Party addressed an explosive issue of national interest in a way that would normalise relations to ensure regional stability, for the sake of material gain. Vachudova (2012) further argues that the EU's intervention had a democratising effect and was thus successful in making Serbia's Kosovo policy more EU-compatible (cited in Economides and Ker-Lindsay 2015, p. 1038).

In his analysis on the Brussels dialogue, Bieber (2015) emphasises the constructive ambiguity of the agreements and argues that the normalisation process between Serbia and Kosovo would not have been possible without the EU's intervention and the offer of credible incentives. Like Ejdus (2014) and Economides and Ker-Lindsay (2015), this approach can also be attributed to rationalist institutionalism where the EU used its carrot-and-stick conditionality to boost reforms in both Serbia and Kosovo that would bring both sides to a gradual process of normalisation without Kosovo's formal recognition by Serbia. However, Bieber (2015) argues that the ultimate incentive of EU accession "alone does not suffice for the success of the dialogue" (p. 312). Instead, he argues "the success

of the dialogue "was identifying shared--or separate, yet compatible—interests that could be addressed in the agreement. While Kosovo's interests in the north was primarily about formally placing it under government control, Serbia sought to retain its influence in the north and ensure that it would retain a dominant position over Kosovan Serbs" (Bieber 2015, p. 312). Such a process led to the gradual normalisation of relations with the EU providing leverage and a framework for the negotiations. Thus, it can be argued that this was a case of pragmatic nationalism by which the Serbian government under the Progressive Party used the dialogue to its own benefit—to protect Serbian national interests in Kosovo by retaining control of the North and the Serb population there. Bieber (2015), like Ejdus (2014) examines the outcomes of Serbian government strategy but his focus is more reliant upon the EU's use of mediation to achieve outcomes, rather than domestic [Serbian] strategy. In this regard, he argues that it was a result of the EU's constructive ambiguity approach that had led to the signing of the historic Brussels Agreement.

Bieber (2015) argues that this constructive ambiguity was a key feature of the entire dialogue, with both sides "promoting a very different understanding of the agreement" (p. 306). He claims that "this allowed both parties to present the outcomes in very different ways with the Serbian government arguing that the agreement did not imply any recognition of Kosovo by Serbia, whereas in Kosovo, normalisation of relations was seen more as a step toward full recognition" (Bieber 2015, p. 314). Other authors (Prelec, M. 2013, Beha 2015, Reljić 2015) also examine the Brussels dialogue between Kosovo and Serbia as a case of the EU's constructive ambiguity. Although Beha (2015) does not use the term constructive ambiguity explicitly, he argues how even in Kosovo the agreement was interpreted in different, opposing ways by both the Kosovan government and the opposition parties in Kosovo. Through this agreement the Kosovan government viewed Serbia as de facto recognising the Republic of Kosovo while "the second reaction is accompanied by other groups in Kosovo, which argue that the agreement legitimises the partition of Kosovo, legalises parallel structures, and paves the way for the creation of a Bosnian type of "Republika Srpska" in Kosovo" (Beha 2015, p. 103).

The consequence of this was the ambiguity in the EU's own member states, where some states do not accept Kosovo's recognition while others, in particular Germany, made it clear that eventual accession would require full recognition. Serbia viewed this ambiguity among some of the EU member states as an advantage and therefore, used the dialogue for its own purposes to

maximise its own interests in Kosovo. However, "the constructive ambiguity of the mediation extended beyond not addressing the international status of Kosovo both in content and in form" (Bieber 2015, p. 314). Prelec (2013) noted that the normalisation process was all about committing publicly to agreements while filling in the content later in a very non-transparent manner. "The advantage of such an approach," he argues, "lies in making possible agreements that would be politically dead if spelled out in black and white" (Prelec 2013). The absence of reaching clearly articulated agreements enabled both sides to promote conflicting and divergent interpretations of the agreement, and allowed Serbia to maintain the fiction of retaining Kosovo. However, Bieber (2015) also posits that this approach could risk a complete breakdown in the implementation phase and raises questions over the sustainability of the mediation process. He points to future directions for research including the impact of fake compliance with EU conditions practiced by the Serbian government. Our research will take the study further to examine the possibilities of either fake, partial or genuine compliance as a strategy of the Serbian government regarding Serbia's policy on Kosovo.

We have examined the rational-institutionalist approach with regard to Serbia's policy change towards Kosovo that was a reflection of its desire for EU membership, based on material incentives accession would bring. However, other authors (Kostovicova 2014b, Ejdus and Subotić 2014) discuss additional approaches that can be used to explain the policy shift of the Serbian government. Kostovicova (2014b) employs rational institutionalism as a "jumping-off point" for discursive institutionalism (DI), arguing that rationalism could only "partially account for policy adjustment given the interest of the then Serbian leadership[8] in progressing towards the EU and the prohibitive costs of its Kosovo policy" (p. 83). She argues that discursive institutionalism "explains the paradox of Serbia's domestic adaptation in the course of approximation to the EU: deepening of the contractual relationship with the EU, including appropriate policy adoption, coexists with discursive confrontation with the EU, especially on the Kosovo issue" (p. 83). Although her focus is solely on the Democratic Party under Tadić prior to 2012 and not on the current Serbian government led by the Progressives, Kostovicova (2014b) posits that "the same explanation applies to the policy pursued by the new Serbian leadership following the 2012 parliamentary and presidential elections," referring to the Progressive Party leadership (p. 83).

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[8] Democratic Party and" For A European Serbia" coalition led by President Boris Tadić from 2008-2012.

Even now, Kosovo represents both a national cost and a reputational one as our research will seek to examine, and while the Progressives are concerned with the economic gains stemming from EU accession, statecraft would posit that they are equally concerned with protecting national interest in Kosovo out of electoral concerns. Moreover, Kosovo represents the cradle of Serbian national identity and loss of Kosovo would be an emotional blow to the Serbian political elites as well as to the general populace. Therefore, their policy shift can be explained through the prism of discursive institutionalism where discursive denial was a strategy the Serbian government used to mask their policy shift vis-à-vis Kosovo to avoid reputational costs.

While their focus is on Serbian policy towards Kosovo since 1999 under the various governments, Ejdus and Subotić (2014) also posit that the strategy of discursive denial is applicable to the current Progressive-led government especially regarding the signing of the Brussels Agreement in 2013 with Kosovo and under the auspices of the EU. This agreement had been met with great political protest by the Serbian Orthodox Church and nationalist opposition parties and right-wing groups who accused the Serbian leaders of treason because they had relinquished territorial control over Kosovo (Ejdus and Subotić 2014, pp. 177-178). We argue that Ejdus and Subotić (2014) allude to the concept of statecraft where the Serbian elites had to find a way to "convincingly present the agreement to the restless and sceptical public" in order to "minimise the significance of Serbian concessions" (pp. 177-178). Thus, the authors posit that "the [Serbian] government used an arsenal of various rhetorical tools to *discursively deny* the actual policy change" (Ejdus and Subotić 2014). For example, the Serbian President at the time, Tomislav Nikolić argued that "we would never cut our wrists and commit suicide by recognising Kosovo" while the deputy prime minister at the time, Ivica Dačić and leader of the Socialists, remarked that all Serbia signed was an agreement not to block Kosovo from membership in international organisations (Ejdus and Subotić 2014, p. 178). According to Ejdus and Subotić (2014), this was "a pedantic twist on a major territorial loss" (p. 178).

To conclude, a variety of authors have examined Serbia's policy shift under the Progressives with regard to Kosovo, assuming rationalism as an explanation for the recent shift. However, aside from Economides and Ker-Lindsay (2015), the majority of authors examined in the literature, focus on the outcomes of the policy shift, rather than analysing actual Serbian government strategy under the Progressive Party. A lot of the scholarship also tended to focus on one side of the bargaining relationship-the EU's constructive ambiguity approach- but the thesis

argues that domestic policy must also be taken into account in order to provide for a comprehensive analysis of Serbian government strategy in light of the recent policy shift, especially given the prohibitive costs of Kosovo. While the rationalist argument provides a useful analytical tool to explain Serbian strategies towards compliance to EU conditionality, it is inadequate. To account for this obvious gap, Kostovicova (2014b) applies the discursive institutionalist approach to explain how compliance was "enabled by discursive denial of the extent of actual policy adaptation" (p. 78). However, her focus is primarily on the ruling coalition under the Democratic Party prior to the Progressives' victory in 2012, though she does suggest that the approach can be applied to the current government. Neither Kostovicova (2014b) nor Economides and Ker-Lindsay (2015) take desire for power into consideration. Therefore, our research seeks to address this gap by applying Bulpitt's (1986) statecraft theory, in conjunction with rationalist and discursive institutionalist approaches, as part of the overall explanation for Serbian government strategy.

While other authors focus on Serbia's policy regarding Kosovo, our research also seeks to argue that it is necessary to examine and analyse two policy areas (Kosovo and media freedom) in order to develop a comprehensive understanding of Serbian government strategy towards EU integration. There exists little in terms of scholarship on media freedom in Serbia outside of reports published by journalists' associations and news articles, but our research argues that freedom of expression is equally important to examine alongside Serbian government strategy vis-à-vis Kosovo, especially since it raises questions about the EU's capacity to export its values and norms to applicant countries.

2.7.1 Gaps in the literature

As we have examined, there is a growing scholarship with regard to Serbia's EU policy towards Kosovo under the Progressive-led government elected in May 2012. There exists very little scholarship with regard to media freedom outside of journalistic reports from the Balkan Investigative Reporting Network and the Anti-Corruption Council, and journalists' associations (i.e. Independent Journalists' Association of Vojvodina, Independent Journalists' Association of Serbia, and Journalists' Association of Serbia). The journalists' reports moreover do not provide a useful theoretical framework for analysing the media environment in Serbia and Serbian government policy towards media freedom, which points to an obvious gap in the literature on media freedom in Serbia and Serbian EU policy

towards media freedom under the new leadership of the Serbian Progressive Party. Barlovac (2015) examines the financial relationship between the Serbian government and the media with a focus on the field of advertising and project co-financing. Kisić (2015) also analyses Serbian government strategy towards media freedom under the new media laws, focusing on political interference in the media. However, the focus of these two authors is solely on Serbian government strategy towards media freedom, rather than analysing more than one policy area (i.e. such as those of both media freedom and Kosovo), which would be expected to provide a more nuanced view of Serbian EU integration strategy. Additionally, there is a significant gap in the literature regarding the EU's position on the media landscape in Serbia and Serbian policy towards the media other than the obvious annual EU progress reports and monitoring reports.

Additionally, the authors discussed previously focused on a highly visible area (Kosovo) but have neglected a low visible area (media freedom). We argue that this is inadequate when explaining Serbian government strategy towards EU integration, and therefore, as mentioned previously, our research seeks to analyse Serbian government strategy towards media freedom in conjunction with Serbia's policy regarding Kosovo. Media freedom constitutes an area of low visibility because the EU's capacity to regulate media freedom legislation is limited, given that this is an internal issue in the hands of member states' and applicants' national governments. Kosovo, on the other hand, is an area of high visibility due to the increased presence in external actors as the Serbian government is expected to cooperate with the Kosovan political elites who monitor compliance and report to the EU. In addition, the salience the EU placed on Kosovo conditionality would also be expected to make non-compliance difficult to hide. The thesis seeks to argue that both case studies are imminently crucial to examine for a comprehensive view regarding Serbian integration strategy as a two-level game. We argue that European integration is a two-way process or a multilevel game, therefore, it is significant to examine domestic policy or how political actors respond to and download EU conditionality and adapt them into their domestic structures. Aside from Economides and Ker-Lindsay (2015), none of the authors discussed previously focus on the domestic side of European integration or Serbian government strategy towards EU integration, but focus on the outcomes. Economides and Ker-Lindsay (2015) also do not take account of media freedom, but examine solely Kosovo. Our research, on the other hand, looks at Serbian government strategy, in two policy areas, as a two level-game where political actors are constrained by both the EU and their domestic constituency. Therefore,

the thesis seeks to argue how this could potentially cause the accession process as whole to become problematic for the EU and even raise questions about the EU's ability to export its values and norms post-accession as has been the case with Bulgaria and Romania and even Hungary in the years succeeding their membership.

To sum up, rationalist institutionalism based on costs and benefits incurring from EU membership provides a useful theoretical framework in the explanation of Serbian government strategy under the Progressive Party with regard to both case studies of Kosovo and media freedom as the Serbian government goal has been EU membership, emphasised through various statements and party documents of the Progressives. Much research has pointed to the shift in Serbian government policy being a result of the material incentives of EU integration such as the access to EU funds, better opportunities for employment, access for Serbia to participate in the EU market and the chance to participate in the EU decision-making process. However, the compliance costs to EU conditionality has posited the need for the Serbian government to protect its national interests vis-à-vis Kosovo so as not to lose popular support, thus further complicating their strategy towards Kosovo and EU integration. While providing a useful theoretical framework, rationalist institutionalism cannot suffice in explaining Serbian Progressive Party strategy towards Kosovo, nor can it say anything about Serbian compliance towards EU conditionality on media freedom. Statecraft, when applied to the Serbian case, complements rationalist theory, positing that electoral considerations rather than solely material incentives arising out of accession, can account for Serbian government strategy towards EU integration in both policy areas. Additionally, because of the reputational costs of compliance to both Kosovo and media freedom conditionality, discursive institutionalism, which is about the use of discourse as a means of examining how compliance/non-compliance is masked to hide reputational costs, can help to make sense of the apparent complexities and contradictions of Serbian EU policy in terms of statecraft. The research employed a case study approach where an examination of both policy areas was required for a full comprehensive explanation of Serbian government strategy towards EU integration. In the following methodological chapter, we will present our research questions and hypotheses and the theoretical framework for examining them.

Chapter 3: Methodology

3.1 Introduction

In the previous chapter, we examined the theoretical literature, focusing on the theories of European integration and patterns of compliance to EU conditionality. Additionally, we have examined a third approach that could explain why political elites would engage in a certain strategy towards EU integration, related to the desire for power through garnering popular support and winning of elections. In the methodological chapter, we will present the research questions and the analytical framework for examining them based on some of the theories we have presented in the literature review. From there, we will generate testable hypotheses to explain the political shift of the Radicals and the implications of this shift for Serbia's accession strategy, including adherence to EU norms, and the desire for EU membership out of material as well as electoral concerns. The research will use a case study approach, examining both cases of Kosovo and media freedom, explaining the rationale for their selection and the variables that are expected to remain constant across both cases, in addition to the explanatory or intervening variable expected to cause the different outcomes in compliance.

3.2 Research Questions

The central research question for this study was: *how can we explain Serbian government strategy, under the Progressive Party, towards EU accession?* This central question informs both the research questions below, and the hypotheses that will be tested. The three specific research questions were:

1. What are the implications of the political shift of the Serbian Progressive Party for Serbia's accession strategy?

2. How does the Serbian government's accession strategy follow the rationalist cost-benefit argument, based on material incentives arising from accession rather than being guided by a constructivist approach to Europe, based on adherence to EU norms?

3. Drawing on these two analytical frameworks of rationalism and constructivism, can the complexity of Serbian government strategy additionally be explained by a third approach to EU integration, one related to national as well as the political, party interest of the Serbian Progressive Party as posited by statecraft theory? Each of these questions will be the focus throughout our study.

3.3 Literature and Methodology

This thesis is a qualitative analysis, which explores Serbian government strategy toward EU accession through forms of compliance to EU conditionality. Drawing primarily from International Relations (IR) theory, this research seeks to examine how Serbian government strategies under the Serbian Progressive Party can be viewed through the prism of rationalist institutionalism based on material incentives as the drivers of policy change rather than following the logic of appropriateness based on norms and identities accounting for policy change. Both of these approaches have attempted to tackle the puzzle of the EU's limited and differential transformative power in the Western Balkans, particularly in Serbia, with all of the authors examined in the literature review assuming the rational institutionalist approach to explain the recent policy shift of the Serbian government following the 2012 elections. As we have analysed in the literature review, rationalist institutionalism posits that political actors are driven by material interests of what EU accession would bring, and thus their reason for compliance/non-compliance to EU conditionality is based on a careful cost-benefit calculation. Thus, given the nationalist background of governing elites, the rationalist rather than constructivist approach seems more appropriate in the Serbian case, as the expectation would be that Serbian national interests would predominate.

However, many authors have overlooked the multilevel games aspect of Serbian integration strategy vis-à-vis the EU, where Serbian political elites are players at two tables-the international and domestic, thus "they are doubly constrained by both what is negotiable internationally and what is acceptable domestically" (Noutcheva 2006, p. 5). In this regard and by adding the statecraft dimension, the thesis seeks to argue that Serbian politicians are pragmatic nationalists who are aiming to use EU accession as a means of keeping their grip on power. Accession therefore becomes a means through which to gain significant material benefits (i.e. EU structural funds, opening Chapters) while defending national interests in Kosovo. We argue that this contradiction between seeking EU membership for economic benefits while at the same time using the accession process to protect national interest has been overlooked by previous scholarship and raises questions about the sustainability of such a policy in the long term.

Kosovo represents a reputational cost; any loss of Kosovo, particularly through recognition, would be expected to contribute to a decline in popular support for the Progressive Party. Therefore, discursive institutionalism can be

used in conjunction with both rationalist and statecraft theories to explain the complex strategies of the Serbian government related to the Progressives' desire to maintain their position of power. The legitimisation of a policy choice or even its discursive denial would allow the Serbian government to deal with high reputational costs of compliance or even non-compliance.

Compliance to EU conditionality can take various forms as discussed in the literature review, according to what is seen as being in the party and national interest. National and party interest in this case are seen to be congruent, as serving the national interest would be expected to keep the party in power. The research study will argue that Serbian government strategy towards EU integration is two-fold because both EU accession and retaining Kosovo are considered to be of national interest for Serbian political elites. Thus the research will argue that the Serbian government's strategy when it came to managing these two tensions was guided by a rational cost-benefit analysis when addressing compliance issues. In this regard, material concerns arising out of EU accession can only partially account for Serbian government strategy towards EU integration while electoral considerations are seen to be the primary driver for Serbian elite strategy, taking precedence over conformity with European values. Drawing on this argument, three hypotheses were developed which will be tested throughout the research study.

3.4 Hypotheses

1. Serbian elites will seek EU accession as this reaps electoral benefits (in addition to the economic and social benefits for Serbia). *Compliance to EU conditionality is an intrinsic part of the accession process and the form of compliance Serbian elites will engage in depends on rational cost-benefit calculations and the visibility of actions in a given policy area.*

2. The costs of compliance to Kosovo conditionality are expected to be ones pertaining to the national interest of losing control over Kosovo, which also feed into reputational costs whereby loss of Kosovo would be expected to lead to a decline in popular support for the leading party. Thus, we developed the following hypothesis: *Thereby, if the costs of accession are greater than the benefits, and Serbian political elites cannot hide non-compliance because Kosovo is a highly visible policy area due to the presence of multiple external actors monitoring*

compliance, it could be expected that Serbian politicians will engage in compliance that is fake or partial.

3. The costs of compliance to media freedom conditionality are expected to be electoral costs where the Serbian government's inability to control the media and therefore influence public opinion, could lead to a defeat in the next election cycle. In addition to this, the EU lacks capacity when it comes to regulating and enforcing media freedom in both member states and applicants such as Serbia. Thus, we come to the following hypothesis: *the electoral costs of compliance in a less visible policy area such as media freedom is expected to lead to a Serbian government strategy of fake compliance.*

Examining Serbian compliance to EU conditionality in two different policy areas, media freedom and Kosovo, where one is expected to be more visible than the other, would account for a more nuanced view of Serbian integration strategy. Kosovo is not only a domestic policy issue but also pertains to foreign policy as well, where the presence of external actors (i.e. representatives in central government in Pristina, EU, international community) is greater than with regards to an internal issue such as media freedom. Given the fact that media freedom legislation is in the hands of member states' and applicants' national governments, the EU lacks the capacity to enforce and regulate media freedom, making it a less visible area where applicant states can hide non-compliance or simulate EU-compliant change to convince the EU that they are responding to conditionality on the surface (i.e. fake compliance).

3.5 Rationale for case studies

The two case studies chosen are Kosovo and media freedom, both policy areas which represent fundamental questions for the European Union with regard to democracy, stability and peacebuilding. The jurisdictional conflict over Kosovo has hindered Serbia's membership prospects since the ousting of the Milošević regime by the Democratic Opposition parties, while creating a non-sustainable environment for peacebuilding processes which would lead to a better life for both Serbian and Kosovar Albanians in the region. Representing the key to regional stability in the Western Balkans, the EU has put normalising relations with Kosovo on the top of its agenda regarding Serbia's integration process, with conditionality arising from the Brussels Agreement, constituting Chapter 35 in the accession

negotiations, which would be monitored throughout and have implications for every other chapter. Media freedom, although not explicitly mentioned in the Copenhagen political criteria, nonetheless embodies the rule of law and human and minority rights-core values the EU seeks to export to both member states and acceding countries. Given the declining state of media freedom in some of the EU's own member states, particularly with regard to the Central and Eastern bloc countries such as Poland and Hungary, the EU's capacity to export its values and norms is being called into question, thus undermining its legitimacy as a normative power. The research will argue that an internal issue, such as that of media freedom, is a less visible area in terms of compliance to conditionality and is therefore, more difficult to monitor given the fact that media freedom legislation is in the hands of national governments. Kosovo, on the other hand, represents not only a domestic issue but also a highly visible foreign policy area where the presence of external actors (Kosovan government, EU) to monitor compliance is greater than with media freedom as the hypotheses seek to test. By looking at one highly visible area and one that is less visible, the research seeks to analyse how the two fundamental policy areas are expected to produce different outcomes in terms of compliance to EU conditionality, in order to elucidate Serbian government strategy vis-à-vis EU integration.

3.6 Case Studies

For the purpose of the research, a case study approach will be used. The two case studies of Kosovo and media freedom will be discussed and analysed in order to test the hypotheses. However, first we must define what a case study is. Feagin et. al define the case study as an "in-depth, multifaceted investigation, using qualitative research methods, of a single social phenomenon" (Feagin et. al 2000, p. 2). This definition seems rather narrow and ambiguous, especially since case studies can use both qualitative and quantitative research methods. A phenomenon can be anything from a group of people, role, city, role-occupants, etc. (Feagin et. al 2000, p. 2). Furthermore, Gillham (2000) defines a case study as: "one which investigates the above (individual, community, group, etc.) to answer specific research questions (that may be loose to begin with) and which seek a range of different kinds of evidence, evidence which is there in the case setting, and which has to be abstracted and collated to get the best possible answers to the research questions" (pp. 1-2). Furthermore, Gillham (2000) argues that, "no one kind or source of evidence is likely to be sufficient (or sufficiently

valid) on its own. The use of multiple sources of evidence, each with its strengths and weaknesses, is a key characteristic of case study research" (p. 2). For example, in the Serbian case, the evidence will be sought from the data in the interviews conducted for the research as well as through documentary analysis from a number of other primary and secondary sources ranging from scholarly articles, press and news reports, EU and Serbian government reports, EU legislation, journalists' association reports, etc.

In this particular study, we will test the nature of compliance in both case studies of Kosovo and media freedom by examining the variables across the two case studies. Both cases were also chosen because on the surface, they appear to be similar cases where the costs are expected to be the same across both policy areas of media freedom and Kosovo. However, the visibility of compliance to conditionality is expected to be different in a policy area of low visibility such as media freedom given that this is an internal issue where the EU lacks competence, as opposed to an area of high visibility such as Kosovo where compliance becomes more difficult to mask given the increased presence of external actors. Therefore this would be expected to cause the different outcomes of fake compliance in media freedom and partial compliance in Kosovo. Hence, we use Mill's (1843) method of difference which seeks to identify the key features that are different among similar case studies and which account for the observed outcome (Esser and Vliegenthart 2017, p. 6). In the following sections, we provide an overview of the contextual variable-benefits of EU accession, which is significant in understanding why Serbian political elites will seek accession. Then we briefly analyse the costs across both cases which are expected to remain constant, followed by the explanatory factors/intervening variables of visibility of compliance which are expected to be different across both policy areas of media freedom and Kosovo.

3.6.1 Benefits of EU accession

In terms of benefits, accession to the EU would bring tangible economic and social benefits to Serbia and its citizens. These benefits are extremely significant for a country like Serbia where in the third quarter of 2015, the unemployment rate for people aged 15-64 was 17.3% (Statistical Office of the Republic of Serbia 2015). Those who were at risk of poverty make up 25.6 % of the country's total population (Statistical Office of the Republic of Serbia 2015). According to Economides and Ker-Lindsay (2015), "both publicly and privately, the

EU has come to be seen by officials as the key to national economic growth" and is thus tied to the Progressive Party's programme (p. 1037). The former President of Serbia: Tomislav Nikolić had declared to a Serbian audience as far back as 2012 when he had been elected that "we want to get into the EU, because it has projects, jobs and investments for us" (AlJazeera 2012). The Prime Minister in 2012, now the country's Foreign Minister, Ivica Dačić had also emphasised that: "our aim is to get into the EU and consolidate the economic system as soon as possible" (cited in Economides and Ker-Lindsay 2015, p. 1037).

According to our findings, "one of the most important benefits for Serbia would be getting a place at the EU negotiating table" which would "ensure that Serbian national interests would be heard and protected" (Government of Serbia, Ministry for European Integration Official C 2015). The same official from the Serbian Ministry for European Integration also remarked that "the EU is our major political partner, but currently decisions that would affect Serbia directly or indirectly are made in Brussels and we are not taking part in their formation. By joining the EU, Serbia would be part of the system and not a third country like it is today" (Government of Serbia, Ministry for European Integration Official C 2015). Moreover, he mentions EU accession as being of great importance for Serbia's citizens in addition to the EU being "the main economic partner of Serbia and therefore, the access to a 500-million-people market will be a significant boost for the domestic economy" (Government of Serbia, Ministry for European Integration Official C 2015). Furthermore, "the freedom of movement for the purpose of employment, education or to set up a business," "the access to structural funds" and the "creation of new jobs" are also important benefits Serbian citizens would receive with EU accession (Government of Serbia, Ministry for European Integration Official C 2015). Other benefits we gathered from our interview data that Serbia and its citizens would receive are "improvement of infrastructure," "improvement of the judiciary and performance of administration," in addition to using EU funds to "make the agricultural sector more effective and competitive" (Government of Serbia, Ministry for European Integration Official A 2015).

Serbia is also the biggest receiver of EU structural funds when compared with the other Western Balkan states, having been allocated €1.5 billion for the period 2014-2020 through the Instrument for Pre-Accession (IPA), which is more than the other Balkan countries were allocated for that same period (European Commission 2016c). Economides and Ker-Lindsay (2015) argue that non-compliance to EU conditionality, such as through "perpetuation of a strong campaign to maintain Kosovo," would delay EU integration and could also "delay

the speed with which Serbia could gain access to the funds made available to countries engaged in the accession process" (p. 1037). Additionally, Serbia's trade relies on the EU; in 2015, just over two thirds of all exports from Serbia were destined for the EU-28 (Eurostat 2016). According to the World Trade Organisation, this is approximately 66%, whereas 63% of imports to Serbia originated from the EU in 2015 (World Trade Organisation 2015). Serbia's neighbouring countries have all experienced an increase in exports and subsequent growth rate following accession. In the first six months of 2015, Croatia was among a group of EU countries[9] with the highest, two-digit export growth rates. Total exports rose to 12% in the first half of the year, while exports to other EU member states have increased in the first half of the year by 16% (Government of the Republic of Croatia 2015). Hungary, which began accession talks in 1998 and joined the bloc in 2004, saw their merchandise exports increase threefold as trade increased significantly with their new EU partners (Ayyub 2014). Joining the EU would help boost Serbia's economy, leading to an increase in exports as well as attracting foreign direct investment (FDI). (Ayyub 2014).

Additionally, opinion poll research by the Serbian Ministry for European Integration lists "path towards a better future for young people," "more employment opportunities" and "possibility to travel" as the top three general positions of Serbian citizens towards the EU (Government of Serbia, Ministry for European Integration). Thus, the EU also provides citizens with more employment and study opportunities within the bloc, which would improve life for Serbia's younger population.

Despite the growing economic debt in the EU, Serbia has no real alternative outside EU membership according to our interview findings from an official from the Serbian Ministry for European Integration in Belgrade. According to the official, "for Serbia, EU membership is a valid strategic goal even in the face of the largest EU crisis" (Government of Serbia, Ministry for European Integration Official D 2017). This, he argues, is due to the EU funds Serbia receives through the IPA which are "currently the only concrete and 'healthy' part of the whole process in Serbia, because with the help of these funds, one can get a feel of what EU standards mean on the 'ground.'

> "For example, if the IPA funds are used to finance the renovation of hospitals in the city of Vranje, and for the purchase of medical equipment, then the man who lives in southern Serbia and has a need for medical care can concretely develop a sense of what it means to join the EU and which

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[9] The list is led by Cyprus whose exports rose by 28%. Cyprus is followed by Ireland and Malta with 19% and 16% growth rates respectively.

benefits accession brings" (Government of Serbia, Ministry for European Integration Official D 2017).

Thus, EU structural funds, which would be even higher once Serbia joins the EU, would greatly assist in the development and strengthening of institutions, rural and regional development.

3.6.2 Compliance costs

Compliance costs are also expected to remain constant throughout the research study, and across both cases of Kosovo and media freedom. Kosovo represents a national question for both the Serbian government and the Serbian polity, therefore the loss of jurisdiction over Kosovo feeds into a reputational cost for the Serbian political elites as this lack of control would be expected to lead to a decline in popular support and defeat in the next election cycle. The withdrawal of the state from the Serbian media also feeds into the notion of reputational costs for the leading political party as the media oftentimes serve as powerful PR in promoting positive coverage of the leading political party and its policies. Since both cases are expected to have costs of compliance, these costs constitute part of the determining factor with regard to the form of compliance the Serbian government will employ in both case studies.

The question over Kosovo has for years led to Serbia's reluctance in complying with EU conditions in this policy area. The Kosovo issue makes Serbia a unique case study as unlike its Balkan neighbours, Serbia is the only EU candidate that has a predominant territorial dispute, one that has additionally hindered the country's membership aspirations since the ousting of the Milošević regime in late 2000. Kosovo has been the primary focus of the EU's conditionality towards Serbia where the EU has linked Serbia's accession with resolution of Kosovo, withholding the opening of accession negotiations until Serbia made efforts to improve relations with its southern province. While Slovenia joined the EU in the 2004 enlargement and Croatia in July 2013, Serbia has remained persistently behind, burdened by its reluctance to cede control over Kosovo.

The political elites' unwillingness to change their policy towards Kosovo dates back to the myth of Kosovo, central to Serbian national identity. Of the modern theorists of nationalism, John Breuilly (1996) argues that "politicians seize upon myths and symbols inherited from the past and weave these into arguments designed to promote national identity and justify national claims" (cited in cited in Őzkirimli 2010, pp. 161). He further posits that nationalists "invent myths or they

ignore those which cut across their purposes" (cited in Őzkirimli 2010, pp. 161). Such 'myth transference for political purposes' as posited by Armstrong (1982) is at the core of Serbian ethno-nationalism and has been used to justify Serbian claims over Kosovo. While Bieber (2002) claims that many of the facts pertaining to the myth- particularly ones attributed to the battle of Kosovo- cannot be verified or have been dismissed, the historical evolution of the myth has nonetheless contributed to Serbian nation-building aspirations while simultaneously being a tool for serving the interests of political elites in Serbia (p. 96). Bulpitt's (1986) theory of statecraft is pertinent in this case, as the various Serbian governing parties, including the Progressives, have frequently evoked the myth to appeal to the electorate in order to gain popular support.

The Kosovo myth itself dates back to 1389 during the Battle of Kosovo, which occurred when Serbian Christian forces and Ottoman Turks met on a field named Kosovo (meaning "blackbirds" in English). The Serbs were defeated, and it led to the loss of state sovereignty and 500 years of Turkish rule. Central to this myth of Kosovo being sacred in Serbian national autobiography, is the myth of sacrifice:

> "According to the legend promoted by the Serbian Orthodox Church, on the eve of the battle, a holy prophet offered Serbian prince Lazar a choice: an empire in heaven or an empire on earth. Lazar chose a "heavenly empire"—which would secure Serbian loss in battle, but eternal life in heaven for the Serbian people. By sacrificing himself and his troops, Lazar turned military defeat into a spiritual victory. The Kosovo myth, therefore, entails the moment when "the Serb nation chose righteousness and truth over earthly power." It made Kosovo the place of this ultimate spiritual sacrifice and, as such, sacred and untouchable. The Kosovo battle is remembered in Serbia as a moment of national theophany when Serbs were offered collective redemption. Kosovo thus became Serbia's Holy Land, while the Kosovo battle became Serbia's *Imitiatio Christi*" (Ejdus and Subotić 2014, p. 164).

Through the instrumentalisation of this myth, Kostovicova (2005) argues that, "Kosovo became the center of ethnic "Serbianness," defended passionately by the Serbian Orthodox Church, which exercised, according to Ejdus and Subotić (2014), pastoral power over the Serbian population preserving Serbian national identity (pp. 164-165). Thus, throughout Serbian history, Kosovo was used as an instrument of nationalist mobilisation, beginning with Milošević, to justify Serbia's ambitions in preserving its territorial integrity at the expense of Kosovan Albanians, which make up the majority population in Kosovo.

