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TESIS DOCTORAL

Del estado-nación a la democracia plurinacional: la redefinición de los conflictos nacionalistas en el contexto de la integración Europea

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Director: Dr. Igor Filibi

-2017-

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— TABLE OF CONTENTS —

ACKNOWLEDGEMENTS	1
1. INTRODUCTION	3
1.1 Framing the topic	3
1.2 Reasons for the research.....	6
1.3 Objectives	9
1.4. Hypotheses	9
1.5. Approach.....	10
THEORETICAL FRAMEWORK	13
Justification and conduction of the theoretical framework.....	13
3. The genesis of the state	14
3.1 Introduction	14
3.2 Defining the state as a polity and actor.....	15
3.3. The genesis of the state as a polity and its transformation to the nation-state	20
3.4 The genesis of the state as a polity.....	20
3.5 The transformation from the state to the nation-state	24
3.6 The nation-state and its present transformations.....	30
3.7 Conclusions.....	31
4. The genesis of democracy	32
4.1 Introduction	32
4.2 The genesis of democracy - a chronological examination	33
4.3 The concepts of democracy and nation	37
4.4 Democracy and nationalism. Symbiosis or conflict?	43
4.4.1 Poland - democracy and nationalism.....	43
4.4.2 The United States of America - democracy and nationalism	45
4.4.3 France - democracy and nationalism.....	47
4.5 Conclusions	49
5. The genesis of the nation	51
5.1 Introduction	51
5.2 A review on the existing definitions on nation and nationalism	51

5.3 The genesis of the nation and its process of building	58
5.4 The genesis of the modern nation as a political subject	62
5.5 Conclusions on the genesis of the nation	68
6. The conflicts between democracy, nationalism and state	69
6.1 Introduction	69
6.2 Examining conflictive relations: nation and democracy vs. nation-state	70
6.3 Examining conflictive relations: nation-state and nation vs. democracy	73
6.4 Examining conflictive relations: democracy and nation-state vs. nation	76
6.5 The question of sovereignty, legitimacy and the demos	78
6.5.1 The question of sovereignty	78
6.5.2 The question of legitimacy	80
6.5.3 The question of the demos.....	81
6.6 Conclusions.....	82
EXAMINATION OF THE CASES.....	86
7. Plurinational demands in the Danish state.....	86
7.1 Introduction	86
7.2 Challenges and strategies on plural national demands in the Danish state.....	88
7.3 Factors that lead to the shape of the contemporary Danish state.....	91
7.4 Schleswig-Holstein and its impact on the current Danish state design	92
7.5 Iceland's peaceful and legal secession from Denmark.....	96
7.6 The Faroe Islands and their relations with Denmark.....	99
7.7 Greenland and its relation with Denmark.....	105
7.8 The balance of nation-state, democracy and nationalism in the Danish state	110
7.9 Conclusions.....	113
8. Plurinational demands in the United Kingdom	116
8.1 Introduction.....	116
8.2 The United Kingdom and Scotland.....	117
8.3 The United Kingdom and Wales.....	120
8.4 The United Kingdom and Northern Ireland	122
8.5 The United Kingdom and England	125
8.6 London and Gibraltar after Brexit.....	128
8.6.1 Gibraltar and the United Kingdom in the light of Brexit	128

8.7 Conclusions.....	132
8.7.1 The approach of federalization	133
8.7.2 Secession.....	134
8.7.3 Shared sovereignty as an alternative scenario.....	135
9. Plurinational demands in France.....	136
9.1 Introduction	136
9.2 The making of the French state - a short examination and its self-perception.....	137
9.3 Factors, which make France 'one' and 'indivisible'	140
9.3.1 Territorial administration and its influence on sub-state entities.....	140
9.3.2 The French interpretation of Staatsvolk and nation	142
9.3.3 Assimilation into the French state	143
9.3.4 Recognition of distinctive collectives in France.....	146
9.4 Demands of different territories and reactions of the French state	147
9.4.1 Demands in Flanders	148
9.4.2 Demands in Alsace	148
9.4.3 Demands in Occitania.....	150
9.4.4 Demands in Corsica.....	152
9.4.5 Demands in Catalonia.....	153
9.4.6 Demands in the Basque Country	154
9.4.7 Demands in Brittany.....	156
9.5 Conclusions.....	157
10. Plurinational demands in Poland	159
10.1 Introduction	159
10.2 Silesian identity in a historical examination and the current status.....	160
10.3 The EU as a transforming actor and national demands in Silesia	167
10.4 The Polish nation-state: transformations and contradictions	170
10.5 Conclusions.....	173
11. Plurinational demands in Spain.....	175
11.1 Introduction.....	175
11.2 The making of the Spanish state and nation. A chronological examination	175
11.3 The making of the Basque nation	180

11.3.1 Basque nation building in a short historical retrospective	180
11.3.2 Changing Basque nationalism.....	184
11.3.3 The Basque national identity in the change of circumstances	185
11.3.4 The territorial question in the Basque case.....	187
11.4 The making of the Catalan nation	189
11.4.1 The Catalan nation building in a short historical retrospective	189
11.4.2 Current Catalan nationalism and its aims.....	192
11.4.3 The territorial question in the Catalan case.....	195
11.5 Conclusions.....	197
12. The EU - a plurinational arrangement	198
12.1 Introduction	198
12.2 Assumption: The EU is a prototype of a plurinational constellation	199
12.2.1 Examining the plurinational character of the EU.....	199
12.2.2 Governmental and political constellation in a plurinational light.....	205
12.3 The EU as a plurinational arrangement. A confederation?.....	207
12.3.1 Confederal characteristics examined in the EU-prism	212
12.3.1.1 The structure and duration of the EU	213
12.3.1.2 The foreign, defense and maintenance of order policies of the EU	215
12.3.1.3 The domestic market and the international trade policy of the EU.....	222
12.3.1.4 The EU monetary policy	230
12.3.1.5 The national question in the EU.....	235
12.4 Conclusions.....	237
12.4.1 Examination of the essences of cooperation on a European Level	239
12.4.2 The EU - a plurinational democracy as a model for states with plurinational realities? ..	241
13. Plurinational democracy - approaches and definition	244
13.1 Approaching to plurinational democracy	244
13.1.1 Examining the term plurinational	246
13.1.2 Examining the term democracy.....	250
13.2 Setting up a definition of plurinational democracy.....	256
13.3 Measuring plurinational approaches within states and polities	261
14. Testing the factors of the ideal model of plurinational democracy on the cases	267

14.1 Explaining the tables, such as the measured factors in each case.....	267
14.2 Testing the factors individually on the examined cases	267
14.3. Comparative table of all examined cases in the context of plurinational democracy	297
14.4 Score: cases in comparison with the ideal model of plurinational democracy	300
14.5 Secession and recognition as nations. A visualized comparison	300
14.6 Difficulty of the methodology	301
14.7 Information on the tables.....	303
14.8 Tables	305
15. Examination and evaluation of the hypotheses.....	312
15.1 Hypothesis I	312
15.2 Hypothesis II	312
15.3 Hypothesis III	313
15.4 Hypothesis IV.....	314
15.5 Hypothesis V.....	315
Conclusions.....	316
References.....	323

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1. INTRODUCTION

The feasibility of plurinational democracy as an alternative approach to the existing nation-state strategies towards national demands within their borders seems on the first sight only accessible for some few experts and researchers on national identity, minority studies or multinational states. In fact, the range of research areas and disciplines, which are affected by such a conducted research of this topic, is a lot wider. It includes international relations, European integration, political philosophy and political theory, research on democracy, nationalism, comparative politics, party research, sociology, psychology, law, conflict research, history, only to name the most prominent and closest related research fields.

1.1 Framing the topic

The approach of plurinational democracy is the outcome of the investigations of states and polities, in which collectives regarding themselves as nations, have different demands but share the claim of proper recognition as nations and a certain level of self-government (Minahan 2016: xi; Keating 2001: 122; Seymour 2004: 408; Requejo 2006: 3). This approach of plurinational democracy has emerged because the model of the classic nation-state has come to a limit, to a dead end on how to develop further in the light of the demands of stateless nations within its borders, while the stateless nations are not satisfied with the –so named– concessions made by the state towards them.

The nation-state is, as a political concept and as a political ideology, bound to some set dogmas, which have their roots in the post-Westphalian state system (Suter 2003: 17). Although the state has faced huge transformations of its core competences, especially since the 1970s, the central issue of the link between nation and state has been untouched (Leibfried/Zürn, 2005). The idea of “state equals nation“ collides with socio-political realities and identities, which are in democratic nation-states expressed differently, by vote for example, by culture, if no other medium is possible for instance, by census’ (Caminal 20011: 26). For now, there have been only two strategies for such conflicts implemented: either the continuous submission of these stateless nations collectives without challenging the “state equals nation“ dogma - or secession, creating a new, similar nation-state.

Secession has come in different shapes, sometimes violently when the state tried to prevent it, sometimes peacefully. A classic example here is the dissolution of Czechoslovakia. In 1993, the former multinational state was turned into a nation-state model polity. The Slovaks, instead of “becoming“ Czechs, created their very own nation state on the territory of Slovakia of former Czechoslovakia. However, this was an elite project, carried out by the political elite of both nations and in the stage of its making, secession was not shared by a majority of Slovaks (McGarry 1998: 220). Secession of parts of states, or even the fragmentation of states into their national units and

changing borders has been a *continuum*, especially in the 20th century in Europe. The resolution of the Conference of Helsinki in 1975 of stable and fixed borders has been lead *ad absurdum* and has become obsolete, especially since the end of the Cold War, but also within the XXI century (Melzer 2012: 239). National identity and its political development can not be planned and determined, as it has been proved. For example, the rise of nationalism in central-eastern Europe after the downfall of the Soviet Union was a big surprise and unforeseen by scientists and investigators, as nationalism was regarded as something evil and outdated from the past, that would not have space in a modern post-war Europe (McCrone 1995: 1-2; 83; 149; 151).

Those cases, in which an overwhelming majority was in favor of full secession and independence have in Europe gained their aim. However, examining the democratic and legitimizing factor in cases with a narrow outcome has fallen short. The narrowness of a referendum celebrated in a territory can be problematic. Montenegro was in 2006 the very first state which celebrated a referendum on secession on a legal base in a European democratic country. The outcome of 55% to 45% shows rather a division of the society than a national consensus, and districts, which were overruled - especially at the Serbian border - can argue rightfully on the legitimacy as a community, which was overruled and forced into a state, which isn't desired and supported by a territorial majority.

Kosovo's Independence in 2008 is even more problematic, as neither a referendum took place, nor was the Serbian minority in the north in any way able to exceed their right to become part of Yugoslavia by seceding from Kosovo, as there has been de facto no support for Kosovo's independence. Such circumstances have also lead only to a limited recognition on the international level and statehood of this territory is secured by supranational organizations such as the European Union, United Nations and NATO.

Scotland was, with it referendum in 2014 seen as a precedent, as Scotland has expressed itself as being a nation democratically by vote and has sought via devolution retrieving competences, which were lost after the accorded union in 1707. It was the very first of such a case of a stateless nation within the European Union, which was accorded on a legal base and which also lead to a confusing situation for the EU member states, of which some of them feared a similar scenario within their borders. Secession didn't happen, but the outcome was also close enough to interpret it rather as a division of society than a national consensus.

The other strategy implemented has been submission of the stateless nations. Submission can vary in its degree of sharing or delegating competences by decentralization or autonomy. This doesn't change the fact, that in the end of the day, it continues to be a submission under the classic nation-state dogma, which has led to a series of conflicts between collectives regarding themselves as nations. The main nation-state dogma, it can be named a myth, establishes that states are nationally homogeneous, with the exception of minorities, who are (if so) either recognized as ethnic, cultural or linguistic minorities. This recognition usually gives them a limited set of rights. With other words, a proper recognition as nations - the priority aim of stateless nations - has not been fully achieved in any state (Seymour 2004: 408). The problem of deep

diversity within a state with plurinational demands has also been mentioned by Michael Keating already in 2001 and backs up this consideration (Keating 2001: 102-103).

There are two main questions, which arise here. First, are really the only existing possibilities either full classic secession and the setup of a proper nation-state, or maintaining the for the stateless nations dissatisfactory status quo of submission under state dogmas? Second, is either one of both possible options really the aimed objective of stateless nations? Our main hypotheses, which will be recapitulated in a separate chapter, answer both questions with a “no“. This “no“, however, requires a set of explications and is tied to conditions.

States and polities have indeed found individually different approaches on how to deal with the demands, but they haven't lead to a satisfactory level. Therefore, a deeper investigation on the cases is required looking beyond for the demands of secession, for recognition, such as the aims, and not only the symptoms of a failed policy. Societies, especially within the European Union - this means, in a democratic nation-state context combined with supranational integration - require a different approach than the two existing ones in order to dissolve conflict areas, which is the interpretation on a series of concepts: the nation-state, sovereignty, legitimacy, the implementation of democracy in the light of existing stateless nations.

Comparing the maps of Europe before 1914 and 2017 reveals clearly that the evolution has tended towards fragmentation into the national units of former multiethnic or multinational states by secession. What has become clear is that cases where a vast and homogeneous majority of a nation exists, where the support for independence has a clear majority, have been already solved. What is also obvious is that cases where only a very small demand for independence exists and a different national identity isn't strong, is not a really a concern. What indeed is a concern is the series of existent cases where a clear majority in favor of independence isn't found, but where a clear majority of the demos demands a reformulation of the relationship and its status of recognition in relationship with the entity it is in. Scotland's example, for instance, didn't only reveal a missing democratic backup of any of the possible options to chose, but revealed in fact the wish for a different solution, which is neither independence, nor status quo, but a different option, which can be subsumed under the coined term of *devo max*. Similar demands and situations exist also in Catalonia or the Basque Country among others, which will be highlighted and examined here.

Plurinational democracy, hence, is an alternative approach besides maintaining the status quo of imposed submission and secession, which has recently been studied, especially since the early XXI century, but has increased in its popularity among scholars, researchers and also political parties. Researchers on the field have been Michael Keating (2001), Ferran Requejo (2011, 2016), Noé Cornago (2009, 2013: 134), Francisco Aldecoa (2009, 2013), Wilfried Swenden (2013), Hugues Dumont (2012), Miquel Caminal (2016) or Genevieve Nootens (2011) among others. Parties have been in Spain, for instance, the *PNV* party in the Basque Country, *CiU* in Catalonia or *Podemos* in the whole Spanish state or in Scotland the *SNP* with their demand for a *devo max*. A

striking model for an arrangement, which possibly can deal with these circumstances of stateless nations, which aim for proper recognition, but where secession isn't supported by a broad majority, is the European Union itself. One of the main objectives of this thesis is to set up a definition of plurinational democracy, based on the existent literature, which permits to establish an ideal model of plurinational democracy. A further, linked, main objective is the analysis of European integration as a particularly and interesting advanced model for plurinational democracy.

1.2 Reasons for the research

The conduction of this research within this thesis includes a series of reasons, why this research is carried out. What has been resolved are the cases with clear majorities or with clear minorities in favor of independence or with a clear, nearly homogeneous national identity, as secession was the favored option over maintaining the status quo within a nation-state, which has historically only allowed one nation to exist within its borders. What is required, hence, is a different approach to the already existing strategies and the cases with characteristics of clear national demands, but no clear support for independence. This means that the existing strategies have been unsatisfying for these national collectives. As mentioned above, besides the incompatibility of the classic nation-state model and national diversity within its borders, the plurinational democracy approach is a quiet new, yet promising one, and challenges fundamental dogmas of the nation-state, as they have been set since the post-Westphalian state system. However, this system needs an urgent reform, if the true reasons for national conflicts within democratic nation-states are supposed to be challenged, especially since globalization and in Europe the integration on a supranational level has lead to a fundamental transformations of the state.

These transformations have been researched by the University of Bremen in cooperation with University Oldenburg and Jacobs University Bremen in a special research project, *Sonderforschungsbereich 597*, which has conducted a series of researches on the changes and transformations of the classic OECD nation-state until 2014. It has led to the publication of a milestone in political science, *Transformations of the State?* edited by Stephan Leibfried and Michael Zürn (Leibfried/Zürn, 2005), and which is of great interest in international relations too. This shows, that researches on the transformations of the state are important and lead to a series of new cognition of the state as a polity, its transformation due to the given conditions and requirements and its impact on society. Although these researches have delivered a series of deeper understanding of statehood, it hasn't dealt enough with the question on states with plurinational demands and only approached this topic abstractly with the question of legitimacy of the state in the context of globalization, intergouvernementalism and supranational integration (Hurrelmann, Achim/Zuzana Krell-Laluhova/Lhotta, Roland/Frank Nullmeier/ Steffen Schneider 2005: 135).

Other researchers have also conducted researches on the *required* transformation of statehood in the light of these plurinational demands, and although they have tackled the right topics and concepts, a deeper comparison of these results, definitions and an application on cases is still missing. Besides this, plurinational democracy is still a recent and new approach, and therefore hasn't gained yet too much attention and deeper investigation. This limited, but excellent, starting base is worthy and useful to deepen on it and apply it on specific, selected cases.

This thesis examines this concept of plurinational democracy and will inquiry whether it permits to transcend the classic nation-state model and to create a new kind of polity, able to accommodate democratically the internal national diversity.

One might argue that nationalism, nation-states and their transformations, such as their relationships with other polities, internal arrangement with collectives and the change of the institutional, constitutional and the polity design belongs to the research fields of disciplines like political science or nationalism and autonomy research, for instance. It has been part of the investigation within those disciplines, of course, but at the same time it is indeed also a topic of International Relations, which has been ignored for too long in this discipline.

The topic of this thesis fits within International Relations, as it focuses on the evolution and transformation of the main actor of the international level, the nation-state. It is not, as Waltz called it, a black box, which stays untouched inside (Mearsheimer 2006: 72; Waltz 1979: 118). One striking proof for this assumption is the very existence of the European Union as an actor on the international, political level, which is not only a bandwagoning system of states, seeking only self-preservation, but a political project, which transcends the basic instinct of survival in a world full of dangers (Mearsheimer 2006: 72).

Although the topic of this thesis does not correctly fit into classic theories of International Relations, it describes a reality, which is existence, which has not been taken into account enough by International relations and which, hence, requires a profound research. This investigation does not depart from the initial point of balance of power, or as a question of power between international actors like the states, but it stresses democracy as the crucial factor in those cases, which haven't been, as states or polities, able to provide satisfying answers to demands of minority nations within a territory, where they make up the majority, but where a broad majority does not support full independence (Waltz 1979: 126).

The Department of International Public Law, International Relations and History of Law has conducted researches in this specific area for years. Prominent outcomes of these investigations have been Michael Keating's and Francisco Aldecoa's "Paradiplomacy in Action" (1999) or the book "Democracy With(out) Nations? Old and New Foundations for Political Communities in a Changing World" (2011) edited by Igor Filibi, Not Cornago and Justin O. Frosini. Both publications place the debate in the context of International Relations. Besides that, this investigation is a direct continuation of the doctoral thesis of Dr. Igor Filibi, which has also been the director of this thesis (Filibi 2007: 474). That research concluded suggesting that conflicts between alternative national identities in Europe could probably be better understood as a particular issue within the more

general enterprise of building a more developed democracy. Then, the challenge would be to build a democracy going beyond the nation-state and the national democracy model.

As a new approach, this research goes beyond a comparison of the level of autonomy of different cases or only measuring national identity by opinion polls, although in the past some very valuable and useful work has been done (Rojo Salgado 1991, 2005; Ackrén 2009: 30-35; Keating 2001: 59, 80). Nevertheless, a further link to the reasons for independence tendencies within stateless nations, their link with the concepts of demos, legitimacy, democracy and sovereignty from a plurinational point of view, have also been only mentioned on a level in these works, but can be deepened and expanded (Keating 2001: 100, 101). This is one of the main aims of this thesis and will be conducted not only theoretically, but also practically by focusing on some selected cases. In concrete, a series of cases will be researched and contrasted with the established ideal model empirically.

It is, hence, also not only a theoretical approach, but, according to the interpretation of the opinion polls on identity and the electoral expression, it is an approach absolutely related to the latest and conspicuous cases: Scotland, also after the 2014 referendum and now in the light of *Brexit*, the Basque Country with a continuous support of the Basque society for nationalist parties for the last forty years, the *Procés* in Catalonia or the spectacular victory of nationalist parties in Corsica. Besides these “well known“ cases, the examination goes beyond and introduces a series of cases, which are rather marginalized or unknown among researches (Faroe Islands, Greenland, Silesia). By doing so, the map of demands of stateless nations in Europe together with already existing ones will be complemented. Thus, a series of cases can be classified in accordance with their variability compared to the ideal model.

The plurinational approach goes also beyond these cases and the classical approach of the state periphery-center conflict, but also takes into account the supranational sphere from a new point of view as including also a multi-level governance examination, especially with the case of Wallonia blocking the CETA ratification in 2016 as part of the discussion.

Together with these cases and the foregoing research and work made, a deeper understanding of plurinational demands, a concrete application on cases in the EU and a required outlook based on a new, post-Westphalian order model will be delivered by comparing already existing systems and strategies of polities with the plurinational ideal from different angles rather than only focusing on a concrete aspect such as decentralization for instance. This summarizes also pretty accurate the depth of examination on this specific topic, and it becomes more obvious that further research needs to be done on this field, to which this thesis aims to contribute to.

1.3 Objectives

1. Addressing the specific difficulty of stateless nations, where a majority makes up the different national identity (double national majorities), and which claims a certain level of self-government, but where no majority for the formation of a state of its own (secession) is given.
2. Exploring the possibility on how the development of a concept of plurinational democracy could facilitate the political accommodation of stateless nations.
3. Analyzing the possibility on how this concept of plurinational democracy can transcend the classic nation-state model and set up a polity capable of democratically accommodating national diversity.

3.1 A specific objective is the analysis of the European Union as a particularly interesting and real model of plurinational democracy

4. Setting up a definition of plurinational democracy, based on the existent literature, which permits to create an ideal model.
5. An empirical comparative approach of this ideal model with different cases highlighting rather less known ones and placing them into the discussion on political accommodation. By doing so, a classification of different cases in relation to the ideal model.

1.4. Hypotheses

- I. In the selected cases with double majorities the current state strategies have not worked, or at very least have been not sufficient to create a stable political framework in the long run. This leads us to propose the hypothesis that the paradigm of the nation state cannot solve these conflicts in a fair, pacific and democratic way.
- II. Under the given democratic conditions within the European Union, stateless nations with double majorities prefer a reformulation of their relationship with the polity/state on the base of full recognition as political nations.
- III. The cleavage between state and stateless nation is not only a cultural or ethnic one, but primarily a political conflict on the interpretation and implementation of sovereignty, legitimacy and demoi embodied by the concepts of state, nation and democracy.
- IV. Stateless nations have adapted their ideologies and strategies to the environment of the European Integration process. These nations accept (and in most of the cases support) the European Union as the overall framework for their national and political claims. Even in the

case of secession of the member-state, they understand their national sovereignty as something shared within the European Union.

- V. The model of the European Union is closer to the ideal type of a plurinational democracy than any other currently existing in Europe.

1.5. Approach

This thesis has, besides the introduction, two main parts: the theoretical framework and the application of the results on selected cases and their conflicts.

The theoretical framework will consist of five chapters, which are chronologically an introduction to the theoretical framework, the genesis of the nation-state, the genesis of democracy, the genesis of nation and nationalism. The three examining chapters compose one of the bases for further research and are conducted by a political-historical chronological examination in order to understand the context and the *leitmotifs*, which have developed throughout the centuries, why and how they have emerged, which forces have favored them and how their characteristics have been build and transformed or had transforming powers of the societies, political thought, ethnics and philosophy and the implementation in practice. It visualizes these three concepts and, by doing so, goes beyond a theoretical analysis. Furthermore, the main characteristics are extracted and concluded to be used in further examinations. These examinations take place in the area of conflict between these three concepts and lead to a further going extraction of conclusions, which also include the concepts of sovereignty, democracy and legitimacy. With other words, the concepts of state, democracy and nationalism are being unraveled into their composing elements and the contradictions, which arise and which cause a set of conflicts, will be examined and detailed depicted in the fourth chapter of the theoretical framework. This completes and closes the theoretical part and leads to the practical one.

The second part is dedicated to a set of selected cases, in which entities exist, that demand a proper recognition as national entities from the polity they are part of. The examinations of the cases are conducted in the light of plurinational democracy, also examining their national development and the relations with the state or the polity chronologically, stressing the different aims and approaches, ideals and strategies such as the reciprocal effects. Also the current status, challenges and conflict lines such as the current state of research and the latest developments and tendencies will be highlighted in a detailed way.

Besides some well studied, prominent cases, also less prominent ones have been chosen to be investigated in this thesis. One main reason for choosing them has been, that these cases are highly interesting and dynamic. Especially in the United Kingdom, the Scottish question hasn't been really resolved after the independence referendum in 2014, but especially the *Brexit* now will reopen a set of questions on the current concepts of state, democracy and nationalism and the

linked concepts of sovereignty, legitimacy and the question of the demos. Nevertheless, it's not only Scotland anymore, but also Northern Ireland is back again on the map and the Welsh question might rise again, since there is a demand of Welsh nationalism, although minor, but due to its support in *Brexit* also likely to demand some kind of reward. It is, hence, not only a state-wide, but also a supranational issue. The research also goes beyond classic national demands and, especially with the linked supranational level, Gibraltar, but also London, of which the latter is in many ways a quasi entity, are examined, as the plurinational democracy approach requires such an extension.

Within the Spanish state, the *Procés* in Catalonia is an ongoing topic and has lead both, the Catalan and the Spanish state into uncomfortable positions, in which both find themselves within a dead end. Also the Basque question hasn't vanished, although support for classical independence isn't currently close to the Catalan one according to opinion polls. Nevertheless, Basque institutions have continued their demands for proper recognition and have preferred to place their demand on the card of pragmatism rather than on confrontation. Both cases are highly interesting for a plurinational solution as the examination of both and their relation with the Spanish state will show.

The second most extensively examined case is the one of Denmark and its relations with the Faroe Islands and Greenland. There are two main reasons to explain why the relationship between Denmark, Greenland and the Faroe Islands have been so extensively investigated. First, from a plurinational perspective, this case is the probably most advanced one on the state level and, therefore, deserves a deeper investigation, such as the structure of the state-design and the institutional and constitutional power sharing arrangement. Second, it deserves more publicity and promotion besides the most known cases in Europe, as it might serve in many ways as an inspiration and as an example for other cases.

One of the other cases, which still are only marginalized in sciences examining national diversity in Europe is the case of Poland and especially Upper Silesia. This rather unknown case is pretty recent, but has developed an amazing dynamic throughout the last two decades and shall also be highlighted here in order to complement the map of plurinational demands in Europe and the strategies, Poland as a relatively new EU member state has set up to deal with the Silesian demands. Also, the Kashubian case will be shortly examined, but due to its low political importance only within the studies on Silesia and Poland as a comparative case.

France and its peripheries are also part of this investigation and might be rather unusual in current investigations on stateless nations. However, examining France is therefore interesting, as it is known to be *the* model of nation-state such as being highly centralized (Caramani 2017: 193). Nevertheless, there are a lot of national identities besides the French one. Especially Corsica is interesting, since in 2015, nationalist parties have spectacularly won the regional elections. In this sense, France sees itself in a special constellation and a series of questions arise, how the Corsican issue has been managed in the past, how it is managed nowadays, and what future might await Corsica with its demands within the French state and the European Union.

What might surprise on the first sight is also the most extensive examined case, which is the European Union from a plurinational perspective. What is true is that, differently from the other

cases, it is not an examination on the classical state-periphery conflict, as the European Union is no state, but the most advanced intergovernmental and supranational project of integration of polities, becoming a polity *sui generis* itself (Copsey 2015: 73). However, the European Union is a prototype of example for a plurinational democracy approach, as the EU hasn't aimed to become a state in the classical nation-state sense or preceding failed multinational states, but forming a polity *sui generis* on the base of the proper and full recognition of all national units, embodied by the nation-states and, therefore, going beyond the classical interpretations of sovereignty, legitimacy and the question of the demos, also on the sub-state level. It gives a series of indications, how a restructuring and reform of mentality towards polity-design and interpretation might be considered in nation-states, but it will also be critically examined in its weak points and its feasibility for nation-states with plurinational demands. Because of its unique approach, but also its depth, it extends by far the other chapters in comparison.

The theoretical framework on the one hand, and the examined cases on the other hand allow now to set up a chapter only about the concept of plurinational democracy. As the core topic of the thesis, a deep examination of the concept by recapitulating already conducted investigations is required. In the aftermath, with a solid base of a theoretical framework, the cases and the conducted investigations on plurinational democracy, a definition will be set up. This definition will allow afterwards the extraction of a series of indicators, which will be used for an application on the cases in a comparative analysis of how close or how far the examined cases are to the set up ideal type of plurinational democracy.

The third main section of the thesis will put in relation the examined cases with the ideal model of plurinational democracy in order to evaluate them. In order to do so, an approach on the requirements and factors of the concept of plurinational democracy is required. An examination of the existent literature will be conducted, focusing on the main factors and characteristics, and a definition of plurinational democracy will be set up. To visualize better and to evaluate easier the outcomes, a set of tables will be set up. A discussion on each case and each corresponding factor is carried out in the following chapter, to clarify and to justify the evaluation of each case examined within each factor.

Two last chapters close the last section of this thesis. Firstly, a chapter dedicated to the hypothesis will evaluate them properly with the gathered information. Secondly, a set of conclusions will be carried out critically, recapitulating and considering all evaluations and critical thoughts and results.

THEORETICAL FRAMEWORK

Justification and conduction of the theoretical framework

Like in any scientific research, the theoretical framework delivers a series of assumptions, axioms, theoretical approaches and paradigms, on which the practical research is based on (Anfara/Mertz 2006: 189). Authors start their research from a concrete standpoint, from a theoretical core assumption, especially in international relations, where a series of theories and approaches have marked the mainstream paradigms of research, as it is realism or neorealism, liberalism, marxism, constructivism, post-positivism or functionalism, only to mention the most important mainstream and classic approaches.

The idea is usually to take such a theory or approach as the “lens“, through which the practical cases will be examined. It might be useful, if one might be really convinced from a point of view, from a theory, from an approach and if it has a solid fundament, it might support the standpoint and the conduction of the research. The danger here is, that some researchers might tend to rely that much on theories and approaches, that they try to predict the future by doing so. International relations is a social science, not a natural science, where natural laws exist despite human existence (Dunne/Kurki/Smith 2007: 17). But since international relations is carried out not by natural laws, but by humans - social beings -, interactions and understanding, such as viewing them are shaped by norms and identities, that can and that do change, as they aren't bound to any eternally or by a divine power established set of rules, axioms, set frameworks. This is the reason why different theories also exist in international relations, as the perception is different. One might be convinced by a theory or an approach, but not every social scientist will be convinced by one theory or approach. Norms change, such as changing consciousness on minority rights or on nationalism, for instance, and are not eternally fixed. These norms can be made and remade by what humans do, think, and say (Walt, 2014).

This is also the reason, this thesis hasn't been conducted through the “lens“ of any theory, as the factors, that influence different fields of research are too complex and multifarious, as one theory might be enough to explain it only rudimentary. It might seem, that this thesis has some constructivist approaches, especially when it comes to nationalism as an imagined community (Anderson 2006: 6). It is not necessarily the case, but it helps to understand a certain point of view defended by the author, as there is no single definition of nation or nationalism but, as mentioned above, a changing and highly subjective perception (Courteau 2013: 45; Janoski/Alford/Hicks/Schwartz 2005: 249).

What is more important here is the explication for the choice of the theoretical framework and the way it is has been set up. To understand the concept of plurinational democracy as an outcome, as it was described in the introduction, there needs to be a series of reasons and axioms for this concept to be developed. To understand the need for such an approach, the conflicts between the

concepts of state, democracy and nationalism require to be analyzed and depicted. However, one needs to go back to the roots, which are the three mentioned concepts, to understand the different approaches, and not only the examination of the symptoms. Therefore, a genesis of the concepts of state, democracy and nationalism will be conducted, which includes the most important steps of evolution, influences and norms, such as the change of the same and the main idea, on what purpose these concepts were developed for and how they finally evolved. This way, a profound understanding and absorption of the main elements of these three concepts lead only to the understanding of their meaning for history and for the present, especially in states, which are democracies and which include the concept of nation or nationalism in their institutions, constitutions, their societies, the policy of the state or the polity itself. It delivers, hence, a basic knowledge on the concepts and on their conflicts, which emerge when they are combined within a democratic nation-state with plurinational realities. With such a theoretical framework, a series of cases will be examined in order to depict the conflicts, but also different approaches for solutions in each cases. Together with the cases, the theoretical framework provides a solid base of knowledge of reasons, factors, approaches, strategies of concepts, cases and conflicts to develop the concept of plurinational democracy afterwards and to conduct the continuous research.

3. The genesis of the state

3.1 Introduction

In 2017, the world had 196 states which were represented in the United Nations, with South Sudan declaring its independence in 2016 as the latest case. If we have a short look into history, it becomes obvious that the number of states has never been that high as it is today. This means two things: firstly, the model of the nation-state is not outdated, but is a rather successful model that has been copied, implemented and adopted, although there are also different opinions on how fashionable it is to found a nation-state (Seymour 2003: 67). However, one has to distinguish between the concept of *state* and the *nation-state* as an *ideal* model, which as such requires a critical analysis, as it doesn't match in many cases with the national realities that it embodies.

Secondly, the nation-state is also a successful model of managing a territory, as it has not come out of fashion for over centuries, but has replaced *de facto* all other kinds of arrangements, such as tribal arrangements for instance. At the same time, the nation-state is, as the name indicates, linked to the concept of nation, which in its genesis is discussed in a different chapter. In this chapter, a brief introduction into the development of the state as an entity will be conducted, as it is still considered to be the main actor on the world scene (Guzzini 2013: 26). The state as a polity unit is then not retreating or disappearing from the international scene, but rather shaping it at the same time that it is being transformed itself.

Van Deth/Newton have listed a series of state competencies which highlight the importance of the state as an actor: modern warfare; in the creation of international and supranational agencies of

government such as the UN or the EU and also controlling them; it's the state that raises vast amounts of money; the main responsible of the defence of its territory and its citizens and the maintenance of order and law and defining the rights and duties of citizens in most democracies; admitting and deciding who will live within the state borders; issuing passports and travel documents to its citizens; jurisdiction; the representation of its citizens also in international "events" such as terror attacks, that usually are meant to be attacks against the state, although it goes against its citizens (Van Deth/Newton 2010: 390).

Highlighting these competencies as such is yet a very simplified picture and leaves out the crucial changes, these core competencies have witnessed over the last decades, especially within OECD countries and, especially, in the context of European integration. The state has faced especially since the 1970 in the OECD world a series of transformations, which has been excellently investigated in the book "Transformations of the State?" edited by Stephan Leibfried and Michael Zürn (Leibfried/Zürn, 2005), where they describe those transformations of the modern state, that will also be discussed deeply in this thesis.

To understand the modern nation-state, especially in the context of stateless nations, we have to analyze its genesis, which is the main objective of this chapter. First, we will have to talk about the state in itself, define what it is and how it is organized and why. Then, a historical review of its genesis is carried out and we go deeper into the topic of its link with the nation, which implies legitimacy and, especially since Enlightenment, democracy. Several historical and current examples will help us to exemplify our investigation. During our investigation we will see that several conflicts in the state- and nation-building of the nation-state arise, especially when it comes to democracy and the question of legitimacy of the state, which is especially visible in states with plurinational demands. Highlighting those contradictions and conflicts will be one of the main purposes on the chapter to work later with them.

3.2 Defining the state as a polity and actor

What is the state? It is indeed an interesting question regarding the fact that our daily life is directly and in multiple forms tightly linked with the state. We pay taxes when we go shopping for example, we are bound to the laws, which are part of the jurisdiction decided by the state, although some might be also in the hand of sub-state units due to devolution, autonomy or decentralization for instance.

The first attribute that probably comes into one's mind is the personification of the states, explaining it not only with attributes, but also speaking of it as if it were one person, one body and one mind (Fleiner/Basta Fleiner 2003: 108). Historically, this has happened with the image of allegories, where Britannia, Germania, etc. have represented the nation and the state as symbolic figures, usually with typical attributes to distinguish them physically from others, but also with weapons to show its strength for defending the nation-state. Even though allegories are not fashionable anymore, the perception of the state as a personified body hasn't changed that much. When it comes to political decisions for instance, expressions like „France and Germany have

ratified“ are used for example. It is a personification of the state, a reduction to a single body, a single actor. This is nothing new when we recall the image of Hobbe’s Leviathan, the empowered ruler, which in the image is composed by many people, making up one single body, one centre of power. A personification of the state, of course, does not make it less abstract when it comes to its definition, but converting the state by image into a human or giving it a human image also includes then the attribute of feelings and identification, leaving behind the pure organizational structure of the state. It is, hence, a collective image, that is represented by the state and, by humanizing it, also creating feelings towards this allegory such as the need to protect it for instance, and to take care of it as one is also part of that personified state.

“State“ is a term which is tightly connected to other terms such as nation-state, nation, country, political system, or empire. Although our main aim in this chapter is to illustrate the genesis of the nation-state, we therefore have to start with the state and its definition.

Different attempts have been done to describe the state for over centuries, if not even millenniums in order to define, what the state is. Each definition is also marked by the individual way of perceiving the state, which means that the individual definition depends on personal impressions, opinions, impressions and the political standpoint. We shall try to gather some of those most important concepts, which have existed historically and also currently. First of all, Morin states that the state is an *aparato*, which is not easy to translate into english if we want to transmit the whole meaning of the word (Morin 1993: 453). This *aparato*, this gadget, system, device, accessory sets up additional *aparato*, institutions such as police, army, justice and optionally also church and requires therefore a multidisciplinary approach and an exemplification of the concept “state“ (Morin 1993: 453). It means that state is, in this sense, a form of organizing government (Van Deth/ Newton 2010: 15).

This organization of government setting up institutions requires a framework where it can be build. Such a framework has been described by Georg Jellinek. Although there are no uniform characteristics of state-building, there exist a series of recognized features, which can serve in order to build such a state. In short, Jellinek requires for a state besides it being a social association a 1) *Staatsvolk* - the population of the state -, 2) *Staatsgebiet* - a state territory - and 3) *Staatsgewalt* - state power. This theory has been summarized in his *Drei-Elementen-Lehre* and has been *de facto* adopted as recognized features in the Montevideo Convention of 1933 on the Rights and Duties of States (Akpınarli 2010: 6).

In the Montevideo Convention, the personification of the state is *de facto* continued as an attribute added by the convention as it states that the state is a person of international law, that should possess the mentioned three qualification plus 4) the capacity to enter into relations with other states (Akpınarli 2010: 6).

Usually, the *Staatsvolk*¹ does not only consist of a more or less homogenous society based on race, culture or language, but also includes minorities (Doehring 2000: 25). One example here are multiethnic or multinational states, where a *Staatsvolk* has not been based on a single community of people. A different aspect is, if the *Staatsvolk* shows the will to affirm its will of forming a commonality - if this is not the case, it does not qualify as a factor for statehood (Doehring 2000: 25). Various examples can be the Austro-Hungarian Empire in 1918, Yugoslavia or the Soviet Union in their phase of disintegration. The converse argument, hence, is, that there is a certain loyalty from the *Staatsvolk* towards the country, not necessarily the government though (Doehring 2000: 26).

The *Staatsgebiet* - the state territory -, which is controlled entirely by the state can only be applied to modern states, as in the past, clear borders and zones of competence division were not that clear, but this will be discussed later in the chapter of the genesis of the state with examples. Exercising power over a territory, which does not belong to the state, is hence illegal and seen as a forbidden intervention (Doehring 2000: 29). It is, hence, the possession of the state. This mentality can be traced back to feudal times, when soil was the personal possession of noble and royal persons and families, including the inhabitants of that certain territory, which is known as patrimonial theory (Doehring 2000: 31). What followed was the object theory, as the territory was possession of a ruler, a sovereign, and the territory the sphere, in which he had the monopoly of the power and its implementation. The space theory has then come up in which the territory of the state is defined as the space of state competence for implementing legal norms (Doehring 2000: 32). The question emerges, if all these three theories are enough to define nowadays the essence of the state territory. This, however, is a different discussion.

When it comes to *Staatsgewalt*, it's obvious that a state needs an organization with distribution of competencies, which is usually manifested in constitutions or basic laws and independent from the fact, if it is done in a democratic or in a monocratic context (Doehring 2000: 37). Administration and some form of bureaucracy are, hence, required. *Staatsgewalt* also can act independently from being legitimized by the people, which means that there is a certain irrelevance if a government is legitimately in power and supported by the *Staatsvolk*, or not (Doehring 2000: 38). A different question is the relevance of legitimacy, as it can influence the execution of the same. It needs to be efficient in order to be useful for the state to function (Doehring 2000: 39). Efficiency can only come out by submission by the *Staatsvolk* to it, no matter in what form, a relationship, that can be traced back to the patrimonial theory mentioned above, where the legitimacy to obey the state and its authority is seen as obeying head of a community, which is in power (Doehring 2000: 40). However, in democratic states, the question on the justification of *Staatsgewalt* lost its interests as the legitimacy is supposed to be given by the people forming the state democratically and *Staatsgewalt* should serve the *Staatsvolk* (Doehring 2000: 41).

¹ In the following, we will use the original German terms, as they are shorter and more precise defining the three qualifications of statehood.

Especially the fourth qualification - the capacity to enter into relations with other states - is important on the international level as the states are organized in international and supranational organizations under rules, laws and rights such as also the protection by potential threats, embargoes, etc. by the rights which it possesses as a person of legal statehood. Several de-facto regimes all around the world lacking recognition cannot exercise the same rights, power and influence as recognized states can. Current examples in Europe only are Northern Cyprus, Transnistria, Crimea or the Donetsk and Luhansk People's Republic. De facto regimes may exercise power within their claimed territory, but cannot do so on the international level in an internationally recognized framework. States with partial recognition are in a better situation than the foregoing examples, as they are able to establish international relations and also partially qualify for being recognized, which opens them different scenarios to those unrecognized de-facto regimes. Kosovo, Israel or Taiwan (ROC) are ideal examples to mention, although Taiwan is a special case with deeper history of recognition. Especially Taiwan (ROC) shows, that the interpretation of the term "recognition" is not static or fixed, but can change over decades. Although Taiwan (ROC) has faced throughout the last decades an amazing loss of recognition as the proper representative for China as a whole in favor of the People's Republic of China among states, the *de facto* maintenance of bilateral relations is given, since Taiwan is one of the most important economical factors in East Asia and has played a crucial role in the relations between China and the United States (Chapman 2009: 104; Guo/Teng 2012 :5). All actors benefit from Taiwan as a continuing entity, as a state, especially when it comes to the economy. In this sense, recognizing a state or not is in fact not dogmatic, but pragmatic.

Questions on how to deal with statehood regarding these criteria in the future are open regarding the possible disappearance of states consisting of Islands in the Pacific Ocean such as the Marshall Islands, Tuvalu or Kiribati, but also the Maldives. As the territory is, due to climate change, in danger of disappearing or to be reduced to an extent, which does not allow the states to exercise their duties, as they cannot function properly, the question on statehood and sovereignty arises. A series of privileges reserved for states with the required qualifications, such as membership of international organizations, trade relations, diplomatic immunity, access to the International Court of Justice or loans from the World Bank and the International Monetary Fund are automatically in danger, too (Maas/Carius: 658). The question of statehood and sovereignty is in those cases still open and unsolved, as also neither internationally nor academically a definition of those terms exist (Maas/Carius: 658). These question yet will have to be addressed in the future if the tendency continues and the *Staatsgebiet*, the state territory, will disappear.

The claim for sovereignty is, hence, a qualification for a state as being on the same level as other states, as the holder the ultimate power and theoretically being able to act completely free and independent and sovereignty a claim for ultimate power and authority (Van Deth/Newton 2010: 19). However, theory is one thing. Arrangements and constructions have lead the states to share and to limit their sovereignty or power by international agreements for instance through transformations of the state such as the creation of the EU, but also submitting to the UN and its decisions for example. It's not only rights and privileges a state has, but also duties such as the responsibility to

protect its population from harm: sovereignty and responsibility are linked with each other (Van Deth/Newton 2010: 21).

Aristoteles states in his philosophy about the state the following declaration:

“Every state is a community of some kind, and every community is established with a view to some good...But, if all communities aim at some good, the state or political community, which is the highest of all, and which embraces all the rest, aims, and in greater degree than any other, at the highest good (Van Deth/Newton 2010: 15).“

Aristoteles expresses here that the state is a community, in fact he states that it is the highest community and, in that sense, a social space, a variant of social human life (Van Deth/Newton 2010: 18). The state is, hence, not only a political community, but the highest one, embracing all the others and in that constellation, according to Aristoteles, the body in charge of power. Of course this interpretation emerged from the “limited“ knowledge Aristoteles had back then, knowing only the Greek organizations of statehood and not knowing other forms of managing and governing communities and societies.

Max Weber has also done a lot of researches on the state and statehood itself. Weber points out the difficulty to define the state from the content of what that the state does (Weber 2016: 3). Differently from anarchical structures, where only social entities exist, Weber asserts the state the monopoly of the legitimate use of physical force in a territory (Weber 2016: 3; Schulte-Bockholt 2006: 20). Weber adds that the use of violence has to be carried out successfully (Weber 2016: 4). One could ask until what extent this interpretation has to be applied as there exist states, where the monopoly *de jure* exists, but *de facto* cannot be carried out. Usually, this are countries with internal conflicts such as Colombia, Somalia or partly Ukraine. Although the state is theoretically the only and the ultimate institution to implement its force, it can't do so due to the loss of control over a part of the territory and the people there. The term of *failed state* comes into the mind but could only be applied partly here, as this expression also requires a detailed distinction, which will not be carried out here as it isn't a deeper part of the main topic.

Resulting from the monopoly of violence, the state has power which, as a result, lets emerge a relation of power between the people (Weber 2016: 5). It means that the state is capable of carrying out decisions and also selecting preferences what and how to imply them. The state, to carry out this monopoly, requires the people to acquiesce, justified by legitimacy (Weber 2016: 5). The state cannot act only legal, but also needs to be seen as legitimate (Van Deth/Newton 2010: 21). He mentions three reasons for legitimacy, which is 1) authority due to traditional reasons 2) charismatic authority, as the people follow this structure inspired by a character, the leadership or religious reasons 3) rule by legal authority by virtue of the legal office and the belief in it (Weber 2016: 5). To secure the monopoly, the state has cumulated the tools in the hands of his functionaries (Weber 1980: 824). Bureaucracy is for Weber a basic element of the modern state, where the power really lies in, which converts it into a system of administration and law (Weber 1980: 825). Three characteristics of the state are according to Weber: territory, people and

sovereignty (Van Deth/Newton 2010: 21). The previous thoughts and summaries are summed up in the following quote, taking into account our previous thoughts and examinations:

“A compulsory political organization with continuous operations will be called a ‘state’ insofar as its administrative staff successfully uphold the claim to the monopoly of the legitimate use of physical force in the enforcement of its order. (Weber 1968: 54)“

There are further points of view on what the state is, like a marxist point of view, a liberal, an anarchist and also definitions by philosophers such as Hegel, Rousseau or the mentioned Aristoteles. Due to the given variety of points of view, no uniform definition of what the state is can be given. We will not recapitulate and recite all the marxist, liberal, anarchist and philosophical definitions and discuss them as the aim of this chapter is to explain here the genesis of the nation-state. Having mentioned Aristoteles (ancient philosophical standpoint), Weber (sociological standpoint) and Jellinek (juridical standpoint) should be able to give an impression of the variety and of the difficulty of the state in its definition. Recapitulating the liberal, marxist, anarchist and further philosophical standpoints on the state would not be beneficial for the main task here, as the variety and the problematic has already been shown.

Each point of view on what the state is comes from a certain perspective with a specific belief. This makes the topic more complex and each point of view also limits itself to its own given boundaries due to its individual point of view and approach. A multidisciplinary approach here on the definition of the state was required to make to the reader clear the problematic this chapter, but also the thesis as a whole is challenged with.

The next task will be the genesis of the state and also the transformation from the state into the nation-state, which will be coming up in the next chapters.

3.3. The genesis of the state as a polity and its transformation to the nation-state

After having approached the term “state“ by a multidisciplinary approach, we will now go back into history and examine the state and its emergence as a polity on the political scene. First, an examination of the state as a polity and how it replaced all other organizational forms like tribes for instance will be conducted. The second part will be the emergence of the nation-state, which is a crucial transformation for statehood, but at the same time required to understand the series of conflicts, that emerge afterwards in this context.

3.4 The genesis of the state as a polity

When talking about the genesis of the state as a polity, the question arises, where one should start. Should we start with Westphalia 1648? Should we go back to the Middle Ages and the emergence of the city states in Italy? Should we go back to the Roman Empire as *the* European super state at that time? The Greek polis? Ancient Egypt or even Babylonia? The answer is not as

easy as all of them represents a different epoch and interpretation of statehood. Max Weber answers the question that the state has replaced all other pre-existing communities (such as tribes) by the state as a community, that unifies legitimacy and the monopoly of violence over a territory in a sovereign form by efficient bureaucracy (Weber 1980: 822; Van Deth/Newton 2010: 21).

Our aim here is not to make a historical research on the state and its genesis itself and where to set its very first beginnings - this is up to historians and would require a thesis of its own. We base our assumptions on known and existing, studied cases. Therefore, an evaluation of whether and how to define ancient Egypt, Mesopotamia or Babylon as states is up to historians and their researches. Weber tried it himself as well but his classification does not help us a lot, as he had different aims in his studies and examinations (Roth/Wittich 1978: LVI).

One of the references of present politics and policy is ancient Greece and the polis, the city-states as they are for the present understanding of state linked with democracy fundamental. The impact of the ancient societies and organizations is still present as many examples in art, architecture, admiration of antiquity and simply the idea of democracy resembles. Therefore, investigating first the emergence of the state in antiquity makes for sense here.

The city states were, as the name already indicates, with the polis, the cities as their centres, in ancient Greece, organized not on the idea of democracy and rights as one might in a romanticized image think of, but functioned as slave societies, not egalitarian, elitist and exclusive to most of its citizens (Isakhan/Stockwell 2011: 5). The state was organized and run by an elite, while the common people had only limited access to it (Isakhan/Stockwell 2011: 5). Same can be said for the Roman Empire, the second antique reference for modernity. We can state that also after the fall of the polis and the Roman Republic, statehood with order and bureaucracy, as we know and understand it, disappeared in most parts of Europe for several decades also due to the Migration Period with unstable conditions of all kind, especially regarding statehood.

An attribute to maintain the universalist and all covering factor of the Roman Empire (which was already losing control internally and externally) was adopting christianity as state religion. The church had its bureaucracy (monasteries, rules, laws...) and administrators (monks, priests, etc.) and was successfully expanding in Europe, Africa and the Middle East. The church as a religious, but also as an earthly and political power could cover up the vacuum not sufficiently and could not set up a catholic world state in that sense (Boettcher 2005: 466). It could not replace the Roman Empire. One reason was that dynasties accepted christianity as their religion, but did not subordinate in a political sense of state to the church. Instead, they became ruler over territory with christianized population or worked as agents for the church, conquering pagan territories and populations with the aim of spreading christian faith there by any measures necessary, but implementing their own rules. With other words, the legitimacy from a spiritual perspective was given by the church either by converting to Christianity (as the Franks did), or expanding territories by implementing simultaneously christianity as the only religion (as Charlemagne did in the Saxon Wars). From Weber's perspective, there was no successor state of the Roman Empire embodied

by the Catholic Church as it could not uphold the monopoly of the legitimate use of physical force in the enforcement of its order, but had to leave it to the newly emerged powers such as the Franks for instance to at least reach one goal, christianization (Weber 1968: 54). At the same time, it became, as we can see, also the source of legitimization in Europe for expanding territory and setting up state structures.

As the Roman Empire could not be replaced by a successor state in the west, but only maintained its influence as a religious institution, the Catholic Church, until today as the last surviving institution of antiquity, the downfall in the east took some more decades, but also ended due to foreign conquest (Norman 2007: 17). The Catholic Church was a crucial factor later on for the creation of European states as it also in the past legitimated from a spiritual position the creation. Mentioned already for Charlemagne, later also being the place for the Kings and Emperors of the Holy Roman Empire throughout centuries the place for being crowned and working as a legitimizing institution among states in Europe. This is where the era of territorial states began.

One good example of the creation of the state in Europe linked with the church as a legitimizing institution is France. State-building in France is based on conquest of a dynastic creation, departing from the Île de France as the core and the ruling centre, which grew in its territory by annexation or acquisition (Keating 1988: 33). Centralization brought more efficiency to the French state and secured its possessions (Jansen/Borggräfe 2007: 123). The southern part of France, today broadly known as "Occitania", was also annexed by France with the support of the Catholic Church. The Cathars, a religious christian group unrecognized by the Catholic Church, were seen as a threat to the church and in order to eliminate this threat, the French king was encouraged to annex and invade these territories under the condition to end with the Cathars (Keating 1988: 34). For both, the French crown and the Vatican, a win-win situation. The encouragement by the church supports the hypothesis of the French state already existing as it is recognized as a power to act not by some, but by the most powerful religious institution at that time, the Catholic Church. It also legitimized France as a polity from a religious point of view. Centralization and further efficiency of *Staatsgewalt* on the *Staatsgebiet* and the *Staatsvolk* followed in the upcoming decades and centuries and consolidated France as a polity in the sense of state (Keating 1988: 35).

The state-building of Spain is also marked by the religious factor embodied by the Catholic Church. The Iberian Peninsula was in a different condition in the Middle Ages than the territory of what later would become France. The tight relations between the Catholic Church and the later Spanish Empire can be historically explained. Already in the Early Middle Ages, with the Roman Empire disappearing and leaving a huge vacuum, which could not be filled by the chaos during the wandering tribes of the Migration Period, moorish expansion towards the heart of Europe was only stopped by a huge effort in the battle of Tours and Poitiers in 732 by the Franks and their allies. Muslim conquest was also in the first sight a threat to the Catholic Church as a religious institution with influence, but also to the existing spheres of power of the Franks and others. In fact, a bond between European tribes on the peninsula and the church were already established in 589 CE,

when the unification and the re-christianization of the whole peninsula was declared by the Visigoths (Traver 2016: 198). The successful *Reconquista* and, simultaneously, also the Crusades gave a legitimate power to the kingdoms carrying out the aim, which ended on the Iberian Peninsula in 1492 with the reconquest of Granada in 1492. The role of legitimation by the Catholic Church is also resembled in the title “Catholic Monarchs“ granted by Pope Alexander VI to Isabella and Ferdinand in 1494 and, by doing so, also implementing a potent role in the newly founded Spanish state (Taver 2016: 198). The tight bond between church and the Spanish Empire continued to be a win-win situation as the church became one main ally and, therefore, also a spiritual source of legitimation. On the other hand, the inquisition was carried out and no Reformation attempts were allowed or successful on the Iberian peninsula. Furthermore, the conquest of the Americas, supported by the church, allowed the empire to expand its territory and the church to make new disciples.

In both examples, the importance of an external, spiritual source of legitimation over the creation or the destruction of existing entities is striking. In this case, the Catholic Church was one of the main reasons why Europe nowadays looks the way it looks and why large parts of Latin-American history happened the way they happened. With the legitimation, also accepted by the people - due to their subordination by real spiritual devotion, pragmatic reasons like evaluating it for the lesser evil or simply by force and the use of violence - the states in Europe emerged as political entities. These states came in all different kinds of shapes, such as kingdoms with huge territories, clerical territories or city states as they emerged in Italy or the Holy Roman Empire as a union of states with some confederal character from the North Sea to Italy. These states controlled a *Staatsgebiet* with a *Staatsvolk* under their *Staatsgewalt*, although very differently and they maintained relations of different kinds, such as inter-dynastic marriages or trade relations. New states emerged, other disappeared by conquest or unification.

One crucial date for the state as a polity is 1648 and the Peace of Westphalia. The international state system was consolidated there. This system includes that each state has exclusive authority within its own territory and is based on the principles of autonomy, territory, mutual recognition as legally equals and control (Krasner 2001: 17). With other words, the framework, the basic principles of the present system of states was consolidated. However, this model is a *model* and a *theory*, which never could be carried out in an orthodox sense as the principles have been often violated, as this model either has been ineffective or never really carried out (Krasner 2001: 17; Zürn/Deitelhoff 2015: 198). Another factor is the addition of other laws and structures such as human rights convention or the Security Council, which can give permission to violate just those parameters stated in the Westphalian model.

What makes the difference now of these states to the nation-state? It's a fact that “nations“ were already mentioned, but they had a very different meaning some hundred years ago. The main difference here is the source of legitimacy. The state does not necessarily need an external legitimation to exist as the sovereignty can lie in the hands of a dynasty and its administrations as

it was in the case of France and Louis XIV for example the day before the French Revolution started. With Enlightenment, rooted in Renaissance, a whole new idea of the state and its legitimization and sovereignty emerged. This will be discussed in the next chapter.

3.5 The transformation from the state to the nation-state

In the chapter before we could see the importance of legitimacy of a state and its consolidation by the same. In Europe, the legitimacy was often given by the last existing institution of antiquity and the only spiritual, religious institution, the Catholic Church. Given the prior examples, we could see that power was implemented and determined by the state authorities and the church, but especially since Westphalia. The question of sovereignty of the state was tightly linked to the sovereign, which was in most cases a monarch or a dynasty.

However, there were also polities - city states in Italy for instance - in Medieval times, which did not concentrate sovereignty within a single monarch or a family, but within assemblies.

However, it's also far away from what we nowadays would understand as democracy. Some, however, developed themselves from democracies to oligarchies, others, like Venice, developed from a monarchy towards a democracy (Mueller 2009: 151). The development from the state towards the nation-state has to do with a change of mentality, of thinking and rethinking and, by doing so, questioning the current order. This epoch consequently started during Renaissance, when antiquity was rediscovered. Hence, also the political and philosophical thinking was rediscovered, reframed and idealized. These ideas were further developed and lead to Enlightenment, ignoring now all the interesting but nonetheless only secondary important details of these events.

One crucial factor here was also the Reformation, which questioned the church as the only spiritual and religious authority, even more, it challenged and in several parts of Europe abolished it as such. This was, as mentioned before, manifested also in the Treaty of Westphalia 1648, which implemented also the earlier developed *cuius regio, eius religio* principle. On the one hand, it was the sovereign who hold the whole sovereignty or, as Louis XIV is supposed to have said it, puts it in a nutshell "L'état c'est moi!". On the other hand, Reformation and crucial mentality changes such as developing science and philosophy reconnected with ancient romanticized ideals and challenged the question of sovereignty within a state, developing from Thomas Hobbes' *Leviathan*, which defended absolutism, to John Locke, who developed his liberal ideas of governance until Rousseau, who already overthrew the old order.

When was the turning point, that the nation replaced the monarch as the sovereign? It's not easy to tell when we try to trace back enlightened thinkers, possibly John Locke, who states that all people are equal and free from birth on and Montesquieu deepening the argument (Locke 1689, §4; Carrithers 2001: 291). The nation-state is linked to the concept of the nation. This means that the state is a social being, according to Morin, who tries to embody more visually and from a human perspective the state (Morin 1993: 454). The nation became definitely an issue in the XVIII

century and brought the turning point as it became the idea to lift it up or to declare it the sovereign. This idea was written down by Emmanuel Joseph Sieyès in his pamphlet "What is the Third Estate?".

The first practical example of turning over the old order and meaning of sovereignty and the sovereign was the American Revolution and the declaration of independence of the Thirteen Colonies from the British Empire in 1776. Not the king anymore, but the people are the sovereign and the only source of legitimation for a state as an organization to exist. Usually, the French Revolution in 1789 is seen as the "birthday" of the French nation, but Jean Jacques Rousseau already linked the terms "nation" and "popular sovereignty" before this event (Jansen/Borggräfe 2007: 125). However, the existence of a political nation was not necessary before, a *Staatsvolk* or a *demos* was not needed for the legitimacy of both, the government ("*L'état, c'est moi*"), which in fact was the king and his state and the existence of the French state, of France itself. Jean Jaques Rousseau played an important role influencing the thinking of a nation of free and equal citizens and, by doing so, linking the idea of a nation with human rights and sovereignty, a total break with the foregoing order in Europe (Dann 1991: 57). The absence of surrounding powers of the "old order" and the physical distance to the centre of power of the British Empire also made the American developments more easy.

The importance of the "nation" becomes especially in Europe chronologically first important in France. When reading the American declaration of independence from 1776, there is only one single mention of the word "nation". It can be found within the indictment and refers directly to the king as "totally unworthy the Head of a civilized nation" (Sunstein 2003: 9). The first constitution of the United States of America does not refer the word "nation" to a political subject. In France, the idea of the nation seems to be stronger, more emphasized, visible in the pamphlet "What is the Third Estate?" written by Emmanuel Joseph Sieyès (Dann 1991: 59).

With the consolidation of the French revolutionary state on the one, and the United States on the other hand, an example for the bourgeoisie and the people as a whole emerged, how a change of power distribution, rights and duties could form whole new societies. With other words, the nation-building process' had begun and went beyond only cultural and folkloric spheres, but became the nation as an imagined community, as Benedict Anderson calls it, replacing the monarch and the church as the ultimate legitimizing sources of a state (Anderson, 2006: 6). It's an interesting fact that Napoleon also carried the concept of the nation-state with his conquests and, hence, can be seen as the involuntary founder of modern German nationalism, as he united the Germans together in the fight against him and, following the French example, towards a unified German nation-state. However, the idea of the nation-state is tightly linked with nation-building itself and cannot be discussed separately, as the concepts with the fusion within the nation-state overlap. The objective in this chapter, however, is not to dig deeper into the topic of nation-building as this will be discussed with more details in a chapter about the genesis of the nation. Of course, the implementation of the nation as the sovereign and legitimate source of a state took its time and was often not as idealistic as it seems.

Kulturnation, *Staatsnation* or *Willensnation* are the idealized models for nations and reflect a series of ways, those communities understood themselves. For more detailed information the chapter on the genesis of the nation should be consulted. The *Staatsnation*, however, the state-nation² is interesting for us in our discussion here as it already includes the state. Although it was the nation, and not the monarch, who became the subject of and for sovereignty and legitimacy, states already existed. Now in order to legitimate the state, the nation living on this territory was declared state-nation and a nation-building agenda was carried out. The population was *nationalized*, a nation was created in order to legitimize the state in its actual orders (Jansen/Borggräfe 2007: 119). With other words, the nation as a fashionable and unstoppable idea was adopted by the state for auto-beneficial aims. The methods were usually an imposition of the nationality by the state juridically, by constitution or also physical violence and state terror against political movements or cultural groups, which would challenge this homogeneous idea of a state-nation within this nation-state.

France is a sad example for those who embrace cultural and national richness in Europe. When in 1794, the national assembly declared the Langue d’Oil variant of French as the national language, only some estimated 10% spoke the langue d’Oil French, the rest spoke Langue d’Oc, Catalan, Franco-Provençal, Italian, German, Flemish, Breton, Basque, and many other languages which were from now on regarded as *patois* (Kremnitz 2015: 15-16). The adoption and perfection by the jacobites of the centralized state seems to be one main method in order to successfully prevent counter-revolutions and a restoration of absolutism. However, part of the strategy was to create a uniform nation. This led in the end of the day to harassment and expulsion of those who would not obey, a strategy, which was followed and radicalized within the decades (Kremnitz 1975: 28, Keating 1988: 35, 36). With other words, the *Staatsvolk* was directly transformed into the nation by a top-down process. Although the *Staatsnation* has an idea of being more inclusive than a *Kulturnation*, those who would not fit in, were forced to cease to exist, whether by assimilation or by expulsion. A unitary state was imposed on a multiethnic society and the *Staatsvolk* declared the nation in order to legitimize the borders of the French state (Keating 1988: 33). Loyalty to the state was either voluntary or forced. We can say that legitimacy was not a complete voluntary act, but had many imperial facets in the case of France. In fact a contradiction when the nation is supposed to be the legitimizing source for the existence of the state, but the state decides who this source is and has to be. It also refuses the possibility for other communities to exercise their right as a nation, if they feel as such. By not recognizing those communities, the question of the nation as a whole is questionable and has been questioned for example in Corsica several times, as democratic support for independence groups in 2015 let the French public remind that the “indivisible” and united nation was only the work of forced assimilation and subordination in certain parts of the state-territory. We can clearly state here that the nation was in this case a tool to legitimize the already existing state as such, and only in the framework granted by the state apparatus able to exercise its sovereignty.

² In the following parts, the term “titular nation” can be used simultaneously.

Spain gives us some similar precedence. The state existed since 1492 after the unification of Isabella and Ferdinand's crowns to one crown within one state called Spain. The Spanish Empire emerged out of *Reconquista* and the conquest did not stop in 1492 with the expulsion of the Moors, but Columbus' discovery of a new and prior unknown continent in the same year opened a whole set of new possibilities for Spain to become an empire. After the conquest of the Kingdom of Navarre in 1512, Spain concentrated on establishing a colonial empire. In the first years, there was no administrative or real political unity and centralization failed due to Spain's concentration in the American colonies and in European wars (Keating 1988: 37-39). In the end of the day and due to internal conflicts and a weak administration concerning the implementation of state power, neither the jacobin, nor a federal model was implemented (Keating 1988: 55). The attempt to create a unitary state was only superficially successful during Franco's rule. The *Staatsvolk* was existent, but one single nation by force at least similar to France did not emerge, as the Catalan and the Basque or Galician independence movements showed. According to its constitution, the state recognizes only one *Staatsvolk*, which is simultaneously the nation. The *de jure* and the *de facto* realities are different ones, as the democratic support for political movements and parties in the Basque Country and Catalonia show, which support either full independence, but at least recognition of being a nation with a majority supporting this statement³. In both cases, the doctrine of the *Staatsnation* and the nation-state as a unit is challenged and has been for now incompatible with realities in the Basque Country or in Catalonia (Rojo Salgado 2007).

Regarding the state and its relationship with the *Kulturnation*, things change in contrast to the *Staatsnation*. Here, no state is needed in order for the *Kulturnation* to exist. The community is a community due to cultural features such as language for instance, which they share and believe in the unity of their community classically within a nation-state as the political articulation of the nation, since we live in a world system of states and a reality, where the idea of the nation-state still is existent. The legitimacy for building this state is the nation and can go against already existing states, if they impede the creation of such a state, the political articulation of that nation. The real type of a *Kulturnation* has been predominantly present in central Europe, where a state of a united nation was in fact not given until the XIX century or ceased to exist due to European empires (Jansen/Borggräfe 2007: 13). We can take here two examples how state and nation and their fusion as a nation-state can be portrayed with Poland and Germany.