By analysing Serbian government strategy towards conditionality stemming from the Brussels Agreement, the research seeks to examine how the

government's efforts to preserve the territorial integrity of Serbia, evident in its ongoing jurisdictional conflict with Kosovo, feeds into the notion of Kosovo as a reputational cost and therefore is expected to lead to a strategy of partial or fake compliance. Any move towards ceding authority to Kosovo, particularly in the North where there is a Serb majority, and failure to protect Serbian interests, can be expected to contribute to loss of public support for the Serbian government and defeat in the next election cycle. Although recognition is not yet a red line for the EU, many voices in the EU, particularly from Germany, are calling for Serbia's recognition prior to membership (European Western Balkans 2016a). A political analyst from Belgrade claimed that "recognition of Kosovo would be a historical and political disgrace for which the Serbs will not forgive anyone; more precisely the one who recognises Kosovo would be politically punished in the elections" (Political analyst from Belgrade 2017). There are very few political parties in Serbia that advocate Kosovo's recognition, and they are in the opposition, with very little influence over Serbian politics. Such parties would include the Liberal Democratic Party (LDP) and the League of Social Democrats of Vojvodina (LSV), both with four seats in the National Assembly and part of the Alliance for a Better Serbia coalition. According to the political analyst, "both parties have little impact in the Assembly, and would not be able to be part of the Assembly on their own" (Political analyst from Belgrade 2017). However, given the fact that recognition of Kosovo is not yet a condition for Serbia's EU membership, the Serbian government can use this as a margin for manoeuvre as they have done with the Brussels Agreement where recognition of Kosovo had been avoided entirely.

The case study on media freedom in Serbia will argue that the Serbian Progressive-led government uses the media to influence public opinion. As a result, the loss of control over the media outlets in Serbia could be expected to be a reputational cost for the Serbian government as the Progressives would be unable to influence public opinion in a way that would guarantee their public support and cement their victory in the next elections. Political control and interference in the media, and non-transparency, as the case study on the media will argue, are still remnants of the Milošević regime and are defining features of the current media landscape under the Progressive government led by Aleksandar Vučić. The media in Serbia serves as a PR mechanism for powerful political elites, namely Vučić, and is used for a positive representation and promotion of the government and its policies vis-à-vis the EU. In order to reform the Serbia media landscape and prepare the country for accession, the Serbian government adopted a set of media laws in 2014. The research will examine how the media

laws, and the Serbian government's Action Plan for their implementation, feed into the notion of a reputational cost regarding compliance to media freedom conditionality, and is therefore expected to cause the outcome of fake compliance as the hypothesis will test.

3.6.3 EU competence and visibility of compliance

The competences of the EU are defined in the EU Treaties, more specifically Articles 2-6 on the Treaty of the Functioning of the European Union (TFEU) (European Union Citizens' Initiative 2018b). Moreover, acts that are legally binding are EU regulations, directives, and decisions while recommendations, resolutions and opinions constitute non-binding acts. For the purpose of our research, we focus on the binding documents and competences the EU has with regard to media freedom and Kosovo which we outline in this section, and will be the source of our analysis in the two case study chapters.

The second variable of visibility pertains to visibility of compliance by applicant states such as Serbia. We define visibility in relation to compliance to EU conditionality; thus the more visible a policy area in terms of external actors monitoring compliance, the more difficult it would be for the accession country to hide non-compliance. For the purpose of our study, we argue that Kosovo is a highly visible policy area as Serbian political elites are expected to cooperate with an external actor (the Kosovan government) to normalise relations in a manner which promotes regional stability and contributes to peacebuilding processes and multi-ethnic coexistence. This raises the visibility of Serbian compliance as the Kosovan government monitors compliance/non-compliance through government progress reports, which are reported to the EU who has the ultimate decision in the withholding or the offering of rewards. Media freedom, on the other hand, is an internal issue, thus decreasing the presence of external actors and visibility of compliance. Moreover, the EU's competences in this policy are severely limited, making it possible for Serbian political elites to hide/mask non-compliance.

According to Harris (2013) "across the European Union, media regulation is left to the member states to implement, leading to significant variations in the form and level of media regulation" (Harris 2013, p. 15). Member states' models of media regulation vary significantly, from models of self-regulation to statutory regulation. Harris (2013) further posits that, "these models of regulation can impact negatively on freedom of expression through the application of unnecessary sanctions, the regulator's lack of independence from politicians and laws that

create a burdensome environment for online media" (p. 15). A primary example of this is Hungary where the government's appointment of its own representatives into the Media Council and Media Authority has led to the party's colonisation of the media, thereby restricting media freedoms (Bajomi-Lázár 2013, pp. 81-84). Given that media freedom is an internal issue, the EU's control over the regulation of media pluralism and media freedom is limited as the EU does not have directives in these areas, especially pertaining to state intervention including in state ownership, and transparency of the media.

The only areas which the EU regulates are electronic communications, aspects of the audio-visual sector, technical aspects of information services and electronic commerce and rights related to data protection and copyright (Brogi and Parçu 2014, p. 256). Media legislation pertaining to independence and pluralism of the media (especially with regard to transparency and state intervention, including ownership) is in the hands of the member states' national governments. The EU *acquis,* which all applicant states are required to legally conform to, aligning their own legislation with those of the acquis, does not provide for such far-reaching requirements such as media ownership and financial transparency and therefore these areas are subject to ambiguity. This would make the EU's capacity in enforcing media legislation with regard to pluralism and independence, particularly in ownership and transparency, much more difficult and thus, be expected to create room for manoeuvre for the Serbian government who can take advantage of this ambiguity and lack of regulation. The accession requirements outlined in the chapters that constitute part of the negotiation process, are, however, tailored to each country with their own set of interim benchmarks a country must adopt prior to membership. In the case study on media freedom, we will explore these requirements in more depth and compare them with the government's Action Plan for their implementation to test for fake compliance.

Every applicant state wishing to accede must also comply with the EU's Copenhagen criteria. For the Western Balkans, the EU had developed the Stabilisation and Association Process which also included additional conditionality of regional cooperation, good neighbourly relations and commitment to the International Criminal Tribunal for Yugoslavia (ICTY). The accession phase constituted the chapters of the acquis and as mentioned previously, were tailored to each applicant country. Chapter 35 regarding "other issues" for Serbia meant the comprehensive normalisation of relations with Kosovo. The conditionality stemming from this chapter constitutes compliance with the conditionality set forth in the Brussels Agreement. Therefore, the EU's competences in this area were far

more reaching and extensive than in the policy area of media freedom, particularly since the EU claimed that progress made with regards to Chapter 35 was linked with advancement in the accession negotiations and the opening/closing of other chapters.

The thesis will seek to argue that intervening variables of EU competences and visibility of conditionality are expected to cause the outcomes of fake and/or partial compliance in each case, respectively. We argue that an area of high visibility and of salience to the EU is expected to enforce some level of compliance by the Serbian government as opposed to an area of low visibility where the presence of external actors is decreased as is the case in internal issues such as media freedom. An examination of both cases contribute to the hypotheses developed earlier in the chapter where these are two cases which appear similar on the surface (both have costs) but where the explanatory or intervening variables of visibility and competency are expected to cause the outcomes of fake and partial compliance in each case respectively.

3.7 Sources of Data

3.7.1. Interviews

The main subject of the research is to examine the strategies (fake, genuine, partial and non-compliance) of the former Serbian Radicals currently in power pursuing European integration through an analysis of two key policy areas: the case studies mentioned above of Kosovo and media freedom. In order to test the type of compliance Serbian elites in government are practicing in regards to EU conditionality, a set of semi-structured interviews with government and EU officials, journalists and media analysts, along with primary and secondary documents, will be used. Interviews, particularly the semi-structured interview, have been chosen as one of the qualitative research methods used for the case studies. However, a definition of what the interview is and why interviews were chosen for the study must first be provided.

Arksey and Knight (1999) define interviewing in social science research as: "not a research method but a family of research approaches that have only one thing in common-conversation between two people in which one person has the role of researcher" (p. 2). Furthermore, they argue that, "we understand 'research' to be 'systematic enquiry'" (Arksey and Knight 1999, p. 2). This systematic enquiry is about the act of asking for information and/or conducting an

official investigation. Hence, this is why "interviewing has a lot in common with questionnaire-based methods" (Arksey and Knight 1999, p. 2).

There are several reasons why a qualitative interview was chosen as the appropriate research method for the case study. One such reason was that interviewing lets the researcher find out what is in or on a person's mind, to find out their perspective, information that we cannot directly observe (Patton 1990, p. 278). Furthermore, Rubin and Rubin (1995) argue that "qualitative interviewing is a way of uncovering and exploring the meanings that underpin people's lives, routines, behaviours, feelings, etc." (cited in Arksey and Knight 1999, p. 32). The use of qualitative interviewing allows for understanding and meaning to be explored in depth as well as being helpful in making things that had once been implicit to become explicit (Arksey and Knight 1999, p. 32).

The case studies of Kosovo and media freedom that were chosen for the research study are complex and dynamic cases that require an in-depth understanding that can be derived not only just from a range of primary and secondary sources (i.e. news and press reports, scholarly articles, EU documents and Serbian government documents) but also require further analysis derived from interviewing politicians and EU officials, media analysts/investigators and journalists. By interviewing a number of government and EU officials as well as journalists and media analysts, one can obtain their motives and strategies which are qualitative and cannot be gathered through other methods that are quantitative such as opinion polls and surveys for example. Furthermore, with Kosovo and media freedom, there is much that is being written and implied in press reports and media reports but it is useful to crosscheck what is being written with what is being said explicitly by the politicians and journalists that are directly being interviewed and have official knowledge in regards to these two case studies. Furthermore, journalists and media analysts can provide a better understanding of what is happening with regard to the media as politicians in Serbia may withhold information, provide false information or be hesitant to respond to sensitive questions regarding media freedom and Kosovo that may be critical towards the government. Through interviewing journalists and media analysts, we aimed to provide an analysis of the extent of the government's interference in the media sector and issues pertaining to transparency (including in ownership and financial transparency) government officials would be otherwise reluctant to provide. Interviewing officials from the EU institutions such as the Commission and European External Action Service in addition to members of NGOs and political

analysts would help in explaining Serbian policy vis-à-vis Kosovo, which was also another highly sensitive and controversial area.

There are three types of interviews that can be used: structured, semi-structured and unstructured. For the purpose of this research study, a semi-structured interview was chosen. The semi-structured, in-depth interview was chosen because here "the interviewer asks certain, major questions the same way each time, but is free to alter their sequence and to probe for more information. The interviewer is thus able to adapt the research instrument to the level of comprehension and articulacy of the respondent, and to handle the fact that in responding to a question, people often also provide answers to questions we were going to ask later" (Fielding 1993, p. 136). Furthermore, DiCicco-Bloom and Crabtree (2006) argue that:

> "semi-structured interviews are usually scheduled in advance at a designated time and location outside of everyday events. They are generally organised around a set of predetermined open-ended questions, with other questions emerging from the dialogue between interviewer and interviewee ∕ s. Semi-structured in-depth interviews are the most widely used interviewing format for qualitative research and can occur either with an individual or in groups" (p. 315).

That is to say, that the semi-structured interview is less formal than a structured interview and thus, "interviewers are free to follow up ideas, probe responses and ask for clarification or further elaboration" from the interviewee/respondent (Arksey and Knight 1999, p. 7). This was the most appropriate type of interview chosen for the research study as it allows for an in-depth discussion on the cases of Kosovo and media freedom where the interviewer can probe for more details on a question that might provide the answer they are looking for. Moreover, they can come up with additional questions the interviewer may or may not have wanted to ask later that might also provide additional, useful information in regards to the case studies. In addition, the interviewer may find new information that has not been found or given anywhere else such as through scholarly articles, news reports, etc. The respondent or interviewee may also provide clarification and meaning to complex questions with regard to the case studies of Kosovo and media freedom.

The author undertook a total of thirty-eight interviews through Skype, email communication and in person. For the media case study, a total of sixteen interviews were conducted with six respondents (media analysts and journalists), with three being face-to-face semi-structured interviews, one on Skype, and twelve being via email communication. The Skype and email communication interviews were conducted after the author took a trip to Belgrade and Novi Sad in June 2015

as additional information was needed which included interviews with journalists from the Balkan Investigative Reporting Network (BIRN) and the Anti-Corruption Agency (see Appendix). The author undertook two separate trips to Brussels (14 April and 25 June 2015) where six face-to-face, semi-structured interviews were conducted with five respondents (one was repeated) with officials from the European Commission and the European External Action Service. Additionally, three more officials were interviewed in person in Belgrade from the Serbian Ministry for European Integration (formerly the Serbian European Integration Office) on 22nd and 23rd June 2015. Finally, specifically for the Kosovo case study, the author conducted additional interviews via email and Skype with the following officials:

- Former member of *Centar za Praktičnu Politiku* (*Policy Centre*)[10]
- Professor from Novi Sad who also worked in the Regional Assembly of Novi Sad between 2000-2005
- Former journalist from Serbian daily, *Politika*
- Political analyst from Belgrade (repeated twice)
- A former municipal assembly member from Leposavić in North Kosovo
- Politician from the Democratic Party of Kosovo in the Kosovo Assembly
- Additional official from the Serbian Ministry for European Integration
- EULEX Official from Kosovo North
- Former NGO member from NGOAktiv (repeated twice)
- NGO member from the Advocacy Centre for Democratic Culture
- Former member of Balkan Policy Research Group

The interviews were conducted on a confidential basis and therefore, as requested, interviewees' anonymity has been respected in the study. The snowball effect has also been a useful feature in enlarging the initial list of interviewees. The face-to-face and Skype interviews were taken in the form of recordings[11] based on a semi-structured questionnaire and subsequently subjected to a qualitative content analysis in relation to the questions and propositions outlined in the study.

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[10] A think tank organisation that deals with regional stability, protection of human rights and civil reform in the Western Balkans.

[11] The majority of interviews the author undertook were recorded except one questionnaire filled out via email by an SEIO official and one from the EU Commission responsible for Serbia's enlargement who requested not to be recorded.

The officials from Brussels and the Serbian Ministry for European Integration were presented with questions that deal with both case studies of media freedom and Kosovo. The journalists/media analysts from Serbia were chosen specifically for the media freedom case study and were provided with questions dealing with the media environment in Serbia.

3.7.2 Ethical Considerations

There are significant ethical considerations to take into mind when considering elite interviewing. Webster et al. (2014) define five key elements to consider involving ethics in qualitative research which include: (i) that research should be worthwhile without unreasonable demands on the participants; (ii) the idea of informed consent; (iii) participation in research should be voluntary; (iv) research should be free from harm and any risks identified; and (v) the respect for confidentiality and anonymity (p. 78).

The author submitted an ethical approval form that had gone through an ethics committee, which had then approved the said form. In terms of semi-structured elite interviews, the author had devised a consent form explaining the nature of the research, the approximate time length of the interview, the manner in which the interview will be conducted, that the participant's name and any identifying features will remain anonymous throughout the typed interview and thesis; and that their participation is voluntary. Contact information of the author was also provided in the consent form should the respondents wish to contact her for any additional queries. It was imperative to protect the identity of the respondents, particularly due to the sensitivity of some of the topics covered (i.e. any questions pertaining to the case study of Kosovo in addition to the government's control of the press). Therefore, the author took great care in making sure all the respondents could not be identified in any way throughout the thesis to avoid any disagreements in the future. When requested, the author did, however, show a list of the interviewees to the main examining board, provided that they would remain anonymous when it came to the actual publication of the text.

3.7.3 Primary and secondary documents

In addition to semi-structured interviews, a range of primary and secondary sources was used to provide a thorough and detailed examination of the

hypotheses and research questions through triangulation: qualitative content analysis of additional primary sources was used to crosscheck and compare and contrast the data extracted from the interviews. Weber (1990) defines content analysis as "a research method that uses a set of procedures to make valid inferences from text" (p. 9). He further posits that "the rules of this inferential process vary with the theoretical and substantive interests of the investigator" (p. 9). This means that it is up to the researcher to determine what texts to analyse and what is implied by them according to where the researcher's interest lies, using their own analytical framework.

The Kosovan government and EU Progress Reports between 2014-2017; the EU Commission's Common Positions (for Chapters 23 and 35), Serbian government Action Plans for the Adoption of the Acquis along with Serbian domestic laws were used as data on the extent of rule of adoption by the Serbian government in accordance with the EU's body of law. Media reports published by the Agency for the Fight Against Corruption, Balkan Investigative Reporting Network (BIRN Serbia), and the Association of Independent Electronic Media (ANEM) were taken into account and contrasted with the Serbian Media Strategy and Serbian domestic media laws in order to assess the extent of change and relate this back to the hypotheses on the patterns of compliance practiced by the Serbian government in the case of media freedom. Finally, both English and Serbian-written newspapers, scholarly articles and published books, Opinion Polls published by the Serbian Ministry for European Integration and news web portals (*Balkan Investigative Reporting Network, BalkanInsight, B92, Euractiv, European Western Balkans, etc.*) and scholarly blogs (*London School of Economics*) were all taken into consideration.

3.7.4 Limitations in data collection

The author encountered two main limitations in her effort to collect the relevant data: access to some key actors, and obtaining information on issues that were deemed as controversial and sensitive by the Serbian populace. Both problems relate to the barriers raised in the process of elite interviewing. With regard to the first issue on gaining access to key actors for the Kosovo case study, the author experienced difficulties in obtaining interviews from officials from the Kosovo Office in Belgrade as well as the main political party: the Serbian Progressive Party. Several attempts were made vis-à-vis email communication, telephone and written mail to officials but no response was received. Thus, the

interviewer's main respondents consisted of officials from the Serbian Ministry for European Integration and the EU Commission and External Action Service in Brussels and, in relation to the second case study on media freedom, journalists and media analysts in Belgrade and Novi Sad. This is also related to the second issue of obtaining information on issues deemed too sensitive and/or controversial, particularly on Kosovo as well as for the media freedom. The researcher discovered that a respondent from the Kosovo office did not report back via email communication when presented with the questions on the Kosovo case study. This could be due to secrecy or the sensitivity and controversy of the questions or due to time constraints. Also, when contacting the Serbian Ministry for European Integration to request additional interviews from other respondents, an official had rejected the request stating that the questions called for political elucidation, and that by law, as officials working for the government, they were not permitted to respond to such questions. This could also be a barrier as a result of secrecy, respondent bias and the sensitivity of some of the questions.

To compensate for this, the need for triangulation was necessary-using other primary and secondary sources such as EU progress reports and press releases, newspaper and journal articles, Serbian and Kosovan government reports and Serbian government Action Plans as well as interviewing multiple people from different fields (journalists and media analysts). For the research study, journalists and media analysts/investigators had to also be interviewed with regard to the case study on media freedom and transparency. This is due to the fact that they have the most knowledge of the media environment in Serbia. They would also be able to provide sensitive information (i.e. how much control does the government have over the media) as opposed to other politicians in Serbia. Additionally, it was discovered that when interviewing some of the officials from the Ministry for European Integration about very broad, less sensitive questions in regards to the media, they did not seem to have much knowledge. The same can be said of the officials from the Serbia Unit in the European Commission-they had insufficient knowledge of the media environment in Serbia. Therefore, journalists and media analysts in Serbia had to be interviewed to provide information about the media in terms of ownership and transparency other politicians might hide. This relates to the question of saliency and visibility of the media to the EU-if the issue of media transparency and ownership isn't as high on the EU agenda as opposed to Kosovo and isn't in the EU *acquis*, politicians in Serbia may hide their compliance or practice fake compliance as the case study on the media freedom will test.

3.8 Conclusion

The methodological chapter presented the research questions and the hypotheses that will test the nature of compliance practiced by the Serbian government under the Progressive Party since 2012. It also provided a discussion on the qualitative methods the research will use, namely focusing on semi-structured interviews in addition to a range of primary and secondary sources through which content analysis will elucidate the arguments made. The explanatory or intervening variable as discussed throughout the chapter on EU competence and visibility of compliance to EU conditionality will be tested to see if they cause fake and partial compliance in each case as generated by the hypotheses. Due to the EU's lack in competence and knowledge in the area of media freedom and the primary focus being on Kosovo, it could be argued that the EU is in a far better position to scrutinise action and policy on Kosovo than it is on the media environment in Serbia, something which the case studies will further explore. The rationale for the selection of the case studies was due to significance of media freedom and Kosovo to the EU, with both having a fundamental bearing on the rule of law, democracy and stability-core values which the EU seeks to promote and export to acceding countries and member states. The following chapter will present the first case study on Kosovo, with conditionality for this policy area coming from negotiating Chapter 35.

Chapter 4: Europeanising Serbia's Kosovo Policy: A litmus test for Serbia's accession to the European Union

"As long as the Serb people exist, Kosovo will be Serbia…" Dr. Vojislav Koštunica (Serbian Prime Minister, 2004-2008).

4.1 Introduction

The Kosovo issue represents the deeply entrenched nationalism of Serbian politics and has more often than not, hindered Serbia's European Union membership aspirations, thereby making Serbia one of the most 'reluctant' Europeanisers for many years since the ousting of Milošević in 2000. Kosovo's unilateral declaration of independence in 2008, was perceived by Serbia as a fundamental threat to its sovereignty, territorial integrity and national identity, which Serbia vowed to never recognise. Much of the scholarship regarding the significance of Kosovo to Serbia points to the national, religiously-infused master-narrative construed around the "myth" depicting the 1389 Battle of Kosovo, which was used as a political tool to mobilise the Serbian population against their Albanian counterparts who had settled in the region in the centuries following the battle. The Kosovo myth, which alluded to the themes of sacrifice and victimisation of the Serbian people, became so entrenched in Serbian nationalist discourse that the supposed and real persecution of Serbs under Kosovar Albanians in the 1980s and 1990s was construed as part of a long history of national suffering, which dates back to 1389 (Bieber 2002, p. 100). It was a result of this that each Serbian government took an oath to preserve the territorial integrity of Serbia, with Kosovo as its constituent part while the 2006 Serbian Constitution was amended to include Kosovo (Constitution of the Republic of Serbia 2006).

The research argues that Serbia's policy towards Kosovo is twofold: on the one hand, the Serbian government maintains their hardline non-recognition of Kosovo stance while on the other hand they seek to control the Serb majority areas in Northern Kosovo through parallel state structures. Unwilling to import another frozen conflict such as that of Cyprus and thus, further erode its credibility, the EU has made solution of the Kosovo issue a part of the conditionality for Serbia prior to accession. Although this does not entail Serbia's recognition of Kosovo, the priority became to find a resolution of Serbian-controlled North Kosovo that would

integrate the Kosovar Serbs into Kosovan institutions, thereby gradually ceding control to Kosovo.

In this chapter, we analyse the shift in Serbia's policy towards Kosovo that began with the Progressive Party-led government elected in the May 2012 parliamentary and presidential elections, which has led to the signing of the historic Brussels Agreement on the Comprehensive Normalisation of Relations between Kosovo and Serbia on 19 April 2013. This Agreement sought to resolve the issue over North Kosovo and led to the conclusion of agreements based on a number of areas whose implementation was crucial for Serbia's progress in the accession negotiations. The research argues that the Serbian government strategy has been one of partial compliance with regard to the implementation of the agreements, where some agreements had been fully or partially implemented while others have stalled or frozen. When it came to implementation, the Progressives were faced with two competing tensions: accession to the EU, which would bring substantial economic benefits to Serbia, and retention of Kosovo. Confronted with external pressures from both the EU and Kosovo and internal electoral pressure, the Serbian government's strategy became the minimum they could achieve that would secure EU benefits while maintaining the fiction that Kosovo was still an integral part of Serbia. Such a strategy of partial compliance allowed for the EU to not only offer rewards to Serbia, but it had also allowed the Serbian government to engage in multilevel games where the Serbian government had attempted to "hammer" out compromises which they sold to their domestic constituency as favourable to Serbia, thus enabling them to garner further public support.

Many scholars (Economides and Ker-Lindsay 2015; Bieber 2015; Ejdus 2014) seem to suggest that this shift in Serbia's policy towards Kosovo under the Progressive Party was based on a rationalist sense of material gains arising from EU accession. Economides and Ker-Lindsay (2015) further posit that the "change in Serbia's approach towards Kosovo is based on pragmatism and political opportunism, rather than absorption, adaptation, convergence or identity formation" (p. 1027). This case study takes the research a step further, arguing that while Serbia's change in its policy towards Kosovo under the Progressive Party was based on the rationalist theory of material concerns, it was also a result of electoral considerations of gaining and maintaining power as posited by statecraft theory. Therefore, the Serbian Progressive Party had to find a way to manage both EU accession and Kosovo that would not lead to a decline in domestic support.

The first section of this chapter (4.2) provides a background of the significance of Kosovo in Serbian public and political discourse, with a focus on the evolution of the SNS' position on Kosovo. The following section (4.3) then goes on to present a contextual background of Kosovo and Serbia's relations, focusing on the most contentious area, North Kosovo, which is claimed by both Serbia and Kosovo and has hindered Serbia's relations with the EU. In this section, we will also examine the ethnic division of Kosovo in order to illuminate Serbia's reluctance to cede control of this problematic zone. In the next section (4.4), we introduce the First Agreement of Principles Governing the Normalisation of Relations between Kosovo and Serbia (i.e. henceforth, the "Brussels Agreement") which forms much of the interim benchmarks or "conditions" for Serbia set by the European Union for Chapter 35 on Kosovo. We also analyse the Agreement as a case of the European Union's 'constructive ambiguity,' which has resulted in tensions from both Pristina and Belgrade due to the different interpretations of the agreements. In this section, we argue that the constructive ambiguity has allowed for Serbia to effectively not recognise Kosovo, which could pose as a stumbling block later on in the pre-accession process. However, despite the ambiguity of some of the agreements and issue concerning the status of Kosovo, the Serbian government has nonetheless demonstrated partial compliance to EU conditionality stemming from Chapter 35. Section 4.5 will offer empirical evidence through analysis of some of the agreements in the Brussels dialogue which the Serbian government has implemented either fully or to a certain extent, in order to elucidate the government strategy of partial compliance to EU conditionality on Kosovo. Given the EU's extensive competences in enforcing Serbian compliance to Kosovo conditionality, the research argues that Serbia's non-compliance became difficult to hide as a consequence of external pressures from both the EU and Kosovo who monitored compliance through the annual Commission and Kosovan government progress reports (4.6). In the final section (4.7) the research makes use of the analytical framework to analyse the Serbian government strategy of partial compliance to conditionality stemming from Chapter 35. The research argues that while rationalism can be used to explain the Serbian government's strategy of securing maximum EU benefits while maintaining the fiction of control over Kosovo, this theory is inadequate in explaining the reasoning behind this strategy. Therefore, Bulpitt's (1986) concept of statecraft where parties seek to maintain positions of power complements rationalist theory as it further elucidates the Serbian government strategy of partial compliance being a result of electoral considerations rather than just material concerns arising out of EU accession.

4.2 Kosovo in Serbian Public and Political Discourse

The significance of Kosovo to Serbs is perhaps best exemplified in an "Appeal" signed in 1982 by prominent officials of the Serbian Orthodox Church who had claimed that the Kosovo issue is not only "a biological one" to Serbs but "it is about the spiritual, cultural, or historic identity of the Serbian people" (Ejdus and Subotić 2014, pp. 166-167). The Church, long seen as the defender of Serbian claims over Kosovo, has further warned of the repercussions of any future loss of Kosovo, positing that, "Kosovo is our memory, our hearth, the focal point of our existence. And to take away from a nation its memories is to kill it and spiritually destroy it" (Ejdus and Subotić 2014, p. 167). Central to the idea of the Kosovo issue representing the cradle of Serbian national identity is the Kosovo myth which alludes to the themes of sacrifice and victimisation of the Serbian people. According to the myth, on the eve of the Kosovo battle in 1389, the Serbian prince: Knez Lazar chose a heavenly instead of an earthly kingdom for the Serbian people, thus leading to military defeat by Turkish Ottoman forces the following day but ensuring heavenly salvation for the Serbs. Serbian politicians like Vuk Jeremić[12] and the Serbian Socialist Party leader Ivica Dačić had frequently equated Kosovo with Serbia's own *Jerusalem*, the centre of Serbian Orthodox Christianity and the seat of some of the oldest Serbian Orthodox Churches (Barlovac 2010; RTKLive 2017). The Kosovo myth thus became the instrument for nationalist mobilisation in Serbian public and political discourse particularly during the time of Milošević and the War on Kosovo in 1998, leading up to the NATO bombing of Serbia in 1999.

While the myth was used to justify historical and territorial claims to Kosovo, according to Ejdus and Subotić (2014), it was also utilised as a mechanism to "justify historical vindication of the Serbian people against their adversaries" (p. 169). The majority of Kosovo is predominantly Albanian who have often clashed against their Serbian counterparts, most visibly in the period following Milošević's rise to power. Milošević had refuelled Serbian nationalism with the Kosovo myth at a time when the Kosovar Serb minority had been demanding more protection against the Albanian majority. In his famous speech marking the six-hundredth anniversary of the Kosovo battle, Milošević vehemently announced that, "the Kosovo heroism does not allow us to forget that, at one time,

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[12] Vuk Jeremić was Serbian Foreign Minister between 2007-2012 and served as a candidate in the Serbian Presidential elections in April 2017.

we were brave and dignified and one of the few who went into battle undefeated…Six centuries later, again we are in battles and quarrels (cited in Ejdus and Subotić 2014, p. 169). Thus, he was referring to the battles that were being fought between the Albanians and Serbs, reminding Serbs not to forget the Serb "heroism" during the 1389 battle, and alluding once more to the sacrifice and persecution of the Serbian people.

The stripping of Kosovo's autonomy in a series of changes to the Constitution in 1989 by Milošević ultimately served to heighten ethnic tensions and hostilities between the Kosovar Serbs and the Kosovar Albanians, thus leading up the 1998-1999 Kosovo War. The Kosovo Liberation Army (KLA) attacks on the Serbs and the wave of ethnic cleansings of Albanians during the war incited by Milošević culminated in the 1999 NATO bombing of Serbia and according to Jansen (2000) "marked a dramatic resurgence in the self-perception of Serbs as victims within Serbian nationalist discourse" (cited in Bieber 2002, p. 105). This idea of victimisation of Serbs in nationalist and political discourse was further reinforced by the loss over Kosovo, first through the establishment of UNMIK in 1999, followed by the unilateral declaration of independence of Kosovo in 2008. The themes of victimisation and sacrifice served as political tools in the nationalist discourse to justify claims over Kosovo by each ruling political party. Even preceding Kosovo's declaration of independence, the preservation of Kosovo was included in a 2006 amendment to the Serbian Constitution, and each Serbian government was required to swear an oath to protect the territorial integrity of Serbia, with Kosovo as its constituent part (Constitution of the Republic of Serbia 2006). This clause would serve to prevent recognition of Kosovo by any Serbian government or risk charges of treason because, according to the Serbian Patriarch Irinej, Kosovo independence was "a sin" (Ejdus and Subotić, 2014. P. 170).

The vast majority of the Serbian political parties remain against Kosovan independence. Aside from the Democratic Party of Serbia (DSS) led by Koštunica, the Serbian Radical Party (SRS) has always adopted a hardline nationalist discourse when it came to Kosovo and Kosovan independence, which was most evident during the Kosovo War and the subsequent NATO bombing of Serbia in 1999. The current Serbian Progressive Party leader and President, Aleksandar Vučić, had served as the SRS deputy secretary general and Information Minister under Milošević. During his position, he had issued a statement, calling for the expulsion of all foreign journalists coming from NATO countries because they had "instigated NATO's aggressive activities, which were aimed at destroying the constitutional order and territorial integrity of Serbia and Yugoslavia and of

misinforming the world" (Committee to Protect Journalists 2000). According to Pond (2013), Vučić as Information Minister had also "defended the vast ethnic cleansing by paramilitary police of more than 60% of the 90%-majority Albanians living in the Serbian province of Kosovo" (p.7). Although still firmly opposed towards Kosovo's recognition, Vučić, along with other former Radical dissidents who had left the SRS to form the pro-EU party: the SNS, have since 2008 abandoned some of the hardline, nationalist rhetoric towards Kosovo in favour of a more pragmatic, realistic approach to Kosovo for the sake of EU membership and electoral gain. This was partly due to the fact that Kosovo had lost some of its saliency among Serbian voters due to more pressing concerns relating to the economic crisis, which, according to the SNS party programme, could only be resolved through membership of the EU (Srpska Napredna Stranka 2011, p. 41). Due to this decline of saliency and predominance of the Kosovo issue in the 2012, 2014 and 2016 elections, as a consequence of Serbia's dire economic situation, the priority became accession to the EU while Serbia's control on Kosovo gradually weakened. Even though formal recognition of Kosovo by Serbia was still taboo, the focus became resolving the issue of the contested North and protection of the Serbian majority residing in the northern Kosovo municipalities. The EU had made it a formal condition of Serbia's membership of the EU to normalise relations between Kosovar Albanians and Kosovar Serbs in Northern Kosovo, thus leading up to the establishment of the historic Brussels Agreement between Pristina and Belgrade under the leadership of the SNS, which became the most visible political evolution of the SNS's position towards Kosovo. In the following section, we present a general contextual overview of the jurisdictional conflict in Northern Kosovo that has contributed to regional instability and impeded Serbia's EU accession.

4.3 Context: Northern Kosovo

While Kosovo remains predominantly Albanian, due to the lack of an official census, it is difficult to determine the exact number of Serbs residing in Kosovo. The CIA World Factbook states that Albanians make up 92.9% of the total population while Serbs make up only 1.5% among other ethnic groups that also reside in Kosovo (Central Intelligence Agency 2016). According to a report published by the Balkan Policy Research Group, "there are no reliable official population figures for the Serbs of Kosovo, because most boycotted the 2011 census. Estimates range from the official figure of 25,532 to the OSCE's 143,574"

(Prelec and Rashiti 2015, p. 14). The report argued that there was another way to determine the estimate of the Serb population in Kosovo, through extrapolation from the 2013-2014 local and parliamentary election returns, which estimates that if they voted at the overall Kosovo average, there are about 145,820 Kosovan Serbs living in Kosovo (Prelec and Rashiti 2015, p. 4). According to the same report, the majority of Serbs live in North Kosovo, about 63,293 according to estimated figures. Another 53,900 reside in the six Serb-majority municipalities south of the Ibar River while as many as 28,628 may be residing in Albanian-majority areas (Prelec and Rashiti 2015, p. 4). However, it is significant to note that these are only statistical analyses and not figures taken from an official census. The map below in figure 4.1 demonstrates the ethnic breakdown of Kosovo, indicating that the North is where there is the largest concentration of Serbs, as well as the southern municipality of Štrpce.

Figure 4.1 Distribution of Ethnic Albanians and Serbs in Kosovo
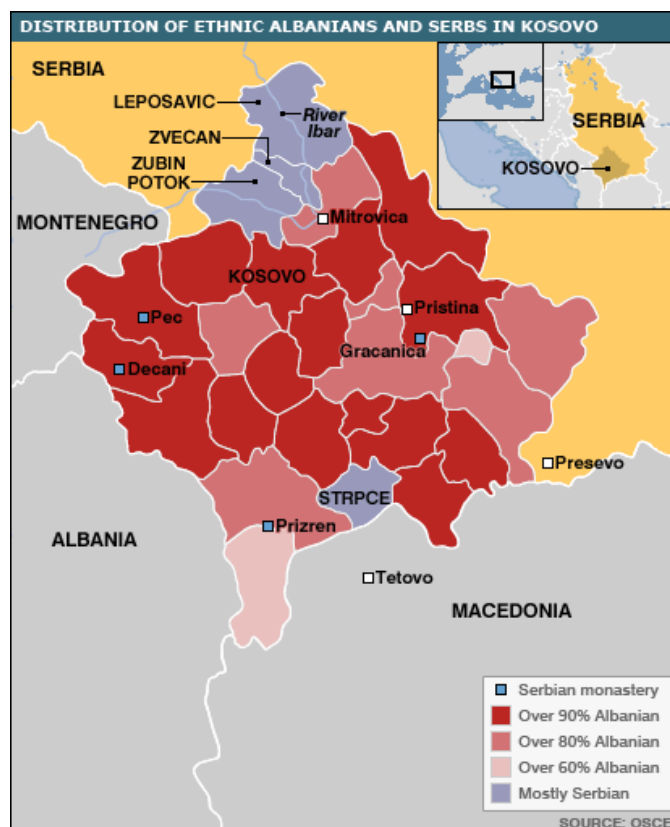
(BBC News 2008).

Despite Kosovo's unilateral declaration of independence in February 2008, the central authorities in Pristina did not have full sovereignty over their territory, as the majority-Serb populated areas were still controlled by Belgrade. Given their proximity to Serbia, this was primarily the situation in the northern municipalities

while the southern Serbian municipalities had been more or less integrated into the Kosovan institutions before Kosovo's unilateral declaration of independence. The North has been plagued by separatism, putting up of barricades and low-level violence as attempts to resist rule from Kosovan authorities prior to and following Kosovo's declaration of independence. Attempts to integrate the Northern Kosovar Serbs have failed first through UNMIK and then the Ahtisaari Plan.[13] Instead, Serbs in Northern Kosovo have set up parallel institutions (i.e. police, judiciary, civil protection, interim councils) accepting only Belgrade's authority, which Kosovo has deemed as illegal. Beha (2015) states that the Organisation for Security and Co-operation in Europe (OSCE) has defined parallel structures "as institutions that work in violation of UN Resolution 1244" (Beha 2015, p. 106). A more specific definition of parallel structures from the OSCE is:

> "bodies that have been or still are operational in Kosovo after 10 June 1999 and that are not mandated for under UN Security Council Resolution 1244. In the majority of cases, these institutions operate under the *de facto* authority of the Serbian government and assume jurisdiction over Kosovo from Serbia proper, or operate in the territory of Kosovo" (Organisation for Security and Co-operation in Europe 2003, p. 5).

Both the EU and Kosovo have deemed these structures as illegal, and their maintenance soon became incompatible with Serbia's EU membership prospects. Moreover, the constant jurisdictional conflict over Kosovo, particularly in the North, produced a non-sustainable environment for multiethnic coexistence and post-conflict peacebuilding processes (Marković 2017, p. 19). In order to break the stalemate between Kosovo and Serbia, the EU, backed by the UN, initiated a new round of talks aimed at normalising relations between the two sides, which became

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[13] Both the United Nations Interim Administration in Kosovo (UNMIK) and the Ahtisaari Plan attempted to solve the issue of Kosovo, especially over the disputed area of Northern Kosovo. UNMIK was an international and civil security presence whose mission was to "establish and oversee development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo" (UNMIK Mandate 1999). In May 2001, the Head of the Mission, Hans Hækkerup, "signed the Constitutional Framework for Provisional Self-Government in Kosovo, stipulating the transfer of competences from the international community onto Kosovo's institutions" (Ejdus and Subotić 2014, p. 171). UNMIK had also created the preconditions for the final settlement on Kosovo's status.
The Ahtisaari Plan is also formally known as the Comprehensive Proposal for the Kosovo Status Settlement, was a plan drafted by the former Finnish President, Marti Ahtisaari, and put forward before Kosovo declared independence as a roadmap for Kosovo to transition from UNMIK control and to give Serbs living in Kosovo more rights (Balkan Investigative Reporting Network 2015, p.37). According to Beha (2015), the Ahtisaari Plan "proposed extensive local self-governing rights to Serbs living in Kosovo through decentralisation of power, and enhanced local self-governing rights for the Mitrovica North" (p. 105). However, seen as a success in Kosovo, this Plan too failed and was rejected by the Serb population in Kosovo, especially in the North.

part of the Brussels dialogue. The first round of talks was the so-called technical dialogue, commencing in March 2011 and ending in May 2012 where agreements were made on a number of technical issues which included: "freedom of movement, civil registry, cadastral books, customs, integrated border management (IBM), higher education degrees and regional representation of Kosovo" (cited in Ejdus 2014, p. 2). Progress on normalising relations with Kosovo and the beginning of the technical dialogue allowed for the EU to use its carrot-and-stick conditionality approach and award Serbia with candidate status in March 2012, a month before the parliamentary elections. This move made by the EU was also an attempt to boost support for President Boris Tadić and the Democrats, and to prevent the Serbian Progressive Party, made up of former members of the nationalist Serbian Radical Party- from coming to power. In spite of this, the Progressives secured victory, and soon found themselves in the driving seat of Serbia's EU integration process.

The Brussels talks took on a more serious tone shortly following the election of the Progressives, where EU integration became a genuine goal of the newly formed government. This new political dialogue between Kosovo and Serbia began in October 2012 and culminated with the conclusion of the "First Agreement of Principles Governing the Normalisation of Relations" between Kosovo and Serbia signed in Brussels on 19 April 2013 under the auspices of the EU's High Representative, Catherine Ashton (Ejdus 2014, pp. 2-3). The Brussels Agreement was a landmark deal, with the Commissioner for Enlargement and Neighbourhood Policy, Štefan Füle claiming it was "a historic day for Serbia-Kosovo relations, for the entire Western Balkans region and for the European Union" (European External Action Service 2013). Following the Agreement, the EU rewarded Serbia with the start of the accession negotiations at the First Intergovernmental Conference on 14 January 2014. In August 2015, the Brussels Agreement Package was developed "to revitalise the 2013 Brussels Agreement" and included new agreements on telecommunications, energy, the establishment of the Association of Serb Majority Municipalities (ASM), and the opening of the Mitrovica Bridge (Phillips 2017, p. 9). Following soon after, Serbia opened the first two chapters in the accession negotiations: Chapter 32 on Financial Control and Chapter 35 on Kosovo in December 2015 (Poznatov 2015).

Although the Brussels Agreement was seen as an initial success and signalled a new wave of the normalisation of relations between Serbia and Kosovo, the Agreement soon began to show its limitations. The first sign of weakness was the constructive ambiguity of the entire agreement, which, as we

argue, resulted in different, often divergent interpretations from both Kosovo and Serbia. In the following section, we examine the Brussels Agreement in more depth, arguing that while the Brussels Agreement did have its own limitations as a result of the EU's constructive ambiguity approach, it did nonetheless enforce some level of compliance by the Serbian Progressive-led government, thus enabling Serbia to progress further in the accession negotiations and open additional chapters.

4.4 EU Conditionality and the Brussels Agreement

The most significant chapter for Serbia in the accession process and one of the first to be opened and the last to be closed is Chapter 35 on "other issues" which for Serbia meant Kosovo. This chapter also has implications for the opening and closing of all other chapters in the negotiating process. Moreover, the majority of EU conditionality for Serbia stemming from Chapter 35 comes from the 2013 Brussels Agreement on the normalisation of relations between Kosovo and Serbia. The 15-point Agreement reached between the two sides mainly dealt with resolving the issue of Northern Kosovo as it "integrates the institutions of the Serbian municipalities in northern Kosovo into the Kosovar state in exchange for extensive local autonomy to the northern province" (Vachudova 2014, p. 130). The Brussels Agreement aimed to remove all parallel structures and integrate both the security structures (i.e. police and civil protection) and judiciary into Kosovo structures which would be under Kosovan control, as well as holding municipal elections in Northern Kosovo facilitated by the OSCE. It also foresaw the establishment of the Association/Community of Serb Majority Municipalities (ASM), a cornerstone of the Brussels Agreement, which would grant considerable autonomy to the Serbian majority. The 2013 Brussels Agreement had also foreseen discussions on energy and telecommunications between Kosovo and Serbia. Finally, both Kosovo and Serbia agreed not to block the other's progress in their respective EU path. While not part of the original Brussels Agreement, Chapter 35 additionally called for the implementation of the previously made technical agreements which included: customs (abolishing parallel structures and parallel customs stamps); freedom of movement (allowing third states' nationals entry into Serbia from Kosovo, implementing the automobile license plates

arrangements in Northern Kosovo[14]); regional cooperation (enabling Kosovo's participation in regional initiatives); recognition of diplomas, cadastre, and cooperation with EULEX.

However, as many scholars have argued (Ejdus 2014, Subotić 2014, Beha 2015, Bieber 2015, Nešović and Celeghini 2015, Reljić 2015), the 2013 Brussels Agreement represents a case of the EU's 'constructive ambiguity.' This term suggested that the Agreement was rather ambiguous, allowing both Serbia and Kosovo to interpret it in their own, often opposing ways. An example of this constructive ambiguity was related to the status issue on Kosovo. One scholar, Ejdus (2014) argued that the constructive ambiguity allowed for Serbia to effectively not recognise Kosovo while representatives in the Kosovan government saw the agreement as "factual recognition of Kosovo" (Ejdus 2014, p. 7; Beha 2015, p. 109). To further complicate the status issue, the opposition parties in Kosovo who had protested against the agreement with vigour, particularly the Kosovan self-determination movement and party, Vetevendosje, claimed that "the Agreement with Serbia has suspended entirely state-building of Kosovo. Instead of state-building, we have an association of Serb municipalities" (Beha 2015, p. 109). According to Bieber (2015), this "creative ambiguity" on the part of the EU did not clearly address the status issue of Kosovo, meaning the Brussels Agreement did not indicate whether Kosovo is a state or not (p. 313). Even when examining the text of the Agreement, the parties involved (Serbia and Kosovo) are referred to as "sides" and not as states, thus further bringing the status of Kosovo into question. Evading the status question allowed room for compromise and the normalisation of relations between Serbia and Kosovo but also led to consequences for the negotiation process as it "precluded the signing of formal agreements and treaties, which would have implied that both parties had equal status or that the agreement was legally binding" (Bieber 2015, p. 313). As Gvosdev (2013) argues, the agreement drew on the time-honoured principle of

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[14] The license plate agreement reached on 14 September says that the parties will cease the use of "proba" temporary plates by 15 November 2016.The "proba" temporary license plates had only been applicable to Kosovo-registered vehicles which they had to purchase before entering Serbia. Under the new agreement reached in September, vehicles will enter Kosovo from Serbia and vice versa with "relevant parts of the respective license plates" covered by white stickers although it is not clear which parts would be covered. Edita Tahiri claimed this would be similar to the model between Macedonia and Greece, when, due to the name dispute, Greece required Macedonian vehicles to cover the letters MK since 2012 (Pristina Insight 2016). In other words, Kosovo would presumably cover the RKS which stood for Republic of Kosovo.

"don't ask, don't tell," leaving aside these crucial status issues" (cited in Bieber 2015, p. 313).

The ambiguity of the status issue was also exacerbated by five EU member states not recognising Kosovo, which allowed Serbia to exploit this ambiguity for its own purposes and national interests. Greece, Cyprus, Romania, Slovakia and Spain do not recognise Kosovo due to having secessionist issues on their doorstep. Moreover, as Bieber (2015) has argued, "the EU's position remained ambiguous regarding its demands from Serbia. While officially it could not seek Serbia's recognition of Kosovo, governments and parliaments in some EU member states, in particular Germany, made it clear that eventual EU accession would require full recognition" (p. 314). As far as what the end document would be, an EU official from the Commission has even confirmed that, "we're not even clear about what this normalisation should involve, only that it should be through a legally-binding agreement!" (European Commission Official X 2016). Such contrasting viewpoints among the EU's own member states on the question over Kosovo's status would allow Serbia to use the EU's constructive ambiguity to its advantage-progressing on the path towards EU membership with certain concessions to the Serbs in both Serbia and Kosovo.

The research argues that despite its limitations, the Belgrade-Pristina dialogue could be viewed as a success as it had enforced some level of *partial* compliance by the Serbian government, and allowed for both Kosovo and Serbia to reach and implement agreements on a number of issues that would have seemed impossible in the past. While the EU's carrot-and-stick conditionality approach was still applicable, the EU's role was less about exerting direct pressure; "instead [it] generated [agreement] by conversations, through discussions on what was the common problem" (Bieber 2015, p. 313). Thus, it would be up to Serbia and Kosovo to decide on the agreements made and be responsible for their implementation. The advantage in such an approach, with the EU acting as a facilitator, was to gradually normalise relations between both Kosovo and Serbia, promoting political stability and enhancing regional cooperation, two principle conditions applicable to all the Western Balkan states arising from the Stabilisation and Association Process (SAP). Moreover, Prelec (2013) posits that the EU's constructive ambiguity was successful in that it allowed both sides to reach agreements that would have been dead if spelled out in black and white. This was because the purpose of the approach was to "get the parties to commit publicly to an agreement whose content is to be filled in later, often by EU officials, out of the spotlight" (cited in Bieber 2015, p. 314). Additionally, the

constructive ambiguity of the mediation process also allowed both Serbia and Kosovo to perceive each agreement as a victory and present them as such to their individual publics. An EU official from our findings posits that: "during the implementation, both sides try to transform what was agreed into what they would have liked to be agreed" and often in opposing ways that suited their individual interest (European Commission Official X 2015). This strategy was an exercise in the Serbian government's statecraft allowing Serbia to move forwards in the accession process while simultaneously convincing their nationalist constituency at home that they were protecting national interests, which included the fiction of retaining Kosovo.

In the next section, we analyse the implementation of some of the agreements including on security structures (police and civil protection), justice, energy and telecommunications and municipal elections and argue that all of these areas in which the Serbian government has demonstrated some compliance, have a fundamental bearing on the sovereignty of Kosovo. An official from the EU Commission from our interview data supports this argument claiming that "the Agreement was actually the first time when they [Serbian government] recognised Kosovo is not Serbia" (European Commission Official X 2015). Although this statement may appear to be at odds with the Serbian government objective of retaining Kosovo as an integral part of Serbia, discursive institutionalism posits that that the Serbian government had discursively denied that the agreement implied Serbia's recognition of Kosovo.

4.5 The Implementation of the Brussels Agreements

4.5.1 Security Structures- Police and Civil Protection

One of the most important dimensions of the Brussels Agreement concerns the security structures in Northern Kosovo. Given the history of violence and contested authority of the divided communities in Northern Kosovo, security is a vital component for promoting peacebuilding processes and ensuring regional stability, a key conditionality stemming from the Stabilisation and Association Agreements relevant for all the Western Balkan countries. Prior to the Brussels Agreement, both the United Nations Interim Administration in Kosovo (UNMIK) and other international organisations (EULEX and the OSCE) had failed in managing security in Northern Kosovo thus perpetuating security dilemmas between security forces controlled by Belgrade and those controlled by the central

government in Pristina (Marković 2017, pp. 43-44). Following Kosovo's declaration of independence in 2008, the Kosovo Police took over authority in the whole of Kosovo, thus inevitably clashing with the parallel police forces in the North controlled and financed by Belgrade. The EU realised that such an environment was unsustainable in the long term and did not offer prospects for peacebuilding nor did it solve the EU's Balkan dilemma. Moreover, if Serbia wanted to join the EU, the government had to comply with conditionality set forth in the Brussels Agreement, which, as mentioned previously, became part of negotiating Chapter 35 on Kosovo.

Points 7, 8, and 9 of the Brussels Agreement refer to the dismantling of Serb parallel security structures and their subsequent integration into the Kosovo security structures. Points 7 and 9 specifically indicated that there "shall be only one police force in Kosovo called the Kosovo Police;" that "all police in northern Kosovo shall be integrated in the Kosovo Police (KP) framework", and that "salaries will be only from the KP" (Government of Serbia, Office for Kosovo and Metohija 2013). Moreover, Point 9 of the Brussels Agreement refers to there being only one "Police Regional Commander for the four northern Serb majority municipalities (Northern Mitrovica, Zvečan, Zubin Potok and Leposavić)" who will be a "Kosovo Serb nominated by the Ministry of Interior from a list provided by the four mayors on behalf of the Community/Association" (Government of Serbia, Office for Kosovo and Metohija 2013). Although the Brussels Agreement makes no explicit mention of civil protection, Point 8 of the Agreement refers to "other Serbian security structures" (Government of Serbia, Office for Kosovo and Metohija 2013). According to the latest 2016 EU progress report for Serbia, the Commission claims that "Kosovo Serb police and civil protection personnel are now fully integrated into the Kosovo system" (European Commission 2016a, p. 24). Despite the positive EU progress report, the research argues that this was an area where the Serbian government demonstrated partial compliance to EU conditionality established in the Brussels Agreement. Progress reports from both the Kosovan and Serbian governments indicate mostly positive developments and Serbian compliance in the area of police while the issue of Belgrade still compensating for the salaries of the integrated civil protection raises questions over the nature of compliance. Nonetheless, the research argues that the integration of both police and civil protection has had a positive impact and contributed to peacebuilding processes in the North of Kosovo.

The Kosovan government report from June 2016 stipulates that the police parallel structures have been dissolved and that 287 (out of 337)[15] Kosovo Serb police officers have been integrated into the Kosovo police as of 31 December 2013 while the Regional Directorate (also a Kosovo Serb) had been established on 22 July 2013 (Republic of Kosovo, Ministry for Dialogue 2016a, p. 15). The latest Serbian government progress report from April 2017 was also in accordance with the Kosovan report, and further stated that "the Republic of Serbia undertook appropriate measures to ensure that integration of Ministry of Interior (MoI) employees into Kosovo and Metohija security structures was executed successfully, efficiently and within the agreed timeframes" (Government of Serbia, Office for Kosovo and Metohija 2015c, p. 7). Both governments' reports did note, however, some constraints in the implementation process such as the need for the integration of 39 former Serbian security administrative staff and the official, formal appointment of the Regional Commander of the Kosovo Police Regional Directorate. With regard to the formal appointment of the Regional Commander[16], the Serbian government has claimed that, "the conditions for his formal appointment will only be created upon establishment of the Community/Association of Serbian Municipalities" (Government of Serbia, Office for Kosovo and Metohija, 2017b, p. 11).

Stakić and Bjeloš (2015) argue that the "the characteristics of the civil protection units in the Northern Kosovo municipalities corresponds to those of specialised units-they are composed of full-time employees who are expected to be organised, equipped and trained to carry out complex tasks related to protection and rescue" (p. 10). Such complex tasks are manifold and include "observation and alert, firefighting, search and rescue operations, clearing snowdrifts during winter and other activities that fall under the concept of CP" (Stakić and Bjeloš 2015, p. 11). However, they also have additional tasks that are generally not the responsibility of CP such as road maintenance, clearing the Ibar riverbed, bridge repairs, securing buildings, etc. Moreover, there are claims that the CP also represent a political factor in the North: in 2011 CP were involved in setting up roadblocks and took part in violent clashes after the Kosovo Police special unit attempted to take control of the northern border crossings (Stakić and Bjeloš 2015, p. 13). The many abovementioned tasks the CP is involved in,

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[15] 27 former Ministry of Interior employees had withdrawn from the process while 23 had been refused for "security reasons."

[16] The Regional Commander is in the capacity of Acting Commander until his formal, official appointment.

regardless whether they fall under its jurisdiction, creates a rather ambiguous picture of what the CP actually constitutes. Furthermore, the research argues that the CP represent a security dilemma more so than the police structures as they exist in a legal vacuum—they operate outside of Kosovo's legal framework and there is no equivalent in the Kosovan civilian emergency system. Stakić and Bjeloš (2015) argue that the mandate for these structures was to provide assistance to Serbian civilians in emergency situations while Kosovo and other international organisations operating within Kosovo have deemed these structures to be "illegal paramilitary structures that must be dissolved" (p. 6).

The [November 2016] Kosovan government progress report indicates that the parallel structures of the CP have been closed while 483 former CP members have been integrated/employed into the Kosovo civil institutions (Republic of Kosovo, Ministry for Dialogue 2016b, p. 16). However, both governments' reports indicated the still unresolved issue of payment of salaries to the newly integrated CP members and the issue concerning the handover of premises. While Kosovo claimed that the premises used by the former CP in the north needed to be handed over to the Kosovan Government,[17] the Serbian government reported that 33% of the newly integrated members weren't receiving salaries from the Kosovan government (Government of Serbia, Office for Kosovo and Metohija 2017b, p. 28; Republic of Kosovo, Ministry for Dialogue 2017, p. 3). In an interview we conducted from an official from the Kosovan government, "the Serbian government still compensates for the salaries of integrated Serbian CP" and "uses them as a tool for political pressure in the north and all of the territory where Serbs live" (Member of Democratic Party of Kosovo 2017). One of the criteria for the successful integration of the former CP into Kosovo equivalent structures stemming from Chapter 35 was that "Serbia adopts the necessary regulations on the discontinuation of payment of salaries and provision of financial means to the civil protection in Kosovo" (Conference on Accession to the European Union-Serbia 2015, p. 5). The April-October 2017 Serbian government progress report indicated that Serbia had prepared a draft law on ceasing to pay salaries and provide any financial support to CP members in Kosovo but the law would not be adopted until Kosovo normalises payment of salaries to all integrated members of the CP (Government of Serbia, Office for Kosovo and Metohija 2017a, p. 26).

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[17] According to an interview we conducted from a member of EULEX in Northern Kosovo, it is not entirely clear who owns the premises in the North and therefore, it wasn't the responsibility of the Kosovar Serbs that had been employed in the CP structures to hand them over (EULEX Official, North Kosovo 2017).

Despite the disruption of this final stage of implementation of the agreement on CP, both Serbia and Kosovo have managed to dismantle the CP structures and integrate Serbia's former members into Kosovo security structures, thus creating a more stable environment with less security dilemmas. The Kosovo government progress report also posited that: "the closure of civil protection has had a positive impact in the security situation in the northern part of Kosovo" (Republic of Kosovo, Ministry for Dialogue 2016b, p. 17). Therefore, this was an area of partial compliance by the Serbian government given the outstanding issues of premises and salaries that have yet to be resolved.

An EULEX official from the North claimed that the cooperation between Belgrade and Pristina in the area of security was overall positive (EULEX Official, North Kosovo 2017). The Serbian government had engaged in partial compliance in an area that had an impact on the fundamental sovereignty of Kosovo, demonstrating that the Progressives had realised the reality on the ground that Kosovo was not an integral part of Serbia. The former Serb police and CP were integrated and functioning according to the Kosovan legal framework while the Serbian parallel security structures had been dismantled.

4.5.2 Justice Agreement

The justice agreement was also another major element of the Brussels dialogue that would have an impact on the security situation in the North. Antonijević (2016) posits that "Serbian judicial institutions in the northern part of Kosovo were more or less shut down in mid-2013, in accordance with the Brussels agreement" (cited in Orosz et. al 2016, p. 72). This meant that the judiciary only handled minor civil cases such as divorce and dissolution of property and parental issues while EULEX dealt with the high profile cases concerning war crimes, organised crime and cases dealing with high corruption, thus leaving a backlog of other criminal cases that had yet to be resolved (cited in Orosz et. al 2016, p. 72). The extension of EULEX's mandate in the North-originally set to end in June 2016-did not create the mechanisms for establishing a unified and operational justice system, which is a key benchmark for democracy and part of the 1993 Copenhagen criteria. Given the ethnic divisions and the legal vacuum in North Kosovo where smuggling, organised crime and black commerce continued to be the norm prior to and leading up to the signing of the Brussels Agreement, it became fundamental to establish a unitary justice system, comprising the entire territory of Kosovo. Thus, points 10 and 11 of the 2013 Brussels Agreement called

for the integration of Serb judicial authorities into the Kosovo justice system. Additionally, both points dealt with the ethnic structure of (northern) district and central (Appellate) courts' judges to ensure minority representation and equal participation in legal procedures: the central court in Pristina would establish a panel composed of a majority of Kosovo Serb judges to deal with all Kosovo Serb majority municipalities. The district court, composed of both administrative staff and judges will sit permanently in Northern Mitrovica and each panel would be composed of a majority of Kosovo Serb judges (Government of Serbia, Office for Kosovo and Metohija 2013). The establishment of both regional and central courts was to not only integrate the former Serbian judiciary into the Kosovan legal framework, but it also sought to "build a sustainable framework for cooperation between [Kosovar] Albanians and Serbs" (Marković 2017, pp. 33-34). Therefore, the conditionality stemming from the Brussels Agreement would also ensure compliance with the conditionality of regional cooperation.

In the November 2016 Kosovan government progress report, Kosovo confirmed that the recruitment of 45 Serb judges, 14 prosecutors and 141 administrative staff had been completed (Republic of Kosovo, Ministry for Dialogue 2016b, pp. 18-19). On 30 November 2016, both Kosovo and Serbia agreed on a document titled 'Conclusions of EU facilitators on Justice,' which defined all the elements for the completion of integration in the field of justice (Government of Serbia, Office for Kosovo and Metohija 2017a, p. 12). In this document, "it was agreed that the appointment of judges and prosecutors, as well as the integration of the administrative staff into the the Provisional Institutions of Self-Government (PISG) in Pristina be scheduled for 10 January 2017" (Government of Serbia, Office for Kosovo and Metohija 2017a, p. 12). On this day, Serbia claimed it would comply with the EU conditionality stemming from Chapter 35 on ending tenure for all the to-be integrated judicial personnel (Government of Serbia, Office for Kosovo and Metohija 2017a, p. 12). However, this process was delayed until a new agreement had been reached with the final implementation of the justice agreement being set for 17 October 2017, when Serbian judges, prosecutors and judicial staff would be fully integrated (European External Action Service 2017). Despite an additional week's delay due to the failure of Serb judges and prosecutors to show up at the office of Kosovo President Hashim Thaçi to be sworn in, on 24 October 2017, 42 judges and 14 prosecutors took part in the oath-taking ceremony, thus finalising the implementation of the justice agreement (European Western Balkans 2017).

An EULEX official from the North interviewed for the purpose of the research claimed that the integrated judges are still required to undergo training to be familiarised with the Kosovan legal framework and there is a backlog of cases that need to be dealt with in order to have a fully functioning justice system in the North (EULEX Official North Kosovo 2017). Therefore, the research argues that this is also an area of partial compliance given the fact that the justice system is still not functioning although implementation of the justice agreement is complete. The justice agreement also represented a benchmark for democracy and like police and CP, had an impact on the sovereignty of Kosovo where Serbia had de facto recognised Kosovo through its own independent, integrated justice system in the North that would function according to the Kosovan legal framework and would no longer fall under Belgrade's jurisdiction.

4.5.3 Telecommunications and Energy Agreements

The Brussels Agreement had additionally foreseen discussions on energy and telecommunications which had led to the establishment of agreements in both fields-one in energy in September 2013, with a revitalised agreement in August 2015, and one in telecommunications also in August 2015. Both the energy and telecommunications agreements called for subsidiary companies of the energy and telecom companies in Serbia to be established and licensed to operate in Kosovo according to the Kosovan regulatory and legal framework, which would imply Serbia's *de facto* recognition of Kosovo as a state. The EU praised Serbian government efforts in fully implementing the telecommunications agreement with Kosovo in December 2016 while the energy agreement remains frozen and unimplemented. The research argues that Serbia's willingness to implement one agreement and not the other is an example of the government's strategy of partial compliance in which the Progressives are attempting to achieve the minimum that would allow for the EU to be satisfied, thus leading to advancement in rewards such as the opening of chapters in the accession negotiations. Regarding the energy and telecommunication agreements in particular, the Serbian government's decision in implementing the telecom agreement while not implementing the energy agreement, was for reasons of ownership where both sides claimed that the property inside of Kosovo to be in their respective ownership (Sovrlić and Đapić 2018, p. 26). While both agreements posed issues of ownership, Serbia was successful in preserving the ownership of the new telecom company which would be a subsidiary of Telecom Serbia, but the agreement on

energy was more complex where the value of ownership was greater than with telecom. This was due to the fact that the infrastructure in the field of energy was greater and therefore, held more value than with telecommunications.

The telecommunications agreement signed in August 2015 between Kosovo and Serbia under the auspices of the EU and implemented in December 2016 was one of the most significant success stories of the Brussels dialogue. The agreement called for the establishment of a new telecom company, which would be a subsidiary of the Serbian, state-owned Telekom Serbia. According to a source we interviewed from the European Commission:

> "This operator will be licensed by the Kosovan regulator to operate throughout all of Kosovo. It is a company that will provide fixed and mobile services. The fixed services can be provided in the entire territory of Kosovo, but the mobile operation is a 'temporary authorisation' that covers only the existing Serbian infrastructure on the ground. Some of that infrastructure is not in the North (for instance, there is an antenna at the Gračanica monastery)" (European Commission Official X 2016c).

The Agreement additionally posited that Serbia would give its consent to the International Telecommunication Union (ITU), which would then allocate a three-digit dialling code comprising the whole of Kosovo. Before the Brussels Agreement, Kosovo had three different country codes,[18] none of which belonged to Kosovo as it wasn't a member of the ITU. This resulted in rather expensive roaming charges in mobile telephony and citizens carrying more than one mobile phone particularly since the Serbian dialling code +381 did not work in the south of Kosovo due to poor coverage (Balkan Investigative Reporting Network 2015, pp. 56-57).

With the agreement, Kosovo would receive its own dialling code of +383 while the usage of the other three would cease after a waiting period. The research posits that the dialling code was another example of the EU's constructive ambiguity on the status issue and the ambiguity of the entire mediation process, which had allowed both sides to interpret the dialling code in different, opposing ways. The Kosovan government recognised it as an international dialling code and tacit recognition of Kosovo as a state while Serbia declared it was instead a code for a geographic area, which is owned by the Republic of Serbia (Government of Serbia, Office for Kosovo and Metohija 2016c and 2016d). The element of the

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[18] The three different dialling codes used in Kosovo are the Serbian country code +381, Monaco's of +377 and Slovenia's +386. (Balkan Investigative Reporting Network 2015, p. 57).

code being one for a geographic area supports our findings as this was also confirmed in a statement made by an official from the EU Commission:

> "Kosovo is not a member of the UN, hence it is not a member of the ITU (the International Telecommunications Union). The ITU has the global institution to assign country codes. Therefore the only chance for Kosovo to have its own code was a regional code" (European Commission Official Y 2016).

In this regard, the entire process of "normalisation" thus allowed Serbia to maintain the fiction of retaining Kosovo while implementing agreements along the way and thus progressing forwards in the EU negotiations. In a press release, the European External Action Service (EEAS) had confirmed the full implementation of the telecommunications agreement by both sides. According to the report, Kosovo had been granted a dialling code by the ITU and the subsidiary company of Telekom Serbia had been granted a license for (permanent) fixed telephony and an authorisation for (temporary) mobile telephony issued by the Kosovo Telecommunication Regulatory Authority (European External Action Service 2016b).