Poland existed before the nation-state idea and the nation as the sovereign, but was partitioned between Russia, Austro-Hungary and Prussia in 1795 and definitely ceased to exist until 1918. The Polish nation, hence, did not have a chance to develop itself into a state-nation as the Polish state just disappeared. The only way not to lose its identity was carrying on by forming a cultural community and with support of the church, the only lasting institution from what once the Polish state was (Jakelcic 2012: 168). When Poland re-emerged as a state in 1918 after the collapse of

³ A further examination will be conducted in the following chapters of the cases and the evaluation in the tables and the discussion.

the three empires which partitioned Poland among them, the Polish nation had once again an own state. But this state was not a nation-state, as it had a huge amount of non-polish citizens, which converted it into *Staatsvolk*. Although having witnessed themselves *Russification* or *Germanization*, the newly emerged polish state implemented a *Polonization* policy in all its borderlands (Service 2013: 304). Once again, while the nation is supposed to be the only sovereign and therefore responsible for the state, its functioning and the people within, a contradiction arises when it comes to other groups claiming to be a Community just like the Polish nation was before statehood was possible. The nation-state has become in this case the titular nation and a *Staatsnation*. Either all were forced to obey and to assimilate into the polish nation, as long as they don't belong to any recognized minority. Or they are seen as alien or even illegal organizations, as happened in Upper Silesia in the recent years, where organizations claiming to represent the Silesian nation (which is unrecognized) were by jurisdiction de-legalized.

Germany in its making as a state is therefore interesting, as the impulse came from Napoleon, as we already learned, but also because several German states already existed. However, also the preceding Holy Roman Empire included territories, where large amounts of people lived, who could not be due to their cultural features part of the German nation. The bottom-up movement towards a united Germany was portrayed in literature and poems such as Ernst Moritz Arndt's poem "Was ist des Deutschen Vaterland?"⁴ the first stanza of the German anthem, where the boundaries of the German language are seen as the future *Staatsgebiet* of Germany. The question of who and how a German nation-state would be formed was solved by the outcome of the Austro-Prussian war, also known as a brother's war between people of the same nation⁵ (Wawro 1997: 44). This indicates that it was merely a war of power over two dynasties -the two most powerful in Germany⁶ and their German allies - and their different projects of a united Germany than between ethnicities (Hewitson 2010: 346). The outcome was a Germany without Austria with a huge German ethnic majority. Nevertheless, it was not a complete nation-state as the Austrians were left out and minorities such as especially Poles, but also French and Danes were included. Becoming citizens, they became also part of the *Staatsvolk*, and theoretically and *de jure* first class citizens - the *Kulturkampf* in the eastern Prussian provinces showed it differently and also negated Poles to create a Polish state and tried to accommodate them more or less. Here, the nation and the nation-state was a bottom-up demand, but a top-down creation, putting not the nation/s as the sovereigns, but depending on the dynastic decisions. One good example here is the refusal of the imperial German crown by the Prussian King Wilhelm IV in 1848.

⁴ A literal translation would be "What is the German Fatherland?", in which the question on, what the German *patria* should be, is asked several times mentioning different regions and states with German population and coming to the conclusion, that the patria should be the whole territory where German language is spoken. This is a clear indication for the German nation in the XIX century being a *Kulturnation*.

⁵ In German, this war is always known as *der Deutsche Krieg*, the German war.

⁶ The term Germany should in this context not confuse. It is used here as the territorial and intrastate space of and among German states, which was historically also used before the foundation of the German Empire under Prussian lead in 1871.

Coming to the state and the *Willensnation*, it is quiet difficult not to say that a *Kulturnation* or even a *Staatsnation* could be a *Willensnation*, a nation composed by a free will. Usually, Switzerland is taken as the example to what comes closest to the *Willensnation* and the linked state-building process. When we go back into history, Switzerland was part of the Holy Roman Empire but the state-building process was more due to its geographical circumstances driven by the people and communities in the Middle Ages united by the interest of maintaining internal peace and safeguarding of the economy (Schmid 1981: 8-9). These interests in the determined alpine space were strong enough to overcome ethnical, cultural, geographical and political divisions and also opposed to Territorial states emerging in Europe in the Middle Ages (Schmid 1981: 9). However, it is also difficult to speak of a nation in the modern sense in the Middle Ages as also in Switzerland, the nation-building process as we understand it, emerged in the XIX century (Fleiner/Basta Fleiner 2009: 630). In this sense, the state-building emerged before, but it converted itself into a nation-state only some two centuries ago. The character of the confederation and the original concept of the *Willensnation* was in fact with the nation-building process abandoned as latest in the Sonderbund War of 1847 - a civil war. The old confederal order was replaced with a federal concept and implemented by a federal constitution in 1848 (Biaggini 2004: 213).

Abandoning the concept of a *Willensnation* by force and implementation is in fact a contradiction with labelling Switzerland as such a nation. If there is a free will among equal cantons or other units, this will should be respected. We could include here the will of forming or also dissolving a unification of a polity. With other words, the *Willensnation* should only exist as a polity, in our system of states as a state, as long as the will is existent and expressed. The implementation of the nation-state concept limited this free will as we can perfectly see in the history of Switzerland, the prominent example of a *Willensnation*.

No central army, police, court or executive but the political unification of cantons into a confederation united under common aims, which they are convinced to carry them out better united than divided against the territorial state neighbours was the beginning of the creation of the Swiss polity, but the implementation of the nation-state changed the whole concept and let it only abstractly existent (Thompson 2014: 235). Of course, nowadays the absence of any movements or party demanding the dissolution or a separation, even a wider confederal concept shows in the end of the day, that the concept of Switzerland presently is accepted and not questioned by its nationals.

When we abstract the idea of *Willensnation* and its link to the state, later the nation-state, we can state two things. First, the concept of state building by a pure *Willensnation* is a way more democratic and legitimated as an imposition and expansion, as the people, represented by their cantons or other named units, form a country or did so in the past as in the Swiss example. It is an inclusive state and nation-model as within decades, new cantons joined the Swiss confederation, which stresses the concept of the *will* independent from their cultural and ethnic realities. Second, the introduction of the nation-state concept hijacked and internally destroyed the concept of a *Willensnation* within an inclusive state, grounded on free will under common interests between

rural states and cities (Thompson 2014: 235). Once again, the state here wants to legitimize itself by the people imposing a framework, which secures the state's top position in the hierarchy, although the people are the sovereign and should legitimize the state. Nowadays, we should ask ourselves if the concept of *Willensnation* and a state-building concept is probably in a sphere with democratic values like the European Union space for instance the most democratic and legitimizing state-building concept and model compared to the other ones. However, we can also see that the implementation of the nation-state concept can be a danger for its horizontal constellation of power shifting into a vertical one, as seen in Switzerland. In this case, identity and linked state loyalty has to come also by free will, otherwise, no legitimation of the state can be diagnosed.

3.6 The nation-state and its present transformations

In the foregoing chapters, we have analyzed the term "state", the genesis of the state as a polity and its transformation into a nation-state. The nation-state is still existent and the system of states is growing, not declining. This fact busts easily the myth that the nation-state is out of fashion, so does in fact also the variety of independence movements, struggling in different manners to set up a state of their own and, as it is based on the declaration of being a nation, also to set up a nation-state. Nevertheless, events such as humanitarian catastrophes and power shifting have lead to a set of transformations of the states, especially in and since the XX century. On the one hand, we have international and supranational organizations, which have not replaced bilateral relations, but which have complemented them and made the international system more complex. On the other hand, democratization has especially in the second half of the XX century played a crucial role on how to understand state, nation, legitimacy and sovereignty.

First we have to state clearly that it has been a long development from the idea of the nation being the sovereign, to the nation being really the sovereign within a state and not having to share it with monarchs for instance. Furthermore, this concept is not worldwide implemented but can be generalized for OECD states. Here, the important exception of the United Kingdom must be remembered, where sovereignty lies in theory within the parliament (Goldsworthy 2010: 267). The meaning of sovereignty however has through interdependence and integration changed fundamentally and is not in an orthodox sense completely autonomous. Therefore, we need to have a look on the organization of the international system.

To analyze the legitimacy of the state, it is relevant how this legitimacy is constituted and we cannot depart from Kenneth Waltz' point of view that states in the international system are "black boxes", which means that the internal order does not matter in this context (Schörnig 2014: 39). It does matter as it affects the relations or even the belonging to organizations. The European Union usually opens chapters when proceeding with the membership accession of a potential member state. Interdependence, inter-gouvernementalism, integration and shared sovereignty have a reciprocal effect on the state and the meaning of sovereignty. Certain conditions need to be met before a procedure of the mentioned aspects can be carried out. The Westphalian system as a

model is still conserved, but it is a myth, as it is also a myth that of the states being 'black boxes' in the international level.

These circumstances have led the state to transform itself, especially delegating core competencies to supranational organizations or outsourcing them, a process especially intense since the 1970s in OECD states, which has been described very detailed by Stephan Leibfried's and Michael Zürn's edited book "Transformations of the State" (Leibfried/Zürn, 2004).

Usually, the legitimacy of an existing state which has been recognized by international system - usually by the United Nations - is not questioned. However, the mentioned democratization process in nation-states has indeed opened a whole new series of possibilities for stateless nations to question the legitimacy of the state or at least the legitimacy of *this* kind of state they are living in. This means that democratic nation-state has not been able to accommodate stateless nations within the given border and legal framework. The question on how legitimate a state can be for one or more communities, which express its discontent and demand for a reform of the nation-state towards recognition or even the right to decide over their future within or outside the state is a challenge for states, but also affects organizations with a plurinational character. The nation-state model has come to its limit in states with such realities and requires a further development, as its legitimacy from a democratic point of view is challenged or simply a minority in a certain territory of one or more stateless nations. This requires a rethinking of how legitimacy can be restored in a democratic framework in an international system of states, particularly under the current conditions of globalization and European integration.

3.7 Conclusions

This examination portrayed the historical evolution of the state from an organized polity dealing from the very beginning with the issue of legitimization. Whereas legitimacy was derived by imposing force and religious support, the development of territorial states with a set of features such as a functioning administration, a successful implementation of state policy, a territory and people to rule over, this system expanded and was finally adopted. The consolidation of the Westphalian state system is, in its basics, widely still in use nowadays, but due to transformations of the states, the rise of supranational organizations composed by the states and especially nationalism as an ideology entering the scene since the XIX century have had crucial impacts. A rising number of states such as political movements in already existing nation-states show the success and temptation of copying the model of political organization. Here, legitimacy of the states are questioned especially by communities claiming themselves and expressing themselves political as stateless nations is questioned, while legitimacy was taken for granted by the simple existence of a nation-state. As mentioned above, the current constellations have not been able to find a solution on that issue and require a new approach of how to solve this Gordian knot in a way that legitimacy, sovereignty and statehood in a democratic framework can be reinterpreted in an adequate way.

4. The genesis of democracy

4.1 Introduction

The word *Democracy* is rooted in ancient greek and is composed by *dēmos*, which could be translated with *Staatsvolk*, and *kratía*, which means “rule“, “power“ or also “sovereignty“ (Brown 2015: 19).

In OECD-states, democracy is supposed to be the governance tool to manage the will of the sovereign of one state which *de jure* and *de facto* are all nationals (Ougaard 2011: 167). The German public lawyer Georg Jellinek (1851-1911) described this connection between nationals, territory and the implementation of political power in his work „Drei-Elementen-Lehre“, the “Three-element doctrine“.

It is a form of governing a society within a state-territory in an abstract sense, in which the majority decides the direction of policy-making. The emergence of the idea of democracy as we know it nowadays, linked with the state by the citizens as the sovereign and as a governance tool in the XVIII and XIX century is linked to the idea of nationalism in the XVII and XVIII century and its foregoing epochs, Renaissance and Enlightenment.

Although the main goal of handing over the power into the hands of the people has been in OECD states achieved and juridically, privileges of social classes, gender or nobility have been abolished, traditional democracy has lacked a further development of its own character:

On the one hand, a conflict emerges, when the basic idea of democracy is political self-determination of the nations and a state with plurinational realities exist. In several cases, the state has taken over the definition of this basic idea and juridically defied these plurinational realities by ignoring or negating them. This acting has served primarily the preservation of the unity and the existence of the state and not to implement democracy. On the other hand, stateless nations could for now only rely on traditional tools of democracy, which means that only a striking majority in favor of independence could democratically justify this project.

In cases, where neither a clear majority, which supports the current constitutional state system exists, nor a sufficient majority supporting an alternative state building process are in several cases realities, for which the tools of „traditional democracy“ have not been able to deliver satisfying answers. With other words, traditional democracy has not been a useful tool to manage national diversity realities within states, nor national diversity within stateless nations territories without a clear majority in favor of independence.

The question, that arises here is a provoking, but obviously necessary one: is “traditional democracy“ incompatible with “true democracy“? Is current “traditional democracy“ with its tools such as decentralization and federalization enough to overcome the obstacles, which have made it impossible to find satisfying and fair solutions within these territories?

Democracy has passed its first step, the delegation of power within the state from an aristocratic class lead one to a democratic one where the citizens exercise power by representative, direct or mixed democracy. However, if the commitment of democracy is to hand over the power to the people, the legitimate sovereign, the question of legitimacy within a state, where legitimacy is in such territories is disputed, requires obviously a new, a second step, a further going approach.

Examining national diversity as existing realities require, hence, the examination of traditional democracy in plurinational states, its aims, its challenges and failures managing these realities. In order to do so, democracy and in itself and its use in modern states will be examined. Furthermore, the already mentioned topic of the problem of the non-compatibility of this type of democracy will be highlighted and further investigated, which includes the comparison of several models of democracies, the nation model and the state model, which is directly linked to the question of legitimacy and sovereignty. This comparison will lead to the conclusions of the obstacles and limits, current traditional democracy faces when trying to deal with plurinational realities, which it wasn't meant to deal with.

To understand how democracy and the nation-state are linked, which aims, tools and practices it traditionally developed and implemented, a historical review on democracy itself as a system in western states is needed. It helps to understand the mentality of why it has been considered to be the superior system in moral ways in western states and how it overcame obstacles such as fascism and communism to triumph in the end.

4.2 The genesis of democracy - a chronological examination

Where does democracy in western states come from and why is it the preferred system in these societies? A common argument is, that ancient Greeks invented democracy. Another argument is, that democracy-like systems have already existed even before the idea of Greek democracy could influence cultures, which were located apart of such influence. Two examples are the old Icelandic *Alþingi*, established in 930, or the *Tynwald* on the Isle of Man, of which the latter is claims to be the oldest, continuously working parliament in the world since 979 (Boulhosa 2011: 93; Jones 2012: 2). According to the latest studies, none of these description is accurate. Greeks did not invent democracy as such, but rather named a prior-existing system, as Gagnon argues (Gagnon 2013: 7). Evaluating the models of the Isle of Man or Iceland as parliaments or democracies are only conducted from our present point of view on and knowledge about democracy, which has its roots in Enlightenment.

However, there was also already a series of systems outside modern Europe, that could be considered to be democratic. Benjamin Isakhan mentions these models in his book „The Secret History of Democracy“, where a series of systems are analyzed and classified, such as Pre-

Athenian Democracy, Democracy in the Middle Ages, democratic societies in indigenous communities and during colonialism and alternative tendencies in modern democracy (Isakhan, 2011). In fact, Isakhan busts the myth of a Greek origin of democracy in his studies and explore the mostly unknown or falsely as successors of Greek democracy labeled systems.

Finding the roots of democracy is, hence, far more complex and deep going than it is assumed normally. A short reminder: the aim to find the roots of democracy shall help here to explain its character, its purpose, its tools and practice. However, having a look on the studies of Isakhan tells us that there neither is a historic thread of history, that can be followed back, nor is it, hence, possible, to derive its characteristic from a single model. Another method needs to be taken into account to find out, why this system is nowadays considered to be the superior one in our western society. However, the method of finding the historic thread remains crucial. As already mentioned at the beginning of this chapter, the Enlightenment and the foregoing Renaissance are examined as two crucial epochs.

The definition of the Renaissance is not as easy as it seems at first, as some might claim it is an occurrence, some claim it was an epoch and others might say that it was a movement (Burke 2012: 215). The Encyclopaedia Britannica gives in its introduction a definition of the vague term Renaissance as:

"(...) Renaissance, literally "rebirth," the period in European civilization immediately following the Middle Ages and conventionally held to have been characterized by a surge of interest in Classical scholarship and values. (Encyclopaedia Britannica, 2016)⁷"

With classic scholarship, the Encyclopaedia Britannica refers to *"(...) the study (...) of ancient Greece and Rome (Enciclopaedia Britannica, 2016)⁸"*. This brief and incomplete introduction helps already to understand, where the evaluation of modern democracy as a not yet born, but potential idea, is rooted. We, therefore, can root back and understand, why to Western understanding of politics, the ancient Greek practice of *demokratia* one the one hand, and the Roman Republic and its functions on the other hand, are so foundational (Isakhan/Stephen 2016: 1).

As politically, the Renaissance epoch was not a time, where republics as such developed, it also wasn't immediately succeeded by a democratic epoch, but rather by absolutism, which also arose during the Renaissance and gained strength. However, the foregoing rebirth of *classic* ideas and absolutism as a political system favored Enlightenment and the development for rethinking ancient political systems in opposition to absolutism, overcoming also enlightened absolutism, favored in especially by the English thinker Thomas Hobbes and expressed in its *Leviathan*. This creation is to be sought one of the first social contract designs or, at least, the most common known one at

⁷ Encyclopaedia Britannica. Renaissance

⁸ Encyclopaedia Britannica. Classic Scholarship

the beginning of modernity (Román 2010: 79; Martens 2016: 71). Although supporting absolutism from a political theoretical point of view, he can be counted already as a philosopher to Enlightenment. This tells us that Enlightenment had skeptical streams towards an emancipation or democratization, as Hobbes clearly shows. Both, Enlightenment and democratic emancipation are linked, but not identical, but rather democratic emancipation rather the result of its historical development during Enlightenment.

It is also crucial to review the ideas of enlightened thinkers, which also described or developed new political models consciousnesses. This is necessary to root back our modern model of democracy as argued here, that it is based on these models with some modifications and, therefore, its main characteristics have to be regarded from a historical point of view to challenge them from our current situation.

According to Robert Anchor, the political philosophical development in Enlightenment is based in an undermined confidence into the current state by thinkers (Descartes, Locke, Pierre Bayle) at this time (Anchor 1979: 35). He also mentions, that especially in Central Europe, absolutism embraced even Enlightenment as it was rather a dispute on the cultural policy of absolutism and absolutism, as it wanted its civilization not to be seen less advanced than ancient Greek and Roman culture, embraced this part of Enlightenment (Anchor 1979: 35-36). However, as this “enlightened absolutism“ adopted the idea of science and education and did not go further, it blocked in Central Europe the democratic development (Wilson 2005: 271). Again another example, that Enlightenment and democratic emancipation are not identical.

It was John Locke especially, the probably most known representer of liberalism, gave another approach on society and the question of governance. It is therefore important to mention, as it shows clearly a further development or enlightened thinking. While John Hobbes demanded to give up all the rights of the citizens in favor of obeying the state and, by doing so, securing peace, Locke specifically talks about the rights - deriving them from his theory of natural rights - of the people. Here, Locke clearly breaks with the idea of a sovereign that gives instructions to the people and, especially, with the Hobbesian theory. He literally wrote:

“To understand political power right, and derive it from its original, we must consider, what state all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man. A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another; there being nothing more evident, than that creatures of the same species and rank, promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another without subordination or subjection, unless the lord and master of them all should, by any manifest declaration of his will, set one above another, and confer on him, by an evident and clear appointment, an undoubted right to dominion and sovereignty. (Locke 1689, §4)“.

With other word, Locke states clearly, that the natural status of the people is being free and equal and shows a clear opposite position towards Thomas Hobbes' approach of submission.

Where is the thread, the connection from the inspiration of ancient Greece and Rome and ancient ideas of democracy and Locke's liberal theory? First, one can say that both, Renaissance and Enlightenment is not the continuation of roman and greek civilization, but rather an interpretation and admiration. It could not seek the continuity, as these civilizations did not longer exist. Renaissance and especially Enlightenment sought a modern interpretation for the contemporary European world. Based on the ancient ideals, but reinterpreted for current challenges and influences such as christianity, which in the ancient times did not exist as a shaping and influencing factor in politics, the ethics of legitimation and society in general. Second, the ideals of Greek and Roman civilization were usually present among literate people

Montesquieu extended Locke's arguments, especially by adding juridically and deepened the criticism on the absolutist government (Carrithers 2001: 291).

For now, several thinkers of Enlightenment have been presented in this chapter and the connection between them and the idea of democracy or, at least, their contribution to the development of democracy in modern Europe was aimed to be shown here. This chapter has tried to examine the most important ones and their inputs on the way of developing democracy as a modern form of governance, rooted in the Enlightenment and the Renaissance, which has its roots in "rebirthing" contributions of ancient civilizations of Europe, which are the Roman and the Greek one⁹. Based on that, the thinkers continued their reflection on the status quo. It was first the American Revolution, which put into action these thoughts of enlightened European thinkers, as source of their inspiration (Holcombe 2002: 10).

The roots of modern governance philosophy by the given short introduction of some important philosophers and the historical context of reasons of their way of thinking have been exposed. We could see that absolutism is also part of Enlightenment and became part of the process of developing the idea of democracy, after absolutism failed and could not answer social and political demands of the people. The development from governance theory can be put into three important steps: absolutism, enlightened despotism and democratic parliamentarianism. However, it should be stated, that this is a very idealistic description and no clear red lined can be drawn between one epoch and an other, as transitions from one state to an other were usually fluid, also in both directions and do not necessarily replace one epoch, but it depends on each case.

Absolutism rooted in the Renaissance, underlined and defended by Thomas Hobbes' Leviathan, who himself was influenced by the English Civil War and the Thirty Years' War, although this point of view is disputed, but yet a possible explanation (Sullivan 2006: 81: Newey 2014: 30). This, in

⁹ It should be mentioned, that this chapter neither claims to be a complete historical introduction to Renaissance, nor a romanization of this epoch, as the Thirty Year's War falls in times of Renaissance and the epochal "rebirth" is not as peaceful or completely filled with a free spirit. One example, the Thirty Years War is the symptom of dogmatic implementation of christian beliefs (protestant vs. catholic) as a tool for power expansion and the following which hunts.

fact, is from our present day point of view a support of Totalitarianism with the prior aim to secure peace. Nevertheless, it's an interesting fact that absolutism became more orthodox in most part of continental Europe than in England, home of Hobbes.

Although the republic failed and monarchy was restored after the English Civil War and Hobbes' Leviathan supported the way of thinking of absolutism, England and later the United Kingdom, never became an absolutist monarchy ever again. It was not in the immediate aftermath of the English Civil War, but the circumstances lead to a position of the parliament, which was stronger than the King's one (Docherty/Seidle 2003: 6). In fact we can talk about the first modern parliamentary democracy or, at least, the first prototype. The stronger position of the parliament already in the XVII century was also crucial and definitely influential for the upcoming events in the Thirteen Colonies and, from there, in Europe or what we call nowadays the Western World. The Glorious Revolution and the Bill of Rights in gave path to some first form of parliamentarianism (Hartmann 2015: 56).

The second phase, enlightened despotism, was the embracement of enlightened ideas by some absolute leaders such as the Prussian king Frederick the Great, but yet had no fundamental change of the social or political order, that could undermine the stability of the order (Wilson 2002: 108). It also did not change after the French Revolution immediately, as Napoleon Bonaparte became again an enlightened absolutist ruler after having overthrown French parliamentarianism and so it stayed in many European countries throughout the XIX century.

4.3 The concepts of *democracy* and *nation*

However, there is an impacting caesura in enlightened political theory as it comes into action first in the Thirteen Colonies: the first implementation of democratic political ideas and the emergence of the nation as the political subject in the sphere we call nowadays the western world. History teaches us that the Boston Tea Party in 1774 was the start of the American Revolution, followed by the declaration of independence in 1776, after the demand of the colonies to be represented in the political decision making process in the political center of the British Empire was not given (Green/Stabler 2015: 856).

As the tax-representation issue was not only a symbolic, but rather a juridical-political one and encouraged by enlightened ideas of governance and participation, secession was the logical consequence of a juridical-political definition of the conflict by the colonial elite against Britain (Gladney 2014: 142). In concrete, the given fact that no representatives from the Thirteen Colonies were involved in the political decision-making process in London was seen as a violation of the Bill of Rights, which became symbolic in the slogan "no taxation without representation" referring to the rights granted in the Bill (Gillman/Graber/Whittington 2015: 52).

This means that, when the Stamp Act and finally the Tea act was passed without any political legitimation and no juridical base, as interpreted by the colonial elite, in order to preserve the

rights, secession and the American Revolution were the only way to preserve these rights. This kind of acting can also be described between the options of voice, loyalty and exit, which are discussed more profound later on.

It's interesting and inspiring to discuss the reasons for the outbreak of the American Revolution, the following declaration of independence and then its link to modern day issues of democracy, as the whole chapter aims to. The reason of this whole chapter and the mentioning is not a historical intellectual touristic excursion to the past. Treating this topic more profoundly rather shows issues of democracy, state and nationhood in a historical context. Revealing these issues gives will let emerge some kind of a *déjà-vu* as it shows that these issues are not only of historical, but also of very current relevance when dealing with the main research topic of this thesis. Furthermore, it shows, how deep rooted in a historic dimension these present issues are and how linked events, mentalities and schemes are in the western civilization and how important they have been for it.

The impact of Enlightenment and elements of the foregoing Renaissance can be clearly detected in the founding of the United States of America. A more profound discussion on the enlightened elements will highlight them.

As one could see before, the ideas and principles of certain liberties have their roots on the one hand in British parliamentarianism and, on the other hand, in enlightened ideals of certain rights and liberties. These liberties and rights were expressed prior to the revolution also by American thinkers such as Thomas Jefferson and incorporated also into the Preamble of the Declaration of Independence (Thompson 2015: 122). The breaking point also for Enlightenment was finally the installation of the republican regime in the United States of America, as it broke with the monarchical tradition of state-building such as the tradition for polities, which weren't city-states¹⁰.

When republicanism was established in the United States of America, it was on the one hand the continuity and the breaking point for Enlightenment, as it was put into action. On the other hand, the idea of modern republicanism is rooted in Renaissance thinking. A further and, especially for this thesis important aspect, is the emergence of the nation as a political subject directly linked to democracy. The outbreak of the American Revolution and its aftermath were indeed inspired by Enlightenment (Wood 2011 :191). One of the main inspiration sources for Thomas Jefferson is supposed to be John Locke's *Second Treaties of Government* and in the latter declaration of independence also Locke's *An Essay Concerning Human Understanding* (Jayne 2015 :41). Just like Thomas Hobbes, John Locke's philosophy is concerned with the human state of nature, but seeks a different solution offered by liberalism to humans, society and government (Sheldon 2001: 80). Locke also argues, that if the ruling governments violates the human rights - life, liberty and the pursuit of happiness, owning private property, enjoying the liberty of movement, thought and religion - instead of defending them, this ruler or government can be replaced by one defending

¹⁰ Although absolutism became especially from the XVII century on the common governance model on Europe, some small states preserved their democratic regimes such as San Marino or Venice, an inspiration source for latter Renaissance (Isakhan/Stockwell 2011: 106).

them (Sheldon 2001: 80). As direct representation of the colonies in Britain was refused and legal orders on taxes, such as the Sugar Act, the Stamp Act and the Tea Act were passed, this circumstance was not only seen by the elite in the colonies as unjust and not legitimized. The refusal by the colonists of such imposition from the “motherland“ was also supported by an important part of the colonists, who did not submit themselves to British rule, but fought later in the War of Independence against them.

All these statements are not just simple assumptions, but can be read in the United States Declaration of Independence. The Preamble already reflects this interpretation of liberalism, as it justifies the secession for the preservation of natural rights by overthrowing the government, that doesn't protect them and its replacement by a government, which does so. The indictment refers with accusations on the King of Great Britain. This is an interesting fact, as not parliamentarianism is mentioned, but rather the King himself and is called a tyrant. There is no doubt that the American elite was influenced by Enlightenment and had broken up completely with both, Hobbesian absolutist justification and British parliamentarianism and rule, as the preservation of rights was seen as more important to keep than a political union.

However, it was not only the violent defense of rights by both, the elite and an important amount of the people. It can also be argued, that the American Revolution wasn't only a revolution, but also had some features of a civil war between revolutionaries in favor of independence and loyalists, also called tories, who were against political independence (Berg 2013: 16).

A further event took place in the making of the United States of America: the making of the modern nation, which has been deeply examined by Seymour Martin Lipset in his work „The First New Nation“ (Lipset, 1979).

Many books have been written on nation-building and many different theories exist. However, this discussion in this chapter doesn't aim to recapitulate all of these theories and examined American or European nation-building process' as it will be done so in a chapter apart. Furthermore, in order to do a really deep examination only on that topic, several other thesis' and a lot of books and articles would be required to write. The historical recapitulation of nation-building in the United States, its impact on our mentality and Europe and its close link to democracy and state-building is one of the core topics of this thesis.

Why is the American case highlighted here in this thesis? The author of the thesis argues in line with Lipset, that the American nation is the very first modern nation based on a fundament of state, democracy and nationalism, rooting in enlightened ideas and a crucial actor for nation- and state-building which occurred afterwards, because of these principles it was built on. Calling the United States of America the first modern nation is, however, disputed. As there exist several approaches on the question of the “who“, “where“, “how“ and “why“ of the first modern nation, the author of the thesis only mentions some.

Nevertheless, although a chapter of the thesis apart regarding the concept of nation exists, it's necessary to recapitulate some parts of what a nation is, if we want to examine the link between democracy and nation, as they overlap from the XVIII century on.

In this context, we have to make a digression and introduce in short the concept of *nation*. A lot of books have been written about nationalism, its origins and its explanations and different point of views have revealed that there is not only one orthodox definition of nationalism and nation (Hroch 2005: 7)

The question on where to start to talk about nations is also mentioned in the other chapter of the thesis concerning especially the question of nation. Susan Reynolds even argues, that already during the Middle Ages, nations existed as there was a consciousness of being subject to a kingdom for instance (Reynolds 1997: 251-252). In Mark Ott's opinion, England is already in 1688 the first modern nation-state and refers especially to the constitution and even before, in 1066, as he argues, that, while a king was absent, it was ruled through agents (Ott 2012: xxiv). Otto Dann argues, that from a historical perspective, all active civilians within the republics (and the nobility in monarchies), who could demand active political participation - that means, exercising sovereignty - belonged to the nation (Dann 1991: 59). Steven M. Knott mentions that in his opinion, post-revolutionary France was the first modern nation-state (Knott 2004: 25). John Laughlin doesn't point out one modern nation, but mentions three crucial historical moments in the XVII and XVIII century, which lead to the emergence of modern nation-state and its building: parliamentary and afterwards the industrial revolution in England, the American and later on the French revolution (Laughlin 2004: 267). Lipset indeed speaks about the United States as the first modern nation and underlines his hypothesis with the argument of the legitimacy among the population during and after the (Lipset 1963: 16-17).

A legitimated question may arise at this points: why does the author follow the argumentation of Lipset rather than also the hypothesis of France or England being the first modern nation or even trace it back to the Middle Ages as Reynold does?

There are some striking arguments for. First, there is no definition of where the first modern nation can be found, as the different approaches clearly show. As one could see, the interpretation or definition on the first nation depends on the point of view of each author and the intentions behind. The intention of the argumentation here is linked to the hypothesis as the realities of stateless nations are especially linked to the democratic factor nowadays. This does not mean that the idea of a nation, linked with political aspirations, did not exist before - it did, as in Germany for example, Johan Gottfried Herder and Fichte declared (Dann 1991: 53-54). Enlightened nation-building also lead to the circumstance, that not noble families, but the masses, the people, the nation was highlighted and became the political protagonist (Dann 1991: 57).

However, the American nation-building was the first, which politically emancipated itself *en masse*, by the masses (lead by an elite for sure) and for the masses. It was the first break-through on the international level, which is a good argument to consider the American nation as the first modern one, which emerged for and by political struggle and emancipation. It was, from a political and

philosophical point of view, a democratic cause, aiming to exercise sovereignty for and by the people and not the way the *ancient régimes* in Europe, or even parliamentary monarchy in Britain did.

The making of the American nation has, as we could see, undoubtedly its roots in Enlightenment and the awareness of rights and the consequences, which appear, when enlightened theory is put into action, leads to revolution, regime change, a change of the political system and a change of sovereignty rights (Berg 2013: 17). It has, hence, its roots in England and France follows on the European continent, under different conditions, as we will see later. The medieval hypothesis is not taken into account, as democracy was not a main element of decision making processes. The case of America is linked to these democratic and enlightened values, which can be found in the debates nowadays within stateless nations.

Coming back now to the making of the American nation. Based on values of liberty and freedoms, the founding fathers took not from the beginning the solution of secession, but sake voice by still being loyal to the state. The revolution, however, broke out, because the system in Britain wasn't able to reform itself and convert its relations to the American colonies towards a common ground for the population there. Although Enlightenment and parliamentarianism have some fundamental roots in Britain, the British system didn't understand in its entirety and depth the nature of these enlightened ideas and the new gained consciousness of the people, the "new human nature", especially of the enlightened elite, and with all its liberties and rights, which these ideas included. This is why it failed to maintain its authority and this is why legitimacy shifted from colonial rule to the only exit, which could provide these liberties and rights and preserve them, which was independence.

With other words, the conflict between crown and its subjects in the colonies, who was inspired by enlightened ideas, let emerge in America throughout decades a community of values as a result and a consciousness of being such a community as the fundament of the new founded nation. This new nation emerged not from tracing back to its roots as a kingdom, but referring on rights and liberties in a subordinated colony. It was a precedent case under these conditions. The legitimacy of and by the people of this new nation can be seen during the support of the revolution and the American War of Independence against the former motherland. The nation is legitimized by fighting for the cause and the land it should be applied on, as it was the case in the Thirteen Colonies (Lipset 1963: 16).

In the past, in many countries, the terms *Volk* and nation were separated, while *Volk* included the people without political rights and both terms became a synonymous only with Enlightenment (Dann 1991: 59). When following the history of the United States and move on to the American Civil War, not the nation itself, but protecting the values of rights and liberties of the states (and peoples, regarding the abolitionist debate) comes into the focus. With other words, there has been already from the beginning of America's independence a disagreement on the balance of sovereignty powers between the states and the national government, which was also one of the

main causes of the American Civil War (Janis 2010: 183). Again, the secession of the South was in fact a *déjà-vu*, it was a similar motivation back when the Thirteen Colonies broke away from Britain in order to ensure the rights, values and freedoms, which they wanted to exercise.

Finally, the triumph of the idea of being a nation has historically led to the emergence of a nation-state, that means, usually after the internal nation-building also the external one as the self-organized aim of exercising sovereignty (Jansen/Borggräfe 2007: 28). It was, in this sense, the first case to implement a political program, which also served as its founding myth.

A second event with similar, but also several different features is the French Revolution and the emergence of the French nation as the first modern one - according to the reasons given before to regard the American nation as the first modern one - in Europe.

France existed already as a state, expanding its territory from the Île de France, before the French nation had emerged. Usually, the French Revolution in 1789 is seen as the "birthday" of the French nation, but Jean Jacques Rousseau already linked the terms "nation" and "popular sovereignty" before this event (Jansen/Borggräfe 2007: 125). However, the existence of a political nation was not necessary before, a *Staatsvolk* or a *demos* was not needed for the legitimacy of both, the government ("*L'état , c'est moi*"), which in fact was the king and his state and the existence of the French state, of France itself. Jean Jaques Rousseau played an important role influencing the thought of a nation of free and equal citizens and, by doing so, linking the idea of a nation with human rights and sovereignty, a total break with the foregoing order in Europe (Dann 1991: 57). The absence of surrounding powers of the "old order" and the physical distance to the center of power of the British Empire also made the American development more easy.

The importance of the concept of "nation" becomes especially important in France. When reading the Declaration of Independence from 1776, there is only one single mention of the word "nation". It can be found within the indictment and refers directly and personally to the king as "totally unworthy the Head of a civilized nation" (Sunstein 2003: 9). The first American constitution itself does not include the word "nation" referring to the nation as the political subject. In France, the idea of the nation seems to be stronger, more emphasized, visible in the pamphlet "What is the Third Estate?" written by Emmanuel Joseph Sieyès (Dann 1991: 59).

Different from the Thirteen Colonies, France could not physically secede from a system, which was going against these revolutionary ideas. The state, which already existed, did not have to emerge new as a polity, as in the Thirteen Colonies, but rather had to convert into a new system. Not the ruling dynasty, but the nation itself became the the fundamental part of the legitimacy of the state (Jansen/Borggräfe 2007: 29).

Without going too deep into history, it should be mentioned, that France of course was not a culturally or ethnically heterogenous state. In fact, the French state was imposed on several ethnic and cultural groups, which have been swallowed by the state, but not been fully digested, as Keating quotes in his book Braudel (Keating 1988: 33). Therefore, he suggests, France should be seen more as a state-nation and not as a nation-state, where *Franconization* - turning former

subjects and now citizens into Frenchmen - was actively and passively carried out (Kremnitz 1975: 31)

With Rousseau, the idea of nation and sovereignty was linked already before the French Revolution, but the French Revolution and its aftermath carried it out and established it (Jansen/Borggräfe 2007: 125). This fact also wasn't changed by Napoleon in France. In fact, the Napoleonic era spread with its territorial expansion and conquests also the ideas of successful national sovereignty and the linked opportunities for the masses of social advancement of the former "Third Estate" throughout Europe (Demel 2012: 95; Keating 1988: 51).

4.4 Democracy and nationalism. Symbiosis or conflict?

The differences of nationalisms between *civic* and *ethnic*, *political* and *cultural*, *voluntaristic* and *organic*, *liberal* and *illiberal*, *subjective* and *objective* overlap to a large extent (Brubacker 1999: 55). Also, the different types of nationalisms have often been only idealistic stereotypes rather than realities. The current demands for independence in Spain, Belgium or the United Kingdom for example question the idea of that *Staatsnation*, which is sought to have emerged by redefining the nation-state, but rather developed to justify the existing state (Jansen/Borggräfe 2007: 119). France, usually taken as one example of such civic, liberal, political, voluntaristic, subjective, has shown to have imposed from the center its political agenda of its idea of the nation upon cultural and ethnic groups throughout centuries (Keating 1988: 33). Germany, usually taken as the ideal type as an ethnic, cultural, organic, illiberal and objective nation, hasn't been that either, regarding the nation-states, Germany has been, usually with small amounts of national minorities, especially in the eastern Prussian provinces, where in Posen Province, for instance, Poles made up the majority. With other words, Brubacker argues that ethnic nationalism is, on second sight, in fact based on culture and would, therefore, also fit into the civic scheme, what would make it so heterogenous, that it would not be useful anymore and civic nationalism also includes in its base unifying cultural components (Brubacker 1999: 60-61).

4.4.1 Poland - democracy and nationalism

It hasn't been only the existing state and the state-nations, which couldn't fully identify with one of these main trends, but also stateless nations. Before coming to the current cases, an in fact well known, but usually left aside case should be briefly introduced: Poland.

Poland itself has been several times a stateless nation, the longest time during 123 years, when the state territory was divided between Prussia, Russia and Austria-Hungary. The absence of a Polish state and its institutions did not make the Polish nation disappear either. The existence of a Polish nation was not questioned, as support in the XIX century by German liberals for the Polish cause, and from the states' side *Russification* and partly *Germanization* emerged puppet state was reestablished by Germany and Austria-Hungary in 1916, show.

This could not be possible, if pressure and support in Poland for restoring a state wouldn't have been there. It means that being a nation, although not visible on the map due to missing institutions, recognition and an existing own state, has been linked also in this historical example with political representation and sovereignty, and not a satisfaction with being recognized as a cultural group with some representatives in the German Reichstag prior to 1914 for example.

Nevertheless, Poland did also not fulfill its minimal demands - being restored or, in modern terms, established as a nation-state. Polish ambitions already in the XIX century did not aim for a cultural-ethnic based state (although Poland is seen also part of the ethnic-nations), but rather to restore a Polish state with ethnic and cultural arguments, but in fact implementing (and later on obligate) a civic state nationalism agenda (Kamusella 2007, 290-291).

The tensions, which emerged from these contradictions within the multinational Polish interwar state, could only be diminished after the expulsion and the ethnic cleansing of millions of mostly Germans after 1945. However, Poland still has not become the ideal ethnic mono-national state, as the (re)emergence of Silesian and Kashubian identities reveal. With other words, the initial aim for self-determination and physical representation has been replaced with expansionism.

The example of the former stateless nation of Poland shows, that the initial ideas of being a self-governing nation changed, when the modern nation-state was created in 1918. Those initial ideas were left and instead, classic state-nationalism has been adopted since. Only a look on the treatment of minorities without this new and modern nation-state proves that. The offer of political and fiscal autonomy for Upper Silesia to convince the Silesian borderland population to advocate for Poland during the fight for the region between Poland and Germany and respecting local customs and national realities was slowly repressed and eroded (Myśliwiec 2013: 181; Service 2013: 155). After the Second World War, Poland reinforced its *Polonization* of autochton Silesians, Germans and other minorities by denying their existence and forbidding the use of their language and customs (Kamusella 2011: 773).

The tension between nationalism and democracy in this case is obvious. When Poland tried to convince Silesians to vote for them in the 1921 plebiscite, it promised not only to accept the outcome, but also to provide Silesians with fiscal and political autonomy (Service 2013: 155). It came out to be a trap and the democratic promises made by Poland, such as the democratic will of the local population was replaced by state-nationalism. In the aftermath of the Second World War, autonomy was officially abolished (Myśliwiec 2013: 182). Centralization and *Polonization* put an end to both, the continuation of multinational characteristics of this territory and the political idea of autonomy (Myśliwiec 2013: 182). However, *Polonization* did not only focus on Silesia and autochthons, but also affected the local German minority, Ukrainians, Belorussians and Lithuanians (Statiev 2010: 36; Service 2013: 243).

Poland as a state did not follow the pure idea of being a state respecting, and especially after 1945 not even recognizing its multinational realities. When the creation of a Polish state in 1919 was

closely linked to the right of self-determination of the people, it ignored or slowly abolished it, especially after it left the democratic system latest with the coup of 1926.

In fact, Poland - as a former stateless nation - not only abandoned both, the path of democracy and the right for self-determination, but copied state-nationalism as France did, a state, which never ceased to exist and carried out since its creation, but especially since the French Revolution, a francization (Kremnitz 1975: 31). The interesting fact is that France continued doing so when it put democratic institutions and systems into action from 1789 on. So does Poland, when ignoring manifestation of Silesians for recognition as a nation or an ethnic minority.

One interesting example in this context should be mentioned here. The Polish Duke Eduard Raczyński mentioned at the beginning of the XIX century, that Poles as a nation would be endangered, if the Prussian constitution would be hold in a "German spirit" (Keller 2007: 283). Furthermore, he argues, such a constitution would be the same for the Poles what the Spanish constitution is for the Basque People (Keller 2007: 283). After the German Empire was established in 1871, a descendent of Duke Raczyński mentioned that Poles could have become Prussians, but never germans (Keller 2007: 283).

The change of ambitions here is obvious. It is clearly linked to the factor "nation" of a state and also the position of strength of the nation. Prussia as a political identity and as a political order for room of Polish identity was for Raczyński acceptable, even for his descendant. However, when the political power structure changed in 1918, Poland did not establish a state as demanded by Raczyński while under Prussian rule, when Poland's position from a stateless nation to a state-nation changed. The own comparison with stateless nations as the Basques was gone and, as it seems, also forgotten. Instead of accepting and including other political and cultural identities by not imposing a nation-state identity and structure, the newly emerged Polish state adopted the same pattern, the same contradictions and the same grievances it suffered itself and that now other identities had to suffer. The Polish examples shows clearly, that also during democratic times, the nation-state favored and supported the national factor rather than the democratic one.

4.4.2 The United States of America - democracy and nationalism

When having a look on the foundation of the United States of America as the first modern nation based on democratic principles, we can also see that the idea of democracy was not only limited and took some decades of evolution, even a century and a half, before all citizens had equal rights. It seems quiet interesting in the light that the responsible ones of the Nuremberg Laws such as Wilhelm Frick were judged and sentenced to death at the Nuremberg Trials in 1946. At the same time, discrimination based on racial features was legal in the USA. Segregation and other instruments among others summed up as the so called "Jim Crow Laws" worked until the late 1960s, when under the pressure of the Civil Rights Movement juridical discrimination was abolished¹¹ (Tischauer 2012: 159). From an objective point of view, both cases however have to

¹¹ Civil Rights Act of 1964 and the Voting Rights Act of 1965

be regarded in a very different context in their intensity. Nevertheless, while the United States of America sentenced those who introduced racial segregation laws and having discriminative jurisdiction at the same time in the own country shows the gap between their demand and their very own reality.

While democracy and civic rights were the base of the founding myth of the United States of America in the XVIII century, the first 80 years also show that the idea of democracy and nation in the United States of America was not a unitary one. In short, the outbreak of the American Civil War showed the cleavage of the Southern and Northern States not only in economical terms, but also in understanding democracy and its linked rights.

While the Confederacy was composed by states, which stressed that their sovereignty existed prior to the American constitution and that their sovereignty had never been surrendered to it, the North defended the idea that one American government and one American constitution meant also one American people (Jackson 2007: 79-80). The idea of sovereignty, democracy and nation was finally solved and settled with a high, bloody price by the American Civil War. Although the American Civil War emerge due to numerous, interacting and influencing reasons and is of complex nature, details unnecessary for the examination of the initial constellation of questions will not be highlighted. In the context of this chapter, the idea of implementation of democracy, its understanding and its execution is in the focus. Here the state's-right debate arises automatically (Stamp 1991: 59). In this debate, questions of hierarchy and relation between the states and the Union, the nature of the Union itself, interpretation of the constitution and the linked competencies were interpreted differently in the states who later composed the Confederacy and the North, the Union (Stamp 1991: 59). The Confederacy itself also wasn't sure about the clear arrangement of state's rights, which probably was a militarily weakening factor (Beringer/Hattaway/Jones/Still 1991: 203-204). Despite that, there is a fact that disobedience to the Union has also its roots as southern societies defended the ideas of being different from the Union, regarding themselves as different entities, with different realities and therefore different interpretation of the nature of the Union, equal, yet different from each other. The states in the South had their very own reasons to split from the Union and justified secession with their interpretation of the constitution and the declaration of independence on the basis, that the states have the right to be free and independent (Stamp 1991: 60). The Union could not manage to solve the demands as a Union politically on a democratic base but only militarily with the defeat of the confederate armed forces in 1865. This implemented also the enforcement of the northern interpretation of the nature of the Union and settled this issue by force.

When the United States of America struggled for independence from Britain, independence was also the *ultima ratio* to fulfill what the founding fathers, backed by the majority of colonists, sake, what they interpreted as their very own natural rights (Thompson 2015: 122). Britain would not negotiate with the colonies as it simply did not recognize these interpretation and laws as natural, but rather defending its own interpretation as the rightful possessor of the colonies, that had to

defeat a revolt of disobedient citizens. This way of acting reveals some striking similarities when the Union was confronted with the southern secession.

With other words, the United States of America, the first modern nation based on democratic principles and a series of enlightened rights, adopted a similar pattern of response as Britain did some 85 years¹² before, a state not based on the same democratic principle and values. When a democratic solution didn't seem possible and a secession unacceptable, not recognizing „the other“, the southern states, but fighting the other was the only option left from the point of view of the Union. While the Thirteen Colonies highlighted their state's rights and defended them militarily against the British during the war of independence, a similar movement from the southern states was militarily responded and defeated.

4.4.3 France - democracy and nationalism

France was the first modern nation-state and state-nation on European territory based on both linked concepts, the idea of the nation as the sovereign and the only responsible of its own fortune and future by the idea of democracy and its enlightened values. The idea of France becoming a nation and the sovereign within the country is similar to the declaration of independence of the Thirteen Colonies. In 1789, the people of France also started a revolution, the French Revolution, in order to overthrow the existing system, as the demands and the values of the people neither matched with the system, nor could they be reconciled with it. Differently from the Thirteen Colonies, France could not become physically independent from its own territory, but became independent from its system by completely overthrowing it. However, the new French state quasi adopted territory and built up its new system, with its own administration, but with the old population of France (Keating 1988: 33). It was no complete *tabula rasa*, but revolutionary France knotted some features of the old with the new France (Sparwasser 1986: 51). The new French state, built on the principles of democracy and enlightened values, did not overthrow everything which was started in the monarchy, even more, several things were carried on and intensified. On a territorial-administrative level, the monarchy had already reached a high level of centralization (Sparwasser 1986: 21). The new introduced, purely functional and not historically grown administration focused even more on Paris, center of the revolution, as the older *parlements* were replaced by regions, departments and communities and, by doing so, the political entities of the prior administrative areas abolished (Sparwasser 1986: 54, Kuhlmann 2008: 3, Brunn 1998: 311). By doing so, France acted to unify the nation and, in order to secure and continue the just won political revolutionary changes and to expand it over the whole country, to establish on a consolidated territory the indivisible republic (Kuhlmann 2008: 3, Keating 1988: 49).

France, hence, was not willing to acknowledge political, social, ethnical, national, historical or economical differences on its territory but rather sake to unify and to uniform the nation by a unitary nation-state. Its advocates were the Jacobins. Early tendencies of federalization, lead by the

¹² The war of 1816 is on purpose not mentioned here.

Girondists, were successfully kept down by spreading the idea of Girondists and federalism was equal to counterrevolutionary, monarchist and separatist and, by doing so, discrediting the idea of federalization (Sparwasser 1986: 59, 70). Post-revolutionary France did not change its position in the aftermath, neither as a monarchy, nor as a republic.

The idea of self-determination of the French people by becoming a political nation and the establishing a new political order, based on democratic principles and enlightened values, was only applied for the French nation. The masterpiece of expression of that is the Declaration of the Rights of Man and of the Citizen in 1789. It is also the perfect example of the unification of nation and the state. The Declaration of the Rights of Man and of the Citizen limits these universal rights to be applied only within the French state and ties it directly to it, as the first sentence of the preamble clearly states, that this document is a document declared by the representatives of the French people. Already before, but especially after 1789, France wants to be more than a people, a *Volk*, it wants to be a nation and already with Jean Jacques Rousseau, the term „nation“ was linked to „sovereignty“ (von Thadden 1994: 496; Jansen/Borggräfe 2007: 125). Furthermore, the word “Égalite“ within the national motto of France “Liberté, Égalité, Fraternité“ resembles the equality also of France’s ethnically heterogenous population, freedom in a revolutionary spirit and brotherhood of different people (Jansen/Borggräfe 2007: 119).

France, hence, hasn’t only tried to play down the different realities and demands especially of its state peripheries. These differences have been reduced completely despite their importance and from groups with different political realities *de facto* has been taken away the possibility of exercise the political will and transform it into action, as they have been negated in their existence as such groups.

With only some historical examples, which explain the rise of democracy as an important part of our mentality of statehood and its link, we can strike the arc to modern democratic nation-states. There are plenty of examples of states, which claim to be democratic and the idea of democracy has definitely in its roots inherited by the foregoing events in the USA or France or adopted from them. Indeed we can see that state and democracy can work and develop together, although interpretations of democracy might be different and even internally disputed. The conflict arises when the idea of the recognition and the management of political subjects comes up. But it is also the exact moment, when democracy as a governance form emerges practically. With other words, the idea of nation as it has been the leading political subject when it comes to our world shaped by the thinking of nation-states.

As the explanation of the development of democracy linked with the state is incomplete to explain the roots of conflicts between unrecognized political subjects (stateless nations) and democratic nation-states, the development of the idea of modern nationalism and the nation-state will be displayed.

4.5 Conclusions

After having examined the term and the genesis of democracy, there are following conclusions, that we can draw from it. First of all, democracy as a concept for state has been kept alive by the city states in Italy for instance, but only with Enlightenment, rooted in Renaissance, which itself draw an ideal image of antiquity as a role model to follow, it became an idea for governance, which only developed itself during absolutism and its unsatisfactory policy for enlightened thinkers. As a concept of governance, it is undoubtedly linked with the state, which after 1648 became *the* polity reference in the international world system and is still today. Only with liberal thinkers - in this chapter we analyzed John Locke in opposition to Thomas Hobbes, the idea of a natural state of equality of all individuals was conceptualized, carried on and developed further. This claim was incompatible with the existing order, as personal liberty was limited and equality denied.

The American Revolution introduced two concepts: first, the concept of democracy as the governance system of the United States of America. Second, this system was inclusive to the majority of the inhabitants of the colonies and turned the masses of people, the third estate, the *nation*, as Sieyès later called it, into the sovereign. This example was followed and introduced in France by and since the revolution and expanded with enlightened ideas and values such as the nation as the mass and the third estate as the ultimate source of legitimacy of a government. Thus, the idea of freedom and sovereignty could only be implemented in a system of equal influence on the policy making process by all citizens of the nation, which was chosen here democracy for and by the nation as the political subject and the state as its framework. The starting events for nation-building can be seen the bourgeoisie and the industrial revolution as vehicles, the Enlightenment with roots in Renaissance and its resulting ideas of nation, exercising sovereignty, human and natural rights and a democratic principle by throwing over the old order (Dann 1991: 58).

One can argue that this only counts for the civic or voluntary model of nation-building and nations and not for the romantic, ethnic-based nation. This criticism is, however, not fully justified, as also this kind of nationalism has developed the idea of exercising sovereignty for *all* its members and included the idea of human and natural rights, especially since democracy has been introduced and defended as the only legitimate political system.

However, the concept of democracy is not everywhere the same, it can and is interpreted differently, sometimes even mocked. The German Democratic Republic was neither democratic, nor a republic from a liberal perspective. Same can be said about Democratic People's Republic of Korea. Both examples show that elections alone don't make a democracy, but the lived liberal democratic values are, what makes it a democracy. Democracy comes in different shapes and depends on the epoch and the sociopolitical or geopolitical context. A presidential system can be a democracy just as direct democracy can be - or not. It also depends on the point of view and the personal opinion of the observer. Democracy is also not a fix concept, but it has been and it still is developing. It can for example become more inclusive, such as in the United States of America and also allow women or racial minorities to get access to the same rights in order to participate in the democratic policy-making process as the group, which first was granted this right and seen as

the *third estate*, the nation in a political sense. On the other hand, the nation can voluntarily decide - as the sovereign - to renounce democracy as a tool of governance for and by the nation as the sovereign and allow dictatorships, as happened in Europe during the XX century.

Different interpretations of the concepts of democracy and nation can and have already lead to conflicts, especially within nation-states, when stateless nations demand the implementation of the same right, especially when it is democratically expressed. The emergence of *double majorities*¹³ is an important factor here to measure the liberal interpretation of democracy. If liberal theories state the equality of individuals and individuals, as imagined communities, forming nations (the political subject) asking for the recognition as equal ones (especially when it is democratically expressed) and the nation-states simply denies it, we can state that the nation-state does not act in the tradition of liberal theories of the state of nature as free and equal, although it claims to do so by granting individually these rights. Democracies do have different positions on understanding internal plurality and have found strategies to deal with them, whether they be oppression, ignorance, devolution, federalism, autonomy or a *de facto* recognition of stateless nations as equal political subjects with the same rights. With other words, individually granted freedom, which means liberal rights, but the limitation of those towards a groups is a contradiction and delivers a high potential for conflicts, which arise between nation-states and stateless nations due to the different interpretation by the nation-state and the stateless nation. One could get a taste of these different interpretations and the shift of these interpretations in three analyzed examples above. These contradictions are currently present in democratic nation-states. An examination of these conflicts and especially the concepts of democracy, nation and state are undoubtedly required. Therefore, the conflict of these different interpretations, especially when democratically expressed, will be examined in a chapter apart in this thesis.

¹³ This concept relates to a democratic occurrence in states with plurinational demands, where the stateless nation is democratically on its claimed territory a majority, while being in the polity a minority. In further chapters, the circumstance of double majorities will be discussed.

5. The genesis of the nation

5.1 Introduction

As the evolution of democracy and the evolution of the state, the evolution of the nation could fill books and has also done so already in the past. Many prominent researchers, politicians and philosophers have given their standpoint on what *nation* and *nationalism* is. Given the variety of the standpoints and theories, and as usual in social sciences, no single definition of what the *nation* and what *nationalism* is, exist. Also, each nationalism is not only different in its building, its circumstances and experiences, but also in the position in which it can find itself. In the following, our aim is to analyze the genesis of *nationalism* and the *nation* as a subject on the socio-political scene as it is important for us to understand it in the context of this thesis. First, a review on the existing definitions on nation and nationalism will be conducted. Not every single detail will be highlighted, but a series of the most notable and prominent selected definitions and underline their specific point of view and factors. This will provide an idea of the variety of definitions and the different standpoints on what a nation and nationalism is and helps in this context to understand the conflicts which can emerge especially in plurinational states and spheres. Further, a historical review on the genesis of nation and nationalism will deliver information on understanding of the concepts of nation and nationalism (as there exist many) from Antiquity to the present.

5.2 A review on the existing definitions on nation and nationalism

Nation and *nationalism* are undoubtedly linked with each other as already the names tell. The variety of thinkers, researchers and politics is immense, but usually there are some reference position in this wide and plural field of opinions, criteria and positions for both linked terms. Given this variety, which will be displayed with some prominent definitions reveals a series of problems concerning the investigations on nationalism, among others the specific, political and cultural standpoints on the definition of the term “nation“ such as the way of perception of this term from the internal and an other external standpoint, but also the meta-ideological quality of nationalism, which can create a position, that legitimizes as a strategy the unification of contradictory positions (Kunze 2005: 17). Definitions usually tend to have monocausal explications as they usually stress a certain historical or functional aspect (Kunze 2005: 18). Therefore, as Kunze argues, the approaches coming from specific contexts are indispensable for investigation, but only limited useful for the application on different cases of historical experiences and national cases (Kunze 2005: 18).

Nevertheless, a distinction into different groups of approaches is possible and has been done. Three ideal types of theories to define this phenomenon can be distinguished: The subjectivist definitions, objectivist/substantial definitions and deconstructivist theories.

Subjectivist definitions depart from the standpoint that nations are communities, which exist on a fundamental consensus of their particular members - they share the idea of belonging together to the same community and separately from other communities, which are founded on the same fundament of being convinced to belong to one specific community, an imagined, but not imaginary community (Jansen/Borggräfe 2007: 11; Anderson 2006: 6). One prominent example of such subjectivist approach and definition is the pamphlet written down by Emmanuel Joseph Sieyès in his pamphlet "What is the Third Estate?". The nation, according to him and from a subjectivist point of view is the nation „(...) *A body of associates living under common laws and represented by the same legislative assembly etc.* ."¹⁴. There are no objective criteria for that definition on the nation, but the subjective will decides theoretically. One can join a nation, as it is in this case an act of conviction (Jansen/Borggräfe 2007: 12). Ernest Renan mentioned in this context that the nation is a daily plebiscite, which means that there are no objective circumstances, that make the nation existent, but the free decisions made by the people to form that nation (Jansen/Borggräfe 2007: 12). It means that there is a sincere will to belong to this imagined community. Renan's metaphor can misleading yet, as Michael Billig argues, as the people do not consciously decided to be members of that constituent nation, he argues (Billig 1995: 195).

At this point, we should also introduce the term of *Willensnation*. *Willensnation* is one of the three ideal types of nations along together with *Staatsnation* and *Kulturnation*. This kind of national community does not view criteria such as the cultural or ethnic background as important factors on whether one can be part of the nation or not - ethnic or cultural homogeneity is hence not important for national unity, but the free will of forming this community (Jansen/Borggräfe 2007: 145). One can argue that the idea of this subjective *Willensnation* can also be challenged as a scientific fact, but rather classify the orthodox and literal definition as a fiction (Estel 2013: 27). The reason therefore is that there is a lot more needed than the pure individual yes or no to the existence of the founding or the dissolution of a nation, more like identity and identification with social conditions such as the collective memory, common and shared values, myths and symbols - in this framework, it gets some sense in a social scientific sense (Estel 2013: 27). There is a crucial importance of myths and war for modern nation-building, that means its not only based on rationality but also in simplified, romanticized and idealized identity or identity-linked ideas, which were appropriated by a certain group (Langwiesche 2004: 14).

A typical *Willensnation* is usually seen in the making of the Swiss nation and the Swiss nation-state. This, however, can partially be classified as a myth in the sense that the Swiss nation is only based on the pure will of coming together as a nation within a political framework in the world of states. When the concept of the nation was linked with the state in the XIX century and nation-building in a modern sense emerged, it was already limited to the given constitution, who defined, who was part of that nation and national of the state at the same time. This means that an individual choice of forming part or not existed only in theory, but in practice the individual liberty has been limited, also regarding tight immigration and nationalization processes.

¹⁴ The english transcription is available at: <http://pages.uoregon.edu/dluebke/301ModernEurope/Sieyes3dEstate.pdf>

The subjectivist/substantialist approach of what a nation is departs from objective criteria defining a nation and not from subjective ones (Jansen/Borggräfe 2007: 12). In a nutshell, nations differ from each other by factors, on which the individual has no influence and it is not the individual, on whom depends the belonging to a nation or not, but the nation and its objective characteristics, which decides on the belonging of an individual to that nation or not (Jansen/Borggräfe 2007: 12). Such criteria are culture, language, history, ancestry, a common coherent territory of settling of this specific group. An individual has to be born in this context and can not decide freely to join it and, by doing so, becoming a full member of this community. In the XIX and XX century, physical differences between the groups, even though belonging to the same of the three major races, were by scientific approaches attempted and racial ideology linked with social darwinism did not lead only to supposed clear distinctions, but also to genocides as we know from our very own European history (Jackson/Weidman 2004: 95). This implies that all people are only belong to one specific nation based on these objective criteria and not on the free will (Jansen/Borggräfe 2007: 12). However, a subjectivist or substantialist approach to the nation is not only reserved to the extreme right wing, but can also be found in marxist and liberal approaches (Jansen/Borggräfe 2007: 13).

In this context, we should also add the term of *Kulturnation*, which goes in line with the subjectivist or substantialist approach of the definition of the nation. This term from an objectivist approach emerged in the XIX century, defining a common culture as the common ground for the nation and as a counterexample to the already existing *Staatsnation*, as it was France since the revolution. No wonder that the German nation has been seen as the example for a *Kulturnation* in the socio-political and historical context of the XIX and XX century (Dann 1993: 48).

Here, the most important thinkers, especially in the Central European context, were Gottfried Herder and Johan Gottlieb Fichte. Fichte, in the light of humiliation by French defeat and occupation under Napoleon sought the language and culture as a unifying tool and vehicle to restore or even establish a German nation in a modern sense as a political subject (Wood 2016: 25).

Gottfried Herder has been seen as the father of cultural nationalism and in the context of a missing political unity and, thus, the German nation not being able to be defined as one political subject, but divided into states run by monarchs, he regarded those political entities as a tool, which artificially divided the German nation, based on common language, history and culture, including a national spirit and a national character (Koepke 2009: 221).

Both thinkers did not have an impact only on the German nation-building, but in general on the ethnic or cultural nation-building and this kind of understanding the nation, predominantly in Central and Eastern Europe (Jansen/Borggräfe 2007: 13).

The German case, however, is as other *Kulturnation* cases as well problematic, as it includes the claim of including all those, which can be summed up under the same criteria, ignoring the will of certain groups of belonging to this nation or not. in this case, the German Swiss people would find themselves in an overlapping situation, where they would belong by their free will to the Swiss, but

culturally based on their language and their belonging in the Middle Ages to the Holy Roman Empire to the German nation. More recently, Austria would emerge in that context, but this would be a thesis for itself and shall not be discussed here specifically. A further example is the Polish nation. As being a stateless nation in the whole XIX and partly XX century, it was the church and the language especially, which made Poland sticking together as a *Kulturnation*, as religion and language are cultural factors, struggling for recognition and the restoration of a Polish state (Jakelic 2012: 168). This Polish *Kulturnation*, however, also developed the claim to include all those who might seem eligible to be Polish in order to claim territory for a later creation of a Polish nation-state. The nation-state of 1918 of course did not cover up only those, who claimed themselves Polish, but included a huge amount of minorities, which were claimed to be Polish. These examples show us clearly, that a *Kulturnation* can exist without a state, but keeps developing a claim for creating a state, a nation-state including all the nationals, which are objectively members of the cultural or racial national community. A nation of this kind has therefore not only the claim to exist, but also to organize itself politically on a territory with state structures, independent from other nations and their states.

If we mentioned already Poland as a stateless nation of the XIX and the XX century, it is also interesting to have a look on the Basque case. The Basques are nowadays a stateless nation in the sense of the absence of a proper nation-state independent from France and Spain. Historically, the Basque nation was also seen as a *Kulturnation* externally and internally as well. Externally due to their language, but also defined by racial features, as the fashion of the XIX and XX century was by Wilhelm von Humboldt for instance (Christmann 1984: 87). Internally, in concrete by Sabino Arana, founder of the Basque National Party *PNV*, the Basques were also seen as a separate race from the other Iberians and other French races from a biological and social racist point of view (Eser 2014: 183). The idea of races was at that time a common way of ideological thinking to explain and to order the world and the human beings into a mathematical system also in the Basque Country (Seidel 2010: 15). This nationalism, however, has shown that it is also possible to make a development from a *Kulturnation* towards a *Willensnation*, from ethnic to a more civic nationalism (Brown 2003: 80). Nevertheless, a state-building process from the civil society and Basque nationalist politicians has been legitimated in the Basque Country by popular vote and is, with the predominant demand of proper recognition, an actual topic.

A third approach on *nationalism* and the term *nation* is the deconstructive approach, which emerged in the 1980s (Jansen/Borggräfe 2007: 14). This approach sees the nation as quiet modern phenomena, which are as imagined communities inventions or constructs and linking them to the process of industrialization and modernization (Schlembach 2016: 17). The most prominent researchers from that approach are probably Benedict Anderson (1983, 2006), Ernest Gellner (1983) or Eric Hobsbawm (1992). Only some prominent representatives are named here, not to discuss as a main goal their approaches here, but to reflect the deconstructive approach on nation and nationalism and to make clear, what this approach resembles. We will now have a look on the essence of what the deconstructive researchers argue on nation, nationalism and national identity.

Eric Hobsbawm and Terrence Ranger wrote in 1992 a book on these topics with an deconstructive approach, calling it "The invention of Tradition" (Hobsbawm/Ranger: 1992). On the very first page of the book, the reader gets confronted with the main concept of both authors:

"The term 'invented tradition' is used in a broad, but not imprecise sense. It includes both 'traditions' actually invented, constructed and formally instituted and those emerging in a less easily traceable manner within a brief and dateable period - a matter of a few years perhaps - and establishing themselves with great rapidity (Hobsbawm/Ranger 1992: 1)."

Hobsbawm and Ranger hence argue that the traditions, on which the nations is built, are invented in order to create a national character and rites for national identity by repetition as a national memory tying the newly emerged or invented tradition with the past (Hobsbawm/Ranger 1992: 1). With the introduction of these rites, symbolism, traditions, a certain set of norms and values is transmitted (Hobsbawm/Ranger 1992: 1).

Nevertheless, one can argue here that these rites have also in the past become a natural ritual and, therefore, have become national distinctive features in culture and identity and are seen as naturally part of certain national identity.

Benedict Anderson argues, that a nation "(...) *is an imagined political community - and imagined as both inherently limited and sovereign (Anderson 2006: 6).*" He argues that these communities are imagined, as even in the smallest nation, all members will never know each other as it might be the case in a club as a community, but which yet regard the members as members because they believe they belong to the same community (Anderson 2006: 6). This, nevertheless, also happens in communities, which go beyond the size of small villages. A nation, hence, is *limited*, as it never includes all humanity, but has its boundaries defined by different reasons (Anderson 2006: 7). There is always an *other* one, a different nation beyond the own boundaries. The nation as a community is also sovereign, as it imagines itself as such, rooted in Enlightenment and the emancipatory developments since then. Finally, as he argues, the idea of being a community is also imagined, not only because each member will never know all the other ones, but because there is a *comradeship*, based on this imagination, which creates a strong bond of identity and the idea of belonging together (Anderson 2006: 7).

The third of the selected, probably best known representatives, is Ernest Gellner, who published in his book "Nations and Nationalism" (1983) his point of view on the nation and nationalism. He argues that "*Nationalism is primarily a political principle, which holds that the political and the national unit should be congruent (Gellner 1983: 1)*". He also links the principle of nationalism with sentiment, which can be stimulated (Gellner 1983: 1). The concept of nationalism is furthermore or, as he said, "(...) *what really happens (...) (Gellner 1983: 57)*" imposed as a high culture on low cultures, replacing them by establishing of a society marked by anonymity and impersonality, creating an atomized society hold together by a shared culture of this kind (Gellner 1983: 57). Reading his work, one can come to the conclusion that creating the nation via the concept of

nationalism is driven by homogenization of education, language, culture within a monitored process.

Regarding the deconstructivist approaches, there are no original nations, which can be uncovered by discovering common roots for example, but they are social and cultural constructions by imagination (Schlembach 2016: 17). In this context, *imagined* should not be confused with *imaginary*.

After having given this short introduction on the main types of approaches on the understanding of nation and nationalism, we should also remember that the ideal types of nations - *Kulturnation*, *Willensnation*, *Staatsnation*, also in combination with the particular civic or ethnic nationalism never appear in pure state, but usually also include elements of the other. Swiss nationalism, for example, which is supposed to be a pure civic *Willensnation* model, does have cultural features. When we think of the Swiss and Switzerland, despite its direct democracy and multilingual plurality, cultural stereotypes cross our minds, simplifying and reducing realities by cultural homogenization, but at the same time also reflecting realities, which exist there.

The *Staatsnation*, as France is supposed to be for example, has swallowed, but not fully digested cultural and ethnic minorities, even nations as such Corsica or the Basques for instance (Keating 1988: 33). Although the idea is that France constituted itself after the French Revolution in 1789 as a nation in a pre-existing state, it was in large parts a *Franconization* and nationalization of the populations and peoples of the territory (Kremnitz 1975: 31, Weber 1976: 95). This supposed free will within one state also becoming a nation is a myth, as the methods and the systematic nationalization of France show. Also, this state-nation includes - besides the for sure also existing free will of some - a cultural aspect. Language policy was in France an important issue since even in 1871, between 70%-90% of the Languedoc for instance was most likely monolingual Occitan and more than one quarter of the Departments included communes which were not francophone (Keating 1988: 50-51). Even in 1979, some 25% of the population in France was not only French speaking (Kremnitz 1975: 14). It's very likely, that for Alsace, the numbers are similar or even higher. This has changed especially over the last decades, but has its roots in oppression and *Franconization* especially since the French Revolution. "Diderots Encyclopédie", a general encyclopedia published in France in the XIX century, also goes in line with the subjectivist approach, stating that a nation are, hence, the people of a state under one common government and common laws, which are the crucial factors for being a nation and what defines the term "nation" into a political term (Schieder/Dann/Wehler 1991: 58).

The myth of the purity of the German nation as a homogeneous *Kulturnation* is also striking especially in its border regions. Clearly Slavic speaking¹⁵ areas were during the rise and the consolidation of the nation-state under Prussia's rule declared culturally German, although the areas were either ethnically mixed or in some parts predominantly Polish, Danish or French. On the one hand, to claim in the light of industrialization precious regions with a high industrial value, on the other hand to consolidate the Prussian lead nation-state in its actual extension, which are clear approaches of the ideal model of state-nations.

According to nationalism, the world is divided into nations, which already pre-exist due to objective factors, either ethnocultural ones or the pure existence of a state and a government, or can be formed, imposed or willingly, within a bottom-up process, by subjective factors in imagined communities (Jansen/Borggräfe 2007: 19; Anderson 2006: 6). These communities are usually reduced and, such as states, personified within single prototype as a representative for the whole community. This thinking also has an impact on the field of theories of international relations, as the image of the world is built up on those communities, whether organized in states or not.

If the world, hence, is divided into nations, each individual has to belong to a nation and, even though there exist dual citizenship or sometimes people with even more or more abstract ones (such as the European Citizenship within the EU), within states, an individual can belong to only one nation. Depending on the point of view, it's either from an objectivist approach already predestined - the state-nation nationalist would argue that each individual within the borders are part of the state-nation, the ethnocultural nationalist would argue that each individual has to struggle to reach political recognition with an own nation-state, even if this means on the cost of existing nation-states as they are seen as foreign occupations and even hostile (Jansen/Borggräfe 2007: 20). The subjectivist approach would state, that it's a personal choice, a conscious election by each individual, decided in a "daily plebiscite" (Jansen/Borggräfe 2007: 20).

What nationalists usually have in common is, despite different approaches and definitions, is the idea, that the imagined community of the nation has a higher value, as it goes beyond class, religious, gender, political, educational or any other divisions and demands loyalty (Jansen/Borggräfe 2007: 20).

As one can see, the broad variety makes it basically impossible to come to the conclusion of one definition besides the fact that it is all about one and more communities, which exist especially due to imagination and call themselves nations. This broad variety of definitions have in history let emerged a variety of conflicts based on different perceptions and definitions on the nation, but has also influenced the different nation-building processes, as the idea of a nation leads to the idea of the creation of a nation-state in the end of its building development as the external nation-building

¹⁵ The author makes a clear distinction between Slavic speaking and Polish speaking communities in a national sense, since it is also a myth, that the former German eastern parts were purely Polish speaking and inhabited. Besides Polish nationalist claims and Prussian ignorance, there has been no evidence whatsoever to support this claim, but historical and recent facts, especially in Kashubia, Upper Silesia and Masuria stress the hypothesis to distinguish between Slavic dominated and clearly Polish dominated areas, as they existed in Greater Poland for instance. This, however, is partly treated in a particular chapter of the thesis.

(Jansen/Borggräfe 2007: 28). The internal nation building process is based on different mediums such as rites, flags, symbols, monuments, myths, anthems, usually used or even invented by organizations such as parties or other organizations (Jansen/Borggräfe 2007: 29). The psychological reasons of why these mediums function require a separate investigation, that would go beyond our possibilities and go astray in our particular investigation here. Of course these processes follow different patterns and schemes, which makes it also impossible to talk about a pattern for nation-building based on general criteria (Jansen/Borggräfe 2007: 28).

The aim of external nation-building is the consolidation of a nation-state, where three ideal types exist: the revolutionary one, which aims to reinterpret and reorganize the state; the unificatory, which is the union of smaller entities within one state; the secessionist type, in which one nation secedes from an already existing state in order to organize itself within an own state (Jansen/Borggräfe 2007: 29). Usually, contrastive pairs are used to reflect these types, which are usually *civic vs. ethnic* and *voluntarist vs. organic* (Jansen/Borggräfe 2007: 30). However, each case has its own story due to different influences, factors, experiences, which lead to the particular nation-building process.

To understand the functioning of how nation, nationalism, nation-building and all relate process' and approaches work, a historical review on the emergence of these linked terms will help us to understand the context and, in general, the genesis of the nation from a historical perspective, as it conditions the present and the future.

5.3 The genesis of the nation and its process of building

When we talk about the genesis of the nations, it is not clear whether an examination should start with the Roman Empire, the ancient Greek city states, or even Egypt or Babylon. The same question arises in a different chapter examining the genesis of the state, when one can start talking about a state the way we understand it as a territorial organization with a successfully working administration for the people within the territory. The state is something, that is visible through its actions carried its administration, its territory, people, the nation, however, is something that can also exist without a visible expression, but by *understanding* itself as a nation. Were the people in ancient Babylon, Egypt or the Greek city states aware of being a nation? Does a consciousness of a nation also imply the requirement of an existing counterpart, equal in the understanding as oneself? In this case, could the Romans and its citizens understand themselves as a nation due to a missing close and comparable counterpart and due to the monopoly position of the Roman Empire in Europe and the Mediterranean? And last but not least, are these nations comparable to what we understand as a nation today? These questions are tricky and require a deep understanding and investigation on that topic to start the chapter on the genesis of the nation and its process of building. Only after having read Athony D. Smith's "The Ethnic Origins of Nations" (1986), it confirms the author's thesis assumption, that he can not have been the only one

having asked himself that without having found a satisfying answers. Anthony D. Smith proposes the same set of questions and also criticized here already the lack of profound studies on the topic of contemporary group identities or ideologies (Smith 1986: 12, 6).

People in ancient Egypt, Babylon, Rome, Greece Persia etc. made of course distinction of themselves and the *other* due to differences in language, culture, ethnicity and the existence of different organizations of these people, whether it be in tribes or states (Smith 1986: 12). But *ethnicity* is one thing, the *nation* is not necessarily the same. And being a polity, as Athens or Sparta were, does not necessarily mean being a nation either. Even the bible, emerging in Antiquity, mentions nations in a community context by distinguishing them not only geographically, but also by religious Jews and gentiles united in a new common faith in Jesus Christ. As the term *nation* derives from latin, this term has not been used in ancient Greece, or better said, within the ancient greek city-states. However, a distinction between *them* and *us* took place, especially since the Persian invasion busted the myth of world centered on ancient Greece (Bai 2012: 129).

The idea of the nation as a the democratic legitimizing factor of a government roots back to the Roman Empire, where the people - the *populus* or *populus romanus* - was part of the legitimizing policy making ideology in the Roman monarchy, where the plebeian citizens or the *populous* as a whole were seen as the legitimizing factor the Roman emperors derived the legitimacy for exercising the sovereign power (Nootens 2012: 112). This mechanism was fixed in the *lex regia*, which became a source for following conceptions of popular sovereignty, where indirect authorization was included and that all governments could be seen as drawing legitimacy from the people (Nootens 2012: 112). This authorization did not imply that the kings were necessarily accountable to the people and the people were not able to exercise sovereignty and, hence, executive power as such themselves (Nootens 2012: 112). Furthermore, there was also a juridical distinction between Romans and non-Romans. The *ius gentium* was a series of norms in Roman law, which was concerned with the treatment of non Roman citizens (foreigners) and, in contrast, the *ius civile* as the juridical norms for Roman citizens. The question on whether the Romans can be considered a nation depends on the point of view, but must be seen critically here as the concept was a way different as today existing ones. In fact, the Roman Empire later worked also as a justification and symbol for a united Italian nation-state (Edwards 1999: 10).

The beginning of the nation building processes in Europe how we understand it here from a more modern perspective can be dated back to the time after the disintegration of the kingdom of the Franks, where early forms of nations emerged in a sense that groups of different ethnic-cultural and linguistic characteristics got united (Schieder/Dann/Wehler 1991: 59). It was a process of consolidation driven and pushed by the nobility and the clergy and not a mass movement, but an elitist driven act, in which, united in the making but separated in the tasks, the nobility decided for a noble leader of the territory and the clergy, as the *intelligentsia*, which expressed national consciousness in a conceptional way and spiritually (Schieder/Dann/Wehler 1991: 59). During the Middle Ages, European universities distinguished its students between nations, which in fact

described more or less the cardinal point. Here, the term *nation* was merely used as a group of students, but not in a political sense. It was also the Middle Ages, when the Holy Roman Empire emerged and later the additional part “of the German Nation“ was added. When the additional “German Nation“ was added in the XIV century, the demand of being a universal christian state shifted towards a German Empire and changed the sense of it (Gilford/Coleridge/Gibson Lockhart/Elwin/Macpherson/Smith/Murray/Pothero 1871: 360).

Renaissance and Enlightenment had their influence on the concept of state and nation. Thinkers of these epochs started to question and to model the societies and also their relationship with the state, but also besides the state the relationships within several communities, whether they belonged to the same polity or not, but for example were linked by cultural ties such as language for instance. Martin Luther addressed his writing “*An den christlichen Adel deutscher Nation von der christlichen Standes Besserung*“, which means „to the christian nobility of the German nation“, exclusively to the noble sovereigns over territory and people, yet already spoke about the German nation. Here we can clearly see the distinction of sovereign and nation, or better said, the distinction of legitimate sovereign and what nation meant at that time.

The Treaty of Westphalia of 1648 was not only a crucial turning point for states and statehood, as it was understood in idealistic terms since then, but also for nations. Smith argues that from that point on, states started converting themselves slowly into nation-states, but only really started to be such from the XIX century on (Smith 1986: 11). It was in so far a turning point, as states were recognized as the reference model as polity within the international system as equal political subjects and the people subordinated to the sovereign the nationals in the sense of being a *Staatsvolk*, belonging to one state. This, of course, was only one interpretation. Cultural similarities were obvious when traveling to one to an other state sometimes, which in several parts of Europe also created a consciousness, especially in the entity of the Holy Roman Empire, one entity, yet different polities.

At that time, a wide variety of thinkers started to rethink the presence and tried to root back to the Antiquity as a role model for Europe, also in the light of the rising empires of Spain, Portugal, the British Empire and later following the Netherlands or, as a regional empire, also the neighboring countries in the Baltic Sea such as Sweden for instance. Rooting back to Antiquity and rethinking the models and structures of state and society from the late Middle Ages on is known as Renaissance. The idea of the *Staatsvolk* - not with the territory itself or the state as an organization and *aparato* - linked with this questioning and rethinking can be seen in various theories that can be located in the epoch. A *Volk* or a *nation* means a group of people. Therefore, it's interesting to see how thinkers of that time of Enlightenment saw the people in the context of state and its organization.

First, when we talk about the epoch of Enlightenment, we should be aware that its roots are in the Renaissance, which itself took Antiquity as a model for rethinking art, culture, and also governance of state and the idea of the people. Both, the link of people and the state is here in this context

legitimacy. One should not be astonished if in this context we start with Thomas Hobbes, which from our modern point of view might have been an important thinker of his time, but his idea of the people's role and position in a state is not what is usually understood as nation. However, it's important to understand the genesis of the nation to go that far back. Hobbes' *Leviathan* was written under the impression of the English Civil War and it is recognized as a treaty, that marks the begin of modernity (Martens 2016: 71). The difference from the ancient order is that the people hand now over the power to one absolutist monarch - it is, hence, not the church or any other spiritual or religious institution, that legitimizes the absolutist ruler, but the *people*. This is an important turning point, as the people are here the striking point within this social contract theory. This means, a shift from elite institutions such as the church towards the people has been made and had an impact on the following decades and centuries. With the beginning of absolutism and centralized power in most cases, the abuse of it by a small monarchic elite was only a matter of time, so was the emancipatory movement for the big mass of people. Inspired by the Renaissance, which itself was inspired in Antiquity and its ways of life and rule, an idealistic image was transported until Enlightenment.

John Locke seems to be in many parts the counterpart of Hobbes. While Hobbes demands to give up the rights and hand over all the power to one ruler, Locke speaks about the individual rights each one has naturally. Both thinkers depart from a different standpoint of the state of nature of the human being, of the individual. Hobbes "homo homini lupus" leads to the, from his point of view, best solution, which was handing over all power to one legitimized individual to lead the rest and to secure peace, while John Locke states in his work "Two Treatises of Government" that each individual is born free and equal among each other, a way of philosophy, which also has its roots in Christianity (Locke 1689, §4). Locke's approach was extended by Montesquieu by criticizing profoundly absolutist government (Carrithers 2001: 291). Liberalist ideas became especially in absolutist states in Central and Western Europe more popular and were developed further and even embraced by absolutist monarchs (Wilson 2002: 108).

We should, in this context, also mention the change of society, its influence and potential over the years. While during the Middle Ages, the upper class, the ruling class, was basically made up by nobility and clergy and the commoners the third estate, the division of society seen as a divine rule and order (Hayes 2015: 143). This was also politically established in states, in France for example in the *Estates General*, a legislative and consultative assembly with an disproportional weight of power for the first two estates regarding the numbers of its "members" of that group. In this context, the role of capitalism is crucial in understanding the change within societies. We have heard before and in other chapters of the thesis about the small city-states in Italy, where a ruling class of wealthy citizens had the say in an aristocratic manner (Isakhan/Stockwell 2011: 6). This class of free citizens, also having gained some wealth and influence is later called the *Bourgeoisie*. Being the *third estate*, the idea of representing the mass of people emerged among several thinkers and elites of this third estate and new class. The mix of these liberal ideas of the human nature, the consciousness of being the majority, the rooting-back to ideals of Antiquity lead to the idea of questioning in a more radical way the old order of absolutism and its abusive way to

execute power over the majority of the people (Hroch 1985: 8). This, as Hroch argues, is, however a very European “thing“, a phenomena, which emerged in some European nations and spread from there throughout the world history (Hroch 1985: 9). Capitalism developed a dynamic, that empowered more and more the third estate, especially through trade and other revolutionary technologies such as printing (which eventually was a tool to spread enlightened ideas), and undermined and eventually destroyed the hegemonic fundament of power of the clergy, giving path to nationalism instead as an instrument some centuries later (Anderson 2006: 60, 222). It also can be explained by imperialism by the European empires exploiting their colonies in Asia, Africa and America (Smith 1986: 9). Trading companies exploited for the state and hold monopoly on trading routes and goods, the requirement for a growing influence of wealth among merchants and the other benefiting from the third estate. This rise of wealth and influence lead naturally to a rise of awareness and consciousness of these elites of the third estate and its potential for power within this context of secular capitalism (Smith 1986: 10).

In a nutshell, capitalism, enlightened liberal ideas, rooted in a Renaissance model of a romanticized image of Antiquity and technological advance lead to a change of mentality among this third estate, that finally gave path to its elite’s thinkers to develop critical theories and ideas in opposition to he feudal and absolutist classes, nobility and clergy.

It was ironically the empire’s imperialism and the possession of new territories in overseas, that allowed more space for these ideas to develop. The vast country and the physical distance from the “motherland“ such as the colonies being trading and settling points were striking conditions. The first example, where liberal ideas were put into action and lead to the rise of the modern nation were the Thirteen Colonies.

5.4 The genesis of the modern nation as a political subject

The Thirteen Colonies were, as a British colony, were also influenced by British history and mentality on the one hand side and, as we learned before, also by enlightened ideas. The first factor includes a critical mentality towards the crown, which lost already, compared to other European empires, early its monopoly position, but had to share sovereignty with the parliament. The idea of changing the rules by a capitalist aristocracy, even by revolt, were part of the historical memory since the Glorious Revolution of 1688, which lead to the end of absolutist rule in Britain (Teschke 2003: 252). It was also the disempowerment of the nobility and the empowerment of the capitalist aristocracy in core aspects of the state such as taxation, jurisdiction, the army, forcing policy and self-convocation that lead also to an disarmed nobility, which it used to be (Teschke 2003: 252-253). The shift of the meaning of sovereignty from the monarch to the parliament such as the emerging and developed ideas by enlightened thinkers strengthened the mentality of the *Bourgeoisie* colonial aristocracy logically. This context were the conditions for the American Revolution, carried by the convinced *Bourgeoisie* in the Thirteen Colonies to put them into action, as the petitions and demands were not answered in a satisfactory way. Historical awareness and

the consciousness of the stand within society and the potential finally lead to the demand of political participation as colonies within the British decision-making process, but was renounced by the “motherland“ (Green/Stabler 2015: 856). Furthermore, with the British victory over France and Spain in North America, the *Bourgeoisie* became aware that British protection was no longer needed (Murrin 2004: 66) It was not only a symbolical process, but both, awareness and ideology lead finally to the revolt known as the Boston Tea Party, preceded by several events such as the First Continental Congress in 1774 (Merritt 2010: 59). Common awareness and interests within the Thirteen Colonies such as the historical and political ideological conditions gave path to look more at each other than to Britain; instead of a tighter integration with the British Empire, the integration within the Thirteen Colonies began to develop dynamically (Merritt 2010: 60). Even simple structures such as the newly founded national spot office system or the introduction of an own currency became reference points for self-sufficiency in a sense of being able to step up and to replace the old order such as the old stands or institutions in charge (Merritt 2010: 60). The nation was not born during the American Revolutionary War or the final establishment of independence from Britain in 1812, but these wars helped to make the awareness of being a nation to grow. If changes could not be implemented by sharing sovereignty in the policy-making processes, secession and the establishing of an own, new state with different values and a framework, that recognizes and supports these demands, is the answer. The establishment of inter-colonial integration, religion and the new independence in the sense to be fully responsible for one own’s destiny gave the final path from theory to practice of shifting sovereignty also formally and in a juridical way from the two stands towards the *Bourgeoisie*, which demanded to represent the mass of the people, the nation (Hroch 1985: 12). In a nutshell, nation became the only sovereign represented by its elected representatives. The revolt and a war fought together by equals for equality and independent self-rule turned successfully over the old order and became a blueprint for other cases. As the people of the United States became the sovereign, the states, organized together in what we know as the United States of America, became the pattern for the first nation-state. National identity was shaped in the first years especially by a set of factors of keeping the United States out of European conflicts, the danger of being invaded by a foreign power and idealistic enlightened values such as equality, nationhood, democracy and intellectuals within the state framework (Lipset 1979: 67).

Let’s abstract what happened with the term nation and its development due and during the events in the Thirteen Colonies. *Nation* was regarded before as a term to define a group of people, usually the *Staatsvolk* within already existing entities with similar cultural features or a set of rights. The American Revolution and the successful establishment of the United States of America as a new state and a new concept - the nation-state - worked as a blueprint for European enlightened *Bourgeoisie* and implemented a further factor and new concepts, which were absent until that point: the nation as the sovereign and as the political subject represented by and organized in its very own nation-state. This is a further crucial turning point in history and for the meaning of sovereignty, legitimacy and statehood with the new introduced meaning of the nation as *the* political subject.

The successful revolt and the establishment of the United States of America inspired and encouraged European *Bourgeoisie* elites, as already said. Although some absolute monarchs embraced enlightened ideas, it was never fully carried out when it comes to legitimacy and sovereignty in regard to the people in its final stage of development.

The role of capitalism as a factor for the social classes in France is disputed, whether it was a Bourgeois capitalist revolution as Marxist approaches claim, or not (Mooers 1991: 2). However, also in France the third estate existed and was even politically represented as we could read before. If the role of capitalism in this context can not be answered clearly, we can build our image of the revolution and its driving forces on both, the existent third estate and its demand for power, encouraged through developed enlightened ideas and the American example of a decade and a half ago. We will not go too deep into details as we did with the American example, because we already discussed the precedent case of modern nation-building and its meaning for the future in detail and repeating it here is not necessary, but would extend it artificially and unnecessarily.

The social factor was a way more important in France than in the Thirteen Colonies. While in France, also the social structure was overthrown with the revolution and ownership relations changed, it was also the economical elite as the elite of the *third estate*, which supported independence and the social structure didn't change, what makes it difficult to imply here some sort of class struggle (Berg 2013: 16-17). Together with the political revolution of the *Bourgeoisie*, the industrial revolution lead to further fundamental changes in societies. During this double-revolution, England, France and the Thirteen Colonies were the leading states (Dann 1991: 57).

On the eve of the French Revolution, Emmanuel Joseph Sieyès formulated in his pamphlet "What is the Third Estate?" clearly the demands and the role, this third estate has, should and would have. He argues that the third estate is *everything*, politically the third estate has been *nothing* but wants to be *something*, in concrete to take its rightful place (Sewell 1994: 42) Hroch states that with the emergence of capitalism, the demand for power was expressed by the class of bourgeoisie and to replace the old first and second estates by themselves, as they regarded themselves as the representatives of the nation (Hroch 1985: 12).

Following Miroslav Hroch's hypothesis, we shall have a look now on the probably most impacting contemporary pamphlet on the eve of the French Revolution, which is "What is the Third Estate?" written by Emmanuel-Joseph Sieyès in 1789¹⁶.

Miroslav Hroch's hypothesis is confirmed by Sieyès himself, as he claims that the third estate is a complete nation. Sieyès sees the privileged (the nobility and clergy) in war with the third estate (Sieyès 1789: 2), that provides everything, but basically excluded socially from participation. If the nation is everybody under common laws and represented by the same legislative assembly, privileges as existent in the past by the nobility go against the idea of nation. A nation, hence, is

¹⁶ Emmanuel-Joseph Sieyès (1789): *What is the Third Estate?*, University of Oregon

also a community of equal subjects according to him. The third estate being nothing has been due to the old order ruled by nobility and clergy and has to come to an end and the third estate has political rights, which have been denied for now (Sieyès 1789: 3). The representation shall be counted by heads and not by orders, chosen from among citizens who belong to the third estate, thus Sieyès abolishes in his demand all class structures (Sieyès 1789: 12). The first claim is the representatives are chosen only from those citizens who really belong to that third estate, the second claim of the third estate is that all representatives be equal in number to those of the two privileged orders which are clergy and nobility (Sieyès 1789: 5; 7) followed by the third claim, that the votes are carried out not by orders, but by head (Sieyès 1789: 8). Sieyès denounces the abuse of power and the the benefits, which have been done without the third estate, which is exemplified in the tax policy or the estate depending penalties for crimes for instance (Sieyès 1789: 10, 11). This means that injustice and its outgrowth due to feudalism have destroyed the nature between men (Sieyès 1789: 9). He, hence, departs from a liberal approach of the state of human nature similar to Locke's approach of equality, that needs to be restored and given a framework such a constitution. In this context, he states:

“But who will tell us for what purpose and in whose interest a constitution could have been given to the nation itself? The nation is prior to everything. It is the source of everything. Its will is always legal; indeed it is the law itself. Prior to and above the nation, there is only natural law. (Sieyès 1789: 12)“

The turnover of and abolition of the old order is a clear demand, hence, and the *nation* replacing the former order of sovereignty and legitimation completely. It is only natural law, that is prior to the nation, but as the nation is here an incarnation of natural law, the nation is prior to everything, the source of everything and is always legal, which means, that any attempt to abolish this new order is against nature. We could see priorly that the potential of a turnover grew over centuries and finally, given by different ideological, social and political circumstances, found its development not only in theory, but also as a real demand in Europe. France, differently from the United States of America, can not secede geopolitically, as it is a turnover that follows, a revolution, in the same country, on the same territory, for the same people. There is already an existing state and consolidated administrative institutions and a system, a determined territory, an established society, which requires and, finally, receives a rededication, a rededication of the state into a nation-state, as Sieyès requires (Sieyès 1789: 13).

Different from the United States of America, France was already consolidated as a state, as a polity. It also departed from the existing centralized state, while the United States departed from a more federal, probably even in its beginnings confederal model, a model, which wasn't sure to be followed until the outcome of the American Civil War 1865. France also struggled on the order of state between the more federal *Girondists*, represented more in the provinces, and the pro-centralist *Jacobins*, based especially in Paris, both revolutionary but following different principles. In short, the *Girondist* federal approach was dismissed and discredited and linked by the *Jacobins* with counterrevolution, separatism not only for ideological reasons, but also to secure *Jacobin*

power concentrated in Paris as the driving force of the revolution and with as less concurrence as possible (Sparwasser 1986: 59, 70). The outcome is known: Paris, as the *Jacobin* “headquarter” and stronghold consolidated its power by maintaining and even bringing to a high grade of perfection pre-revolutionary centralization - there was no tabula rasa from the *Ancien Régime*, but tying the old structures to the new and rededicated state (Sparwasser 1986: 51).

The revolution had a crucial impact all over Europe and the old monarchies feared an expansion of revolutionary ideas, after the War of the First Coalition and internal uprisings failed to reestablish the *Ancien Régime*. With Napoleon Bonaparte, the expansion was anyways unstoppable for the next fifteen years. We know that there has been especially among the people in Central Europe support for revolutionary ideas. The German city of Mainz for instance declared itself in 1793 a republic, the Republic of Mainz, and planted liberty poles as a symbol for revolutionary support and the attempt of implementing it outside France (Fahremer 2010: 81).

With Napoleonic expansion towards east and west, the annexation of the left hand side part of the territories on the Rhine river and the establishing of puppet states on the right hand side of the Rhine river, orders, laws and structures coming from revolutionary France were established such as the code civil, which indeed was seen as a relief and a benefit for the common citizen. As a matter of fact, it had lasting effects such as abolishing serfdom or maintaining crucial parts of the *Code Civil*. Even after Napoleon’s defeat, these achievements could not be fully abolished by reactionary forces represented by the Congress of Vienna.

Consciousness and awareness were already deeply expanded and embraced by the mass of people, by the *third estate* all over Europe, which got in touch with French occupation and its qualities. The idea of the nation as a community in a political sense, with political ambitions and demands represented by the mass of the third estate was implemented and developed itself with an incredible dynamic. Theory was put into action and its outcome was a lasting revolution, which only started with the American Revolution and the French Revolution, but lasts until today.

Napoleon as a symbol of the continuation of the revolution in orderly manner, glorious victories over external forces of the old order and gaining power as a continental force strengthened French national consciousness fundamentally after the turbulence years after the French Revolution (Bussiek 2013: 10). His presence had not only an impact on the French idea of the nation and on French nationalism. In this sense, it is curious and somewhat ironic, that Napoleon became the main driving force of German nationalism. With all the benefits he introduced to the third estate, to the mass of the people, it was also a time of military occupation, Napoleonic dictatorship and a continuous division of the Germans as a unified nation, a consciousness, which started to emerge during that time (Bussiek 2013: 10). Although the opponent states of the First Coalition War were only partly injected revolutionary and enlightened implementations such as the mentioned code civil, enlightened personalities also emerged within these states in order to serve the state and as an opposition to Napoleon. They basically copied observations they did, such as compulsory military service by the Prussian noble Freiherr von Stein, which was of beneficial use during the German Campaign of 1813, an epoch, which is known in Germany as the Wars of Liberation. It was not anymore a disconnected private army under the rule of the monarch, but the whole *Volk*

was appealed to, in this case especially by the Prussian monarch Frederick William III in his famous proclamation *An Mein Volk*¹⁷ (to my people), that officially initiated the liberation from Napoleonic occupation. Besides naming the injustice and exploitation of Prussia and its people, he uses the opportunity to call all Prussians also *Deutsche*, Germans, not as a distinction or opposite identities, but as shared and equal identities, but at that moment due to political division in different states Prussians as a different *Staatsvolk*. He also states that different entities such as Swiss, Dutch, Spaniards, Portuguese, Russians have set an example for the Prussians and Germans. Frederick William III does not refer himself here to the states, but directly to the nations, without naming them as such. One might argue that he refers to the old Holy Roman Empire, dissolved by Napoleon himself, as he refers to the Germans. This argument, however, is very weak, as a national consciousness based on common culture and language and with the aim of forming a new German Empire in shape of a nation-state emerges within the next decades among what Sieyès would call the third estate. Napoleon did not fight a royal army, but a people's army with ideals ironically exported and introduced, but limited to ensure his own power at the same time (Bussiek 2013: 11). The German national sentiment in a modern sense - that means, the nation as a political subject and not only but also as a *Staatsvolk* - was born. Newspapers demanded in these years a constitution for Germany, symbols like the black-red-golden flag emerging in assemblies such as the Wartburgfest 1817, a massive manifestation for German unity. This sentiment was nurtured by intellectuals, politicians and poets in the following decades. Fichte and Herder, already mentioned above, defining German nationalism - differently and even partly in opposition from Sieyès - spoke out for German unification (Wood 2016: 25; Koepke 2009: 221). Ernst Moritz Arndt defined in his poem *Was ist des Deutschen Vaterland?* composed in 1813 the borders of Germany according to the extension of German language, referring to the people as a whole as a nation. in a political context and demanding a restructuring of the present circumstances of different states, borders and political unions. Hoffman Heinrich von Fallersleben, the poet who wrote in 1841 the *Deutschlandlied*, the national anthem of Germany, also took the borders of the German language as the final destination of a unified Germany, leaving behind *Kleinstaaterei*¹⁸ and building a unified polity of and for the German nation. From an orthodox and strict point of view, this aim has never been achieved, as neither the *Zollverein*, nor the *Deutsche Bund*, and not even the Second German Empire could catch up to these expectations of a unified polity of all Germans within one polity.

The model, of course, was also adopted especially in Central Europe by communities, which differed themselves in cultural or language and which in history disappeared as polities, such as Poland, Bohemia or communities, which sought political emancipation by unification such as in Italy or later in the Balkans.

¹⁷ Aufruf Friedrich Wilhelm III - An Mein Volk (17. März 1813). Universität Freiburg

¹⁸ *Kleinstaaterei* is a German word, describing in a pejorative way the political fragmentation of the German nation into several smaller sovereign entities as an opposed model towards German unity within one single state.

5.5 Conclusions on the genesis of the nation

The nation-building process has not stopped but steadily continues. Europe, and the world in general, has nowadays more nation-states than it had ever before. The differences between the ideal models of *Staatsnation*, *Kulturnation* and *Willensnation* have been examined and the reader could become aware of its historical emergence by having done this discussion in a historical review. We also became aware of the contradictions and the myth of a pure model, but usually overlapping models. Where is the real difference between a Frenchman, who wants to become a French nation in a *Staatsnation* sense to a Swiss, who wants to form the Swiss nation due to the expression of free will and is later labeled *Willensnation*? Or the Central European cases, which are usually labeled *Kulturnation* - aren't they in their making also *Willensnation*? What about the present stateless nations, claiming cultural differences on the one hand side, but expressing themselves democratically also in an inclusive way such as the Scottish, the Catalan or the Basque cases, which have left behind the ethnic and developed towards the civic, yet the latter two cases stating their cultural, especially linguistic, differences as a crucial factor (Duerr 2015: 84; Cramer 2014: 54; Brown 2003: 85)?

We can state the following concluding facts. The idea of the *nation* as a *community as such* towards the nation as a *community with political claims* in terms of sovereignty, emancipation and state has developed for centuries and found its breaking point in the late XVIII century driven by enlightened ideas. The idea of freedom is undoubtedly linked with the idea of the political expression in state structures of that political subject, as which it sees itself, the *nation*. Nations as *imagined communities*, compose themselves due to different, individual factors, yet overlap a lot (Anderson 2006: 6). This also has occurred in France, where cultural and especially linguistic homogeneity was introduced by force. By doing so, the differences within the French *Staatsvolk* was negated and attempted to be abolished. While freedom and equality were claimed for the French, it was only permitted to the *Staatsvolk* as a whole, but negated to communities, which viewed themselves as different communities as well by factors such as language or simply the *will* to form a different imagined community, a different nation. When the nation became the political subject and the only subject of legitimacy and sovereignty and the tool for political emancipation, demand and reality often clashed, as these contradictions were not able to be unified in a satisfactory way for all claims. Different views on what a nation is condition further negotiations and treatments of such community. A claim can be, but is usually within already established nation-states not enough to recognize them as an equal political subject to the already existing and defined state-nation. The idea of a united people as a nation leads directly to the democratic legitimacy to a homogeneous demos, which is an overarching identity, that subsumes other allegiances and identities (Nootens 2011: 112). This is in position to existing demands of stateless nations. It's more, usually such declarations are labeled as unconstitutional as the nation is usually in constitutions or constitution-like documents. Hence, the concept of nation is not only linked to emancipation and sovereignty, but also to state as the expression of political sovereignty, as a polity. The conflict will be discussed in a separate chapter within this thesis.

6. The conflicts between democracy, nationalism and state

6.1 Introduction

In the foregoing chapter *The Genesis of the State*, *The Genesis of the Nation* and *The Genesis of Democracy*, not only the evolution and development of each concept has been examined, but two main remarks have emerged.

First of all, the concepts of democracy, nationalism and state overlap in different contexts, usually two, sometimes also all three of them. The prior chapters have shown that it is in fact impossible to examine the development of democracy without talking from a certain point in history on also of the nation and, even earlier, of the nation-state as democracy is a system or an ideology of how to organize a polity as a nation-state (Adams 1993: 51-53). The nation itself has shown to claim a nation-state with all four main characteristics described by Jellinek and examined as well in the chapter of *The Genesis of the State*. This claim is nowadays clearer than anything else as each year, the number of states is growing and the sovereign of a nation-state is the nation. The nation-state can be, but not necessarily is democratically organized, yet it is a main characteristic of European, Western in general and OECD states to democratize themselves and to turn their back to undemocratic ideologies of managing a state, especially since the end of the Second World War. In a nutshell, all three concepts are, depending on the historical and the conceptual context, linked and interdependently and reciprocally interwoven with each other, especially since Enlightenment and its ideas have made their ways to a broad consensus of acceptance of them.

Nevertheless, there is a second remark that has emerged in the foregoing chapters, especially the closer we the examinations got to modern times and the more obvious the interwoven and therefore reciprocal context of all three concept became. Although it might seem that these three concepts are interwoven and go hand in hand, there are several crucial contradictions - we call them here tensions -, that emerge when combining these concepts. This has become an increasing challenge with a rising consolidation of these concepts as fundamental and basic concepts of plural societies and their management and is one of the main sources of the conflict between the states and stateless nations. A series of questions arise, which lead to the open and unsolved, but also usually not objectively examined conflicts. Questions such as: until what point can democratic nation-states demand and execute democracy? Up to which point is democracy acceptable for a nation-state and what kind of democracy is it? With other words: how do nation-states deal with plurinational realities the demands democratically? What are the priorities within a democratic nation-state: the state, the nation, or democracy?

The hypothesis here states that the conflicts arise, as all three concepts come together as they can not have the same priority when coming together, and different interpretations on each concepts and the different effects, the different interpretations have, bring with themselves. To understand the conflicts of nation-states with plurinational realities, a conceptual examination of these three

concepts *nation(alism)*, *nation-state* and *democracy* helps us to understand the different standpoints and, by clarifying them, a new approach on that might possible. This chapters, and the thesis as a whole, do not aim to present new, revolutionary solutions, but defining the reasons of conflict better in order to work with a clearer base and examining the final question on the feasibility of *plurinational democracies*.

In the following chapters, the relations between the concepts of *democracy*, *nation* and *nation-state* given to the prior detections of the chapters of genesis of these three concepts will be examined. This helps to clarify the standpoints and the different approaches, which lead to the conflicts, which this thesis is dealing with.

6.2 Examining conflictive relations: *nation and democracy vs. nation-state*

In both chapters, *The Genesis of the Nation* and *The Genesis of Democracy*, one can see that both concepts of nation and democracy become related and politically relevant latest since Enlightenment. Both concepts are linked to the question of *sovereignty* and *legitimacy* in the context of the concept of state and, especially since the nation becomes a, or better said, *the* relevant political subject, with the nation-state (Nodia 1994: 6).

Democracy as an *ideology* and as a concept of managing a society within a territory has emerged all around the globe and has, due to Enlightenment and the American and the French Revolution found its way of being the commonly accepted way of political ideology and structure after the Second World War for nation-states and has been promoted since then (Shapiro 1996: 51). From our previous examinations and observations, we can confirm that the fusion of the concepts of democracy and nation have given path to the modern nation-state (Spencer 2003: 123). Nevertheless, both concepts should not be mixed up or confused with each other. While democracy is a highly rational enterprise, nationalism is fundamentally irrational, as we concluded in the previous chapters¹⁹ (Spencer 2010: 126). Both concepts can exist separately from each other - there have been nations who don't want to be ruled democratically, and there are democratic structures existing without the concept of nationalism (Spencer 2003: 125). They might even be contradictory and emphasize different factors. While in a democracy, the political leader legitimate who represents what the people want, it is in the principle of nationalism the nationalism itself which makes the political leaders legitimate who represent what the people is (Spencer 2002: 125).

The idea of the nation being the sovereign and the legitimate political subject to exercise political power over itself emerged, as we could read, in Enlightenment and came into action with both

¹⁹ "Irrational" in a sense, that it does not follow a fixed pattern or framework, but has its own logic, which can't be unified and subsumed.

mentioned revolutions. At this point, people or, better said, *Staatsvolk* and nation became one and replaced the king and nobility as the sovereign by overthrowing the old order (Spencer 2002: 122). Democracy, on the other hand, was adopted as the general idea and ideology of exercising the power over the masses of people (Spencer 2002: 122-123). Concepts as citizenship and its linked and general fundamental rights have since then been the symptomatic outcome of the link, or better said, the fusion of the concepts of *nation* and *democracy*. Even though on the first sight they seem so, the arguments for democracy and for nationalism are not identical (Spencer 2002: 123). The idea of democracy, as the popular power or the government, in which the people rule, does not reconcile, but this simplification opens a series of questions and conflicts of interpretations on what and which democracy by what and which nation and people (Spencer 2002: 123). National identity and self-determination are twin issues, which have been settled usually by oppression on different levels, or by secession, but concerning the nation-state for none really satisfactory, as long as it was not a consensus between the stateless nation and the nation-state (Minahan 2002: xxii)

The first question that should be addressed to is the question of the *demos*. In both concepts, democracy and nation, the *demos* takes a crucial role. While the word *demos* is already included in the word *democracy* meaning *Staatsvolk*, the nation is the sovereign and legitimate political subject for governing itself and, as we could see, under the ideology of democracy.

One cleavage, one conflict line is the question of the *demos*. Is the *demos* in a democracy really the nation imposed as a whole? What about stateless nations, which express themselves as different political subjects by using democratic tools and mechanisms, yet they continue to be unrecognized as nations? Who decides, who the *demos* is?

Modern doctrines of popular sovereignty, in democracy interact with nation building processes, through which most states have indeed ensured and consolidated identification and mobilization of their subject-citizens (Nootens 2011: 113). *Staatsvolk* and *nation* is not necessary the same. *Staatsvolk* is a feature of a state, according to Jellinek while a nation can come in different shapes and on a different fundament of set of values and justifications. In the prior chapters, we could see that there is not only one definition of what a nation is, but that it is a very subjective definition and also able to change its character. As long as democracy - in any shape whatsoever - means the rule of the people, it can coexist and interact interdependently, but only under the condition that both concepts have agreed upon the same who the *demos* is and how it is ruled. *Nation*, that also implies the self-determination since Enlightenment, is also not the same as democracy as it is due to several features - whether civic or ethnic - exclusive. Democracy, on the other hand, as an ideology, has been rather inclusive than exclusive, as it is an universalistic doctrine, stating the equality of the people and the human capacity for self-determination, that all share despite their differences (Spencer 2002: 124). The concepts of nation and democracy seem to share similar concerns, they do from different angles and having different priorities and exhibit different logics (Spencer 2002: 125).

Now depending on the concept of nation, the idea how democracy is exercised and by whom emerges. The *who* of the *demos* depends here on the standpoint. As we said, it can coincide, but it can vary as well, especially in combination with the third concept, the *nation-state*. Since the nation became the sovereign of most nation-states²⁰, on the short or on the long run, depending each case, it also became the sovereign over the states, which converted itself into a nation-state. One state equals since then one nation. This statement and this constellation, however, is challenged by stateless nations (Caminal 2011: 226). Stateless nations express themselves in social, but also in political acts, in European states democratically by vote. The support for parties or movements, stating to be a *nation* apart the state-nation does not match the “one *demos*” concept in a national sense. This is due to the idea that each nation is represented by one state and vice versa. This is where missing recognition of the stateless nation(s) as *nation(s)* is rooted, although it emerges and visualizes itself in democratic election and expression.

Who is in this context the *demos*? Abstractly said, in a democracy, the *demos* are the people of a polity. The *demos*, which is self-governing in a democracy, is a group of people that perpetuates itself in time and space and that shares certain values and believes, above all the disposition to govern itself, which nowadays would be translated as the execution of the preferred preferences by the representatives of the *demos*, legitimizing them democratically executing political power (Goikoetxea 2013: 1). This abstract expression, however, misses two fundamental things. First of all, it is too vague, imprecise and open for different interpretations to decide, who really the *demos* is, as also the *demos* can be nationally plural in both, within a state-nation *and* within a stateless nation. Second, the will of the majority should not be confused with the will of the people and can also be applied to both, state-nations and stateless nations (Spencer 2002: 125). Second, this implies that democracy as a concept does not protect minorities automatically or is *per se* a safe space against terror of the majority over the minority, as Alexandre Tocqueville stated already some nearly two hundred years ago (Boesche 2010: 234).

Democracy within a democratic state is, hence, executed from all citizens, which are regarded as nationals usually from a juridical point of view - mostly the constitution - expressing in democratic events on state level as a whole the will of all citizens, but ignoring two facts: first, the claim of being a nation apart of the state-nation. This means that counting all votes as the expression of the will of the majority of *one demos* ignores the democratic expression of that specific group. Second, the fact of the emergence of double majorities, but yet interpreting the results from the *one demos* point of view ignores the internal national diversity. Internal national diversity is *per se* ignored and a different democratic interpretation based on national recognition, that could challenge the security and power in the form of the nation-state, has largely been avoided (Spencer 2010: 125).

²⁰ We already explained in other chapters, that this is a general rule. There are some exceptions such as the United Kingdom, where, due to historical reasons, sovereignty lies in theory in the parliament. In general, however, the nation is regarded as the sovereign within democratic states.

In this sense, the interpretation for democracy has been shaped to the nation-state and legitimized by the nation in a top-down process in states with plurinational realities. *Demos*, *Staatsvolk* and *nation* have been used as synonyms and the nation-state - according to the idea of one nation equals one state - legitimized in order to secure power and security of the state. But *de jure* doctrines and *de facto* expressions democratically claiming to be stateless nations have not been compatible for now and are not, as both depart from different point of views. The question of who composes the *demos* has, hence, been answered only from the state-nation and nation-state point of view and imposed institutionally, but not from a more liberal democratic approach, in which the wanted confusion of *demos*, *nation* and *Staatsvolk* is unraveled and dissolved.

6.3 Examining conflictive relations: nation-state and nation vs. democracy

Both concepts, the *nation-state* and the *nation* are, as one can easily see, related to each other. "One nation-state for each nation" - this is at least, what one might think on the first sight, or what events and doctrines of the recent years, decades and the last two centuries have taught us (Aldecoa 2013: 92).

In the foregoing chapters, it became obvious that the *nation-state* is the successor of the *state* as a polity and the nation as an attribute changed fundamentally the state in questions of legitimacy and sovereignty. Before, legitimacy was given in the state by the rule of law, divine beliefs or customs and habits of foregoing conditions usually to the nobility as head of state and the policy-making class of nobles and clergy. The fusion of state and nation into a nation-state brought a fundamental, revolutionary turnover of the interpretation of these concepts.

The concepts of nation-state and nation can overlap and function, if within the *Staatsvolk*, there are no claims of being a nation different from the state-nation. As there are objectively different approaches on what a nation is and how it can be defined, it clashes with the state-nation and the "state equals nation" concept and questions it, as the for now, only the latter interpretation of what a nation is has been accepted and imposed by state authorities. With other words, although it is scientifically certified and proven that there are objective, plural approaches on the question who and what a nation is, the state has for now only accepted and implied the subjective, singular approach of interpretation. In this sense, if both, the *Staatsvolk* and the state do not homogeneously depart from the same initial point and coincide on what and who the nation is, a conflict is inevitable. In case the idea of nation and *Staatsvolk* overlap completely and both depart from the same initial point of this interpretation, there is no conflict on this level to be foreseen, as both agree on the national homogeneity and, therefore, the feasibility of the concept "one state one nation" or "state-nation equals *Staatsvolk*".

Democracy has paved its way in state structures and as a political ideology of how to self-govern since the American, latest since the French Revolution and is nowadays the accepted form of realizing the idea of self-government of the people as the sovereign (Spencer 2002: 122-123). But nation-state and nation have showed, that both can exist without democracy perfectly in

dictatorships or pretending to exercise democracy in order to show some kind of legitimacy by and for the people by vote. This is when the state and the nation as its legitimizing factor for a government of any kind and approve this kind of governance on the base of coinciding on the interpretations of *Staatsvolk* and nation, basically on the doctrine one state one nation. History has proven that not dictatorship, but that democracy as the governance system has triumphed over dictatorships and pluralism within a society in a political sense has been recognized and pushed towards political representation. It emerged, as we could see, together as a political concept with the concept of nation and nation-state by overthrowing the old order and the principles of sovereignty and legitimacy (Anderson, 2006: 6). When the nation became the sovereign, the *Staatsvolk* became *Staatsnation*. To govern itself on the principle of being the sovereign, democracy became the striking element in fulfilling the vision of an ideology that would allow to come close to that vision, which has been since then expanding itself as a political ideology.

Although political pluralism is recognized and integrated in democratic states, national pluralism hasn't been fully recognized and only partially, and always to the one state one nation doctrine subordinated, included. With other words, the interpretation of democracy has always been dependent on the imposed doctrine and singular, subjective point of view of the state-nation equalizing the nation and the *Staatsvolk* and vice versa as the only legitimizing factor (Keating 2015: 36).

However, if only one vision - the state-nation - is applied, there are two main aspects that can be detected: first, by implementing the vision of the "state equals nation and vice versa" dogma since the beginning, it has become clear that the interpretation and implementation of the concept *nation* on this fundament had the sense of justifying the *Staatsgebiet* where the future nation-state should emerge or the rededicated the already existing state, as happened in France or Spain for instance or later also in Belgium, where the Belgian state was created and Flemish and Walloon identities became subnational identities by imposing the "Belgian nation" as a state-concept in order to justify it. The nation became the legitimizing tool for the existence of the state. This has been a continuation of the Westphalian state model such as of the credo of *cuius regio, eius religio*, seeking a homogenization and a simplification and reduction of the plurality of societies (Gellner 1983: 45). In this context, a conflict-free coexistence of the concept of nation-state and nation have existed when there has been no other community claiming this territory to be of an other nation different to the state-nation (Keating 2001: 11). When two or more communities, claiming to be a nation have overlapped over a territory, conflicts over the control of the same have arisen. Tools such as wars over the control, but also genocides and expulsions or forced assimilation have been used in order to take over the claimed territory for one nation. The question on nation-state and nation have been solved violently in different graduations.

Nevertheless, the concept of democracy has challenged both concepts in their link since different communities have claimed not being part of that *nation*, that is the sovereign of the state in democratic context', questioning the monistic demos thesis rooting in Westphalian understanding of the nation-state (Welikala 2015: 115). This puts in danger the justification of the existing state as

an entity, which has been challenged differently from the state in order to maintain its power and legitimacy for existence (Keating 1988: 33). Expulsions, forced assimilating or genocides are not accepted as tools anymore and outlawed by several juridical frameworks on the European, but also on the global scale and even caused interventions, violating the Westphalian state concept, which has been for the most of its time theoretical anyways (Krasner 2001: 17; Zürn/Deitelhoff 2015: 198). This for example occurred in Europe in the 1900s during the Balkan Wars, where methods of genocide or expulsions were used in order to realize a homogeneous *Staatsvolk*, which at the same time was an indirect recognition of national plurality and the capitulation of the state for not being able to handle national diversity. However, we have to make clear that Yugoslavia was not a state within a democratic context, neither did it want it to be such a state.

The Westphalian understanding of the state as a nation-state and since nationalizing the state with the state-nation has also influenced the understanding of democracy, its execution and its interpretation of pluralism. This means that pluralism of ideological ideas is accepted and executed usually, as long as it does not include the concept of a nation of parallel existence to the state-nation. With other words, the interpretation and execution of democracy and plural national realities is already from the beginning limited and determined by Westphalian inspired doctrine of one state one state-nation and clearly hinders the development of democracy and the real expression and implementation of the opinion and political demands of stateless nations due to missing recognition on a level higher than a subordinated to the principles or doctrines ones. The question of the *demos* is already answered before one can ask, who the *demos* is. Examinations, however, have shown, that the question is in a democratic context not as clear as these dogmas and doctrines pretend, but highly disputed, if not the dogmas, but democracy is the departing point of interpretations on the questions of legitimacy, sovereignty and the *demos* (Nootens 2012: 110, 114, 124). By addressing these questions only from an already determined, mono centric and hierarchic approach, the outcome is clear and democracy is only seen as a limited and subordinated tool, not as a principle and as the driving ideology, but the nation-state instead of being a tool for its peoples, as a principle that under no circumstances can be questioned. Democracy in its national plurality is seen in a negative manner (Dumont 2012: 102). All democratic mechanisms and the interdependent mechanisms, institutions, procedures such as the values of the state are subordinated to the concepts and don't seek a full accommodation of the units, but rather a full subordination to the concepts of already interpreted concepts of nation-state and state-nation (Requejo 2006: 17). Identities are subsumed under the dogma of one *demos* and a proper recognition is lacking (Nootens 2010: 12).

With other words, the struggle for power over the control of interpretation of democracy is based on the unchangeable premises of nation-state and nation, although it goes against an obvious national pluralism expressed democratically. National self-determination is in this context also already viewed through a settled pattern and therefore viewed not as a fundamental right, but rather as twofold claim (Keating 2015: 36)

The democratic outcome is not recognized also in a plural national way, as hierarchy is pretty obvious: first the nation-state and the titular nation, and then democracy within this already

established and determined framework. Hence, no proper recognition within this constellation is possible. Strategies such as decentralization, devolution, autonomy or partial, but always subordinated recognition or also ignorance have only partly deescalated, but not in a satisfactory way for the democratic principle, as no proper recognition of the democratic manifesto of the stateless nation, of the plural national demand and realities for recognition as nation(s) with all the rights and consequences it includes, has and could be carried out. Nation-state and state-nation dogmas subordinate all policy making approaches in this given, or better said, imposed context.

The double majority effect has already been mentioned. This effect shows that, although being on the state-level a minority, political forces claiming nationhood for stateless nations are the clear majority on a determined territory. In a homogeneous state, this could be subsumed under sub-state phenomenas or political preferences on the left-right axis for instance, but the small, yet important difference here is, that there is a community, claiming to be a nation, possesses a democratically expressed majority of this opinion on its territory. The nation as a political identity is not included in the democratic possibility of expression of opinion and political identity and is outlawed just as ideologies similar that seek the abolition of the existing order like extreme right and left-wing organizations for instance. It is from a state-nation and nation-state point of view, hence, a stigma as unconstitutional and, according to this logic, unethical or even unworthy or illegal participating in the policy-making process. From the stateless nation's point of view, the already determined interpretation excludes, stigmatizes and subordinates the national identity to the dogmas and excludes it from a policy-making process. This, however, is a political decision and has been criticized by Michael Keating, who stated that politics should not „(...) *to be treated as absolutes, as non-negotiable items or matters to be settled once and for all, but as part of a continual process of adjustment (Keating 2001: 171).*“. Hence, as we could see, democracy is hindered to develop and to adjust its mechanisms and constellations in order to accommodation. The nation-state, hence, has not been able to find any solutions to deal with that than subordinating it to the state-nation and the linked nation-state as a whole. The question on the authority of the nation-state on the interpretation, who the nation is, is due to the different concepts from a democratic point of view legitimate and has been for now unsatisfying answered. The democratic principle of freedom for the individual might be given, yet has it been denied for one whole group, that declares itself being a nation.

6.4 Examining conflictive relations: democracy and nation-state vs. nation

This chapter is shorter than the chapters before, as crucial standpoints have already been discussed in the foregoing chapters, which also would rightfully appear here, but repeating the same conclusions is not necessary and only hinders continuing the examination. A further unraveling of these interwoven concepts and their conflicts will be discussed in the following chapters.

Democracy as an ideology and the nation-state as a concept can exist apart from each other, and don't need each other necessarily. Already in the past, democratic polities existed, which can not be labeled from our present point of view as nation-states, such as Greek or Italian city states, nordic assemblies such as the *Tynwald* or the *Althing* or also present structures with a basic democratic mechanism such as the Security Council for instance can exist. It is an ideology, that can be applied on all levels, from the municipal to the international level, and is not necessarily bound to states or nation-states. Nation-states, on the other hand, can also exist without democracy as the political governance tool. This has been proven since the concept of nation-state emerged with the American, but definitely in effect and visible with the French Revolution, (Dunkerley 2002: 25; Jáuregui Bereciartu 1994: 11). As one can see, it took since the French Revolution more than 150 years and two World Wars and totalitarian systems of fascism and communism, since democracy triumphed over other political organization. However, this being the end of history, as mentioned by Fukuyama, can be doubted also as the term democracy is predetermined in nation-states, the global actors, as we could see before (Held 1991: 197). What kind of democracy? How is it to be interpreted? Who decides who the demos is? Who is the sovereign? These questions were supposedly solved by imposing the state-nation as the legitimizing factor for state and the holder of sovereignty within a state, adopting democracy as a political system also as the demos and, by doing so, closing the framework of interpretations juridically usually by constitutional decisions. As Keating said, we can, due to the subjective variety of what a nation and what democracy is and how both concepts should or could be interpreted, only state that also the nation here in this context sake and still seek to justify their borders, their existence by using democracy in the only interpretable way the nation-states have agreed on to impose (Keating 1988: 33).

The principle of the *nation* is for a democratic nation-state crucial. First of all, because democracy requires a *demos*, which is the reference and who is governing itself. The question of, who the demos is, has been answered with the fusion of democracy as a principle for modern nation-states by imposing the state-nation. We already saw before, that this very subjective interpretation does not only help in fact to secure the power of a state in its hierarchy, based on the legitimacy of the state-nation as the demos being the legit sovereign and democracy as the tool to govern itself, but can also match in case there are no plurinational claims within the state. However, this subjective institutionalized point of view is challenged once the principle of nation does not match in reality with the state-nation within the nation-state understanding itself only as one demos. Plurinational claims include the demand for *demoi* within one state. Democracy itself could find possibilities to answer these demands, the nation-state as a concept can not due to its institutionalized dogma of state equals nation. With other words, mono centric and monocausal dogmas do not match with plural demands. Democracy is also subordinated to the principle of the nation-state and has been *de facto* carried out only within the framework of this dogma. Democracy can go hand in hand with the nation-state, but gets into a dilemma, a conflict, when faced with the question of the nation and the linked topic of *demos*, as democracy can in theory change its shape and interpretation, while

the nation-state requires one mono-centrist and monocausal interpretation of both, nation and democracy.

6.5 The question of sovereignty, legitimacy and the demos

We could see before that within this “triangle of conflict” between the concepts of democracy, nation(alism) and nation-state, the questions of sovereignty, legitimacy and the demos overlap within the chapters and are, depending on the point of view, interpreted differently. It is hence important to examine the concepts of sovereignty, legitimacy and of the demos within this relationship shaped by tension.

6.5.1 The question of sovereignty

When it comes to sovereignty, we could see that the nation-state has a determined and unchangeable doctrine-like institutionalized dogma of the nation of the nation-state being the sovereign in general. It is institutionalized by the constitution, but has been also in use by the states from the French Revolution on. Having overthrown the old order, the sovereignty shifted from the old sovereigns, the nobility, into the nation, which was by an bourgeois elite determined by rededicating the state. The nation replacing the old sovereign hence was never democratically chosen, but determined initially, a model, which was expanded and exported successfully. As we pointed out, it helped to legitimize the state in its existence and not allowing any other force to question its existence.

The state sees the sovereignty of the state-nation challenged, when demands of national plurality appear, which is the case in states with plurinational political realities. As already said, the concept of nation-state does *per se* not allow it, as only one nation can be the sovereign of one state. The nation-state hence can not share sovereignty with an other nation, as plurality is not acknowledged and recognized on the national level. Francisco Aldecoa draws here in this context the comparison to a single-party government, where only one doctrine is institutionalized and plurality always subordinated (Aldecoa 2013: 92). This image of sovereignty is rooted in the Westphalian understanding of the state, which emerged in pre-democratic times, where the sovereign was not the nation. This indicates how different the perception of the state of nowadays is with its realities of its internal plurality and its external integration, deriving its interpretations from the theoretical assumption of a homogeneity, that either exists *per se* or can be imposed (Krause 2011: 29). It is in fact not a pragmatic, but a highly ideological approach based on dogmas. Citizen, the title of the political subject of the national, makes the individual automatically part of the nation, a rational logic that goes against highly “irrational” national and identity perceptions and approaches (Krause 2011: 29). Sovereignty in a nation-state as it is understood until today is unique and can not be shared on the national level as long as the dogma and the doctrines of the nation-state equals nation continue.

Stateless nations, departing from an other initial point, approach the question of sovereignty as being a nation already includes being one's own sovereign and, therefore, a subordination within a polity can only emerge if it is voluntarily. Being forced into the nation-state dogma, hence, is a violation of the stateless nation's sovereignty.

In this case, negotiations of proper recognition or unilateral actions have been taken already by stateless nations such as the referendum in Quebec in 1995, which did not come out successfully in favor of full independence, but which pushed the Canadian political and juridical authorities towards challenging the topic. In 1996, the Canadian government addressed a series of questions on how to clarify the legal framework of secession towards the Canadian Supreme Court. The government of Quebec took over illegally - according to the existing juridical and political framework - the sovereignty it demanded for itself and handled the question in the referendum over to its people. The Supreme Court surprisingly, forced to deal with the question, did not only fall back on old paradigms, doctrines and dogmas of the nation-state equating the state-nation and vice versa, but stated that in case a majority in Quebec voted in favor, sovereignty in this case would be conferred to the government of Quebec, and although an unilateral secession would be illegal, the outcome of a clear majority in favor of independence would have binding constitutional impacts and obligate the federal government to negotiate with Quebec (Pavkovic/Radan 2013a: 136). Although since then there have been no serious attempts in Quebec, a precedence has been stated and the Supreme Court has in case of any future events left the comfort zone of the state and gave a new direction towards the interpretation and implementation on the question of sovereignty, legitimacy and the demos.

However, sticking to the Westphalian state model, the nation-state is fooling and contradicting itself if sovereignty can not be shared with other nations. Sovereignty is already shared with other nations and nation-states within the European Union, the NATO, the Security Council, etc.. Sharing sovereignty has had a deep impact on the state itself and although the Westphalian state model is still held up, transformations of the state of its core competencies have already emerged since the 1970s (Leibfried/Zürn 2005: 1). This means if the state has already acknowledge and actively practiced sharing sovereignty and outsourcing former core competencies, the development of dismantling the Westphalian state model would only be a further step of evolution regarding the question of national pluralism and would also reallocate and reinterpret the meaning of sovereignty, as it already has transformed (Keating 2015: 37). From a democratic point of view, the question of the sovereign over a determined territory arises once the approach of a nation is not done from the nation-state-state-nation, but from alternative perspectives and a clear democratic manifesto of a majority of people expressing not to belong to the state-nation, emerges (Keating 2002: 15). This often happens and has not been solved by the state concerning the roots of the problems, which is proper recognition, but trying to treat the symptoms by different degrees of recognition, but never reaching a proper recognition in the national sense. Therefore, a full "cure" of the conflicts has never been able to be delivered, as the state also compares apple with pears and aiming to maintain the unchallenged top-position concerning the interpretation of the nation, the sovereign and sovereignty.

6.5.2 The question of legitimacy

From a democratic point of view and abandoning the only imposed framework of how to view the nation-state and its legitimacy, there is a crisis of legitimacy regarding the democratic demand of stateless nations, that has not been able to be solved within the existing nation-state constellation (Weisband/Thomas 2015: 78). Since Westphalia, the state was legitimated by its mere existence and the subordinated *Staatsvolk* had to follow usually the decisions, its sovereign - the nobility usually - decide. In this context, the *cuius regio eius religio* was cemented and, as protonationalist structures emerged with Westphalia, also adopted as a doctrine, which was with the nation-state extended on the concept of nation (McCrone 1998: 93). This means that sovereign and state complemented each other and were both responsible for legitimate existence of the other. By linking and equalizing both, the state-nation and the nation-state, the fate of each concept is absolutely linked with the other one. If the state-nation as one does not exist anymore and is questioned, the state in its existence is questioned as well, according to this causal chain.

With the concept of the modern *nation* emerging, *legitimacy* shifted from the monarchs to the *nation* as the legitimate sovereign within the state. However, the old concept was adopted in this sense, that the *Staatsvolk* was, without having questioning ever it, equaled to the nation and vice versa, and as a whole, and only as a whole, lifted up and granted the status as the only legitimate sovereign. By doing so, the nation legitimated the state in its existence and was also used as a tool to even strengthen old structures taken over first in France by the French revolution in order to secure power (Keating 1988: 33) . The Westphalian concept - a pre-democratic concept at the moment of its making institutionalizing and strengthening absolutism - has not been changed regarding the composition of the state of one legitimizing source, the sovereign, although the sovereign was rededicated and shifted from the monarch to the nation as a whole. Where religion shaped the national concept and as the nation became, driven by enlightened ideas, the sovereign, it also became the source of legitimacy by keeping the one and indivisible concept of sovereignty and, thus, of legitimacy (McCrone 1998: 93). If the state could not become one with the nation, legitimacy wasn't given in this monocausal logic system (McCrone 1998: 175).

The question of legitimacy in democracies is, hence, linked with citizenship, which is the political status of the *Staatsvolk* and, as we could see, equated with nation. It was, what the state needed and required in order to legitimately exist furthermore (McCrone 1998: 175).

This monocausal and imposed approach has to be seen critical in a democratic system, where the people are the source of democratic legitimacy in states of its policy. The concept of nation is, as we could see, not only a monocausal approach and always one determined answer, but has multiple possibilities of being viewed. Stateless nations do not identify with the state-nation, but are forced to carry out their political participation as part of the state-nation, as no other approach is recognized and accepted by the state, is contradictory to both, individual liberty and the democratic expressions, depicted by the double majorities. Here, the conflict arises: If the people are the legitimizing source, but in practice do not, and only by imposition and unidimensional casual chains

form one entity in the national sense as one state-nation and one *Staatsvolk*, the question of legitimacy within a democratic context needs to be addressed fundamentally. Double majorities in national sense urge for a solution from a democratic point of view, as the state imposed vision is not democratically backed there and therefore, the question of legitimacy of the state in this territory of that community, which regards itself a nation apart, challenged and, with a majority, also rejected. The state, however, has continued to believe in its own interpretation to ignore democratic double majorities, which challenge its authority in question of legitimacy and the vision of state and nation and, therefore, never fully recognized it as such, but interprets it in a favorable way, ignoring socio-political realities. With other words, the state and its institutionalized vision of state and nation determine the question of legitimacy by melting or subordinating all identities under one and, therefore, under this dogma, answering the question of sovereignty in a favorable way for itself. This reveals clearly, that the state is determined to maintain its hierarchy by only allowing interpretations of legitimacy, which are favorable for the state and do not challenge its hierarchical position, which, indeed, reveals striking contradictions in a democratic context.

6.5.3 The question of the demos

Since the French revolution, the idea that popular national sovereignty must be based on a unitary demos has been expanded and put into legal and political action as abolishing any form of hierarchy, but also any form of identity and subsuming all under the concept of nation or, better said, state-nation (Keating 2015: 37). The doctrine of a single demos roots also earlier, in the Westphalian understanding of the state, where one sovereign decided over the interpretations of the concepts and understanding of the state, a tradition, which has not been modified in its core by the French Revolution, although the actor of sovereign has changed from monarch to nation. The demos is ontologically preexistent to democracy (Iacovino/Erk 2012: 209-210) The idea of one nation-state also leads logically to the next point of the causal chain, which is the existence of only one demos in a national sense, while on the sub-national level, the existence of several *demosi* with determined competencies and exclusive rights is the common rule (Keating 2002: 14). This is the case on a communal or an autonomous basis, such as elections in German *Länder* or Spanish autonomous communities for instance. The recognition of several *demosi* as such does not show any conflict, as long as they are subordinated to the state-vision of hierarchy and the concept of nation in this context. The question of the existence of a unitary national demos can only be answered positively, when one follows the argument and the causal chain of the nation-state, but comes to a conflict, when taking into account the alternative approach of the concept of nation. In this sense, *de facto* several *demosi* exist and the state, hence, has more than one fount of legitimation (Keating 2002: 102).