Before the Brussels agreement on energy, Kosovo was "dependent upon two main power stations which do not meet the growing electricity needs of Kosovo's economy" (Marković 2017, p. 52). Coupled with that, the political division of the electricity network between Belgrade-owned *Elektroprivreda Srbije* (EPS) and Pristina-controlled *Korporata Energjetike e Kosovë* (KEK), indicated that Kosovo could not cope with its poor efficiency in terms of electricity production (Marković 2017, p. 52). Therefore, as Marković (2017) argues, the Brussels agreement on energy sought to unify the energy system of Kosovo in addition to expanding and promoting cooperation between Belgrade and Pristina in areas of trade and joint production of electricity (p. 52). In line with the agreement, the Serbian company, EPS would be integrated within the Kosovo energy system, which essentially meant that "the electricity network previously controlled by Belgrade should be managed by Pristina but while granting executive autonomy to Serb-dominated areas in the North of Kosovo" (Marković 2017, p. 52). In order to achieve this, two energy companies (one for trade and the other for supply and distribution) were to be established and integrated into Kosovo's energy system, and be licensed to operate under Kosovo's legal and regulatory framework. These two energy companies would also be subsidiaries of the Serbian energy company EPS. According to the most recent (2017) Kosovan government report, "Serbia is blocking the energy agreement by not allowing the new company [for supply and distribution] to be registered in Kosovo in accordance with Kosovo Law as

provided by the energy agreement reached in 2013" (Republic of Kosovo, Ministry for Dialogue 2017, p. 2). The Kosovan government stipulates that this is due to the fact that the new company is refusing to mention Kosovo as the country of operation in its statute, which is mainly for political reasons of not recognising Kosovo as a state (Republic of Kosovo, Ministry for Dialogue 2017, p. 2).

This research posits that the implementation of the telecommunications agreement while the energy agreement remains frozen demonstrates an overall Serbian government strategy of partial compliance to the Brussels agreements. Despite numerous delays in the implementation process, Serbia had finally allowed Kosovo to be granted a dialling code on 15 December 2016[19] and the subsidiary company of Telekom Serbia has been given a license and established according to the Kosovan legal framework (European Western Balkans 2016b). However, according to an official from the European Commission, the energy companies have not been established and licensed to operate even though "the Serbian prime minister (at the time, Vučić) has signed agreements that explicitly state that they will establish and operate the [energy] companies according to the Kosovan legal and regulatory framework. In addition, they managed to do exactly this for telecoms" (European Commission Official X 2016b). The research posits that with the telecommunications agreement, Serbia managed to preserve its property as "the arrangement also enables the transfer of assets to the new subsidiary company of Telekom Serbia without any customs, taxes or charges" (European External Action Service 2016a). However, differences remain over the ownership structure of the new energy company for supply and distribution services which Kosovo wants to own but Serbia is not allowing. The research posits that the desire to preserve the ownership of the energy company as it did with the telecom company could be a valid reason as to why the Serbian government has not implemented the energy agreement. Another reason for Serbia's lack of compliance in this area could very well be a result of Kosovo's reluctance to implement the agreement on the Association of Serbian Municipalities according to an official from the EU Commission (European Commission Official X 2016b). The same official has also posited that the Serbian strategy has always been "what is the minimum that they can achieve which would allow the EU to be satisfied" (European Commission Official X 2015). The fact that

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[19] According to NGO Aktiv (think tank in Kosovo), the dialling code has thus far only been assigned but will be operational by June 2018. After this date, Serbian citizens in Serbia will have to use +383 for calls made out of Serbia to Kosovo (Official from NGO Aktiv 2017).

Serbia has implemented the telecom agreement in full while stalling on the energy agreement is a good example of this strategy where the Serbian political elites comply in one area but not in another, in the hopes the EU would be satisfied.

The fact that Serbia managed to protect its property in the area of telecommunications through the transfer of assets from Serbia Telecom to the new subsidiary company and progress forwards in the accession negotiations through partial compliance, is an example of the government's pragmatic nationalist approach. The Serbian government had used EU accession successfully to protect national interest in North Kosovo as the telecom agreement essentially allowed Serbia to maintain the status quo in Kosovo where Serbia was able to preserve its ownership in the area of telecoms. In this regard, the Serbian government strategy followed the logic of two-level games where the Progressives had appealed to their nationalist constituency in both Kosovo and Serbia while at the same time receiving a green light from the EU to open additional chapters in the negotiation process. Serbia has since opened two additional chapters as of February 2017: Chapter 20 on Enterprise and Industrial Policy and Chapter 26 on Education and Culture, with Chapter 26 being "provisionally" (or temporarily) closed (Delegation of the European Union to the Republic of Serbia 2017).

4.5.4 Municipal elections, parallel structures and the Association of Serbian Municipalities

The holding of fair and free elections is another pillar constituting democracy and therefore, would form part of the political criteria of a country's readiness to join the EU. Moreover, the EU's political conditionality posits the need for stable institutions guaranteeing democracy. Prior to the Brussels Agreement, Serbs living in central Kosovo only partially took part in elections while North Kosovo boycotted elections organised by UNMIK, only participating in those organised by Belgrade. Given the fact that this situation was unsustainable in the long term and did not promote regional cooperation, Point 12 of the Brussels Agreement asserted the need for municipal elections to be organised in the northern municipalities in 2013 with the facilitation of the OSCE and in accordance with Kosovo law and international standards (Government of Serbia, Office for Kosovo and Metohija 2013). Moreover, the elections had foreseen the establishment of local governments in the four northern municipalities, thus in line with the Copenhagen (political) criteria. The EU conditionality from Chapter 35 also called for the dismantlement of parallel structures including Serbian

discontinuation of funding and support of these structures (i.e. interim municipal councils, municipal staff) (Conference on Accession to the European Union-Serbia 2015, p. 4). Various reports from the Council for Inclusive Governance, the European Commission and both the Kosovan and Serbian government have indicated that this was an area where the Serbian government has engaged in partial compliance (European Commission 2014; Gashi and Novaković 2017; Republic of Kosovo, Ministry for Dialogue 2016b; Government of Serbia, Office for Kosovo and Metohija 2015c). More concretely, the Serbian government had encouraged participation of Kosovar Serbs in municipal elections organised in 2013 in the North and again, subsequently in the Kosovan general elections in 2014.

In a report published by the Council for Inclusive Governance, point 12 of the Brussels Agreement is only half implemented: Local elections took place but municipal administrations have not been established (Gashi and Novaković 2017, p. 6). The EU progress report from 2014 for Serbia indicates positive developments in the field of elections indicating that:

> "For the first time, local elections were held Kosovo-wide with the facilitation of the OSCE in November 2013 (and repeated in North Mitrovica in February 2014) and, again for the first time, municipalities in the north of Kosovo were inaugurated in conformity with Kosovo law. Kosovo Serbs from both north and south of the Ibar River took part in the early general elections in June 2014" (European Commission 2014, p. 5).

The success of the elections in Kosovo was mainly due to Belgrade's influence over the politicians loyal to them (i.e. the *Srpska List/Serb List*) in Kosovo. Orosz (2016) argues that "the elections in Kosovo gave an opportunity to Belgrade to foster changes in the Serbian elite in Kosovo through the Serb List and to fill in positions with Serbian politicians that are loyal to Belgrade and through whom it could directly influence politics and decision-making in Kosovo" (cited in Orosz et. al 2016, p. 19). The Serbian government exerted pressure on the Kosovo Serbs to participate in the elections and vote for their Serb representatives in the Serb List. Examples of such measures of external pressure by the Serb government are expressed by the Kosovar Serbs where some argued that free sugar, cooking oil and cash were reportedly traded in exchange for votes. Another Kosovo Serb added, "welfare workers offered around twenty euros to people with social needs in exchange for them voting" (Salem 2013). Other Kosovar Serbs that had been pressured to vote by Belgrade also reported to BalkanInsight that they had been more or less ordered to show up and cast ballots, or risk losing their jobs (Salem 2013). The research posits that similar to the areas of police, civil

protection and the judiciary, the Serbian government ceded control of Kosovo through compliance to EU conditionality in the area of elections, therefore integrating the Kosovar Serbs into Kosovar political structures.

Participation in Kosovo's elections implies integration into Kosovo, thereby through coercion and pressure of the Kosovar Serbs into participation in Kosovo's elections, the Serbian government is de facto recognising Kosovo as a state. However, the Progressives have discursively denied any such recognition of Kosovo as a state in addition to claiming that they have not abandoned the Kosovar Serbs while they have done exactly this by trading compliance on Kosovo for EU-related gains. This strategy also follows Putnam's (1988) "logic of two-level games"-by pressuring Serbs to vote for politicians the Serbian government controls, the government can claim they are defending Serbian national interest as the Srpska List is expected to protect Serb interests and act in Belgrade's favour. The Serbian Foreign Minister [Prime Minister at the time]: Ivica Dačić told the Kosovar Serbs: "You need to help us in order to help yourselves, so that we can continue helping you. That is why you need to go to the polls" (Salem 2013). He also expressed the "need to win these elections and then constitute the Community of Serbian Municipalities, which means Serbian authorities, police and judiciary" (Salem 2013). Additionally, the Serbian government had succeeded in exerting pressure on the Kosovar Serbs to participate in both the June 2014 and 2017 parliamentary elections in Kosovo, fulfilling conditionality of the Brussels Agreement. However, we argue that this could have negative implications for Kosovo as Serb politicians backed by Belgrade can be expected to block any decisions not in favour of the Serbs (Prelec and Rashiti 2015, p. 13).

The Kosovan government report from late 2016 additionally noted that the municipal elections from 2013 produced local governments in the North and that "some progress had been made with regard to the legal functioning of the four northern municipalities" (Republic of Kosovo, Ministry for Dialogue 2016b, p. 12). The same report indicated positive developments and progress made in the municipalities in areas of delivering public services, managing local budgets, reporting of activities to relevant Kosovan authorities, participation in the process of public administration reforms and improvements have been made in the context of providing services to citizens. With regard to the last point, the financial system, cadastral system, and civil registry are operational in the municipality of Mitrovica North (Republic of Kosovo, Ministry for Dialogue 2016b, p. 12). The government report also noted several areas which lacked progress with the first being the issue over symbols in the northern municipalities where "four northern municipalities are

still operating without official symbols, coat of arms, stamps, etc." (Republic of Kosovo, Ministry for Dialogue 2016b, p. 13). Additionally, three municipalities in the North (Zvečan, Leposavić and Zubin Potok) have also not integrated their administrative staff while Mitrovica North was successful in this field. Cadastral offices in three northern municipalities have also not been integrated in the Kosovo system, and the education and health systems have yet to be integrated. With regard to the last point, health and education are the most significant issue for the Serbs in Kosovo and these parallel structures have still to be dismantled. The formation of the Association of Serb Majority Municipalities (ASM) was supposed to resolve this issue, but the establishment of the ASM remains frozen due to conflicting interpretations by both Kosovo and Serbia regarding its organisational structure and competences.

The ASM, first envisioned in the Ahtisaari Plan, was supposed to grant more autonomy to the Serbians living in Kosovo, and would include all of the northern as well as southern Serbian municipalities. It would replace the individual competences of the municipalities where the ASM would have executive authority in the areas of health and education, urban and regional development and economic development (Government of Serbia, Office for Kosovo and Metohija 2015a and 2015b). According to a Balkan Investigative Reporting Network report, "it will also allow Serbia to contribute money – in a transparent manner – to the body" which is of vital interest to the Serbs residing in North Kosovo who rely on money coming from Belgrade (Balkan Investigative Reporting Network 2015, p. 36). However, both Serbia and Kosovo have viewed the ASM and the competences it would have in vastly dissimilar ways. The Kosovan government views the ASM as an autonomous organisation similar to that of an NGO while the Serbian government has used the media outlets in Serbia to represent the ASM as an organisation which would have executive powers that would protect Serbian national interest (Government of Serbia, Office for Kosovo and Metohija 2015a). While it is difficult to establish what structure and powers the ASM will have as the statute has yet to be drafted, the research posits that the Serbian government has "sold" the ASM as a Serbian entity similar to that of a third layer of government that would protect Serbian institutions (Government of Serbia, Office for Kosovo and Metohija 2015a).

In general, the Serbian government strategy with regard to elections and the ASM is also one of partial compliance and can best be explained by Putnam's (1988) "logic of two-level games." On the one hand, the Serbian government has represented the ASM as a protection of Serbian national interests by promising to

create an autonomous community that would have executive authority and maintain the Serbian institutions. Until the establishment of the ASM, the Serbian government maintains the parallel structures in health and education. However, the Progressives have exerted pressure on the Kosovar Serbs to participate in the municipal and general elections in Kosovo as fulfilment of EU conditionality stemming from Chapter 35 and the Brussels Agreement to move ahead in the accession negotiations. Nenad Rašić, a Serb MP in Kosovo's Parliament, has also expressed his concern that as with the elections, the Serbian government will use the ASM to fulfil EU criteria: "the Association of Serb Municipalities will not meet the needs of the Kosovo Serbs but will represent a major success story for Belgrade's policy towards Kosovo" (cited in Orosz et al. 2016, p. 138).

The Serbian strategy of partial compliance to the EU conditionality stemming from Chapter 35 and the Brussels Agreement is a consequence of the EU's position with regard to Kosovo. Knowing that it could not enforce Kosovo's recognition by Serbia, the EU has nonetheless remained adamant in its decision to not import another frozen conflict such as that of Cyprus, which acceded in the 2004 enlargement. Therefore, the EU has prioritised the fulfilment of conditionality by Serbia from Chapter 35, and has additionally linked progress in this policy area with the opening up of chapters and progress in the accession negotiations. The effectiveness of the EU enforcing Serbian compliance regarding Kosovo was also ensured by the increase in external actors monitoring Serbian compliance through progress reports and press statements, thereby making non-compliance difficult to hide. In the next section, we examine the EU's competences in a highly visible policy area such as Kosovo to account for the Serbian government strategy of partial compliance.

4.6 The EU's Position

Bickerton (2011) argues that "from being a source of legitimacy, Normative Power Europe is today in search of its own legitimacy" (cited in Whitman 2011, p. 25). Given the EU's failure to find a solution to the Cyprus issue prior to the country's accession, the EU has placed salience on the resolution of Kosovo prior to Serbia's membership, but without explicitly stating whether this would entail recognition. Instead, the EU has acted as a mediator in the normalisation process, in the hopes that the Serbian and Kosovan governments would find a sustainable solution that would be acceptable to the EU and to both Serbia and Kosovo. Realising that it could not enforce recognition of Kosovo upon Serbia given that

five member states also remain against recognition[20], the EU's search for legitimacy vis-à-vis its policy towards Kosovo has allowed it to establish more stringent conditionality and has additionally linked Serbia's compliance towards Kosovo conditionality with progress in the accession negotiations including opening up of chapters. In line with the EU Negotiating Framework, the EU Common Position on Chapter 35 explicitly states that the progress of Serbia in the negotiations largely depends on the progress made in reaching the interim benchmarks for Chapter 35. Given the Progressives' and Aleksandar Vučić's goal of EU membership, the Serbian government had to engage in some level of compliance to appease the EU and thus progress in the accession negotiations. Thus, partial compliance was enabled as a result of the EU's extensive competences in a highly visible policy area (i.e. Kosovo).

The Council of the European Union publishes documents known as the EU's "common position" which state the interim benchmarks a country must meet in order to progress in the accession negotiations, in addition to clauses positing an action the EU can take if a country is not implementing the necessary criteria. The EU Common Position for Chapter 35 for Serbia explicitly states:

> "If progress in the normalisation of relations with Kosovo significantly lags behind progress in the negotiations overall, due to Serbia failing to act in good faith, in particular in the implementation of agreements reached between Serbia and Kosovo, the Commission will on its own initiative or on the request of one third of the Member States, in accordance with point 25 of the negotiating framework, propose to withhold its recommendations to open and/or close other negotiating chapters, and adapt the associated preparatory work, as appropriate, until this imbalance is addressed" (Conference on Accession to the European Union-Serbia 2015, p. 3).

This clause indicates that the EU will withhold incentives such as the opening and closing of chapters if Serbia refrains from complying with EU conditionality, which includes implementation of agreements made with Kosovo. Unlike with regard to media freedom, which is an internal issue and an area where the EU lacks competences, the Kosovo issue is an area where the EU has extensive competences and where there is an increase in external actors monitoring compliance (i.e. the EU, Kosovo and the international community) which would make Serbia's non-compliance difficult to hide. The Serbian government is expected to cooperate with the Kosovan government, which then publishes progress reports, similar to those of the European Commission, noting progress

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[20] Spain, Greece, Cyprus, Slovakia and Romania all are EU member states with secessionist issues on their doorstep and thus have not recognised Kosovo's unilateral declaration of independence.

and often criticising lack of progress by the Serbian government in the implementation of the Brussels agreements. These reports are duly noted by the EU and taken into consideration when seeking appropriate measures to either reward Serbia for compliance in the form of opening chapters and access to EU funds, or sanction Serbia by hindering Serbia's advancement in other areas of the accession negotiations. An example of the EU rewarding Serbia for compliance was following the August 2015 revitalised Brussels package when Serbia and Kosovo signed four new accords: on establishing the Association/Community of Serb municipalities, on energy, telecoms, and the Mitrovica Bridge. This allowed for the opening of the first negotiation chapters, Chapter 32 on Financial Control and Chapter 35 (European Parliament 2015). As a consequence, the Serbian government realised that progress in the Brussels dialogue was linked with advancement in the accession negotiations, which would eventually lead to membership.

Although the salience of EU conditionality to Kosovo was enough to enforce some compliance on behalf of the Serbian government, our empirical evidence suggests that the Serbian government strategy has been the minimum they could achieve that would allow for the EU to be satisfied (European Commission Official X 2015). This strategy can partly be explained by electoral considerations, which took precedence over the conformity to EU values where the Progressives found themselves managing two different, competing tensions: EU accession and the retention of Kosovo. Not wishing to lose domestic support, the Progressives had to satisfy both camps, and thus partial compliance to EU conditionality became the strategy in dealing with these two tensions.

4.7 The Serbian Government's Statecraft

Despite the decline in Euroenthusiasm among the Serbian public since 2010, Serbia's accession to the EU is still supported by nearly half the population according to the results from opinion poll research published by the Serbian Ministry for European Integration as shown in Figure 4.2. The salience of EU membership for a small and economically dysfunctional country like Serbia is regularly emphasised by the Serbian government, particularly from the Serbian President and leader of the Progressive Party: Aleksandar Vučić. A former journalist of the Serbian popular daily: *Politika,* notes that "Vučić will not change the European agenda-he was built on it-aware that there is no political future without the EU" (Former journalist from Politika 2016). The rationalist argument of

cost-benefit calculation by domestic actors supports the Progressives' decision of Serbian accession given the material incentives membership would bring.

However, the decision to engage in partial instead of genuine compliance was a consequence of the nationalist background of the Serbian Progressive Party coupled with the need to appeal to a sector of their domestic population that remains against giving up control over Kosovo. While rationalist theory may partly account for Serbian government strategy of partial compliance, this theory is inadequate in explaining the reasoning behind this strategy. Therefore, Bulpitt's (1986) concept of statecraft where parties seek to maintain positions of power complements rationalist theory as it supports the Serbian government strategy of partial compliance- the Progressives and Vučić sought to appeal to both the EU and their nationalist constituency in order to progress forward in the accession negotiations as well as retain power at home. In this section, the research examines the Serbian government's decision to engage in partial compliance as being mainly a result of electoral considerations rather than just material concerns arising out of EU accession.

Figure 4.2 Polls Depicting Serbians' Attitudes towards EU Accession and Recognition of Kosovo
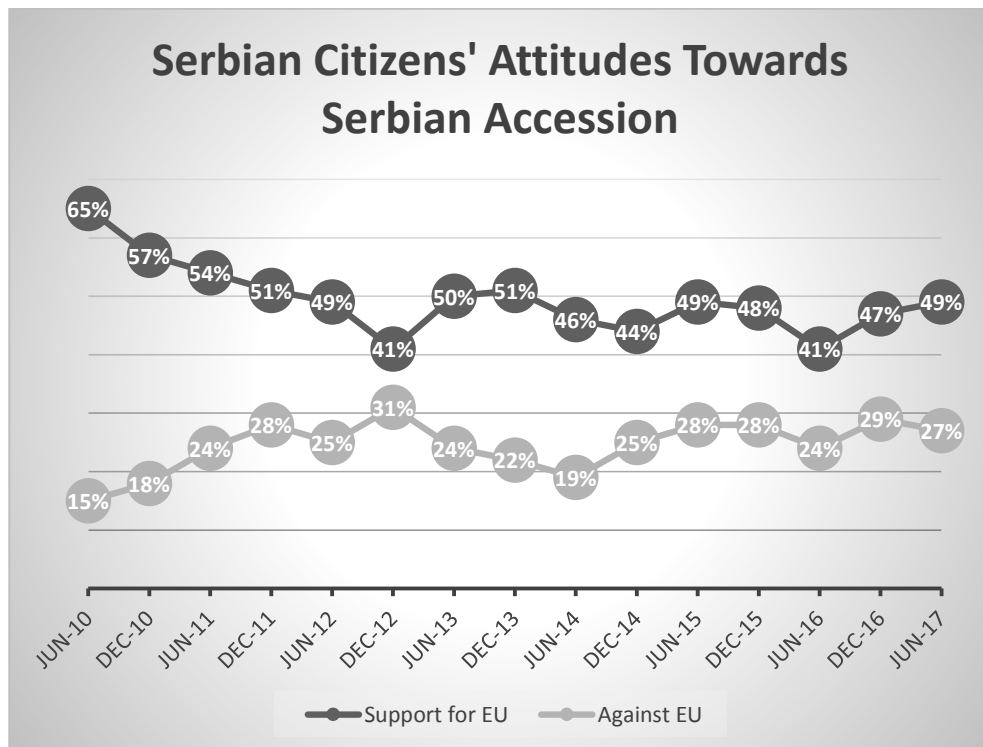
(Source: Ministry for European Integration, Government of Serbia 2010-2017).

Against Kosovo's independence
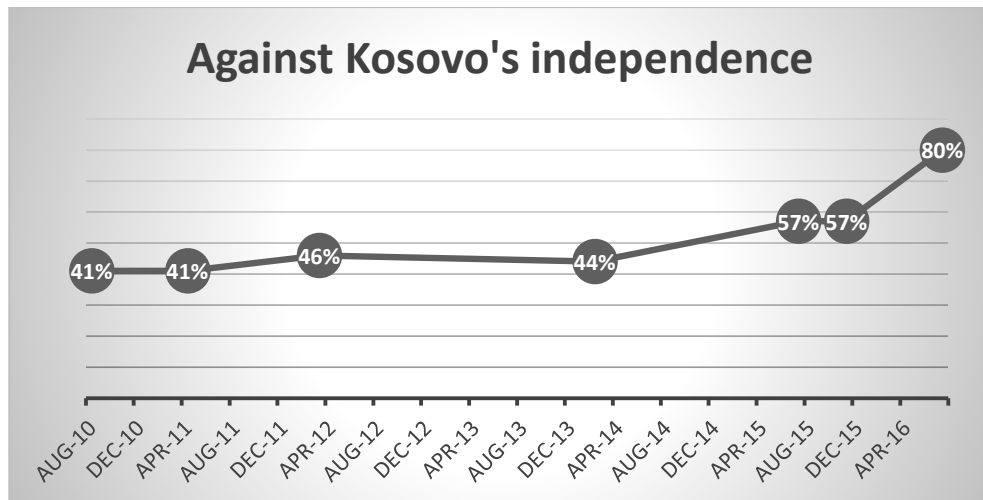
(Source: Taken from two opinion polls: International Republican Institute 2015; and the Belgrade Institute for European Affairs 2016.)

An examination of opinion polls from June 2010 to June 2017 published by the Serbian Ministry for European Integration elucidates that accession to the EU is still supported by nearly half of the Serbian population as shown in Figure 4.2. Despite the slight decline in support for Serbia's EU accession shortly prior to the Progressives' coming to power following the May 2012 general elections, support for the EU has been steady since. Therefore, it became imperative for the Progressives to maintain their goal of EU accession, particularly given the fact that there is no real viable economic option for Serbia other than the EU. Despite a multitude of voices, including from the opposition right-wing parties, calling for a strengthening of relations with Russia for economic reasons[21], Ker-Lindsay (2016) argues that "many in the Serbian government know that Russia has little to offer in the longer term" (cited in Maza 2016). He further posits that: "it is the investment from major EU companies that will turn the country around economically, and Russia just cannot compete with this" (cited in Maza 2016). The Serbian government realised that non-compliance to EU conditionality would ultimately hinder the allocation of EU structural funds to Serbia, and thus, some level of compliance to EU conditionality was necessary in order to secure some of these funds in addition to other EU benefits including the opening and closing of chapters in the accession negotiations. Therefore, the material incentives coupled with the

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[21] Serbia is heavily dependent on Russian energy exports as 80% of its gas exports come from Russia. Additionally, Russia has invested into the Serbian infrastructure including the South Stream Pipeline and a railway track between Belgrade and Pančevo (Ramani 2017). Nonetheless, the EU's share of Serbian trade is 63.2 per cent according to the government, compared with Russia's 9.5 per cent (Byrne 2014).

domestic public's support for the EU can partly account for the Serbian government's decision to engage in partial compliance.

With regard to the question over Kosovo, an examination of opinion poll research published by non-governmental organisations such as the International Republican Institute and the Belgrade-based Institute for European Affairs show that a large majority of citizens in Serbia are not prepared for Serbia to recognise Kosovo even if this became a condition for EU membership. The opinion poll published by the International Republican Institute showed that the majority (57 per cent in July and November 2015) indicated that Serbia should refuse to accept recognition of Kosovo at the expense of staying out of the EU while the survey conducted by the Belgrade-based NGO, the Institute for European Affairs, claimed that 80 per cent of respondents stated that Kosovo should never be recognised as independent (International Republican Institute 2015, p. 15; B92 2016b). The attitudes towards Kosovo's recognition expressed in the opinion polls are further reinforced by the extreme right, nationalist parties that had entered Parliament following the 2016 elections and include the Serbian Radical Party, Dveri and the Democratic Party of Serbia.[22] The Progessives' decision to maintain the fiction of retaining Kosovo as an integral part of Serbia is attributed to the government's strategy of demonstrating a sense of governing competence in order to win future elections. A political analyst from Belgrade supports this argument, positing that "any party or politician who recognises Kosovo would be politically punished in the elections" (Political analyst from Belgrade 2017). As the Brussels Agreement was seen as Serbia's de facto recognition of Kosovo, members of far right parties, the Serbian Orthodox Church and parts of the Serbian electorate had accused Serbian government officials of treason (Čabrić 2013). In order not to lose popular support and face further political backlash, the Progressives employed a strategy of discursive denial in order to minimise the extent of Serbian concessions.

The research argues that as a result of the prohibitive compliance costs to Kosovo conditionality, the Progressives aimed to build a policy package that was

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[22] Radical leader Vojislav Šešelj's Radicals hold 22 seats; Dveri and the Democratic Party of Serbia in a joint coalition hold 13 (National Assembly of the Republic of Serbia 2016). Although these are relatively smaller parties, they still enjoy support among the Serbian population. Tena Prelec, a researcher at the LSEE argues that "the comeback of Šešelj's SRS only weeks after his first-grade acquittal by the International Criminal Tribunal for the Former Yugoslavia, as well as the seats secured by DSS-Dveri, indicate that Serbian nationalism and pro-Russian stances are still an important factor in the country" (Prelec, T. 2016). Thus, any decision made by the Progressives that could lead towards recognition of Kosovo would have negative repercussions for the Serbian government, and could ultimately lead to Vučić and the Progressives Party's defeat in the next election cycle.

acceptable to their domestic public and would satisfy the EU in order to move forwards in the accession negotiations. Partial compliance became a way for the Serbian government to manage both the tensions of accession to the EU, which would bring considerable economic benefits, in addition to maintaining the fiction that Kosovo was still an integral part of Serbia in order satisfy their nationalist constituency at home so as not to lose domestic support. This strategy can best be attributed to Robert Putnam's (1988) "logic of two-level games" where domestic political leaders are players at two tables – the international and the domestic – and are thus doubly constrained by both what is negotiable internationally and what is acceptable domestically" (cited in Noutcheva 2006, p. 5). Thus, according to Putnam (1988), "national governments seek to maximise their own ability to satisfy domestic pressures, while minimising the adverse consequences of foreign developments" (Putnam 1988, p. 434). In this respect, through partial compliance, Serbian political actors were able to satisfy both the EU and their pro-EU supporters, in order to progress forwards in the accession negotiations with considerable benefits along the way. At the same time, the Serbian government was able to minimise the costs of compliance to Kosovo conditionality by 'hammering' out compromises which they later sold to their domestic constituencies as being in favour of Serbia, thus garnering further public support.

While partial compliance may be enough to satisfy the EU in the meantime, Noutcheva (2012) argues that "the changes introduced through the manipulation of material incentives may not be sustained beyond the delivery of the anticipated benefits, and may even be reversed in time" (Noutcheva 2012, p. 30). The research argues that this could entail a similar situation to that of Bulgaria and Romania who acceded in 2007 but where post-accession has led to stalled (Bulgaria) and even reversed state building (in Romania) and an increase in cases involving high corruption and organised crime. Ganev (2013) argues that Bulgaria had been one of the least corrupt countries in 2007 but post-accession, the willingness of political elites to tackle organised crime and corruption deteriorated substantially while Romania has seen no improvement (Ganev 2013, p. 29). Unlike in the pre-accession phase, where the same Bulgarian and Romanian political elites remained motivated to compliance with EU conditionality, the EU's usage of incentives and sanctions had no effect on Bulgarian and Romanian political elites in the post-accession phase. Moreover, it did not lead to reforms that would have improved the functionality of administrative structures and tackled organised crime and corruption. This failure on behalf of the EU to enforce reforms following accession through the usage of incentives and sanctions in Bulgaria and Romania

was primarily due to the absence of a threat post-accession as opposed to the pre-accession phase where the threat of exclusion was prevalent.

The research argues that Serbian political elites' decision to engage in partial compliance to EU conditionality is not sustainable beyond the delivery of EU benefits in the long term, even following Serbia's accession to the EU. This is a consequence of the fact that Serbian government strategy, primarily its shift in policy toward Kosovo, was based on the statecraft theory of maintaining positions of power instead of a sincere desire to adapt to EU values and norms in the constructivist sense. The research argues that if the EU were to grant Serbia membership, the country could very well follow the examples of some of its neighbours, post accession, such as Bulgaria, Romania and even Hungary where EU values and norms are being undermined and called into question, as will be the discussion in the concluding chapter. Even in the pre-accession phase, the high adaptation costs of Kosovo conditionality, which has compelled Serbian political elites to engage in partial compliance has not led to full implementation of all the agreements signed between Pristina and Belgrade in the Brussels Dialogue. The Brussels Agreement has already begun to show its weaknesses and limitations as evidenced in the EU's constructive ambiguity approach on what full normalisation might entail-- Kosovo sees it as recognition of its statehood while Serbia views it as "everything but recognition" (Gashi and Novaković 2017, p. 3). This could pose as a potential risk and lead to a breakdown in implementation of future agreements as is already visible in the frozen agreements on energy and the Association of Serb Majority Municipalities.

4.8 Conclusion

Serbian national identity is encompassed by the Kosovo myth, which alludes to the myth of sacrifice and victimisation of the Serbian people under Albanian rule. For Armstrong (1982), one of the many theorists on nationalism, these myths and symbols "are usually more persistent than purely material factors" in ethnic nationalisms and argues that these myths can be transferred for political purposes" (cited in Őzkirimli 2000, pp. 172- 173). The Kosovo myth was first exploited by Milošević to mobilise the Serbian population against the onset of Albanian nationalism and Kosovo's move for independence. Kosovo, thus became an integral part of the Serbs' struggle against its enemies, from Milošević's famous rally in 1989 to Kosovo's unilateral declaration of independence in 2008, and has since become every government's ambition in preserving Kosovo as an integral

part of Serbia. Due to economic concerns and corruption being more pressing issues for the Serbs, Kosovo began to lose saliency in the years following the election of the Progressives. However, this did not imply that the Kosovo myth became completely removed from Serbian politics nor did it indicate that the Progressives or any other Serbian political party was prepared to recognise Kosovo's independence publicly. The research has posited that such a measure would be cause for political backlash and would lead to a decline in the Progressives' popularity. Despite Serbia's firm non-recognition policy regarding Kosovo, an EU official from our interview data posited that the Serbian government had recognised through the Brussels Agreement, the reality that, Kosovo is not Serbia (European Commission Official X 2015).

The Kosovo case study has argued that the Brussels dialogue was initially viewed as a success and an area where the Progressives have engaged in partial compliance. The agreements the research has analysed that have been either fully or partially implemented all have a fundamental bearing on the sovereignty of Kosovo, particularly the dismantlement of Serbian parallel structures and the subsequent reintegration of Serbs into Kosovan institutions. Additionally, the justice agreement, elections and the agreement on police and civil protection represent pillars of democracy and have implications for the political criteria that demonstrate a country's readiness to join the European Union. However, according to rationalist theory, the Progessives are complying out of material concerns arising from EU benefits rather than a notion of cultural belonging or identification with EU norms and values. Serbia's policy shift on Kosovo was therefore based on pragmatism and political opportunism of wishing to protect Serbian nationalist interest vis-à-vis EU integration in addition to electoral considerations of what EU accession would bring to Serbia and its citizens. Combined with the government's objective of Serbian accession, compliance on Kosovo conditionality was in part enabled as this was a highly visible policy area where the presence of external actors monitoring compliance was greater. In highly visible policy areas, the EU is equipped with extensive competences to enforce political leaders to comply, thereby making non-compliance difficult to hide.