The demos is, hence, linked to the concept of nation and as nation is highly "irrational", while democracy is highly rational, a purely rational approach is also for many people, who feel part of the state-nation, as for the state itself hard, or as the past has shown, impossible to accept without session (Keating 2002: 103; 135). With the absence of one single demos, the imposition of

democratic values, which are already predetermined, can also be seen inherent and non-democratic or, as Hayden argues, also labeled as a “dictatorship of virtue“ (Hayden 2005: 257). As the *demos* is equated with *Staatsvolk* and with the concept of nation, it is also the legitimizing source of sovereignty and the bearer of sovereignty itself within a democracy, yet its reduction to one single *demos* does not root in a democratic assumption of plurinational realities, but rather in the *pouvoir constituant*, which has not created the framework for the *demos* and for democracy democratically (Iacovino/Erk 2012: 209).

We have to state, hence, that the understanding of the national *demos* of today is build on a democratic deficit and rather to strengthen power structures and to adopt them than to introduce a political concept, which is based first on democratic principles, resembling its pluralism and not its determined interpretation, that aims first to legitimize the state rather than to resemble democratic realities. The idea of one person one vote collapses when it comes to imagined communities of stateless nations, democratically as nations claiming to be a *demos* apart the *Staatsvolk* and exemplifying it by a majority vote, that resembles these positions and, following the causal chain, question the legitimacy of the state, as the state claims to be legitimized by the state-nation (Nootens 2012: 111; Anderson 2006: 6). From a democratic point of view, the question of who the *demos* or who the *demos* is, requires a different angle than the determined, on power structure based approach, rooted in pre-democratic decisions of Westphalia and its adopted model until nowadays.

6.6 Conclusions

The foregoing chapters have revealed, that the ideas of the execution of democracy, the interpretation of nation and the state as a nation-state are determined from the beginning on and base on maintaining the power structures previously established by the Westphalian state system. This has deep effects on the question of modern day states and the interpretation of democracy, sovereignty and the question of the *demos* and causes especially in states with plurinational realities a series of conflicts.

The question, whether the democratic nation-state can be reformed, which means here in this context, democratized, emerges and needs to be addressed. The past and the present have shown that for now, the state and the state-system have set the rules and the framework of a further democratization in a more liberal sense acknowledging its plural national diversity (Nimni 2015: 77). The answer to, whether the democratic nation-state can be reformed and acknowledging its plurinational realities by democratization has to be answered with a clear no, as long as the given conditions, within the given framework exist, that demand an institutionalized subordination of the principles of democracy and nation under the concept of state and especially of nation-state.

There are a series of reasons, why the states haven't done so and why it is under the given condition and framework with its own and clear hierarchy and casual chain not possible for now, especially in states with plurinational socio-political realities.

First of all, we mentioned already before, that the states as already existing entities are structures of power rooted in the Westphalian system and also in its pre-democratic doctrines of hierarchy, legitimacy and sovereignty. The state as the irrevocable structure of exercising power hasn't changed in its relation with legitimacy and the concept of sovereignty and the sovereign (as for example sovereignty can not be shared), although the sovereign itself has changed, from monarch to the nation (Keating 2002: 14). But departing the interpretation of the state and all the linked concepts from a democratic approach would question the structures of hierarchy and the interpretation on sovereignty, legitimacy and the demos. This has been hindered by the state in order to maintain its power and subordinate all other concepts to it, and despite some adjustments, just in good old Westphalian tradition.

Furthermore, the state is indeed legitimized by its state-nation. A disappearing of the state-nation would also mean the disappearance of the nation-state as we could see in the Soviet Union or Yugoslavia, although both states claimed not to be nation-states, yet showed very state nationalist features. The nation-state has no sense to exist, if the filling element of the people, the state-nation that it should represent as a structure to self-governance, is simply not existent. With other words, the states in general have come to the conclusion that they can not give up being a nation-state because of the national claims of its peripheries. The majority nationalism (titular nation) needs to be pleased by the state, a fundamental reason, why the concept of nation-state has still been kept (Gellner 1983: 28).

The states are the actors and the *Staatsvolk* is usually the sovereign, that legitimates the state. This is not the problem or the source of conflict. The source of the conflict is, how the state and how the *Staatsvolk* is interpreted. The core is the link and the equalization of nation and nation-state. With other words, a state with one *Staatsvolk* can also exist in plurinational realities, as long as national pluralism is recognized and the nation-state concept is replaced by a state concept, that recognizes and implements this plurinationality in its design and mechanisms. If, for example, the nations agree to form one *Staatsvolk*, the state is also legitimated by its sovereign, composed by various sovereigns and sovereignty shared on a commonly agreed base, then the conflicts are practically solved.

As democracy and its mechanisms and conceptions have been by institutionalization and by tradition been subordinated to the state and its imposed interpretations, its way to a liberal democratization concerning the national question in nation-states has been impeded and blocked. The question, whether democracies can be plurinational or have to be uninational, emerges and is, in this context, a crucial one, that should and can not be ignored, but needs to be addressed, as the aim of the thesis is (Keating 2002: 23).

Democracy, as a highly rational governance system, has been able to modify itself, to develop itself and to adapt to demands and realities (Krause 2011: 29). As in ancient Rome or Athens, not the masses, but only a chosen few were the *Staatsvolk*, the political subject, so was it after the American and the French Revolution and has continuously been amplified and adapted to the plurality of society of nowadays, where every citizen, despite his or her ethnicity, gender, religion or political point of view has the right to participate actively in democratic policy-making process', not anymore male citizens who pay a certain amount of taxes as it partially was carried out until the XX century. Democracy has shown a possible evolution and development and can continue in doing so if the nation-state paradigm is modified. National plurality requires acknowledgement and proper recognition, which itself has fundamental impacts on the nation-state as a concept itself, as not the nation, but the plural *demos* would now step up and become the major actor and concepts, while the nation-state paradigm would have to step back and, in states with plurinational realities, step aside for plurinational democracy. With other words, an evolution of democracy is possible and from a democratic point of view required and would replace the democratic nation-state by plurinational democracies, where democracy is not an adjective, but the subject. This could be an approach to break through the vicious circle, a way out from that dead end. In the following chapter, requirements, that would make plurinational democracies possible, will be examined.

The question of sovereignty over the national identity question has also changed within democracy, and the legitimacy to decide over identity questions has shifted from the state towards the individual, as the religious question shows. The *cuius regio, eius religio* concept is in democratic states with plurinational realities outdated, even more, its unthinkable to impose religious identity on individuals or on groups. Individual religious liberty is secured and this is also available for the groups, as religious communities can be established freely. The concept of nation and its interpretation, however, has been since the beginning in the hands of the state and, therefore, determined and imposed. The legitimate question arises, with what right and from which ethnical and conceptual point of view is the state hindering the development of democracy in the question of nation and the free choice of national identity (with all its consequences), when it could also abandon the *cuius regio eius religio* concept, which nowadays seems incompatible with present democratic and human values of liberty and freedom. Liberal democracy requires a modernization in this context (Keating 2002: 23). Furthermore, the states are trapped in their Westphalian concept of indivisible sovereignty, while it is already shared within the European Union or the NATO for instance. The pattern of the traditional Westphalian state has been abandoned and latest since the 1970s due to integration lead to a state, interwoven in inter- and supranational structures sharing sovereignty (Leibfried/Zürn 2005: 1). With other words, the state owes an answer, why sharing sovereignty and following a project within supranational structures is possible and pushed, while it is completely denied on a national level (Rojo 2011: 14). Why is pragmatism possible in the EU, while dogmatism rules within the state, although democratic results cry out for an end of the ignorance of the circumstance?

Concerning plurinational states and their apparently dead-end, when it comes to a solution, the main question that arises here is: is secession and copying the defective and contradictory model of nation-state the only way in a world, where nation-states still remain the main actors, but have *de facto* changed fundamentally from the Westphalian pattern due to integration on the supranational and the international level? With other words, what could be a possible approach to unify the concepts of nation, nation-state and democracy and reconcile them with the principles of democracy, legitimacy and sovereignty not only as tools or determined doctrines, but as accommodated features and driving forces?

An alternative concept is missing, also regarding the demands for full and classic independence by stateless nations, especially in the context of globalization and supranational actors (Rojo 2011: 13). Unilateral approaches by stateless nations have shown, that only a copy of the existing polities - creating its own nation-state - has been done in order to gain full and proper recognition as a nation and to execute its rights within an acknowledged framework, the nation-state. This can pose also a series of problems with double majorities within this new state, as it might be also confronted with claims of minorities, which within the new state territory are in a determined part the majority, asking for proper recognition and being its own sovereign, as they regard and express themselves politically different, just like the stateless nations did within the nation-state. It is, hence, vicious circle, that is not able to provide or to produce satisfactory answers from a democratic point of view concerning sovereignty, demos and legitimacy. Within plurinational states and societies, this approach will always come to a dead end, which makes a rethinking of a constellation and reinterpretation of these concepts even more important.

Although the concept of sovereignty has been transformed due to integration and interaction by the states' transformations, claims to sovereignty can not be resolved by reducing them to a single source, as it is the case until nowadays (Keating 2013: 38). Keating proposes a constitutional pluralism, that acknowledges and embraces further transformation guided by the plural national realities of still proposed and defended concepts nation-state and state-nation.

EXAMINATION OF THE CASES

7. Plurinational demands in the Danish state

7.1 Introduction

When talking about states with plurinational societies in the Western and, especially, the European Hemisphere, the Danish state represents coexistence and cooperation on a very decentralized level with territories and societies of different national, social and political realities. At the same time, the Danish case also shows clearly the limits of concession made by the constituent country, Denmark, towards plurinational demands within its borders.

Both, the development of this state design and the way of understanding it and its needs, are rooted and therefore inseparably linked to the historical context of the whole Nordic Sphere. Only this particular historical context can explain the relations, aspirations, flexibility for cooperation and state management, as much as its past and present perception and understanding of its own statehood.

The Danish State and its ongoing issues regarding the possible independence of the Faroe Islands and Greenland usually do not catch the attention of scholars research nor appear in discussions of secessionism. It seems that these cases do not play in the same league as classical plurinational cases like Spain and Catalonia and the Basque Country, Canada and Quebec, the United Kingdom and Scotland or Belgium and Flanders. One reason might be that the Faroe Islands and Greenland do not have the financial and human resources to promote their cases. Another reason might be also that, as being territories apart of the Danish mainland and with more clear and also much smaller ethnic structures than the well known and well studied cases, they are usually ignored when talking about secessionism in modern democratic states in Europe. A further reason might be that there is no interest by nation-states with plurinational realities to highlight the development of the Danish state due to the concessions Denmark has made to the affected territories and its proper state design. Nevertheless, both cases are real cases with a real potential of secession and which, at the same time, offer a huge potential to learn from when it comes to deal with secessionist claims within a EU member state.

Therefore, this case will be one of the most detailed analyzed case of this thesis in order to contribute to the expansion of knowledge of this case also outside Scandinavia.

It is indubitable that within Europe, the Danish state has one of the most remarkably decentralized and asymmetrical state design on the institutional and political level (Bhatte/Welling Hansen 2013: 68). Already in the late 1940s for the Faroe Islands and for Greenland in the 1970s, all territorial demands for autonomy were taken into account by Danish authorities. Soon, devolution and decolonization by decentralization were given path by negotiation. Denmark is probably the only country in Europe and the Western Hemisphere which has *de facto* abandoned the model of a

homogeneous nation-state, while others only started their debate of devolution such as the United Kingdom.

The Danish State with its both administratively specially treated, but also ethnically, geographically and politically different entities Faroe Islands and Greenland has made one of the most remarkable, if not the most remarkable, decentralization processes that go hand in hand with recognizing the entities as equivalent political entities and, by doing so, upgrading their status and widen their competences without breaking the Danish Realm.

On first sight, it might be put into one category with the “one country, two systems“ ideology that was established by the People’s Republic of China when articulating its vision of a reunion with Hong Kong and Macau in the late 1990s and transferred here to keep the integration of both territories and entities within the Danish Realm, regarding its asymmetrical political design. However, the ongoing processes have shown that the history and the political measures taken by Denmark have not settled both issues and that its development has not come to an end, as the political potential in both, the Faroe Islands and Greenland, show.

This research uses the term “Danish State“ referring to the state as a whole, including Denmark, Greenland and the Faroe Islands. The reason is that the state does not have one official translation in English for what it represents, a mix of empire and commonwealth, which represent the state and the relation between Denmark, the Faroe Islands and Greenland (Steffensen 2009: 289). Other Scholars such as Aronson label the present Danish state as a “conglomerate state“ as a continuation of the state since the 17th century (Aronsson 2013: 18). The present state hence has its roots in a classical empire, known as *Danmarks Rige*, and has regarded naturally the parts (*rigsdele*) as belonging of the Kingdom (*Kongeriget Danmark*, the most used term when referring to the state as a whole), the ‘empire’, what would be the correct and literal translation of the word “Rig“ and that is continuously used also nowadays in *Rigsfælleskabet*, a term which is used since 1975 (Steffensen 2009: 289, 295). This indicates that the self-view of the Danish state has been clearly imperial, and it remains today to a certain extent as the continuation of the term *Rigsfælleskabet*, the successor of the empire, indicates. However, the Danish state carefully avoid to give an official name in English with any reference highlighting this imperial dimension, although Denmark keeps in its memory the hegemonic position it has held in the past (Steffensen 2009: 307). Therefore, another term that is used in English translation referring to the state as a whole is the Danish Realm, a term that tries to explain the loose connection of all territories under Danish authority.

The question of whether these territories of the Danish state can be considered as (former) colonies or not is not as simple to answer as it seems, and depends on the subjective political point of view (Jensen 2010: 167). Chronologically we can state that these territories were regarded indeed as subordinated possessions or dominions, something that was not an exception but the general rule also after the Second World War, regarding the British or French authority in overseas. Steffensen concludes that “*The state does not know what to call itself in English. But (...) the state is very aware of what not to call itself. Terms that underline the colonial history of the realm and relations within it, such as empire, dependency and colony are avoided (Steffensen 2009: 305).*“

We can state, at least in a preliminary way, that the Danish state converted itself from a classic empire into a kingdom in 1918 and from there into a state which is usually described as unitary and decentralized (Caramani 2014: 189).

In the following pages, the Danish state and its confrontation with the Faroese and the Greenlandic issue will be profoundly examined. In order to do that, it is needed to explain the historical process of the Danish state, with the evolution of its asymmetrical political design and accommodation policies, showing the trial and error process and the learned lessons in the past.

For this reason, the first step will be to focus on the question of colonization, decolonization and the conflicts between the nation-state and the socially, politically, ethnically, culturally and nationally separate communities in their territories. This pre-investigation is necessary to show up clearly the present cleavages that mark the tensions and where they have their origin. Later we will focus on the determining factors which have led to the shape of the contemporary state, giving a better understanding of simultaneously happening events on a local, regional and global level.

The historical examination follows a chronological order. First, the case of the relations between Schleswig-Holstein and Denmark. It examines not only the historical relations but also the impact which policy strategies have had on the collective memory of both actors and the influence on the later state design and state-building strategy.

Following to that, the relations of the Danish state and Iceland will be examined as the foregoing events such as internal and external shocks had their impact not only on the relations between those both actors but also on the following strategy of Danish state-building with its territories.

The Faroe Islands and their relations with Denmark and the reasons for how they are and how they are linked to ongoing relations of territories between Denmark will be objective of this chapter. Furthermore, the current situation, issues and tendencies will be displayed in their detail

Finally, Greenland marks not only chronologically, but also in this examination the final actor to be examined within the state. Just like in the Faroese case, not only the historical development of decolonization and its conversion into a part of the state, but also the current status, issues and future tendencies will be detected.

To continue the examination of plurinational states and their challenges in their making, the question of democracy, nationalism and nation-state have been handled since then by Denmark and its actors. Different to the other chapters, the Danish state will not appear here only as a passive object of examination, but will be examined through the prism of the thesis.

7.2 Challenges and strategies on plural national demands in the Danish state

The decolonization process after World War Two was challenging for the former empires still possessing overseas territories under their authority. Since the end of World War One the international society started to implement the idea of the self-determination of the people, and after the Second World War this political principle was included under the umbrella of the United Nations (UN) human rights standard. Of course, this also challenged the self-definition and reorganization of states with such territories and societies. So, the Pandora's box of creating new states under the

idea of self-determination of the people was opened, and empires found themselves facing a dilemma: the interest of keeping its power and influence in those territories and catching up with those standards and principles (Chen/Chen 2000: 31-32).

In this context, the nation-state found instruments to solve this issue. First, it was up to the nation-state, and only to the nation-state, to declare who was a nation inside the territory and who was in the best way a "linguistic group", "ethnicity", "people" or "nationality", all of them expressions without a direct link with full self-determination, and hence for legitimated or legal secession. In other words, a developed form of self-determination was restricted, keeping the Westphalian sovereignty over the concept of the nation (Woons 2015: 8; Welikala 2015: 115). Ensuring this authority led to the strategy of avoiding the term "nation", as stateless nations and also indigenous people seeked the horizontal nation-to-nation relationship (Kymlicka 2000: 222).

The use of language has gone here hand to hand with political aims. There are qualitative differences between expressions used by official authorities to address to these groups and the way these nations present themselves. These minority peoples or nations should not be confused with national minorities of other states which are native to a territory. Furthermore, a challenge of the state in its classic and orthodox nationalism was introduced by enhancing the right of self-determination in international law of indigenous people by the UN (Picq 2015: 19; Pitty 2015: 65). It is yet still up to the states to decide how and if they would implement these rights (Pitty 2015: 66). It means that the state-centric view on the topic, both at the levels of the state and international relations, leads to limiting or leaving out the indigenous perspective and satisfaction cannot be guaranteed (Picq 2015: 24-25). To be recognised as a "linguistic group", "ethnicity", "people" or "nationality" depends on the interpretation of the state and its goodwill for recognition and granting rights.

The UN implemented right of self-determination of the people and decolonization led finally to decolonization and decentralization. By doing so, the state could continue keeping under state authority several territories. With the delegation of rights of self-determination came also the conversion of terms in order to avoid any link with colonization, as the heritage of the British and the French Empire shows: from (crown) colonies and dominions towards self-governed British Overseas Territories or towards overseas Collectivities. The avoidance of the expression "nation" and terms related with a possible obligation of decolonization and replacing them by arbitrary expressions are hence obviously details. By using descriptive expressions that circle around the word "nation" like the previous mentioned ones, which are nowadays actively used by nation-states, there seems to be a de facto recognition without recognizing them properly as a nation in legal, moral and political terms. While "people" and "nation" have been used simultaneously, the difference is legally also not wide but yet significant: "people" are usually linked with self-determination while "nation" has been synonymously used with "state" (Summers 2014: 8)

When we continue developing the idea, it means that the state can handle all sorts of minorities as they can refer themselves to minority rights, but not to secession. The nation-state of today cannot handle national plurality within its borders, because those societies considering themselves stateless nations could start a state-building process by secession or a critical loss of authority over a part of the citizens and territory. By doing so, the state and the state-founded UN support

and promote the idea of the nation-state. By recognizing the different groups within a plurinational state as minorities or “peoples” and the linked granting of rights of self-determination, the state has found its limits on accommodating the needs of the group once its authority and integrity could be challenged.

Anyway, the definition and limits of self-determination are not eternally and unchangeably fixed but can be extended by further decentralization, by creating precedents or by mutual agreements with diverse methods. One first step is the recognition by the state of the right of the social group to develop itself as a mutually recognized nation and, by doing so, the state could abandon its position of having the last word in this issue, and delegate it to the demos or the *demos* (Lluch 2014: 39). One precedent was the transformation of Yugoslavia in 2003 towards a *de facto* confederation between Serbia and Montenegro, which was legally dissolved in 2006 after the Montenegrin independence referendum (Vidmar 2015: 268; Glasius/Kostovicova 2009: 130). A more recent successful recognition was the Scottish referendum in September 2014, where the demos was recognized to convert itself into a nation but the Scottish people did not choose the way of separation and classical state building.

To overcome the gap, which is produced by the conflict of maintaining the state authority over such territories and to challenge the argument of missing self-determination, has been the instrument of representation and participation on the state level and autonomy. However, it can be criticized that representation and thus participation is not extended to a satisfactory level. As societies seeing themselves as stateless nations seek the nation-to-nation relationship, they seek the possibility of state-building but as the Scottish example showed, this may be not necessarily an immediate need (Kymlicka 2000: 222). One can argue that, by doing so, the society or the stateless nation leaves voluntarily their status of nation. This is not necessary the case as the possibility of following the state-building process can be retaken again in the future if the society wishes so. The status of nation is not so much tied to the state-building project as long as they seek for proper equal recognition. It also does not declare invalid the link between nation-building and state building, but opens up to alternative forms of seeking accommodation and recognition without breaking off the current state.

The difficulty here for Denmark has been displayed clearly by naming itself differently in both languages, English and Danish, and circling around the proper and equal recognition of Faroese and Greenlandic realities. The Danish identity, based also in an imperial identity, clashes here with these of stateless nations, who do not identify with the imperial nation but with the incorporated ones (Steffensen 2009: 289). These conflicts are not new but arose latest in the XIX and the XX century with rising national consciousness also in Nordic communities. The Danish state displays a steady, but yet dynamic development of its being and hasn't come to an end. Trying to avoid crucial questions of nationhood within its sphere but rather staying in a grey zone, makes it on one side flexible, on the other side keeping to its imperial roots and probably, by doing so, not finding early enough a modern solution of accommodation in order to a future integration.

7.3 Factors that lead to the shape of the contemporary Danish state

There are several reasons and factors explaining why the Danish state developed itself and changed so drastically, particularly regarding the historical European context. A first factor is the historical and political context of the Nordic countries, to which Denmark also belongs, that explain the political will of its transformation.

Historically, the Danish state as a whole has never been a homogeneous nation-state outside the Jutland peninsula and its neighboring isles, but governing a series of territories with mixed or non-Danish ethnical and national composition (Gertsen/Sønderberg/Zølner 2012: 40; Korsgaard 2006: 138, Østergård 2006: 85, Steffensen 2009: 290). Except most of the Jutland peninsula, its neighboring islands - the territories that are nowadays recognized as mainland Denmark - all the other territories were and are both, in its large majority not Danish-speaking and culturally and geographically distant (Huus/Lindgren 2001: 300). This constellation is also explained by the circumstance of being in the Nordic sphere, where the *Kalmar Union* was a pre-modern model of integration of different linguistic and ethnical territories, which saw a continuation with, on one hand, the personal union between Sweden and Norway and, on the other hand, the Danish state with its Faroese, Icelandic, Greenlandic possessions with additional oversea colonies. Modern Danish national consciousness arose like the other European ones after the French Revolution and Denmark, as a small but yet overseas-power with some small overseas colonies, went its way to a modern nation-state as well in the context of yet the artifacts of pre-modern times possession. Furthermore, Denmark was as many European states a classic empire with European dominions and oversea colonies (Glenthøj/Nordhagen Ottosen 2014: 3). Besides that, the present constellation of the state also has its roots in the Nordic unions, which were a political reality since the middle age *Kalmar Union* and that lasts until today in different forms like on the state level the Danish Realm itself, on international level the Nordic Council or the European Union covering also partly the Nordic sphere (Lyck 2012: 2).

A second factor is the consciousness of having some state territories with a large majority not being Danish neither linguistically nor culturally. This is already an important factor in order to understand the political interpretation of the state of today. In particular, after observing how a complete *Danification* of the societies and a conversion into loyal Danish citizens has failed, and therefore, a new kind of arrangement have to be found, one that respects and involves cultural, ethnical, linguistic and political realities in those territories (Kleivan 1979: 119; Tulasiewicz/Adams 2005: 155; Nuttall 2003: 1003).

A third factor is that the not Danish inhabited territories were also influenced by the nation building that emerged all over Europe in the XIX century in the Nordic countries. This also lead to the rise of a national consciousness of self-determination, to nation building processes and their political canalization in Iceland, the Faroe Islands and later also in Greenland (Debes 1995: 40-41, 63, 68; Bærenholdt 2007: 220). Some of the nation building processes led to real state building such as in the Icelandic case, while the others are still in process and yet unfinished.

In the following sections it will be explained the development of the relationship of these territories with mainland Denmark. The three aforementioned factors will guide our reasoning, to understand

both sides in their decisions of shaping the state historically and as it is today and also to show how Denmark has tried to find answers to demands of nationalism, self-determination, decolonization and its way to find its own present state-character.

7.4 Schleswig-Holstein and its impact on the current Danish state design

To understand the Danish conception of state and its design such as the present mentality on devolution and not on forming a hypothetic all-centralist formula leads to examine the Danish relation with Schleswig-Holstein. The history of the linking of Schleswig-Holstein gives one important idea of the perception of the state.

Since the year 811, the Eider River marked the historical border between Schleswig in the north and Holstein in the south of it, when this river was by treaty declared the border between Denmark and France, later succeeded by the Holy Roman Empire (Berdichevsky 1999: 3). Schleswig was since 1326 through the intervention of Gerhard III of Holstein Duke of Schleswig and count of Holstein and managed to put into action the *constitutio valdemariana*, which forbid exercising power at the same time over Denmark and over the Duchy of Schleswig (Thaler 2009: 30, 162). By doing so, Schleswig was not only from a constitutional law point of view separated from Denmark but yet incorporated into the Danish Sphere, but both duchies Schleswig and Holstein were under one rule as a fief (Thaler 2009: 31, 162). The treaty of Ripen of 1460 declared the indivisibility of both territories, Schleswig and Holstein (Thaler 2009: 31). The same year, the Danish king Christian III became also duke and count of Schleswig and Holstein, while Holstein remained within the Holy Roman Empire but with the Danish king as its count, and from 1474 as its Duke.

From 1460 until 1864, Both duchies Schleswig and Holstein were hence linked with Denmark through a Personal Union. This status functioned for nearly 400 years well in keeping the linguistically and ethnic borderland being in a quiet special, overlapping, limiting and therefore also unclear grey zone position for future questions of nationhood and nation-state. Holstein was, from a constitutional law point of view a territory, from 1815 on part of the German Confederation, a modern but different successor formed of the Holy Roman Empire, while Schleswig as a duchy remained outside both polities (Köbler 2007: 629). The rights of both duchies within the personal union were limited though: relations to other states, military, finances and economy were lead from authorities responsible for the whole Danish state (Wewer 2013: 95).

1814 was a crucial year that changed criticality the development of relations between Denmark and Schleswig-Holstein. Denmark suffered from heavy fiscal and territorial losses due to its alliance with France²¹ and, in order to recompense these losses, a new Danish state-nationalism sought creating facts by simplifying competency and power questions within its territory. Furthermore, modern political nationalism in central Europe - and in this context important among the German population - and the search for a political formula for the much older German cultural nationalism to unite the German nation in all its territories arose (Bayer 2007: 605). These two

²¹ Norway was ceded to Sweden.

aspects led to a cleavage between Schleswig-Holstein and Denmark and later on between Denmark and the German unification. On one hand, after taxing heavily Schleswig-Holstein for the war debts, a crucial step of further deterioration of the relations between both entities was the attempt of (and between 1806-1815 realized) a formerly incorporation of Schleswig-Holstein into the Danish state, a goal that would go against the old, mutual agreed, respected and for centuries functioning distribution and limitation of Danish competences in the duchies (von Bezold 2014: 21). On the other Hand, besides the in its majority German orientated population, the Schleswig-Holstein nobility increased their attempt of an incorporation into the German Confederation (Svendsen 2010: 19).

The conflict broke out openly on an institutional level between the assemblies of Schleswig-Holstein, created in 1834 among those for Jutland and the Isles, including Iceland and the Faroe Islands and the Danish state, as opposition to the latter one. The different ideas of a future of the relations between both duchies and Denmark saw in 1844 a new highlight when the Schleswig-Holstein estates declared their independence from Denmark and accorded to their prior and legal status but repudiated by the Danish King Christian VIII two years later (Pearson 2014: 120). The year of the final break-up and the first peak of conflict was 1848, the year of revolutions all over Europe. In 1848, Danish state-nationalism and modern expansionism came in form of the trojan horse of ethnic nationalism and overcoming the *Metternich system* with the decision to create constitutions for Schleswig and Denmark, and therefore seeking a formal partition of the linked duchies into two, each one for one state (von Bezold 2014: 68). This means that once it was clear that Danish ethnic nationalism and Danish state expansion could not find reason to incorporate Holstein, Schleswig remained rationally the only territory to annex. The territorial and constitutional question has shifted towards a national one. Furthermore, Denmark's loss of Norway to Sweden in 1814 might assume, that the kingdom sought some kind of compensation by incorporating Schleswig.

One fundamental question remained open and depended on the political point of view: the interpretation of the Ripen Treaty of 1460. While Danish liberals drove further the *de facto* partition of Schleswig-Holstein, the Schleswig and Holstein estates were fundamentally convinced that a partition would go against the treaty and would be inapplicable as they were expressly indivisible (Snell 1999: 205). Negotiations between the estates of both duchies with Copenhagen lead to no agreement (Svendsen 2010: 26). The following formation of a provisional government for Schleswig-Holstein lead to the first rebellion in Schleswig-Holstein²², which caused the invasion of the Danish army 1848-1852 (Svendsen 2010: 26). The counterpart was the for the first time in history established Schleswig-Holstein army. The constitutional question was now also reinterpreted as a national one. Due to British, French and Russian pressure, only short and limited support was granted for Schleswig-Holstein from Prussia and the German Confederation (Gash 1981: 315). Although Denmark military defeated the Schleswig-Holstein forces, Danish annexation fantasies and settling the matter once and forever could not be satisfied. The London Protocol of 1852 restored the *status quo ante bellum* with some smaller changes like the

²² This event is know the First Schleswig War.

implementation of a separate constitution and separate ministers and to set up future talks about the development of the relations between Schleswig-Holstein and Denmark with opposition and even refusal of the implemented constitutions from both duchies (Carr/Hearder 2014: 41, 43). In 1859, Denmark finally dismissed the constitution of Holstein and the Danish king, as the Duke of Holstein, by doing so violating its obligation to provide a constitution of Holstein as part of the German Confederation, as every state had to have its own constitution (Pearson 2014: 121). As further agreements were not found between especially Schleswig and Denmark and liberals gained more influence in the Danish Parliament, Schleswig was declared a Province of Denmark in late 1863 and imposed a new charter on Holstein without the consultation of its representatives (Pearson 2014: 121; Tucker 2009: 1404). This violation of the London Protocol led to the *federal execution*, this means the use of a legal military intervention of the German Confederation, Prussia and Austria as the executive forces (Tucker 2009: 1404; Grant/Temperley/Ramm 2013: 258). Regarding the national tension and interests from both, neither the people, the states and empires, the London protocol couldn't settle, nor resolve the national question of power as the status seemed not adequate for the XIX century anymore. The *casus belli* led to the Second Schleswig-Holstein war in 1864²³ as the first of the three international wars of German unification, followed by the Austro-Prussian War in 1866 and the Franco-Prussian War in 1870-71.

With the Peace Treaty of Vienna, both territories finally abandoned the Danish Sphere and came under Austrian and Prussian, after 1866 only under Prussian rule. An agreement to convoke a plebiscite in Northern Schleswig to finally decide over the belonging was dismissed after Austria and Prussia mutually agreed on it in 1878 (Fitzpatrick 2015: 146)

As a result of the Versailles Treaty, borderlands were claimed by most neighboring states of Germany. Denmark, however, revealed a revival of its old annexation objectives of Schleswig and, in the best case, Holstein, regarding the old stated indivisibility of both in their fate. Breaking and ignoring all the foregoing and legitimate treaties settled between Germany and Denmark (in 1907 even, Denmark recognized the border as final in a treaty, the *Optantenvertrag*, in Danish *Optantkonventionen*), Denmark put the question of its expansion to Schleswig and Holstein back on the table and enforced with the support of the allies a referendum on the future status of both territories. In the post-Versailles context, the Schleswig referendum in 1920 was only one of several following ones (Thaler 2009: 79). The plebiscite zone was partitioned into three, after a revision from the Danish side into two zones (zone I in the north, zone II in the centre of Schleswig) close among the language borders. While the first zone voted with over 80% in favour of Denmark, the second zone voted with a similar result in favour of Germany. Although there were several clear "German enclaves" by vote in the first zone, they were incorporated without any negotiation on their future status into the First zone (Rerup 1995: 266). As a result, Schleswig was divided along both zones and North Schleswig incorporated into the Danish state.

It can be argued that a democratic decision by the directly affected borderland population as a modern, adequate and settling solution replaced the usual power games of authorities. However, it should not be overseen that this referendum wasn't planned and carried out in the humanitarian

²³ The literal translation from German would be the German-Danish War, which highlights the national cause linked with the conflict.

context with the objective of a better life and self-determination, but in the context of a defeated and forced Germany, where negotiations on the same level were not given, but rather implemented by the neighboring states. Nevertheless, the population was yet given only the choice to decide for either nation-state and no further options like a reestablishment of territories in a personal union or a free state were discussed.

The Second World War and the German occupation did not reunite both parts of Schleswig, but both sides, the German military and the German political authorities, respected formally the 1920 decision. With the arrival of hundreds of thousand fled and expelled people, especially from East Prussia, making up to 33% of the new population of Schleswig-Holstein in 1945 and the years after, the national question in the southern part of the former second zone was also decided by a considerable raising number of Germans (Beer 1994: 13). A final treaty on national minorities between Germany and Denmark was made in 1955 passing the Copenhagen-Bonn declaration where minorities in both states were granted full rights.

Since then, the matter of Schleswig-Holstein and its final belonging seems to be settled as there are no official claims, neither from the German (state or minority), nor from the Danish one. However, discussions on minority rights on a cultural and political level raise from time to time as asymmetries in privileges and the question of the status as contemporary treaty regarding the current European minority chart (Malloy 2015: 184). In 2017, the vice chairman of the Danish People's Party, making up almost 1/4 of the Danish Parliament expressed his wish to annex further parts of Schleswig to the Eider River²⁴.

The dispute over Schleswig-Holstein might be settled as for now any majority movements or claims for crucial changes exist. Although it seems to be a matter of the past, the historical memory of Denmark with the Schleswig-Holstein experience seems clearly to have been part of shaping the state mentality on the state design of today. The experiences of dealing with claims and cleavages that produce conflicts between territories and Danish authorities are differently valued and challenged that the wisdom of these experiences brought with them.

The Schleswig-Holstein matter has been, as a look back into history shows, an important territorial state matter for Denmark and has shaped its way of defining the state of today.

The achievement of an expansion of territory and authority to the South did not only cost Germany the for more than half a century and by the Ripen treaty in its fate unified territories Schleswig and Holstein and the local population with its overlapping national realities, but also Denmark. It was one of its bloodiest war in Danish history and the outcome was not the final incorporation of Schleswig-Holstein, which was linked on several levels until 1864 with Denmark as a whole more than with Germany, but by its expansion and imposition policy from the classical nation-state brought only to the annexation of northern Schleswig and the division of the former duchy.

Regarding the developments after Schleswig-Holstein's discussion, it seems that these events have served as historical lessons, that national desires or ideas of state design and the distribution of competences cannot be implemented by force.

²⁴ Deutsche Welle. Danish demagogue calls for annexation of German region.

7.5 Iceland's peaceful and legal secession from Denmark

Iceland was the first European part of the Danish state to make a successful attempt to gain full sovereignty and independence as a state by dissolving the union with Denmark. This event took place in 1944, when Denmark as the constituent country under German occupation was unable to act as the highest authority over Iceland which at that time was under allied military occupation.

The history of decentralization within the Danish state regarding Iceland is interesting. Historically, Iceland became effectively under the Rule of Haakon IV politically annexed to Norway, in 1380 under the Danish dominated Kalmar Union and after the Treaty of Kiel in 1814, Iceland remained under Danish authority (Derry 2000: 37; Thompson 2015: 87). At this time, Danish trade monopoly was implemented under which Iceland's economy heavily suffered. Icelanders accepted the rule of the Danish king, but not of the Danish people (Karlsson 1995: 40). After the kingdoms of Norway and Denmark were separated in the Treaty of Kiel in 1814, Iceland remained under Danish authority.

Like Schleswig-Holstein, Iceland was also inspired by romantic nationalist ideas of continental Europe and started developing an Icelandic nationalism with the outcome of a nationalist movement under the lead of Jon Sigurdsson. Sigurdsson argued that Iceland was a separate polity and therefore required a deep devolution (Pavkovic/Radan 2015: 39-40). Iceland at that time was not regarded as a colony but rather as a dependency, as the Icelandic society was neither seen on one civilized level with other European nations and societies, nor on the level of colonized Greenlanders and Africans (Bergmann 2014a: 39).

After the Icelanders made a petition for a separate assembly in 1838, a first institutionalized step to self-determination was the introduction of the new *Alþingi* (Parliament), an advisory body, in 1845 (Pearson 2014: 164). It shall be remembered, that, by accepting the Danish king's absolute rule over Iceland, the idea-of self-determination was justified, as the Danish people could not give the power over Iceland to Danish subjects, but alone to Icelanders (Karlsson 1995: 40). In 1874, on the millennium of the first acknowledged settlement of Iceland, the introduction of an own, separate Icelandic constitution, which implemented self-government in domestic affairs (Arter 1999: 225; Bergmann 2014a: 38). Historically, there has been over decades pressure from the Icelandic side pushing towards Home Rule (Pearson 2014: 164-165). A further step of decentralization followed in 1904, when complete self-government was implemented and Icelandic state official was brought under the authority of an Icelandic Minister of Icelandic affairs, who also was responsible to the Icelandic parliament (Hálfdanarson 2011: 285). It also expanded the Icelandic consciousness of being able managing its own affairs, especially during World War One (Thompson 2015: 87).

Hidden secessionism was not meant with the expansion of competences but rather becoming fully responsible and recognized as a political subject. A political project of secessionism in form of a party demanding it (the Independence Party) was institutionalized only in 1908 (Pavkovic/Radan 2015: 41). Before and during the First World War, the demands were driven further with public demonstrations in Iceland over the issue of the right of Danish authority to decide over Icelandic symbols so that a Danish-Icelandic commission in 1917 finally agreed on the Danish-Icelandic Act of Union. With this step, Iceland was a fully sovereign and independent state, the Kingdom of

Iceland, since 1918 and within a personal union with Denmark and fully equal to it (Lemkin 2008: 164). This step can be regarded as the first major step of Iceland's breaking away from Danish authority, as by the Act of Union and the new Constitution adopted in 1920, Iceland was linked to Denmark only by having the Danish king as head of state and the need of his approval of laws made by Icelandic authorities and Iceland's foreign affairs and defence carried out by Denmark (Einhorn/Logue 2003: 61; Maddex 2014: 113; Petersen/Poppel 1999: 173). Iceland, however, had the authority to develop the country's foreign relations but lacked of interest in developing them during the first 15 years except its foreign trade relations (Hálfðanarson 2011: 81). Furthermore, Denmark was not in a moral position to deny Icelanders self-determination while Denmark demanded it for Danes in Germany (EoN 2000: 227²⁵; Heininen 2014: 16). Iceland developed its own political party system without any Danish parties and, by doing so, a different institutionalized political reality was created (Karlsson 2000: 202-203)

Both countries had the authority to demand a review of the Act in 1940 and in case no agreement within three years was reached, each parliament could annul it legally (Arnason 2006: 29). After 1918, politics in Iceland shifted from independence towards the classical cleavages between city and country and to class divisions (Nuttall 2012: 925). However, the Second World War as an external shock changed the circumstances. Denmark was militarily occupied by German forces in April 1940 during the operation *Weserübung* while Iceland was not. Due to the circumstances of Denmark and Iceland being divided into two different military and power spheres, the Icelandic Parliament declared in 1940, that the king could not carry out the royal power and that Iceland, due to the situation, had taken over its foreign affairs, both declarations legally (Lemkin 2008: 165). Shortly after, Iceland was occupied in the same year militarily by British forces and, by doing so, violating Iceland's neutrality (Heininen 2014: 29). 2012: 925). One first important act of exercising foreign policy was when Icelandic authorities took over full control of Iceland's foreign affairs and handed over Iceland's defence to the United States after a mutual bilateral agreement that also included the condition of full recognition of Iceland's independence and sovereignty by the United States (Nuttall 2012: 925; Lemkin 2008 : 166).

In 1941, the *Alþingi* passed a resolution in which it declared the full responsibility of Iceland only for Iceland and the decision of not renewing the Act of Union after the war and the conversion of Iceland into a Republic, as Denmark was unable to fulfill what was its part in the Union Treaty (Lemkin 2008: 166; 2000: 321). This act was legal according to the Act of Union established in 1918. During the de-facto separation, pressure to go for independence was a major political issue of all parties as the topic gained not only by the present circumstances, but also by its historical struggle for independence popularity and was taken over by all parties (Karlsson 2000: 321). Already in 1943 and still under German occupation, the Danish king sent a telegraph to Iceland expressing his hope that Iceland would not establish the republic while Denmark was still under German occupation (Karlsson 2000: 321).

Nevertheless, the king's appeal did not reach its goal. Furthermore, Denmark's circumstances as an occupied country were not the best ones trying to convince a continuity of the union. After a

²⁵ Encyclopedia of Nationalism, Two Volume Set: Icelandic Nationalism

referendum was evoked, 99%, with a total participation of 98,6% voted in favour of full independence and sovereignty of Iceland (Karlosson 2003: 321). With this decision, on the symbolic date of the birthday of Jon Sigurdsson in 1944, Iceland became a republic. By doing so, all linking state elements with Denmark were determined and an end to the Union between Denmark and Iceland was made (Einhorn/Logue 2003: 61). Although the peaceful and legal dissolution of the union was not in the interest of Denmark and the dissolution of the Union was poorly received in Denmark, the outcome was fully accepted by Denmark as following to the declaration of independence, the Danish and former Icelandic head of state, King Christian X, congratulated the people of Iceland to their independence (Heininen 2014: 15; Pavkociv/Radan 2013: 41).

It seems interesting that Danish authority over Iceland and its goodwill of changing the state design and the distribution of competences show a certain understanding of the other entity as a political subject regarding its aspirations on the state and the international level. A personal union, in fact, transcends the classic nation-state. It is a modern political form inspired in the pre-nation-state times, when personal unions were for centuries a common form of governance in the Scandinavian political circle. Icelandic nationalism plays a crucial role here. Icelandic nationalists called for independence as they made out Danish paternalism as one source of their poverty and as an opposition of not being regarded as an actor on the same level as other European cultures, but somewhere in between colonized and as civilized regarded people (Bergmann 2014a: 39)

What made Iceland finally choose the way of legal secession over the Union and its ties, which had lasted for over five centuries? There are a series of factors and internal and external shocks on the Icelandic and on the state level as driving forces can be detected and which can be put easily in the historical context described before.

First, European inspired ethnic nationalism in Iceland from the 1830s on pushed the Danish state towards a continuous change of Iceland's position within. Icelandic nationalism detected Denmark's rule a major factor for Iceland's adverse economical and cultural development and only full independence and sovereignty was the way to a prosperous society (Hálfðanarson 2011: 79). Furthermore, after 1864, ethnic nationalism was the prevailing political ideology in Denmark, emphasizing the importance of Danish language and culture for legitimating Denmark's existence (Allen 2013: 49). Iceland did not fit into this nationalism at all. Denmark reacted to the events of Schleswig-Holstein and XIX century nationalism by negotiating and granting step by step more competences to Iceland and its search for new, pre-modern formulas in order to keep the state integrated.

Second, it is obvious that Denmark did not fully exploit its possibilities in Iceland but, despite that Iceland was a Norse heritage of the XVI century, Denmark was far more involved in the Baltic Sea than in the far North Atlantic, to which it showed less interest (Østergård 2015: 462). This was also underlined by the mentioned self-determination, which Denmark granted to Iceland. A further impression was the emergence of new states all over Europe and the disappearance of old empires. The division between both entities widened as the Act of Union in 1918 opened new possibilities to Iceland and shifted its focus from Denmark, overcoming the cultural-educational and economical domination. Icelandic students bypassed Denmark and studied abroad, especially in

Norway and Germany. Economically, Iceland focused its trade relations on the Mediterranean countries like Spain, Portugal and Greece which became Iceland's most important trade partner until 1936 (Olsson 2009: 162-163). Denmark, on its side, did not also benefit too much from Iceland as it was neither a military stronghold, nor an important source of income (Karlsson 2000: 45).

The external shock of the Second World War segregated additionally both already equal and loosely tightened political subjects. Iceland experienced not only complete and separated state management and, due to allied troops, also an economical boost (Hálfðanarson 2011a: 83). As Denmark failed to provide any of its competences - the king's authority and defence policy - these circumstances also were finally seen as a good window of opportunity which was already widely opened since 1918.

Being a sovereign state within a very loose Union was finally not regarded superior or more attractive to the idea of full sovereignty and independence. On the one side, the historical memories of both entities shaped the state. On the other side, rational reasons like the ongoing loosening of the ties between both, the dysfunction and finally the question of the benefits of the Union gave path to make it history, as no sense in continuing it could be found which were convincing. Iceland was the major driving force, but Denmark did not resist at any moment to agree to its peaceful dissolution.

7.6 The Faroe Islands and their relations with Denmark

Putting the Faroe Islands into an historical context of its development shows many similarities to Iceland. After Norse, Viking dominated settlement from the IX century on and the development of an own society, the Islands became politically linked with Norway in 1035, after they became a feud (Murray 2012: 142). Just like in Iceland, the Alþingi was established as a place of reunion and council. Together with Iceland and Greenland, the Faroe Islands, as a subordinated territory to Norway, became in 1380 part of the Danish dominated *Kalmar Union*. Foreign dominance was displayed by implementing laws and rules over Faroese trade first by the Norwegian and from 1536 on by Danish authority. Reformation was used to implement the foreign Danish language in administrative and public life and, by de-facto degrading Norway to a Danish province, also taking over the right of granting trade monopoly by the Danish crown (Haarmann 2015: 229; Jespersen 2011: 3, Thomas 2010: 256). In 1556, it was decided that the Faroe Islands would be governed not from Norwegian Bergen, but from Danish Copenhagen (Wylie 2015: 18). After a period of leaving over the Islands as a feud, the Danish crown took over full control over them in 1709 (Cannady 2014: 91).

The Treaty of Kiel in 1814 and Norway's forced union with Sweden didn't change the status of the Faroe Islands remaining together with Iceland and Greenland under Danish power. Faroese self-determination was finally abolished in 1816, when the *Løgting* and the *Løgmadur* - the parliament and its headman— were replaced by the *Amtmadur*, the Danish trustee in Torshavn (Wylie 2015: 91) From 1821, the Faroe Islands became downgraded from a country to a Danish county within

the Danish administrative division (Debes 1995: 71). With the new Danish constitution in 1849, two Faroese deputies represented the Faroe Islands in the Danish parliament from 1852 on (Petersen 2010: 223; Debes 1995: 72). The *Løgting* was only rehabilitated as a consultant institution (Debes 1995: 72). With the abolition of the Danish trade monopoly in 1856, the Faroe Islands converted themselves from a predominantly agrarian towards a fishing industry (Nuttall 2012: 610).

Certain autonomy was provided to the villages of the Faroe Islands as a law established township governments in the Faroe Islands in 1872 which also provided unwillingly the local education the possibility of teaching in Faroese and, by doing so, upgrading the status of the language (Wylie 2015: 109, 127). As all over Europe, educated elites were also the leader of the Faroe Islands nationalism (Adler-Nissen 2014: 59). In 1876, Faroese students met in Copenhagen and developed, simultaneously to *Scandinavism* and romantic European nationalism such Icelandic, Danish or Norwegian, the idea of the Faroese nation (Debes 1995: 73-4). The regained self-determination and the linked idea of the nation blossomed and showed its first sights on the Faroe Islands, when in 1888 the crucial Christmas Meeting took place in Tórshavn with the aim to establish Faroese language as the official one and to head for independence (Debes 1995: 75, 76). However, the struggle for political independence was not as obvious as in Iceland: in 1906, the Unionis Party (Sambandsflokkurin), which sought close relations with Denmark and the Self-Rule Party (Sjálvstýrisflokkurin), asking for wider responsibilities were established and further parties followed (Debes 1995: 78; Stepan/Linz/Yadav 2011: 218). Since then, the political landscape was not only marked between the left and right spectrum, but also between the pro and contra independence. Differently from Iceland, no special status was established in 1918 for the Faroe islands. The demands for self-determination came from both, central European romantic nationalism on one side and, on the other side, obviously Icelandic events of nationalism and home rule had a spill over effect also on the Faroe Islands and served as a source of inspirations (Debes 1995: 77).

A major event was the outbreak of the Second World War. Like Iceland, the Faroe Islands found themselves since 1940 cut off from Danish influence and also within a different military sphere when in the same year, British soldiers invaded and military occupied the islands (Bertelsen 2015: 15). Being cut off from Denmark and the inability to execute its authority brought also the necessity of establishing institutional bodies of management in the Faroe Islands. It was not intentionally to take over authority but only the military use was in the focus of British invading troops so governing was left over for the *Løgting*. Like Iceland, these circumstances brought a stable growth of the economy by providing Great Britain with fish and an experience of self-governing as the *Løgting* converted itself into legislative power and the executive power under the county perfect and a series of competences, the Faroe Islands would not want to reject after the war (Bertelsen 2015: 16).

Growing self-confidence on the possibility of running the economy and governing the territory grew due to the self-determination experience during the war (Stepan/Linz/Yadav 2011: 219). With the end of the war, both, Denmark and the Faroe Islands, knew that coming back to the *status quo ante bellum* would not be possible and negotiations for an agreement between both entities were

taken in 1945 (Cannady 2014: 92). To depict the opinion of the Faroese demos to the negotiators, the People's Party proposed a referendum (Stepan/Linz/Yadav 2011: 219). In September 1946, with a turnout of 66,4%, a slight majority for full independence won with 48,7% and 47,2% against: the Danish prime minister, who did not have a majority in the parliament, granted independence to the Faroe Islands while the Danish parliament did not share the Prime Minister's view and the *Løgting* was dissolved by the King (Stepan/Linz/Yadav 2011: 220). Nevertheless, a new status with Faroese authorities was agreed and Home Rule was implemented with the Home Rule Act in 1948 granting the Faroe Islands autonomy and being the *Løgting* as the legislative body (Jensen/Hønneland 2015: 4). The internal discussions between Danish authorities show clearly that, after introducing the Home Rule Act of 1948, the Faroe Islands were regarded by an expert commission, consisting of Poul Andersen and Alf Ross, as "(...) a self-governing society within the Realm (Beukel 2010: 399)" and, according to the official transcription into English of the Home Rule Act of 1948, that "(...) the Faroe Islands shall constitute a self-governing community within the State of Denmark (stm.dk²⁶)".

Self-governing on an international level was displayed when Denmark joined the EU in 1973 and the Faroe Islands decided not to do so (Murray 2012: 140). The reason was mainly issues between the European Union and the Faroe Islands over fishing policy, by far the most important industry of the territory, and as the EU was not ready to change its position, a referendum held in 1974 on the Islands rejected the membership (Murray 2012: 140). The support for full sovereignty and independence and the rejection of this political idea has been through the last decade stable at around forty to fifty percent by vote, but it was increased in surveys in the late 1990s as the leading idea for the political future (Bhatti/Welling Hansen 2013: 84; Ackrén 2006: 227).

In 1998, the Faroese government, led by secessionists, proposed the creation of a new agreement between Denmark and the Faroe Islands, which took the Danish-Icelandic Union Law as a model for Denmark in a union with a sovereign Faroe Islands (Heininen 2014: 16). Different from the Icelandic case of 1918, the Faroese did not want to cut the financial support of Denmark, as its government said that this would happen in max. 5 years, but to continue for 15 years (Heininen 2014: 16). The open issue of future relations was tackled by the Faroese and Danish authorities which lead to the Fámjín agreement, in which all domains except monetary policy, currency, security and defence policy, the Supreme Court, citizenship and the constitution could be taken over by Faroese home rule authorities (Heininen 2014: 17). According to Heininen, the Faroe Islands switched hereby from a comparable Icelandic 1904 status (acquired in 1948 by the Faroe Islands) and approached in many respects the status of Iceland in 1918 except fiscal independence and sovereignty (Heininen 2014: 17). The Home Rule Act was in 2005 expanded with the so called Treaty of Fámjín, in which the Faroe Islands were granted the possibility to become under certain condition an associated member of international organizations and that they could act in international affairs in domains which were covered by the Home Rule of the Faroe Islands (Jensen/Hønneland 2015: 4). In 2017, the Faroese Government announced that in 2018,

²⁶ Statsministeriet - Prime Minister of Denmark

the Faroese demos would vote on its own constitution, where the right for self-determination and the Faroe Islands as a nation would be constitutionalized²⁷.

To discuss now the development of the Faroe Islands, there are several players that have to be taken into account here: The Faroe Islands themselves, Denmark, Iceland and the European Union. Furthermore, internal and external factors play a crucial role.

Since Danish rule over the Faroe Islands, we can see a lasting steady development towards self-determination. The demands for self-determination came from both, central European romantic nationalism on the one side and, on the other side, obviously Icelandic events of nationalism and home rule had a spill over effect also on the Faroe Islands and served as a source of inspirations (Debes 1995: 77). Until 1948, the Faroe Islands did not acquire the status similar to the Icelandic one. Anyway, there are differences between both cases. No clear support for full independence has been seen in the Faroe islands as it happened in Iceland. A strong indicator of these different outcomes is the remarkable Faroese interest in keeping the union, which has been politically supported by local parties nearly as much as classic independence. Economy and financial sustainability is the vulnerable part of the Faroese independence movement. The financial crisis, the fishing-based mono-culture economy in the 1990s, and the complete Danish withdrawal from financial support of the Faroe Islands in case of an independence are clearly crucial matters (Ackrén 2006: 228). With the missing financial sustainability and the risks, which a very monoculture based economy brings, the Faroe Islands have lacked to display a clear majority in favour of independence.

The Second World War, however, was - just like for Iceland - an important event for Faroese experience in self-determination and their aspiration of not to lose what has been experienced. Since then, taking serious the possibilities given by the Home Rule agreement were developed and expanded in 2005. The Faroe Islands have taken serious their possibilities of developing their wide degree of autonomy and might expand it after the referendum in 2018.

However, the Faroese have shown that there has never been a clear majority in favour of full independence from Denmark. One reason might be the question of the economic viability and the concern for maintaining the standard of life in the islands as the Faroese budget depends on a large scale on Danish economic support.

The process of the relations between Denmark and the Faroe Islands depend on the institutional framework negotiated by both entities. History has shown that this framework is quiet flexible, a fact which is based on the common experiences due to form part of the union. Another important aspect of the relations between both entities is definitely the common interest of forming a union, as a clear majority in favour of independence could never be proven on the Faroe Islands (Bhatti/Welling Hansen 2013: 84). Denmark provides the Faroe Islands fiscally while Denmark can maintain its territory and in this way also by only this fact become a more important actor on the regional Nordic but also the arctic and European level representing the Faroe Islands. The financial crisis lead by the slop of the fishing-based mono-culture economy in the 90s and the complete Danish withdrawal from financial support of the Faroe Islands in case of an

²⁷ The Government of the Faroe Islands. Referendum on Faroese Constitution to be held on 25 April 2018

independence are clearly a crucial matter and show the importance of financial sustainability (Ackrén 2006: 228).

Remaining within the Danish state is hence pragmatic and from this point of view also as favourable as classical independence. The reason is the flexibility of Denmark regarding the concession it is making with the Faroe Islands: instead of restricting its self-determination in most ways, a unusually wide framework of autonomy was negotiated.

Nevertheless, the process of devolution or even independence has not finished with the Famjin act of 2005 but is proceeding or it is predictable that it will proceed. Three different scenarios were discussed by Maria Ackrén in her paper "*The Faroe Islands: Options for independence*".

The first scenario is independence or full sovereignty. Like the Icelandic way, independence is a long-term project and the Faroe Islands, inspired again by the Icelandic way, continue towards full sovereignty and independence (Ackrén 2006: 232). Legally, it would be possible for Denmark as the constitution allows it. However, this option seems to be risky for the Faroe demos, as Denmark did not put any obstacles to it, but limiting to announce the cut of financial aid within a short period.

The second option Ackrén discusses is the scenario in which the Faroe Islands convert themselves into a free associated state with Denmark (Ackrén 2006: 230-231). There exist several small entities in association with other states, such as the Cook Islands and Niue and their relationship with New Zealand. Ackrén compares the Faroese situation similar to the Icelandic one between 1918-1944. However, a conversion into such a status has been denied by Denmark in the early 2000s (Heininen 2014: 16). The current framework also offers negotiations on an international and supranational level as the free trade agreements with the European Union, the Faroese missions in London, Reykjavik, Moscow, Brussels and Copenhagen, its status as a permanent member of the Nordic Council and being an associated member of the International Maritime Organization and being member of the Nordic Investment Bank show (Ackrén 2006: 232). Creating the bases for the Faroe Islands to convert their relation into those of an associated state are first, the wider independence of legislation without interference from Copenhagen, second the establishing of a self-contained administration of justice and third, the widened authority for the Faroe Islands and their Foreign affairs (Ackrén 2006: 233). The model of a associated state is common among smaller islands and bigger states (Shaw 2003: 214). The possible constitution in 2018 might bring the Faroe Islands one step closer to that scenario.

The third option, Ackrén is discussing is the conversion of the Danish state into a confederation (Ackrén 2006: 234). Differently from an associated state, where sovereignty is shared, a confederation does not give up its sovereignty (Clarke/Forewaker 2003: 293). This would require an international treaty of already existing polities and, therefore, the upgrade of the Faroe Islands to the same level as Denmark (Chrysochoou 2008: 36). Also, the constitution might bring the Faroe Islands into this scenario, as in the end of the day, it depends on the final agreement within the constitution and with Denmark.

A fourth option, the creation of a federation, is therefore rejected by Ackrén, as the relation are already very loose and widening competences are in the interests of the Faroe Islands, what would be against the idea of a federation (Ackrén 2006: 235). However, the arrangement which the Faroe Islands and Denmark have met are mentioned by some scholars in the context of

“federacies” (Elazar 1995: 4; Stepan/Linz/Yadav 2011: 224; McGarry/O’Leary 2015: 26). This concept, however, can only be applied — and only with caution — when speaking about the *relation* between the entities of the Faroe Islands (and Greenland) and Denmark. The state itself is in its total a unitary and decentralized state (Caramani 2014: 189). This is also not excluded, but might be an option for the new constitution in 2018.

The ongoing process is, at the time of writing this chapter, again on the agenda as in June 2015, the Danish government implemented in their program the open door for the Faroe Islands (and Greenland) to set up an own constitution and the development of self-determination the Faroe Island (and Greenland) wish, expressing its idea, that these constitution would find themselves within the Danish one (Venstre 2015: 34). Denmark’s legal opt out possibility for the Faroe Islands linked with complete end of financial aid is a strategic move in order to prevent carrying the costs of an independent and sovereign micro-state. With other words, as long as financial dependency from Denmark is given, so is political dependency. Here, the European Union may play in the future an interesting role. Denmark has set a limit of recognition and it seems to be obvious that a union like with Iceland is definitely in Denmark’s interest. This resembles also Denmark’s refusal of recognizing the Faroese properly as a nation but continuing defining them as a community within the Danish nation (Adler-Nissen 2014: 63-64). Once again, a proper recognition would therefore only be given after the adventurous and for the Faroe Islands new step of secession.

Within the last years, the EU has gained a remarkable role in the debates over the Faroese future and, especially, also independence: this supranational structure is seen as both, a thread and an avenue for a future independence Faroese state (Adler-Nissen 2014: 66). Not being an EU-member and not being yet economically self sufficient, the idea of a future joining of the EU could be again a possible option. The Faroe Islands have historically been linked and incorporated into larger entities and never been a fully sovereign country, what would be a novelty for all. The option of the European Union of a financially supporting supranational structure could be seductive for secessionist and would also continue Denmark’s financial support through the EU. It shall be remembered that the Faroe Islands never entered into the EU due to the disputes over fishing policies and the whaling issue and that, therefore, a full membership might be difficult to imagine. The ongoing integration of Denmark also has had its effects on the relations between the triangle Denmark, Faroe Islands and the EU as clear interests and loyalties, especially from the Danish state, have blurred. In 2010, a report from a special commission of Danish and Faroese experts investigating closer relations to the EU was put up while five years earlier, the Faroese government announced that the Faroese should apply for EFTA membership: Expanding the current framework of EU cooperation; The Faroese as part of Danish EU membership; Independent Faroese EU membership; Faroese EEA membership (Adler-Nissen 2014: 66, 67, 68). Both, the EU membership and the relation with Denmark have to be discussed and settled not separately, but together as they are for now inseparably linked as they are deepened.

Finally, it might be interesting to regard the relations of the EU with other European micro-states such as Liechtenstein, San Marino, Monaco and Andorra, as the Faroe Islands would, in case of independence, turn into such a micro-state. Such states are, due to their size, vulnerable to outside pressures (Simpson 2014: 180). The micro-states - and the historical possible successor

and neighbor Iceland - have managed to become wealthy places and supra- and international organizations and bodies have shown a friendly relation towards such states (Simpson 2014: 180). Such a future idea for the Faroe Islands might be finally more attractive than the other possible scenarios. However, integration in any form and globalization will definitely play an important role and put the Faroe Islands not into a full sovereign and independent space, probably keeping them somehow linked with bigger entities, as it has been already in its history.

Regarding these scenarios, it is remarkable the announcement in 2017 of the Faroese Prime Minister Aksel V. Johannesen to hold a referendum on a new Faroese constitution on April 25 2018. It is expected that in this document the Faroe Islands will institutionalize their status as a nation and their right for self-determination²⁸. It is, therefore, interesting, as he is the leader of the Faroese Social Democrats, a party which historically has stood for Danish unionism and against classic independence²⁹. Furthermore, the options for new, even tighter relations with the European Union might have an impact on the future development of the relationship between the Faroe Islands, Denmark and the European Union.

7.7 Greenland and its relation with Denmark.

When regarding the relations between Greenland and Denmark, two extremes are immediately visible at first sight. While Greenland is with its landmass 50 times bigger than continental Denmark, it is outnumbered in population 100:1. The disproportionality between both entities is obvious and reminds of large colonial overseas possessions of the last centuries. The comparison is not very fallacious, as Greenland within the Danish state is indeed a colonial relic which has survived until today, although in a modified and updated form (Duerr 2015: 155).

To understand the evolution of the relationship between Greenland and Denmark, a look back into the history of the relationship explains also the current issue and debate. The first permanent link of this only sparsely inhabited arctic island with Europe starts in the XX century with the settlement of Vikings, which lasted until the XVI century approximately, who were also paying taxes to the Norwegian king (Mirza 2007: 24; Dyrendom Graugaard 2014: 8). As Norway being the country to claim its possession, it became part of the Danish dominated *Kalmar Union* and was ceded in 1814 after the Treaty of Kiel to Denmark. After centuries of absence of Danish interest, Danish missionaries arrived in 1721, and in 1726 the responsibility of trade was assumed by the Danish government. By doing so, the Inuit were put under royal wardship traders and administrated by traders and missionaries (Dyrendom Graugaard 2014: 8; Loukacheva 2007: 18).

The claim for Greenland was not political, but purely economic against dutch activities there (Grant 2011: 82-83). Danish sovereignty was expressed by the creation of the Royal Greenland Trade Company (KGH) in 1774, which hold from 1776 the monopoly of trade and investment by the state (Rasmussen 2000: 117; Dyrendom Graugaard 2014: 9). Different from other colonial powers,

²⁸ The Government of the Faroe Islands. Referendum on Faroese Constitution to be held on 25 April 2018.

²⁹ The Faroese Parliament. The Election of the Løgting. p. 8, www.logting.fo

Denmark did neither enslave Greenlanders and did not punish physically the population but rather held Greenland and its inhabitants isolated from interference of the outside world and of modern development (Dyrendom Gaugaard 2014: 2; Grant 2011: 86). Denmark introduced its colonial policy of paternalism of Greenland, its economic resources, territory and people on one side by subordinating it to the Danish state. On the other side the instructions of 1782 ("Instrux") of Denmark regulating the relations between missions, trade stations and behaviour towards the Inuit — explain the isolation of Denmark as the Inuit should be left untouched and in case of interference, a respectful and positive way of treatment was ordered (Dyrendom Graugaard 2014: 10). Since the new takeover of Danish colonization in 1721, different from Iceland and the Faroe Islands, no concessions of any kind of political participation were done for Greenland when the constitutional monarchy and the new constitution were introduced in 1849 (Petersen 2010: 223). In 1862, new local administration laws established also representation of three Inuit within a council of six, which took care of social and even basic juridical questions (Nuttal 2012: 1711). The administration of Greenland was taken over by the Danish Ministry of Interior from the KGH and in 1925 introduced a district council (Jensen/Beukel/Rytter 2010: 18). In 1921, Denmark officially declared suzerainty over Greenland when the conflict about Greenland's belonging arose with Norway. However, the conflict was settled in favour of Denmark, when the International Court of Justice confirmed Denmark's sovereignty over Greenland (Jensen/Beukel/Rytter 2010: 18).

The Second World War cut off Greenland from Denmark. The councils, which governed Greenland declared the interdependency with Denmark and that Greenland should remain a Danish crown colony but, due to the question of supplies and allied pressure, also the right of an independent foreign policy from Copenhagen (Nuttal 2012: 1711; Sørensen 2009: 63). However, an issue over the competencies between the councils of Greenland and the Danish diplomat Kaufmann in Washington over the authority of Greenland arose: although by law, the councils were to be the ultimate authority when Copenhagen was out of reach, but Kaufmann - acting independently from Copenhagen - was finally accepted by the United States as he was also regarded responsible for all Danish affairs in the United States (Sørensen 2009: 64). Due to its geopolitical and strategic interesting position between America and Europe, the United States agreed with Kaufmann and the councils - ant not with Copenhagen - to build military bases in Greenland in 1941 (Sørensen 2009: 65). Like Iceland and the Faroe Islands within the allied sphere, the war brought also an economical development for Greenland as trade with cod and new imports especially from America had a lasting effect on overcoming isolation (Jensen/Beukel/Rytter 2010: 30). Although priorly, greenlandic connection to Denmark had not been challenged, these years of opening up to the non-Danish world had also a lasting effect on greenlandic awareness of national uniqueness and the awareness that Denmark could not provide sovereignty over its colony in times of war, which lead to the belief that the relations after the war could not be the same like before (Jensen/Beukel/Rytter 2010: 32). The Cold War and Denmark's position within the western hemisphere lead also to the continuation of American bases in Greenland (Sørensen 2009: 93).

The post-war years were also marked by the foundation of the United Nations and de-colonization. As already said before, Denmark found itself within a dilemma of its current relation of the territories and societies under its authority and the modern, human standards. From 1945-1954,

Greenland was not listed as a former colony but included into the list of non-self governing territories. To bypass this dilemma, the revision of the Danish constitution of 1953 converted Greenland into an equal county of Denmark with representation of two seats in the Danish parliament, but without formulating the nature of the Danish state and without clarifying Greenland's status (Hviid 2015: 15; Kjærgaard 2015: 118). By guaranteeing Greenland formally equal share in the state's sovereignty, external interference in the Greenland matter was excluded by Denmark and guaranteed Denmark's sovereignty over the Island (Gad 2013: 103). The reason to do so was to follow the objective of integrating Greenland into the Danish Kingdom without obstacles or avoidable troublesome objections from the UN decolonization process (Beukel 2010: 67-68). In 1950, the trade monopoly of the KGH was lifted in order to open up Greenland also formally to the world. It can be argued that lifting up self-determination failed as Denmark controlled now even more than ever the economy, which became heavily dependent on the exportation of fish and lead to a change of the formerly homogeneous hunting and fishing society dependent on this economy (Dyrendom Graugaard 2014: 13). Under the argument of "help" and "development" of local structures, a *Danization*, as Graugaard argues, emerged during this modernization process in figures of a significant raise of Danes living in Greenland and cultural integration processes into the Danish space (Dyrendom Graugaard 2014: 13). This lead however to a raising consciousness of the Greenlanders of their identity and lead to the emergence of Inuit nationalists in the 1960s and 1970s, especially by education in Denmark of young Greenlanders, who came in touch with anti-colonial and anti-imperialistic movements and thoughts of these decades (Dyrendom Graugaard 2014: 14). Furthermore, together with the consciousness gained by the contacts with the outside world, resistance against *Danization* of education arose among Greenlanders as a further factor (Ryser 2012: 99).

Besides the consciousness gained by Greenlanders on their own identity, another topic brought a huge impact on the way to Home Rule: when Denmark joined in 1973 the EEC, Greenland, as a part of the state, also did so, although the majority of Greenlander's voted against it (70,3% against, 29,7% in favour, participation 57,3%) but were outnumbered in total votes in the state, especially by continental Denmark (Alfredsson 1983: 292). Sørensen mentions fishery policy and the free movement of labour and capital as major factors for the Greenlandic vote against (Sørensen 2009: 143). Furthermore, the Greenlandic authorities asked for a separate referendum for Greenland and Denmark, as in their eyes, the Danes should not vote over wether Greenland would join the EEC or not, which was dismissed by Denmark's authorities (Sørensen 2009: 144). However, Greenland did go for the first time a political different way than Denmark and in the same year, the idea of the introduction of Home Rule among young greenlandic political elites grew (Sørensen 2009: 145). This means that a new relationship with Denmark was sought without taking into account immediate secession but rather find a new accommodation within the Danish state (Sørensen 2009: 146).

Although funds and investment from the EEC in Greenland were done, the refuse of acceptance of the EEC could not be abolished, but also negative attitudes towards Danish authority could not be lowered (Alfredsson 1983: 292). The different outcome of the referendum and the social and political movements in Greenland were noticed by Copenhagen which lead to consultation to cede

competences to Greenland in a Home Rule model similar to the Faroese one (Sørensen 2009: 145). Mobilization within the society and by Greenlandic political parties, from left to right, brought up some fruitful pressure, which led to a Danish-Greenlandic committee to negotiate Home Rule by a joint commission (Dyrendom Graugaard 2014: 15). In 1979, Home Rule was accepted in a referendum by 73% in favour, although Denmark maintained the authority and influence in several core competencies (Dyrendom Graugaard 2014:15). The Home Rule Act also established a Greenlandic parliament, an institution, in which the Greenlandic demos could express its political will differently from its permanent two members in Copenhagen (Nuttall 2012: 794).

Economically, the Greenland Home Rule Act also included taking over the KGH in 1985 (Nuttall 2012: 794). However, the different opinion of the Greenlandic demos of its EEC membership were brought up on the agenda. In 1982, using the possible provisions of the arrangement, a further referendum on Greenland's staying or leaving the EEC showed again, that the vast majority wants to leave the EEC. With a participation at around 75%, 52,2% voted for leaving and 46% to stay (Sørensen 2009: 167). Denmark undertook negotiations with the EC for the partial withdrawal of Greenland as the first territory to secede from the EC and from 1985 on, Greenland was no longer part of the EC (Suksi 1993: 209). The ongoing negotiations included both, the acceptance of the outcome by Denmark and the approval from the EC for the Greenlandic withdrawal (Biondi/Eeckhout 2012: 146). Sørensen argues correctly, that the withdrawal was not aimed to re-isolate Greenland as in the pre-war times - to do so, interdependence and globalization were already too far reaching. The reason was more to gain more competences in order to speak alone for its own interests (Sørensen 2009: 167). Also, Greenland however did not seek the secession but rather the redefinition of the Danish state, when it voted in favour to opt out in 1982 (Biondi/Eeckhout 2012: 146). Furthermore, the withdrawal was not unilateral but rather the outcome of the wish of the Greenlandic demos, which could be fulfilled in negotiations with Denmark, the Commission and the other EU member states (Biondi/Eeckhout 2012: 146).

Since then, most competencies, which could be transferred by the Home Rule Act in 1979, were transferred from Denmark into Greenlandic hands except of civil and criminal law, the prison system, currency, defence, foreign policy and constitutional affairs, which have been reserved to the Denmark (Sørensen 2009: 167). The wish for further self-rule was expressed in a referendum in 2008, where 75,5% of voting Greenlanders voted in favour of wider autonomy (Nuttall 2008: 65). This act can also be seen as a developing of Inuit consciousness and the accompanying wish of becoming a self-governing nation (Steinberg/Tasch 2015: 69-70). The Act on Greenland's Self Government was negotiated and signed in 2009 between Greenlandic and Danish authorities as "equal partners" and includes the recognition of the Greenlanders (defined as everyone born there) as distinct people under international law; strengthening the legislative and executive of the Greenlandic government; a higher weight for Greenland in foreign affairs that may have an impact on Greenland; full rights over Greenlandic soil and subsoil (Steinberg/Tasch 2015: 70). Especially the last point is very interesting regarding possible future extraction of raw materials combined with the linked facilitation of the impact of global warming on Greenland and the financial sustainability as a result (Klein 2014: 385). Until visible sustainability has not been reached by the extraction of raw materials, Denmark would keep on its financial support, but would then minimize it with the

growth of income by the extraction of such raw materials (Stepan/Linz/Yadav 2011: 228). Greenland, however, has representations as part of its foreign relations within Danish representations abroad and has since had gained weight in its importance on arctic issues along with Denmark as an actor and as a place itself to take place (Sørensen 2009: 168).

Further steps for Greenlandic self governing were made since. When transferring self-government to Greenland in 2009, Denmark acknowledged formally that, in case Greenland wishes so, it has the right to secede (Gad 2013: 104). This position was strengthened when in June 2015 the Danish government announced in its official program, that a constitution for the Faroe islands and Greenland could be elaborated. With other words, the road to full sovereignty and independence has not been hindered by Denmark. However, especially missing financial sustainability and the lack of enough human capital such as possible benefits remaining within the Danish state can be seen as obstacles to such a worthwhile status by the Greenlandic demos.

The Self-Governing Act shows the latest step of a steady development from a colony towards a self-governing nation within the Danish state. The future of how the future of Greenland finally will be shaped — maintaining its current status, converting itself into a freely associated state with Denmark or full independence are not easy to foresee. However, several factors can be detected which play a crucial role here.

First of all, financial sustainability is crucial as hostile independence is neither in the interest of Greenlandic political leaders, nor has it been expressed in the wish of the Greenlandic Demos so far (Stepan/Linz/Yadav 2011: 227). Denmark is, besides its financial support, also by far the most important trading partner of Greenland and the EU in total over 60% yet. Due to globalization also of the arctic and also Greenland's wider autonomy, new actors enter the scenery such as China and its policy of the extraction of raw materials. For some Greenlander's, this might be seen as a useful step towards a self-sufficient economy on the road to independence, but also on the other side as a threat to own interests from Denmark, the EU and other arctic countries, while it is also for China a possibility of gaining influence in the arctic (Pincus/Ali 2015: 156).

Furthermore, Greenland might be the largest island of the world, but yet hosts only about 56.000 Greenlanders, comparable to other European micro states. In a scenario of being a fully sovereign and independent state, two obstacles might occur. First, the human resources to manage such a state and, especially in its geopolitical position, interesting country might not seem easy to establish it in the required format. Second, full sovereignty and independence might be for little experienced Greenland a risky terrain, leaving completely Danish paternalist protection with its know-how and influence in several international and supra-national organizations, especially if the date for independence has been announced to be in already 2021 (Nuttall 2008: 65). Nevertheless, other micro states have also been able to establish not only successful and attractive state models, but also managed to "grow up" as respected partners on the international level. Greenland, however, could be a role model for other Inuit communities, such as the Canadian arctic province of Nunavut and home of first nations, as connections have been established earlier already (Sørensen 209: 168). Being a first Inuit state, which works sustainable and successful, could also become a role model for other arctic provinces as the mentioned neighboring one of Nunavut and challenge also the model of the Canadian state not only by

Québec, if this turns into a more attractive role model than the current Canadian one in the future. This, however, is only a future scenario. It might not be immediate independence, but a new deal with wider competences, as interest exists there (Specia 2012: 62). Greenland could convert from a self-ruled part of Denmark into a draft horse with some remarkable influence within the arctic for other Inuit communities and territories. This scenario seems even more realistic, once sustainability on the exploitation of natural resources can be widened to a winning export for the local economy and, by doing so, the awareness of the own position of now being not the dependent post-colonial territory anymore, but the raw material providing attractive partner arises and develops.

7.8 The balance of nation-state, democracy and nationalism in the Danish state

The ongoing chapters have gone deep into history, even back to the Middle Ages, displaying the (d)evolution of the Danish State which lead to its contemporary form. One can ask: why going back so deep into history to understand the present State of the XXI century?

It might be said that events, which took place in the past remain also in the past as they have their place in history. Yet, history is only the past when it stays in the past and does not reflect itself in the future significantly. History is, in this context, a common project that is composed of the different experiences and memories of the actors and entities in order to shape the future. Learning from history — from its own and from the others — is within a functioning plurinational state a common project that can't be imposed if it should work for a common future but requires mutual understanding and respect. Varying memories of historical events and the resulting mentality towards the state and its actors can lead to different ideas of state design and, therefore, can cause indeed conflicts (Østergård 2006: 85; Bergmann 2014b: 21). Tensions and conflicts have been a challenge which were provoked by external and internal shocks and events.

Although the cases of Schleswig-Holstein, Iceland, the Faroe islands and Greenland have been examined and Denmark only as a passive analyzed actor, we can see that there has been an interdependent relation between Denmark and the other entities when it comes to the development of the state, the collective memory and a vision for the state itself.

In the beginning of the historical analysis it was mentioned that Denmark has been struggling finding its identity, especially since the emergence of the idea of the modern nation-state. Finding a formula between Danish ethnic based nationalism, state wide *Danization* and maintaining its imperial status has lead to various conflicts inside the state between Denmark and the entities. Different emerging nationalisms inside the State lead to a first step of concession, when the formerly by Danish authorities abolished Althing was reinstalled (Pearson 2014: 164).

A crucial event were the wars in Schleswig-Holstein and the final loss of both duchies. The opposition there of imposing the Danish idea of a modern nation-state within its territories lead not only to the complete breakup and separation of both duchies which were for over four hundred years in a personal union with Denmark. Denmark, from its point of view, found itself in the context of an imperial power trying to expand its influence and abolish overlapping competences in favour

of clear borders, competencies and a modern nation-state empire (Köbler 2007: 629; Frandsen 2001: 229).

The probably most important lesson Denmark learned from the failed annexation of Schleswig and the complete loss of the link with both duchies was that facing democratization and nationalism within its sphere could not be accompanied by the imposition of the nation-state. The new formula of decentralization and shifting competences towards the demanding entities in order to keep the state as a whole intact has been part of the state design until today.

Nationalism and the wish for an own nation-state within European empires has neither been absent, nor unrecognized within the Danish state, especially in the context of the first world war. In order to find a balance between maintaining the state together, the pre-modern formula of a personal union was re-established between Iceland and Denmark, while the Faroe Islands kept their competences. It might seem revolutionary, yet has it been one side a clever step to find accommodation for the Icelandic independence movement in a loose union. On the other side, personal unions have been in the Scandinavian context — and especially for Iceland and Denmark — a well experienced model, granting wide self-government and a united state: the Kingdom of Norway in the middle ages, the *Kalmar Union*, later the Dano-Norwegian Union, the Swedish-Norwegian Union and finally the Personal Union between Iceland and Denmark. It was finally an updated version and a historical continuity of what had been the common rule in Scandinavia for a long time. In order to prevent doubts that Denmark would definitely leave its leading role which it had in the foregoing unions, the Union treaty declared both as equal parts, leaving Denmark foreign policy and defence until Iceland would have been able to establish its own and including the option for a revision and the resolving of the treaty, total independence to the granted full sovereignty (Einhorn/Logue 2003: 61; Maddex 2014: 113; Petersen/Poppel 1999: 173; Hálfðanarson 2011: 81).

The union could not be saved as it wasn't regarded as useful enough to be continued for Iceland and the Second World War showed that it failed to work properly and during the experience of de-facto full independence. More benefits than disadvantages were made out by the Icelandic population than keeping alive the Union with Denmark, which was, due to Iceland's collective memory of Danish domination, negatively stigmatized (Hálfðanarson 2011: 79).

Denmark faced immediately the next challenge: the demand for independence by the Faroe Islands. However, Denmark did neither convert itself into a personal union with the Faroe Islands, nor was the independence referendum of 1946 recognized. A further loss was prevented, this time not by following the democratic demand of secession but by negotiating between Denmark and the Faroe Islands a status of Home Rule, that would allow a transfer of wide competences with some few, but yet crucial ones remaining with the Danish authorities as detailed displayed in the chapter of the Faroe Islands. It is obvious that Denmark did not want to go again as far as with Iceland, granting maximal power and full recognition of sovereignty such as an immediate opt-out possibility. The Faroe Islands were since the 19th century - different from Iceland - also represented inside the Danish Parliament (Debes 1995: 72). At the same time, Denmark found itself in the worldwide phase of decolonization and the Greenland issue.

In order not to lose it due to the decolonization process, Greenland became a “proper” part of the state. Again, the weakened variant of the former union model was used to accommodate Greenlandic demands which gained popularity since the Second World War. This means that Denmark did not convert the state into a federation but developed to a state which is described as unitary (in Denmark) but decentralized (Greenland, Faroe Islands) (Caramani 2014: 189).

Danish authorities have showed themselves being flexible, when it came to an expansion of widening via Home Rule and convert it into self-government, in the Faroe in 2005 and Greenland in 2009, as Faroese and Greenlandic Politicians negotiated and both *demoi* approved this step in referendums.

The question of democracy has been examined within the cases themselves and has shown that Denmark definitely abandoned its imposing status. One clear example is the acceptance, defence and implementation of the Greenlandic and Faroese referendums on their EEC membership. Furthermore, both territories are represented in the Danish parliament, this means that they also have a voice in the decision making process, although it is very limited as only two deputies by both are sent there (Storgaard 2015: 106).

The question, if democratic representation in the process of decision making is enough to accommodate them within the state. Both territories make up each 1% of the total population of the Danish state and 2 deputies each make up around 1% of the Danish parliament deputies by each, Greenland and the Faroe Islands. Denmark tried to find answers to that by granting the mentioned extended Self Rule and involving Greenland into its foreign relations and even leading roles topics concerning the arctic (Sørensen 2009: 168). By doing so, wide but yet not full foreign relations are also left over to Greenland and also to the Faroe Islands. However, Denmark is not ready to come back to the — not only decentralized but even mostly disconnected — status which it had with Iceland (Heininen 2014: 16).

Although in 2009, Greenland was regarded in the negotiations for self-government as an “equal partner” and independence for the Faroe Islands and Greenland has not been hindered by Denmark, this equal partnership does not recognize any of them as proper nations within the state, nor are they upgraded in their weight as equal actors on the whole state-level. Concessions as “equal partners” are made as both have maintained representations within Danish embassies abroad (in the case of the Faroe Islands there are missions to the UK, Russia, Brussels, Denmark and Iceland), or as the mentioned bigger importance in topics concerning the region. A threat to the unity might be in the future an upcoming question of the distribution of sovereignty rights like the expansion of foreign relations for Greenland and the Faroe Islands, which both already work on a wide paradiplomatic level in the region like the Nordic Council, the arctic integration and cooperation and the European Union. It is possible that the present distribution might be seen as an imbalance, also regarding the weight of power within the state and its legislative, judiciary and executive possibilities. *Tabula rasa* with a new design like the Nordic Council, the European Union itself or the arctic cooperation, open therefore new chances for all actors.

During the Cold War, both territories were important and since the arctic region has gained more importance due to its geostrategic location. The arctic as a sphere has become within the last decades also interesting for the exploitation of natural resources and will grow in its attractiveness

due to climate change and the accompanied melting of the ice. Following this logic, it is not only the North Pole which might be in the future ice free, but it would also affect Greenland and the exploration of new scenarios of possibilities with ice free territory. Denmark is interested in keeping both territories within its state sphere in order to maintain its influence on the international field as it speaks for Greenland on the international level and is, therefore, considered also an arctic nation, a status, that Denmark wants to keep (Gad 2013: 104). On the other hand, the financial benefit from successful extraction of such resources could give a boost to independence movements in Greenland and the Faroe Islands (Bertelsen/Justinussen/Smits 2015: 22). Denmark knows that and has made in the case of Greenland concessions on the belonging of Greenlandic soil in 2009. This is a strategy to accommodate Greenland, which is still heavily dependent (financially and by human capital on the outside world, in particular Denmark (Bertelsen/Justinussen/Smits 2015: 22). It is also a fact that the nation-state as an idea is not in crisis but nowadays, there are more nation-states than ever before with a rising tendency. This applies also to Greenland and the Faroe Islands as claims for independence shows.

Denmark takes into account the democratic will of Greenland and the Faroe Islands to a far reaching level, even leaving open the door to full independence or the conversion of the territories into some kind of associated states but has for now not taken into account converting itself into a plurinational state and a model that would resemble the Union with Iceland, although the potential of such an election — converting the Danish state into state of even more equal parts — in both territories is present. The plan, which has been elaborated in the self-government act is to be implied over years and shall be in the interest of Greenland such as the Danish state and allows the mentioned policies internally and also on the international level within the agreement (Sejersen 2015: 29). The refusal shows at the same time still the struggle of Denmark finding its proper answer to what kind of state it wants to be or to become.

7.9 Conclusions

The issue for the Danish state of today are the future relations with the Faroe Islands and Greenland. Schleswig-Holstein and Iceland are closed chapters, yet the experience of how to deal with their national demands has played a crucial role that seems to show a clear continuity and influence up until today. The present state has been shaped clearly by the ongoing experiences with those territories and lead on one side to avoidance of former strategies - such as imposing by force the idea of the state without taking into account the will of the local democratic will as it happened in the case of Schleswig-Holstein. This strategy was abandoned right after the loss of its last links. Also, repeating a personal union of equal and fully sovereign partners as in the case of Iceland hasn't been on the agenda since.

This means that Denmark has framed the possibilities for the future of both territories: either within the state and not as a fully sovereign territory - or full independence, which has been the possible legal option Denmark has within the last years underlined clearly in case the Faroese and

Greenlandic demos wishes so and which might be with the referendum in 2018 a realistic option for the Faroe Islands as well.

However, this open door to full independence and sovereignty is linked with the loss of financial support by Denmark, as both, the Faroe Islands and Greenland are not fully financially self-sufficient but even depend on this support (Ackrén 2006: 228; Stepan/Linz/Yadav 2011: 228).

Furthermore the possibility of Faroese and Greenlandic influence through and with Denmark in international and supranational organizations could be diminished by leaving the state and become smaller units. The risk that independence would turn into new dependency on other, stronger states with interest in the region — such as the USA, China, Canada, Russia or others — is real and might even lead to a dependency, which might seem even less attractive than remaining within the Danish state. Denmark, on the other side, is also interested of them remaining within the state as it strengthens its international position, especially in the arctic region.

The Danish state is still searching for its identity between classical and post-sovereign nation-state, former empire and commonwealth. One clear indicator for that is that, although political and social realities have been since long recognized in the Faroe Islands and Greenland, there has never been a proper recognition of the Faroese and the Greenlandic nation (Adler-Nissen 2014: 63-64). Denmark instead is orbiting around it with terms such as “societies“ and “people“ and not fully recognizing the plurinational reality of the state. This “detail“ shows clearly that plurinationality is still a taboo for western states when it comes to name its plurinational realities. It seems more obvious that including that “detail“ *nation* leads to the right to be fully sovereign, a concession, that might lead to the creation towards a revival of the model of the personal union with Iceland and which has been clearly rejected by Denmark for the future (Heininen 2014: 16). The uncertain status quo of the term *nation* within the Danish state will be challenged by the Faroese referendum in 2018 as it will define itself as a nation and institutionalize its self-determination.

The idea of full sovereignty and independence is backed by a remarkably strong democratic mandate in both territories. Independence movements exist in Greenland and the Faroe Islands as strong political players. Secession of Greenland and the Faroe Islands would not be an exception, but the historical continuation of the breakup of plurinational states into its smaller, national units. The arrangements made in the last years will be challenged due to the continuous nation- and state building in the Faroe Islands and Greenland. A spill over effect of the attractiveness of becoming a fully sovereign and independent Nordic state seems to be a temptation as all Nordic states are regarded as models to follow, even though they might be small. The Faroe Islands and Greenland would turn into micro states, another successful model in Europe (Bertelsen/Justinussen/Smits 2015: 16; Pincus/Ali 2015: 111). Furthermore, Greenland could even turn from a subordinated territory to something like a leading role due to its important location in the arctic and a model for other indigenous communities such as the neighboring Canadian province of Nunavut. The near future will show whether Denmark is able to provide an integration model that seems more attractive to the Faroese and the Greenlandic national communities than the classical state building, once financial sustainability can be secured by themselves. The question of independence, especially of Greenland with the given potential, here is not “if“, but rather “when“ and in what form.

Although all three actors, Greenland, the Faroe Islands and also Denmark itself have had their issues with the European Union (on different levels and with different intensity), it has transformed the state as well and a future option to join the European Union for the Faroe Islands doesn't seem that unlikely anymore as a possible scenario for shared sovereignty, whether as a micro state or as a fully devolved nation within the Danish state. The planned referendum in 2018 such as the ongoing transformation of the EU and the Danish state itself will show that and open a new chapter in the relations and the constellations within and of the Danish state.

8. Plurinational demands in the United Kingdom

8.1 Introduction

For many non-British, demands for independence in the United Kingdom and the status its units often express incomprehension and British policy concerning its peripheries and their demands as highly generous, liberal and careless regarding the unity of the United Kingdom. This, however, arises from ignorance and a lack of knowledge of the British conditions, the political mentality and the perception of these issues.

The United Kingdom and its plurinational socio-political realities have been theoretically recognized with a certain naturalness since the making of the United Kingdom as a political entity. When in 1707, the union between Scotland and England was announced and realized by the Act of Union by the Scottish and the English Parliament, the fusion of those two kingdoms lead to the creation of the United Kingdom as a political unified entity. At that time, Wales was already conquered and under full control of the English crown. So was Ireland, which in various uprisings resisted English heteronomy and which faced throughout the centuries a growing number of colonizers in the northeastern part of Ireland. The United Kingdom being a *family of nations* has been lately, especially in the context of the Scottish independence referendum in 2014, mentioned by several British politicians, namely Scottish and English ones, including the former British prime minister David Cameron (Revest 2014: 70; The Stationary Office 2013: 441). The independence referendum has also strengthened this assumption and the question on how to continue and how to deal with the democratic demands of Scotland and Northern Ireland after the *Brexit* vote continues. Furthermore, other questions such as the opened possibility of further devolution by establishing an English parliament and, last but not least, Wales' future role, are in the light of this plurinational democratic context worth an examination of the relations, the reasons for these relations and the arrangements (Leach 2015: 171). Also, the question of Gibraltar and London, the latter one as a *quasi* entity, arise and make the search for territorial and political arrangements in a democratic context after *Brexit* more complex. However, from a democratic standpoint, they require a scientific approach and a set of possible scenarios on how to continue.

The territorial and political arrangements, its effects and further open question from the standpoint of plurinational democracy will be examined in this chapter and its subchapters. It helps the reader to understand both, how and why the United Kingdom is approaching the national demands in Scotland, Wales and Ireland and the challenges especially after the Scottish independence referendum and *Brexit*, as new ways have been options and a progressing society in political aspects such as a political class requires a set of new approaches after the latest events.

First, the relations between the units, that historically make the United Kingdom, will be examined. This includes the perception of this relationship between both actors, the conflicts such as the approaches of political solutions, which have been taken to tackle these conflicts. The conclusions will not only review critically these relations and the approaches on them, but also examine a set of further possibilities for this dynamic case.

8.2 The United Kingdom and Scotland

In the introduction, two crucial factors, that have an effect on the relations between the United Kingdom as a state and Scotland as a part of it, have been mentioned: first, it was a political union of two sovereign and independent countries, negotiated between the the assemblies. This is a striking difference between the United Kingdom as a state and most classic nation-states, as most nation-states were founded on conquest and military victory and the latter incorporation of the determined territory and its people under one national state identity starting from a political center (Keating 1988: 25). It was different in the Scottish case, which has lead to a very different approach when Scottish national demands have arisen by both, the Scots and the United Kingdom as a political entity (Keating 1988: 27). This union had the political effect, that both parliaments were abolished and replaced by Westminster as the political center, located in London, England and with England being the core of the United Kingdom and the bigger part, also with a bigger weight distribution in the decision-making policy. Also, historical circumstances such as the absence of a British revolution like in France, but a much earlier settlement of parliamentary sovereignty lead to an exceptional constellation and interpretation of sovereignty and legitimacy. Actually, the British administration did not turn its politics concerning Scotland towards the one of a protector state and Scotland not into a protectorate or, even worse like in the case of Ireland, into a *de facto* colony (Keating 1988: 14).

Although on the one hand the parliament was abolished, a series of institutions survived and continued to function parallel to the fact of the establishment of Westminster, on the other hand, Scotland enjoyed some kind of semi-independence, as Brown mentioned, as it didn't participate in British politics and its own issues and affairs were largely distinct and separate (Brown 2002: 73). Scottish society and its institutions - such as its own legal system, the church, local government, the banking system, universities - hence, kept on existing confidently and seeking not assimilation within English society, but rather parity and continuing exercising low politics (Brown 2002: 73-74; Keating 1988: 29-29). The national distinction, however, was since then stressed, especially with the Scottish Jacobites (Brown 2002: 74). This shows clearly, that a threat of a counter movement against the union always had some kind of potential in Scotland, not only the mentioned Jacobites, but also the strategy not to provoke its outcome by not abolishing those Scottish institutions. The English controlled and driven United Kingdom also continued to respect the fact of Scotland as a different society as already in the early XVIII century, representatives to manage Scottish affairs were chosen, as a double agent for the English and the Scottish interests (Brown 2002: 74-75). This, however, does not mean that it was a steadily fair and horizontal relationship. England and Westminster were aware of its position and if it had to intervene in order to fulfill its interests, Scottish institutions had to bow to the English "masters", but a continuous execution and demonstration of power was not carried out by England (Brown 2002: 77).

A second stage was, in the light of early nationalism, a British imperial consciousness. The pressure of the Seven Year's War pushed this common identity in Scotland and England, as the fade of both was now bundled under the Union Jack (Brown 2002: 75). The success of British imperialism in the XIX and XX century strengthened even more this state-identity as both, the

British empire and the United Kingdom emerged both simultaneously and the empire was the subject of interest and protagonist (Keating 1988: 56). Nevertheless, it did not replace, but rather complement both proto-national Scottish and English identities, but its distinctiveness within the Union and the Empire has been kept alive by the mentioned institutions and politicians in Westminster (Kumar 2003: 248; McCrone 2010: 15). Within and through the British Empire, Scotland got access to the world markets and Scotsmen could benefit from its imperial politics, which depend the British identity. Being Scottish and British at the same time was not a contradiction and isn't for many nowadays as well and the same time, probably for the majority as Keating assumes (Keating 2017a: 17). However, while the term British exists and is a common factor of identity, the United Kingdom has never become a state identity, which shows the undefined identity of the state (Keating 1988: 10, 25).

Scottish nationalism emerged in the XIX century from the proto-national consciousness and identity now within the United Kingdom and the British Empire together with other peripheral nationalism, such as in the Basque Country and in Catalonia for instance, seeking an amplified set of self-determination and lead to the creation of the *SNP* as the political driving force for these demands (Keating 1988: 88). Politically, Scottish nationalism gained remarkable weight only from the second part of the XX century on as the British political system hardly left space for other parties than Tories and Labour not only in Westminster, but also in Scotland, where traditionally Labour support was stronger than for the Tories (McCrone 2002: 15).

A third important stage was the decline of the British Empire and the loss of Great Britain's position in the world with all the benefits it included in the past, now replaced by the two big protagonists of the Cold War. A change of mentality in Scotland took place as with the new constellation not only on the global scale, but also with a different consciousness looking inside the United Kingdom, the Scottish society felt excluded in the decision-making process' (Arter 2004: 123). In this context, the *SNP* gained political influence and power from the 1974 elections on and, simultaneously with Thatcher and her in Scotland unpopular domestic policy, it was more than a territorially, on Scotland limited protest vote, but a real demand for recovering competencies (Henderson 2007: 67; Keating 1988: 176). The importance of rethinking the internal constellation and relationships gained first importance with the so called West Lothian Question, demanding for devolution as the imperial structures would not serve within the United Kingdom with changed global realities (Berrington 2014: 168). Devolution was by referendum accepted in Scotland in 1979 and the Scottish Parliament as an institution restored in 1998. Traditionally strong Labour has lost ground, while the *SNP* gained, especially since the establishment of the Scottish Parliament changed also the possibilities for the Scots to represent themselves on a Scottish and British level. Furthermore, *SNP* and Labour voters are more similar on a left-right scale, which was definitely one reason (Davidson 2009: 341). With other words, one of the main reasons for Labour losing ground in Scotland was a Labour-like party, which exclusively represented Scottish interests in Scotland and in Westminster unlike Labour, which as a state-wide party represented all-British Labour interests. An overlapping of the traditional left and right, Tories and Labour, as a phenomenon in the whole of Europe has also not spared the United Kingdom. Instead of a new state-wide party as a third option, Scots decided to support *SNP*, which includes the claim of Scotland being a nation within

the UK, a claim that includes a series of demands seen as rights from a national and democratic view.

Since then, the Party has risen up to 46,5% (which equals 48,8% of the seats in the Scottish Parliament) in the latest Scottish election and provides almost 95% of all Scottish representatives in Westminster. This has given the *SNP* a unique position in Scottish and also British politics concerning the question on the future of Scotland. It's safe to say that on the one hand, the Scottish demos replaced Tories and Labour on a large scale on the political scene by mainly the *SNP*, and on the other hand a lack of further progress towards continuing devolution has brought a certain dynamic into the case of Scotland. The *SNP* has been a push factor and decided the recovery of competencies as their main project. An economic driving force since then has been the oil industry, which found on the shores of Scotland oil and with the slogan „it's Scotland's oil“, the *SNP* presented an economic backup of its national project for Scotland as a civic and social democratic, self governed nation (Smout 1992: 213).

Regarding the clear demand of the Scottish demos and being aware of the potential this could have, both, Alex Salmond and David Cameron started negotiating the future of Scotland and its relation with and within the United Kingdom. Neither did Cameron, nor the British authorities negate that Scotland is a nation, nor did it affirm it. The initial position of the *SNP* was both, Scotland's recognition as a nation within the United Kingdom and a series of competencies, which became known as the *devo max*. This option was overwhelmingly supported by the Scots as polls have shown over classic independence, but Cameron did not support within a referendum this option, which lead to a risky decision for both: only two options, either maintaining the status quo or full independence were possible (Davidson 2016: 294). It's worth to mention, that, although the *SNP* was the main actor, the Yes-campaign was not a mono-party movement, but also supported by the Scottish Green Party and the Scottish Socialist Party, the latter without any representation in the Scottish Parliament at present.

The outcome of the close “no“ to independence can, hence, in this context not be interpreted as the wish of the Scots to remain in a steady state, as there was no overwhelming majority for none of these options. The third option of a *devo max* could have brought all actors together and, with a very probable majority backup by the Scottish demos, also be democratically feasible. With having a legally negotiated referendum, British institutions recognized *de facto* the United Kingdom as a plurinational state, which later was also affirmed by Cameron himself, when he talked about the “family of nations“, although this declaration had no legal consequence.

A second turning point is the *Brexit* vote, in which the Scottish demos clearly voted against *Brexit* and has demanded its vote to be taken into account, as Scotland as a nation and its national decision in relation with the European Union should not be overruled by Westminster. Especially since it was, together with the promise of further devolution, probably one of the main reasons for Scotland also voting against independence, as a future membership after a victory of the “Yes“ was not guaranteed or even threatened by both, the European Union itself and states such as Spain, fearing a precedence case (Maxwell 2013: 123).

The *Brexit* shows clearly the decisive role of the double majority effect and the dilemma, which English dominated Westminster is facing at the moment, as it already once recognized *de facto*

Scotland as a nation within the referendum of 2014 and there is no reason, why the quasi recognition should have faded away in case for a second referendum. In this case, this would mean a regression of the democratic understanding and the sensitivity and naturalness, how Scotland was perceived within the United Kingdom since forming the Union. It would be a regression for Democracy and a rollback to the nineties or even earlier, an understanding of the state departing from a state-centric view and not from a democratic one. Therefore, as the Scottish demos and its vote is in the *Brexit* process not treated on an equal level as the English vote, which easily outnumbers the Scottish one, but subordinated to the state-vote as a whole, Nicola Sturgeon has launched a campaign for a second independence referendum. The outcome of how and if the demands will lead to negotiations with Westminster are at time of writing the thesis uncertain, but in any case, the Scottish vote in *Brexit* and its clear preference and dominance in Scotland will force Westminster either to compromise, or to leave the democratic initial point regarding the state and its arrangements and come back to a time of understanding, which is pre-West Lothian from a democratic perspective.

8.3 The United Kingdom and Wales

Different from the Scottish case, Wales was not incorporated into the United Kingdom by an agreed union, but by conquest, when already in the Middle Ages England sought to take over control of the Welsh Marches. Although several uprisings followed throughout the following centuries, Wales was incorporated completely into the Kingdom of England, latest by the Laws of Wales act 1535 and 1542. The legal system of England and norms of English administrations were extended and introduced to Wales, but also the imposition of the English language was carried out (Robertson 2016: 80). Assimilation without seeking Welsh consent, hence, began early, as some one thousand years ago and was extended steadily (McLean/Gallagher/Lodge 2014: 185). On the political level, hardly any particular "Welsh interest" can be detected in the parliament before and during the British Empire, on the one hand because of the lasting integration to and the imposition by England, on the other hand, because few Welshmen held government office and the few members of parliament had no separate parliamentary identity (Brown 2002: 69). It was also the small number, that would have made them a marginal group (Brown 2002: 69). Furthermore, Welsh social structure of aristocratic landowners, following their own, especially familiar, and not proto-national interest, were represented politically at Westminster (Brown 2002: 69). Revolutionary ideas did not give rise to a Welsh national sentiment on a large scale, but a religious distinction occurred, as nonconformism gained more and more support and finally conducted its secession from the Church of England. On the political level, Welsh issues were embodied and included in the XIX century in the Liberal Party, a circumstance, which possibly prevented a potent Welsh secessionist movement to arise, also later demands for home-rule, which made the existence of an exclusive Welsh party under these circumstances unnecessary (Heyck 2013: 382). In the middle and end of the XIX century, a cultural nationalist movement arose without any big support for a political agenda different than underlining Welsh distinctiveness within the United

Kingdom, but also twisted with British identity outside the United Kingdom, within, by and with the British Empire expressed by British identity (Heyck 2013: 382). The main concern was a revival of the Welsh language and its recovery (Heyck 2013: 382). Identity has, hence, been in comparison with Ireland and Scotland been not politically, but historically linked with Welsh culture and language, but has also been a blueprint for other Celtic movements such as in Cornwall or in Brittany (Hepburn/Baldacchino 2016: 124).

The political factor within Welsh nationalism arose only in the 1970s. If the concept of nation includes the political aspect and it was basically absent before Plaid Cymru was founded, it's hard to speak about the existence of a developed Welsh nation and it would be more precise to define it as a cultural movement with proto-nationalist features. However, before Plaid Cymru played a role in British and Welsh policy, Labour took part in the creation of the appointment of a secretary of State for Wales in 1959, in 1965 the creation of the Welsh Office, such as the repeal of the Wales and Berwick Act 1746, which provided the expression "England" used in an Act of Parliament (Bradley/Ewing 2007: 36). By doing so, the United Kingdom recognized a distinctiveness between Wales and England within the United Kingdom, institutionalized and constitutionalized it.

In 1977, on a referendum of devolution, Wales, different from Scotland, rejected this approach, but a second turnout in 1997 led to a slight victory for devolution (McLean 2010: 168).

Although Plaid Cymru steadily gained support from 1970 on, it hasn't become a party with a comparable support to the *SNP* on the national level, but found itself within the last three decades in a Welsh support between 7,3% and 14,3%. On the Welsh level, Plaid Cymru has found itself on the Welsh level, with the establishment of the Welsh assembly, since 1999 between a low of 17,9% in 2011 and a high of 30,6% in 1999 among the Welsh voters.

Plaid Cymru has been the only nationalist political force, which seeks an official recognition of Wales as a nation and to continue the historically cultural based aims. Welsh has been recognized as an official language for use in public affairs in the Welsh Language Acts of 1967 and 1993, as well as by the National Assembly for Wales (Official Languages) Act in 2012 (Robertson 2016: 80). The question, whether the support for Plaid Cymru is a latent support for Welsh nationalism, is disputed. On the one hand, the political ambitions for self-determination and national recognition are obvious and well known. On the other hand, it can due to Welsh circumstances be seen as a mere push-factor for further devolution and more independence from London, such as Welsh Labour, which suffers imposition from London (Spencer/Wollman 2002: 176). The support in the Welsh elections, which have taken place since 1999 can be interpreted as a call for more recognition, but a support for independence at present by more people than what Plaid Cymru can mobilize is not realistic, and even the support for Plaid Cymru does not mean equally a support for independence at all. This point of view is also supported by Keating's analysis of Plaid Cymru, labeling it as less secessionist and less statist in comparison with the *SNP*, and highlighting issues like self-government and communitarianism (Keating 2002: 64). It's also the strong leaning towards cultural, namely language issues and as less than 30% of the Welsh population is Welsh speaking nowadays, so is the support for the party and its representation in Wales and Westminster (McLean 2010: 166). Yet when one is investigating on national diversity and its acceptance, also

on the political level, it is important to examine the local party system and its perception. It's not only Plaid Cymru, but in general no opposition to the acceptance of Wales being a nation, as also the Welsh Labour party stated (Schrijver 2006: 334; Morgan 1981: 297; Bertelsen 1977: 155)

The 2016 elections in Wales also showed an interesting turn, as the EU-skeptic *UKIP* entered with a remarkable result for its own standards of 11,7%, as usually only being present on the European level. Although Plaid Cymru can also be interpreted as a protest vote for social and economical politics, so can and must be also the for *UKIP* spectacular results (Spencer/Wollman 2002: 176). This is important and interesting in the light of *Brexit* and its outcome in Wales with a 52,2% in favor of leaving the European Union. First of all, this result, although tight, busted the myth that it was the national peripheries against England (or vice versa) and England's imposition, as Wales also opted out with a slight majority of total votes. *UKIP* in the Welsh assembly has been only a symptom of the condition of the Welsh political society, but also Labour's indecision and the Tories neutrality lead to a bigger mobilization of Welsh *Brexit* voters.

Carrying out *Brexit*, empowered by the Welsh vote, has been supported by the EU-friendly First Minister of Wales, Carwyn Jones, although concerns on the future of Wales' economy, especially the rural policy and the structural fund support, have been stressed, as Wales' economy is below European and British average (Morphet 2017: 26). In theory, devolution should continue its developing, but the new circumstances, concerning especially future funding of the dependent and needy Welsh economy questions the direction, also how the national movement in Wales might develop in this context, embodied by Plaid Cymru as the only actor on the political level.

8.4 The United Kingdom and Northern Ireland

Northern Irish relations with the United Kingdom are tightly linked to the history of Ireland and its relation with England and later with the United Kingdom. Differently from Scotland and similar to wales, Ireland as a whole was conquered and colonized in various stages.

First attempts in 1171 under Henry II and with the support of the pope in order to strengthen the Catholic Church lead to an invasion and brought large parts of Ireland under English control and by creating the Lordship of Ireland, as a papal possession under the rule of the English king, direct political English, and later British rule in Ireland had its beginnings (Warren 1973: 530). A first turning point was the reformation and Henry VIII and his religious separation from the Catholic Church and the creation of the Anglican Church, the political situation in Ireland became uncertain, as it was a papal possession with the English king as its ruler. This was settled by changing the papal possession form the Lordship of Ireland into the Kingdom of Ireland and the English king as its head of state by the Crown of Ireland Act in 1542 (Bell 2013: 16). Here already existed beside the linguistic division and religious division between the anglican English and the catholic Irish. Due to monarchic constellations, Ireland became part of the Union of the Crowns of England, Scotland and Ireland.

A second important event took place form 1609 on, when the Plantation of Ulster began and English and Scottish non-catholic settlers were granted land in the northeastern part of Ireland as

a counterstrategy to pacify this part of Ireland, as it was extremely resistant to English rule, showing its opposition during several uprisings (Morgan 2014: 81). This caused already in the XVII century bloody conflicts between the Irish catholic and the English and Scottish non-catholic settlers and although the plantation was extended to other parts of Ireland, non-catholicism only succeeded in the northeastern part. Succeeding non-catholicism also among the monarchs lead to a series of restriction for catholic Irish and qualified them as de-facto second-class subordinated. The French Revolution inspired the Irish to uprising against English rule and the possibility of the Irish to ally with the French during Napoleonic wars showed the uncertain situation, also after the Union was enlarged to Ireland with the Acts of Union in 1801 (Wolff 2004: 151). Support for Home-rule - and not independence - became stronger among the Irish population as the British Empire also opened the world market to the Irish elite, which saw also benefits from being part of the Empire (Ollerenshaw 1996: 169).

Devolution does not begin in Scotland, as one might assume due to its present importance on the British, but also the European and global agenda, but in Ireland. In the XIX and XX century, three attempts to offer devolution to Ireland failed, the first was defeated in the Commons, the second in the Lords and third, although passed, derailed by vetoes of the Lords, the monarch and parts of the army (McLean/Gallagher/Lodge 2014: 185). However, centuries of being subordinated and treated on a level comparable to a colony, which was deeply rooted in Irish consciousness, and very different from Scottish awareness and perception of the Empire (Keating 1988: 14). Independence was supported by most parts, except a slight majority in Northern Ireland, which was shown after the Easter Uprising in 1916 and during the UK general elections in 1918, as Sinn Fein gained the absolute majority of Irish votes, claiming an independent Irish republic for the whole Island, while there was resistance against it in Northern Ireland and lead finally to the Irish War of Independence 1919-1921 between the IRA and British troops. Also, the passed Home Rule Act of 1920 was never implemented. Given the ethnic-religious distributions, the idea was to implement a separate parliament for northern, and one for southern Ireland, of which the first one was established and functioned, while the second didn't as the war continued. The partition was indeed seen as a temporary solution (Kennedy 2000: 6). In fact, this can be seen as a pre-devolution step.

The Irish Free State was established in 1921 as the rest of the Treaty between Great Britain and Ireland, which lead the Irish Free State to remain within the Commonwealth and, thus, within the British Empire. After the split of Sinn Fein into two parties and a civil war, a referendum on a new constitution was held and was approved by 56,5%, which lead to the end of any link to Great Britain and the Empire, with Ireland becoming a fully independent country. Northern Ireland remained part of the United Kingdom since then. From the 1960s on, riots due to the unsettled question and the rivalry in Northern Ireland emerged and lead to a direct violent confrontation between British military forces, supported by local unionist groups and the Irish Republican Army (Dixon/O'Kane 2014: 3). Violent events can be seen within a European and even a global phenomenon of violent expression of minorities and stateless nations, as on the one hand, it happened at the same time as in the Basque Country, Corsica, Brittany or South Tyrol. On the other hand, it was the continuous conflict between Irish and British identity and political aims.

Due to the ongoing violence, the Northern Irish parliament was abolished by the Northern Ireland Constitution Act 1973. Several attempts of restoring some kind of Northern Irish assembly collapsed due to resistance and boycott of several political and social movements. After decades of violence, a ceasefire was called in 1988, the Good Friday Agreement, approved by a referendum and a turnout of 71% in Northern Ireland and 95% in Ireland. The Good Friday Agreement included important passages, such as one, in which Ireland removed its territorial claim for Northern Ireland and with the possibility, that, instead of settlement by violence, Northern Ireland could become part of Ireland and separate from the United Kingdom, if a majority supported in a referendum this decision (DeRouen 2005: 329).

However, the claim for the whole Island of Ireland was and is still theoretically claimed³⁰ in the Irish constitution, as the current version claims that every person born on the Island and its belonging islands and seas, is entitled and has the birthright to be part of the Irish nation, as Article 2 states³¹. A power-sharing legislative assembly to administer Northern Ireland was set up with one first minister and deputy first minister, chronologically by the first and the second strongest party (DeRouen 2005: 329; McLean 2010: 165). With progress of the peace process, but also some suspension on devolution since then due to mistrust, it seemed that some sort of slight normalization also emerged in Northern Ireland. Since 1999, there is a visible trend of unionist parties losing ground and their majority, while Nationalist are gaining the Assembly of Northern Ireland.

The latest event, that leaves more question unanswered than answered is the result of the *Brexit* in Northern Ireland. A slight majority of 56% voted to remain, while a minority of 44% voted for *Brexit*. However, as being part of the United Kingdom and the vote as a whole at present are the only binding results with common consequences of leaving the European Union, it's not only questioning (as in the Scottish case) the value of the Northern Irish demos, but also can affect the peace agreements on the one hand. On the other hand, Northern Ireland borders, as the only part of the United Kingdom, on the landslide with the European Union in form of Ireland. Also, the position of the political parties in Northern Ireland on the *Brexit* referendum showed, that pro-unionist parties opted in their majority for the vote campaign together with the radical, nonsectarian left PBP. UUP was an exception, which supported together with other nonsectarian and nationalist parties the remain campaign. It's obvious that, despite the disapproval of the majority of Northern Ireland of *Brexit*, the Good Friday agreement, which is based on EU law, such as further upcoming difficulties might open some old and create some new wounds after Article 50 is triggered by Theresa May and no additional agreements on Northern Ireland and its future are settled (Morphet 2017: 26). With other words, the agreed progress' might now become with that uncertainty of Northern Ireland more vulnerable and a throwback by all measures can not be excluded.

³⁰ Officially, Ireland gave up all claims for Northern Ireland in the Good Friday Agreement, but these circumstances show, that a direct link between Ireland and Northern Ireland is constitutionalized.

³¹ Department of the Taoiseach - Constitution of Ireland (October 2015)

A further data, that is quiet interesting in this context are the plural identities of Northern Ireland. Including all Northern Ireland, British identity leads the poll before Northern Irish and Irish (Garry/McNicholl 2015: 3). There are three interesting data. When it comes to identifying itself as British, it's overwhelmingly embraced and expressed by the protestant community, while the Irish identity is overwhelmingly expressed by the catholic community (Garry/McNicholl 2015: 3). However, there is also an overlapping expression for identity, which is "Northern Irish", which is in both groups among 20%-30% to be found (Garry/McNicholl 2015: 3). This term should not be confused with the same interpretation by both groups, as for one, it equals the expression for the union, while for the other, it imply refers to the different political approach (Garry/McNicholl 2015: 4, 6). Garry and Nichols see a trend towards the protestant and unionists slowly overtaking the interpretation position over this term for their cause, while it excludes more and more the catholic groups, a trend, that would not stand for a shared common identity in Northern Ireland across religious and national cleavages, but pushing towards the catholic group towards the Irish option (Garry/McNicholl 2015: 6).

8.5 The United Kingdom and England

England is often used as a synonym for Great Britain and/or the United Kingdom by many people due to lack ow knowledge and ignorance of the socio-political and national constellations and national identities (Hughes/Trudgill/Watt 2013: 1). Although this perception goes against the socio-political and national realities existing on the British Isles, it is quiet understandable concerning the role of England and the historical creation of the United Kingdom and the perception of Great Britain and Britishness.

The United Kingdom is a dynastic creations with England as the center and its territorial extension including also its cultural, juridical, political and ethnical extension on conquered territories in the north and east of the British Isles. In this sense, the polity started with the classic pattern of the nation-states in Europe (Keating 1988: 25). One can trace back English identity linked with Britain to its very primitive roots back to the Medieval time, when the Anglo-Saxon element slowly took over territories and kingdoms of the *Brittones* and slowly starting connecting both concepts under the term of "*Engla land*" and *rex totes Britanniae*, king of all Britannia, and later the name England was adopted for all Britain by a personal decision and developed an extended centralization (Kumar 2003: 42). The Norman conquest adopted the structures and the already existing state and continued its existence by expanding it (Kumar 2003: 43). Although already the term "English nation" was in use at that time, a national sentiment of Englishness was absent as all over Europe, as nationalism is a concept, which emerges in the XVIII and XIX century (Kumar 2003: 44-45, 48). The idea of a proto-nationalism based on the consciousness between *we* and *them*, brutal Norman invaders and free anglo-saxons, after 1066 is an invention of the XVII century (Kumar 2003: 48, 49). Normans and English merged in the aftermath to a single unit and became what later was known as the English nation, but the use of England and Britain lasts until today.

England, as an expansive country, did not only concentrate on expanding its influence and territory on the British isles, but also on the continent, especially in France, but after the Hundred Year's War retreated and concentrated much more on gaining possession over Britain and Ireland. After conquering Wales and being in possession of the lands south of Scotland, Ireland was given as a possession to England as the Lordship of Ireland, the latter one by a papal decision in order to control the territory of the Church of Ireland (Watt 1970: 84). A cultural, juridical and political integration by force and by settlement of the English into the Kingdom of England, especially in Wales and Ireland, the two most resisting parts, begun and was extended as English rule and dominance over the peripheries of the British Isles. A breakaway from continental Authorities emerged with Henry VIII and the establishing of the Anglican church. This introduced for English influence in Ireland a religious cleavage between the English and the Irish and later also as a distinction feature in Wales. In 1603, for the first time, the crowns of England, Scotland and Ireland were united in the Union of Crowns and, thus, united the territory and the people to what would later become the United Kingdom of Great Britain and Ireland in 1603. It was also the XVII century, when the Glorious Revolution and the English Civil War took place, but also when Westminster parliamentarianism as a lasting constellation in the English, and later British, policy-making system was established. With the Act of Union in 1707, The United Kingdom was established, both national parliaments abolished and Westminster set up as the all-British Parliament together with London as the capital and one British monarch as a result of prior dynastic relations. This is also the point when England and Englishness became embodied by the United Kingdom and Britishness with an excessive dominant role, comparable to what some one hundred fifty years would become the same fate of Prussia, declared by its King Friedrich Wilhelm IV as he mentioned that "Prussia will merge into Germany" (Holborn 1982: 55). However, both cases developed differently and, differently from the Prussian-German relation and their outcome of a dissolution of Prussian (and other such as Bavarian) into an all-German identity, neither English, nor Scottish national identity was completely replaced by British national identity, but rather complemented by it. It never was replaced by a state-nation identity. Britishness was not confused with a non-existing „UK'ness“ or "United Kingdomers" (Russel Searle 2004: 8; Pennell 2012: 196). The creation of the United Kingdom also fell in the same time with the beginning of the British Empire and British expansionism on a global scale, when more and more colonies were acquired and the English identity as the dominant one within the United Kingdom, but also within the British Isles on a political scale, the reference (Keating 1988: 56). With the political centralization in England such as the English factor as the dominating one in culture, language, politics, numbers, England and Great Britain or the United Kingdom became synonyms, but probably more outside the United Kingdom than in England itself. With the decline and the final *de facto* disappearance of the British Empire in the second half of the 20th century, it was more British identity, that got also in to a defensive position as British was only a nostalgic reference, but did not replace English national consciousness, as an English empire also already existed one hundred years before the establishing of the Union (Lieven 2002: 362). However, with the overlapping institutions and perceptions, English identity was more confused about its points of references than in Scotland or even in Wales, as the British Empire and Britishness also embodied everything, that was English.

Especially the political situation since devolution and European integration resembles the struggle and confusion of national identity in England. There is no doubt that an English identity exists and that it is also national. However, due to its overlapping with British institutions and symbols, culture, the monarch, the parliamentary state, and the rededication of the state into a British one, by which it has been embodied, it finds itself within a crisis, as both identities are hardly indistinguishable (Kumar 2003: 156). Northern Ireland, Wales and Scotland got by devolution their own parliament and a series of competencies, while England as a political entity hasn't been recognized as such. This is therefore interesting, as the West Lothian question also affects England and as, due to English dominance in Westminster, it would be easy to set up an English parliament, and introducing devolution on the English level (Berrington 2014: 168). This has been, however, for now only theoretical due to the interwoven British and English identity and its overwhelmingly strong position in the common institutions. Westminster is *de facto* also an English parliament given the number of English votes.

David Cameron announced in the aftermath of the Scottish independence referendum, that devolution would also include England as an entity, as already in the past, English national consciousness and support for an exclusive English institution had grown (Fabbrini 2016: 212; Oneill 2014: 338). A devolution of identity seems also to happen, as the trend since 1997 is slight but for now steady. Especially in Scotland, grew with the independence referendum in 2014 the number of people claiming Scottish national identity, but one should remember, that national identities are not that exclusive in the British context (Hogan 2008: 71). The interwoven identity is also resembled in the party system, as there doesn't exist on the state level any party, which represents in the first row determined and named English interests - the existing parties are state-wide parties, Tories, Labour, Liberal Democrats and UKIP, where not English, but British identity is highlighted. Although no party expresses its interest to speak for the English nation specifically, there is no doubt of the existence and perception of such an English nation, not only since expression of *family of nations* concerning the United Kingdom has become more popular recently. However, the idea of devolution seems in England to be rather a top-down than a bottom-up movement and rather focused on the delivery of government functions than on territorial management (Smith/Wistrich 2016: 29).

Englishness could also be detected on the first visible far-right movement, the English Defence League, which is not a political, but rather social phenomena and *UKIP*, which has its political strongholds mainly in England, but could also gain seats in the Welsh parliament and which was the initial and prominent political force promoting *Brexit*. This, of course, has to be seen in the light of the ambivalent relationship of the United Kingdom as a whole and further European integration such as the refugee crisis in 2015 and not necessarily only as an expression for British nationalism, but rather a different political project, that includes also overlapping identities and other national groups in Britain, that share that perception, such as the Welsh (Leach 2015: 171). With other words, interpreting the *Brexit* only from a national British perspective is misleading. British identity is in fact an identity rooted in an Empire and its nostalgia, that doesn't exist anymore, which makes this imperial identity difficult to access, especially from the English side,

which is completely interwoven and hasn't disappeared as in the Castilian case for instance (Kumar 2003: 235). This identity might be challenged with *Brexit* and the Scottish and Northern Irish demand of self-determination and a reinterpretation of sovereignty within Great Britain and might lead also to a further devolution also between English and British identity. In this sense, English identity requires also in the light of *Brexit* and the intra-state demands of Scotland and Northern Ireland a rededication, as the British Empire, to which its Britishness was linked, ceased to exist and the unanswered questions and English passivity in the British question hasn't given any satisfying answer yet.

8.6 London and Gibraltar after *Brexit*

Especially in the light of *Brexit*, the relationships between the units with and within the United Kingdom require a rethinking, as different standpoints on how to continue, departing from different angles, clash and cause a series of conflicts. Here, not only the question of how to interpret the questions of *demos* and *sovereignty* within a state with socio-political plurinational realities requires later or earlier some further development, but also in entities within the United Kingdom, that haven't shown any national movements, yet rising the question of the *demos* and the interpretation of sovereignty, in this case Gibraltar and London.

8.6.1 Gibraltar and the United Kingdom in the light of *Brexit*

Gibraltar is since 1704, latest since 1713 part of the United Kingdom on the very southern part of the Iberian Peninsula and has been due to its strategic location important for British interests since then, especially for the British Navy (Jordine 2009: 7). Although Spain recognized British sovereignty over Gibraltar already some 300 years ago, it has been since claimed due to its history and geographical position of this British Overseas Territory, as the Spanish point of view states, that in fact Spain only has jurisdiction over Gibraltar and refused the right of Britain to administer the territory (Jordine 2009: 7). Historically, and given to the geographic closeness, such as trading relations, Gibraltar had historically a much more cultural and social affinity with Spain, but declined especially in event of the Second World War and Franco's taking over of the power in Spain, which was also linked not only by indirect political hostility towards Gibraltar as a British entity on Iberian soil due to the historical claim, but also given by Franco's alliance with Germany. Furthermore, the Franco regime set up a series of restrictions and difficulties for Gibraltar and lasted even after transition, when the border was opened in 1985 (Jordine 2009: 9).

The population has been influenced and newly put together after taking possession of Gibraltar by the British Empire and people didn't feel part of the Spanish *fade* as an integral part of it for the next three centuries, but developed their own British, Gibraltarenian identity. In several occasions, the population has shown its loyalty towards the United Kingdom as a counter-movement against Spanish claims in order to manifest their will of not wanting to become part of Spain, but remaining within the United Kingdom. The first one was a democratic approach, known as the Referendum in

Gibraltar 1967, in which a proposition, to pass under Spanish sovereignty as a special administrative territory while maintaining British citizenship, was overwhelmingly refused by a 99,64% majority (Dundas 2007: 2). The outcome was from the Spanish side the already mentioned closure of the border, from the British side the Gibraltar Constitution order in 1969, which converted Gibraltar into an integral part of the United Kingdom, based on the initial point of the recognition of a Gibraltarian *demos* and the only sovereign in the position to decide in self-determination over its own future and status of sovereignty.

Several other referendums were held since then and supported the position of the Gibraltarians in order to show support and to update the position of the Gibraltarians and their democratic choice over self-determined sovereignty, such as in 2002, in which shared sovereignty over Gibraltar between Spain and the United Kingdom was refused again by a vast majority of 98,97% (Rawnsley 2005: 129). While the British Minister for Europe stated, that a change of sovereignty over Gibraltar was only negotiable on the ground of the will of Gibraltarians, the outcome was not recognized by Spain and that Anglo-Spanish negotiations over Gibraltar were required to settle a future agreement (Department of Public Information 2003: 610). Furthermore, the possibility of self-determination has not been seen as an unlimited one by British authorities, as independence as a possibility was rejected without Spanish consent in 2006³². In this sense, the Treaty of Utrecht was taken as a base for the future of Gibraltar's future and the limits of self-determination of the Gibraltarian *demos* on the question of its own sovereignty, as it makes it dependent on two existing states, Spain and the United Kingdom. Nevertheless, the UK government has acknowledge, that the Gibraltar authorities do not accept this approach and share a different point of view, on which the Gibraltar Constitution Order of 2006 is based (Azopardi 2009: 179).

Although Gibraltar didn't vote in 1972 to join the EU, it was entitled also to vote on the *Brexit* referendum and should also have been, as it is the only British Overseas Territory in the EU and therefore directly affected by the change of relations between the United Kingdom and the EU. The outcome of *Brexit* goes completely against what the Gibraltarian *demos* has decided. 95,5% of the Gibraltarians decided to stay within the European Union and all existing parties of the Parliament of Gibraltar supported the remain campaign, which was by far the biggest approval for remain of any British entity. Nevertheless, the current decision is, despite Gibraltar's obvious vote, also an implementation of the all-British outcome, which means that Gibraltar will, against the will of its *demos*, have to leave the European Union.

This outcome is for several reasons delicate. First of all, Gibraltar is due to its geographical position not only remote from its motherland, the United Kingdom, but also borders directly and only with the EU from the landslide in the form of Spain, and its government seeks to negotiate a deal to remain within the EU single market and to continue the free access across its borders (Morphet 2017: 27). The fundamentally changed circumstances of relationship between Gibraltar and Spain (and thus with the EU) after *Brexit* might also include rethinking other possibilities in the

³² UK Parliament Website. Foreign and Commonwealth Affairs. Gibraltar 27 Mar 2006: Column 48WS

light of this clear outcome, the interest of both, Spain and Gibraltar, but it seems unlikely that at the very present moment, a relaunch of a referendum on shared sovereignty between Spain and Great Britain might be approved by the Gibraltarians in the proposed way some fifteen years ago.

Second, within the last decades, Gibraltar's confidence and trust on self-determination has grown with every referendum and the interpretation, that it is Gibraltar's *demos* only, who is the sovereign on deciding over its own future. As already mentioned, although Spain and the United Kingdom as state see it differently, Gibraltar's point of view is known and taken note off (Garicano 2016: 126). Also, the circumstances such as the arguments during the referendum were due to its position and different realities very different from those within the British Isles. A certain level of disappointment by Gibraltar towards the United Kingdom is very likely, but far from an instant wish to leave it and join Spain, where its right of self-determination might be even lesser, especially as a direct neighbor watching Spain's reaction as a state towards the demands for self-determination in the current Catalan *Procés* and the tiresome negotiations of the Basque Country with the state on new, upgraded relations based on the right of self-determination. In the case of Gibraltar and the imposed *Brexit* against its will, the right for self-determination already goes *beyond* nationalism, but is based on the awareness of being an entity, although by historic circumstances *and* free will British, but with the idea of being the only sovereign over its own fate. The double majority here is in a very obvious case ignored, but due to risen confidence and the danger of Spain might taking advantage on the still disputed status, some sort of alternative formulas require an exploration, as the question, if such a clear outcome of a *demos*, which has been encouraged to exercise its self-determination, can and should be, from a democratic point of view, ignored.

Although in fact Gibraltar will be forced to obey the all-British vote, one should not exclude forever a reverse Greenland option to rejoin the EU or also questioning the interpretation of the Treaty of Utrecht, as London already did in fact by handing over sovereignty exclusively to Gibraltar on several occasions like in the 1967 or especially the 2002 referendum (Morphet 2017: 29). For now it seems unlikely but already functioning in many parts as a *de facto* micro state has shown also British pragmatism and liberalism in political questions and for Gibraltar, being a *de facto* micro state in many aspects has been an attractive status.

8.6.2 London and its relationship with the United Kingdom in the light of *Brexit*

A more atypical, but especially in the light of *Brexit* upcoming question is London as a *de facto* entity in England, the United Kingdom and also as a *Megacity* on a European and on a global scale, considering not only its size, but its economic power (Sorensen/Okata 2010: 200; Xu/Yeh 2010: 155). Being the center of political decision-making, London has had historically a double role as being the capital of England as well as of the United Kingdom and the British Empire at once. This included not only the residence of the state's and the Empire's monarchs, but also the decision-making institutions like the House of Commons and the House of Lords in Westminster. It embodied the center of Britishness in economical and political aspects. At the same time, London

itself did not only become by far the biggest city of the United Kingdom and the most influential one, but also due to its huge size, potential and accumulation of politics and economy, a world in itself, a quasi entity without being recognized as such. Hunt even argues, London became the first embryonic mega-city worldwide (Hunt 2005: 178). This ambivalent identity and function has shown, that British politics and economy is largely dependent on London, especially since the *City* has become one of the most important world markets, especially in the financial sector (Kynaston 2015: 609). With other words, socio-political realities in London are very different than from what it is supposed to represent in a political way as capital, yet there doesn't exist a political entity further than the status of a region, which is also administrated as such by the Greater London Authority since 2000, approved by a referendum. Due to its history and being the center and capital of England, the United Kingdom and the British Empire, there has never been an identity comparable to that of any city states or nations within the United Kingdom. However, London is also an economical world of its own and less linked to the UK market than one might assume (McCann 2016: 228).

The *Brexit* vote showed clearly, that roughly 60% of London entity voted to remain, and the administrative districts with highest supports were also in London, while the minority was lead by Boris Johnson, former Mayor of London and only a month before the *Brexit* referendum succeeded by Sadiq Khan. After the outcome of the referendum, a series of demonstration against *Brexit* took place in London and online petitions to rejoin the EU or to provide London with the required competencies to negotiate a genuine deal with the EU or to rejoin the EU, which later was rejected, emerged. Even comments such as London leaving the United Kingdom and rejoining the EU became loud on the street, but were not backed up by any politician. This reminds somehow on the *Calixit* protest after Donald Trump's victory in the presidential elections in the USA. This is due to the different identity of London, which is not the one of a nation, but as a multicultural and multinational metropolis and, at the same time, England's and the United Kingdom's capital and its signboard for modern, global and successful British economy, especially in the financial sector. The differences between London and the rest of England are striking due to the centralization of power, people and and economic potential. In effect, first studies suggest that a *Brexit* would hurt the British countryside more than London itself as they are more dependent on foreign trade and investment than core-regions such as London and the South East (McCann 2016: 228). However, the EU has become an important counterpart especially also for London, since modern globalization does not primarily focus on free-trade based internationalism, but on multinationalism and on foreign investment, rather than by trade exports and imports, as it is embodied by London (McCann 2016: 228). In the end of the day, London might have become more aware of its power and position, but, and despite that, also its subordinated role it has. Nevertheless, it is a move towards a democratic awareness, which is the one of a non-national entity besides English and British identity, and the success of other city states or bigger competencies, which might turn London further towards such a model, are seducing.

8.7 Conclusions

The United Kingdom is a state, but it is due to its flexibility and its special constellation, such as its historical grown mentality and the resulting treatment of the entities, not a classic nation-state. There is a British state, the United Kingdom, a British society and a British identity. British identity had its heyday during the British Empire as the richest state and its influence on the global scale and, together with the Empire, declined (Lieven 2002: 362). However, there is not such a thing as a British *national* identity and in the case of Scotland's independence, the very *raison d'être* of the United Kingdom would be questioned (Kumar 2003: 248).

Shaping a British nation has never neither been openly intended, nor imposed and, if so, has failed as a national identity on a state scale. The question of the nation itself is also not settled, but rather left unanswered, as there is no written constitution and sovereignty lies within the British parliament as a whole. On the one hand, one might assume that this is answer enough, as it refers to Britain as a whole and devolution has only left to decentralization to some extent. Furthermore, there has never been officially any assumption of Britons being one nation, but embracing the national plurality -also to some extent- of the United Kingdom has been visible, latest with the legal and negotiated Scottish independence referendum 2014 and the non-binding, but confident and natural expressions of the United Kingdom being a *family of nations* by various political actors. The perception of the English, Welsh, Scottish and Irish, as well as the Anglo-Irish is based on a common historical and political memory, strengthens the assumption, that plurinational socio-political realities are seen with a naturalness, yet with a dilemma, as the United Kingdom as a state after all is also build on the principles of Westphalia, although with a less strict interpretation, but, concerning the present way to carry out *Brexit*, leaning towards the traditional interpretation.