In order to manage the repercussions of compliance with Kosovo conditionality, the discursive institutionalist approach posits that the Serbian political elites had maintained the fiction of retaining Kosovo through public discourse out of electoral concerns. This would seem to suggest a case of shallow Europeanisation where, despite partial compliance, the prohibitive costs of

recognising Kosovo led to the government's discursive denial of Serbia's de facto recognition vis-à-vis the Brussels dialogue, thus indicating that there was nothing sincere about Serbia's policy shift towards Kosovo. An official from the European Commission interviewed for the purpose of the research also reflects this argument: "I would not say it [Serbia's policy shift] is sincere. Instead of saying yes, we [referring to Serbian government] must do this because we believe in the rights of 1.8 million Kosovans. I think that there is a realisation we have to do this because we have no other option if we are serious about our European integration. And as I said, there is always an element of what is the minimum that they [the Serbian government] can do" (European Commission Official X 2015). This is supported by the fact that nationalist elements still exist in the Serbian Progressive Party's position on Kosovo, evidenced by their non-compromising recognition strategy and desire to retain some semblance of control over Serb-dominated parts of Kosovo (i.e. through not implementing the energy agreement, seeking executive status for the ASM) .

Though one cannot deny the major shift in the Progressives' position towards Kosovo from that of hardline nationalism advocated under the Radical Party and Milošević in the 1990s to the beginning of normalisation, the Brussels dialogue has shown its weaknesses and limitations, namely those relating to the unresolved status issue. Similar to the Ahtisaari Plan, the Brussels Agreement avoided the status issue entirely, which enabled Serbian political elites to use the dialogue to their own advantage, and often in ways that was detrimental to both sides for the sake of political gain. Vučić and the Progressive do not seem to be prepared to recognise Kosovo today any more than when they were in the 1990s. This is evidenced by the Progressives' blocking of Kosovo from UNESCO membership in October 2015. In an open letter to UNESCO, the Progressive leader Aleksandar Vučić declared that "Kosovo cannot be considered a state" because under the legally binding UNSC Resolution 1244 (1999) "Kosovo and Metohija is a territory which is a part of the Republic of Serbia under the United Nations administration" (Srpska Napredna Stranka 2015). Moreover, the train incident in January 2017 in which Serbian political elites sent a train covered in the controversial slogan "Kosovo is Serbia" in 21 different languages was also a move that had served to heighten tensions and demonstrated that despite partial compliance, nationalist elements still persisted in the Progressives' policy towards Kosovo (Morina, D. and BIRN 2017).

While there has been compliance to Kosovo conditionality, this has not been the case in terms of compliance to conditions stemming from Chapter 23 on

Justice and Fundamental Rights, which would include freedom of expression and independence of the media. Instead, persistent government interference in the Serbian media outlets through financing and influence on editorial content, including non-transparency in ownership structures, indicate a strategy of fake compliance in this policy area. This is exacerbated by the lack of EU competence in enforcing media freedoms in some of its own member states and candidate countries which accession countries such as Serbia can exploit. The next chapter will argue that this has allowed the Serbian government to trade pliancy on Kosovo for room for manoeuvre in domestic areas such as in media freedom as demonstrated in Vučić's authoritarian policy in the media sector.

Chapter 5: A Free Media? The Pervasiveness of Politics in the Media Sector in Serbia

5.1 Introduction

In a post-Communist country that is still undergoing processes of democratisation and where there is an oversaturation of media outlets, the media's economic survival more often than not depends on its political relationship with the state. The government, in this regard, intervenes in the media through direct ownership or through indirect mechanisms of control, such as through financing from the state budget, including in advertising. The media is then expected to promote the work of the government and publish positive news coverage of the leading political elites in power. Such is the case with Serbia, where the media market is small and thoroughly oversaturated with many media outlets,[23] the majority of which depend on government financial support as a key basis for their sustainability. Ryabinska (2011) argues that in Serbia and some of its Balkan neighbours, the media "are not autonomous from governments or vested interests, but highly dependent on them, and they function not as democratic institutions, but as tools for trading influence and manipulating public opinion in the interests of power-holders" (p. 4). The Serbian government's authoritarian policy towards the media has led to a significant decline in media freedom where the media outlets serve as powerful PR for the leading party officials, predominantly Progressive Party leader and President, Aleksandar Vučić.

The research posits that what constitutes an independent and pluralistic media is very difficult to determine. The EU does not have clear criteria for defining media freedom as it is not part of the *acquis* and exists solely as benchmarks for the negotiating chapters pertaining to freedom of expression, which include Chapter 23 on Justice and Fundamental Rights and Chapter 10 on Information Society and the Media. Given the difficulty in defining media independence and pluralism, we refer to the EU's benchmarks as the basis for our analysis. Freedom of expression conditionality from Chapter 23 posits that Serbia respects independence of the media through: "the application of a zero-tolerance policy as regards to threats and attacks against journalists…transparency (including on

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[23]With a population of roughly seven million, Serbia has over 1000 registered media outlets. The figures differ slightly from report to report, but the official number from the Serbian Business Registers Agency is 1742 (Jonić 2016).

ownership of media), integrity and pluralism" (Conference on Accession to the European Union-Serbia 2016, p. 28). In these benchmarks, there is no mention of state withdrawal from the media including of the limits of state funding of the media. From an interview conducted with a former official from the EU Commission, media that is free from political influence and control is the core principle of media independence (EU Commission Official Y 2016b).

In order to meet the EU conditionality on media freedom and thus bring the media environment up to European standards, the Serbian government adopted three laws--public information and the media, electronic media and public broadcasting services in August 2014 (B92 2014). Despite the adoption of the new media laws, Serbia has achieved very little progress when it comes to reforming the media sector, and significant state interference in the media still persists. Political influence has had a negative effect on the media especially through the continued financing of media outlets through indirect means such as project co-financing and state advertising. The research argues that the adoption of the three new media laws and the government's Action Plan for their implementation was in reality a means to convince the EU on paper that Serbia was complying with conditionality stemming from Chapter 23. By simulating EU-compliant change in the short run while seeking ways of reversing that change and maximising profits in the long run, Serbian politicians were engaging in fake compliance. Noutcheva (2006) argues that "if domestic actors pass legislation compliant with EU demands but legal enforcement does not follow up, and problems of technical nature are not obvious, the ensuing conclusion is that there is no political will to do the reforms requested. Hence, the actors do not believe in the appropriateness of these domestic changes" (p. 11). The Serbian government's strategy of fake compliance can also be attributed to the EU's lack of capacity to enforce and regulate media freedom in some of its own member states, which has given Serbian politicians a margin for manoeuvre when it came to compliance.

In the first part of the chapter, we provide a statistical analysis of media freedom in Serbia since 2003 in order to demonstrate the decline. Then we examine the most significant, national Serbian media outlets in order to demonstrate non-transparent ownership as well as government interference. The second part of the chapter will examine the media laws adopted by the Serbian government in August 2014 and the implementation strategies of the Serbian government, according to government's Action Plan for Chapter 23. The study will argue that the adoption of the media laws and Action Plan for their implementation were strategies the Serbian government used to persuade the EU of their

compliance on paper. In reality, implementation was limited and the media laws did not lead to greater transparency or state withdrawal from the media, including in financing and ownership, which posit a strategy of fake compliance. In the following section, we offer an explanation for the Serbian strategy of fake compliance by examining the EU's position on compliance to EU conditions with regard to media freedom. As full compliance to media freedom conditionality comes with reputational costs, we argue that the EU's lack of competence in this policy area has enabled the Serbian government to simulate domestic-compliant change (i.e. *fake* compliance).

5.2 Statistical Analysis of the Serbian Media Environment From 2003-2017

In Serbia, the media environment has seen a slow decline since the fall of Milošević. A 2017 Freedom House report ranked Serbia as partly free in the area of freedom of the press with a score of 49 out of 100 (100 being the worst and 0 the best) and the country is ranked as the 98th out of 201 in the world in press and media freedom (Freedom House 2017)[24]. It has fallen from its highest ranking of 72nd in 2011. In the Freedom House 2017 regional rankings and scores for Europe, Serbia ranked 38 out of 42 countries, with only four countries ranked below Serbia in press freedom (Freedom House 2017). Out of its Balkan neighbours, Croatia, Montenegro, Bulgaria, Romania and even Kosovo scored above Serbia while Albania, Bosnia and Macedonia scored below.[25]Additionally, according to the Freedom House index, Serbia was among the seven countries that suffered the largest declines in press freedom in 2017 (Freedom House 2017).[26] Freedom House listed the reasons for the decline in Serbia being due to President Vučić using his election campaign to "discredit unfriendly media outlets" while "the pro-government tabloid *Informer* has smeared critical journalists with familiar accusations of mafia ties or collusion with foreign intelligence agencies" (Freedom House 2017). These developments, in addition to surveillance of independent reporters and attacks on journalists have also contributed to the decline in press freedom in 2016. A 2016 IREX Media Sustainability Index (MSI) rated Serbia the

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[24] Although there are 197 countries in the world, Freedom House Index reports on an additional four "territories" which include the West Bank and Gaza Strip, Somaliland, Crimea, and Hong Kong.

[25] Macedonia was the only Balkan country that scored as "not free" and was 41st in the region ranking one number above Turkey.

[26] The other countries that suffered the biggest decline in 2017 besides Serbia were Poland, Turkey, Burundi, Hungary, Bolivia and the Democratic Republic of Congo (Freedom House 2017).

lowest since the MSI began in 2001 due to "the long-term deterioration of media law implementation and enforcement" which is a result of political pressures and influence on the media, worsening economic conditions, attacks on journalists and unprofessional reporting to name a few (IREX Media Sustainability Index 2016, p. 125). The overall average score for Serbia according to the 2016 IREX Index was 1.71 (the highest being 4), with the country seeing little or no change and falling into the category of an unsustainable, mixed system (IREX Media Sustainability Index 2016, p. 126). Despite a slight increase, the most recent 2017 report posits that "in the last 24 months, around 50 serious independent analyses of different aspects of the Serbian media sector were prepared; all pointing to an unsustainable media situation" (IREX Media Sustainability Index 2017, p. 2). Table 5.1 demonstrates the decline in media freedom since 2003, according to the MSI.

Table 5.1
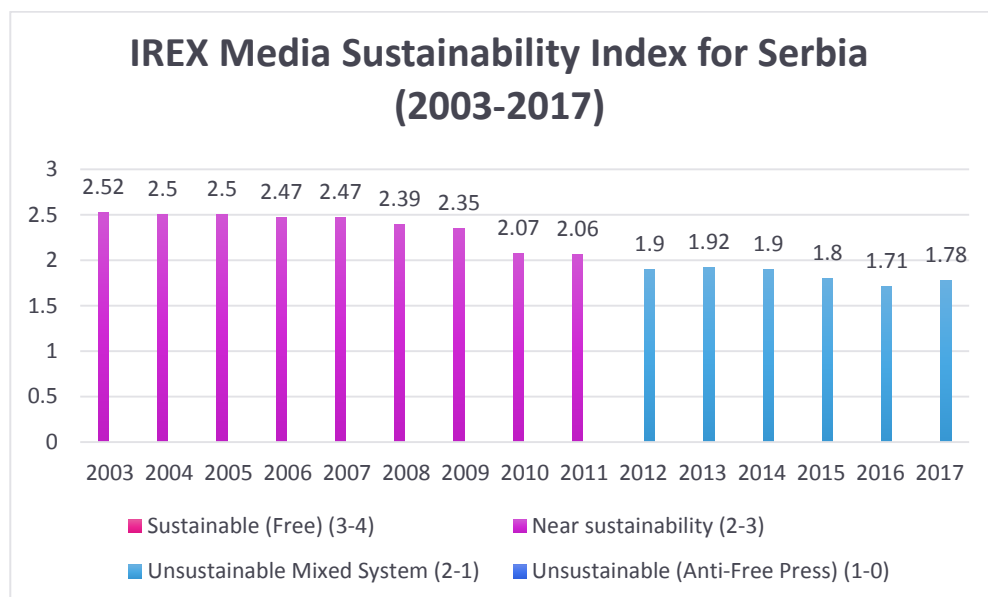
(Source: IREX Media Sustainability Index 2003-2017).

The 1.71 score suggests a steady decline in media sustainability and freedom, since 2003 when the average score was 2.52 and falling into the category of "near sustainability" (IREX Media Sustainability Index 2010, p. 103). 2012 was when figures had dropped to those that would indicate an unsustainable, mixed media system, which means that a "country minimally meets objectives, with segments of the legal system and government opposed to a free media system" (IREX Media Sustainability Index 2016, p. 126). These figures seem to suggest that media freedom in Serbia was in slow decline since 2009 shortly after the election of the Democratic Party under incumbent Serbian President Boris Tadić. However, since

the Serbian Progressive Party came to power in 2012, the media environment has not improved and continues to decline, threatening the country's democratic prospects among which include membership to the EU.

5.3 An Overview of Serbian Government Interference in the Mass Circulation Media

We have undertaken an analysis of both national and private mass-circulation media in Serbia to determine the extent of government interference and control, in addition to transparency. Based on our findings, we argue that the majority of the bigger media outlets rely on Serbian government financing which makes them more prone to political interference and control. However, the financial deals the Serbian government has with some of these media outlets are difficult to prove as there exists very little information on this grey zone, according to one of our sources from BIRN (Member of Belgrade Centre for Security Policy 2017). This would seem to suggest that many of these media outlets, including the mass circulation dailies, have opaque or non-transparent ownership structures pointing to a strategy of fake compliance as even the media laws adopted in August 2014 by the Serbian government did not lead to greater transparency, which will be discussed further on in the chapter. The following table 5.2 demonstrates the circulation, viewership and listenership of some of these media while Table 5.3 depicts their ownership structures.

Table 5.2 Most significant Serbian national media

(Sources: Ipsos Strategic Marketing August 2015 Report, Association of Electronic Independent Media (ANEM) 2012; Marketing Mreža 2014; National Media Registry Serbia 2014.)

Name	Circulation, listenership/viewership	Type
Politika	55,970 (2012); 52,498 (2014)	Print daily
Večernje Novosti	109,736 (2012); 95,300 (2014)	Print daily
Blic	121,480 (2012); 112,979 (2014)	Print daily
Danas	164,428 (2014)	Print daily
Alo	113,842 (2012); 92,290 (2014)	Print daily
Informer	103,000 (2014)[27]	Print daily
Kurir	107,667 (2014); 99,434 (2015)	Print daily
Radio Television of Serbia (RTS 1 and 2)	24% average share in viewership	Public TV broadcaster
Radio Television of Vojvodina (RTV)	1.09% average share in viewership	Public TV broadcaster
TV Pink	16.9% average share in viewership	National TV station
TV Happy	6.82% average share in viewership	National TV station
Prva	12.87% average share in viewership	National TV station
B92	8.04% average share in viewership	National TV & radio station

Table 5.3 Ownership Structures of Mass-Circulation Media in Serbia

Name	Ownership Structures
Politika	50% state-owned; 50% non-transparent though suspected East Media Group
Večernje Novosti	30% state-owned, 7% PIO Fund, 63% private Austrian and Cypriot companies
Blic	Ringer Axel Springer, private
Danas	Društvo za Novinsko Izdavačku Delatnost Dan Graf D.o.o Beograd
Alo	Ringer Axel Springer, private
Informer	Insider Team D.o.o., Dragan Vučićević
Kurir	Adria Media Group, Aleksandar Rodić
Radio Television of Serbia (RTS 1 and RTS2)	Public broadcaster, state-owned
TV Happy	Semi-transparent, possibly linked to business tycoon Predrag Peconi
Radio Television of Vojvodina (RTV)	Public broadcaster, state-owned
TV Pink	Private; Pink International Co. d.o.o. Beograd
Prva	Non-transparent
B92	Non-transparent

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[27] Circulation figures for *Informer* were taken from a 2014 MarketingMreza report, published by Research Solutions Partner, as there was a significant error in the circulation figure in the Official Serbian Media Registry which had reported over 26,000,000 (MarketingMreza 2014).

As indicated by Table 5.2 and Table 5.3, thirteen mass-circulation media were analysed in order to examine the extent of government interference in the media as well as transparency in ownership structures. First, we will report on our findings for the media in which the state has partial ownership: the print dailies *Politika* and *Večernje Novosti.* Then, we will demonstrate government influence in relation to some of the print media (*Blic, 24 Sata, Alo*) in addition to the tabloids and dailies (*Kurir* and *Informer*) that serve as propaganda tools for the Serbian Progressive Party. Finally, we will look at the major private television channels where the Serbian government has influence.

The state owns 50% of *Politika* while the owner of the other 50% is non-transparent and unknown to the public, which we will discuss at length further on in the chapter. The Serbian government also owns around 30% in *Večernje Novosti*. Matić and Nedeljković (2014) argue that "the state bodies firmly hold to their governing rights in *Politika* and *Večernje Novosti*, especially to the appointment of directors and editors-in-chief, who are selected on political grounds" (p. 351).

Some of the most significant print media in Serbia, having the largest circulation, are privately owned, such as *Blic, Danas, Alo, Informer* and *Kurir*. We have analysed the extent of state control and influence in each, and have discovered that there is significant government influence in some bigger "tabloid" dailies (*Informer, Kurir*), while others (*Blic, Alo* and *Danas),* have some degree of independence. According to Saša Dragojlo from the Balkan Investigative Reporting Network, there exists no direct influence on the daily, *Danas* (Dragojlo 2016). A journalist from the NDNV, would also agree:

> "Except for *Danas*, the Vučić government has direct influence on all the print media… *Blic* and *Alo* (all from the same company, Ringier) are not in an ideological but in a financial deal with the Serbian government. Unfortunately, a large number of journalists and editors who have fought for the government's deflection from the media, no longer work in these papers. Also, another Serbian daily emerged, *Srpski Telegraf*, which like, *Kurir* and *Informer*, strongly supports the Serbian government" (Journalist from the Independent Journalists' Association of Vojvodina 2016e).

Aside from *Danas*, *Blic* is another daily in which you can find criticism of the SNS government (Jahić 2017). This would suggest some degree of freedom for the Serbian media, but a journalist from the Belgrade Centre for Security Policy writes:

> "I think the government does not dare to strike on *Blic*, and treat it as a case of free media, but *Blic* is on the verge of acceptable business for their owners (i.e. its profit is less than before, and *Blic* tries to refrain from open and clear criticism of the authorities)" (Member of Belgrade Centre for Security Policy 2017).

A 2015 report published by the Anti-Corruption Council in Belgrade on ownership structures and government control of the media in Serbia shows the daily tabloid, *Informer* as being subject to direct government influence and favouring the leading Serbian Progressive Party. The Report argues that "from the very beginning, this daily is characterised by activities that favour the Serbian Progressive Party and its members who are prominent state functionaries" (Anti-Corruption Council 2015a, p. 44). The tabloid, *Kurir*, presents an interesting case as it had briefly deflected from being a pro-government daily to criticising the SNS for a while, attempting to portray themselves as independent, but *Kurir* has apologised and soon returned to supporting the Progressive-led government. It is not publicly known why *Kurir* had returned to its stance of being a pro-government or "regime" paper, but journalists speculate that the tabloid received some sort of financial compensation to terminate its campaign against the government (Journalist from BIRN 2016b). Furthermore, in the March 2017 presidential election campaign, *Kurir* was one of the major dailies that had covered its front page with advertisements supporting Vučić's election in April (Balkan Investigative Reporting Network 2017).

In the domain of national television and radio, there is also indirect government interference and non-transparent ownership structures. The government has influence in these media either through financial deals or influence on editorial content and policy. Out of the television and radio stations listed in Table 5.2, *TV Pink, TV Happy, Prva, B92* (both radio and television) are all private. According to journalist from the Independent Journalists' Association of Vojvodina, the television *Pink* and *TV Happy* are similar to the daily tabloid *Informer* in that they are heavily influenced by and in support of the current Serbian government while *B92* and *Prva* televisions are financially tied to the government (Journalist from the Independent Journalists' Association of Vojvodina 2016e). Moreover, *RTV B92*, which is owned by a Cyprus-registered company, stopped airing two comedy shows in 2013 that had spoken critically of Aleksandar Vučić (Matić and Nedeljković 2014, p. 343). *B92* was once renowned for its independence especially during the Milošević period but is now politically influenced and has also "lost its identity as a source of reliable and responsible journalism" (Matić and Nedeljković 2014, p. 343).

In our analysis of the major Serbian media with national coverage, we have elucidated that there is government influence in both the print media and audio-visual outlets (i.e. television), although this type of government influence (whether

through financial deals or ownership structures) is often opaque. Our analysis seems to indicate a greater degree of independence in the national print media than in the television. In the following sections, we examine the 2014 media laws whose purpose was to regulate the media environment (especially financing from the state budget and transparency), and bring it up to European standards. We also analyse the Action Plan for their implementation and seek to argue that despite Serbian government claims of compliance in the area of media freedom, a lack of legal enforcement of the laws posits that this is actually an area where the Serbian government has engaged in fake compliance with regard to conditionality.

5.4 The New Media Laws of August 2014

In September 2011, the Serbian government cabinet composed of the Democratic Party (DS) and the Socialist Party of Serbia (SPS) adopted a media strategy along with an action plan with implementation planned for 2016. The adoption of the media strategy was a requirement the Serbian government had to fulfil at the time in order to be granted candidacy for EU membership (Kisić 2015, pp. 75-76). The main goals of the strategy are as follows:

> "to ensure public interest; develop a media market; to guarantee pluralism which entails diversity of ownership, sources of information and media content; to ensure the state's withdrawal from the media which would entail their privatisation and/or conversion of state ownership into shares; to guarantee ownership transparency; to prevent cross-ownership (simultaneous ownership of different types of media outlets); to contribute to media literacy; and media digitalisation" (Organisation for Security and Co-operation in Europe 2011).

While pluralism and ownership transparency are explicitly mentioned in the EU's Common Position on Chapter 23 for freedom of expression, there is no clear definition in the benchmark what pluralism entails. Additionally, the EU benchmarks do not mention cross-ownership nor the state's withdrawal from the media. While transparency in ownership is a key benchmark, this does not entail transparency in financing of the media particularly vis-à-vis advertising.

In August 2014, a package containing three new media laws was adopted that had stemmed from the 2011 media strategy-the Law on Public Information and the Media, the Law on Electronic Media, and the Law on Public Service Media (B92 2014). These new laws adopted by the Serbian Progressive-led government were supposed to make the Serbian media landscape match European standards

by complying with the EU conditionality stemming from Chapter 23 on Justice and Fundamental Rights and Chapter 10 on Information Society and the Media-the two chapters that would have the most impact on media freedom in an accession country. The interim benchmarks for Chapter 23 specifically dealt with the freedom of expression, which included independence and pluralism of the media. More specifically, these benchmarks were "transparency (including in ownership of the media), integrity and pluralism" in addition to "full respect of the independence of the media" including application and implementation of a "zero-tolerance policy with regards to threats and attacks against journalists" (Conference on Accession to the European Union-Serbia 2016, p. 28). Chapter 10 on Information Society and the Media at the time of writing does not have benchmarks but this chapter would include audio-visual policy entailing the correct provisions and amendments to the Law on Public Service Media that would ensure a degree of independence for the Public Service Broadcasters RTV Serbia and RTV Vojvodina. Additionally, Chapter 10 entailed independence of the Regulatory Body for Electronic Media (REM). Because there currently exists no benchmarks and no Serbian government Action Plan for Chapter 10, we have left it out of our research. Therefore, we have also omitted discussion on the public service broadcasters as it would be difficult to test for fake compliance without concrete benchmarks and Action Plan for their implementation.

The following sections will examine the Law on Public Information Media adopted in August 2014 and the government's Action Plan for its implementation, and compare and contrast it with the EU conditionality from Chapter 23 on Justice and Fundamental Rights in order to test the hypothesis of fake compliance. First, we analyse government interference in the media through state ownership, and transparency of ownership structures. Then, we will examine state control through financing of the media vis-à-vis advertising and project co-financing. Finally, we analyse the violations of freedom of expression by the Serbian government through attacks and threats against journalists and influence over editorial policy.

5.5 State Ownership and Issues of Transparency in the Serbian Media

According to the most significant law, the Law on Public Information and the Media, Article 142 prescribes mandatory privatisation of all media that is in "full or predominantly in public ownership and which are wholly or predominantly

funded from public funds" (Službeni Glasnik 83/2014).[28]Article 143 of the same Law prohibits further funding of the media from public revenues after 1 July 2015 (Službeni Glasnik 83/2014). However, the deadline for privatisation had been extended to 31 October 2015 due to the entire process being delayed for a few months (Maksić 2016, p. 9). According to the latest 2016 report published by the Balkan Investigative Reporting Network (BIRN), of the 73 public companies that were found in the portfolio of the Privatisation Agency, 50 media outlets joined the privatisation process while 23 did not join the privatisation process at all (some automatically declared bankruptcy while others sought different modalities). The ones who sought different modalities are *RTV Vranje, RTV Preševo* and *TV Tutin,* which had decided to voluntarily share ownership among employees (Maksić 2016, p. 9). Of the aforementioned 50 media that had entered the privatisation process, 34 have found owners while 16 have either been closed down due to bankruptcy or are waiting for the distribution of free shares to employees who are entitled to them (Maksić 2016, p. 9).

The following Table 5.4 demonstrates the privatisation of the media, with data collected from two main reports: the February 2016 report, "Soft censorship: changes in the media sector-from bad to worse" published by the Balkan Investigative Reporting Network (BIRN) and the second from the Independent Journalists' Association of Vojvodina (NDNV) from April 2016. The first 39 listed media outlets have failed to privatise, and have either been closed down due to bankruptcy or are in the process of distributing shares to employees. The first 16 of these have entered the privatisation process while media outlets 17-39 did not join the privatisation process. The last 34 media (39-73) have been privatised. Two media outlets, *Radio Paraćin* and *Radio Ćićevac* have changed their name and activity and are now companies involved in letting and other real estate management. *Radio Pruga* was privatised but privatisation was cancelled shortly afterwards because the new owner, Mirjana Krstić, as well as the people who signed a preliminary agreement with her about taking over *Radio Pruga*, failed to comply with obligations under the purchase contract (Cenzolovka 2016a; Kolubarske.rs 2016). However, *Radio Pruga*, as of September 2016 continues to emit programmes despite failed privatisation (Cenzolovka 2016b).

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[28] This would not include public broadcasters as these were to be dealt with in a separate law on Public Broadcasting and the Media.

Table 5.4: Privatisation of media in Serbia, as of May 2016

(Sources: Maksić 2016, p. 27; Nezavisno Društvo Novinara   Vojvodine 2016b).

	Name of media outlet	Status	Sold for (€)	Buyer/new owner	Type of media
1	Radio Bačka	Failed privatisation, distribution of shares in process	x	x	Local Radio
2	Radio Pirot	Failed privatisation, shut	x	x	Local Radio
3	Radio Sečanj	Failed privatisation, continues to emit programmes	x	x	Local Radio
4	Naš Glas	Failed privatisation, distribution of shares in process	x	x	Local TV
5	Reč Naroda	Failed privatisation, distribution of shares in process	x	x	Local Print Weekly
6	TANJUG	Failed privatisation, shut down but continues to operate	x	x	State/National News Agency
7	Radio Bujanovac	Failed privatisation, received the decision on the transfer of free shares	x	x	Local Radio
8	RTV Bačka Palanka	Failed privatisation, distribution of shares in process	x	x	Local RTV
9	Radio Požarevac	Failed privatisation, but still not closed down	x	x	Regional Radio
10	Radio Subotica	Failed privatisation, distribution of shares in process	x	x	Local Radio
11	RTV Trstenik	Failed privatisation, distribution of shares in process	x	x	Local RTV
12	RTV Alt (Reč Radnika)	Failed privatisation, received the decision on the transfer of free shares	x	x	Local RTV
13	TV Ljig	Failed privatisation, distribution of shares in process	x	x	Local TV
14	Dnevnik	Failed privatisation, distribution of shares in process	x	x	Regional Print Daily Newspaper
15	Radio Odžaci	Failed privatisation, received the decision on the transfer of free shares	x	x	Local Radio
16	Petrovac Na Mlavi	Failed privatisation, shut	x	x	Local Radio
17	Vrbas	Did not enter privatisation, shut	x	x	Local RTV
18	TV Smederevo	Did not enter privatisation, received the decision on the transfer of free shares	x	x	Local TV

19	Štampa, radio i film Bor	Did not enter privatisation, received the decision on the transfer of free shares	x	x		Local RTV
20	RTV Vrnjačka Banja	Did not enter privatisation, went into bankruptcy	x	x		Local RTV
21	RTV Vranje	Did not enter privatisation, in process of distributing shares	x	x		Local RTV
22	RTV Mladenovac	Did not enter privatisation, shut	x	x		Local RTV
23	RTV Kovačica	Did not enter privatisation, in process of distributing shares	x	x		Local RTV
24	RTV Ćuprija	Did not enter privatisation, shut	x	x		Local RTV
25	Radio Zrenjanin	Did not enter privatisation, shut	x	x		Local Radio
26	Radio Sombor	Did not enter privatisation, shut	x	x		Local Radio
27	Radio Kikinda	Did not enter privatisation, shut	x	x		Local Radio
28	Radio Paraćin	Did not enter privatisation, changed nature of their work	x	x		Local Radio
29	Radio Obrenovac	Did not enter privatisation, shut	x	x		Local Radio
30	Radio Novi Bečaj	Did not enter privatisation, shut	x	x		Local Radio
31	Radio Leskovac	Did not enter privatisation, shut	x	x		Local Radio
32	Radio Lazarevac	Did not enter privatisation, shut	x	x		Local Radio
33	Radio Drina	Did not enter privatisation, shut	x	x		Local Radio
34	Radio Despotovac	Did not enter privatisation, shut	x	x		Local Radio
35	Radio Ćićevac	Did not enter privatisation, changed nature of their work	x	x		Local Radio
36	Preševo	Did not enter privatisation, received the decision on the transfer of free shares	x	x		Local TV
37	Pobeda	Did not enter privatisation, shut	x	x		Local Print
38	Info Centar Tutin	Did not enter privatisation, received the decision on the transfer of free shares	x	x		Local TV
39	Info Centar Kosjerić	Did not enter privatisation, shut	x	x		Local TV
40	RTV Inđia	Sold/privatised	63,458	Danijela Suša		Local RTV
41	TV Apolo/Nov	Sold/privatised	174,950	Srbija danas doo		Local TV; About 500,000

	osadska TV				average viewers[29]
42	Info Pres Centar Vladičin Han	Sold/privatised	8,23 0	Miloš Dinić	Local Radio
43	IPC Kulska Komuna	Sold/privatised	3,50 0	Radovan Kovač	Local Radio
44	Radio Šid	Sold/privatised	531, 000	Kopernicus Cable Network	Local Radio
45	Radio Raška	Sold/privatised	14,9 50	Kopernicus Cable Network	Local Radio
46	RTV Stara Pazova	Sold/privatised	47,3 00	MR&Co doo	Local RTV
47	Nedeljne Novine	Sold/privatised	34,0 00	Milojko Pavlović	Local Print Weekly
48	Pančevac	Sold/privatised	238, 000	Zoran Peševski, Auto Centar Zoki	Local Print Weekly; Circulation : 9,310 (2015)[30]
49	Studio B	Sold/privatised	530, 000	Maxim Media, Ružica Krdžić	Regional RTV
50	BC Info	Sold/privatised	19,0 00	Jovica Burkić	Local Radio
51	Novi Pazar TV	Sold/privatised	89,3 50	Konzorcijum Fizičkih Lica-Denis Mavrić	Regional TV; 500,000 average viewership [31]
52	RTV Pančevo	Sold/privatised	87,2 00	Radoica Milosavljević	Regional RTV
53	Centar za Informisa nje, Novi Kneževac	Sold/privatised	480	Radoica Milosavljević	Local Print
54	RTV Kragujeva c	Sold/privatised	85,5 00	Radoica Milosavljević	Local RTV.
55	RTV Brus	Sold/privatised	10,2 00	Radoica Milosavljević	Local RTV
56	RTV Caribrod	Sold/privatised	18,6 00	Radoica Milosavljević	Local RTV
57	TV Požega	Sold/privatised	39,0 00	Radoica Milosavljević	Local TV
58	TV Pirot	Sold/privatised	26,3 00	Radoica Milosavljević	Local TV
59	Radio Požega	Sold/privatised	7,10 2	Dragana Petrović	Local Radio
60	JP RTV Šabac	Sold/privatised	446, 001	Aleksandar Živanović	Local RTV

[29] Email communication from the Director Of Apolo/Novosadska TV, 24 October 2016.
[30] Official Media Registry, Serbia, 2014.
[31] Email communication from the Director of RTV Novi Pazar, 24 October 2016.

61	Glas Podrinja	Sold/privatised	184,601	IN Tehnik, doo Šabac, Nenad Živanović	Regional Print Weekly. Between 3,000-3,500 readership.[32]
62	Niška TV	Sold/privatised	78,000	Slađana Ostojić	Local TV
63	Ivanjički Radio	Sold/privatised	14,360	Ana Baković	Local Radio
64	Info Centar Bački Petrovac	Sold/privatised	4,351	Agroplod doo Gložan	Local Radio
65	JIP Novi put	Sold/privatised	46,256	Kopernicus Cable Network	Local RTV
66	Radio Barajevo	Sold/privatised	11,720	Doris Aćimović	Local Radio
67	Radio Valjevo	Sold/privatised	17,400	Doris Aćimović	Local Radio
68	Radio Medveđa	Sold/privatised	1,420	Konzorcijum fizičkih lica	Local Radio
69	Radio Pruga	Sold/privatised→>cancelled privatisation, continues to operate since September 2016	1,200	Mirjana Krstić	Local Radio
70	TV Blace	Sold/privatised	2,570	Narodne Novine Niš-Danijela Vuković	Local TV
71	Radio Šumadija	Sold/privatised	34,000	Saša Janković	Local Radio
72	JP RTV Kruševac	Sold/privatised	14,000	Radoica Milosavljević	Regional RTV
73	Bačka Topola	Sold/privatised	31,165	Udruženja za regionalnu komunikaciju, Endre Huzak	Local Radio

In order to tackle the issue of state ownership in the media, the Serbian government not only adopted the Law on Public Information and the Media which entailed privatisation of all state-owned media as mentioned previously, but had also adopted an Action Plan for Chapter 23 in this policy area. According to the Action Plan, Serbia "had achieved full withdrawal of state ownership of the media" which resulted in "further enhancement of transparency of media ownership," and the "strengthening of media pluralism" (Government of Serbia, Ministry of Justice 2016, pp. 243-245). The results seem to posit that the privatisation process has finished, however, this is not the case according to the 2016 EU Commission progress report. Moreover, the "privatisation of state media outlets has not led to

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[32] Email communication from the editor of *Glas Podrinja*, 24 October 2016.

greater transparency of ownership or funding sources, including state funding"
which, despite Serbian government claims that they have complied in this area as
the Action Plan posits, would seem to imply a strategy of fake compliance
(European Commission 2016a, p. 19). Political elites in the Serbian government
are finding ways to keep their influence in the media as well as retaining control of
some major state-owned media such as the daily newspaper *Politika* for example,
which we will discuss further on in the chapter. We elucidate our argument through
examples based on two key findings: 1.) The creation of media conglomerates
closely associated with political parties in power (i.e. business tycoons and
companies that have purchased media that are closely affiliated in some way to
the ruling SNS or other parties in Serbia such as the Social Democratic Party). 2.)
Two mass circulation, state-owned dailies, *Politika* and *Večernje Novosti* who
have both avoided efforts to privatise and whose ownership remains shrouded in
fog despite the adoption of a media registry. We examine and provide an analysis
of both cases in the following paragraphs.

According to Table 5.1, out of the 34 privatised media, thirteen media were
purchased by people or companies affiliated with the ruling SNS while one was
affiliated with the Social Democratic Party (SDP) led by Rasim Ljajić (Maksić 2016;
Nikolić, Z.B. 2015). The SDP is another smaller party in the Serbian government
that entered into a coalition with the SNS in the 2014 elections, but in 2016, the
party joined Boris Tadić's Alliance For a Better Serbia which includes more pro-
EU oriented parties such as the Liberal Democratic Party (LDP) and the League
of Social Democrats of Vojvodina (LSV) (National Assembly of the Republic of
Serbia 2016). Obradović and Brajović from the Independent Journalists'
Association of Serbia (NUNS) and the Journalists' Association of Serbia (UNS),
both argue that interest in acquiring property was not the main reason for the
purchase of the media outlets but rather, the media were purchased by close
affiliates of the ruling SNS for political reasons (i.e. in order to influence and control
the media) (cited in Gotev and Poznatov 2016).

Two business tycoons associated with the ruling party, Denis Mavrić, and
Radoica Milosavljević along with a company that supports the government,
Kopernikus, have purchased some of the major media during privatisation. The
entering into stakes in the media of officials and business tycoons close to the
leading political party and its smaller coalition partner, suggests the continued
desire of the Serbian government to retain their grip on the media, albeit indirectly.
Denis Mavrić- who had been appointed director of *RTV Novi Pazar* in 2008 by the
Social Democratic Party leader, Rasim Ljajić- purchased the same television

station for €89,350. At the time of the purchase in August 2015, the SDP was in a coalition with the ruling SNS. Perhaps most impressive was the business tycoon, Radoica Milosavljević who purchased a total of eight media outlets which included: *RTV Brus, RTV Caribrod, RTV Požega, TV Pirot, Centar za Informisanja Novi Kneževac, RTV Pančevo, RTV Kragujevac* and *RTV Kruševac*. Milosavljević was once deputy mayor of Kruševac as a member of the Socialist Party of Serbia (SPS) but is known to be Bratislav Gašić's "silent business partner" (Nikolić, Z. B. 2015). Gašić is a member of the ruling SNS and Minister of Defense. It is not publicly known what Milosavljević's connections are with the Defense Minister, which would indicate non-transparency. Indicators suggest Milosavljević's ties with the ruling SNS, particularly when the city of Kruševac awarded *RTV Kruševac* €17,500 through project co-financing of the media a few hours before it was purchased by Milosavljević (Nikolić, Z. B. 2015). Perhaps the most notable indication of the government's influence on the media during and after privatisation is when Milosavljević made Miroslav Milankov editor in chief of RTV Pančevo. Milankov is also the President of the Advisory Board for providing information to the SNS city committee (Nikolić, Z.B. 2015). Matić from the BCSP also remarked that the media purchased by Milosavljević "openly favoured the Progressives during the election campaign for April's parliamentary elections in 2016" and that the SNS Defense Minister Gašić "on average, had almost half of the daily news dedicated to him on RTV Kruševac" (Member of Belgrade Centre for Security Policy 2017). Although these media are local and regional media, nonetheless, they were quite influential because they were located in the municipalities where the SNS had a strong backing. A member of the Belgrade Centre for Security Policy, as our interview data indicates, remarked that "these media were important in the campaign for the elections last year. All these media were the biggest in their communities because they were state media, given state subsidies and had more developed production than private media, who usually had fewer employees. In that sense, they were influential" (Member of Belgrade Centre for Security Policy 2017).

Kopernikus purchased three media outlets as well (*Radio Šid, RTV Raška* and *"Novi Put" Jagodina*). *Kopernikus* is a cable network company composed of three channels, which, according to a report on ownership structures and control of the media published by the Anti-Corruption Council in Serbia, is close to the SNS also. The Report posits that "this company has been considered close to the Serbian Progressive Party since its third programme during the election campaign in 2011/2012 when the party leased the company through the firm Sens d.o.o.21 marketing" (Anti-Corruption Council 2015a, p. 26). An example of such an

affiliation is the show on *TV Kopernikus*, "Good morning with Đuka" in which the MP and official of the SNS Vladimir Đukanović is the show's host (Anti-Corruption Council 2015a).

These findings suggest that despite privatisation of some Serbian media outlets, there is still heavy political influence through the purchase of some of these aforementioned media that are listed in Table 5.4 by business tycoons and companies that are closely affiliated with Aleksandar Vučić's ruling Serbian Progressive Party. We argue that this is not surprising because our findings with interviews from Serbian journalists even before the privatisation process was finished, suggest that the SNS and their business tycoons were going to try to buy out some of the media outlets being privatised. A statement by a journalist from the Independent Journalists' Association of Vojvodina whom we interviewed on 24 June 2015 confirms this:

> "I do believe that the SNS along with their tycoons, will, out of 73 media that are being privatised, try to buy those media that they consider to be essential. The rest, in case journalists don't decide to participate in ownership, will probably be left to their own fate, which will in very many cases actually lead to the extinction of some media" (Journalist from the Independent Journalists' Association of Vojvodina 2015).

A member of the Association of Journalists (UNS), also stated in a similar comment, "it is being said that some of their officials or tycoons who are close to the SNS, will try to enter through stakes in some media, during privatisation" (Member of Journalists' Association of Serbia 2015). A strategy of fake compliance on behalf of the Serbian government prevails despite efforts to privatise the media in Serbia. The benchmarks for Chapter 23 do not explicitly mention withdrawal of state ownership from the media including in financing. The recommendations for Chapter 23, however do mention explicitly: "implementation of the media strategy with a view to appropriately regulating state funding and putting an end to control of media by the state" (European Commission 2013, p. 38). Our interview data posits that these recommendations have no legal basis, unlike the interim benchmarks. Such ambiguity in the EU interim benchmarks for withdrawal of state ownership through privatisation would allow Serbian politicians room for manoeuvre and the ability to engage in compliance on the surface to persuade the EU they have made efforts in this area.

Moreover, the privatisation process was in itself full of irregularities and inconsistencies. In the process of privatisation, media announced a public call for the sale of shares. In the case that no one was interested in purchasing the media outlets, shares were distributed among the employees who were entitled to them.

However, the Serbian government had made an announcement that employees were only entitled to free shares if they did not have shares in other public companies or state firms (Nezavisno Društvo Novinara Vojvodine 2016a, p. 11). A journalist from the Independent Journalists' Association of Vojvodina argued that:

> "This was related to all media. So, those who have previously received any state shares free could not get the shares of the media in which they worked if privatisation failed. However, no one had tried to prevent employees who did not have the right to free shares to participate in the purchase of media in auctions. This government decision influenced the fact that there were a large portion of the media in which no one had the right to free shares, so after the failed auction, these media entered the liquidation process" (Journalist from the Independent Journalists' Association of Vojvodina 2017).

Our findings show that the government's decision did not apply to outside buyers (i.e. tycoons, etc.) which would suggest an uneven playing field (Member of Belgrade Centre for Security Policy 2017). A member of the Belgrade Centre for Security Policy (2017) further posits that:

> "Even this limitation was not crucial. Employees expressed little interest in participating in the purchase of their company, because they [the media] have not been able to survive without additional capital, and the workers did not have this additional capital to invest, and in addition, a number of these companies had debts. Debts could only be covered by some investor on the side" (Member of Belgrade Centre for Security Policy 2017).

Finally, we argue that some of the major, mass-circulation media such as the partially state-owned dailies, *Politika* and *Večernje Novosti,* were exempted from the privatisation process according to the Law on Privatisation (Journalist from BIRN 2018). Radio Television Serbia (RTS) claimed that the Assembly of Serbia "adopted amendments to the Law on Privatisation, enabling 17 companies of strategic importance for the state, as well as economic entities in Kosovo and Metohija, to be exempted from the existing deadline for privatisation for a maximum of one year" (RTS 2015). This was "to enable the postponement of bankruptcy and forced payment of *Politika* and *Večernje Novosti* and the other 17 companies so that they can be successfully privatised" (RTS 2015). However, we argue that the amendments to the Law on Privatisation to exempt partially state owned media such as *Novosti* and *Politika* was in reality a means to keep these two mass-circulation dailies in the hands of the government as nothing has changed at the time of writing-both media outlets still remain in the hands of the government. Additionally, both dailies have unclear ownership structures, which

was another characteristic of the media environment in Serbia, and one the EU sought to resolve through its conditionality approach.

Transparency of ownership is one of the interim benchmarks of Chapter 23 on Justice and Fundamental Rights that the Serbian government needs to meet in order to progress on its path towards the EU. In order to meet the interim benchmark on transparency in ownership structures, the Law on Public Information and the Media posited the need for a Media Register. According to the Action Plan, the Serbian government had asserted that an "efficient and transparent Registry of the media ownership structures had been established and was operational" and that the data in the registry was "regularly updated" (Government of Serbia, Ministry of Justice 2016, p. 246). However, despite the establishment of a media register, the EU Commission has expressed concern that "unclear ownership structures continue to be a feature of the media environment since the privatisation of the state media" (European Commission 2016a, p. 21). This would seem to suggest a strategy of fake compliance on behalf of the Serbian government because the establishment of a media register as stipulated by the Law on Public Information and the Media did not lead to implementation of the interim benchmark on transparency in ownership. Noutcheva (2006) argues that one way to test for fake compliance is by looking at the implementation of domestic laws in accordance with EU conditionality. With regard to the media register, Serbian political actors passed legislation compliant with EU demands but this was not effectively enforced as the media register existed only on paper and did not actually constitute the real owners of some of the mass circulation media. Moreover, as our interview findings posit: "the verification of these data provided by the media is not done, so there are fictitious owners and therefore it is not visible who really stands behind the media and whether there is an illegal concentration of media" (Member of Belgrade Centre for Security Policy 2016). We will elucidate our argument using examples based on two of the biggest mass-circulation dailies: *Politika* and *Večernje Novosti* that have non-transparent ownership structures.

Both *Politika* and *Večernje Novosti* are partially owned by the Serbian government: the state has 50% shares in *Politika* and 30% in *Večernje Novosti* respectively (Janjić 2015). The purpose of the media registry was to "provide to the public information on the media" (Službeni Glasnik 83/2014). This is supposed to make the media more transparent in ownership structures, but this hasn't happened even though the process of registering media has finished and both *Politika* and *Večernje Novosti* are among the media that have been registered.

According to a journalist from the Independent Journalists' Association of Vojvodina (NDNV), "yes, they [*Politika* and *Večernje Novosti*] are registered, but the Register constitutes only who are the owners and not who are also the real, final owners" (Journalist from the Independent Journalists' Association of Vojvodina 2016b). By this, he means, that aside from the government's share, both dailies are also partly owned by companies whose true co-owner is unknown.

Politika's ownership is split between the Serbian government who owns 50% while the co-owner who has the other 50% share is unknown. The other 50% share was originally owned by the German VAC group but was then purchased by the Russian company East Media Group in Moscow in 2012. However, "the origin of the money, the real owner or the purchaser, as well as the manner in which the transaction was executed are not known to the public" (Anti-Corruption Council 2015a). There have been many allegations in the media especially from the current Serbian President Aleksandar Vučić that the business tycoon, Miroslav Bogićević was behind the purchase as a favour to the Democratic Party (DS) when the Democrats were in power before 2012. More surprising, is the fact that some media reports claim that the East Media Group has been closed down under the law of the Russian Federation (Stevanović 2016). According to a journalist from the NDNV, "this is a big crime in question and no one is able to get any information on what this is all about" (Journalist from the Independent Journalists' Association of Vojvodina 2016b). What is evident here is that no one in Serbia knows whom the co-owner is who holds the other 50% share. Moreover, "if this non-transparent part of the property is added to the other half held by the state, our interlocutors point to political influence" (Martinović 2016). Although *Politika* was added to the media registry, this did not help nor clarify transparency of ownership. Our findings indicate that even the media registry would not solve the transparency in ownership of some of the major government owned media such as *Politika* for example. In our interview with a member from the Anti-Corruption Council in Belgrade, she described how *Politika* would be registered:

> "They will state that it is 50% Politika A.D. and 50% some "fictitious firm" in Russia, and so what does that mean to us now? That does not mean transparent ownership; transparent ownership means that we know a physical person, we really know who is the owner and that will not happen in Serbia in a long while" (Member of the Anti-Corruption Council 2015).

Večernje Novosti is another tabloid whose ownership structures remained unknown for a long time. The Serbian government owns about 29.51% of this mass circulation daily, PIO (Retirement and Disability Fund) owns around 7.15% while three offshore companies own the other 63%: Trimax Investment GMBH

(24.98%), Ardos Holding GMBH (25.89%) and one from Cyprus titled Karamat Holdings LTD (12.55%) (Anti-Corruption Council 2015a, p. 36). For a long time the true owners of these offshore companies was hidden until it became known that wealthy business tycoon, Milan Beko, was behind the ownership of these companies. However, the media register makes no mention of his name, once again indicating non-transparency of *Večernje Novosti* (Serbian Business Registers Agency 2016).

To conclude, we have argued that the Law on Public Information and Media adopted in August 2014 by the Serbian government requires state withdrawal from ownership of the media as well as prohibiting the further funding of the media from public revenues, which would include the state budget. All state-owned media was to be privatised by 1 July 2015 with the extension of the deadline until the end of October 2015. To persuade the EU of Serbia's compliance, the Law on Public Information and the Media, and the establishment of the media register to ensure greater transparency in ownership and the government Action Plan for implementation, had in fact, led to a strategy of fake compliance due to there being an overall lack of legal enforcement. The media register exists and functions but this is only on the surface as the public remains unaware of some of the real owners of major media outlets, while privatisation remains unfinished and has allowed for political influence to persist. The Law also introduced the concept of co-financing media projects that met the public interest as a permissible form of state aid. We will examine this in the following section on soft-censorship and financing of the media.

5.6 Different Mechanisms for Financing the Serbian Media as a Means to Retain Government Control

The Serbian government has retained control and influence of the media indirectly via different mechanisms of soft censorship. According to the 2013 Balkan Investigative Reporting Network report (BIRN), "soft censorship is a term that covers a variety of actions intended to influence media output, short of legal or extra-legal bans, direct censorship of specific content, or physical attacks on media outlets or media practitioners" (Matić and Maksić 2013, p. 4). Soft censorship mechanisms used to influence the media indirectly focus mainly on financial aspects such as:

> "pressures to influence news coverage and shape the broad media landscape or the output of specific media outlets or individual journalists

through biased, and/or non-transparent allocation or withholding of state/government media subsidies, advertising, and similar financial instruments" (Matić and Maksić 2013, p. 4).

Such mechanisms were all used by the Serbian government throughout the years, particularly with the Serbian Progressive Party and the previously ruling Democratic Party, to influence the media. With the new media laws of 2014, the use of state subsidies- a major form of state aid in the past-has officially ended with the privatisation process. Instead, the Law on Public Information and the Media has introduced the principle of project co-financing as a permissible form of state aid to finance the media outlets that meet the public interest, which would ensure media pluralism and improve the quality of content production

In order to persuade the EU that the Serbian government is complying with EU conditionality, the new law on project co-financing as a permissible form of state aid to replace state subsidies was adopted coupled with the government Action Plan for its implementation. The purpose of the law was to monitor project co-financing and allow for media outlets to receive state aid in a transparent, non-discriminatory manner. The Serbian government Action Plan of 2016 postulated that "efficient mechanisms for monitoring the functioning of the system of co-financing media projects from the budgetary and/or public financial resources pursuant to new legislation on project funding of media have been established." Further, they have been established through "the introduction and effective implementation of the obligation of public authority bodies that regularly submit reports on co-financing media projects" and through the "analysis of the public authority bodies on the quality of the supported projects based on beneficiaries' reports on disbursement of funds" (Government of Serbia, Ministry of Justice 2016, p. 248). The 2016 EU progress report for Serbia posited that "co-financing of media content to meet public interest obligations needs to be implemented in line with the legislative framework, using transparent and fair procedures, and without interference by the state administration, especially at local level" (European Commission 2016a, pp. 19-20). The critical stance of the EU with regard to project co-financing suggests fake compliance despite the adoption of the new law in 2014 and the Serbian government claim that public authorities regularly submit reports on project co-financing of media projects. In this regard, project co-financing, which was supposed to ensure media independence and pluralism through financing of media projects in a fair and transparent way whose content met the public interest and was decided by an independent commission, was still used to award large sums of money to government friendly media. In the following section,

we briefly introduce the concept of project co-financing and then examine some examples that demonstrate the non-transparency and discriminatory funding allocations to media outlets that were considered to be "government friendly" and additionally, the non-transparent reporting mechanisms of how the public money was spent.

5.6.1 Project Co-Financing

A member from the Journalists' Association of Serbia (UNS) explains the concept of project co-financing more clearly:

> "The law [on Public Information and Media] provided for project co-financing of media at various levels of government: the national, provincial, city and municipal. This means that each unit of government at any level determines an amount in its budget for the project co-financing of media content of public interest for citizens. Media outlets apply, submit a project and the committee decides on this according to the proposal of journalists and media associations…Now in these committees the project that meets the public interest is decided as this guarantees that it will in some way be transparent..."(Member of Journalists' Association of Serbia 2015).

In addition, the committee that decides on the projects is supposed to be independent, meaning free from political control and composed of experts from journalists and media associations instead of politicians. The principle of project co-financing has long been seen as a form of state aid to already impoverished media struggling on the media market rather than a means of informing the people better or an incentive for the production of better quality media content (Barlovac 2016, p. 4; BIRN Serbia 2014, p. 3).

Our findings show that what has changed is that the competition is now regulated by the Law on Public Information and Media. Moreover, the law expressly states that out of the funds the Serbian government sets aside to allocate to the media annually, 95% of the government funds must be allocated through project co-financing and only 5% can be given through individual allocation to the media according to the procedure laid down by the Rules on co-financing" (Journalist from BIRN 2016a). This means that the government is allowed to only give 5% of its budget allocated for financing of the media, to certain media that would not be through project co-financing while 95% would be given through project co-financing. In the past, implementation was regulated on the basis of the internal rules of the city/municipality rather than by law (Journalist from BIRN 2016a). Although the new law on project co-financing was supposed to stop the interference of the state in the process of project co-financing and ensure

transparency of funding allocations, our research suggests that the opposite happened. There were many instances of bypassing of the law, the persistence of political influence on the media via media favouritism including those media that were "friendly" to the state, and the non-transparency of the whole process. This would seem to suggest that the Serbian government Action Plan responded to EU conditionality on paper, while implementation of the legislative framework remained limited, with state interference persisting.

A report published by the Independent Journalists' Association of Vojvodina (NDNV) in 2016 listed that, "out of 191 local (at municipal level) calls for proposals, irregularities were noticed in 132 (69.1%) of them and were related to the text of the call [for project co-financing], the selection of the Expert Commission, the transparency of the process..." (Nezavisno Udruženje Novinara Srbije 2016, p. 11 and 109). With regard to the text of the call, there were some local governments that favoured certain media that served as PR for the local government. One of the most common examples of this was formulation of criteria, for example, "the scope and quality of previous media cooperation with the municipality", which is illegal and cannot be criteria based on which to evaluate a certain media project (Nezavisno Udruženje Novinara Srbije 2016, p. 26). This allowed the local governments to favour the media who cooperated with them as for some municipal governments this meant media that reported positively on the work of the local government (Nezavisno Udruženje Novinara Srbije 2016, pp. 25-27). In some cases within the text, the local governments omitted the requirement of stating the total amount of the competition that would be granted for that year, as well as the largest amount one media can receive for the project. According to a report by the Independent Association of Journalists in Serbia, "determining the minimum and maximum amounts is of great importance with respect to the fact that some local governments allocated large sums, or a large percentage of the total allocated funds, to one, apparently favoured media" (Nezavisno Udruženje Novinara Srbije 2016, p. 27). With regard to the selection of the committee, there were many irregularities: selection of inactive journalists and media associations; state authorities choosing non-representative organisations; Commission selecting persons who are holders of public office; and state authorities choosing their own representatives and claiming they were "media professionals" (Nezavisno Udruženje Novinara Srbije 2016, pp. 36-38).

One of the biggest issues that arose with the concept of project co-financing was the continuation of political influence in the media by favouritism of media that are in some way connected to the political parties in power in Serbia,

such as through the business tycoons associated with political parties who purchased the media during the privatisation process. In this way, some media whose new owners are these business tycoons affiliated with the SNS, receive greater sums of money than others such as those not affiliated with political parties in Serbia (through project co-financing). Table 5.5 demonstrates the media outlets connected to government officials that received the greatest amounts of money through project financing competitions and is gathered from two reports: BIRN and one report titled, "*White Book on Project Co-Financing of Public Interest in the Sphere of Public Information,*" published by various different journalists' associations (Nezavisno Udruženje Novinara Srbije 2016). *RTV Kruševac* and *RTV Caribrod* are both newly privatised media owned by Radoica Milosavljević who is affiliated with the SNS. *"Novi Pazar,"* recently owned by Denis Mavrić is affiliated with the Social Democratic Party of Serbia (SDP). Finally, *Studio B* is owned by Maksim Media Group, whose physical owners are Ružica Miloš Krdžić. A journalist from the Independent Journalists' Association of Vojvodina in Novi Sad suggests that the Krdžić family is closely associated with the SNS though it is unknown whether they are actual members of the ruling party or close associates (Journalist from the Independent Journalists' Association of Vojvodina 2016d). Tanja Maksić from BIRN also notes that "although there is no clear political affiliation, the program orientation of *Studio B* indicates support of the SNS" (Maksić 2016, p. 10). Finally, the independent Media Ownership Monitor Serbia claims that "today, the Krdžić family has good cooperation with the ruling party, which is reflected in the editorial concept of *Studio B*, but also through budgetary financing of the media owned by this family" (Media Ownership Monitor Serbia 2017).

Table 5.5 Results of Project Co-Financing Competitions in 2015-16

Name of media	Year	Amount received through project co-financing	Total value of allocated funds for project financing	Total % of allocated funds	Ownership	Funder
RTV Kruševac	2015	2.1 million RSD; €17,086	NA	NA	Radoica Milosavljević	City of Kruševac budget
RTV Caribrod	2016	13,200,000 RSD; €107,405	NA	80%	Radoica Milosavljević	City of Caribrod budget
Novi Pazar	2015	151,639,000 RSD; €1,233,967 (for the next 3 yrs.)	169,639,200 RSD; €1,377,266	More than 80%	Denis Mavrić	City of Novi Pazar budget
Studio B	2015	23,000,000 RSD; €187,164	45,000 RSD; €365.00	More than 50%	Maksim Media Group, Ružica Krdžić	Belgrade city budget

(Source: Maksić, T. 2016).

This political influence as shown in Table 5.5, demonstrated unfair and non-transparent allocation to certain media outlets. Discriminatory allocations to favoured media continued, thus promoting media content where the government was allowed to interfere in the production of content and editorial policy and use it for their own personal and political party needs. A Member of the Independent Journalists' Association of Vojvodina from Novi Sad, argues that, "the problem is that they abuse the laws so that the money is allocated to their media; in the Commission they put people who are loyal to them, and the whole process cannot be controlled by anyone on the outside" (Journalist from the Independent Journalists' Association of Vojvodina 2016d). Therefore, the entire process becomes non-transparent as the same journalist once again points out: "if in the Commission, there are no members of the press and media associations, we do not know what is the content of the project, and we especially do not know how it has been carried out and for what funds have been spent" (Journalist from the

144

Independent Journalists' Association of Vojvodina 2016d).

In addition to serving as PR for political parties, the allocation of funds through project financing to government friendly media also did not support media pluralism. For example, Belgrade-based television station, *Studio B*, through project co-financing received 23 million RSD in 2015, which was "more than the other 22 media in the Commission for the City of Belgrade received together" (Nikolić, M. 2015). This project was nothing new, and was used to finance a regular programme on *Studio B*, titled, *Beograde, Dobro Jutro* (*Good Morning, Belgrade*). Dalila Ljubičić from the Media Association argues that,

> "the allocation of more than 50 per cent of the budget for one media, significantly reduces the ability to support the production of media content that is not general information, but that relates to more specific topics of public interest. In this way, the principle of pluralism of media content in the public interest is seriously called into question" (Nikolić, M. 2015).

Because one media received more than the other 22 media from the commission for the city of Belgrade for a project that was not a novelty, media pluralism as part of the EU conditionality is not being respected. In addition, a journalist from the Independent Journalists' Association of Vojvodina argues that, "this television is in the hands of a person [Ružica Krdžić] that is a member of the Progressive Party. In doing this, the television carried out a frantic campaign for the SNS and against the opposition. A gruesome campaign" (Journalist from the Independent Journalists' Association of Vojvodina 2016d). He argues that, "contrary to the law, in the individual projects, one of the main activities is 'monitoring the work of local government,' which is understood as the advertising of authorities and political parties" (Journalist from the Independent Journalists' Association of Vojvodina 2016c).

The Balkan Investigative Reporting Network report also noted other cities throughout the country where project co-financing was abused to report on the work of the government in 2015 such as in the cities of Aleksandrovac, Kula, Zrenjanin and Prokuplje (Maksić 2016, p. 15). Niš was another major city where 86% of the total budget of around 50 million RSD was allocated to the TV and radio portal *Belle Amie* together with *TV Zona* and *TV Kopernikus*, all which are linked with the ruling party (Maksić 2016, p. 16). The same trend exists even at the time of writing where in 2017, in cities like Belgrade, Novi Sad and Niš, project co-financing was used to indiscriminately allocate money to government-friendly media outlets (Safe Journalists 2017). Additionally, independent media (*Danas* daily, *Vreme* weekly, *Beta* news agency and *Association Eutopia*) have not received a penny (Safe Journalists 2017).

To conclude, project co-financing, although changed and now defined in the Law on Public Information and the Media, so far has not promoted independent media that is free from political interference. Media that have been favoured by the government and whose new owners are connected to the ruling Progressive Party received greater amounts through project co-financing as opposed to smaller, independent media. Although the entire process was non-transparent, and it is not known to the public how this money was spent and what it had been used for, the perception is that these media often abused project co-financing to promote the work of the government and positive images of government officials. Referring back to the Europeanisation literature on the degree of domestic change, in project co-financing as stipulated by the Law on Public Information and the Media, the degree of domestic change was low. The Serbian government had merely "absorbed" the media law into their domestic structures without modifying existing processes and policies. That is to say, political interference via project co-financing and discriminatory as well as non-transparent funding allocations to media outlets continues despite the adoption of the new law and the government's Action Plan for its implementation.

Additionally, a 2016 BIRN survey posited that project co-financing was seen as a mechanism for influencing editorial policy. In a 2016 BIRN report, the majority of respondents that participated in a survey "did not see project financing as an opportunity for greater professional challenges, for an investigative story or series of programmes. The reason for this is the fact that the media where they work is strictly controlled, with authoritarian editorial policy…" (Maksić 2016, p. 23). In addition, BIRN (2016) reported that, "others have a problem to get adequate funds for projects on which they work. These are mainly non-governmental media organisations or internet portals…" (Maksić 2016, p. 24). One respondent from the BIRN 2016 report described the situation as, "I think that the money is not used for the right purposes. For example, for investigative journalism or projects, but rather in the interest of advertising political parties or local authorities" (Maksić 2016, p. 24). In the next section, we turn to another means of indirect state funding and this is through state advertising in the media that often promotes positive images of the leading political party, which was especially evident in election campaigns.

5.6.2 State advertising

Another significant mechanism of the Serbian government used to

influence the media is through advertising. This was seen as an unregulated form of state aid to media markets, but which state officials and agencies abused for political propaganda and self-promotion. The EU conditionality stemming from Chapter 23 makes no mention of the regulation of state financing, including advertising, allowing Serbian government officials to use this omission in the conditionality as room for manoeuvre. However, as stipulated by the progress reports of 2015 and 2016, the EU did express concern over "informal pressure on editorial policy" which "is exerted through the distribution of advertising funds" (European Commission 2015 and 2016a). To persuade the EU that the Serbian government will regulate this field in a way that would prevent political control of the media, the Serbian government organised a TAIEX[33] seminar and stated that it had implemented the TAIEX expert recommendations in addition to the recommendations from the Anti-Corruption Council (Government of the Republic of Serbia, Ministry of Justice 2016, p. 248). With regard to state financing vis-à-vis advertising, the Council recommended that:

> "the Ministry in charge of finance should set up criteria for budgetary limitations for advertising and promotion of activities of all state authorities and institutions, that is, of direct and indirect budgetary beneficiaries in the system of consolidated treasury account, and establish sanctions for breach of set criteria" (Anti-Corruption Council 2015a).

Despite the Serbian government's claim that the Council's recommendations have been implemented, advertising as a means of indirect political control by the Serbian government still persists and is still very much unregulated, demonstrating once more a strategy of fake compliance to EU conditionality. Serbian political elites have "simulated" compliance to persuade the EU of domestic change.

Although not illegal and often used in election campaigns, advertising as a means to retain political dominance over the media remains a serious concern as it exerts informal pressure on editorial policy and prevents the possibility for a free and pluralistic media. Tanja Maksić from BIRN argues that, "public campaigns organised by marketing agencies and regular coverage of the work of state bodies or public companies are two main modes of advertising that incorporate significant political influence" (Maksić 2016, p. 10). Furthermore, "advertising contracts offered by Serbian state bodies often require media outlets to broadcast or publish interviews with state officials or print as news PR articles on the work of state organs or public enterprises" (Matić and Maksić 2013, p. 19). This "promotional

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[33] Technical Assistance and Information Exchange instrument of the European Commission.

content" was often disguised as news, and therefore, inhibits the media's ability to carry out investigative and critical reporting. In this section, we analyse the political interference in the Serbian advertising market first through the relationship between media-buying agencies that purchase media advertising space and their connection to political parties. Then we will give an example of the 2017 presidential election campaign in Serbia, which demonstrated Aleksandar Vučić's grip on the media to secure his election victory and the subsequent protests following afterwards.

In Serbia, the media are often dependent on state advertising for their survival.[34] A BIRN 2013 report on soft censorship argued that "a lucrative advertising contract may be the difference between a media outlet's survival or demise" (Matić and Maksić 2013, p. 20). Most of the funds spent on advertising goes through professional media-buying agencies. Matić and Jovović (2014) argue that "a characteristic feature of the Serbian advertising market is a close connection between political parties and leading agencies that purchase media advertising space" (Matić and Jovović 2014). Such an agency is Goran Veslinović's Sekond Agency which has connections with the ruling SNS. Veselinović, a member of the Main Board of the Serbian Progressive Party, helped to establish the marketing agency "Sekond d.o.o." Since its establishment in November 2012, Sekond has undergone a change in ownership: one of the new owners is Sanja Lalović who helped to devise a media plan during the election campaign of the Progressives in 2012 (Kurir 2015). This link between political and economic interests allows for leading politicians and political parties such as the SNS to exert political influence on the media outlets, since most of the media in Serbia depend on advertising for their sustainability and survival. "In 2011, the Anti-Corruption Council revealed the mechanism for political and economic influence intertwined in the functioning of advertising agencies that are run by politicians" (Matić and Jovović 2014). According to Matić and Jovović (2014), "the agency owner can act in the interest of his party by giving advertising contracts to individual media outlets that produce a favourable image of his party and withholding them from those with critical views" (Matić and Jovović 2014). Prior to 2012, the leading politician who controlled the advertising space in national media through his agency, Direct Media, was Dragan Đilas, leader of the Democratic Party. With the shift in power to the Progressives in May 2012, that centre of media

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[34] Local media earn 30-35 percent of revenues from advertising (Matić and Nedeljković 2014, p. 356).

power has gone to Goran Veselinović and other close associates of Aleksandar Vučić and his Progressive Party:

> "Findings of the research conducted by BIRN show that in 2011 and 2012 at least four companies walked out on the leading advertising agency of the time, Direct Media (owned by the Democratic Party leader Dragan Đilas), and signed contracts with rivals from the pool of marketing agencies controlled by Srđan Šaper, the ex-member of the DS presidency. Veselinović's Sekond Agency, close to the SNS, also joined this pool" (Kisić 2015, p. 93).