What is obvious that the unwritten constitution can either be seen as a pre-democratic phenomenon, which has endured over centuries and finally could be seen as a historic delay of the United Kingdom as a state to update itself and give itself a written constitution, just as the rest of the states. Or it can also be seen as a blessing and a very clever constitution, as it leaves a lot of room for interpretations and, by doing so, can be updated by the needs of current situations required a lot more easy than a written, steady and fixed constitution. This flexibility, for example, made possible the Scottish independence referendum in 2014 and does not block further possibilities. It allows to understand the state not from a determined pattern, but can be adapted as the circumstances require it and as far as the state authorities are willing to follow an alternative approach. It has shaped Great Britain what it is in its juridical-political essence and in its self-understanding and can be seen in the light of demands of stateless nations in states with plurinational realities as an interesting and promising alternative to states with determined constitutions.

Just as the United Kingdom has existed for only 300 years, so has its identity, which is, as we could see, a shared identity and it is not only in decline, but compared to much older identities like the Scottish, English, Irish, Anglo-Irish and Welsh one a relatively new and state-linked one (Kumar

2003: 227). However, these 300 years have had a deep impact and will be an important factor on the question of continuity of the United Kingdom as such, especially since the Scottish independence movement has its heyday since its existence and open questions in Northern Ireland and Scotland require a solution in the light of considering the Northern Irish and Scottish *demos* in this process and its socio-political consequences on the Northern Irish, Scottish but also British and European level.

When considering *Brexit*, it's too simplified to assume that *the* Brits have voted to leave the European Union. The truth is, that *some* Brits have voted to leave the European Union. It's rather problematic to talk about a *Brexit*, that was democratically voted for, but it was England and, with a slight majority, also Wales, that voted to leave the European Union (Outhwaite 2017: 57). If the vote of the United Kingdom is taken as one, it resembles the classic interpretation of the *demos* from a state-centric view. Ignoring, that the Scots, who define themselves as a nation, are subordinated to that vote against their will is in fact a throwback to pre-devolution principles. The gained recognition, of course, will not be given up by Scottish representatives, which are overwhelmingly backed by the Scottish society. A democratic interpretation seems now again repositioned behind a state-centric interpretation, and it is easy to do so, as the overweight of representatives and policy maker represent the English society and their vote. Hence, it is obvious that a clear, institutionalized and constitutionalized clarification of competencies, positions and the relationship might be sometimes a benefit for a democratic interpretation approach, such as in the 2014 referendum on independence, but can also backfire, as shown in the *Brexit* case and the vote of the Scottish *demos* and its imposed subordination show.

Also, the awareness of being an entity, national or not, is not only relatively respected by the United Kingdom as a state, but is also demanded as it was visible not only during the legally negotiated referendum on Scottish independence in 2014, but also the open questions regarding the *demos* of Northern Ireland, Scotland, but also of Gibraltar and London after *Brexit*. The question is, how and if the United Kingdom will deal with these unanswered, but visible and louder becoming demands in both entities, those with one and those without a national factor, in which a growing awareness of the own *demos* has risen up. In the past, the United Kingdom has shown itself flexible and rather pragmatic than ideologic, when being confronted with these questions and might learn from former errors, that pushed nations out of the United Kingdom and Great Britain, such as Ireland or possibly in a future Scotland as well. Therefore, some three scenarios are being investigated in the following chapters.

8.7.1 The approach of federalization

The idea of a federation might be considerable at the first sight to continue consequently devolution in Britain and to strengthen the entities. Here, the idea of establishing an English parliament comes up, which would be fair from a federal point of view to arrange a series of

competencies for England itself, which besides Westminster does not have any parliamentary representation and is, thus, interwoven completely in British decisions taken by all members, also by the Scottish, Irish and Welsh. On the second sight, a federalization of the UK has a weak point, which is simply the size of England (Leach 2015: 171). It would have by far the biggest influence on the federal and on the state level and would make federalism in the UK senseless, since there wouldn't be any major changes besides some exclusive English competencies. With 84% of the population, the outcome would be an unbalanced federation and inevitably, tensions between the British and the English parliament would overlap and tensions (Leach 2015: 171). In this sense, although formally on the same level, this does not fit for a plurinational approach that takes all units as equal ones and Scotland, Northern Ireland and Wales would still be subordinated to mainly English vote and policy-making. It would only make formally a change of the United Kingdom, but *de facto* it would be useless and not a satisfying approach on the national demands of Ireland and Scotland especially.

8.7.2 Secession

The scenarios of secession of parts of the United Kingdom, especially Scotland, is now more than ever likely. Such a scenario has been usually not the first option, but, historically in the case of Ireland, and recently with Scotland, an option, as political accommodation as a nation within the United Kingdom wasn't given anymore and did not match with the demands of the different national *demos*. Although being flexible due to its unwritten constitution and the intra-state mentality such as the way of understanding the state in its plurinational context and a certain recognition of the nations, especially recently, the United Kingdom hasn't found for now especially in the Scottish case a formula to satisfy this entity's demands for a *devo max*. In the light of *Brexit*, secession becomes after the 2014 failed referendum of independence again a real option from the Scottish point of view, as sovereignty within the United Kingdom of the Scottish nation is limited anyway, as it would be in case of shared sovereignty within the European Union. Furthermore, the imposition of the English and Welsh vote on Scottish and also Northern Irish vote lets the unanswered question of how to deal with different national *demos* within the *de facto* acknowledged plurinational state. Also, the Northern Irish question, especially in the light of *Brexit*, leads to the possible scenario of a future secession and a reunification with Ireland as a whole. The latter case has also been accorded in the Good Friday Agreement and has been formally settled between the United Kingdom and Ireland solving this question within a democratic framework (DeRouen 2005: 329). Also, non-national demands from Gibraltar and London as a quasi entity might stimulate a debate on how to deal with such entities, that are part of the United Kingdom and want to be part of it, but see themselves as entities and, therefore, are entitled to exercise self-determination, as they have been encouraged in the past and the present and as their self-understanding bases on this democratic right as a fundamental principle of their right of existence.

8.7.3 Shared sovereignty as an alternative scenario

Especially the Scottish case has shown, that the used tools, enabled mechanism and arrangements are exhausted and not able to provide a satisfactory answer for all actors, but has gone against the majority will of the different demos and, therefore, ignoring it, as the current *Brexit* options for Scotland are only those to subordinate to the interpretation of English lead Westminster. Polls and interpretations of the referendum have shown, that a plurinational arrangement under the *devo max* has been the most favorable option for the Scottish demos and independence only the second option for Scottish politicians. Such a scenario would constantly open the possibility for secession, but this would only occur, when a clear majority of the Scots don't feel comfortable within the state and with the shared sovereignty and more competency option anymore. There might emerge a series of conflicts between the British government in Westminster and Scottish political authorities, as the Scottish parliament recently paved the path for a second independence referendum, while Theresa May announced, that such a referendum before an exercised *Brexit* is not on the agenda. With other words, although shared sovereignty and a negotiated compromise between two equals have already occurred in the United Kingdom, the alternative scenario of shared sovereignty in form of a *devo max* has been dismissed in the past, but could due to *Brexit* come back on the agenda in order to prevent Scottish secession by accommodating it within the United Kingdom under different circumstances. Furthermore, it shall be reminded, that Northern Ireland has in fact a shared sovereignty agreement and since the Good Friday Agreement, new legal possibilities to manage this delicate conflict zone within a democratic framework. Negotiations on how to continue after *Brexit* and how to accommodate the Northern Irish, United Kingdom and Irish interests will show, as effects of *Brexit* are not measurable yet and datas and politics concerning that topic, are missing yet.

9. Plurinational demands in France

9.1 Introduction

Examining France in the light of plurinationality is not usual, since on the one hand, the well known cases are not located in France, but in the United Kingdom, Spain, Canada or Belgium and, on the other hand, the French state latest since the establishment of the post-revolutionary system known as *one* and *indivisible* (Weber 1976: 95). However, France was not determined from the beginning to become such a state in this constellation and with this position within plurinational investigations, as conditions were in its state-making process similar to Spain for instance, as the territory was inhabited by culturally, politically and ethnically heterogeneous peoples. However, the French state developed different methods and strategies and applied a series of mechanisms and tools to form what we know today as the France and its vision of a nation-state.

Especially the expression “nation-state” is tightly linked with France as it resembles not only the classic model of a civic nation-state, but is also recognized as the first one as such on the European scene (Risse 2015: 74; Brantlinger 1996: 105; Jahn 2015: 9-10).

This chapter has several aims. First, it will recall the making of the French state in order to understand its mentality, the use and implementation of strategies, mechanisms, tools and values in a historical context with the demands of its peripheries. Second, the use of certain mechanisms, strategies and tools in order to come close to the concept of being one and indivisible will be examined closely, such as in further chapters the demands of the peripheral groups. It is not only from a historical perspective interesting to see, how France has for now avoided to become a state with similar demands of stateless nations as Spain for instance, but also the current situation dealing especially with Corsican and Basque ambitions and demands for recognition and further decentralization as current issues, especially since its latest administrative reform in 2016 (Schrijver 2006: 171).

Third, France as a classic nation-state has also faced a series of transformations, such as all OECD states since the 1970s by European Integration such as NATO and globalization as a whole (Leibfried/Zürn 2005: 1)

France is usually recognized as the first nation-state and is, therefore, also taken as the classic model of what resembles a nation-state. The French Revolution turned around not only the society, but the state as a whole in its hierarchy and the reinterpretation of the same linked with concepts of order, rights, duties, citizenship and the introduction of the concept of nation, linking it with the concept of state (Risse 2015: 74; Brantlinger 1996: 105; Jahn 2015: 9-10). This constellation of state and nation first in France has been a blueprint for understanding the nation-state and a role model for other societies, which followed the reinterpretation and the conversion of society and state towards a nation-state. France has been and is also a state with plurinational realities and demands, not only historically, but also at present, as the latest elections in Corsica, such as minor changes in the French Basque Country in its administrative structure. This, of course, does not

only let a tension between the French understanding of the nation-state emerge, but also to its very centralized system and the demands for further decentralization, especially since the latest administrative reform in 2016 (Schrijver 2006: 171).

The French state can either be seen as a continuum of its own history and the revolutionary logic and understanding, but also as a contradiction to its values implemented since the French Revolution, such as its conversion from a classic nation-state towards an integrated state in intergovernmental structures like NATO and the European Union. This chapter seeks to explore France's self-understanding as a nation-state and its principles, that are embodied by the state. This will lead to a controversial discussion on France dealing with plurinational demands and will show its historical development in order to understand the current situation, such as used mechanisms and tools. France can also be seen not only as a historical example of modernity, but also of dogmatism and ideological execution of values and ideas in the context of the demand. From a democratic point of view, this is seen as a contradiction to the values France has seen as its historical mission to promote, as this chapter argues (Risse 2015: 74).

9.2 The making of the French state - a short examination and its self-perception

Historically, the territory of France has been a very heterogeneous state, which, by state force before and after the French Revolution, faced an ever closer political, cultural, national and ethnic homogenization. To understand, how France perceives itself and how it deals with plurinational demands from its peripheries, examining the making of the state and its link with the concept of nationalism is required.

The idea of France being a state with a mission has not emerged only with the French Revolution, but already existed before. The territorial expansion of the state, from its core of Paris, started already in the Middle Ages and is, what Keating calls, a classic dynastic creation, that constantly grew with acquisition and conquest of territories, expanding from the center towards all cardinal points (Keating 1988: 25). With exception of the territories in the east, France was set in its borders already in the XVI century under one crown (Keating 1988: 34). During the monarchy, France also implemented a centralized and rigid system and were perfected with the succeeding monarchs since Carl VII and helped to dynamically expand and extend French influence and the incorporation of territories and people (Jansen/Borggräfe 2007: 122, 123). As the *Staatsvolk* wasn't seen as a *nation* neither in a political, nor in a homogeneous cultural way, regional features were kept alive, although they could not exceed any political power. France swallowed, but not fully digested these cultural and ethnical different groups (Keating 1988: 33). This led to the fact that in the year of the French Revolution, the vast majority of the *Staatsvolk* were not French speaking, but even almost homogeneously speaking in Occitan, Breton, German, Flemish, Basque, Corsican or Catalan (Keating 1988: 50-51). The French monarchy, at the same time, did not interfere in the life of the ordinary people by imposing language and even let some local parliaments and administrative bodies intact, but showed within decades a further direct influence on the lower

levels of the state (Keating 1988: 35; Jansen/Borggräfe 2007: 123). The local *parlements* such as regional nobility lost influence in favor of Paris and the use of the church strengthened the center (Jansen/Borggräfe 2007: 123). The XVII century also homogenized the French tax system as one unitary system was adopted and applied all over the French state territory and the royal influence within the military grew as the national parliament allowed the king to maintain a standing army (Keating 1988: 35). Nobles were in administrative tasks and position replaced by a functional and efficient bureaucracy which lead already in the XVII century to a high level of territorial-administrative centralization and brought the breakthrough for centralist, royal power in Paris (Sparwasser 1986: 21, 34).

The idea of the French being a *nation* was at that time not present as a concept among the *Staatsvolk*. From an ethnic national point of view, it couldn't due to the ethnic and cultural-linguistic differences of the *Staatsvolk*, as the only link they had, especially within the masses, was being under one state administration with no impact on the everyday's life of the ordinary individual one. The first major change came with the French Revolution and the implementation, diffusion and institutionalization of the concepts of *nation* and state in their union as a nation-state. If the idea of the reference point for the individual from an abstract point was the French Kingdom, the French nation should from now on become a fatherland, a *patria* (Weber 1976: 98). The borders of the idea of the *patria* were extended, overcoming the local reference point or the cultural circle, but including, redefining and rededicating the already existing state (Weber 1976: 98).

The French and the American example share several features, but also are very different in their outcome. In both cases, the *Bourgeoisie* was enlightened and following these ideals to implement them in possible occasions. While in the United States of America, the fact of drifting apart from the motherland, the United Kingdom, and differences on the taxation-representation discussion lead to an overthrowing of the local system and, finally, a separation, France couldn't separate itself from itself, but only could reinterpret and rededicate already existing realities and systems. The French state was already there and with the *Bourgeoisie* taking over the power, the already existing centralized administration was taken over and, in order to secure the revolution, continued with the infrastructures (Sparwasser 1986: 51). This was a favor for the Jacobins as the central of organization and politics was Paris, their stronghold, and the rest of the country could be reached by the former established centralized system, which was by creating the *Départements* even intensified (Sparwasser 1986: 54). These administrative circumstances also helped the *Jacobites* to maintain the advantage in the struggle for influence and power against the *Girondins*, which were a way more open towards a decentralized and federalized idea of the state. Relating decentralization, autonomy and federalism with *Girondist* and even with counterrevolutionary ideas discredited these attempts and approaches in a lasting way (Sparwasser 1986: 70).

Federalism and decentralization was equated with reaction and separatism, which would hurt, damage and even endanger the achievements within France, as France embodied as a state the guaranteeing structure for the implementation and maintenance of these achievements

(Sparwasser 1986: 59). This was also given to the circumstances, that Paris was in the hands of the revolutionaries, while in the provinces, monarchists, reactionary forces and enemies of the republic resided, and in order to revolutionize the whole country, Paris needed to be in control of the total political power, also to face the external interventions since 1793 (Sparwasser 1986:54, 62). Also, the French state had, due to its rededication, a new mission to follow, which was to be the medium of the diffusion of the principles of the French Revolution of *liberté, égalité, fraternité*, a *mission civilisatrice*³³, an idea, which already had its roots before, but now, with the rededication, gained a new spirit (Pitts 2009: 166). This self-understanding of state and nation also led to the emergence of the empire, which civilized internally and externally or, at least, combined the expansion of influence within and outside France by becoming an empire. State and nation were linked and both put on a new level of legitimization (Jansen/Borggräfe 2007: 119).

The given circumstances in France, such as the enlightened ideals led to the emergence of a civic nationalism, which, different from the Central European one, took the already existing state and its identity, such as the new set of values, as their reference point. The nationals of France were not only declared the sovereign, but everybody within the state borders, regardless the race, ethnicity or language, declared part of the French nation and a French citizen (Seymour 2004: 194). Usually, France is taken as the classic model for civic nationalism (Gentile/Chandhoke 2012: 51). This is, at least, what theory teaches us. Civic nationalism does not exist as a pure model, so doesn't ethnic/cultural nationalism. Both include features from the other and so did the French. This has been visible in its *Franconization* by declassifying the regional languages and identities, not recognizing them and forcing assimilation within a state culture based on the French language (Llobera 2005: 95). With other words, what France did was uniforming its citizens with cultural impositions, what goes in fact completely against the civic nationalism concept, in which citizens voluntarily become citizens (Craith 2002: 140). This imposed uniformity of its population, the conversion of a subordinated *Staatsvolk* into French nationals was also imposed, always defending this action with maintaining the unity of the state, as the unity secures the achievements of the French Revolution. Therefore, until the present day, France understands itself as *one and indivisible*, which includes that any attempt to challenge this state dogma, this reason of state, is seen in fact as an enemy to France, its achievements and its mission it stands for even nowadays. In order to defend this reason of state, to secure the achievements and the power bundled in the center, but also the influence in the peripheries with plurinational demands, a set of ways has been continued, developed and carried out by the French state. The following chapters deal with a more profound and detailed investigation of the strategies, tools, mechanisms used by France forming the nation in relation to its plurinational, or at least, demands of a different identity to the French state identity.

³³ Although the term *mission civilisatrice* is usually used in the context of the justification of French colonialism and imperialism, it seems also adequate to use it when talking about the spirit of the enlightened ideas and the French Revolution, such as its successor regimes, to diffuse the values, laws and ideas (Fischer-Tiné/Mann 2004: 4)

9.3 Factors, which make France 'one' and 'indivisible'

The foregoing chapter has already mentioned some strategies of how France became not only a state, but also a nation-state. It was not a *Tabula Rasa*, as one might assume after the French Revolution, but due to its efficiency and the given circumstances, such as external interference and internal uprisings, but also the need to maintain the power in Paris by the *Jacobites*, a series of strategies, tools and mechanisms were implemented. It was and is the key to unite France as one nation-state and, therefore, deserves a closer investigation, which will be done in the following chapters.

9.3.1 Territorial administration and its influence on sub-state entities

The first chapter already mentioned the highly efficient state by centralization and, therefore, the possibility to immediately interfere and control also the smaller unit of the state. Already before absolutism, the basis was established to follow this strategy and to centralize political and juridical power in Paris.

Centralization has been a tool in France since the beginning of the making of the state securing power, influence and control over the acquired or conquered territories. Within the decades and centuries, it was intensified and led to an authoritarian state with Napoleon as the emperor (Sparwasser 1986: 65). However, centralization was also a tool to tranquilize efficiently the society in the post-revolutionary phase, which led also to a long-lasting embracement of this peace and stability securing constellations (Sparwasser 1986: 65). Administrative units did not coincide usually with ethnocultural borders, but a division into artificially created administrative units has made sure, that countermovements, that could challenge the state unity or the power of the center could prevent both, a sense of territorial unity different from the French one and, divided into these different and artificially composed units, no possibility to concentrate power strong enough to challenge the French state and its influence. The post-revolutionary French state did not only continue and profound the already existing centralist structures, it also rededicated the power from the absolutist monarchy to the political institutions in France (Sparwasser 1986: 65). It was not a bottom-up, but a clear top-down constellation, in which the prefect was entitled with a striking amount of power, forming the apex of the centralized system in the sub-state units.

Federalism has never been a serious issue for the French state, also after Napoleon, several republics and the restoration of the monarchy. First, because the prefects continued to hold the most important amount of power, but also, because secessionist tendencies in the peripheries and the emerging fear for a fading national unity impeded federalist streams within the policy-making processes and institutions (Sparwasser 1986: 69-70). The outcome of the First World War brought the French state in a position of triumph and movements demanding autonomy and self-determination could not succeed, although they were existent in the peripheries (Kremnitz 1975: 37). Centralist tendencies were also strengthened, as during the Second World War, existing

sympathy for the German occupation forces once again discredited the idea of more local self-determination, especially in Brittany and the southern part of France, also known as Occitania (Kremnitz 1975: 37, 40).

The French system has a clear, hierarchical structure, which are, starting from the lowest level, communities, departments and regions, all subsumed under the French state. All administrative units have on their level the same status, with the exception of Corsica, which will be discussed in a separate chapter. The central government appoints the regional prefect, who coordinates the acts of the central government within the region. The emergence of the regions is relatively new, and developed during the second half of the XX century with the aim to coordinate a more efficient economic policy (Lasserre/Schild/Uterwedde 2013: 101). With the top-down creation of the regions, one can talk about a certain level of decentralization, but the determined and limited competencies, such as the top-down power structure show that, compared to most France's neighboring countries, it is decentralization on its lowest level. To sum it up, state and region have become more interwoven and interdependent mostly concerning economic questions, but are slowly, but steadily rising in activities (Lasserre/Schild/Uterwedde 2013: 102-103). A missing financial reform in order to delegate more fiscal possibilities for the regions to raise has been missed and the tax income generated by the regions is by far insufficient in order to finance the costs the region creates, which makes it dependent on state transfers ((Lasserre/Schild/Uterwedde 2013: 103). This, however, is new on the French political-administrative scene, as the hierarchical structured pyramid of competencies might develop towards something similar to a less rigid network of competencies (Lasserre/Schild/Uterwedde 2013: 110). France is known to be one of the most centralized states in Europe nowadays (Kuhlmann 2008: 2).

As happened before, the redefinition of the administrative units of France has always been a top-down process and without the consent of the local population. In 2016, a new administrative reform was implemented, which reduced the existing 22 regions in Europe shrunk to only 13 (Baasner 2016: 30). This has been a major part of the reform process, which has been going on since the last years and three decades in order to design the state structure and its administrative levels more efficient and to solve emerging questions of competencies, framework and cooperation (Baasner 2016: 31). The effects are yet to be analyzed as data and investigations are missing due to its recent creation. From a state-centric point of view, these reforms stand in the continuity of French state tradition of a top-down process in order to make the state and its substate-units more efficient. From a democratic point of view, the reforms lack democratic legitimacy on a regional level, as only the name of the newly created regions were given partly to the locals to vote on. This has led to the abolishment of autonomous and also relatively more wealthy regions, which more or less also included a historical extension of national identities different from the only French one, and fusion them without their consent with poorer regions and societies, which are culturally, ethnically and nationally different, as happened in the case of Alsace for instance. The constitution gives unlimited sovereignty to the unitary state as the state, being alone can decide absolute autonomously as the ultimate sovereign on the functional and institutional design on subnational levels (Kuhlmann 2008: 3). It has led to a atrophying of the provinces in culturally,

politically and economically and strengthened the center, Paris, in right these dimensions (Thadden 1994: 405).

9.3.2 The French interpretation of *Staatsvolk* and *nation*

The way both concepts have been seen treated in France has not only had a striking impact on the France and its self-perception and projection, but was also a blueprint for other nations and states to follow this example by implementing it, especially to those, who have followed the civic interpretation of nationalism.

First of all, in other parts of the thesis, the *Staatsvolk* has been interpreted as the people subordinate to the *Staatsgewalt* within a *Staatsgebiet*. It has also been demonstrated, that *Staatsvolk* does not necessarily mean an ethnically and culturally homogeneous mass or unit of people, but includes all those within the borders, who are regarded as nationals due to citizenship or, prior, as being subordinate to the monarchy. Thus, all people within the French borders were regarded as *Staatsvolk*, regardless of their individual or collective identity in cultural, language, or later even national sense. The French Revolution took over old structures such as the state and only rededicated it (Weber 1976: 98). The concept of sovereignty was revolutionized, as not the king or the nobility, but all subordinates were turned by law and constitution into the sovereign, who forms one homogeneous mass of French citizens. Homogeneous in this sense is meant to be the citizen as individuals, concerning their rights and duties. The former *Staatsvolk*, hence, was turned into the sovereign by declaring it being one *nation*, as the concept of nation replaced the old sovereign. French nationalism is sought to be the classic example of civic nationalism, which in theory includes a voluntary assimilation into the nation as the political subject and sovereign over *Staatsgebiet* and *Staatsgewalt*, but as all forms of civic or ethnic nationalism never existed as such outside the theoretical model, civic nationalism was imposed, citizenship and nationality was imposed upon all people within the French borders (Gentile/Chandhoke 2012: 51). France as a state became one with the nation, legitimized by it and as there has been only one sovereign, France was declared one and indivisible (Weber 1976: 95). Regarding other cultural or even national groups, there was no space for them unless the concept of France being one and indivisible would not be challenged. This also includes that France, basing its new understanding and state on democracy, would not accept any group to exercise any exercising of challenging this understanding, whether it be by secessionism or by annexation by a neighboring state. With other words, the French state and its new *raison d'être* of being one and indivisible subordinated all other concepts, also the democratic possibility of changing the status of the culturally, nationally or in any collective way different groups within a part of the French state territory. This is rooted in Westphalian understanding of the state, as sovereignty is, according to this concept, indivisible and the French state, becoming one with the concept of the nation within the nation-state, also followed strictly this concept. Groups, which are in diverse ways on a determined territory different and even in case they express themselves as such democratically by even gaining a minority, are constantly subordinate to the state dogma of French nationalism and the Westphalian rooted

indivisibility of sovereignty, which endangers their rights due to political nationalism by the state (May 2013: 95; Hashimi 2010: 166). This concept, in fact, is rooted in France in absolutism, when the idea of the king being the only legitimate sovereign by the grace of god and, therefore, legitimate sovereignty indivisible, was widely accepted and carried out, so was the idea of one nation being the only legitimate sovereign, based on enlightened principles, rights and law and, therefore, indivisible as well (Friedland 2002: 238; Wood 2012: 163). However, since the French Revolution, the idea of the French nation was also being the medium of a higher civilization with a mission to carry out, to diffuse the principles of liberty, brotherhood and equality among all people, which gave it somehow an almost divine aura (Pitts 2009: 166; Risse 2015: 74). It has been also therefore, that any movements for decentralization, as long as they weren't top-down processes, and linked movements with the different groups were since 1789 not only discredited as an enemy of national unit, but also as a reactionary force putting in danger the principles of freedom, liberty, brotherhood and equality and quasi artifacts of the *Ancien Régime*, aiming to destroy the nation, the state and the good mission to the world. Although the idea of being a medium to the world and the nations to bring this values of liberty might be a positive one, but the implementation of *liberté, égalité, fraternité* within its own borders is highly questionable, and can be rightfully seem as contradicting. In France, the concept has only been applied to the individual, but not to the different groups. The state vision of *liberté, égalité, fraternité* was not only the only legit and recognized one, it was also imposed and not voted by the different groups, as a lack of their recognition as such formed the base of the French understanding of *Staatsvolk* and *nation* within the nation-state.

9.3.3 Assimilation into the French state

The French state and the French nation have seen two ways of assimilation by its people. From one side, there was a forced, imposed assimilation by various methods, tools and strategies from the state side. From the other side, there were also movements - partly of pragmatic, partly because of idealistic reasons - for voluntary assimilation within the French nation. This subchapter seeks to analyze these strategies from the state, and the reasons for voluntary assimilation into the French nation and, by doing so, into the French nation-state. Assimilation, imposed or voluntary, has helped to prevent any kind of major development of centrifugal powers driven by a national identity other than the French.

France has, as a state, already since the XV century due to its growing centralization managed to homogenize from decade to decade and from century to century more and more the structures within the state, which had a great impact on the population and their way of interacting with the state and its institutions, but also in daily life, concerning the tax system, the responsible institutions and a mentality of centralism, which grew. The French state would not, as we know, letting faith decide over anything also in the making of its subordinates and, later of its citizens and nationals in order to secure and legitimize the state in its borders (Keating 1988: 33).

Besides the imposition of the effective unitarian state upon the *Staatsvolk*, the striking element was introduced with the implementation of the concept of *nation* and its link with the nation-state (Keating 1988: 33; Thadden 1994: 496). The civic nationalism was not elected, but imposed in order to justify the state and to silent and discredit all centrifugal powers within France and a division into ethnic-cultural groups is unwanted. In theory, there shouldn't be any national or ethnic differences and divisions visible in France as the idea of nation dismisses these differentions (Thadden 1994: 496). However, in France, differences, especially on the linguistic level, the existence of different cultural groups was striking. For 1871, 70%-90% of the Languedoc region were homogeneously Occitan speaking (Keating 1988: 50-51). Almost one hundred years later, in 1975, the estimate number of people having also a different mother tongue than French was estimated to be around some ten million, which at that time would have been some 25% (Kremnitz 1975: 14). Since the 1970s, a significant amount of the usage of other regional language than French has dropped and has, especially in urban areas, been replaced by French (Hawkins 1993: 60). Part of the strategy to strengthen the central jacobin power in Paris was the implementation of standard French over regional languages and dialects in order to seek homogenization and in order to dismiss the political *Girondist* rival. French nationalism, freedom and democracy were linked with each other, which also justified the following repression of other language groups (Keating 1988: 50). This was also a continuation of former strategies, as in 1539, French was determined to be the only allowed language for official documents, which lead to a disappearance of all other languages until 1600 from official correspondence (Kremnitz 1975: 26). Schooling became one important and striking instrument to form the French nation to use it for national indoctrination (creating "awareness" and French nationalism) of the children and strengthening their language skills in French (Weber 1976: 100, 111). Repression of the languages was given not only in official positions, but also the use of regional languages was forbidden within schools and was sanctioned (Kremnitz 1975: 23). These repressions linked with compulsory schooling was a decisive blow against regional languages, so were the further implementation of exclusive French speaking media, as regional languages more and more lost prestige passively (Kremnitz 1975: 28). This loss of prestige and marginalization from the administrative, political, higher social and economical circles and levels lead the languages to become, besides the daily life, useless and it was also discriminated by several state campaigns, defining them as *patois*. It was in fact a policy to destroy those languages (Lehning 1995: 13)

A further imposed strategy was the compulsory military service for all Frenchmen. The wars, in which France and its citizens were involved, strengthened the idea of being one nation with one single fate, as the enemies attacking France were perception as the enemy of all, also within the peripheries (Tiemann1998: 328). It was, besides compulsory schooling, a cornerstone to implement the idea of the nation and to strengthen the sense of community (Keating 1988: 50). This idea was in good tradition to the French revolution, when the *nation* secured against external intervention the achievements and the state and where each national and citizen became also, as being part of the sovereign, part of the state and let absorb by the individual the sense of national community and the values linked with republican revolutionary France (Jansen/Borggräfe 2007:

128). This tradition was continued until the late XX century, so was the implementation of the idea of the French as a national community through the military and the psychological factor of a common fate and cause, especially in times of war like 1870-1871, 1914-1918 and 1940-1945. Imposed strategies, especially in language issues, became more and more internalized by the peripheral population not only by media or school, but also by the military service, as many came back from the battlefields as fluent French speaking citizens, when they left home as often monolingual Bretons for instance, such as the psychological effects and accepted consciousness of forming part of a community influenced the nation-building (Bevant 2010: 161).

These circumstances were not the only one, which lead to a disappearance of regional language communities, clear different cultural communities with awareness of being different from the French nation, or the impossible circumstances for stateless nations to develop a potentially strong movement, but also lead to a series of reasons for voluntary assimilation.

First of all, the French Revolution introduced a series of values , ideas and rights, which also after the *Grand Terreur* and the unstable post-revolutionary years were kept alive and, under Napoleon, were implemented. Not only the individual freedom, but the *mission civilisatrice* of the French cause to a worldwide cause convinced many people to assimilate to this nation, which was already determined in its development by the national assembly, its laws and the adopted centralist structures. There was indeed also civic nationalism in France and under victorious Napoleon, it was seen by many a privilege to form part of this great nation, of this grande nation taking part in the battle against other European *Ancién Régimes* for the good cause. It was seen as a higher level of civilization an required members (Weber 1976: 73). A series of benefits were also linked with *becoming* voluntarily a Frenchman.

Social advancement only became possible with a good and full knowledge of the French language, further more, strengthening the center made also the center and its features more attractive, which was an important side effect and lead to voluntary assimilation of pragmatic reasons (Kremnitz1975: 20). This coincided with the economical dependence of the peripheral parts of the French state, such as urbanization during industrialization, which lead to a weakening of local cultures and languages and the center gaining power, legitimacy and identification.

The military, as an imposed institution since 1798 was also a possibility for social advancement, which also opened more easy the possibility for individual assimilation, as a career in the French military would not have been possible otherwise (Jansen/Borggräfe 2007: 128). This, of course, became more and more attractive, since France also became a republican empire outside Europe, gaining colonies and prestige all around the world as a modern and advanced nation. Being considered inside and outside France as a French citizen and national meant to be considered a cultivated part of a modern society and advanced country. The cultural and linguistically, even the identity distinctiveness did not have any advantage or potential for political, economical or social progress, neither within France nor outside was it acknowledged as such and, therefore, was substituted mostly by standard French in all aspects, while the regional distinctiveness, which had

grown and existed for centuries, lost in importance. A further important factor on the level of *Franconization* has also been the duration of French rule and implementation of French policy in the determined territories (Kremnitz 1975: 31).

9.3.4 Recognition of distinctive collectives in France

In France, the only nation recognized is the French nation, as France is, since the establishment of the nation-state, one and indivisible. On this base, the recognition of distinctive collectives is already determined, as the state dogma has been institutionalized and carried out. Therefore, the recognition of distinctive groups, whether they are cultural, ethnic, linguistic or with national demands has only been possible within a limited framework.

First of all, as France is a nation-state, and the concepts of *state* and *nation* are interwoven, the question of sovereignty within France has been determined from the beginning, not by voting, but by establishing this order, by creating facts from the *Jacobites* in power, establishing the *Jacobite* state with the *Jacobite* state-view. As already mentioned, this concept with the aim of promoting and diffusing, such as securing *liberté, égalité, fraternité* has been imposed on the different groups, and the dogma of France being one and indivisible - as a nation, as a state, as a nation-state in sovereignty - already includes that a recognition of plurinationality is not possible under this dogma. *Liberté, égalité, fraternité*, embodied by citizenship, has only been recognized to the individual, not to communal identities (Wright/Jones 2012: 1). However, France could do two things and has done so. Either, it could make efforts to homogenize the population culturally, nationally, and in its collective identity. The foregoing chapter of assimilation revealed a series of tools, methods and mechanisms, which have been used to follow and, largely, to achieve these aims and, although different, still continues the main goal of a *Franconization*. Until today, France still sticks to the declaration of 1966 at the United Nations International Convention on Civil and Political Rights, that there are no minorities in France (Wright/Jones 2012: 3; McDougall 2015: 168). Or the state could make some quasi recognition, as also happened, especially within the last years and decades.

It is, therefore, interesting to see, how the state has dealt with cultural collectives, namely linguistic minorities. The official language and only recognized language on the state level is French, as Article 2. of the French constitution states. The state itself is not entitled to obligate the use of French by individuals in private life. In 1951, the *Deixonen Law* granted regional languages the right to exist and paved the way for them to be taught at school (Oakes 2011: 68). The *Toulon Law* strengthened the status of French as the state language, as the use of French in official government publications, all workplaces, advertisements, commercial contracts or commercial communication contexts such as the state run schools became mandatory (Oakes 2001: 160).

In 1999, some 75 languages within the whole French state, including the overseas territories, 24 of them in Europe were identified by Bernard Cerquiglini and his report on the languages existing in

France, also making some further distinction between the varieties of Occitan for instance (Oakes 2011: 71). Recognizing languages has been a delicate issue for France, since the growing number of immigrants and the principle of *ius solis* might lead also to immigrants demanding the recognition of their imported languages (Oakes 2011: 71). Furthermore, the interpretation of France's understanding of equality of the citizens and the indivisibility of France might have been attackable from some point of view (Oakes 2011: 72).

The regional languages were also introduced into one core competency of the state and a main tool of making the French nation: the school. Monolingual schools in the regional language have been rejected, as this would go beyond the necessity of learning the regional language (Oaks 2011: 74). After a debate in the 2000s, a recognition of the languages at the regional level was achieved, but not implemented by state run schools, but a series of private schools with regional languages as complementary teaching languages emerged in Brittany, the Basque Country, Catalonia, Occitania and the Alsace (Williams 2005: 82). The French government rejected in 1999 the European Charter of Regional or Minority languages, after the Haut Conseil à l'Intégration reaffirmed, that the French constitution, as based on equality, excluded any possibility to institutionally recognize minorities (Wright/Jones 2012: 3).

On the political level, France has executed a rigid policy on groups claiming distinctiveness on a political level such as demanding for autonomy both, historically and currently in its essence. The reason, again, is the dogma of the one and indivisible French republic and the interpretation of liberty and equality to the individual citizen, not to distinctive groups. Historically, autonomist demands were suppressed even by force and persecution by the French state, in Corsica by the French army after 1769 after a Corsican popular assembly was set up and in Alsace especially after the First and the Second World War in order to remove and to replace all links of the population with the language (Kremnitz 1975: 40). Furthermore, demands for autonomy have been historically discredited as it became clear in the foregoing chapters and given geopolitical circumstances such as the fall of the Spanish Republic for instance or the hostile policies towards Germany prevented any move from the state towards these demands in Catalonia, Occitania or Alsace for instance (Kremnitz 1975: 37).

9.4 Demands of different territories and reactions of the French state

Demands within the territory of the French state have emerged especially with the consciousness of belonging to a group different from the state-promoted French nation, whether on cultural, linguistic or national levels. As France is a typical dynastic creation, that conquered or acquired territories and people within the centuries, the grade of *Franconization* has been different. The demands of the collectives within these territories have, therefore, been also different, but the reaction of the French state has been always based on the premise of the French nation being one with the state and indivisible, such as rights for individual citizens and only one collective, the French national one, as described in the foregoing chapters. France's peripheries deserve a closer

examination of their demands, as there was - and is - plurinationality, although it is denied due to the state dogmas. The next subchapters will examine each case briefly, such as the reactions of the French state in order to understand both, demands and the state's approach to the demands in the peripheries.

9.4.1 Demands in Flanders

Parts of Flanders were already partly conquered by the French crown in 1558 and, to a greater extent, until the end of the XVII century (Kremnitz 1975: 30). The Flemish movement has traditionally been very small and has been also traditionally supported by the Netherlands, which has made conflicts less bigger than with other collectives. Furthermore, the area is small and only includes the most north-eastern part of France, within the arrondissement Dunkirk (Williams 2014: 102). The circumstance, that the Flemish have kept their language alive has brought rather negative reactions from the French instead of solidarity support (Kremnitz 1975: 44). Flemish was recognized as a regional language after the change of Article 75 of the French constitution as *wester-flemish* and the *Institut de la Langue Régionale Flamande* as the referential institution for the language aiming to promote it, chasing the revivalist approach (Ryckeboer 2014: 787).

For Flemish nationalists, West-Flanders (Westhoek) forms part of Flanders but due to its small area and limited speakers, it has remained in France more a cultural and language movement (Minahan 2000: 251; Hall 1979: 205). No further visible political movement has emerged in French Flanders, which hasn't lead to any political reaction by France other than the language policy and, in case any movement would emerge, the stressing the state dogma of France's unity and indivisibility.

9.4.2 Demands in Alsace

Alsace and Lorraine have been traditionally German speaking territories and politically incorporated into the Holy Roman Empire of German Nation, but French annexation and expansion policy towards the east took control first over these territories with the occupation of Strasburg by the French king Louis XIV in 1681. Lorraine itself was part of the Holy Roman Empire until 1766 as a duchy. This was part of a long lasting strategy in order to annex territories and cities west of the Rhine river, expanding French territory by military force and to establish the Upper Rhine as a "natural border" towards the Holy Roman Empire shortly after the Westphalian Peace Treaty (Malettke 2008: 224; Cornejo 2004: 53). The German language was left among the indigenous population mostly untouched also by Napoleon, as he declared that the Alsatians should keep their language as long as their sword is French (Wolff 2000: 53). French itself was only the language of the elite, such as of administrators, who were sent from Paris to integrate Alsace more into French economy (Wolff 2000: 43). The in 1873, compulsory schooling was

introduced in Alsace, it was already after the Franco-German war and the reincorporation of Alsace to Germany, as French became only a foreign language and standard German the official language. Wolff claims that, by doing so, the Alsatian dialect suffered and speaking it became a form of resistance against Prussian rule (Wolff 2000: 54). However, a suffering for dialects in general can be said, whenever a standard language is used as the only official one. The German speaking community was historically a lot smaller and only to be found in the eastern part of Lorraine, while Alsace was almost entirely German speaking. After the annexation of Alsace to France in 1919, the euphoria of some Alsatians to become again part of the victorious country of the *grande nation* - the idea of a civilizing mission was also diffused there and had its followers, also in several German parts during the French Revolution - was replaced by resignation. Although the Versailles Treaty aimed to reintegrate Alsace with its cultural and social particularities, German and the Alsatian variant (as the language of the enemy) were forbidden and Alsatians for public positions marginalized and discriminated, while an influx of French civil servants took over their positions (Wolff 2000: 54). This led already in the mid-1902s to socio-political movements demanding autonomy, the right to bilingualism and even independence (Wolff 2000: 54). One striking element was that within the almost 50 years reintegrated into a German polity with several decentralized elements, the Alsatians alienated from the French centralist domestic policy, which led to a steady opposition of Alsace against France in political and linguistic matters (Kremnitz 1975: 45). The French reaction was repression and a ban on all those anti-French and even hostile classified organizations (Wolff 2000: 54). Having been part of the French myth of the “stolen land” by the German enemies for nearly five decades, it would have given a confusing picture if *Frenchness* was not implemented “properly”, as it would question this myth (Fischer 2010: 129). Fifty years of a development apart from each other, especially in the age of nationalism and industrialization such as political consciousness and education left a distance between expectations between both actors.

Politically, the traditional conservative and clerical population of Alsace supported during the German Empire the *Zentrum* party. This tradition was continued, as in 1919 the *Union populaire républicaine*, a *de facto* successor of the *Zentrum* in Alsace, emerged as the Alsatian voice and became the largest party, defending particular interest of Alsace (Sudlow 2011: 51). However, to prevent a victory of the leftist anti-clerical parties, it supported the conservative French Bloc National (McGillicuddy 160, 165, 167). Autonomist support in Alsace emerged due to broken promises by the French and the immediate danger for local culture, customs, tradition and language of further marginalization and danger of existence, struggling to preserve their particular identity and interests (McGillicuddy 171). In 1928, the heyday of autonomist electoral success, several autonomy activists were sentenced to heavy penalties between ten and twenty years in the Colmar process, some of them were even executed in 1939 (Fischer 2010: 196; 198). Claims for autonomy, hence, were equated with secessionism, which has gone against the republican dogma of France being *one and indivisible*.

After the Second World War, the anti-German policy was reinforced and any autonomist movement, due to their cultural tight work and their cultural link to Germany discredited, with some 45.000 Alsatians in camps and imprisoned by the French for being suspected of anti-French and autonomist support (Ager 1990: 51). The rigid policies left also an identity crisis in Alsace and a massive and continued *Franconization* for the post-war generations (Ager 1990: 52). In the 1960s, a slight revival emerged with the establishment of the cultural organization René-Schikele-Organisation, in Alsace more than in Lorraine (Kremnitz 1975: 40). Since then, on the political level, only locally, Alsatian parties such as *Alsace d'abord*, a autonomist right wing party, or *Unser Land - Le Parti Alsacien*, currently part of EFA, or in union with the green alliance (as it is the case in Unser Land - Le Parti Alsacien party) managed to gain some representation. Alsace has become in the recent years a stronghold for right and right-wing policy in France. Concerning the language situation, the constitution in 1992 stated, that French was the official language, but the Alsatian dialect was - instead of standard German - recognized as a regional language and has also been introduced in schools for educational purposes, also to hold back a further influence of English (Helot/de Mejia 2008: 209).

9.4.3 Demands in Occitania

Occitania has never been a political, but rather a cultural unit, and as a unit very fragmented in its cultural subgroups (Letamendia 2000: 59). This territory, almost 40% of present European France, has become already early under French rule, between 1271 and 1455 (Keating 1988: 33; Kremnitz 1975: 30). It seems pretty safe to say, that a Greater-Catalonia was prevented as the French king annexed the more latinized part of southern France with the support of the pope in order to carry out the Crusade against Catharism, which had one of its strongholds in the territory nowadays known as Occitania (Keating 1988: 34). The link to Catalonia is not only given by its cultural and linguistic closeness, but also as it wasn't for decades and centuries really obvious, whether the lord of the local nobility was the king of Aragon or the king of France (Keating 1988: 34). Especially its language marks the most important difference between core-France and Occitania. Occitan had been the most used language in documents at a time, when latin was still the lingua franca of the documents of the French king (Keating 1988: 35). However, after the annexation of Occitania, local nobility adopted French as the first language, while the broad mass continued to communicate in Occitan and its different variants. Although French was implemented as the only language in France, an execution of the language policy only emerged after 1789 and still in 1871, some 70%-90% of the Languedoc were monolingual Occitan speaking (Keating 1988: 50-51). The missing intelligentsia with consciousness to create a standard language for Occitan lead to the fact that it continued to be a fragmented languages with many variants and, therefore, was disgraced as a backwards dialect (Keating 1988: 35). In XVIII century and national consciousness, a cultural revival of Occitan heritage emerged and especially the poetic movement lead to further commitment in regional unions by a local intelligentsia (Kremnitz 1975: 35).

Autonomy movements emerged in Occitania after the First World War, inspired by the autonomist events in Catalonia and with the aim to establish an autonomous status for Occitania itself (Kremnitz 1975: 37, Schrijvers 2005: 183). This movement, however, lost support and significance with two events. First, with the fall of the Second Spanish Republic as a result of the Spanish Civil War, the model to follow disappeared due to Franquist rule in Spain. Second, the outbreak of the Second World War and the occupation of France paralyzed all autonomist movements. What is interesting is the fact that the Vichy France overlapped for the most part of its territorial extension (Kremnitz 1975: 37). After the Vichy regime was abolished, an anti regionalist atmosphere and a national French one emerged, as the Vichy was not *per se* against regionalism (Kremnitz 1975: 37). A missing industrialization of the broader southern part of France, the Occitan territory, lead also to economical dependency from Paris, which surely also hindered the development from cultural to further and stronger political associations.

Politically, the Nationalist Occitan Party (*PNO*) was founded in 1959 and was preceded by the *Partit Occitan*, which didn't play any role on the political scene (Kremnitz 1975: 37). This hasn't changed for one reason, because the Occitan claimed territory is huge and administratively divided, but also, because the Partit Occitan has lacked of a clear program and line, which was embraced by the voters (Schrijvers 2006: 204). Historically seen, Occitania has lost its status of being a model to follow for other territories as there has been no political mobilization with a significant outcome (Schrijvers 2006: 249).

As the language, it stays more or less alive. Since long, it has been replaced by French due to assimilation, either forced or, given the economical and socio-political circumstances, voluntarily.

The *Deixonne Law* was passed in 1951, including also Occitan and granting it the right to exist. Since 1970/71, the possibility to learn Occitan in determined schools exists since 1970/71 but until 1998, French was the only language in all public schools (Kremnitz 1975: 51; Garicoix 1999: 76). In 1979, the first school with Occitan as an additional language, the *Calendretas*, appeared (Helot/de Mejia 2008: 207). For the beginning of the 2000s, datas state that only 2% of the students had a bilingual education in Occitan (Helot/de Mejia 2008: 208).

The administrative reform in 2016, a top-down imposition, unified several departments, which are claimed by the Occitan movements and the region was officially called Occitania. However, this has only been a symbolical act and does not deliver any further political, linguistic or juridical rights or competencies, which could be detected. Occitania is not dead, it has survived the Crusades and the language has its own institutions, such as the in 2011 founded *Congrès permanent de la lenga Occitan* for linguistic regulation, such as the *Conselh de la Lengua Occitana*. However, given the very limited recognition, missing successful political parties and socio-political movements with significance and the rigid centralization and continuing *Franconization*, it has a difficult stand, which also hasn't been pushed with the *Procés* in its neighboring influential territory, which is Catalonia.

9.4.4 Demands in Corsica

Corsica was one of the last territories to be acquired by France, after it was sold by Genoa in 1769 (Kremnitz 1975: 30). Corsica's particularity and awareness of being a proper entity rather than a subnational region can already be shown with the fact, that Pasquale Paoli initiated already in 1755 a constitution with democratic elements for Corsica. Paoli was the first president of the Corsican Republic, the succeeding state of the also unrecognized Kingdom of Corsica. The independence of Corsica lasted from 1736 until 1769, after a French invasion army conquered the island, defeated the local army and abolished all political institutions, the Corsican intelligentsia killed or expelled (Kremnitz 1975: 31; Colley 2016: 169). From 1794 to 1796, Paoli split from revolutionary France demanding to become a British protectorate and the Anglo-Corsican Kingdom was established (Meeks 2017: 126)

What followed was the complete submission of Corsica under the French state and even its political division into two arrondissements. Given its geographical circumstances as being an Island, no immediate influences from the French state by land were able and even though a Corsican, Napoleon Bonaparte, led the French army through all over Europe, society kept their particular Corsican customs, culture, language and the awareness of having been a singular identity (Academic Press 2000: 100). Economic grievances in Corsica led from the 1960s on to the rise of demand for greater self-determination between autonomy and independence (Academic Press 2000: 100). Besides an exodus of Corsicans to mainland France because of better economical conditions, also a huge influx of Algerian French after the fall of the colony, that settled in Corsica, which could not be absorbed by the local society and caused a series of conflicts from the 1960s and 1970s in (Academic Press 2000: 100). As the economical situation did not develop positively for the indigenous population, *Franconization* by various strategies, including also the settling of massive non-Corsican inhabitants grew, the FLNC as a militant group was founded in 1976 as a reaction, as demands from the society were not heard (Kremnitz 1975: 64).

Corsican was included in the *Loi Deixonne* as a recognized regional language and has also been implemented in determined schools. The socialist government established in 1982 a series of decentralized elements such as a directly voted assembly as a unique feature in the European part of the French state including competencies such as education, agriculture, transportation, housing policy and economic development (Academic Press 2000: 100). France followed a strategy of repression of dissident groups while at the same time supporting Corsica with massive economic subsidies (Academic Press 2000: 101). This has been a unique response from the French state, however, the *statut particulier* didn't stop the killings of French politicians representing the French state and its relations with Corsica and the FLNC still continues to exist as a militant group, especially in smaller groups apart, but gave put its militant struggle in 2014. However, this strategy has been genuine and an atypical move from French jacobite understanding of the state and the *Staatsvolk* within the nation-state (Henders 2010: 90). This has given nationalist parties, based on cultural and political demands, the possibility to take part in Corsican institutions and policy making

process'. In 2015, Corsican nationalist parties (Inseme per a Corsica and Parti de la nation corse) won 25,89% of the votes as the largest group for the Corsican assembly. It was a historical victory as it might threaten the French state dogma and approach of state and society with its demand of proper recognition and further self-determination. After this victory and the steady growth for nationalist parties and demands for more autonomy, the French state is challenged again and has answered with a further decentralization strategy for Corsica and its implementation in 2018 (IFOP 2008: 12). This includes that the collectivity of Corsica, which has been recognized as the "territorial collective of Corsica", will be replaced by the "Collectivity of Corsica" form 2018³⁴ on (Lamulle/Larralde/Leclerc/Lioret 2016: 83). Increasing autonomy already has a precedent in Corsica, when in 1991, Corsica gave itself a statute, the *Statut Joxe*, recognizing the existence of a Corsican people and the objective of expanding Corsican competencies on a regional level (Elias 2009: 118). However, this so called *Matignon* process was rejected by 49%-51% in 2003 and although it didn't have any binding character, the outcome of this "referendum" or "consultation" was taken fully into account by the French state. For now, nationalist parties making together up 35% in the Corsican assembly (and therefore the biggest group as a coalition) resemble the support for more autonomy, but only the future will tell, if the top-down process initiated by France can lower the support.

9.4.5 Demands in Catalonia

While the bigger part of Catalonia, located within the Spanish state, has played a prominent role in Europe as a stateless nation struggling politically, juridically, diplomatically and socially for proper recognition and even independence, it has been only determined on the present autonomous community of Catalonia within Spain. Nationalists, however, claim also sometimes Northern Catalonia as part of the *Països Catalans* together with other regions, which became with the Treaty of the Pyrenees in 1659 part of Spain (Minahan 2002: 403). Further integration into the French state, such as a missing political and juridical possibilities have converted it into a periphery of France. *Franconization* was also carried out here, labeling the Catalan language as premodern, regional or second-class and it was also banned from education and administration as in other peripheral territories of the French state with linguistic, national and cultural particularities (King/Browitt 2004: 41; Helot/deMejia 2010: 207). Northern Catalonia corresponds territorially only to the French department of the Pyrénées-Orientales and the political and juridical powers are determined by French decisions on competencies of the departments. Although Catalan has been recognized and implied as a regional language, the General Council of the department of Pyrénées-Orientales declared a "Charter for Catalan" to promote the language and culture, as it is a pillar of the identity³⁵ and where the term "Northern Catalonia" is used for the first time in an official document within the territory.

³⁴ Assemblée Nationale. Fiche de synthèse n°11: L'organisation territoriale de la France.

³⁵ Conseil Général des Pyrénées-Orientales. Charte en Faveur Du Catalan

Northern Catalonia is, given to its small size, not on the scene for plurinational demands, as the political support is missing and is also, due to its hierarchical structure in France, almost impossible to carry out. Second, the Catalan *Procés* concentrates only on the autonomous region in Spain and has for now dismissed the possibility for Northern Catalonia reuniting with with a hypothetical Catalan state in the future as part of the *Països Catalans*. Third, activities in the department are only based on cultural work rather than on any demand for autonomy, except the 2007 launched project of the creation of an *Eurodistrict* by the General Council to create a exclusive Catalan space on the European level besides the Pyrenees–Mediterranean Euroregion, that already includes the whole of Catalonia, and the French region of *Occitanie* (Giband 2009: 9).

9.4.6 Demands in the Basque Country

Like Catalonia is the Basque Country divided in several administrative parts and depends on the individual interpretation, whether only the Autonomous Community of Euskadi, or also Navarre and/or the Basque parts within the French state, known as *Iparralde*, are included. This question is not the primary one to be examined, but the demands in *Iparralde* and the reactions of the French state towards it. Therefore, a historical examination is required to understand the relations between both actors.

Historically, the Kingdom of Navarre extended itself also to the Basque speaking areas in present Spain, but also in present France, but did not include all of them. These territories were seized and incorporated by the Spanish crown after the defeat of the Kingdom of Navarre, while the part east of the Pyrenees (Lower Navarre) was finally incorporated into the French state in 1620 (Forrest 1996: 33). Besides Lower Navarre, the historical provinces of Lapurdi and Zuberoa as Basque speaking territories remained until the French Revolution within France. After the retreat of Spanish influence, *Iparralde* had a semi-autonomous status with a self-empowerment system and own institutions, each part of *Iparralde* with its own autonomous system (Herb/Kalplan 2008: 1531). This opened further possibilities in order to influence local society, but also to establish a certain type of awareness and opening new trading routes within Europe, the neighboring Basque Country in Spain and the Americas. As everywhere in France, the outbreak of the French revolution had also here deep impacts concerning home-rule, administrative division, language policy and the competencies of the territories. As the French Basque provinces were opposed to the centralist agenda of the revolutionaries, home-rule was abolished, the provinces subjected to military control and the territories integrated in the newly created department of Pyrénées Occidentales (Douglas/Bilbao 2005: 130). Abolishing the position also meant a deep impact on the political and the economical level, as decisions were now top-down and completely dependent, making *Iparralde* becoming in all aspects (politically, economically, socially) the periphery of France. Due to the opposition also from the part of the ordinary people, the Basque language was forbidden by French authorities during the Revolution (Bolinaga 2012: 87). One striking factor of breaking Basque society and their customs was the implementation of the Code Civil, as old traditions of land distribution and inherity, which lead to fragmentation of the society and a massive emigration

wave (Douglass/Bilbao 2005: 133-134). The Basques being mainly disconnected from French political nation-state policy showed also in 1848, as no major support for the French revolutionary goals could be found in *Iparralde* (Douglas/Bilbao 2005: 130). In the XIX century, the demand for decentralization was revived by intellectuals and industrials in Bayonne, however, (Garicoix 1999: 75). As everywhere in France, the imposition of the French language was carried out, which led to a marginalization of the Basque from administration and schooling. First nationalist signs appeared in *Iparralde* in the 1890s with the emergence of the *PNV* party, but effectively only started to properly work there in 1933 such as after the Second World War (Payne 1975: 254). France was after the war in a ambiguous situation. On the one hand, the Basque president *lehendakari* Aguirre and *Euzkadi's* government in exile were historically in opposition to Fascism, of which now France's neighbor, Spain, was ruled under the Franquist regime. Traditionally, France has been allied with the Spanish Republic and Aguirre's government supported the Spanish Republic during the Civil War. On the other hand, France was tight to its own dogma of state equaling nation and a recognition of Aguirre and the Basque's would have been contradictory to the own dogma and standpoint, and could have paved the way for a precedent case (Payne 1975: 254). As in many other territories, the Basque Country also saw an emergence of a militant group from the 1950s on, in this case ETA (Bernecker 1999: 14-15; Estel 1994: 161). The French Basque Country has been traditionally a refuge for ETA members, implying also some determined local support although the major space for carrying out its actions has largely been the Spanish state (Schrijvers 2006: 185). This also brought to a closer cooperation Spain and France, also in the light of beginning European integration. The language situation has been repressive, but in 1951, with the *Loi Deixonne*, allowing Basque to exist as a language (Helot/de Mejia 2008: 207). In 1970/71, the law was actually implemented and first Basque schools called *Seaska* opened in 1969 (Helot/de Mejia 2008: 207). In 2004, some 21% of the students in *Iparralde* had a bilingual education, but French remains juridically and *de facto* the main language since complementary schooling introduced by Jules Ferry 1881-1884 (Helot/de Mejia 2008: 206, 208). Since the autonomous model in the southern Basque country is acknowledged to be a successful model, the wish for further trans-border cooperation has also risen in the Basque Country, which also has led to a rise of Basque nationalist parties since the 1970 (Garicoix 1999: 75). In 1996, 93 mayors in *Iparralde* spoke out themselves in favor for the creation of an own Basque department while 53 were against such a creation (Garicoix 1999: 77). Since 2004, the Office Public de la Langue Basque, that supports the diffusion and promotion of the Basque language, has opened and *Euskaltzaindia*, the Basque language academy, also has its influence as the reference institution. Administratively, *Iparralde* does not form a single community, but within the department Pyrénées-Atlantiques, it is united with the larger entity of Béarn. However, a revitalization of the historical home rule has come into action for *Iparralde* through an indirect decentralization by creating a proper *mancomunitatea*, a Basque Municipal Community, as a free association of municipalities, took place in January 2017³⁶. Territorially, it is *de facto* equal to *Iparralde* or to what the territory of the Basque Country in France is supposed to be. This creation includes a series of

³⁶ Pyrénées-Atlantiques. Recueil des actes administratifs spécial N°64-2016-012, p.41. — p.54

home rule matters such as the competency over limited fiscal decisions, transport and Basque culture³⁷. The creation, however, is not equivalent to a Basque department, but continues to be incorporated within the Pyrénées-Atlantique department such as the newly created region of Nouvelle-Aquitaine and the Aquitaine–Basque Country Euroregion, which was created in 1982.

9.4.7 Demands in Brittany

The northwestern part of France, Brittany, has a history as an entity of its own, such as a Celtic language and parties with various cultural and socio-political demands. This has created throughout history a series of conflicts with France and its self-perception of the state, its *Staatsvolk* and the nation.

Historically, Brittany has existed as an entity already before being conquered by France in 1491. This year, an imposed personal union with France and the Duchy of Brittany, which was dissolved by military annexation by France in 1532 and Brittany was, since then, regarded as a French province (Kremnitz 1975: 30). During the French Revolution, Brittany was, together with the Vendée, one of the counterrevolutionary centers, which lead to a huge distrust by the center towards Brittany (Jansen/Borggräfe 2007: 126) Being industrially underdeveloped helped the society in Brittany to maintain its customs, culture and awareness as no major influx from other parts of France emerged, so that a self-awareness could slowly develop in the XIX century, the century of nationalist emergence (Kremnitz 1975: 40). A major exodus emerged just like in other peripheries of France due to poverty and the centralist policy also on the economical level (Kremnitz 1975: 64). National consciousness awoke, just like in Occitania, with a cultural revival such as the rediscovery of the own Breton history (Kremnitz 1975: 40). By the support of the clergy and local aristocracy, the first movement for Brittany, the Union Régionaliste Bretonne (*URB*) emerged in 1898 with the aim to defend the interests of rural society and the traditional social order, but was ineffective in mobilizing masses (Schrijver 2008: 2010-211). With the beginning of the XX century, mobilization such as intensity of protests became more radical and also included also urban elites supporting the *URB* and, by founding the Fédération Régionaliste Bretonne an association with the aim to support industrial development in Brittany and the progress of local commerce in 1911 (Schrijver 2010: 2011). The reaction of the French state was a ban on the use of the Breton language was imposed, which was strictly carried out (Schrijver 2010: 2011). Similar to other peripheries of the French state, the use of the indigenous Breton language was sanctioned, especially in school, which had an influence on the withdrawal of the language on the long term (Friend 2012: 58, 148).

The ongoing struggle for Irish self-determination also influenced Brittany (Schrijver 2010: 211). After the First World War, a series of parties from the left and the right specter emerged claiming autonomy for Brittany and even independence such as the Parti National Breton (*PNB*), inspired by Irish nationalism (Kremnitz 1975: 40; Schrijver 2010: 211). However, the Second World War and

³⁷ Noticias de Gipuzkoa. Iparralde estrena nuevo estatus.

the collaboration with Breton politicians, especially from the unsuccessful PNB, with the German occupying forces and with the Vichy regime lead to a persecution of those politicians and activists defending the idea of Breton autonomy (Kremnitz 1975: 40). Breton movements were equated with collaboration with Germany and deeply affected Breton regionalism (Schrijver 2010: 2011). In 1951, Breton was by the *Loi Deixonne* acknowledge the right to exist. Breton parties were little successful on the political level but in the 1960, as in many parts of Europe, a militant group, carrying out a series of bombings of symbols of French statehood, deeply inspired by the IRA (Schrijvers 2010: 212-213).

The slight decentralization, a top-down initiated and controlled policy, lead to the emergence of regions in France and economic development, advanced secondary education and infrastructure became responsibilities of the *Conseil Regional* of Brittany, that only have a relatively small and limited budget (Schrijver 2010: 216). The administrative division into partly artificial, social cohesion and historical traditions ignoring units has also been a major goal for Breton regionalists in order to achieve a reunification of Breton territories, which also was supported according to opinion polls in 1999 by a majority of the determined territories, but hasn't been for the vast majority an important topic (Schrijver 2010: 217). The use of language has been allowed since 1977 also in bilingual schools, both private schools called *Diwan* and in public schools, by some 10.406 students in 2003 (Helot/de Mejia 2008: 208).

Friend states that only a few Bretons would call Brittany a nation and that rather a cultural community would be more accurate (Friend 2012: 4). Having a look on the low support and including the idea, that a nation is a political subject, this affirmation has substance. Polls, however, have shown a dual identity as French and Breton in the last years, which also indicates a revival and a certain emancipation of Breton identity (Friend 2012: 160).

9.5 Conclusions

The French state has managed to prevent or even to destroy the emergence of national demands in its ethnically, culturally, linguistic and nationally different peripheries. A series of tools, mechanisms and strategies have been used in order to fight or to prevent distinctive identities, such as the centralist system, which also makes it almost impossible for political claims to emerge as a double majority effect. Furthermore, forced or voluntary assimilation by compulsory schooling, the army, the economic and social integration into the French state and a rigid imposition of French state-nationalism have been carried out and were the crucial as the examinations have shown.

The French state has struggled since the French Revolution with the existence of peripheries identities, that perceive themselves different from the idea of the French nation. With other words, what did not suit could not be true, concerning the peripheral demands. These demands originate in their historical circumstances and have their rightful social and historical base and roots. One main conclusion, that can be drawn from the examination of the French case in the plurinational

context is, that the pre-revolutionary state was a lot more tolerant in cultural, but also administrative-juridical sense, despite centralization, following the idea of live and let live. Linguistic non-interference and even socio-political and juridical autonomy such as in the case of *Iparalde* show that the pre-revolutionary state was a lot more liberal towards its minorities. This, of course, has collided with the idea of the French nation as one and indivisible and only reduced to the individual, ignoring socio-political historically grown collectives. The demand for recognition was even seen in the second half of the XX century as a backward looking, pre-modern and anti-French approach, as the attack of Marc Legasse towards the *lehendakari* in exile, Aguirre, shows (Payne 1975: 254).

Nevertheless, the French state has maneuvered itself into a dogmatic position and remains there, as not even the European Charter of Regional or Minority languages has been ratified (Wright/ Jones 2012: 3). In the light of European integration and demands for self-determination, such as in bordering Catalonia or in Scotland, as being a European reality, France has, for now, tolerated Corsican nationalist, the most successful national movement in the French state, but watches carefully any step, which is done in its peripheries. History has shown that the state doesn't hesitate in using drastic tools to prevent any potentially dangerous movement towards the nation-state ideology. The creation of the Basque Municipal Community in *Iparalde* also shows, that quasi pre-revolutionary are not a threat to the state and its unity, but rather more room for a regional development, also with a very European character. As long as the French nation-state doesn't leave its "state equals nation concept" comfort zone, pragmatic approaches towards the peripheries with their different consciousness and self-perception are hindered already in their beginnings, due to the dogma like principles, which, from a tolerant and democratic point of view, have caused a lot of damage to both, the individual, the different communities and the French nation, as it was build rather on imposition than on voluntary assimilation, which is the original idea of civic nationalism.

10. Plurinational demands in Poland

10.1 Introduction

When we talk about European integration and the resulting transformation of statehood of Poland, the first image that usually comes to mind aren't internal conflicts of unrecognized nationalities as it seems more to be a topic that emerged in Western European states such as Spain, France, Belgium or the United Kingdom and that hasn't been such a topic in central Europe, especially in Poland, member states which was incorporated among other state in a big wave in 2004. Having a second look on this topic though reveals that central Europe isn't an *ethnic/national—unrecognized-group-demand* free zone and focusing on Poland, reveals that it is a state, that has been believed, or better said, made itself and the others believed being a homogeneous nation-state. This myth was upheld especially since the end of the Second World War and until the end of the Cold War, as until then, not even national minorities such as the German, the Ukrainian or the Belarusian one were recognized, but existed *incognito* (Pankowski 2010: 54). While the recognition of national minorities after the Cold War made end to the myth of Poland's national homogeneity, the national census of 2002 uncovered a novelty for Poland: the declaration of Silesian nationality by 173.000 people, a sensation which was reinforced as during the 2011 census when 847.000 of such declarations were made (Wódz 2008: 67; Ganowicz 2014: 43/44). Another novelty has been the declaration in 2002 of 57.000 that decreased in 2011 to 509.000 people using the Silesian (and by Poland unrecognized) language, who since then make up the second largest speech-Community after Polish (Pisarek 2010: 120; Kamusella 2012: 42, Kamusella 2013: 6).

These facts reflect a an already well-known model, although with different degree from the other cases, of how the European nation-states have shown difficulties when facing their internal social changes, especially when it came and still comes to the topic of nationality. The fear is that the modern, the present nation-state might be questioned in its current way of existence when delegating the right of deciding its own nationality (like prior the right to decide religion, political position, sexual identity, etc.) to the individual. The reason is that the modern nation-state is justified and legitimated by the existence of the state-nation as well as the right to govern the territory where the state-nation can be found within its borders. Within the civic interpretation of a nation-state, both state and nation are inseparably linked with each other or that the nation-state based on the ethnic national concept justifies its borders the same way, by the existence of its nationals and, in an orthodox interpretation of the ethnic concept, only a majority of its nationals there (McCrone 1998: 86; Jansen/Borggräfe 2007: 14; 119).

This resistance and unwillingness from the state in order to reform its point of view on national plurality and delegating this right from the state to the individual can be seen as maintaining a feature of the traditional Westphalian state model. This model has been reinterpreted and adopted by the modern nation-states when it was the state who decided over the individual's religion driven by the compromise "*Cuius regio eius religio*", a freedom that is natural to us nowadays, towards a

„*Cuius regio eius natio*“ (Barth 2008: 43). As national awareness within a state, that does not coincide with the titular nation of the state, is, according to scholars, aiming to build an own separate state, the affected state would therefore as a consequence lose its legitimacy. Therefore, the nation-state fears a loss of legitimacy due to national movements, which call for secession as *“the nation-states system is justified by the doctrine of national self-determination which asserts that every nation has a right to independent political control over a given territory and its people (Jackson Peerce 1998: 31)”*.

Nevertheless, becoming part of the European Union made Poland become also part not only of a common European market but also of a supra-national structure with deep impact on the control of competencies, juridically and politically. It might seem a contradiction as Poland keeps on transforming as a state that did delegated competencies in the past to its subjects and does so by delegating competencies to the European Union and accepts national plurality, but not within its borders.

This chapter will explore the contradiction that exists when it comes to the transformation of the statehood and the no-transformation of the nationhood especially within the European context of its integration linked to plurinational claims in Poland. The Silesian case will be highlighted here and taken as an example as it is a relatively fresh and, as we could see above in the development of the census numbers, dynamic and young example. It can deliver new perspectives on the well studied and known cases within the Spanish, the Belgian state or the United Kingdom in order to broaden the knowledge of the variety of cases which exist in Europe and which are not of less importance for science and state-politics.

First, an introduction to the Silesian case and its latest signs and actions of Silesian national awareness and the reaction of Polish authorities to it and the demands, which have emerged with it, will be conducted. The second part will both, examine the impacts of transformation, that the European Union had and the EU facing the demands of the Silesians. Furthermore, this chapter will discuss the contradiction of voluntary state-transformation, especially the delegation of decisions and competencies to the EU by the integration and the rigid maintenance of the right to decide about one's nationality and the linked concepts of citizenship, state and democracy. The conclusions will lead to a short summary of the broad image of deficits of the state and the European Union detected before, regarding the internal social, national and political reality as well as the results of the prior discussion such as a view towards new methods in order to deal with reality and to satisfy the sovereign of both, the nation-state and the European Union.

10.2 Silesian identity in a historical examination and the current status

Silesians have throughout history not been seen by state officials or most scholars as an own national entity but were either, according to the author's point of view, seen as part of the German or as part of the Polish nation. Until 1945, Upper Silesia has been throughout almost a millennium

a political and an ethnic and national overlapping borderland between the German, the Polish and the Bohemian political, national and ethnical area (Wódz 2008: 64).

Once the Polish border were after 1945 redrawn and former German territories were put under Polish authority that went hand in hand with the expulsion of autochthon Germans, Upper Silesia was an exception: according to the Polish ethnolinguistic nationalism, the Polish communist proclaimed “(...) *that indigenous Upper Silesians were in fact Poles (Cordell 2006 :157)*” and therefore justified the annexation of the territory (Brubacker 1996: 85). Wódz mentions the Silesian melting pot that had, as a linguistic outcome, what Kamusella calls the “*Germanic-Slavic creole (Kamusella 2011: 8)*” (Wódz 2008: 64). Although Polish ethnographers and historians saw the Silesian culture as a regional version of Polish folk culture, since the acquisition of the eastern part of the Upper Silesian territory after a controversial plebiscite in 1922, Polish authorities began after cultural tensions between autochthonous Silesians and emigrating Poles showing a lot of effort in “purging”. Especially the Silesian language was “purged” from public life, as it was considered a corrupt form of Polish. Finally, the Polish authorities refused to recognize the Silesian language by not equating or at least recognizing it by replacing local names, surnames and administration by “proper” Polish ones (Wódz 2008: 65; Kamusella 2011: 15; Service 2013: 154/155).

So how come Silesia still developed an obviously proper identity that did not assimilate itself in either German or Polish (and even Czech³⁸) nationalism and national identity but kept, even developed and raised in numbers its transnational and still own identity? To get to the core of the answer, whole books can be written and have been done already³⁹. To understand Upper Silesia in its complex identity, its overlapping identities or its refusal to obey one nationalism by the local population as a whole, not only the borderland situation but also the ethno-religious and language features left both German and Polish nation building processes incomplete in Upper Silesia. When modern German nation building aimed, especially after the *Kleindeutsche* nationalism way was chosen after 1866, the ethnic homogenization clashed with the religious and the multilingual character of the region and its inhabitants (Kamusella 2007: 290). German ethnic nationalism did not fit within this territory and its people and was, therefore, counterproductive regarding German nation building. The *Kulturkampf* deepened the conflict between German nationalism and the German nation-state and the Silesians (Ther 2013: 490).

During the absence of a modern Polish nation-state, Polish nationalists did not pay a lot of attention to Silesia and its people as the prior model aimed for was the former Polish-Lithuanian Commonwealth that existed until 1795. As neither Silesia, nor its people had been part of it and cultural and and linguistic differences, such as the absence of a sense or remembrance of

³⁸ The Czech Silesian case has played a minor, but not invisible role. Nevertheless, this case will not be examined in this chapter. Nevertheless, it shall be stressed that this made the borderland situation of both, the territory, the locals and its identity even more complex as it is a third factor.

³⁹ Tomasz Kamusella is among few others probably one of the most active authors dealing with this topic and has published several books and articles on this topic.

belonging to Poland⁴⁰ played a crucial role, including the fact that Polish (and Czech) nationalisms entered in Silesia much later than German nationalism (Kamusella 2007: 290; Ther 2013: 490). Only in the last third of the XIX century, Polish nationalism turned away from the Polish-Lithuanian model towards an ethnic nationalism that would include all Polish speaking people and as Silesians were because of their slavic language regarded as such by Polish nationalists, they were also included in the idea of a future ethnic based Polish nation-state (Kamusella 2007: 290/291). These circumstances made Upper Silesia being an unfinished and even a failed territory of completed modern nation building. Identification with the more immediate homeland among the largely slavic-speaking population, especially in rural areas, continued to be the major one and, hence, usually prevailed over any secondary Polish or German national consciousness, although this can not be generalized (Ther 2013: 491).

In order not to extend this topic within this chapter, the most important details should be extracted here only. Therefore, it is important to focus on the era after the First World War in order to understand, who were and who are Silesians for Germans and their authorities, who are they for Poles and their authorities and how national self-consciousness began to emerge, what character it showed that continuous in several forms until today and what aspirations are linked with the territorial character and its people.

Politically, Silesians have not developed a proper form of Silesian nationalism as they constantly were caught within a definition of either being German or Polish, wether by external authorities like German or Polish politicians, or it was claimed by themselves in census', just like after the first partition in 1922, where it came out that the partition did not coincide with the goals of dividing Upper Silesia along national lines (Bialasiewicz 2010: 113; Kamusella 2011: 15). One reason of the failure of the development of a modern post-war nationalism was exactly the lack of recognition by national authorities, whether the German⁴¹ or the Polish one. It is remarkable that both sides, the Polish and the German side, promised Silesians the preservation of their cultural autonomy and an implementation of political autonomy (Service 2013: 154).

Being a passive and useful object of two competing state-nationalisms in order to justify territorial claim lead to the emergence of a third factor that manifested itself in emerging organizations — the movement *Bund der Oberschlesier/Zwiazek Górnoszlazaków* had a remarkable number of 350.000 members at his heyday. It was the political organization for Silesian regionalism, autonomy movement and even independence. Its succes can be also explained, that it did not establish an opposing position towards both titular nationalisms, but headed for a transnational and multilingual role, coinciding with social and national reality of Upper Silesia (Michalczyk 2010: 48). The *Bund*

⁴⁰ Silesia and its inhabitants haven't been part of Poland since the XIV century and therefore not actively taken part of Poland's destiny throughout almost 600 years.

⁴¹ German nationalism is also an ethnically based one and the state territory defined by the distribution of the German people. However, while, as we can see in official former maps of the German Empire, Silesians were not distinguished to Poles, the multilingual Silesians were seen as German citizens, referring therefore to traditionally unnatural German civic nationalism, as well as (also later described by German authorities) as Germans or Polish and Slavic dialects speaking minorities who were not true Poles in order to justify the territorial claim (Wolf 2012: 215).

der Oberschlesier even stated, as already said, independence for Upper Silesia and the existence of an Upper Silesian nation, a multilingual unitary nation of German-slavic blood (Ther 2013: 491). It is an interesting fact that the activists mixed ethnic elements with arguments of multiculturalism as a first modern attempt in constructing a Silesian nation and as an alternative to German or Polish nationhood (Ther 2013: 491). This option, however, had no chances to triumph, as neither Poland, nor Germany accepted it. The Allied Commission, responsible for carrying out the post-war-plebiscite did not examine it as a real option as none of the States - Germany, Poland, Czechoslovakia or the Allies were interested in another creation of a Free State like Danzig (Michalczyk 2010: 49; Ther 2013: 491). Besides that, the attempt failed as Silesians were already familiar with German and Polish nationalism and the movement failed staying neutral in the binational Polish-German dispute (Ther 2013: 491). By giving the locals the right to decide by vote about the belonging of the territory, a democratic attempt was made to hand over the decision to the directly affected people and justify it by their vote, but as the "Silesian option" was not given, even though it had a huge support among Silesians. This democratic approach, however, was an incomplete attempt and finally helped to justify state claims by imposing two possibilities to choose from, and not considering the locals, in this scenario the only *de jure* sovereign of Upper Silesia,. With other words, voting only between the belonging to Germany or Poland helped in the end justifying state nationalisms and their territorial claims in Upper Silesia.

To sum it up, although both titular nations did not recognize officially Silesianism as an entity of its own, but justified territorial claim by forcing Silesians to take sides either with Germany or Poland, the strategy of convincing the autochthon population by granting political and cultural autonomy shows a risen sensibility of Silesianhood. The complex, nationally and culturally overlapping borderland-character, that did not fit neither in Polish nor in German understanding of nationalism, was taken more into account by both states. The focus of emerging Silesian awareness comes especially after the First World War, as it became a propagandist, political and violent battlefield of German and Polish nationalism that worked like a catalyst when it came to identical awareness.

The German-Polish borderland status changed dramatically when the German territories east of the Oder-Neisse-Line were ceded in 1945 as a result of the Potsdam Treaty under Polish administration. This status remained until the German-Polish border treaty in 1991, following the Treaty on the Final Settlement with Respect to Germany signed before, when the Federal Republic of Germany and Poland signed a treaty recognizing the Oder-Neisse-Line as the border between both states (Kopp/Nizynska 2012 :29). As already stated, in opposition to other German territories ceded to Polish, Czech or Soviet rule, a forced mass expulsion⁴² of millions of autochthonous people between 1945-49 was not carried out and especially in Upper Silesia, a remarkable amount

⁴² Numbers vary here in a large range. While Norman Davies talks about more than 5 million from the territory controlled by Poland in 1945, Ulrich Merten states a total number of 3.5 million, expelled people, Rummel mentions up to 8,169 millions or Beer 12.5 Million expelled people in total, not distinguishing between Polish, Czech or soviet controlled territories and whether they belonged to the former Polish or German state (Davies 2005: 422; Merten 2013: 80/81; Rummel 2003: 258, Beer 2003: 258; Pogany 1997: 119). Other authors like Lars Breuer state that, regarding the importance of the topic — the biggest mass expulsion of people in history — it is remarkable that exact or even close number of the victims do not exist and Beer, that even the numbers of people died during the expulsion and the prior escape and those who died from the Red army also vary in a range of several millions (Breuer 2014: 64; Beer 2003: 259)

of autochthonous population did not face the destiny of expulsion (Czerny 2006: 80). Thomas Urban argues that 1,5 Million Germans were taken out from expulsion from the Polish controlled territories. Mirosława Czerny believes that in the post-war years, between 52,1%-55,4% of the autochthonous Silesians remained in their homeland (Urban 2006: 138, Czerny 2006: 80). While these Silesians were seen from the Polish side as compatriots that resisted *Germanization* while being separated from Poland and the Polish political, economical and social destiny for about 600 years, the German side regarded them as ethnic Germans and, therefore, as German citizens (Urban 2006: 138; Rock/Wolf 2002: 21).

Being trapped again between both titular nationalisms gave way to strategies in order to stay in the homeland by adaptation like recognizing Polish and communist rule. Accepting the status quo of now being part of Poland enabled the possibility to continue life at home (and not starting homeless from zero as the expelled ones) or getting access to possibilities that other Polish citizens weren't granted: between 1950-1987 some 847.750 people (and between 1988-2000 some 593.032) emigrated to Germany referring themselves being ethnic Germans and, due to the German self-concept, granting immediately German citizenship as it was, according to it, their natural right (Rock/Wolff 2002: 21, 33/34). Especially the better economic situation and the reunification with family members was a major pull factor (Kamusella 2011: 17). Also, for those who stayed in now Polish Silesia faced repression by the system and society as they were treated as second-class citizens or "crypto-Germans" that led to social and cultural isolation. This were factors, which provoked, that during these decades Silesian identity got a passive character, but due to the isolation and the strong bounds with West Germany, a self-developed and from the outside provoked survival strategy of both, personal interests and Silesian identity, evolved (Kamusella 2011: 18).

Neither a German minority until 1989, nor a Silesian one until today was recognized in Poland after the Second World War to strengthen the communist regime in order to keep the national myth of Poland's national homogeneity up and in order to keep a justification of the until today in Poland so called "recuperation" of the territories (Wolff 2000: 86/87). However, although huge changes of the geopolitical position of Upper Silesia and the changed consistent of the population by emigration to Germany and immigration from Poles, Silesian identity persisted and ethnographic studies revealed that the largest group already back in 1996 with 32% identified themselves as Silesians (Czerny 2006: 80). The 2002 census in Poland revealed that the consciousness of Silesian identity as a national identity became visible with 173.000 declarations and a boom of declarations only a decade later with 847.000 declarations, emerged. This increasing declaration can be interpreted as an emancipation and even as a beginning nation building as several organizations, such as *Ruch Autonomii Śląska* (Movement for Silesian Autonomy) to name the major political one or *Stowarzyszenie Osób Narodowości Śląskiej* (People of Silesian Nationality) such as several linguistic organizations like *Pro Loquela Silesiana* emerged. The major goals of these organizations are political autonomy, referring to the inter-war autonomy of Silesia (abolished by communist Poland) within the borders of historical Upper Silesia, the recognition of a Silesian

nationality by the Polish state, the recognition of Silesian as a proper language and (Pisarek 2010: 120; Myśliwiec 2013: 180/182). Myśliwiec even states that the Spanish autonomous state is in several parts a reference for the Silesian autonomy movement (Myśliwiec 2013: 184).

Differently from the inter-war movements, the socio- and geopolitical situation of Upper Silesia has dramatically changed. Although Poland still doesn't recognize Silesians as a nationality apart and Silesians could theoretically still apply to their right of being recognized as German citizen by the German authorities, we could state a proto nation building as the term nationality was clearly used in the censuses of 2002 and 2011 and its use by Silesians. Another factor is the beginning institutionalization and demands by those organizations. A possible interpretation (and therefore a further confirmation of that proto nation building) by sociologists is a sign of popular disillusionment by both, Polish and German appropriation of the Silesian identity by nationalism and politics (Taras 2012: 261).

Nevertheless, the Silesian nationality is not only a trans-national, but a *plurinational* one as the multiple option or preferences of nationality was used heavily during the census. While 362.000 people declared Silesian as the only nationality, 56.000 stated Silesian as "predominantly", 415.000 as both Polish and Silesian and only 32.000 as both, Silesian and German (Szul 2014: 318). This shows a clear shift away from the German element towards more a Silesian-Polish issue as an effect of aggressive *Polonization* attempts by the Polish communist post-war regime (Service 2013: 304). Nevertheless, it should be stressed, that the German minority in Poland is to its large extent present in two Silesian voivodships and that there are in fact no ethnical differences between those who are organized within the German minority and those, which declared Silesian. It is rather a personal choice, such as the nationality as the preference or exclusion of one, as it has also been in the past, depending on several circumstances (Linek 2001: 122).

The reactions of Polish state authorities have been conservative and following the Polish nationalism scheme. Already in 1996, a first attempt applied to the Katowice Regional Court to register the "Union of People of Silesian Nationality" (SONŚ) was refused referring to the denial of the existent of a Silesian nationality and, as the Governor claimed, that an acceptance would "(...) *mislead the public to believe that "Silesian" is a national minority (KHRP 2004: 174).*" In 1998, the Supreme Court dismissed the proceedings of a registration (KHRP 2004: 175). Demands from the leadership of the Silesian Autonomy Movement after the first census in order to recognize Silesians as a national minority were again denied by the Polish government and courts (Ther 2012: 496). It is interesting, that the court referred here at the beginnings of the 2000s to Poland being an unitary state and that the organizations used a name of an *objectively non-existent nations* in order to justify its decision (Drobík/Šumberová 2009: 175). Nevertheless, the statement, that a Silesian nation does not exist is in fact a *subjective* declaration, as Silesians are legally recognized and existing in Slovakia and the Czech Republic (Drobík/Šumberová 2009: 175). The most *subjective* feature, whether a nation does or does not exist is, as Drobík and Šumberová state, a national self-consciousness. Although the possibility to declare any nationality was up to the individuals, no further political steps in order to emancipate Silesians on a political level have

been made, but either ignoring these declarations or even commenting on them negatively. The former Polish Prime Minister Jarosław Kaczyński did exactly this in 2011, by stating these declarations were a “hidden German option” and that they were simply a way to distance Silesian from Polishness (Taras 2012: 274). In 2014, the highest Polish court declared illegal the NGO Association of People of Silesian Nationality⁴³ as, following the arguments, a Silesian nation did not exist (Kamusella 2014: 1). Reasons against autonomy aspirations and a recognitions of the language and the Silesian nationality (or even as an ethnic minority) might be primarily rooted rather in historic memories and the modern, ethnic based Polish nationalism, than in rational calculation or public opinion polling, including the fear of the possible rise of a new separatism movement (Ther 2013: 496). Silesians do not have any political actor on the state level, which could be compared to any nationalist parties such as the *PNV* or the *SNP* for instance. *RAS* is on the regional, on the voivodship level only the junior partner in the coalition, which limits the influence for pushing towards a proper recognition. With other words, Silesians don't have any political instrument, which could support recognition on any level.

In 2014, before the end of the legislature of Platforma Obywatelska party, a petition was initiated and handed over to the Polish Sejm in order to deal with it as a civic project after having reached the required amount of 100.000 signatures. This petition, originally initiated by groups from the autonomist movement scene, was due to the end of the legislature of the Platforma Obywatelska party not examined anymore deeper the same year it was launched, but postponed for examination under the current one under PiS legislation. The aim of the petition was to achieve an official recognition of Silesians as an ethnic minority within Poland, the only possible legal recognition besides national minorities, which already have their titular states. This civic petition was rejected by the Sejm commission even before having reached the Sejm. 22 deputies supported the rejection of this project (members of PiS and Kukiz'15 party), while 13 voted against the rejection (Platforma Obywatelska and Nowoczesna, a liberal party) and 3 deputies abstained from positioning themselves. In this context, it should be highlighted that besides some lectures of Silesian experts, no political party or any other political body, that stands for exclusive Silesian interests, was represented in the commission, but the decision was made by state-wide parties. The rhetoric used by the members supporting the rejection reminded strongly of national myths of the pre-democratic time and the imposition of Polish nationalism.

A further step of no official recognition of Silesians and their distinctiveness is the silent battle over Silesian language and its recognition as such. While Kashubian is recognized as a regional language - besides the language of recognized national minorities the only way to institutionalize it -, no step has been done yet in order to recognize it as such (Cardinal/Sonntag 2015: 81). Nevertheless, a project in order to launch a proper recognition is aimed by the liberal Nowoczesny party as a future project, which has been a vibrant project within Silesian society for years (Pisarek 2010: 120; Cardinal/Sonntag 2015: 81). Although a recognition seems under current the nationalist

⁴³ *Stowarzyszenia Osób Narodowości Śląski* or *SONŚ*

PiS lead government less likely, the support and the growing support by Silesian civic society might push in near future to deal more often with the topic as a political one on state level.

To come back to the question of this chapter, whether Silesians are yet an unknown stateless nation in Europe: its a fact that consciousness of Silesian identity has significantly increased among the population and has, as a national identity, grown within ten years almost 500%, as the census states. Nevertheless, the modern Silesian nation building process by organizations and institutions has only begun but hasn't reached yet any form of predictable development, whether it will finally emancipate itself between the well known cases of stateless nations, whether it will finally be classified (by the Silesians and/or the Polish State) as a mere regional identity and face the same destiny like the Moravian nationalism inside the Czech state. Moravian identity decreased significantly since the nineties in numbers of declarations and political demands, this is in this context a possible scenario for Silesian identity, or also the development a possible new form of transnational nationalism (Törnquist-Plewa 214/215). There is a demand for being recognized as a nation, but under the given circumstances and Polish prejudices such as the set examples like the delegalization of SONŚ, no attempt to be recognized as a nation has been done, as it would be doomed to failed from the beginning on. Within these circumstances, Silesians have sought a recognition within the possible framework as an ethnic minority, although for now it hasn't succeeded yet. Other European stateless nations, but also the European Union and its institutions are not only a reference, but also an important supranational actor in order to achieve its recognition via Strasburg or Brussels. Also the further steps of *Europeanization* of the Silesian case have been met by organizing the annual EFA meeting in Katowice, capital of the Silesian voivodship in 2017.

10.3 The EU as a transforming actor and national demands in Silesia

Both, the modern nation-state and communities, which declare being stateless nations and, therefore, until nowadays simply are not foreseen in nation-state pattern and do not enter in the citizenship scheme of modern nation-states are facing, especially since the 1970s a plurality of divergent changes in each of its dimensions. These transformations of the state occur in „(...) (*different kinds of changes and dynamic forms of stability (...) (Leibfried/Zürn 2005: 17)*)“ as Leibfried and Zürn state in their book “Transformation of the State?” (Leibfried/Zürn, 2006). The transformation(s) of the (modern OECD Welfare-) State have been in the focus of many years of investigation groups, such as the Transformation of the State Research Center at the University of Bremen and Oldenburg. They have concluded, that the state keeps being a crucial actor on the political level and does not disappear, but rather now shares political authority and co-produces public and services like the four mainly researched dimensions - security, the rule of law, democratic legitimacy and welfare - with other actors of international, private character or both (Rothgang/Schneider 2015: x).

Rothgang/Schneider, citing Evans and Strange, state that

“The shifts of political authority to international organizations and regimes or to private and transnational governance arrangements that are implied in the term ‘post-national constellation’ need to be viewed as a complex, multifaceted set of transformations rather than a mere erosion of state capacity and an across-the-board retreat of the state [...], and by no means as the end of the state (...) on the internationalization and privatization of political authority (...) (Rothgang/Schneider 2015: 4).”

With other words, the state has changed form his “Golden Age“ until the 1970s, where he had the monopoly of the four core functions: first the territorial state, where the state had the monopoly of legitimate use of coercion by his largely unchallenged sovereignty. Second, the constitutional state guaranteed the rule of law. Third, the state ensured as a democratic state legitimacy through democratic procedures and decision-making institutions. Fourth, the state provides as a welfare-state by state intervention for the welfare of the nation (Rothgang/Schneider 2015: 5). nevertheless, since the end of this Golden Age and the state transformations in the Silver Age, as both authors call it, the state has been under internal and external pressure and led to a remarkable internationalization, privatization and transnationalization (Rothgang/Schneider 2015: 6). In Europe, especially the European Union is, as a supranational regime, a major expression of those transformations of the state, transnationalizing politics in Europe (Rothgang/Schneider 2015: 145).

This leads us to examine in short the European Union as an actor and its *Europeanization* in this context by integration of those nation-states. As already stated above, the EU is a major expression of transformations of the state but also as an active actor and driving force of transforming them. *Europeanization* is a concept to understand the partial — because it does not include all fields of state monopoly — and willing transformation (as state policy can chose to be fully part of this process or not) by the EU-member states of their own policies and structures by entry into a joint policy-making system (Warleigh 2004: 31/32). According to Warleigh, *Europeanization* does not mean to see the EU as a system or entity apart from the member states but modifying themselves in order to become part of the system (Warleigh 2004: 31). By doing so, they transfer the decision-making policy and policies towards a process of fusion with EU institutions and with the other member states (Warleigh 2004: 31). The result therefore is not a separate EU state, nor the disappearance of the member states but the creation of a *suis generis*. Besides the external actors, the European Union is both, on the regional the active driving force of integration together with the nation-states — that means, the transformation — and the structure of integration, it is a main component on transformation of the nation-states. In short we can state that transformation of the state means outsourcing the state’s traditional monopolies and delegating them in the European context to this supranational structure or, as stated above, to private actors.

The question, that interests here, is how does the EU, as a state-transformation friendly because necessary for its own being structure the change of nationality, face the existence of communities

claiming to be stateless nations or even only nationality like in our case? How does the EU react towards such transformation of nationhood, that is linked to statehood nowadays?

Regarding this questions through the Silesian case prism reveals that the importance and dependency of the member states and their point of view on this intrastate issue affecting the decisions of the EU. To keep it first in general, EU member states have accepted the recognition of national minorities and granting them their rights — but no nation-state talks clearly about other *nations* once territorial integrity might be in danger but usually about language communities or “nationalities“, terms that don’t have any or only very limited value on the political or legal level. Exceptions are groups like the Sorbs or the Frisians in Germany for example, an ethnic group without an own nation-state outside Germany, officially recognized as a national minority, not being excluded but also forming part of the *Staatsvolk* (Isensee/Kirchhof 2012: 280). But one has to state that these groups e.g. do not have any special aspirations besides their granted minority rights, no special autonomy or even less secessionist movements what is also justified by their small numbers that doesn’t excess 100.000 persons (Isensee/Kirchhof 212: 274). It is, therefore, also questionable, whether these groups see themselves as stateless nations, simple ethnic or regional groups or language communities (or combined possibilities) but this question can not be examined in this chapter as it does not contribute a justified quantity of information. In Spain or Belgium, nations aren’t recognized de cure and properly as such, as this would open politically and probably also juridically secession possibilities for stateless nations. The independence referendum in Scotland in 2014 would have given path to a secession from the United Kingdom and, therefore, would by pure logic, result a recognition of a Scottish nation by the British state authorities. Nevertheless, even though the Scottish national demos was detected as the only one regarding the question of Scotland’s national belonging, in the aftermath, no British authority has officially recognized the Scots as a nation, even though unofficial statements like “a family of nations“ regarding the Brits have been made by David Cameron (Davis 2014: 13).

The Polish case has interestingly a common fear of Silesian “separatism“ - politically, it seems absurd as there is no organization of significant, no movement that demands secession from Poland. The only political power on voivodship level demands autonomy and the transformation into federal or autonomous structures and states clearly that with autonomy, secession is not meant but rather respecting the right of historical regions and transforming the Polish state from an unitary to an autonomous state, rooting these demands back to Silesia’s interwar autonomy (Myśliwiec 2013: 183-185). Poland’s refusal to recognize Silesians as a nation, as a national or ethnic minority, or Silesian as a language has historical reasons. This lack of trust of loyalty was already existing in the inter-war period, the following communist era and, in a softer way, also nowadays.

The reason we highlight again the state-intrastate conflict is because the nation-states, forming as members the EU, play a decisive role on the “behavior“ of the European Union and its acting and decision-making towards the case of stateless nations and their political aspirations, that vary in their degree of demands. This is why, when regarding the EU as an actor, it is crucial to examine

the state's behavior first. Polish nationalism justified the incorporation of Silesia and its locals based on ethnic nationalism and hasn't changed this discourse until today. Since Poland has become a democracy in European terms, and in 2004 member state of the European Union, it already formed part of the transformation process of *Europeanization*. As having also a relevant and influencing decisive law-decision making institutions, like the highest European Court of Human Rights in Strasburg, it was this European institution, to which Silesians also referred themselves after the denial of the registration of the "Union of People of Silesian Nationality". Nevertheless, the European Court of Human Rights did not follow the argumentation of the petitioner but gave right to Polish decisions in order to deny registration. This decision was made for the particular reasons that, in case the European Court of Human Rights would have given right to Silesians, this might have created a precedence case, and that would stand in contrast to the still dominant vision, that European nation-states are consisted by state-nations (Ther 2013: 496). The legal decisions of the nation-states regarding their national minorities are decisive for decisions, which the EU makes, when it comes to the legal basis on European and, by *Europeanization* and the transformation(s) of the state, also on the state level.

10.4 The Polish nation-state: transformations and contradictions

Nevertheless, the utopia of a homogeneous nation-state, based on one legal (homogeneous) state-nation⁴⁴ is being held up in order to keep on the old scheme of justifying nation-states and not letting classic "national integrity" being questioned by other national minority (Ther 2013: 496). It seems that EU law-making is not interested in the existence of stateless nations or groups that claim authentically being a nation (and from this position aspiring granted rights) but sticks to the legal position of the nation-states on which the European law-making orientates itself. At no time, the legal status (when denied) coincided with socio-national (and even political) reality of the state composition, where nations other than the "homogeneous state-nation" emerged or, better said, converted their consciousness into demands, whether political or legal ones.

The western OECD state itself has started this (these) transformation(s) from the 1970s on and the European Union, as an active actor and at the same time consisted by and through the states, a very visible and real level of how far transformation(s) have come on a political level. This transformation has brought different nation-states to a common political space where the orthodox traditional pattern of a sovereign nation-state was abandoned but where shared sovereignty within not only a fiscal but also a political union has been realized (Ginsberg 2010: 186). Different from a "proper" nation-state that consists of various entities, not the people but the member states as bodies are within the European Union the sovereign (Ginsberg 2010: 186). The voluntary

⁴⁴ The term "homogeneous" was chosen here as neither a civic nor an ethnic nationalism includes other nationalities than the state-national one as a the state-nation usually has not been considered a nation of two or more nations with rights of self-determination but as one nation that includes "nationalities" like in the Spanish state or "language communities" like in the Belgian case for example.

integration by *Europeanization* within the European Union shapes and limits both, the EU and the nation-state at the same time, as they are in a reciprocal relationship. The state protects its interests by not going for now that far with *Europeanization*, which means not creating a proper all-European state but preserving himself as a full political subject and doing so by defining limits of integration like in the law-area, where shared competencies or exclusive competencies are regulated in different ways (Ginsberg 2010: 186; Chalmers/Davies/Monti 2010: 185).

On the other hand, the nation-state has, on a national level, delegated only limited competence towards the sovereign, in the past freedom of religion for example, but at present still denying delegating the choice of nationality towards the sovereign (Westphalian model). Instead of that, on the *sub*-national level entities are created, that are also *subordinated* by law introduced by the state authorities. This means that by denying the delegation of the choice of nationality towards the sovereign, it can not organize itself in certain bodies that would express the national desire of a group within the sovereign, but rather tries to satisfy them by giving limited possibilities of exercising demands from this particular group. For example, the use of a different language is a common “privilege” ceded, but it denies an “upgrading” of the groups with national demands to the same level as the state-nation. In short, the nation-state does not fully respect the choice of nationality of part of the sovereign, when it differs from the nation, the sovereign *should* be, according o the state. The state accepts only one sovereign, which must coincide with the state-nation.

The contradiction that emerges here is, that the state shows clear double standards and, by doing so, a not coherent, fair acting. This means that there is a conflict, when the topic of self-determination and sovereignty of bodies and entities emerges: while the member states claim that the sovereign on the state level are the people, or better said in legal terms, the people making the state-nation (and only them), the state justifies its sovereignty on a European level as one entity, different from other ones. By doing so, the state dismisses the existence of a possible European *demos* and claims and defends the existence of various *demoi* organized in and represented by the nation-(member)-state. This is a mechanism to protect its status as a full political subject by not going for now that far with *Europeanization* in order to create a proper all-European state and defining limits of integration like in the law-area, where shared competencies or exclusive competencies are regulated in different ways (Ginsberg 2010: 186; Chalmers/Davies/Monti 2010: 185). With other words, while the state on the supranational (EU) level wants to be respected as a proper political subject with certain interests and rights and exclusive member state competence, it denies this pattern to other entities - stateless nations - by imposing laws that dismiss the legal justification of their aspirations. Citizenship does not coincide necessarily with nationality, whereas citizenship nowadays is regarded in the EU the only justification of being part of the state-nation, (and therefore) the sovereign of a state-nation. Of course the nation-state can be a Western democracy and there is no doubt, that the nation-state in the EU fulfills the standards that are set nowadays for such qualification. However, regarding the Westphalian model of citizenship, that does not coincide necessarily with nationality (and the rights that are linked with the concept of

recognizing a nation) and denying those rights by imposing that system from the state authorities instead of respecting entities like nations within the nation-state, can question the quality of understanding democracy by the state(s) when it comes to that topic.

Why would the state, protecting the limits of integration inside the EU and insisting being recognized and regarded as a proper political subject, while it denies the same right on the intrastate level nations? The answer can only be, that the sovereign is only regarded as the sovereign as long as it does not challenge the interests of the state by questioning its present existence. Differently from the beginning of the making of the nation-state, nowadays Unity is not synonymously with uniformity when it comes to language communities but when it comes to nationality (O'Riagáin 1999: 14). This means that once this challenge might be given, it is the state that defines the sovereign. There is no coherent

In this context, Poland has showed itself to be a typical case of transformations of the XX and XXI century in the supranational context within EU integration by europeanizing its institutions, laws and benefiting from EU subventions, such as a *Europeanization* of Polish citizenship, which overlaps with the European citizenship with all its rights included. On the other side, Poland sticks to the myth of the nation-state in a Westphalian concept, when it comes to the interpretation of nation, nationality and national identity. This is not a unique case, but rather the common rule among nation-states. However, Poland has been very strict regarding these topics. This can be explained by its own history. Having been a stateless nation itself, wiped out from the European maps and the European political scene, effectively for some 123 years, national self-determination was build on this historical, always by its neighbors endangered freedom, which lead to a intolerant state nationalism in order to consolidate a Poland strong enough to resist internal centrifugal forces initiates by national minorities. By doing so, a certain inner strength to face new attempt of its neighbors to endanger Poland's existence, exist.

On the other hand, due to the Second World War and the post-war external influence by the Soviet Union, a democratic civil society could only start to emerge slightly after the downfall of the Soviet Union. However, old and steadily cultivated national myths and structures, such as a current nationalist government, especially in the light of the EU in crisis', has not lead to a more liberal and tolerant approach towards the demands of its internal national diversity rather than either ignoring or, in the best case, subsuming it under state nationalism. Silesians sake for recognition or the recognition of their distinctiveness of any kind has in the recent years only lead to negative reactions from the state institutions. It shows that a civil democratic and tolerant society in Poland is not present in the institutions and, although having experienced comparable contemptuousness and ignorance, the idea to prevent a repetition of such schemes to those reclaiming recognition hasn't stood for now any chance to the very own historical memory of the last 220 years, in which a steady state of disappearance, not only politically, but also as a people in their cultural and national way, dominates the agenda, when it comes to cases like the Silesian one. Especially the Visegrad states, to which Poland also belongs, might after *Brexit*, not only gain more influence on the European political agenda, but also push forward and institutionalize their point of view, which

does not root in democratic and civil societies, but from a passive-aggressive position due to its historic memories. With other words, the aim to gain further recognition is only possible for now not by including and strengthening the national pluralism, but by strictly subordinating, ignoring and omitting it, as the demand for recognition in Silesia clearly shows.

10.5 Conclusions

The Silesian case hasn't made it yet into the focus of broad international investigation that it deserves regarding the broad variety that it offers: its historic evolution, its recent development with an incredible dynamic and its special situation as a historical Central European borderland, which has faced a lot of factors, that couldn't be explained here, which made the Silesian case the one that it is today. This case was chosen to present a relatively new and unknown case with several intentions:

first, to give the reader an unprejudiced case and to "change the scenery", not repeating the already well studied cases of Scotland, the Basque Country, Catalonia, Flanders or Québec for instance.

Second, another relatively new case reminds us of the large variety and, therefore, also the remarkable demand that exists in Europe from people that declare their belonging to a nation other than the state-nation, such as their aspirations in order to be seen and respected by the state, supra-state and international authorities and institutions, not as sub-entities with limited rights but as equal partners as a reflection of the social and political reality within the nation-states.

Third, one further objective is to promote the study of the case of Silesia among scholars and encourage them, especially those who focus their researches on nation building, national minorities, stateless nations, the transformation of statehood, social groups within the state and the society, new political powers etc.. It is a promising and interdisciplinary, relatively unexplored research field. Literature is still limited, when related to its potential on an academical and political level and its remaining as a niche research field is unjustified. Of course one can question of this "new" case can be compared with the "older" cases as an evaluation of the development of the identity in social and political terms and a prediction for the future seems too early.

Nevertheless, this leads us to the fourth intention: the case of Silesia as a relatively new case shows us the reproduction of old, well known patterns conducted by the nation-state, in this case Poland.

The state, in this case Poland, seems to fear a partial, and even more proper recognition of certain demanding stateless nations, whether they're transnational or not, in order to lose competencies occupied by the state as they might lead to a further change of the statehood. This is contradictory, as statehood faces an ongoing change, especially the Western OECD states since the 1970s and

also Poland joining this certain change model, latest since the end of the cold war and as a member state of the EU in 2004 (Kaminska 2014: 1990). *Europeanization*, that includes the integration into the supranational structure by the state means the delegation of competencies towards this structure and by doing so, building the EU. The state denies that kind of transformations on a state-level, when it comes to recognize and, by doing so, upgrade internal national entities on the same level as the state-nation is. Occupying this competency should not be privilege of the state, but of the people as they form the sovereign and not the state that should decide, who the sovereign is, just as on the European level, where a European demos has been rejected, and the “sovereign „state“ has been respected.

The reason here is the state-centric view when it comes to this issue. A further deficit and even a contradiction when it comes to the issue of the nation as it is the people who make the state and not the state who makes the people. Occupying this competence must be, regarding the idea of democracy and the state, in the future questioned, as this contradiction emerges and remains unsolved. A clear, fair, coherent and transparent pattern of evaluation of this issue from the state is required, and not one that seems arbitrary just to defend the state-centric pattern, no matter how.

Although European institutions have a capacity to formulate binding rules, the EU has been build by the nation-states and their voluntary European integration (Deschouwer/Jans 2007: 19). The EU, therefore, is based and legitimated on the “sovereign“, which are the nation-states in their plurality (Ginsberg 2010: 186). This brings the EU into a position of dependency on the state(s), when it comes to several decisions just as the dismissed Silesian case shows. By doing so, the European Union is for the nation-states a crucial partner keeping alive the utopia of a homogeneous nation-state by supporting the state-centric and contradictory understanding of democracy such as the rights and competencies of the sovereign. For stateless nations, the EU is a juridical shelter, but unsatisfactory, when it comes to recognition.

The Silesian case is a new indicator for ongoing strong aspirations for recognition, an incomplete state-transformation and the importance that this topic still has among Europe. It also lets arise further question of possible solutions. Remaining within the status quo will lead to even more unsatisfied entities, which are embodied by the nation-state(s), the stateless nations or other entities, the EU. The case also shows that nation-states stick to their classic Westphalian self-understanding and regard a recognition rather as a privilege than a right. A redefinition of how to focus on these question is required: not the state, but the people shall stand in the center of interest in order to find solutions. This may gave path to a democratization of the whole process and could help to prevent these conflicts gaining a potentially violent character but would also launch a process of communication.

11. Plurinational demands in Spain

11.1 Introduction

One of the most dynamical and prominent cases of the clash between plurinational demands of cultural and national distinct peripheries, and the point of view of the state on these demands is with no doubt Spain. Especially two cases have developed their own dynamics within the given democratic framework in order to postulate their demands with juridical, political and societal effects, which are the Basque Country and Catalonia (Keating 2001: 72). In both territories, nationalist parties have gained power over the last years and maintained it partly over decades. The demands challenge the institutionalized and constitutionalized view on the Spanish state and the interpretation of the nation. These circumstances have lead, especially in Catalonia, to a certain dynamic, where the majority of the parties represented in the Catalan *Generalitat* have begun what is known as the Catalan *Procés* in order to secede peacefully and with a democratic legitimated mandate from the Spanish state and to build a proper state on the nation-state model (Cuadras Morató 2016: 98). Nationalist parties and their demands are, however, the symptoms of a fundamental difference of understanding the concepts of nation and its linked concepts of legitimacy and sovereignty within a democratic state framework by the state on the one hand and by the collectives claiming to be stateless nations on the other hand. Due to their prominence and their importance also on the state level, other minor cases such as the Galician will not be treated in this chapter like the Catalan and the Basque one will be.

This chapter aims to review the emergence of these conflicts by examining first the historical socio-political and juridical background, in which they are rooted and perceived differently by the state and the peripheral collectives, each one in its very own way. Furthermore, claims, standpoints and effects will be examined and the core conflicts extracted, on what the conflict is really based. To do so, besides the historical review on the relations on the entities with the state, the effects of strategies, tools and mechanism used by the Spanish state in relation to the demands support a deeper understanding of the conflicts and also provides and outlook on possible different approaches for further solutions within the democratic context. It might give a first hint, wether the differences, that have lead to these conflicts, might have a chance of being resolved within a democratic framework.

11.2 The making of the Spanish state and nation. A chronological examination

Spain is, just like the neighboring state of France, a dynastic creation, which emerged due to acquisition or conquest of territory, entities and people (Keating 1988: 33). Different form France, it did not expand itself from one center, like Paris and its surrounding areas, but its creation was influenced by the *Reconquista* of the Iberian peninsula by the Christians form the Moors, a military campaign from north to south, which lasted for over 700 years and included several independent

christian entities to fulfill it (Schrijver 2006: 81). This union of kingdoms became more and more dominated by the Kingdom of Castile, which expanded its influence and possessions not only by conquering former muslim occupied territories, but also by incorporating the Kingdom of León, the dynastic marriage with Aragon in 1479 and, after the establishment of the Kingdom of Spain. However, the unification of Aragon and Castile did not lead to Aragon being completely swallowed and disappearing, it was, hence, a dynastic, but not a full state union as in France, where other entities completely disappeared or were subordinated to a grade, where taking influence or maintaining influence over its own territory got from decade to decade less. The union of both crowns lead effectively to the creation of the Spanish state, but different characters were respected such as institutions, currencies and further structures within both crowns (Fusi 2000: 50-51).

Also the conquest of what was left of the Kingdom of Navarre in 1512 (Schrijver 2006: 81). In this sense, the dynastic creation expanded itself from the Kingdom of Castile as the center, also including several communities with different linguistic, but especially socio-political structures also within the societies (Keating 1988: 36). The concept of a strong state internally, which means direct influence on the sub-state entities and administrative units, develops very differently from the French case. If France is the model for an already very early centralized state, with a functioning infrastructure also on the administrative and political level, Spain has been a bad and insufficient copy (Estel 1994: 155). Neither was an infrastructure given for economical or administrative purpose, that would have been equal to France, nor was the center for economical purposes in Madrid, which rather became the residency of the monarch.

The making of Spain as a state emerges with the discovery of the New World, but the end of the *Reconquista* did not have an immediate impact and ended abruptly, but was quasi continued with the conquest of the Americas. In this sense, the spirit of further conquest within society and the mission of spreading the christian faith and in the spirit of the Crusades drove Spain and personalities formed by the *Reconquista* towards an expansive conquest of the Americas (Bitterli 1999: 211). With other word, Spain started, differently than France, to focus on the conquest of the New World rather than on strengthening the influence on the Iberian Peninsula, within what would become the political center and core of the Spanish Empire. This lead also to a weaker position within the state, as the influence was not taken to be consolidated strong enough to establish a centralized and influential system similar to France. The possibility to strengthen the center and to create an effective infrastructure by the state was by the colonial “distraction“ and its efforts overseas missed. Given local customs and institutions within the different territories, the Spanish crown was not too powerful (Keating 1988: 37). Castile was in desperate need for money due to its different European wars, but wasn't able to force territories, which weren't immediately subordinated to Castile, to pay taxes and a support by these territories lacked (Keating 1988: 37). A first, failed, attempts to implement a centralized system were carried out by Olivares, but the weak position of the monarchy such as revolts in Portugal and Catalonia stopped a successful development (Keating 1988: 38).

Furthermore, the rivalry of the crown of Aragon also lead to internal differences and tensions and with the victory of the Bourbon king Philipp V, the local institutions were abolished by the so called *Nueva Planta* decrees. The affected territories to be subordinated to Castilian power and influence

were Aragon, Valencia and the Balearic Islands together with the *Cortes* and the *Generalitat de Catalunya*, including trade tariffs and community privileges (Keating 1988: 38). This didn't affect all territories as during the Spanish War of Secession, the different parties were dependent on different actors also within the state. Navarre, for example, which had kept an essential part of its rights, that it had before at its time of being an independent kingdom, were preserved and left untouched, as Navarre supported the Bourbons against Habsburg (Keating 1988: 39; Estel 1994: 151). In this sense, the consolidation of the monarchy was more important than the effective unity of the state and lead to the impossibility of implementing a structure similar to France (Keating 1988: 39). After the Napoleonic wars, the idea of nationalism also spread in Spain and the awareness of being one Spanish nation grew among the elites. This lead to the never implemented Constitution of Cádiz, which had a deep impact on the later perception and model of and for the state with the visit of a quasi *Jacobite* order, including new, artificial administrative substate units in order to break old loyalties, to overcome regional and cultural differences and borders and to seize the control of the state directly over the citizens (Keating 1988: 51). In short, a French model with the structure of an was supposed to be implemented again with prefects appointed by the state (Keating 1988: 51). Although support for federalization grew, the event of the failure of the short living First Spanish Republic lead to a dropping support for federalism (Moreno 2013: 126; Keating 1988: 52).

A new attempt for centralization and the state and declining empire gaining more power on the Iberian Peninsula, what has been missed over the centuries of conquest and being an empire, was implemented, as the Basque *fureros* were abolished in 1876 unilaterally, but lead to a lot of pressure and finally to the restoration of the historical and efficient formal rights (Keating 1988: 51-52). One has to remember, that the XIX century wasn't only the age of the declining Spanish Empire, losing ground and influence on a global scale, but also internal periods of three Carlist Wars, which lead to instability and a crippled state-building process of a modern and efficient nation-state, as also one permanent political centre was not existent due to the wars (Keating 1988: 52; Estel 1994: 151).

The end of the Spanish Empire marked in fact the year 1898 with the loss of the last colony in overseas, Cuba, in the aftermath of the Spanish-American War (Linz 1975: 50). This event was seen as a crisis, but also had an influence on Spanish nationalism in an awakening sense as literature argues (Tone 2006: 258). Domestic disturbances, an economical crisis and the emergence of peripheral nationalism at that time show, however, that nationalism by war could not form a strong union between the citizens and let emerge an all-Spanish national sentiment in the light of defeat and disappearance from the global political scene (Linz 1975: 50; Tone 2006: 258). When one compares the French and the Spanish nationalism, one can say that French nationalism emerged during a moment of difficulty, danger of freedom for the ordinary people linked with an ideology for the masses and, finally, a triumph, whereas Spanish nationalism emerged here in a contrary context, which made it a way more difficult to attract citizens to become patriotic in masses, especially in the peripheries, where own nationalisms emerged.

A series of instability was, supposedly, ended with the Second Spanish Republic, which was founded democratically as a bottom-up creation, legitimized by the majority of the people,

exercising their democratic right as the sovereign successfully against the monarchy and its system. It also had support in the peripheries, where own nationalism had emerged and which were partly heavily industrialized, such as the Basque Country and Catalonia. It seemed that the state could now be unified on a democratic fundament, including also the peripheral territories with their historically grown distinctions and awareness', but the societies were deeply divided. On the one hand, the secular and left orientated urban masses, on the other side large parts of society living in a social order like centuries ago, as neither Reformation, nor Enlightenment had reached the masses (Keating 1988: 53). The Second Spanish Republic introduced autonomy for the Basque Country, Galicia and Catalonia, while other parts kept on negotiating with Madrid for autonomy. The times of the republic didn't also bring stability, but revolts such as in Asturias kept maintaining the fragile status.

The socially, but also nationally divided society also lead to the finally successful uprising of the nationals, which finally lead to the Spanish Civil War and Franco taking over the power by establishing a dictatorship under a centralized nation-state with influence to the lowest level of the state (Estel 1994: 159). As in the centuries before, territories supporting the winning side of the war were granted a special status keeping their competencies, as Navarre or the Basque province of Araba, while the other two Basque provinces, such as Catalonia were labeled as traitor provinces and their home rule institutions and system was abolished (Estel 1994: 160). The aim was a total assimilation of the Spanish state within one Spanish state-nation, which lead to exile many Franco opponent, including Spanish republicans but also parts of the nationalist periphery leaders and members of nationalist parties and movements or militant opposition, such as the emergence of ETA in 1959, or intellectually articulated protest such as in Catalonia (Estel 1994: 161).

Franco's death lead a series of open questions on the realignment of the Spanish state and even though Franco took all measures to continue the regime by his successor king Juan Carlos II, a change towards democracy in the light of European integration and internal social and peripheral pressured occurred. The outcome of the negotiations was a constitution, which had partly centralized, partly decentralized features, defining the nation clearly, but leaving space for territorial arrangements between autonomous communities and the state (Estel 1994: 164). The Spanish state has, since then, sometimes falsely been described as a federal state, but federal elements are ineffective or lacking, such as a Second Chamber with crucial competencies (Hopkin 2005: 7; Virgala Foruria 2013: 63; Arbos Marín 2013: 381). Spain is not a federal state but a decentralized state with different levels of decentralized competencies (Encarnación 2008: 103; Bale 2008: 46; de Witte 2005: 202). Although there are plurinational demands, especially in the Basque Country and in Catalonia, there is no recognition of other nations than the Spanish one. The Spanish state and its laws recognize "nationalities" or "regions" when it comes to the establishment of an autonomous entity (Arbos Marín 2013: 382). Although the existence of historical nationalities is institutionalized, the verification of the classic nation-state paradigm and dogma was shown once the *Generalitat* passed a new *statut*, which stated Catalonia to be a nation (Climent-Ferrando/ Triviño 2015: 163). Diversity only appears as an element of the Spanish nation, which is according to the Spanish Constitution one and indivisible and was, from this standpoint, declared unconstitutional (Arbos Marín 2013: 382). National plurality, which effectively does not exist from

the Spanish Constitutional point of view of today, clashes with the demands within the Basque Country and Catalonia, where a majority of the people regard themselves as an entity and, by voting in their majority for nationalist parties, also supporting indirectly the aimed institutionalization of plurinationality of the Spanish state. For these two different standpoints, no common formula has been found yet and it has pushed Catalonia towards an unilateral independence process (Keating 2017b: 16).

Pro-independence parties are not prohibited as in other countries for several reasons. First, there are historical claims in the peripheries, which also have been formulated politically before the Franco regime in a democratic framework. Keeping the prohibition on would mean in this case continuing a on a political level undemocratic strategies of the Franco regime, which the Spanish state since the transition officially abandoned (Jáuregi 2006: 241).

Second, there was a democratic support in the peripheral territories, namely in the Basque Country and in Catalonia, which couldn't be ignored within a democratic framework, even less if the parties didn't support violence or even an abrupt existence of the relations between the periphery and the Spanish state, such as the *PNV* or the Catalan *CDC*, as well-known and prominent examples (Laitin 1999: 26).

Third, parties which decidedly didn't distance themselves from violence or could even be proven to have direct links to militant groups, such as Herri Batasuna, were delegalized not under the point of view of advocating for Basque independence, but for supporting a militant group, which has been labeled as terrorist. With other words, supporting independence of a periphery hasn't been a reason for being delegalized, but the constitution does not permit such a step anyways. Therefore, there exists a tolerance towards these groups concerning their representation as part of the expression of the political will of a determined territory. Different as in other western democratic countries, parties, which are seen as unconstitutional due to their political aims aren't forbidden compared to leftist or extreme right-wing parties such as in Germany for instance. This has also to do as Spain recognizes "nationalities".

When it comes to identity, most citizens in Catalonia and the Basque Country have rather developed dual national identities, which also is expressed politically, while Galicia for instance only shows a minor support for nationalist parties nowadays (Keating 2017b: 14). When it comes to the plurality of languages, there is a constitutional acknowledgment that besides the duty of each Spanish citizen to acquire knowledge of the Spanish language, also other languages are fully recognized (Arbos Marin 2013: 384). It is obvious, that maintaining the standpoint of being a classic nation-state with diversity only within the classic state paradigm and the institutionalized concept of the Spanish nation have caused conflicts, especially since these events have taken place within the democratic framework, also questioning the interpretation of legitimacy and sovereignty within the reality of European integration.

The state, as unevenly decentralized, is in fact is the outcome of negotiations, party strategies and an intend to include as a compromise all different political streams within one system (Colomer 2013: 40, 41). Thus, the autonomies have different competencies from each other, such as fiscal

autonomy in the Basque Country and Navarre, a circumstance, which has led to serious conflicts with Catalonia and the Spanish state for instance (Keating 2002: 117). This determined right for only these two autonomous communities (traced back to their historical rights) can be seen as one of the initial points of the differences between Catalonia and Spain and one trigger for the Catalan *Procés* towards full independence (Bakke 2015: 262).

A series of competencies has also been delegated to the autonomous regions since the transition and the struggle of different interests for a political direction of the post-Franco state is resembled in this uneven distribution, which makes Spain neither a federal, nor a purely centralized, but an unevenly decentralized, hybrid state system with unitary elements (Colomer 2013: 40). This gives the state in theory enough room to reformulate and readjust the relations between the autonomous communities such, especially with those, who regard themselves as national collectives, but has its limits in the interests of the other state-wide parties, the dysfunctional Second Chamber and the Spanish Constitution, which sets limits to a reformulation within the nation-state paradigm.

11.3 The making of the Basque nation

To understand, why the relations between the Basque Country of today, its society and the Spanish state are the way they are nowadays, a historical examination such as an examination of the present political mainstreams is required. The first part, which is more descriptive-analytical, examines the historical development, while the second part puts more importance of an analytic-descriptive approach, investigates on what Basque nationalism means and aims for nowadays.

11.3.1 Basque nation building in a short historical retrospective

Although the age of nationalism, such as the emergence of a Basque national awareness begins only in the XIX and XX century, one has to go back into history to understand this emergence, which isn't only based on its different culture, customs, and socio-political mentality of the Basque collective. A series of several historic circumstances have had striking influence on the self-perception and the awareness of being a society different to the Spanish one, embodied by the Spanish state, in several aspects. The nationalist movements and parties are only the symptoms and the outcome of a century long development. These circumstances, which have had influences on the events, awareness and circumstances after, will be examined historically here in order to understand and to follow their coherent development. Nevertheless, this chapter can not go into details and highlight every single event and point in its very detail - books have been written about them already -, but aims to give an understanding of the coherence, the roots and the mainstream tendencies of Basque nationalism.

For Basque nationalists, the Kingdom of Navarre is usually taken as the historical reference point, when the Basque society was politically organized in a state, which was recognized all over

Europe, but finally became victim of the policy of annexation by the continued *Reconquista* and the dynastically state-creations of Spain and France (Keating 2002: 46, 51). The end of the territorial state-building concerning the borders of Spain in Europe is usually seen in the conquest of Granada in 1492 (Bitterli 1999: 211). Navarre, however, was conquered in 1512 by troops of Aragon in accordance with the crown of Castile, and although the kingdom territorially disappeared from the map west of the Pyrenees, Ferdinand of Aragon agreed to keep Navarrese institutions and the Castilian viceroy respecting Navarrese domestic laws (Threadgold 1990: 162; Azcona Pastor 2004: xxii). Navarre, on the other hand, would in exchange render tribute to the crown of Castile (Azcona Pastor 2004: xxii).

This circumstance has to do with that Spain itself was not a unified country on the administrative, legal, juridical or even really political sense, but a union of the crowns of Aragon and Castile (Fusi 2000: 50-51). Therefore, a complete absorption of Navarre was neither foreseen, nor carried out effectively. Furthermore, the *de facto* continued *Reconquista* with the discovery and acquisition of territories in America diverted not only the interest of Spain from the developments within the Iberian Peninsula towards the Americas, but also opened a wide range of opportunities for Basques in the New World. Although the depart from towards the colonies and the further exploration of the American continent was in in the south of Spain, the knowledge of Basque seamen were due to their knowledge in whale hunting a striking element in the conquest of the Americas and valued by the Spanish monarchs (Goodman 2003: 201; Douglass/Bilbao 2005: 71). The reasons, Basque social customs and rights were not touched was given to the failure of the Spanish state's attempt to create a unitary state and the different wars of succession only were able to succeed when making compromises with different societies of the Iberian peninsula, such as reassuring and granting the rights for self-determination within the state as the Carlist Wars have shown.

The emergence of Basque nationalism in the XIX century coincides with the final downfall of the Spanish Empire as a colonial global power. However, colonial mentality did not end as abrupt as the Spanish Empire did in 1898, with the loss of the last overseas colony Cuba, but centered itself back again on the Iberian Peninsula. Modern Basque nationalism was the awareness of distinctiveness in relation to the Spanish state and its people, custom, language and, as Sabino Arana, argued, also the race (Muro 2013: 58). Condemning nowadays Sabino Arana as a racist might be from our standpoint of today logic, but within the historic context too short-sighted. The concept of race was back then a common criteria to distinguish between different societies and was regarded as scientifically correct as it also orientated itself on Darwin's Evolution Theory (Bartrop/Jacobs 2014: 1081). Sabino Arana founded the *PNV* party in 1895 in order to give the emerging Basque national sentiment a political voice. In its beginnings, the idea of basque nationalism was fragmented on its parts, but quickly moved from provincialism to pan-Basque nationalism (Keating 2002: 61). The roots of Basque nationalism are, according to Keating, a distillation of Carlism and local culture such as ethnic identity and its continuity (Keating 2002: 44). Arana, hence, used a series of nation building tools such as myths, a favoring interpretation of

history of the people and the territories and the racial factor, which at that time was a common tool of differentiating (Keating 2002: 60). The Carlist approach has referred more to the historical rights of Navarre and its people, which are in effective the Basques and, with modern nationalism making the nation the sovereign, the Basque nation as the holder of its own sovereignty, inherited by the Kingdom of Navarre and the respect of the Spanish crowns. Arana's approach was also on the cultural level based on religion, as a strong catholicism was a further differentiating element, which Arana saw in comparison to the Spaniards as them not being really catholic (Keating 2002: 44). A different distinction on the religious level wasn't possible, as the Reformation was already stopped in its beginnings on the Iberian Peninsula and paganism hasn't survived in the Basque Country as a religion (Schilling 1994: 208-209).

This shows clearly, that early Basque nationalism is rooted in conservatism deriving itself from Carlist traditions, yet underlining its distinctiveness to the Spanish majority within the state (Keating 2002: 44). This is also the point, when Arana cut off the direct ties to Carlism and to Spain as such, opting also for independence.

The political expression of Basque nationalism on the national level was only able with the Second Spanish Republic on the national level, as the *PNV* was represented in the Parliament with 7 out of 470 deputies (1931), later with 11 out of 473 deputies (1933) and 9 out of 473 deputies (1936). The stronghold was the Basque province of Bizkaia, Arana's home province and fundamental differences in the several Basque provinces emerged. Araba, for instance, was with difference the least Basque nationalist province (Keating 2002: 46). The surrender of the Basque army in Santoña also occurred not in consent with the Spanish Republic, which later was seen as a treason, but stresses the self-awareness of being an entity also within state structures (Moa Rodriguez 2013: 99).

The Fall of the Second Republic marked a striking event for Basque nationalism. First, given the possible options, Basque nationalism supported the Second Spanish Republic also within battalion such as the *Euzko Gudarostea*, an army commanded by the Basque Government during the war and, given the circumstances and the early fall of the Basque Country into the hands of Franquist troops in 1937 (Mendizabal Mendiola 2006: 52). However, in any case there was *one* basque position as Araba supported in its majority the uprising and Franco, and Navarre was home to the Carlist movement, which wasn't only disconnected since Arana cut the ties, but also supported the *coup d'état* actively (Payne 2011: 231).

During the Franquist dictatorship, all structures and movements reflecting Basque nationalism were destroyed and forbidden, including the language, but elected president of the Basque government, *lehendakari* Aguirre, managed to escape to Paris, where the Basque government in exile was established and later fundamentally supported by Basques fled to all around the world, mainly western Europe, but especially to the Americas (Toticaguena 2004: 73). Also, together with many republicans, a huge outflow of Basque nationalists with an estimated number higher than 150.000 emerged in order to escape persecution (Toticaguena 2004: 71). Furthermore,

Franco was needed during the Cold War also for the Western block due to his strict anti-communism, and the smaller evil, something which made him gain reputation and legitimacy among the west and losing ground for the Basque nationalist. Although Basque mainstream nationalism was also christian conservative and, given its ideology, fit for the beginning European and western integration, there was no support by international organizations, as the problem was the nationalist ideology, that would have caused a collateral damage to Spain's point of view of a single nation-state (Clark 1979: 101). Just like other cases, South Tyrol for example, the Basque case suffered a second defeat due to failing to internationalize the case and therefore, either continued to exist abroad or went underground. (Douglass 1999: 209).

The end for political lobbying inside and outside the country, also in international organizations such as the United Nations lead to a frustration and no other possibility to confront the own case was seen than either resigning and accept it or go underground and use violence within an armed resistance against the state and its institutions and representatives. This was also the case in the Basque Country, as national and cultural consciousness didn't disappear with Franco taking over power, but lead to the emergence of ETA in 1959 (Estel 1994: 161). Although there has always, especially from nationalist Spanish sectors, been a tendency to link ETA directly with the *PNV*, there are no evidences, that the party ever actively supported the militant organizations and the execution of violence, as clerics also were involved and accused (Whaley Eager 2008: 150). The emergence of ETA also coincides with the end of colonialism and the struggle of African and Asian peoples against European rule. This automatically leads to two observations. First, ETA joins ideally the armed struggle against colonialism of European powers by the inspiration of an anti-colonial armed insurgency in third world countries (van Ulm 2015: 179). Second, the armed struggle and the political influence turn towards the socialist ideology fusion with socialism, as the counter culture and counter ideology to national-catholic and conservative Spain, but also in tradition with the Spanish Republic and the armed conflict against Franco's uprising (Muro 2013: 108). The socialist element was also visible, as violence didn't spare also Basque elites or later also socialist representatives after Spain abandoned the dictatorship and started to convert itself into a democratic system (Whaley Eager 2008: 150).

Armed struggle and attacks didn't stop after the transition started, but the division of Basque nationalism and of the Basque society became obvious as two mainstreams emerged on the political scene. On the one hand, the *PNV* party, which in the beginning actively took part in the democratization process and represented classic Basque nationalism in a way it represented it before, although with some major changes in the perception of the Basque nation. On the other hand, an emerging support for leftist nationalist parties, such as the 1978 emerged Herri Batasuna, which also had some historical foregoing organizations like the *EAE-ANV* during the Second Spanish Republic. Herri Batasuna has been regarded as the direct political representation not only of leftist Basque nationalism, but also of ETA within democratic institutions (Muro 2013: 129). It's not a coincidence, that ETA's slogan *bietan jarrai* means the two ways, the political and the militant one, which indeed were embodied with its direct links to Herri Batasuna (Azcona/Re/Azpiazu 2010: 232). However, drawing the conclusions, that all Herri Batasuna supporter also supported ETA's

violence is too short sighted, as it was the only major political force representing the fusion of leftist and nationalist ideologies and the disprove of Herri Batasuna voters supporting ETA's actions can be seen in the loss of political support (Muro 2013: 129).

11.3.2 Changing Basque nationalism

What both parties have embodied was a change of Basque nationalism from a cultural-ethnic one towards a more civic orientated. One major reason for sure is that the hypothesis of the purity of an ethnic group was unsustainable in the light of science, but especially with the huge influx of immigrants from different parts of Spain during the industrialization, which the Basque Country had faced already latest since the end of the XX century, also due to its geographical situation (Heiberg 2007: 21). While this was at the end of the XX century the reason for the exclusive nationalism of Sabino Arana as a passive reaction towards Spanish influence, socio-ethnic reality was accepted and even embraced, as only a change of Basque nationalism from a more ethnic towards an inclusive civic one could preserve the Basque cause (Heiberg 2007: 21). However, as all nationalist approaches are never an ideal one, Basque nationalism continued with strong elements of cultural nationalism, especially the language, which was a key element in differentiating from the Spanish one and was incorporated and diffused by both, the leftist and the conservative, but pro-European approach (Heiberg 2007: 82; Brown 2003: 82). However, it has managed to integrate a large part of society into either one of these mainstream political projects, as the election results reflect: with only one exception, the Basque National Party (*PNV*) has lead the political fate of the Basque Autonomous Community.

Both national mainstreams, however, have different approach and, therefore, also different approaches on what Basque nationalism means. While the leftist approach, embodied ultimately by the coalition of *Bildu*, still continues to advocate for the creation of a nation-state with a socialist tendency, while the *PNV* approach proposes a very different model of state-building, that focuses rather on the readjustment of Spanish-Basque relations within the European Union than on classic independence (Gray 2015: 61). One example here is the approach on sovereignty of the Basque country. While *Bildu* supports the orthodox method of sovereignty of a nation-state, building it on a democratic base with a simple majority and seceding from Spain, the *Ibarretxe* plan in the 1990s aimed for new relations between Spain and the Basque Country by amplifying Basque competencies (Gray 2015: 61). With other words, if nationalism is a political project of a collective, that understands itself as a nation, there are very different and very divergent perceptions of how the Basque nation is and how it should be.

The emergence of Podemos as a state-wide leftist protest party has especially had a deep impact within the Basque society. During general elections, it was Podemos, that could accumulate most votes, while *PNV* party was the second strongest political force. *Bildu* only managed to be the fourth largest force in the Basque Country. There are several approaches connected to Basque

nationalism on the relatively bad results for *Bildu*. First, *Bildu* lost its unique feature of representing a left alternative, not to a different left-wing nationalist party or coalition, but to a state-wide party. Second, *Podemos* approached alternatively the plurinational character of the Spanish state by declaring several times, that Spain was a plurinational state and that the right for self-determination existed. This indicates, that a state-wide party, which accepts naturally Spain's plurinational socio-political realities, could convince more within Basque society than the traditional left-wing nationalists with their determined aim. The approach *Podemos* had in the national question also seemed more attractive, as it recognized not only the existence of the Basque nation, but also the right for self-determination and didn't close itself towards a readjustment of the relations in case the party would have more influence in policy-making decisions. This approach was also linked with several social policy, in which *Bildu* and *Podemos* overlap and it was *Bildu*, who lost support in favor of *Podemos* (Ross/Richardson/Sangrador-Vegas 2016: 102). Furthermore, it can be stated that the relatively stable result of the PNV party reflects a stable approval of its policy as pro-European and classic-determined independence for the Basque Country within the Basque society. The approach for a classic secession does contemporarily also not have a backup by the Basque society, as the opinion poll *Euskobarometro*⁴⁵ proves. A majority is against classic independence, while support for an alternative forms the majority. With other words, the socio-political reality reflects a Basque nationalism, which is in the current circumstances not determined, but flexible towards new relations with Spain and rather pragmatically than ideologically driven.