According to research conducted by BIRN, two pools of agencies have the highest percentage of clients in the advertising market, one is close to Đilas's Direct Media while the other is composed of eight agencies, including those agencies owned by Srđan Šaper, Branimir Dimitrijević and Goran Veselinović (Kisić 2015, p. 93). Direct Media owned by Dragan Đilas was close to the Democratic Party of Serbia, but following the change of government in 2012 in which the Progressive Party came to power, some large advertisers decided to terminate contracts with Đilas' Direct Media and enter the new pool of rival agencies now close to the Progressives. According to research conducted by Georgiev and Đorđević on behalf of BIRN (2014), "while the companies cited business reasons for the change of partners in the world of advertising agencies and media, this is interpreted as moving the centre of power to the new government, which embodies Goran Veselinović, the new partner of Srđan Šaper" (Georgiev and Đorđević 2014).

This forces the media to then publish only positive news of politicians in power and the work of the government, which creates self-censorship in the media. In addition, the media are also forced to not publish critical texts of the government or they will be denied of any kind of advertising revenue. According to our findings, a member of the Belgrade Centre for Security Policy describes the situation:

> "The problem is that the state bodies when placing their advertisements in the newspapers do not do it for rational (market, commercial) reasons, but political ones. They do not place their advertisements in the media that will bring them the greatest benefit, such as the greatest publicity, most coverage or coverage of certain audiences, but publish ads in the media they wish to financially strengthen. Media that expect to get a set of state advertising also are indirectly encouraged not to publish critical views on the government because the advertisement can very easily be denied and redirected to other media that is "friendly" to the authorities" (Member of Belgrade Centre for Security Policy 2016).

The Anti-Corruption Council argued that "one of the most direct forms of political control over the media in Serbia is exemplified during election campaigns,

by the time slots in electronic media bought by political parties and advertising space in print media" (Anti-Corruption Council 2015a, p. 114). An example of this type of state control vis-à-vis advertising during elections in Serbia is probably most apparent in the 2017 presidential election campaign, in which the Prime Minister and leader of the Progressive Party, Aleksandar Vučić, nominated himself as a candidate and subsequently secured victory as Serbia's new president. Maja Bjeloš from the Belgrade Centre for Security Policy, argues that "Vučić's domination in the media was particularly visible the day before the 'election silence' started, when all major dailies in the country featured a large advert for him on their front pages" (Bjeloš 2017). The Balkan Investigative Reporting Network found that Vučić's Serbian Progressive Party had taken over the front pages of all major newspapers[35] in Serbia on Thursday, 30th March before the elections, which took place on Sunday, 2nd April (Balkan Investigative Reporting Network 2017). A study by BIRN shows that Vučić appeared a total of 128 times in the print media while his opponent Saša Janković appeared 71 times. Table 5.6 shows the media coverage according to positive, neutral and negative for both candidates.[36]

Figure 5.6 Presidential Campaign Coverage in the Serbian media 2017
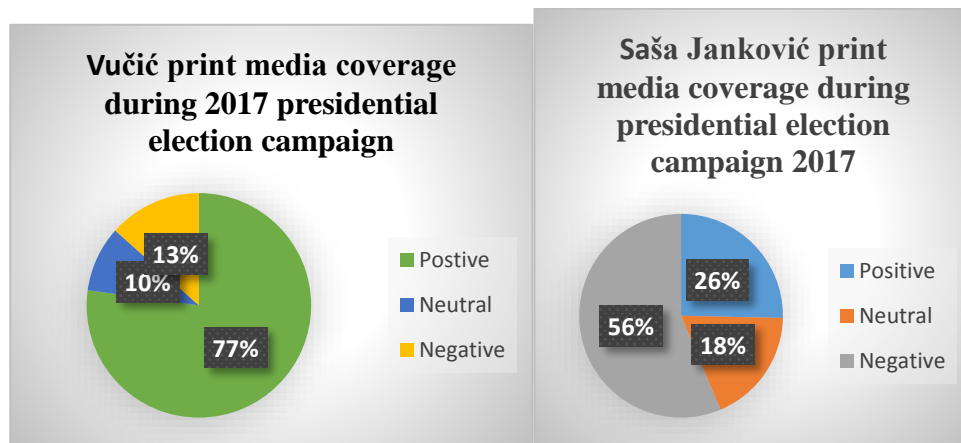
(Source: Rudić and Zaba, Balkan Investigative Reporting Network 2017).

Moreover, Vučić's autocratic control over the media was also most visible in the campaign that led up to the 2017 presidential elections where Rudić, a journalist from BIRN, noted that Vučić's dominion over the media was

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[35] Such major dailies included: *Politika, Blic, Srpski Telegraf, Kurir* and *Večernje Novosti*.
[36] Other candidates included: Vuk Jeremić (appeared in print media: 55 times), Ljubiša Preletačević Beli (40 times) and the former Radical Party leader: Vojislav Šešelj (30 times). (Rudić and Zaba 2017).

characterised by "his alleged abuses of his post as PM to campaign and by vicious attacks in the pro-government tabloids on opposition candidates and on people close to them" (Rudić 2017b). The pro-government tabloid, *Informer*, accused Vuk Jeremić, a candidate in the presidential elections, of being a NATO candidate while *Telegraf*-also another pro-government daily- accused Janković of abusing a dead child on its front page on 21 February 2017 (Živanović 2017a). The Balkan Investigative Reporting Network reports that such smear campaigns and attacks on opposition candidates often go unpunished by the Ministry of Culture, whose mandate is to ensure that the law on freedom of information is respected (Živanović 2017a).

Regulation of state advertising, as we have demonstrated, is not explicitly mentioned as an interim benchmark for Serbia and the Anti-Corruption Council recommendations, which the Serbian government has incorporated into its Action Plan, are not explicitly mentioned in the Chapter 23 benchmarks. The EU does remark, however that "the Serbian government should engage in a constructive relationship with the Anti-Corruption Council, seriously consider the latter's recommendations and take them as much as possible into account" (Conference on Accession to the European Union-Serbia 2016, p. 26). The new Law on Advertising adopted in 2016 was supposed to regulate this field but instead this law "failed to deal with state advertising as a potential tool for undermining market competition and creation of clientelistic relations between the state and the media" (Member of Belgrade Centre for Security Policy 2015). According to attorney, Dragan Milić, this was because:

> "the advertising of state bodies and publicly-owned companies is not regulated by a special law nor is it incorporated in the Law on Advertising, which is a big legal void and paves the way for major irregularities, that is, for indirect influence on media content by enabling or disabling advertising of the state which, in market conditions in the Republic of Serbia, is one of the most important advertisers" (Milić 2017).

Like project co-financing, state advertising was an area where the degree of Europeanisation was low, falling short of absorption. Serbian elites merely absorbed EU criticism and recommendations without modifying existing structures and implementing legalisation that would regulate the advertising market, making it more fair and transparent and without serving as a mechanism for political propaganda.

5.7 The Threat to Freedom of Expression: Attacks on Journalists and the Government's Influence on Editorial Policy

One of the main concerns stemming from the European Union's 2015 Progress Report for Serbia was threats and violence against journalists (European Commission 2015, pp. 17-18). The Progress report also notes that journalists have little job security and low salaries and are thus prone to pressure and influence from economic and political quarters (European Commission 2016a, pp. 19-20). Threats and violence against journalists prevent freedom of expression, a basic human right emphasised in the EU Charter for Fundamental Rights, and a condition for any country's- including Serbia's-membership prospects. Freedom of expression also indicates a country's readiness to join the EU, and is part of the interim benchmarks that make up Chapter 23 on Justice and Fundamental Rights.

According to the Action Plan, the Serbian government has claimed that there has been an "increased number of actions undertaken by the prosecutors' office in order to ensure protection of journalists, as well as prosecution of the perpetrators of criminal offences against journalists" (Government of Serbia, Ministry of Justice 2016, p. 240). Ironically enough, the Serbian government also claims that Serbia has received a positive opinion of the European Commission in the Annual Progress Report on Serbia in this area, which is not the case if we examine the 2016 Commission Progress Report. The Serbian government's objectives outlined in the Action Plan to combat threats and violence against journalists and ensure their safety, and its reported claims that it has tackled this area with increased actions to prosecute perpetrators, demonstrates once again the Serbian politicians' strategy of fake compliance in this area as this is only compliance on the surface. It is apparent when looking at the annual EU progress reports in comparison to the Action Plan that Serbian government officials are attempting to convince the EU of their compliance in this area. We elucidate our argument through a concrete example, which the EU has mentioned in its annual report: the 2014 actions against websites that had criticised the Serbian government handling of the flood crisis. The EU has warned that "serious efforts are needed to identify and prosecute those suspected of violating internet freedoms" (European Commission 2016a, p. 20).

In May 2014, Serbia, including some of its Balkan neighbours, was hit by devastating floods. This caused the Serbian government to impose a temporary state of emergency which allowed them to detain people for "inciting panic." Online criticism of the government's handling of the crisis was especially targeted.

Knežević (2014) notes that, "critical articles and blogs were removed, and whole websites, including the independent news outlet Peščanik, were blocked and subject to DDOS (distributed denial of service) attacks" (Knežević 2014). A journalist from NDNV argues that

> "there is plenty of public evidence that within the framework of the party, within the ruling SNS, there operates a numerous team of people working exclusively on advertising of the party and its leader on the Internet but who apparently use other methods that are far from acceptable and that is bringing down of some sites. Of course we do not have evidence that behind all this is the SNS but it is the fact that through the continuous destruction of sites or certain content on social networks and the like, the main targets are contributions critical of Aleksandar Vučić" (Journalist from the Independent Journalists' Association of Vojvodina 2015).

Dragan Janjić, a media expert from Belgrade, also argued that websites that had criticised the government's handling of the flood crisis had been subject to hacker attacks and the arrest of citizens who had published the criticism. Although it cannot be proven who was exactly behind these attacks, Janjić also argues that "the very fact that the government responded to the censorship allegations by asking for evidence is both a threat and an admission of guilt" (Janjić 2014). Additionally, a Serbian journalist from *RTV Mladenovac*, Dragan Nikolić, was detained and interrogated by police for a critical comment on his Facebook account on the government handling of the floods (Vukojičić 2014). The Serbian government has posited in the Action Plan that "guidelines on forming the separate records of criminal offenses committed against journalists and attacks on media internet sites had been established" and that priority would be adopted in acting upon these criminal offenses (Republic of Serbia Government, Ministry of Justice 2016, p. 241). The EU progress report shows that despite efforts, there has been no progress in this area (European Commission 2016a, p. 20).

Aside from the government response to the criticism of their handling of the flood crisis, a study conducted by the Western Balkans Platform for Advocating Media Freedom and Journalists Safety, reported that 33 physical attacks on journalists were recorded in Serbia between 2013-2016 (Zaba 2016). Moreover, the same study also concluded that "cases of journalists who have received death threats in Serbia and have been living under police protection for years, such as Brankica Stanković or Vladimir Mitrić, also remain unresolved" (Zaba 2016). The Independent Journalists' Association, NUNS, "registered 57 incidents against journalists in 2015, and 33 in the first seven months of 2016. These included 16 physical assaults, 41 verbal threats, 28 incidents involving pressure, and five attacks on property" (Marušić 2016). Most notably, in 2017, two leading journalists:

Stevan Dojčinović (editor of Serbia's Crime and Corruption Reporting Network or KRIK) and Vukašin Obradović were both attacked and put under pressure from the Serbian government, thus leading to a media blackout by over 150 Serbian websites and NGOs. Dojčinović had published an investigative article about the Defense Minister, Aleksandar Vulin's, controversial purchase of an apartment in Belgrade and was labelled as a "drug addict" by the Serbian government (Živanović 2017b). Obradović, founder of one of the oldest media outlets, *Vranjske Novine* and former head of the Association of Independent Journalists had gone on hunger strike to protest the closure of his paper and what he called the decline of media freedom (Živanović 2017b).

Such attacks and violence against journalists despite claims from the Serbian government of the preventive measures taken to ensure journalists' security (i.e. including investigations and prosecutions of the perpetrators etc.), demonstrates that the degree of domestic change in the area of freedom of expression is low. Referring to the Europeanisation literature, this type of absorption occurs when politicians simply absorb EU policies and ideas without modifying existing processes and policies. In this case, EU ideas and criticisms outlined in the progress reports and interim benchmarks are taken into account but no genuine policy is adopted and implemented that would ensure freedom of expression, including protection of journalists.

Thus far, we have illustrated the different mechanisms of state control of the Serbian media either through indirect financing mechanisms that exert informal pressure on editorial policy, or through opaque political connections vis-à-vis business tycoons that had purchased media outlets following privatisation. Moreover, non- transparency in ownership and financing, violations and attacks against journalists continue to be features of the media landscape. The 2017 presidential elections in Serbia have demonstrated Aleksandar Vučić and the SNS' continued grip on the media vis-à-vis the Serbian press, which has led to the erosion of democracy, as numerous citizens and journalists alike, have taken to the streets in the post-election period to protest against the autocracy of the SNS government. Despite the Progressives' goal of Serbian accession, giving up control of the media would become a damaging reputational cost to the government that would prevent the media from serving as political propaganda tools in interest of the ruling party. It could lead to open criticism of the government and its policies and therefore the decrease in popular support as the statecraft argument would posit. The lack of clear interim benchmarks in Chapter 23 coupled with the EU's limited competences in regulating media freedoms, have presented

the Serbian government with a margin for manoeuvre as they can simply absorb EU criticism without modifying existing structures. In the next section, we analyse the EU's position regarding the conditionality stemming from Chapter 23 where we argue that media freedom is an area of low visibility as a consequence of the EU's lack of capacity in enforcing media freedom in some of its own member states, thereby enabling applicant states to engage in fake compliance.

5.8 The EU's Position

The EU's position regarding the conditionality pertaining to media freedom is rather complex as there exists no official law that would enforce media freedom and pluralism including transparency in ownership and financing, in the EU member states nor in the applicant countries. Media regulation is in the hands of the member states to implement, leading to significant variations in the form and level of media regulation (Harris 2013). This lack of capacity, therefore, raises questions about the competences of the EU in the area of media freedom. Moreover, as mentioned in the previous chapter, the EU is in a better position to scrutinise Serbia compliance with regard to Kosovo conditionality due to the presence of other external actors (i.e. Kosovan political elites). In this section, we argue that that the EU's limited competences in this policy area, coupled with the higher capacity of the EU to scrutinise Kosovo conditionality, has allowed the Serbian government to engage in a strategy of fake compliance, exploiting the ambiguity in the EU's conditionality toward media freedom. First, we offer a discussion on the lack of media freedom regulations in the EU's *acquis,* followed by an analysis of the consequence for media freedom across the EU and implications for dealing with an applicant state such as Serbia.

The EU's *acquis* is categorised into 35 chapters in the accession negotiations, Chapter 23 on Justice and Fundamental Rights and Chapter 10 on Information Society and the Media being the two chapters that would have the most impact on media freedom. Each chapter focusing on a specific policy area in the accession negotiations comes with a specific set of conditionality, or interim benchmarks, an applicant country must comply with in order to proceed further down the path towards accession. Throughout the chapter, we have examined and analysed the conditionality from Chapter 23, for Serbia. Chapter 10 does not have yet interim benchmarks thus, we have left it out of our research.

Every accession country and member state has adopted their own legislation pertaining to the freedom of the media to respond to EU conditions. For

Serbia, these domestic media laws were adopted in August 2014 and are included in Serbia's Action Plan for Chapter 23. According to an official from the EU Commission,

> "The [accession] procedure does not only look at if the [media] laws have been adopted but also looks into their effective implementation. Thus, the EU does not close chapters. First, the government has to adopt the law, second they have to build the capacity to implement the law and then establish a track record of implementation" (European Commission Official W 2015).

The aforementioned media laws adopted in 2014 do not deal with the regulation of advertising (as there currently exists no law that would regulate this field), which poses serious concern since the majority of media in Serbia depend on state advertising, therefore creating pressure on editorial policy in addition to serving as the political mouthpiece for the leading party. Although the media laws do mention the withdrawal of the state from the media through privatisation and the introduction of a media register to ensure ownership and financial transparency, media scholar, Kristina Irion, argues that media ownership and financial transparency are not part of the EU *acquis* and thus Serbia is under no obligation to implement them in a way that would actually improve the media environment (Irion 2014). She further argues that "the failure to promote transparency in media governance is so far a crucial omission of European engineered media assistance" (Irion 2014). According to Irion and Jusić, "neither the standards of the Council of Europe nor the EU *acquis* in the media sector provide for the introduction of such far-reaching transparency requirements," (Irion and Jusić 2014, p. 24). This makes it possible for accession countries such as Serbia to use this lack of EU competences to their own advantage that would often violate media freedoms rather than regulate them in a manner that promoted pluralism and independence. Moreover, when considering media ownership and financial transparency, another EU official argues that there are certain norms to be expected which feed into Chapter 23 and Chapter 24 on rule of law (European Commission Official Z). We argue that expectations are weaker than explicit legal obligations in this case, therefore making it possible for applicant countries such as Serbia to manipulate such norms in the accession process.

The acquis chapters and the interim benchmarks are tailored specifically to each accession country. Regarding Serbia, Chapter 23 on Justice and Fundamental Rights mentions the following *interim benchmarks* the country needs to meet in order to proceed to the next phase in the accession negotiations:

"full respect for independence of the media, a zero-tolerance policy as regards to threats and attacks against journalists" as well as "creating an enabling environment for freedom of expression, based on transparency (including on ownership of the media), integrity and pluralism" (Conference on Accession to the European Union-Serbia 2016, p. 28).

However, state intervention in the media including ownership and financing of the media is not mentioned explicitly in the interim benchmarks. Moreover, although the conditionality from Chapter 23 mentions ownership transparency, this does not account for transparency in financing of the media. Conditions for independence and pluralism of the media, which would include media that is free from political intervention, forms part of the political criteria applicable to all accession countries. However, we argue that conditionality pertaining to freedom of expression are complex and open to interpretation according to an official from the EU Commission: "a lot of what is in the political criteria is not based on texts but it is more based on an understanding which is very open to interpretation" (European Commission Official X 2015). Moreover, the same official from the EU Commission noted, "I think we are on quite dodgy ground making some of those recommendations given what happens in our own Member States" (European Commission Official X 2015). Serbia, along with other accession countries must align their own domestic laws with those of the EU's legislative corpus, the *acquis,* or in other words, adopt and implement the *acquis*. However, based on our findings, we argue that state intervention, including financing and ownership, in addition to transparency, are not part of the *acquis*. Additionally, the European Parliament notes that,

> "The *acquis* that is specifically relevant to the media sector and to media freedom is mostly associated with the processes of liberalisation and harmonisation of the internal market at EU level and refers only in an indirect manner to media freedom and pluralism. They follow long-established internal EU policies on media freedom and pluralism and, therefore, the newly shifted focus is reflected only in an indirect manner, i.e. it is not included explicitly in the *acquis*" (European Parliament 2014, p. 41).

The lack of media freedom in the EU's own legislative body allows for applicant countries, even member states, to exploit this ambiguity to their own advantage. In the following section, we elucidate this argument through analysis of the degree of media freedom and pluralism in some of the EU's own member states.

The 2016 EU Media Pluralism Monitor report analysed the media environment in 28 different member states, plus two candidate countries (Turkey and Montenegro) along four different categories: basic protection, market plurality, political independence, and social inclusiveness. Through an analysis of the

report, we see that media freedom is not fully respected in most of the member states, particularly the Central and East European Countries that joined in 2004 and 2007. This raises concern over the EU's capacity to enforce protection of freedom of expression including media independence and transparency in both the member states and accession countries such as Serbia. We elucidate our argument through several examples from the report.

The market plurality indicator deals mostly with ownership including transparency, horizontal concentration of ownership, and cross-media concentration of media ownership. With regard to transparency in ownership, three countries, namely, Greece, Luxembourg and the Czech Republic, score a high risk in this indicator according to the report (European University Institute 2017, p. 34). In Luxembourg, "media firms are not bound by transparency obligations *vis-à-vis* the public authorities" while in Greece "rules to ensure transparency *vis-à-vis* the competent authority do exist, but they do not seem to achieve the objective that they were enacted to pursue" (European University Institute 2017, p. 34). With regard to the political influence over the media, the political independence indicator examined political control over the media outlets, editorial autonomy, state regulation of resources and support, independence of the public service media and funding, and the relationship between the media and democratic electoral process. According to the report, "a vast majority of the countries examined score a medium risk in this area. Eight are at low risk (Sweden, France, Germany, Portugal, Belgium, Denmark, the Netherlands, and United Kingdom), and four are found to be at high risk from political influences over their media systems - two of which are EU member states (Hungary and Slovenia), and two are candidate countries (Montenegro and Turkey)" (European University Institute 2017, p. 36). Furthermore, the report posits that "Hungary is the only EU country that scores high risks for all five indicators within the area of political independence, with most concerns being related to the indicators on state regulation of resources and support to the media sector, and independence of public service media governance and funding" (European University Institute 2017, p. 37).

The case of Hungary provides the best example where there has been a relatively significant decline in media freedoms. In mid-2010, the election of Viktor Orbán's Christian, national and conservative government (the Fidesz-Hungarian Civic Alliance) overhauled the old media law and adopted a new one in its place that put the leading party in control of the media. Bajomi-Lázár (2013), argues that the "new regulation established a new supervisory body called the National Media

and Telecommunications Authority (NMHH), managed by the Media Council. The Media Council's four members have been appointed by parliament's ad hoc appointment commission; currently all of them are Fidesz nominees" (p. 81). Additionally, the Media Council's Chair Annámaria Szalai has been directly appointed by the Prime Minister Orbán and heads both the NMHH and Media Council. The NMHH is in charge of frequency distribution for radio and is allowed to define the allocation criteria. The NMHH had distributed 18 out of 35 frequencies to pro-government stations and had additionally refused to renew a license for an "opposition" station (Bajomi-Lázár 2013, p. 82). This one-party colonisation of the media in Hungary does not suggest a conformity with EU values and norms.

The results of the report indicate that enforcing and monitoring media freedom and legislation involving media freedom in even the member states is an issue that raises concern and questions over the EU's competence in the area of media freedom, particularly with regard to transparency in financing and ownership as well as political interference. Therefore, due to a lack of explicit conditionality with regard to the EU and a legal basis, politicians in applicant countries such as Serbia, are able to exploit this conditionality to their own advantage and engage in a strategy of fake compliance.

As we have shown throughout the chapter, the lack of EU competences in the field of media freedom, has allowed the Serbian government to engage in fake compliance. The media laws which were established along with the Action Plan related to Chapter 23 for their implementation were strategies the Serbian government used to persuade the EU of compliance. That is to say, they responded to the EU conditions with regard to media freedom on paper but there was an overall lack of legal enforcement suggesting a strategy of fake compliance. Moreover, the Serbian government was allowed to engage in fake compliance because of the higher salience the EU placed on Kosovo. Vukašin Obradović, President of the Independent Journalists' Association of Serbia (NUNS) argues, "EU officials have a quite tolerant attitude towards Aleksandar Vučić and the way that he treats the media. This is because EU officials are not interested in the media so long as Vučić fulfils his main political tasks relating to the Kosovo agreement, regional stability and other strategic issues" (AlJazeera 2016). This is reinforced by our interview findings where an official from the EU Commission has noted that:

> "That the EU is not really involved in the Serbian media. It is up to the national government to deal with its own media. We can provide language or press releases, even interviews, but we cannot engage directly with them. We have provided advice as to how to present the results to the

media, but in our experience the Serbian government doesn't really listen to this at all" (European Commission Official X 2016d).

Serbian politicians pay lip service to the importance of EU conditionality of media ownership and transparency, knowing they are not part of the *acquis* and thus do not reform the media sector in a way that would genuinely improve freedom of expression and independence of the media, including the phasing out of state intervention. The Serbian government's reluctance to give up control over the media represents a reputational cost as we have discussed earlier in the chapter, as control of editorial policy allows Serbian politicians to promote positive images of themselves and their policies; the media serve as PR for the SNS.

5.9 Conclusion

The media landscape in Serbia has not improved significantly and has been in steady decline since the period when the Democrats were in power in 2009. Despite the introduction of the new media laws in August 2014, the current Serbian government under the Progressives has only demonstrated compliance on the surface vis-à-vis the media laws and Action Plan for their implementation, but legal enforcement of the laws was limited, positing a strategy of fake compliance. Political interference in the media through advertising and project co-financing as well as violations of freedom of expression through attacks on journalists and removal of websites and articles critical of the government, continue to define the Serbian media landscape. In July 2016, the Serbian Progressive Party opened an exhibition at a gallery in Belgrade, titled, "Uncensored Lies," featuring over 2,500 examples of negative media content regarding the government and Aleksandar Vučić. The Progressives claimed that the purpose of the exhibition was to demonstrate that there is media pluralism in Serbia despite the attacks on the government claiming that there was not (Tomović and Pantović 2016). In addition, the Serbian government stated that they wanted "to document wrongful attacks on the government it leads, not to target journalists that are critical of it" (Tomović and Pantović 2016). According to Tomović and Pantović from the Balkan Investigative Reporting Network (2016),

> "most of the articles on display were from the weekly magazines *NIN* and *Vreme*, BIRN and television station *N1*, but there was also material from comedy shows as '24 Minutes', which is hosted by satirist Zoran Kesić, who was recently accused of being a 'traitor by pro-government media" (Tomović and Pantović 2016).

However, journalists such as Vukašin Obradović from the Independent Association of Journalists remarked that this kind of display was "anti-democratic" and did not promote media pluralism, accusing the government of creating "an atmosphere of hate towards journalists" by creating such a "wanted list" of journalists that are critical towards the government (Tomović and Pantović 2016). Aside from caricatures from the partially state-owned *Politika*, most of the articles came from a few newspapers and magazines with lower readership (i.e*. NIN* and *Vreme*).[37] According to a member from BIRN, "as for the exhibition, I think that this is another form of pressure. Practically, all the enemies of the current government are being "mapped;" put on the pillar of shame, they become targets for public condemnation" (Journalist from BIRN 2016c).

Rationalist and statecraft theories suggest Serbian politicians engaged in fake compliance to EU conditionality pertaining to media freedom in order to manage both the high reputational costs of media freedom conditionality and EU accession. Considering EU membership remains the goal of the Progressive-led government, fake compliance was cheaper than non-compliance because "the costs of non-compliance are higher than the costs of simulating EU-compliant change in the short run while seeking ways of reversing that change and maximising profits in the long run" (Noutcheva 2006, p. 11). According to a former member of Balkans Policy Research Group from our interview data, "since Vučić came to power, the priority has been to trade pliancy on Kosovo for a free hand at home; and Europe has been happy to accept that deal" (Former member at Balkans Policy Research Group 2016). Many journalists and journalists' associations have claimed that the EU has adopted a quite tolerant attitude towards Vučić's authoritarian policy regarding the media in exchange for his political commitment towards the Brussels Agreement. By doing so, the thesis argues that the EU has prioritised stability over democracy, thereby undermining its legitimacy and capacity to export its values and norms to member states and applicant countries.

The EU's emphasis in ensuring regional stability over democracy was also exacerbated by its lack of competence when it came to enforcing and regulating media freedom in both applicant and member states because media legislation was mainly in the hands of national governments. We argue that this in turn severely limits the EU's ability to scrutinise non-compliance/compliance-- the EU

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[37] *NIN* has approximately 9853 in readership while *Vreme* has approximately 5077 readership as of 2014 according to the Serbian Business Registers Agency (i.e. Media Register).

relies on Serbian government progress reports, primarily the Action Plan for implementation of the media laws, but these only constitute compliance on paper and not any legal enforcement of the media laws. Moreover, the presence of external actors is greater in a foreign policy area (i.e. Kosovo) as opposed to an internal issue (media freedom), also inhibiting the EU from pressuring political actors for fake/non-compliance.

To conclude, compliance to media freedom conditionality was an area where the degree of Europeanisation was low, falling short of absorption; political actors in Serbia adopted laws alongside an Action Plan that would have brought the media up to European standards but an overall lack of legal enforcement did not lead to genuine reforms in the media sector. The EU's non-involvement policy in the Serbian media in conjunction with its lack of capacity to punish Serbia's lack of compliance was exploited by the Serbian government in a manner that would serve both the party and individual interests of Aleksandar Vučić and his Progressive Party, even at the expense of declining conditions for media freedom.

Chapter 6: Conclusion

6.1 Introduction

The constructivist argument assumes that accession will lead to a change in values and adoption of EU standards, but this has not been the case in some of the Central and East European countries, such as Poland and Hungary, who joined the EU in the 2004 enlargement. From the start of the thesis, the goal has been to analyse the EU's carrot-and-stick conditionality approach through a country analysis using Serbia to determine whether applicant states can circumvent EU conditionality, therefore making the constructivist argument inadequate when describing accession strategies of applicant states. The current scholarship on Serbia has employed a rationalist framework of cost-benefits when analysing the strategies towards European integration of the Serbian government under the Progressive Party since their election in May 2012. This has been particularly the case when examining the Serbian government's policy shift towards Kosovo. However, the thesis addressed the current gaps in the literature, arguing that while Serbian government strategy can partly be explained by rational cost-benefit calculations of the material benefits EU accession would bring, this theory is inadequate when fully examining compliance outcomes towards EU conditionality. Therefore, our research addressed the current gap by positing that Serbian compliance can be explained by *both* rationalist and statecraft theories, where electoral considerations took precedence over conformity with European values. Bulpitt's (1986) statecraft theory posits that politicians will act according to their own self-interest, in order to demonstrate governing competence and maintain power; thus the Serbian political elites' decisions to engage in compliance (fake or partial) were based on rational cost benefit calculations of what was seen to be the national and party interests of the Serbian Progressive Party.

While previous scholarship has examined the outcomes of Serbian domestic policy under the Progressive Party, with a single policy area (Kosovo) as a unit of analysis, our research analysed Serbia integration strategy as a two-level game, which can only be fully understood by examining another policy area (media freedom) in conjunction with Kosovo. In this regard, the thesis argued that it is insufficient to consider one side of the bargaining relationship-how the EU imposes conditionality on applicant states or pressures them into compliance- but looking

at the domestic side, or how applicant states respond to or download conditionality, is crucial for a full analysis of integration strategy and how acceding countries employ it. Thus far, this has not been explored in recent scholarship on Serbia's EU integration process under the Progressive Party.

To explain Serbian government strategy (compliance outcomes), a case study approach was identified as appropriate for the research, employing the two case studies of Kosovo and media freedom. The research argued that the two case studies were expected to cause the different outcomes of fake and partial compliance, respectively. In the conclusion, we revisit the hypothesis in the following section (6.2.), positing our findings through an evaluation of the theoretical framework. In 6.3, we provide an analysis of the current state of Serbian government strategy towards both policy areas of Kosovo and media freedom while in the final section (6.4), we examine how our single country study research can be applied to the wider constructivist-rationalist debate whereby countries are able to accede while not adopting an EU mindset. Additionally, we provide directions for future research, questioning the EU's capacity as a normative power to export its values when illiberal democracies are on the rise.

6.2 A Re-visitation of the Hypotheses

6.2.1 Kosovo

The research examined Serbian compliance towards EU conditionality stemming from Chapter 35 and the Brussels Agreement towards Kosovo and found that Serbian political elites were engaging in partial compliance due to the prohibitive adaptation costs of Kosovo conditionality. In the case of Kosovo, the Progressive Party were confronted with two competing tensions: both accession to the EU, which would bring substantial economic benefits to Serbia, and retention of Kosovo. Given the salience the EU placed on compliance to Kosovo conditionality, the research argued that Serbian non-compliance would have been difficult to hide, particularly given the presence of numerous external actors (Kosovo, the EU, the international community) who were able to monitor Serbian compliance/non-compliance through progress reports. Thus, because accession was a genuine goal of the Progressive-led government, partial compliance was a strategy political actors employed to manage the two competing tensions of retaining Kosovo and accession to the EU. In this regard, an official from the EU Commission that had been interviewed for the purpose of the research, claimed

that the Progressives achieved the minimum they could that would satisfy the EU while maintaining the fiction that Kosovo was still an integral part of Serbia through public discourse. Partial compliance, therefore, allowed for the EU to not only offer rewards to Serbia, but it had also allowed the Serbian government to engage in multilevel games where political actors had attempted to "hammer" out compromises which they sold to their domestic constituency as favourable to Serbia, thus enabling them to garner further public support.

Although there has been a policy shift regarding Serbian government strategy towards Kosovo which indicates that Serbian politicians had de facto recognised Kosovan independence through the Brussels dialogue, the Serbian government has nonetheless attempted to retain control over areas where they were able such as in energy, telecom and the Association of Serbian Municipalities, demonstrating a strategy of partial compliance. Therefore, as our findings have elucidated in the Kosovo case study chapter, the Serbian strategy regarding Kosovo has been what is the minimum they could achieve that would allow for the EU to be satisfied and lead to rewards or advancements in the accession negotiations while satisfying their domestic public at home.

Compliance to Kosovo conditionality potentially resulted in high adjustment costs, thus, in order to manage these costs, the Serbian government employed a strategy of *discursive denial* underpinned by discursive institutionalism. This strategy allowed Serbian politicians to deny recognition of Kosovo, also denying the extent of compliance to Kosovo conditionality, in order to hide/mask the policy shift over Kosovo. Denial of the extent of policy change also enabled Serbia's compliance to Kosovo conditionality and was a way for the Serbian government to manage both competing tensions of EU accession and public demand for retention of Kosovo. As Kostovicova (2014b) argues, "denial of policy adaptation in the discourse allowed the Serbian leadership to implement policy change by managing the contradiction between the real strategic objective with the objective as it is construed" (p. 82). In this regard, Serbian politicians addressed a controversial issue in a way that would satisfy the EU and lead to progress in the accession negotiations while the discursive denial of its de facto recognition allowed Serbian politicians to maintain the popular support they enjoy at home. This strategy is therefore, elucidated by Bulpitt's (1986) concept of statecraft where the decisions of political elites are based on the desire for power.

Neither Kostovicova (2014b) nor recent scholarship on Serbia's policy shift towards Kosovo take account of statecraft theory to explain Serbian compliance over Kosovo under the Progressive Party. The research addressed this current

gap by positing that the rationalist argument of material concerns being the reason behind the policy shift are only secondary. The government's decisions to comply in a manner that would satisfy both the EU and their domestic constituency was a result of electoral tactics of the best way to maintain power. In this regard, Serbian strategy, follows the logic of two level games, where Serbian political elites are players at both the domestic and international table and thus, it became imperative to consider both sides when making compliance decisions.

6.2.2 Media Freedom

The final hypothesis dealt with compliance to media freedom conditionality originating from Chapter 23 on Justice and Fundamental Rights. The EU's lack of competences in the area of media freedom, particularly in enforcing media freedom in some of the member states, had enabled Serbian political elites to engage in fake compliance. The research has argued that the EU has no clear guidelines or definitions of media freedom, taken to mean both media independence and pluralism. Independence and pluralism are mentioned explicitly in the EU's Charter for Fundamental Rights under freedom of expression, which is a basic human right, forming part of the political criteria for applicant countries. However, our interview data has posited that these criteria are complex and open to interpretation. Karppinen and Moe (2016) argue that "[media] independence is an "essentially contested concept", inherently subject to endless revisions and interpretations" (p. 105). Due to the EU's lack of clear criteria of what constitutes media freedom, the analysis was underpinned by the EU's interim benchmarks from Chapter 23 on Justice and Fundamental Rights which included:

> "full respect for independence of the media, a zero-tolerance policy as regards to threats and attacks against journalists" as well as "creating an enabling environment for freedom of expression, based on transparency (including on ownership of the media), integrity and pluralism" (Conference on Accession to the European Union-Serbia 2016, p. 28).

State intervention in the media including ownership and financing of the media is not mentioned explicitly in the interim benchmarks. Moreover, the conditionality from Chapter 23 mentions ownership transparency but this does not account for transparency in financing of the media. Although what constitutes an independent media is very difficult to determine, a former official from the EU Commission we interviewed for the purpose of the research, posited: media that

was free from political control was the core principle of media independence (EU Commission Official Y 2016b). Media independence is a contested, often ambiguous principle; Karppinen and Moe (2016) nonetheless claim that "in general terms, independence refers to an absence of external control. Independence means freedom from the influence of others, but also describes the capacity of an individual or institution to make decisions and act according to its own logic" (p. 106). Referring to the Habermasian ideal, "the notion of media independence as a normative principle has often been linked to the autonomy of the public sphere from the systemic forces of state and economic power" (Karppinen and Moe 2016, p. 106).

In Serbia, the media is highly dependent on governments and business tycoons closely associated with the ruling party, and they function more often than not as tools for trading influence and manipulating public opinion in the interests of power-holders rather than being autonomous from political control. Therefore, given the significant government interference in the Serbian media, it was important to take into consideration political independence when analysing Serbian compliance towards media freedom conditionality. However, given the fact that media independent from government control does not form part of the EU benchmarks, the state was in no way obliged to withdraw from the media nor limit the amount of funding towards some of the politically aligned media outlets despite increasing criticism from journalists' associations in Serbia. The EU, on the other hand, published its annual progress reports through the Commission, retaining a critical stance towards Aleksandar Vučić's authoritarian policy towards the media and offered recommendations on bringing the media environment up to European standards. This included the full implementation of the 2014 media laws and providing adequate funding for the public service broadcasters from the state budget that would also ensure their editorial independence.

The research has argued that the degree of Europeanisation with regard to compliance to media freedom conditionality did not go beyond mere absorption. The aim of the media laws adopted in 2014 by the Progressive Party was to convince the EU that it was bringing the media environment up to European standards; but essentially their adoption and partial implementation had not altered nor reformed the media sector in Serbia in line with EU legislation, therefore the degree of Europeanisation was low. Government interference in the media persisted even following privatisation where business tycoons closely associated with the government had bought up some of the media companies. Non-transparency (including in ownership and financing) and political pressures

and threats against journalists continued to be main features of the Serbian mediascape. The state's autocratic control of the media was most visible in the period leading up to the presidential elections in April 2017, where advertising dedicated to Aleksandar Vučić predominated, helping to secure his victory. As discussed in the media freedom chapter, Vučić's dominion over the media was most visible in the election campaign where he abused his position as prime minister to campaign and where pro-government tabloids published vicious attacks on opposition candidates and on people close to them (Rudić 2017b). Shortly following the 2017 elections, many had taken to the streets to protest the government's autocratic regime, demanding more rights relating to a free media which included: "the removal of the top management of the public broadcaster, RTS, and of the provincial broadcaster RTV; and the sanctioning of all editors who breach media laws and the journalists' code" (Rudić 2017b).

Thus far, the EU has been criticised for its non-intervention policy, including lack of sanctioning and setting of clear red lines with regard to media freedom conditionality in Serbia. Instead, the research has argued that the EU has prioritised regional stability over democracy, which included Serbia's normalisation of relations with Kosovo. Pavlović, at the London School of Economics, has referred to such a weak, illiberal democracy as a "stabilitocracy" (cited in Huszka 2017). Stabilitocracies have been described as "semi-authoritarian regimes in the region which receive external support, in particular from EU member states, for the sake of the (false) promise of stability. Thus, a stabilitocracy is a regime that includes considerable shortcomings in terms of democratic governance, yet enjoys external legitimacy by offering some supposed stability" (Bieber 2017). These are regimes with autocratic leaders, such as Aleksandar Vučić in Serbia, whom the EU supports for the sake of his commitment in providing a (false) sense of regional stability with regard to Kosovo while neglecting democratic values including those relating to freedom of expression. However, we argue that the emergence of stabilitocracies in Serbia and some of its Western Balkan neighbours is not merely a consequence of the EU's leniency when it comes to upholding democratic values in exchange for stability, but is more so a consequence of the EU's own lack in capacity in regulating and enforcing media freedom. It is this lack of competences to regulate and enforce media freedom in some of its own member states that has allowed for Serbian political elites to engage in fake compliance. Media freedom regulations are in the hands of national governments, thereby making freedom of expression an internal issue, with few external actors. We argue that this has considerably weakened the EU's ability to

scrutinise media freedom policy in Serbia—the EU relies on Serbian government progress reports, primarily the Action Plan for implementation of the media laws, but these only constitute compliance on paper and not any legal enforcement of the laws.

Serbia's strategy of fake compliance is not only attributed to an absence in the EU's capacity to regulate and enforce media freedom both in applicant and member states; rational choice institutionalism would posit that the failure of media reforms and the decline in media freedom is also a consequence of an overall lack of willingness and incentives for politicians to comply with the EU's conditions. The reputational costs of compliance to media freedom conditionality would have limited the government's ability to continue their power concentration efforts in the media sector. In line with the statecraft argument, this limitation would have expected to lead to a decrease in popular support for the ruling party if political elites were unable to interfere in the media and influence public opinion. The media sector proved to be another example where the lack of incentives and even sanctions (as was the case of Kosovo) did not facilitate genuine or even partial compliance to EU conditionality.

To sum up, Serbian government strategy cannot solely be explained by rational choice institutionalism as electoral concerns and the maintenance of power in the Serbian case took precedence over economic benefits arising from accession, which were only secondary when addressing compliance issues. Statecraft relates to how domestic actors employ strategies for achieving and maintaining power, thus the domestic side of the EU-applicant state bargaining relationship must also be taken into account in order to offer a comprehensive understanding of a candidate country's (i.e. Serbia) integration strategy. Putnam's (1988) logic of two level games posits that political actors are players at both the international table and the domestic one, and their decisions are constrained by both sides, but they will consider power-based strategies when making them.

6.3 Current State of Europeanisation in Serbia under the Progressive Party

Opinion poll research published and carried out by the Serbian Ministry for European Integration shows that Serbia's accession to the EU is still supported by half the population with 49 per cent for accession and 27 per cent against (Government of Serbia, Ministry for European Integration 2017). However, other independent opinion poll research carried out by the Belgrade Centre for Security Policy (BCSP) shows slightly different results with 43 per cent in support of

accession and 35 per cent against as of January 2017 (Belgrade Centre for Security Policy 2017). These results do not seem to show a vast difference or decline in support for Serbian accession. Nonetheless, the opinion poll seems to suggest that Serbian citizens might in fact be losing faith in the integration process. This is indicated by other results in the same opinion poll whereby 41 per cent believe Serbia will never become a member of the EU while 45 per cent have expressed the view that the speed of integration is slow with only 4 per cent claiming it is quick (Belgrade Centre for Security Policy 2017). As expressed in Chapter Four on Kosovo, many in Serbia would not support accession if recognition of Kosovo's independence became a condition for membership—69 per cent have indicated they would not support accession; 13 per cent have claimed they would while 18 per cent did not know (Belgrade Centre for Security Policy 2017).

While support for the EU tends to decrease with the progress of the accession negotiations, this slightly downward trend in support for the EU felt among Serbian citizens can also be attributed to the rise of far right, nationalist parties. Dveri, the Democratic Party of Serbia (DSS) and the Serbian Radical Party (SRS) all have entered into parliament during the May 2016 general elections. Vojislav Šešelj's[38] Radicals are the third largest party in the Serbian government with 22 seats (out of 250) while the Dveri-DSS coalition constitute 13 seats (National Assembly of the Republic of Serbia 2016). The rise of extreme right-nationalist parties is also coupled with Serbia's strong ties with Russia. Despite Vučić's pro-EU agenda, the Serbian President has been reluctant to support EU sanctions against Russia for the crisis over Crimea, mainly as Russia's relationship with Serbia is based on historical, religious and cultural ties. Therefore, both the pro-European (SNS) versus pro-Russian (nationalist parties) divide represents a paradox as the gap between the two is virtually absent. Vučić's policy towards EU integration follows Putnam's logic of two level games where, "[the Serbian President] has seized the EU agenda, while at the same time ensuring complete control of domestic politics and using nationalist and pro-Russian positions to satisfy a more nationalist and conservative section of the electorate" (Bieber and Kmezić 2016).

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[38] Šešelj was extradited for war crimes to the International Criminal Tribunal for the Former Yugoslavia (ICTY) but was acquitted in March 2016. Shortly after, he re-joined the Radicals in May of that same year and campaigned as Serbian President in April 2017, where he came in fourth with 4.5% of the vote (Rudić 2017a).

The Serbian government's ethno-nationalist outlook is linked to its aspirations of retaining Kosovo despite the indication that the Brussels Agreement and its partial implementation was Serbia's de facto recognition of its southern province. Although not yet a condition for membership, voices in the EU, particularly Germany, are calling for Serbia's recognition of Kosovo prior to membership. As indicated by opinion poll research, such a move by the Serbian government would lead to a decline in support for Serbian membership and risk a possible breakdown in the accession negotiations. Vučić has risked such a potential breakdown in his decision to call for an internal dialogue on Kosovo in July 2017 that would incorporate all members of society, including the Serbian Orthodox Church, the Serbian Academy for Sciences and Arts and all parliamentary groups and parties (B92 2017a). Vladimir Pejić from the Faktor Plus agency told the Serbian independent daily, *Danas,* that the dialogue could pose a possible risk for the ratings of Vučić and the Serbian Progressive Party, and could have a negative impact on the rating of the Serbian President particularly if it were to lead toward recognition (Valtner 2017). However, after hearing accusations that the opening of the dialogue leads to recognition, Vučić denied this statement and claimed that his decision to call for a dialogue did not mean the recognition of Kosovo, once more reaffirming the Serbian government's ethno-nationalist position on Kosovo (B92 2017b).

Drawing on the previous chapters and the literature on Europeanisation, the Serbian government's strategy towards European integration, although dynamic and complex, can be attributed to that which Stahl (2013) has termed as a "strategic accession" where applicant states will accede out of economic necessity in order not to become marginalised (Stahl 2013, p. 451). Candidates like Serbia will seek EU accession for the short term concessions (i.e. access to EU funds) or long term political and economic gains membership would bring. We have argued that the Serbian government's aspirations of seeking EU membership go beyond material incentives that are expected to boost the country's dysfunctional economy, but rather Serbian rent-seeking political elites have used EU integration in the hopes of gaining popular support. According to the Serbian government, not only would accession bring the aforementioned benefits, but as we have examined in the chapter on Kosovo, Serbian politicians can also use the EU integration process to protect national interests such as continuing to maintain the fiction of retaining Kosovo vis-à-vis the government's non-recognition policy, with significant concessions to Serbs along the way. However, as we have argued previously, this strategy is not viable in the long run.

As recent events have demonstrated, crucial agreements in the Brussels dialogue such as the agreement on energy and the Association of Serbian Municipalities remain frozen as a consequence of disputes by both sides regarding the ownership structures in energy and the competencies of the ASM which can only be resolved through recognition. The choice between the EU and Kosovo will have to be made at some point in the accession negotiations. The suspension of agreements and the latest political developments in Kosovo, also show that the fault does not solely rest on Serbian political elites; the EU's 'status neutral' policy,' is not sustainable in the long term, especially considering that "the process of EU accession 'entails an acceptance of de facto international borders'" (European Parliament 2016a).

Stahl (2013) additionally links a strategic accession with that of non-compliance/fake compliance and superficial adaptation, which, as the research has demonstrated, has not been entirely the case with regard to Serbian compliance. The Kosovo case study has demonstrated that the Progressive-led government has engaged in partial compliance towards EU conditionality stemming from Chapter 35 and the Brussels Agreement. Serbian politicians have either fully or partially implemented some agreements that had a bearing on the sovereignty of Kosovo in the Brussels dialogue. Arguably, the discursive institutionalist approach would posit that the government's discursive denial of the fact that they had recognised Kosovo through the Brussels Agreement, did not legitimise policy change precisely because of normative incongruence between discourse and policy. Although not a condition for membership, Serbia's continuous insistence on its non-recognition policy coupled with the hindering of significant agreements such as the Association of Serbian Municipalities and the agreement on energy, raises questions about the long term sustainability of such a policy and its compatibility with Europeanisation understood as norm convergence in the constructivist sense. Drawing on Stahl's (2013) suggestion that a fulfilment of European criteria would seem to guarantee a "Europeanised" Serbia, our research argues that this is not the case so far as Serbian identity had not been transformed nor were the compliance decisions of Serbian politicians pertaining to both Kosovo (partial) and media freedom (fake) a reflection of European values and norms (p. 451).

Despite the EU's claim that Vučić had endorsed EU policies, particularly visible in relation to Serbia's compliance with Kosovo conditionality, the Serbian president had only paid lip service to the importance of EU integration, while his autocratic governing style evident in the erosion of democracy and media freedom,

does not suggest conformity with core European values (T. Prelec 2016). Instead, rational choice institutionalism would posit that Serbian political elites had been able to circumvent EU conditionality-particularly with regard to the media-while advancing in the accession negotiations, including the opening of chapters and access to structural funds. Such a strategy was in part enabled by the EU, due to its inconsistent approach in enforcing conditionality in one policy area (Kosovo) while lacking the ability to enforce sanctions and provide credible incentives in another (media freedom).

In this regard, the constructivist argument of Europeanisation leading to identity convergence and normative adaptation becomes inadequate when analysing some of the strategies applicant states will employ regarding EU accession. Drawing on Economides and Ker-Lindsay's (2015) distinction of Europeanisation as a rationalist policy of the carrot-and-stick variety rather than a process of normative rule adoption and identity convergence, suggests that candidate countries Europeanise as a condition and not as a consequence of EU membership (Economides and Ker-Lindsay 2015, p. 1031; Börzel and Risse 2011, p. 15). The conditionality approach has been applied to both the Central and East European countries (CEECs) that acceded in 2004 and 2007 and the Western Balkans. In this respect, the constructivist argument becomes political naivety because it assumes that accession will lead to a change in values and adoption of EU standards and norms, but this has not always been the case particularly with the Western Balkans and CEECs. In the final section of the chapter, we offer some conclusions on how our single country research can be applied to the constructivist-rationalist debate and provide for possible avenues and directions for future research.

6.4 Conclusions and Future Avenues

Stahl (2013) argues that "the incorporation of the *acquis* serves as a central pre-requisite to ascertain the 'identity match'" (p. 449). However, our research study has shown that this is not always the case as countries like Serbia may comply with the EU's *acquis* but this had not translated to a 'cultural match' or 'resonance' between EU demands and domestic rules and political discourses (Sedelmeier 2011 p. 16). The ethno-nationalist outlook of Serbian political elites vis-à-vis the government's Kosovo policy suggests that Serbian identity was not being transformed to that of European one. Instead, as we have argued, the Serbian government's strategy towards compliance with EU conditionality was a

pragmatic approach based on careful cost-benefit calculations of what would lead to significant electoral gains. The overwhelming support among the Serbian populace for Serbia's non-recognition of Kosovo as demonstrated by opinion poll research, coupled with the rise of nationalist parties in the Serbian parliament, contributed to the Serbian government's strategy of statecraft when it came to compliance with EU conditionality on Kosovo. Although partial compliance enabled significant EU-related gains, including access to funds and the opening of chapters in the accession negotiations, it also demonstrated that the Kosovo question still remained central to Serbian national identity.

Albeit not yet a pre-condition for Serbian accession, possible directions for future research could explore whether Serbia would be able to join the EU without recognising Kosovo and the sustainability of such a policy in the long term. As long as Serbia had fulfilled all conditionality pertaining to Kosovo stemming from Chapter 35, including the full implementation of the Brussels agreements, the EU could potentially allow Serbia to join. For Kosovan political elites, this would be unacceptable as normalisation without recognition would be inconceivable (Gashi and Novaković 2017, p. 3). Altmann (2009) argues that Serbia's entry into the EU without recognition of Kosovo's statehood could lead to Serbia attempting to block any action in favour of Kosovo, including Kosovo's EU accession and membership of other international organisations, such as the United Nations, which Serbia had previously blocked in 2015 (p. 75). Even Kosovo representatives have expressed concern over the implications of Serbian accession without recognition. Such a policy would not only allow the EU to import another frozen conflict and thus further erode its legitimacy as a normative power, but also has repercussions for the wider constructivist-rationalist debate. Following this, the example of Serbia can also be applied to other case studies such as Turkey, another candidate state. The July 2016 coup, which had been an attempt to overthrow the Erdogan government,[39] saw the crackdown and purge of thousands alleged to have some connection to the religious movement that had staged the coup. AlJazeera claims that "the post-coup purge led to a rift in Turkey's relations with the European Union, which accused Erdogan of using the coup attempt as an excuse to eliminate the opposition" (AlJazeera 2017). Another blow to Turkey's membership bid was the

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[39] On 15th July 2016, a bloody military coup was staged in Turkey led by an influential religious movement known as Hizmet to overthrow the Erdogan government. Following the coup, the Turkish president used the post-coup period to arrest and purge anyone with suspected ties to the organisation. The coup saw the arrests of thousands of journalists and teachers, judges, police, civil servants, state officials, and anyone suspected of having alleged connection to the group (AlJazeera 2017).

passing of a questionable constitutional reform in April 2017, which would give unprecedented power to President Erdogan to that resembling a dictatorship (Gotev 2017). Such political developments, which currently block Turkey's accession, are testament to the fact that Turkey remains an illiberal state where there is no resonance with EU norms and values. Though not a member state, the example of Turkey nevertheless demonstrates the EU's lack of capacity in diffusing and exporting norms and values to third countries, thus undermining its legitimacy as a normative power.

The analysis suggests another possible avenue for future research that would further bring the constructivist argument into question—if Serbia's fulfilment of EU conditionality towards Kosovo leads to the EU allowing Serbian accession at the expense of fake compliance in other areas (media freedom). Drawing on the discussion from the media freedom chapter, the EU lacks the competences in enforcing media freedom legislation and reforms in some of its own member states as well as applicant states such as Serbia. Given the overall declining media freedom standards in the member states such as the primary example of Hungary shows, Serbian politicians could pay lip service to the importance of media freedom and thus, simulate EU-compliant change, expecting to accede as other applicant states who had violated media freedoms have done in the past. The EU's hard-line stance vis-à-vis Kosovo at the expense of other policy areas in many ways contributed to Serbian elite manipulation of EU norms as Serbian politicians were provided with a margin for manoeuvre when it came to compliance with EU conditionality regarding media freedom. In other words, fake compliance in the area of media freedom-a basic human right and part of the EU's political criteria-did not contribute to normative congruence between policy implementation and adoption of EU norms/values.

As the case of Serbia, and the previous discussion on Turkey has shown, the EU's capacity to export its values and norms to applicants and third countries is being undermined with the rise of illiberal democracies. This is not only particular to the case of Turkey, but all Western Balkan candidates are facing democratic backslide, which is more evident now especially in light of the EU's new strategy to incorporate new members (i.e. Serbia, Montenegro) by 2025, and open accession negotiations with Albania and the Former Yugoslav Republic of Macedonia (European Commission 2018a). A report published on behalf of the European Fund for the Balkans in 2017 regarding the state of democracy in the

Western Balkan applicants[40] listed "imperfect legislation, dysfunctionality of the key institutions and often disrespect of the political elites against basic democratic institutions and values" as features of their democratic systems (Burazer et al. 2017, p. 55). Several studies (Burazer et al. 2017; Nebiu et al. 2017) point to the declining standards in media freedom in the Balkans (namely, Serbia, Albania and Macedonia). Nonetheless, the EU remains committed to the integration project, offering the economic carrot of membership to accession countries even at the expense of trading leniency regarding democratic values in exchange for regional stability. With enlargement fatigue on the rise and the EU's own economic crisis, the question remains to be seen whether the EU should an import an illiberal democracy such as Serbia in the hopes that accession would bring considerable reforms in the country, or not become involved in Serbian domestic affairs at the cost of regional instability.

Given the failure of preventing a conflict on its own doorstep as a consequence of its non-involvement in the Balkan Wars in the 1990s, the EU's commitment in fostering peace, stability and democracy in the region remained pivotal in securing its legitimacy as a normative power. However, the thesis argues that even this attempt to secure legitimacy through pressuring applicant states such as Serbia to comply with conditionality regarding regional cooperation has achieved limited results. Instead, as the case study on Serbia has shown, through support of Vučić and the Progressives, the EU has backtracked on democratic values in exchange for a false sense of security and regional stability. If the incident in January 2017 in which Serbia had dispatched a train to North Kosovo with the slogan, "Kosovo is Serbia," written in both Serbian and Albanian does not demonstrate Serbia's promotion of a false sense of security, recent tensions provide further testament that the EU's strategy in Serbia is ineffective.[41]

To sum up, the findings in this study could potentially have significance for the EU as a "norm-diffuser" in a period where illiberal democracies are on the rise. While the EU's membership incentive may be enough to initiate some change as the Serbian case has shown, even this type of partial compliance to EU

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[40] The report included Serbia, Albania, Montenegro and the Former Yugoslav |Republic of Macedonia (FYROM).

[41] Head of the Office for Kosovo and Progressive Party MP, Marko Djurić, in North Kosovo was arrested and deported on 26 March 2018 for potentially violating the Brussels Agreement leading up to claims from the Serb List that they would quit the Kosovan government. According to Kosovan representatives, Djurić had illegally entered Kosovo, defying a ban from Kosovan authorities which had claimed he could not enter (Gadzo 2018; Morina and Živanović 2018).

conditionally may not be sustained beyond the delivery of anticipated benefits and could even lead to a reversal of compliant-change following accession as the cases of Bulgaria, Romania and Hungary have demonstrated. This leads to the question over whether EU membership is enough to guarantee the maintenance of democracy. As our research has posited, the rise of illiberal democracies in Europe demonstrates that the EU's ability to promote democratic values has considerably weakened and even led to a reversal of EU values in the post-accession phase. It can be argued that the EU's failure in imposing sanctions following accession on member states that lapse into democratic backsliding contributes to the EU's lack of capacity as a norm diffuser (Vida 2017). We argue that this is mainly a result of the absence of exclusion- once candidate countries have successfully joined the EU, the prevalent threat of exclusion becomes meaningless. However, the EU's lack of capacity in exporting its norms and values to both member states and applicants is also in part due to the EU's own lack of competences in enforcing these norms in certain areas such as freedom of expression.

The extent of the EU's impact in promoting democracy in applicant countries can be viewed through its conditionality-driven approach, which can be enough to enforce democratic-compliant change. However, this external-incentives model is based on the economic 'carrot', or reward, of membership, which does not always lead to internalisation of norms, particularly evident in the post-accession phase. With regard to the Central and Eastern European member states, the existence of pre-communist democratic traditions to fall back on is scarce as Dekker et. al (2015) posit (p. 71). Moreover, with the Western Balkan countries, the civil wars had left behind remnants of nationalism that are still evident today, even in the pro-EU policies of political leaders such as is the case with Serbia and the Serbian President, Aleksandar Vučić. Autocracy is prevalent, even more visible now than in previous years, especially with the acceleration of some Balkan countries' EU integration process (i.e. Serbia, Montenegro) and the examples of member states that have lapsed to democratic backsliding as is the case of Hungary, which countries like Serbia can use as a margin for manoeuvre. The EU does not have the competences at its disposal to sanction countries that breach on democratic values. While legally, the EU can sanction a member state if it breaks EU rules according to Article 7 of the Lisbon Treaty," this clause has been of limited appeal or use." Goksun and Polakow-Suransky (2015) argue that "the lack of political will and practical measures in cases of violations of the fundamental principles of the EU, such as in the case of Poland and Hungary,

demonstrates why" (p. 50). Grabbe and Lehne (2006) further posit that "the union's judicial measures alone cannot work when "its legitimacy is under attack from its own members" (cited in Goksun and Polakow-Suransky 2015, p. 51). Therefore, even the EU's use of hard power instruments such as Article 7 are insufficient to impose concrete sanctions on member states that violate democratic values and freedoms. We argue that this lack of clear and binding competences given the absence of unanimity in the EU's own member states undermines its own legitimacy as an upholder of norms and values. Moreover, as the research has posited, the leniency on democracy promotion for the sake of regional stability in some countries such as the Western Balkan states (namely Serbia) has also led to the rise of illiberal democracies and has further contributed to the debate on the EU as a force for good.

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Appendix I: List of Interviewees

Serbian Journalists, Belgrade and Novi Sad, Serbia

Editor of KRIK (Crime and Corruption Reporting Network), Face-to-face interview, 22 June 2015.

Member of Journalists' Association of Serbia, Face-to-face interview, 23 June 2015.

Member of Anti-Corruption Council from 2012-2016, Skype interview, 21 October 2015.

Journalist from the Independent Journalists' Association of Vojvodina, Face-to-face interview, 24 June 2015.

Journalist from the Independent Journalists' Association of Vojvodina, Email interview, 29 August 2016.

Journalist from the Independent Journalists' Association of Vojvodina, Email interview, 5 September 2016.

Journalist from the Independent Journalists' Association of Vojvodina, Email interview, 6 September 2016.

Journalist from the Independent Journalists' Association of Vojvodina, Email interview, 8 September 2016.

Journalist from the Independent Journalists' Association of Vojvodina, Email interview, 31 October 2016.

Journalist from the Independent Journalists' Association of Vojvodina, Email communication 31 January 2017.

Journalist from BIRN (Balkan Investigative Reporting Network), Email interview, 7 September 2016.

Journalist from BIRN (Balkan Investigative Reporting Network), Email interview, 31 October 2016.

Journalist from BIRN (Balkan Investigative Reporting Network), Email interview, 15 November 2016.

Journalist from BIRN (Balkan Investigative Reporting Network), Email interview, 13 March November 2018.

Member of Belgrade Centre for Security Policy, Email interview, 15 March 2017.

Member of Belgrade Centre for Security Policy, Email interview, 21 September 2016.

Former Journalist from *Politika*, Email interview, 14 February 2016.

Ministry for European Integration, Republic of Serbia Government, Belgrade, Serbia

Ministry for European Integration Official A Face-to-face interview, 23 June 2015.

Ministry for European Integration Official B, Face-to-face interview, 22 June 2015.

Ministry for European Integration Official C, Face-to-face interview, 23 July 2015.

Ministry for European Integration Official D, Email interview, 25 April 2017.

Brussels, Belgium, EU Officials

European Commission Official W, Face-to-face interview 23 June 2015.

European Commission Official X, Face-to-face interview, 14 April 2015.

European Commission Official X, Face-to-face interview, 23 June 2015.

European Commission Official Y, Face-to-face interview, 14 April 2015.

European Commission Official Z, Face-to-face interview, 14 April 2015.

European External Action Service Official, Face-to-face interview, 12 April 2016.

Various, Serbia and Kosovo

Former member of NGOAktiv, Skype interview, 24 March 2016.

Former member of NGOAktiv, Email interview, 16 March 2016.

Member of NGO Advocacy Centre for Democratic Culture, Skype interview, 3 March 2016.

Former municipal assembly member Leposavić, Kosovo, Skype interview, 5 March 2016.

Political analyst from Belgrade, face-to-face interview, 26 September 2016.

Political analyst from Belgrade, Email interview, 12 January 2017.

Former member of NGO Policy Centre from 2010-2016, Email interview, 22 March 2016.

Professor in Novi Sad, former Regional Assembly Member from 2000-2005 Novi Sad, Email interview, 21 January 2016.

Former member at Balkans Policy Research Group, Email interview, 30 November 2016.

Member of Democratic Party of Kosovo, Email interview, 8 October 2017.

EULEX Official in North Kosovo, Skype interview, 28 November 2017.

Appendix II: Questionnaires for semi-structured interviews

Questions for officials from the Serbian Ministry for European Integration

1. How has the new government under the Serbian Progressive Party advocated European integration during their election campaigns? Since when have they begun doing this?

2. In terms of progress made towards the EU, what has Serbia achieved thus far and what remains to be achieved?

3. What would be the benefits both for Serbia and the Serbian citizens if Serbia were to join the EU?

4. What would be costs for Serbia (transaction and autonomy) by complying with the EU's strict conditionality?

5. There has been talk about changing the Constitution by 2017 so that the reference to Kosovo as an integral part of Serbia would be omitted. Is this true and would Kosovo have to be recognised by Serbia in the end?

6. What is being done to introduce media transparency in Serbia?

7. How will these new media strategy laws adopted in August of last year (2014) affect the Serbian government?

8. How will the media outlets be financed from now on?

9. What costs would privatization have for the Serbian government? How can/will these be mitigated?

   Follow up questions:

   Referring to number 5.

1. What if this is a 'red line' for the EU? How has the media been used to promote this policy?

Questions for EU officials in Brussels

1. What has been the most significant progress Serbia has achieved in terms of complying with the EU's conditionality, and what more remains to be done?

2. In regards to the Brussels Agreement and the dialogue for the normalisation of relations between Kosovo and Serbia, where has the most progress been achieved?

3. From your point of view, would you say Kosovo's recognition is non-negotiable and that Serbia would have to recognise Kosovo prior to accession?

4. What are the conditions the EU is calling for in regards to media freedom and transparency in Serbia?

5. How close would you say Serbia is to fulfilling this criteria?

6. Does Serbia understand/is clear about the conditions it needs to fulfil in regards to media freedom?

7. What happens if the three new laws on media: law on public information media, law on electronic media and law of public services are not implemented or results are unsatisfactory?

8. What has Brussels given/done for Serbia (in terms of incentives) to get the government to comply with the conditionality?

9. When do you believe Serbia will be ready to join the EU?

Supplementary questions:

Referring to number 1.

1. What would happen if full conditionality is not complied with?

Referring to number 6.

1. In regards to media strategy, the EU is calling for new laws on privatization and the need for the media to be adjusted to European standards. What is the Serbian state doing to relinquish control of the media?

Referring to number 9.

1. Has Brussels seen clear, verifiable results in terms of compliance with conditionality from Serbia?

Questions for Serbian journalists

1. How much does the state own of the media outlets in Serbia? How much control does the Serbian government have over the media?

2. Do you believe that the Serbian government would try to retain control even after the new laws are introduced?

3. The EU is calling for new laws on privatization and the need for the media to be adjusted to European standards. What is the Serbian state doing to relinquish control of the media?

4. What is being done to introduce transparency in ownership of the media?

5. What happens if the three new laws on media: law on public information media, law on electronic media and law of public services are not implemented?

6. How will the media outlets be financed after the new laws are implemented if the state withdraws total ownership/control?

7. What costs would these new laws regarding the media strategy have for the Serbian government?

8. How has the government used the media to promote its actions over Serbia (make loss of control acceptable to the public?)