11.3.3 The Basque national identity in the change of circumstances

A further question of contemporary Basque nationalism is the question of identity, which can not only be indicated by interpreting the vote - this would be highly inaccurate in times of migration within Europe and from outside Europe such as the loss of ethnic meaning when it comes to nationality -, but also examining the identity of the people, who live in that territory. What has been obvious is that there are multiple national identities such as Spanish and Basque. The tendency has gone towards a majority between "Only Basque" and "Equally Spanish and Basque" (Keating 2002: 80). Identity is made of many factors and can not be described here in one sentence or one chapters, an own thesis or plenty of books would be required to examine only one case, therefore, this topic won't be examined in its reasons for why people feel that way, why they change or why there are volatile appearances. What is for sure is that identity in the Basque Country and the struggle for a nationalist cause is not exclusively linked, not even the armed, violent way, as many ETA members were sons of immigrants from other parts of Spain (Jesse/Williams 2012: 48). Dual identity, hence, might also be an important factor on political preference besides many other factors, which has favored nowadays a majority for a constellation that consists of more devolution than classic independence, as the question of the nation in the Basque Country has changed

⁴⁵ Euskobarometro octubre 2016

towards a more civic model, but still includes those cultural and other elements, which might not have been absorbed by many individuals residing in the Basque Country into the personal identity.

In the light of the Catalan *Procés*, it seems at present safe to say that a majority of the Basque society does have fully or partly a Basque national identity, which is not only expressed in opinion polls such as the *Euskobarometro*, but also the ballot, where nationalist parties have clearly dominated the political scene. However, the classic national option for either independence or nothing is not an option for the vast majority, but rather a wish for a historical continuation of inherited historical rights and an amplification of these rights, as the Basque nation as a political subject seeks recognition, but not necessarily within a rupture and the recreation of a nation-state. The Spanish state, however, has nowadays recognized the existence of historical nations, also of the Basque, ceded competencies after the dictatorship and restored the historically based fiscal autonomy, but everything only seen as a process within the state and under Spanish authority, which itself has been formed by Spanish nationalism and a classic nation-state point of view. The Basque nation will face in the upcoming years most likely further migration from Spanish, other European and non-European immigrants. The question is, how much and in what way will it be tolerated by the Basque society with light of the danger of becoming a minority and not being able to absorb the influx or to become the most attractive political alternative. Some 120 years ago, this fear of disappearance has led to the creation of the modern Basque nationalism as a passive, political reaction towards the *maketos*, the non-basque Spaniards, a concept, which was abandoned as absorption most successfully succeeded. There is no Basque right-wing organization or political party or movement, which has in the light of these rational dangers, emerged, as the society for now has managed to absorb it. However, it might only be a question of time, that political streams within already existing parties or within a new movement emerge, that are not willing to become a diluted society, where the basque feature is only one out of many. Precedent cases in Corsica⁴⁶ and in Catalonia⁴⁷ have shown, that peripheral nationalisms are also able to develop in this direction, but in the end of the day, it's up to the Basque national conscious society, in what way and if it will react, not only based for ethnical, but rather for cultural differences and social tensions reasons. Also, Basque nationalists won't let up this topic to state-wide parties for tactical reasons, as soon as it will gain a major importance also within the Basque society.

With other words, Basque nationalism has developed and adapted itself given the circumstances, ideologically differently, but nowadays with success as the existence of the Basque nation is within the Basque Country almost consensual. The development depends on the reactions and future relations with the Spanish state, the European integration and the changes within society.

⁴⁶ France, and also Corsica, have witnessed a growing number of muslim immigrants, which has led to a rising number of clashes and riots between locals and muslim immigrants. In 2016, in the light of the Nizza terror attack carried out by ISIS, the existent underground militant group FLNC has announced to respond to any attack carried out by ISIS on Corsican soul. Further information are to be found here, the link is listed in the References: BBC News. Corsican nationalists warn jihadists of tough response.

⁴⁷ *Plataforma per Catalunya* is a minor party, which emerged as a right-wing answer to especially islamic immigration and which has some town councilors in Catalonia. Although the party is not in favor of independence, it is an exclusive Catalan party and proofs, that there is already a potential, since Spain doesn't have the same history of non-European immigration as France for example.

11.3.4 The territorial question in the Basque case

Stateless nations claim usually a determined territory as “theirs”, which in case of independence would secede from the nation-state in order to create a new one, this, at least, is the classic variant. The territorial question is in the Basque case not determined, but rather complicated and dependent on the different nationalist approach one can have on that. The approach on the territorial question also resembles the different nationalist approaches defended by *Bildu* on the one hand and the *PNV* party on the other side, while this separation is more to given an orientation on the current tendencies than on the determined idea of its voters, as they may overlap as well.

What is usually claimed by Basque nationalist is the *Zazpiak bat*, the seven Basque provinces in one (Keating 2002: 77). This includes the three provinces, that make up the autonomous community of Euskadi, Bizkaia, Álaba and Gipuzkoa, furthermore the autonomous community of Navarre and the three Basque provinces in *Iparralde*, which are Zuberoa, Nafarroa Beherea and Lapurdi. The *Zazpiak bat* model, also known as *Euskal Herria*, which emerged in the end of the XIX century with modern Basque nationalism, is a Basque Country, which only exists as an imagined entity, as it never existed as a political, exclusively Basque unity⁴⁸ (Bray 2007: 308). Several problems emerge when the viability of a *Zazpiak bat* model, the reference model of the Basque Country by Basque nationalists, is taken into consideration. The problems are of administrative, democratic and legal nature and an approach on them is resembled by both different mainstream nationalist parties.

First of all, the *Zazpiak bat* model is currently fragmented distinctly into different administrative units. Three of the seven provinces compose the autonomous community of the Basque Country (Euskadi). Navarre is an own administrative unit as an autonomous community. The three provinces in *Iparralde* haven't existed as an exclusive administrative entity, but were fully absorbed by the French department *Pyrénées Atlantique* and, on a regional level, in the newly created region of *Nouvelle-Aquitaine*. However, they form since 2017 the Basque Municipal Community with very limited competencies exclusively on almost the complete territory of the Basque Country in France. This means that there exists no exclusive Basque administrative order, which includes all parts, a circumstance, which doesn't exist in the case of Scotland for instance, where the demanded territory is also historically intact and exists as one entity.

Second, the question of Navarre within a common political space is problematic. The Kingdom of Navarre has been for Basque nationalists the reference polity as a historical precedent to defend modern Basque nationalism and a restoration of a supposed Basque state or entity (Keating 2002: 46). However, the question of whether Navarre and its population want to form part of this composed entity needs to be addressed. There exists a legal mechanism for the eventual fusion of the autonomous communities of Navarre into Euskadi by a referendum, a mechanism, which hasn't been triggered for now, as there is no significant demand now by the Navarrese demos, who

⁴⁸ This argument can be, of course, disputed, as Basque nationalism roots back its right for statehood also to the Kingdom of Navarre. However, when talking about a Basque preceder, there is no evidence for that the Kingdom of Navarre understood itself as the state of the Basques.

would be the one questioned (Bray/Keating 2013: 133). One reason here is the question of identity, as in Navarre, the awareness of being one entity, Navarre, and not a sub-entity is stronger than the all-Basque entity (Woodworth 2002: 12). The same can be said about *Iparralde*, where even a legal mechanism for a unification doesn't exist, as they are regarded officially only as sub-state entities, which even don't exist as such beside within the newly created commonwealth, nor where a strong support for a unification exists.

Third, the question of a hypothetic legitimacy of the creation of a Basque entity and its internal structures are disputed and follow different patterns of logic. The idea of basque self-determination is usually based on the democratic execution of a referendum. Given the datas of the opinion polls, there is currently no support for Basque independence in the sense of seceding and creating a separate state⁴⁹. The question of legitimacy, however, is also disputed. Given the territorial division, a legitimacy could either be interpreted with a 50+1 victory - or also a required unanimity of the Basque provinces such as of Navarre. The second scenario would definitely make it more complicated to achieve, but it would have a more legitimate stand, as the Basque provinces are not seen as own national entities, but due to their competencies and awareness as entities. As already mentioned, a unification of Navarre and its subordination within a Basque state is also unlikely at the moment, which means that now there is no legitimation for a support or even an overruling majority of the three Basque provinces. An overruling majority would also violate Navarre's identity of being a proper entity and with the historical background of having formed a proper kingdom in the past, recognized until 1838 as a separate kingdom, a legitimized unification from the point of view of Navarre as an entity isn't given (Keating 2002: 46). Also, a name for an independent state including these different identities is a challenge, since the Kingdom of Navarre is the historical reference for Basque nationalists, but the inclusive term of *Euskal Herria* might even be seem as imposed and alien to Navarre and its very own history as an entity and with its awareness and, instead of a unification, as an annexation (Zallo 2007: 80-81).

In the light of European integration, this gordian knot could come closer to a hypothetic solution, in accordance with the will of the majority in the Basque Country and an approach, which emerged in this context. Instead of a centralization and the creation of a classic nation-state, the move could go towards a cooperation of the different units, respecting them as entities and negotiating for more competencies. This approach, however, has emerged only since the 1980s and also within the *PNV* party, where clashes between leaders and the strategy to follow appeared (Rodgers 1999: 34). Given the lacking territorial unity and the lack of unanimous support for such a unity in polls and elections, even less within a hypothetical independent state, shows the creation of such an entity is neither legally, nor legitimately viable if a secession by breaking away unanimously from Spain and France is proposed, but a decentralized approach with extended competencies could lead to a closer cooperation and closer to what the *Euskal Herria* entity is.

⁴⁹ Euskobarometro octubre 2016

11.4 The making of the Catalan nation

The examination of the Catalan case will be carried out similar to the Basque one. Claiming to be a stateless nation has its historical roots and reasons, which explain the cultural, but also collective distinctiveness by events during the last millennium. These events and circumstances, such as the historical collective memory have influenced heavily national awareness of Catalonia since the XIX century, when modern Catalan nationalism emerged first in cultural, but very soon after in different political shapes (Bernecker 1999: 11). A changing Catalan society, especially in the light of immigration, lead also to change of its nationalism, which will be examined in a separate chapter such as the question of territoriality and the extraction of the different Catalan nationalist tendencies in the light of the ongoing *Procés* and the opinion polls, such as the viability.

11.4.1 The Catalan nation building in a short historical retrospective

Just like in the Basque case, the Catalan case has a historical precedent, which is the reference point for many (not all) Catalan nationalists concerning a future statehood after secession from Spain, which is the historical Kingdom of Aragon, in which Catalonia played the leading role in culture, economy, military and politics (Llobera 2005: 22). This approach, however, can be disputed, but it shows that a link to an already in the past existing entity, a state, has been a strong legitimacy and a founding myth also for the modern Catalan nation, on which its difference towards the Spanish state and the Spanish nation is based. Therefore, the investigation in this chapter of the Catalan nation building case should start with its link to the historical Kingdom of Aragon. However, the term Catalonia is historically not equal to the Kingdom of Aragon and therefore, the first, descriptive part will make clear distinctions between the crown of Aragon and later, in the light of modern nationalism, of Catalonia, where the image of both start, for several nationalists, to overlap.

The crown of Aragon emerged with the *Reconquista* as christian kingdom reconquering the Iberian Peninsula from the Moors and the territory was extended towards the Balearic Isles and Valencia (Balcells/Hall 1996: 6). This expansion in the light of the christian reconquest and the new emergence of new entities such as the crown of Aragon emerges with the new entity of Castile, both are dynastic creations, expanding their territory and influence in the *Reconquista*. However, not all territories were absorbed, such as Valencia, which continues to exist as a self-determined entity, so did the Kingdom of Majorca until 1349 (Balcells/Hall 1996: 6). Different from Castile, Aragon expanded its interest sphere within the Mediterranean towards east and established it with the conquest of Sicily and Sardinia in 1323, but influence declined and the control got step by step lost (Balcells/Hall 1996: 6-7). In the XIII century, latin was in this sphere replaced by Catalan as the language of culture and the court by king James the Conqueror and expanded also in other parts such as in Valencia, where it had its cultural heyday in the XV century (Balcells/Hall 1996: 8). Catalonia itself was only part of the Kingdom of Aragon, and not the Kingdom itself. The crown of Aragon suffered in the XV century from overtaxation and a costly civil war, which was also a driving

force for the union between Ferdinand of Aragon to marry queen Isabella of Castile and forming a union between these two kingdoms in 1492 (Greer 2012: 16). This union did not mean a complete reincorporation of one kingdom into another, but the union respected the different customs and rules, structures, institutions and currency, etc. (Fusi 2000: 50-51). However, very soon an internal state-building was interrupted by the discovery of the New World. Approaches for further and deeper assimilation were simply not really taken into account, as also the elites in the center were involved in the expansion of territory and power in overseas, which led to a missing diffusion of the Castilian language and a continued lack of political-administrative unity (Keating 1988: 37). The conquest of and the focus on the New World also led to a decline of importance of the trading routes within the Mediterranean, which affected the Kingdom of Aragon, its influence and its power (Greer 2012: 16). Before, an expansion on the landside towards east wasn't possible anymore, since France conquered the south with the blessing of the pope as a Crusade against the Cathars and the entities, which could be denominated nowadays in an abstract form as Occitania. It can even be claimed, that a Greater-Catalonia has been prevented by the French conquering and annexing first the territory before the Crown of Aragon could the culturally and linguistically closer entities (Keating 1988: 34).

Efforts of gaining influence on the Iberian peninsula by the stronger Castilian crown were in the XV and XVI century low, but this doesn't mean, that they weren't inexistent. However, Spain's efforts to tax the ruling class in the Kingdom of Aragon led to a failed revolt, which lasted over a decade from 1640-1652. The *Nueva Planta* decree was one of the first serious attempt for a state-building, which orientated itself on other European models. The Crown of Aragon, still recognized as a kingdom apart, experienced a fundamental change with the *Nueva Planta* decree, which was implemented between 1707-1716 (Greer 2012: 16). This decree came with the victory of the Castilian Bourbon King Philip V, who aimed to introduce a state-system and structure similar to France (Keating 1988: 39). Public administration was fragmented and historical, functioning units were abolished and replaced with new ones, which ignored historical borders, including the abolishment of the *diputaciones* in Aragon, Valencia and the Balearic Isles such as the *Cortes* and the *Generalitat de Catalunya*, local trade tariffs and competencies of the municipalities (Keating 1988: 39). With other word, the loss of competencies subordinated completely the formally still existent Kingdom of Aragon under Spanish rule, including the implementation of Spanish as the language of use (Laitin 2001: 101). The implementation of these decrees have an effect until today, but were already in the last centuries regarded as a national disaster for the Kingdom of Aragon, embodying later Catalan nationalism, also as the Kingdom of Aragon was abolished formally as an entity in 1707 (Greer 2012: 16). Territorially, the Kingdom of Aragon also lost the northern part to France in the Treaty of the Pyrenees in 1659. The decline of the Spanish Empire also led the territory to become a double periphery, not only since it became due to the Atlantic trade and expansion a periphery, but with the loss of importance of Spain, prosperity by Spain became even less likely (Greer 2012: 17). The XIX century became striking, as not only the decline of the Spanish Empire, but also the instability due to the different Carlist wars led to a politicization within the Catalan elite, as industrialization also led to a changing society and an advanced position within Spain, aiming for alternative future scenarios such as autonomy (Greer 2012: 17).

Like in the Basque Case, the loss of the last overseas colony of Cuba was a crucial year for Catalan nationalism (Greer 2012: 17). Basque and the Catalan nationalism emerged due to different political precedents, but 1898 as the heyday of the downfall of the Spanish Empire and the decline itself were triggering elements for both nationalisms emerging parallel (Estel 1994: 154). Catalan nationalism itself starts with the so-called *Renaixença*, a cultural-linguistic movement, which is regraded as essential for modern Catalan nationalism and which can be dated back to 1833 (Balcells/Hall 1996: 25; Keating 1988: 69). It was merely a movement among the elite, which also started to focus on history from an idealistic and romantic point of view (Keating 1988: 69). The *Renaixença* lasted as newspaper started to emerge in public and lasted until the end of the Spanish Civil War, but the political element of Catalan nationalism (Laitin 2001: 101). A first reaction to unanswered Catalan demands was the Centre Català in 1882, which formulated linguistic, juridical and economical demands (Pabón 1999: 94). Politically, the formation of Unió Catalanista in 1891, a proto-nationalist political movement aiming centralist resistance and emancipation of industrialized Catalonia, which also lead to remarkable political victory although the administrative-territorial division continued, emerged and inspired other political Catalan forces to form themselves (Alland 2006: 63). The *Bourgeoisie* did not support Catalan nationalism, also because of the implemented centralist policy since 1707, which lead to an economical and social integration into Spanish industry and society, so only a regionalist party would have their support, which emerged also with the Lliga Regionalista in 1901 and lead to a change for Catalan policy on the Catalan political scene, aiming for recognition of historic rights and socio-linguistic realities (Hernández Sánchez 2000: 71-72). Pressure lead to the creation of the Catalan Commonwealth as a first institution in 1911 until it was outlawed under the rule of Primo de Rivera in 1925. After establishing the Second Spanish Republic, in heavy industrialized Catalonia, a left-wing party, Esquerra Republicana de Catalunya emerged also in the light of Catalan nationalism and in 1932, autonomy for Catalonia was established, restoring the Generalitat de Catalunya. Franco's victory also didn't bring to an end only political Catalanism, but also to the use of the Catalan language, as Catalonia was a stronghold against the national uprising during the Spanish Civil War. While industrialization didn't suffer, some 200.000 catalans went exile (Minahan 2000: 159). However, Catalanism went underground and first attempts of continuity emerged especially in intellectual circles (Estel 1994: 160-161).

Franco's death brought revival of Catalanism in both, culturally and politically, also as an outlet against forty years of oppression and persecution. It lead to granted limited autonomy for Catalonia and the establishment of the autonomous community of Catalonia in 1980, but with less power than the autonomy statute of 1932 had granted (Minahan 2000: 159). Nationalist parties were since the beginning visible on the political scene and also pushed for more Catalan awareness, which also was a difficult mission due to 40% of Catalonia's inhabitants having roots from outside of Catalonia and only half of the population being Catalan-speaking (Guiberneau 2004: 98; Minahan 2000: 159). A further outlet was the emergence of the militant group Terra Lliure, which carried out attacks, but never reached neither a popular support, nor the same significance ETA had in the Basque Case (Guiberneau 2004: 82). The Spanish Constitution was approved by an overwhelming majority and nationalist parties such as the *CiU* and *Esquerra Republicana*

established themselves not as marginal, but as driving forces on the Catalan political scene (De la Calle 2015: 94). Although Spain defines historical nationalities, the shape or framework of them is not specified anywhere and Catalonia becoming an autonomous community defined powers and political organizations in the Statute of Autonomy together with the Constitution and other legislative acts (Cuadras Morató 2016: 10).

The Statute of Autonomy was changed in 2006, ratified by the Generalitat and the demos of Catalonia in a referendum with an approach of 74% (Cuadras Morató 2016: 12). However, it was declared unconstitutional, as the new statute defined Catalonia as a nation, mentioned Catalan national symbols, the preferred status of the Catalan language within the Catalan public administration, the protection of matters already devolved to the Catalan autonomous government, extended fiscal autonomy, extended economical competencies concerning also the Spanish state such as extended juridical competencies (Guiberneau 2012: 167). This led to a massive social fragmentation between the Catalan society, which did not show itself conform with the decision of the Spanish authorities and, since then, the social opposition also was embodied by the support for Catalan nationalist parties taking over power in Catalonia legally empowered by the Catalan demos. It is also a fragmentation between the Catalan and the Spanish state, as the *Procés* went from autonomy towards independence led by an *CiU* lead coalition in the *Generalitat*. Spain, of course hasn't recognized any attempt for independence, neither the referendum held in 2014 and the confrontation between Barcelona and Madrid continue, especially since there exist legal precedents for stateless nations, as the Scottish independence referendum in 2014 proved.

11.4.2 Current Catalan nationalism and its aims

The Catalan national movement is not unitary, but fragmented not only ideologically on the classic left-right axis, but it has also made an amazing development from regionalism and portonationalism towards demanding autonomy and, currently, apparently aiming for secession and setting up a nation-state orientated on the classic pattern with what is known as the Catalan *Procés*. However, this requires a deeper examination, which leads to new knowledge and a clearer picture, when regarded from the democratic point of view and the question of legitimacy and sovereignty such as the social and political aspect of nationalism in the XXI century.

First of all, the fragmentation into nationalist movements and parties is bigger than in the Basque Country for instance, where *de facto* two groups are representing the Basque nationalist sides, which are *PNV* and *Bildu*, a coalition of various leftist parties. The Catalan *Procés* led to a coalition for the 2015 elections in Catalonia, which run and currently runs in the *Parlament* under the name *Junts pel si* with the support of the left radical and nationalist *CUP* party. The *Junts pel Si* coalition consists of *Convergència Democràtica de Catalunya*, which converted itself in 2016 into *Partit Demòcrata Europeu Català*, a party with a centre-liberal tendency, *Esquerra Republicana*, which embodies more left tendencies and some smaller parties (Ross/Richardson/Sangrador-Vegas 2016: 86). The opposition is led by *Ciudadanos*, the Catalan branch of the *Partido Popular*, the Catalan branch of the *PSOE-PSC* and the Catalan branch of *Podemos*, which is called

Catalunya Sí que es Pot. However, the support for the *Procés* is not divided into government and opposition, as already mentioned, as the left-radical *CUP* supports the *Procés*. This makes the *Junts pel Sí* coalition extremely dependent on the *CUP* and its support, which also means that there is even some control of the parliamentary opposition within the biggest project of the Catalan government, although it's also nationalist and pro-independence orientated. The *Catalunya Sí que es Pot* has never mentioned, that it would stand *per se* against independence, but it doesn't support the *Procés* openly as such, while the socialist *PSC* is in theory against independence, although there has been a minor support for the right for self-determination the way the *Junts pel Sí* coalition supports it (Araujo 2016: 229; Rivera/Jaràiz 2016: 19). *Partido Popular* and *Ciudadanos* supporters are among those who strongest oppose independence. With other words, the support for independence or not is not measurable along the traditional left-right axis, but among state-wide parties and exclusive Catalan parties (with the exception of *Catalunya Sí que es Pot*). It isn't, hence, an ideological conflict between left and right, but supports the assumption, that it is a conflict between the Catalan society and the way, political decision-making process such as the perception of sovereignty, legality, the question of demos and legitimacy of a collective, that sees itself on the same level as the Spanish nation, embodied by the Catalan nation.

This conflict is in fact a political conflict, but the Spanish state has addressed to it only with legal measures, when the Statute of Autonomy 2006 was declared illegal by the Spanish Supreme Court and when the question of a Catalan nation is answered with the Spanish Constitution. The perception, that Catalonia is a nation and, therefore, should be treated as an equal competent actor, when negotiating with Spain, has been showed in the 2015 Catalan elections, as the victorious parties long before declared their aim and their position on Catalonia, which means that there is a socio-political backup by a majority of the Catalans. The Catalans, as a nation, can not be overruled by a Supreme Court or a government, which declares itself exclusively Spanish, otherwise it is perceived as an unilateral imposition and, therefore, independence seen only as the lesser evil. This affirmation is also backed by data, since before the elections, the vast majority of the Catalans supported the redefinition of the state into a federal model, in which the Catalan nation is recognized, yet part of a bigger entity such as the Spanish state (72,2%) (Rivera/Jaràiz 2016: 18). However, the vast majority of the opinion poll shows, that at that time, the leading solution for the conflict was full independence (97,6%) (Rivera/Jaràiz 2016: 18). The general elections in 2016, however, showed a different picture, where the party with most votes was the Catalan branch of *Podemos*, and during these elections called *En Comú Podem*, followed by nationalist left and right leaning parties. The question, hence, if independence is really the favored solution, or rather the *ultima ratio* in order to gain the minimum aims of the Catalan society - the recognition of the Catalan nation as a proper subject and the treatment by and the readjustment with the Spanish state, isn't easy to answer. The conflict between the Spanish state and the Catalan government has been existent not only since 2006, but it has a decade long tradition of difficult relations or, better said, relations, which became more difficult and have reached a heyday since the beginning of the *Procés*.

Given the immigration and the 40% of people with roots outside of Catalonia, such as the growing number of non-European immigrants, the identification with the Catalan nation such as Catalan nationalism can be seen rather as a tool for emancipation as a mature political society and nationalism as a tool of political identity of this imagined community (Guiberneau 2004: 98). This, however, doesn't mean that the Catalan nation is an artificial invention, but it has to do with a reality of identification, not only on the civic level, as Catalan nationalism has, given the circumstances, pretended to be, but with a strong cultural element, as the language policy shows (Gillespie 2015: 9). It's also the dynamic, with which the Catalan movement has changed rapidly from regionalism to nationalism, that lets assume that nationalism has become in the XXI century a tool for such emancipation (Keating 2002: 4). Nevertheless, this doesn't mean a simplification of nationalism, but rather a complementation to it, as nationalism covers a wide range of series in economical, sociological, political, historical and psychological factors, which go beyond usual rationality and enter into the sphere of tribalism and instincts, which can't be treated here. The Catalan *Procés* can be seen as a matured political collective, trying to fight for what it think it's its natural right from a state, which doesn't. The Junts pel Si movement is a strong pro European movement, which seeks its future within the European Union not as a subordinated sub-state region within a pretty limited and totally unsatisfying regional council within EU structures, but as an equal recognized collective and Catalan independence movements have been attacked right here by the Spanish state (Keating 2002: 72). This this sense, as the initial idea of a plurinational state in form of a federation or confederation of self-governing nations, voluntarily united on the basis of self-determination has been ignored and even challenged, disobedience to the Spanish state has been seen as the only way out of this dead end (Keating 2002: 72). Albert Hirshmann's concept of "exit, voice, loyalty" fits well in this conflict. He states that people calculate the costs of the three named options when regarding their dissatisfied relationship with a state in this case (Doyle/Young 2013: 102). The centrifugal forces in the Spanish State haven't lowered, but especially in the Catalan case gotten to a new level of conflict, which has gotten more intense within the last years. Its exponential rise of intensity was also shown by the quasi referendum on the future of Catalonia as a state, in which the vast majority of participant (80,76%) declared themselves in favor of an independent Catalan state, while only 10,07% supported the creation of a Catalan state without independence⁵⁰. This referendum has several weak points. First of all, it was not in accordance with the Spanish institutions, therefore, it had no binding character for anybody, neither Spanish nor Catalan institutions. Second, access wasn't available for the consultation, as it was called, as several municipalities didn't participate. Third, the missing legitimacy lead to an abstention, as only 2,3 million people participated in the so called 9N consultation (Cuadras Morató 2016: 123). It might also be the fear of pro-EU catalans that an unilateral independence would lead to a weaker position, as the permanence within the EU is not given *per se*, but even challenged by Spain and other countries composing the EU (Keating 2017a: 112). Thus, Catalonia isn't in a better position than Spain is, who still has shown passivity in order not to provoke a further intense conflict. Soft power has been for now used by both actors, using

⁵⁰ Generalitat de Catalunya. Participation and results of 9N.

either passive strategies such as political scandals like corruption or referring to either the Spanish Constitution as the legal basis, or the right for self-determination and democracy.

Neither one of these actors is in a comfortable position and using hard power methods, such as a rigid unilateral rupture would probably cause more harm within the current given framework than benefit for Catalonia. So would it be for Spain, if the Article 150 of the Spanish Constitution would be triggered and autonomy of Catalonia would be abolished. This tricky situation, however, could be also a chance for rethinking both patterns, also for Catalonia and if the creation of a nation-state in the classic sense, including its state-centric view and a probable conflict such as in the case of the Val d'Aran, are attractive enough to be copied. However, and coming back to Hirshman's concept, the question of "exit, voice, loyalty" plays an essential role. It would be beneficial for all parties, if the concept would be implemented in the political discourse and possible solutions. The question, that emerges is, how the Catalan society will react, if it has gotten tired of the *Procés* and its attrition, or of the hope for loyalty by voice is even still an option. It will also show, what the Catalan society values more, if it's independence as an aim, or recognition with different possible scenarios.

11.4.3 The territorial question in the Catalan case

Catalonia has possibly less issues, when it comes to its territoriality and its territorial claim, than the Basque Country. Catalonia refers to the Kingdom of Aragon as its historical preceptor, which ceased to exist officially as an entity in 1707. Catalan nationalism has emerged for now only in the territory, what is nowadays in the autonomous community of Catalonia, which at the time of the Kingdom of Aragon was an integral part of it, but since Catalan language, culture and influence went far beyond the borders of the present autonomous community, pan-Catalanist nationalism has emerged. This pan-Catalanist nationalism started to emerge as such in the 1960s and covers the territories of the *Països Catalans*, which includes also Valencia and the Balearic Islands, sometimes also northern Catalonia in France and up to parts of Sardinia, as in the town of Alghero, Catalan language can still be found to be alive (Guibernau 2004: 64). Although Catalan nationalism has shifted already in the 1970s towards a more civic and inclusive pattern on the ground of integration of the immigrated population in cultural and especially linguistic sense, pan-Catalanism referred right to the cultural national pattern, another proof for that civic and ethnic nationalism are only existing as idealized models and can coexist, although it seems that they are contradicting themselves (Llobera 2016: 256). The Kingdom of Aragon wasn't a unitary state or something similar, but also had within itself self-governing territories, similar to a confederation (Llobera 2016: 256). What is interesting here is, that the autonomous community of Aragon would not form part of the *Països Catalans*, as Aragon itself has a certain level of self-awareness, although it can't be said, that it exists in a national sense and, even less, by a sufficient amount of people demanding such a recognition. Only a part of the present autonomous community of Aragon is usually included, the *Franja de Ponent*. Further parts are the *País Valencià*, the Balearic Islands, Andorra and Northern Catalonia, as already mentioned. However, such a confederation or unification is at

present due to legal and political reasons not viable. First, the mentioned parts are partly, or fully different entities on the same level, such as parts are in the autonomous community of Aragon or the autonomous community of Valencia, while the Balearic Islands form an autonomous community of its own. Northern Catalonia is part of France, since it was ceded in 1659 in the Treaty of the Pyrenees and Alghero is the capital of Sardinia, belonging to Italy and capital of an Island with a proper sense of identity. Second, the political support for such a project is questionable. Northern Catalonia does not possess any political parties representing this idea, which is also given to the French electoral system and the administrative-legal status of Northern Catalonia (Minahan 2002: 403). However, within the last years, cultural and educational Catalan institutions have gained influence, since *Franconization* has showed impacting results King/Browitt 2004: 41; Helot/de Mejia 2010: 207). In Valencia, there is at the moment one coalition, which sees positively the Catalanist approach, which is embodied by Compromís, a coalition of parties with a nationalist agenda, but stressing the Valencian part within this bigger agenda, that might include the *Països Catalans* ideology. The Valencian autonomous chamber includes the Valencian branch of Podemos, which has showed itself not in opposition for the right of self-determination. However, both parties combine only the minority vote, but have risen in significance since the bi-party system in Spain has come to an end with the rise of Podemos. The Balearic parliament has also seen a rise of political forces, that promote self-determination, embodied by Més per Mallorca, a coalition representing also a pan-catalanist approach with balearic interests, Proposta per les Illes, Gents per Formentera and the Balearic branch of Podemos. All together make up a little less than 40% of the votes and although they don't form a common political coherent, these last autonomous elections in 2015 resembled the growing will for a different approach on the balearic issue as part of the Catalan *Procés*. Andorra hasn't showed any interest in uniting itself within a Greater Catalanian state and giving up its independence and sovereignty, but there have also been voices supporting the Catalan point of view on self-determination, as the leader of the government in Andorra, Antoni Martí Petit⁵¹. In the end of the day, the Catalan government has decided to continue the *Procés* limited only on the political entity of the autonomous community of Catalonia as part of its *Realpolitik*, but hasn't closed the door for a further amplification, as a support by a slight majority exists currently only in this territory. It's not only the lacking backup for a democratic and legitimate viability for the imagined space of the *Països Catalans*, but also the viability and the future of the whole project of an independent state, which has been carried for now by the political forces in Catalonia and its allies (Cuadras Morató 2016: 79). In any ways, the given framework also opens new possibility such as a stronger use of soft power or paradiplomacy, as Catalonia continues to be economically a key region and politically for other stateless nations (Keating 2009: 166).

⁵¹ Catalunya Ràdio. Antoni Martí Petit

11.5 Conclusions

The national conflicts, which have arisen in the Spanish state has its main roots in two opposed interpretations of what a nation is. While on the one hand, Spain continues to interpret the nation from a classic nation-state point of view, based on the constitution of 1978, socio-political and cultural realities in its peripheries, especially the Basque Country and Catalonia go against this interpretation, as opinion polls of identity and, from a democratic and political point of view more important, the elections have shown for decades. National identity is part of the individual and can not be imposed by anybody, as the liberty of each individual would be affected in its core (Caminal i Badia 2011: 237). With other words, a political conflict is turned from the state into a legal one and Spain, composing the vast majority of Spanish citizens behind its nation-state identity, is in a comfortable position with no need to change this agreement for now (Lluch 2015: 185). Although the Spanish Constitution has left a remarkable space for peripheral demands, by referring to them as nationalities, by creating an asymmetric state system of autonomy combined with centralist elements, by not forbidding secessionist parties as in other states, the core of the demands - proper acknowledgement as nations - has been orbited and left untouched and any attempt to do so being called unconstitutional, which, from a legal point of view, is correct (Keating 2002: 72). But it's the political will, that can change the laws, also the constitution, a will, which hasn't emerged. Spain, as state fully embodying the nation-state dogma, has only led to a series of uneven decentralization, which does not attack from a juridical point of view those dogmas of unity in a national sense and European Integration, as the matter of international relations with international legal persons remains the competency of the state (Zelaia Garazaga 2012: 382; 385)

Demands for the acknowledgment of the plurinational realities by especially both peripheries have been historically rooted, but with democratization gained a new, inclusive and emancipatory character with the initial aim of demanding a proper recognition as nations, with all the consequences it brings as a political subject, and a reconfiguration of the relations between the affected territories and the Spanish state (Caminal i Badia 2011: 238). Independence has been seen historically only as the second best solution by the vast majority, while the Catalan *Procés* has developed a remarkable dynamic and might have driven apart the Catalan society from the Spanish state, as the State refused a reconfiguration on the basis of a reinterpretation of demos, legitimacy and sovereignty. Furthermore, the collective historical memory and its interpretation play a crucial role, such as the cultural elements when it comes to the political aims. The fundamental question is not independence or not, but the reinterpretation of these characteristics, which embodies the idea of the nation as an imagined community. As long as the Spanish state continues to stick to the old -failed- order of nation-state and refuses a rededication of statehood, its meaning and its aim, such as its structure and the linked political mentality, the conflict with its nationally different peripheries will continue to exist. Time will tell if the reformulation of the acknowledgment of Spain's plurinationality has come still at the right time with the end of the two-party system, or if the rupture will continue, especially in the Catalan case, until political facts are made (Lluch 2015: 185).

12. The EU - a plurinational arrangement

12.1 Introduction

The foregoing chapters have shown that when the classic state doctrine of Georg Jellinek is adopted to define a state with different national realities, conflicts of legitimation and the interpretation of democracy and the sovereign arise (Doehring 2000: 21). These conflicts in the Western World usually in states, where plurinational realities are ignored by the states and the state vision is imposed without consulting these groups, who claim themselves to be different nations than the state nation, which is usually defined by the national constitution. The expression of stateless nations usually happens on a social, but especially on a political level, where parties and representatives, advocating for the national distinctiveness, refusing to form one political body, are voted by the majority (Caminal 2011: 238). This democratic expression is the so called double majority effect, where two democratic legitimate expressions within the same state on determined territories occur, yet distinguishing themselves fundamentally. Such double majorities have emerged in Scotland, in Flanders, in the Basque Country or Catalonia, only mentioning the best known cases, where the existence of stateless nations are expressed democratically. The conflict arises, when this democratic expression is ignored or even negated by the state and the mentioned conflicts on legitimacy, the interpretation of democracy and the sovereign in one determined territory arises. Present constitutions, especially in the mentioned cases, have shown not to be efficient enough and in the end of the day unable to solve these conflicts. Following these facts, the question of the existence of a plurinational democracy emerges, leaving behind all theory and focusing on the practical cases.

This leads to examine not only states, as conducted before, but also post-sovereign and post-nation-state structures. In this case, particularly, the European Union. By doing so, the pure state-level is left behind and the focus is on a supreme level, the supranational level. The examination of the supranational level EU level such as its supra-national structure seems adequate, as the nation-states in Europe are integrated in this supranational and plurinational structure, which affects them crucially in their core competencies.

First of all, the author sets up the assumption, that the European Union is the most advanced model of a plurinational constellation. Reasons for this assumption will be presented in the following chapter to this introduction. Following this assumption, the European Union will be examined in its plurinational features and the governmental and political constellation in a plurinational democracy context. In this context, the European Union will be examined from a confederal point of view in order to prove or disprove this assumption. Therefore, several definitions of "confederacy" will be extracted and applied to the European Union. The conclusion, whether the EU is a plurinational democracy and what features from both, the supranational structure and the states, make it possible, will be drawn finally in the overall conclusions.

12.2 Assumption: The EU is a prototype of a plurinational constellation

Requejo sets up the question, whether “(...) *any kind of liberal democratic theoretical conception can be established which is capable of articulating the normative complexity inherent in plurinational polities (Requejo 2006: 17)*“. Despite these interpretable doubts, the author of this thesis sets up the hypothesis, that the European Union is not only a theoretical, but a practical prototype of a plurinational democracy.

In order to create the hypothesis of the EU being a prototype of plurinational democracy for instance, a first draft of a definition for such a plurinational democracy has to be carried out. There is a series of factors and characteristics, which are crucial for a plurinational democracy.

12.2.1 Examining the plurinational character of the EU

The author follows the assumption, that the European Union in its essence is the first real expression of a plurinational democracy in a very orthodox and simplified way, yet the one which matches with the main characters of a plurinational democracy. This opinion is also backed by other authors, which define the EU already as a plurinational construct (in this case a federation, which is not the opinion of the author of the Thesis) (Dumont 2012: 88; Sadurski 2016: 27)

First of all, an attempt to find a single definition of the EU is difficult, if not impossible to, as interpretations of the EU vary and depend on the factors, on which the author has based its definition. It can be said that the EU is not a state, no pure and classic federation and no confederation, also not a superstate, and definitely not a copy of the Soviet Union, but a conglomeration of states in Europe, which voluntarily seek political, economical and social integration on a supra-national level (Dumont 2012: 83). Dumont argues, that the EU is, from his point of view, a plurinational federation *in sensu cosmopolitico* and as such, a prototype (Dumont 2012: 83). Furthermore, he defines it as a plurinational *federation*; the term *federation* however is very broad and flexible and can be interpreted differently, depending on the series of factors each one uses to define it (Dumont 2012: 101). We will come back to the constellation of the EU and question, in what terms it can be seen as a federation.

Mark Bevir argues that the EU can be regarded as a confederation (Bevir 2006: 136). The question of the status of the European Union, what kind of constellation it is, will be examined later in this chapter. However, the important issue here is, that the EU indeed has a plurinational character (Cornago 2013: 99). This assumption is backed as Dumont argues that a plurinational federation (as he calls it) is based on voluntarism and sustainability with legal personhood and shared sovereignty, and a community of nations, without absorbing the other member nations into a larger and new nation (Dumont 2012: 88). Furthermore, it is also true that the EU as a plurinational polity

is not formally sovereign, but rather made up by fully sovereign states voluntarily in order to share it (Dumont 2012: 88).

Dumont argues in its text “The European Union, a Plurinational Federation in *sensu cosmopolitico*, what the headline already says - EU and the adjective “plurinational“ are linked, although he links it also with the term *federation* (Dumont 2012: 101). The term *federation*, however, is a very broad and flexible term and can be interpreted differently.

What makes the EU plurinational? We already know that there is a striking difference between multinational and plurinational, as plurinational recognizes the plurality of nations as full political subjects equal to each other and with the same rights and negotiated obligations. When we want to picture the relation, the picture of the relation within a family should be recalled: a plurinational polity consists, hence, of members, which are equal among each other as political subjects. It is not the picture of a mother, which is responsible for her children, which are subordinated to her and limited in their freedom because children can not stand for themselves, need to be educated and are usually sanctioned, when they oppose their mother’s will as the ultimate authority.

First, an analysis of the ‘constitutional’ frame of the EU and how the units are seen within this union shall be conducted. According to Dumont, a plurinational federation is based on *constitutional pacts*, as the units remain sovereign, delegating and pooling a series of positive sovereignty to and at the union while maintaining the components of negative sovereignty in their hands (Dumont 2012: 88). The constitutional pact of the EU and the many competencies being transferred to the EU, the states can not impose anymore decisions and, therefore, gained co-sovereignty instituted by the pact (Dumont 2012: 91).

It is true that from a classic and orthodox point of view, the Lisbon Treaty is not a constitution, but an arrangement of bilateral and multilateral arrangements and treaties between states. However, this treaty also has constitutional features. This would probably trigger those who define it from the classic and state-based thinking of what a constitution is. In this case, one can just simply state that what a constitution is to the state, the “constitutional pact“ is to the EU (Dumont 2012: 90). It has deep impacts also on the nature of sovereignty of states and their own constitution and shows a clear case of how the nature of sovereignty is changing with this process, although it is “only“ a “constitutional pact“. This constitutional character is in that sense given, as the Lisbon Treaty governs the functioning, the organization and the competencies of the European institutions; furthermore, it also institutes citizenship for all citizens of EU member states, which entitles those citizens with basic rights (Article 6) directly connected with the European institutions and states when EU law is enforced (Dumont 2012: 90). It also means that they can demand those rights directly and without depending on their national executive or legislative authorities intervening (Dumont 2012: 92).

Dumont also argues that there are three crucial factors in this constellation. First, the *Kompetenz-Kompetenz*, the state, which have the last word in the matter; second, the possibility to veto when unanimity is required to establish a treaty on the European level; third, the possibility of retreating from the European Union, based in Article 50 of the Lisbon Treaty (Dumont 2012: 90).

Formally, the states keep being the sovereign although they have lost sovereignty over a series of matters such as borders for instance, shared fields of sovereignty in the European Union (Dumont 2012: 90). Nevertheless, this doesn't make them lose their status of being proper political subjects in a sense of being still able to act as such, not being absorbed or imposed from above, but rather negotiated and, in case of completely not feeling accommodated, being able to withdraw from the EU by referring to Article 50. With other words, formal sovereignty, which in theory is *one* and *indivisible*, has and does still fully belong to the member states.

The creation of the European Union was a bottom-up creation by the states already in the very beginning as the Masters of the Treaties, when the European Coal and Steel Community was set up in 1952 (Isensee 2016: 10; Möller 1961: 132). Indeed, internal and external pressure lead to this creation. It was the reality of east and west divided into two blocks, dominated by foreign forces, the Soviet Union and the USA, such as the post-war movement for deeper integration in the west. Integration, however, did not dissolve the nation-states, but transformed them as they delegated within decades several core competencies of sovereignty to a common pool within commonly established structures and accepted in common “constitutional pacts”.

Dumont calls it “constitutional pact”, as the EU treaties *de jure* do not have the same level as the national constitutions, but rather coexist in mutual respect. When in the beginning, the word “constitutional” was written within inverted commas, it was not an accident, but should question the real meaning of how constitutional the treaties are, especially the Lisbon Treaty. The Lisbon Treaty is not a European constitution. It came into power after the Treaty establishing a Constitution for Europe⁵² failed by the veto of the Netherlands and France during referendums. The following Lisbon Treaty is not a *de facto* constitution, but, as Dumont argues, a constitutional pact. As the states continue being the ‘Master of the Treaties’, and not the European Union, as in classic federations and states it would be the case, the competencies of the EU is limited (what also happens in federations on a national level), but the constitutions or basic laws of the member states are not inferior to the EU regulations and treaties (Dumont 2012: 96). Juridically, there is a plural legalism which encourages each member and even each citizen to take the other and itself into account (Dumont 2012: 96). There is a mutual recognition of the law system as both, the national and the EU, exist in a reciprocal relation, while the national respects the EU law and its claim to primacy within the limits, which can be tolerated with respect to its in-principle supremacy on the one hand and, on the other hand, the EU law under the same condition of tolerance and limits (Dumont 2012: 97).

According to Dumont, what gives the “constitutional pact” a stable fundament is what he calls federal loyalty in the light of constitutional tolerance and translation ethnics, which means here a

⁵² This juridical framework was also known as the “European Constitution”.

dialogue between the respect for the diversity of national constitutional traditions and the requirement of unity of European law (Dumont 2012: 98).

When coming to the *sensu cosmopolitico*, and with regard on cosmopolitan law, Dumont argues that the existence of a constitutional pact such as the plurinational federation are integral parts of the idea of cosmopolitan law (Dumont 2012: 99). The link here is that the idea of a cosmopolitan union consists of respecting individuals in their universal aspects and respecting their identity as equal, and not with the necessity to be subordinated under other nationalities or identities, but as a coexistence in mutual recognition and respect (Dumont 2012: 99). Now regarding the European Union, the concept of the “constitutional pact“ on the one hand, and the plurinational federation on the other are crucial parts of a constitutive law of a plurinational federation, as these concepts combine and include the recognition of national sovereignty of the member states with co-sovereignty of the union *and* national identity (Dumont 2012: 99). This are, hence, mechanisms, which respect jurisdictional protection of human rights and democracy in transferred competencies (Dumont 2012: 99). There exist several rules, that provide this cosmopolitan law and thoughts and it's, according to Dumont, the cement, the invisible yet existent strengthening element, that make the EU a possible model for other regional integration processes worldwide and also can original political union (Dumont 2012: 100). As Keating also adds, Europe is also a place, a system of values such as democracy, liberalism and prosperity (Keating 2001: 169). Democracy is yet a vague definition and does not imply itself if a state calls itself democratic, such as an in the past the “German Democratic Republic“ for instance. The need for mutual recognition as democracies, based on shared principles and norms form that loyalty and enable cooperation and integration.

Ferran Requejo mentions in his theoretical approach three aims to be achieved in order to set up a “fair and workable“ plurinational federation: first, the main political actors, who are part of the national pluralism of the ,federation' define the constitutional and political recognition as acceptable since it is explicit and satisfactory for them; second, the development of the national collectives, and the political defence in relation to that plurinational structure (federation), also in relation to the international arena, will be secured by the establishment of a series of agreements for a high degree of national self-government; third, when already an arrangement in a *de facto* plurinational structure or space exist, a plurinational regulation of the shared rule in order to accommodate the national pluralism of the polity, is required (Requejo 2006: 5).

The first aim is accomplished already by mutual recognition of the states such as the requirement for unanimous approval of a new member state to enter the European Union for instance. This postulates a broad series of multilateral diplomatic steps. With other words, the European Union as one is one actor, depending on the diplomatic recognition of a state, that seeks access to the EU as equally qualified. Recognition is one of the crucial factors of classic complete statehood despite Jellinek's formula of *Staatsvolk*, *Staatsgebiet*, *Staatsgewalt*. Proper recognition by other states is therefore crucial, as only this secures the state of being treated as an equal one and comes in

addition to Jellinek's factors, mentioned already in the Montevideo Convention of 1933 (Boczek 2005: 99).

The second aim mentioned by Requejo is the development of the national collectives and the political defence in relation to that plurinational structure, also in relation to the international arena, will be secured by the establishment of a series of agreements for a high degree of national self-government (Requejo 2006: 5). The states as the Master of the Treaties have several mechanisms of defence against the abuse of the union as a polity. First of all, the union is made up by the units and depends on them. Important issues need an unanimous vote. Furthermore, although a series of core competencies of sovereignty were delegated to the European Union due to state transformations, the states remain formally sovereign (Dumont 2012: 92). Mechanisms against the abuse of power by a federation against a constituent unit are usually given when the distribution of competencies are negotiated between the federation and its units. This is also the case in the relationship between the European Union and its member states (Dumont 2012: 93). One important feature that makes the EU a plurinational democracy in our sense is the right of withdrawal from the Union, as it is stated in Article 50. of the so called Lisbon Treaty. It's not only the voluntary formation of the union and the unanimous voting of the member states, which may access the European Union, as stated in Article 49 of the same treaty. But this crucial matter, the voluntary access and withdrawal from the European Union secures the member states to continue as sovereign political subjects. It guarantees in that sense the abuse of power by the Union against one or more member states as an exit is always possible, as happened with *Brexit*.

This is usually not given in federations with plurinational realities. The states also, as independent and formally sovereign ones, also maintain bilateral and multilateral diplomatic ties, which are not all equal within the European Union. One case is the issue over the recognition of Kosovo. While several states recognize Kosovo as a proper and independent state, other EU members such as Spain don't recognize it as a proper and independent state, but as a breakaway province of Serbia. This, of course is linked due to interstate conflicts between the Spanish state, Catalonia and the Basque Country, as Spain fears Kosovo to become a precedence case in case of a unilateral declaration of independence by any of these two territories.

Regarding the question of the *demos* in the EU, we can state that there is in a classic sense no European *demos*, but various *demoi*. The Charter of Fundamental Rights of the European Union begins with speaking in plural of "*The Peoples of Europe...*", which confirms, that the EU as a plurinational construct does not have one single *demos*, but several *demoi*.

It's not the classic doctrine of one *demos*, that overarches and subsumes all other identities, but this formula recognizes and respects them on an equal, horizontal level (Nootens 2011: 112).

EU citizens indeed also have a double citizenship, the one of their national country and the European one. Nevertheless, the EU citizenship also includes a series of rights and regulations of the EU, which can be directly addressed to all the citizens over the shoulders of the national authorities (Dumont 2012: 92). Shared sovereignty and values and the delegation of several competencies, as stated in the "constitutional pacts", guarantee these freedoms not only as symbolism, but also in real life.

Being a German, Polish, Spanish, Irish, etc. citizen does not exclude also EU citizenship, but is, in the end of the day, of different nature, as the EU is not a state, but a voluntary federation, formed by the states, the holders of the respective formal sovereignty, and the people still are divided into nations and nation-states (Dumont 2012: 92).

As individual liberty can be demanded directly from the citizens over the shoulders of the states form the Union itself in the shape of agreed rights, liberty of a collective is not in danger, as long as it forms part of one of the state-nations or a recognized national minority, protected by several laws and rights (Dumont 2012: 99).

In this sense, and as one *demos* does not exist on a European level the way it does formally in states, collective liberty is, hence and in these agreed frames, recognized and the plurinational character of the EU obvious.

The third aim mentioned by Requejo is that when already an arrangement in a *de facto* plurinational structure or space exist, a plurinational regulation of the shared rule in order to accommodate the national pluralism of the polity, is required (Requejo 2006: 5). In accordance with Requejo's claim, Keating argues that politics should not „(...) *to be treated as absolutes, as non-negotiable items or matters to be settled once and for all, but as part of a continual process of adjustment (Keating 2001: 171).*“. In this sense, the European Union has within its history shown that this way of cooperation is possible, as neither the aim, nor the way how to get there, nor the politics, nor the members are strictly determined, but open for constructive debates. This arrangement has emerged throughout decades of negotiation and evolution of the European structures

To conclude on the examination of the plurinational character of the European Union, we can state that the starting point of a pluralistic federation, as Caminal argues, can not be imposition, but a free and voluntary unification and the resulting or foregoing feeling of belonging to this union is essential for the stability and loyalty to and of such an union (Caminal 2011: 233). This union has been a bottom-up creation by the will of the peoples of Europe. The character of the *peoples*, the nations is secured and not about to be diluted by an imposition, but through a series of mechanisms flexible and open for evolutionary processes in the future. One of them has been the Lisbon Treaty and the foregoing interdependences and transformations of the states, but also the withdrawal referendum known as *Brexit* in 2016.

In the past, several different stages have lead to the present constellation. The beginnings were purely economical, with the European Coal and Steel Community, but were not isolated on an economical level, but had already political and social impacts. The foregoing emerging interdependences on the economical level lead to political ones. Socially, after two World Wars in only half a century, the idea of a united Europe became popular among many people. Parties were in Western Europe elected, which were driving step by step towards a further integration by cooperation and ceding sovereignty to share within a common space, which we know today as the European Union. Here, trust and loyalty to this pluralistic federation were according to the outcome

of the *Brexit* vote by a majority in the UK not given anymore and the feeling of EU imposition such as a series of other factors lead to the vote for a withdrawal by a majority of the UK voters (Caminal 2011: 233).

12.2.2 Governmental and political constellation in a plurinational light

However, several visions of a supranational Europe were in fashion, gaining and losing support. Charles de Gaulle talked about a “Europe of Fatherlands“, labeling supranationalism as impracticable and Europe as an entity as it never was a nation and the idea of a European nation going against particular interest such as the French during Western post-war integration (Schwabe 2016: 57; Chopra 1974: 61). It was precisely also because of de Gaulle, that a further integration in military matters failed. This would have delegated the classic core competency to European Structures and, hence, become in a crucial matter federal.

Becoming a polity of integration, cooperation, shared sovereignty does not automatically mean to become a nation. A functional polity as the European Union could and does not replace the sentimental union of a nation, which has a patriotic spirit that drives it (Isensee 2012: 12). There is not such a thing as a European nation and in case the peoples of Europe would decide now to become a superstate, the existing nations and those who claim being a nation would not cease to exist from one day to another (Isensee 2016: 11, 12).

Especially in the 1990s, after the collapse of the Soviet Union, the idea of a “Europe of Regions“ gained potential as the geopolitical scene changed and the end of the forty years lasting East-West Conflict opened new possibilities to rethink Europe. The idea and the external factor of the East-West conflict, which also pushed the idea of a united Europe, became obsolete (Isensee 2016: 12). The idea of “Europe of Regions“, which can be rooted back to Hallstein and Monnet meant greater subsidiarity, broader integration, federalization and a horizontalization within the European Union (Menasse 2016: 36). Strengthening the regions would mean to lower the power of the nation-states and, by doing so, perhaps to prevent centrifugal powers of secession from the European Communities or even a European federation, with the region, and not the state, with one as its dynamic foundations (Sidjanski 2000: 196). Nevertheless, this hasn’t happened also after Lisbon and the state is still the triumphing actor, which stands unchallenged on top of the hierarchy (Menasse 2016: 35). A region as such does not challenge the state’s authority and the state’s sovereignty (Isensee 2016: 15). So don’t either federal mechanisms as regionalization, decentralization, federalization. However, the regions seek further influence by informal ways such as paradiplomacy for instance. In a nutshell, the tension between a federalization and maintaining the idea is still present until today. This has lead to a European Union, where states have not ceased to exist, yet the transformation they have gone through by integration have been fundamental and innovative at the same time. However, this tension during the construction of the European Union and its precursors have let emerging a polity, which does have federal such as confederal structures.

This makes the European Union difficult to classify as a governmental and political constellation. Therefore, the supranational European Union is usually called *sui generis* as it seems to be incomparable to other previously existing polities (Schütze 2015: 63). In fact, neither the “Europe of the Fatherlands“, nor a federal Europe has emerged since then. There are authors, who use in the European context expressions such as “federation“ or “confederation“ (Dumont 2012: 88; Bevir 2006: 136). Both terms are quiet vague and very interpretable, depending the logic, the intention and the argumentation of the author. What is claimed here is, that as a *sui generis*, the European Union has both, federal and confederal elements, currently trending towards a confederacy.

States have not ceased to exist, its’s more, they are still the main actors as they compose the European Union, meet and negotiate as states within a European framework and also defend their interests. At the same time, economical and political integration and ceding and sharing sovereignty has lead to interdependence of the state on a European base or, better said, within a European framework of constitutional pacts.

The image of a conglomeration of separate, “sovereign“⁵³ and full political entities, but yet integrated and interdependent equal political subjects pooling and sharing sovereignties might help to visualize the present constellation of the European Union.

As the federal version, but also the idea of a lose cooperation (federal Europe) of totally sovereign fatherlands, as favored by de Gaulle, has failed due to various reasons, a confederation-like constellation with federal elements has emerged. It seems that for now, for most states at least (quitting the UK as a whole after *Brexit*), this constellation has been the most acceptable common ground of cooperation, coexistence, partnership and integration at the same time. Although states vary heavily in their interests, size, resources, numbers of vote, they come together on a common ground, within a common framework on the same level. This accommodation has been crucial for a successful functioning (Requejo 2006: 5).

As a conclusion of this chapter, the plurinational character of the *sui generis* polity of the European Union, hence, is obligated. This structure and constellation leads to different methods, mechanisms and instruments to deal with each other, it even requires them, in order to cooperate, integrate and continue on a common ground, the European Union. One can see that consensus finding processes, long, heavy and exhausting negotiations is one main characteristic of the European Union. The mutual recognition as equal subjects requires different mechanisms, structures, processes and kinds of negotiations differently from the states. While the EU regarding the relation between states is horizontal, the states are within themselves vertical regarding the relation of its parts with the state, with each other. Because states in the EU have the same competencies, obligations and rights, because of mutual respect and recognition as equal ones, we can verify the idea that the European Union is a plurinational construct, a plurinational democracy. States are the sovereigns, they are regarded as such, the concept of being a fully

⁵³ The question of sovereignty within such integration process’ must be challenged. This, however, is part of the discussion of the tables in a further chapter.

recognized political subject is not questioned by any other member states, although resources, size, interest, etc. may vary.

12.3 The EU as a plurinational arrangement. A confederation?

As the European Union is usually referred to be a supra-national structure *sui generis*, the question of a political definition of the design of this union usually emerges. As a *sui generis* structure and a prototype at the same time, we can only make the effort to examine, to which foregoing known structures and orders the European Union might be compared to and how the EU differs from the features, factors and circumstances of the precedent cases which have ever existed. As the member states are *de jure* and *de facto* independent and formally sovereign, but at the same time interdependent and integrated into political, economical and judicial supranational structures, the idea of a comparison of the European Union to a confederate model emerges.

This leads the author to the assumption, that the European Union is a confederal-like structure as it fulfill most of the definable attributes of a confederation and as such interesting as a prototype for plurinational democracies. Nevertheless, this is the idea and the opinion of the author that the European Union tends towards the confederal concept, yet includes several federal elements and is a genuine a *sui generis*. This opinion is also shared by McComrick (McComrick 2015: 38). The same author, McComrick, also points out that the concept of a confederation is possibly not in fashion right now, as in the past, confederal attempts have been very short living or are associated in a negative context, such as the Confederate States of America (McComrick 2015: 38). As the member states maintain their formal sovereignty and continue to exist as full political subjects among each other, interdependently connects and integrated within the EU structure, we will not follow the mainstream trend and avoid examining the EU as a plurinational polity from the confederal point of view. It's more, this chapters will analyze the EU exactly from a confederal perspective without leaving behind the federal aspects.

First of all, an examination on, what the confederal concept is, is carried out. In the mainstream, the term of a confederation is usually avoided, but is, according to McComrick citing Malone, a pretty precise description of what the EU is (McComrick 2015: 38). Of course, no single definition for what a confederation is, how stable it is, etc. exists, but there can be a set of characteristics found on that type of organization describing it. Several definitions of what a confederation is have been researched and some main attributes have been extracted in order to present them here as a basis to work with.

Hugues Dumont counts several features, factors and the framework of a confederation as:

„ (...) an association resulting from an international treaty concluded by sovereign and independent states with a view to managing certain issues jointly: ordinarily, foreign policy, defence, international trade, maintenance of order, domestic market and currency (Dumont 2012: 85).“

Dumont defines especially the aims of the union and the issues to be managed jointly. It defines, hence, the tasks and functions of such a union, to give it sense and legitimation to exist.

Further concepts of a confederation are the following ones:

“Confederation is the permanent union based on agreement of independent states for the purpose of protecting the territories of the union externally and maintaining peace between the states of the union internally. The pursuit of other aims may in addition be agreed upon. Such unions require a permanent organization for the fulfillment of these aims (Ellis 2003: 343).“

Ellis, citing Schücking, who adopted his definition from Georg Jelinek’s “Allgemeine Staatslehre“, mentions here as well the *permanency* of an organization, which requires the political will and the strength to keep on working on that union. This permanency is linked to the existence of the union itself, such as the permanent organization of the same.

It is an interesting fact that, when searching for the term “confederacy EU“ on *google books*, a n impressive amount literature about the European Union pops out. This is not a coincidence but rather indicates, that the concept of *confederacy* and related terms are linked somehow by both, researches and authors, to the European Union and its constellation and design. Literature linked to the European Union also defines the concept of confederation linked with an “(...) *intergovernmental arrangement, in which national sovereignty remains intact despite the establishment of a common institutional framework. (Cini 2013: 77)“*. The author underlines specifically here the intact sovereignty of the parts, which compose a confederacy, stressing the importance as an essence of the confederacy of the sovereignty of the parts, in the European case of the state.

Furthermore, it is also argued that a confederacy is not a sovereign state, as it is composed by sovereign states already (Bevir 2006: 136). The European Union is not a state and although it has legal personality and maintains diplomatic relations and recognition as a subject of international law, but this is not something, which is genuinely reserved to states, as the Sovereign Military Order of Malta shows⁵⁴. This supports also a confederal character of the European Union in its *sui generis* constellation.

Cini argues that a confederate model is rather a defensive one regarding attempts of supranational actors trying to expand the extension of powers and where the scope of integration is extensive, but the level of integration is low (Cini 2013: 77). An extensive scope of integration, but a low level of the same do not necessarily contradict each other. A confederation is naturally made up of formally sovereign units, which try to maintain or defend their very individual interests. This means that, although an existing extensive scope of integration may exist, but the level - due to formal sovereign interests - of integration might be seen as low. A good example here is the criticism on

⁵⁴ Official website of Eur-Lex Access to European Union Law. International agreements and the EU’s external competencies, www.eur-lex.europa.eu

how slow the EU develops, such as the difficulties of establishing a EU constitution. This hasn't happened for now as there was no unanimous support for it. Another point of criticism is the EU as a body and its low capacity of acting such as during the so called refugee crisis since 2015. The EU is labeled to be a paper tiger and a bureaucratic monster even. However, this bureaucracy and the incapacity of acting stronger, and not only being big and great on the paper, depends on the states and their will (or not) of delegating competencies towards this paper tiger and make it competent. Although the European Union is aiming to build an "ever closer union", it does not say to which extend and how this aim shall be reached. In this sense, the EU is rather defensive in the sense that the scope of integration is extensive, but the level quiet low, as in a confederation, none of the polities -states in our case- is willing to fully give up its sovereignty and to subordinate to a larger polity. This would strengthen the central government of that super-federation and mean also a higher degree of centralization

It seems also that, practically, there is a tendency towards further centralization at the present moment of the thesis. The past shows that confederacies have turned into federations (e.g. Switzerland, the United States of America), or even into states with centralist tendencies such as Indonesia or Russia (Bevir 2006: 136). This might imply the assumption, that confederacies are unstable structures and have historically had serious structures in maintaining their structural balance. The EU, however, is not unstable in that sense, as it has already not only survived, but also developed and evolved by its own evolutionary logic to what it is today. Is it an unstable confederation-like polity? For now, no serious crisis has questioned potentially its existence in its fundamentals, but the future will show, whether the EU can be stable being confronted with upcoming challenges.

However, when looking back to European history, the Holy Roman Empire of German Nation could be regarded as some kind of a pre-modern confederation of sovereign entities, which has lasted for centuries, nearly one thousand years, before it was dissolved by Napoleon in 1806 and was preceded by the German Confederation for another half a century (Elazar 1998: 46). In the light of struggle for power and dominance in Central Europe, the German Confederation was dissolved and the German issue was solved by war in 1866. One might argue that such a confederation, in the light of the fashionable idea of creating its own nation-state, made the confederal agreement as such obsolete, but this remains science fiction and assumptions as we can not predict hypothetic cases. On the other hand, the German Empire of 1871 recognized still several elements of confederalism such as separate armies and head of states, but the power and the influence of the central state overweighted those of the states forming the empire. Latest in 1871, the confederation concept was history in Central Europe.

We can see that the idea of the nation-state might be opposing towards a plurinational confederation. From 1806 until the 1950s, no attempt has been done to reestablish such a plurinational confederation in Central Europe. Also, the quasi-confederations of Denmark-Iceland and Sweden-Norway ceased to exist, as the temptation of creating a fully separated nation-state was superior. There is also no guarantee that the EU might not face a similar destiny instead of a

federalization or a centralization. Other historical confederal attempts such as the secession of several states of the United States of America in 1861, for instance, lead to the American Civil War. The question on a territorial state arrangement was solved by war and the attempt was very short living. The democratic factor, hence, was also a minor one within those plurinational polities, but an important one when it came to the dissolution such as the Referendum in Iceland in 1944 or Norway in 1905.

These events, hence, must be seen in a different historical context than the European Union. When these events occurred, it was a different time with different movements (nationalism), such as a pre-democratic environment, when those confederal agreements lost their stand and gained the fame of being short-living unstable structures. The Holy Roman Empire reminds us, that, although it was probably more a *league* than a a state and as a power itself pretty weak, also lasted almost one millennium, which is a success of duration and in the end of the day falling more because of an external, an imperial French factor and then because of internal weakness (Graham 2005: 98). Yet, a low level, as Cini argues, was also one of the main reasons for it to be called a confederation or league and possibly also one of the reasons for its instability (Cini 2013: 77).

The duration of the Holy Roman Empire might be a strong argument against those saying that confederations don't last long. The reason for its duration might be interestingly its internal weakness, which the "central power" had and could exercise power. At the same time, a pre-nation-state constellation is not necessarily bad, but can be of advantage.

One interesting example is the United Kingdom, where there is no written constitution, but as all sovereignty lies within the parliament, the constitution is exercised from there. This circumstance opened the possibility for an independence referendum, something, classic nation-states would not see as compatible with their nature (one state = one nation → no secession). A pre-modern arrangement such as in the United Kingdom has lead to the post-modern possibility of delegating the sovereignty over the decision on Scotland's future by bypassing the modern nation-state. It was able to bypass the nation-state and state-nation logic, which has showed to be a dead end when regrind stateless nations.

The terms *confederal* and *federal* are related, as one obviously can see. For both, not a single one, but several definitions exist. This is the nature of social science, as it is not maths and follows different, subjectively influenced logics and definitions, which can change and be interpreted differently. Although for both exist no fixed definition (as often in social sciences, it depends on the author's point of view), we should try to make a difference between these two related, yet crucially distinct concepts. Furthermore, the question, how the theoretical concepts exist in reality is a different one that will be examined as well.

We shall now point out the differences only to make the reader understand in what they differ. Federal or confederal types exist or have existed very rarely in their purest form and usually included elements of other arrangements such as centralist elements in federal structures and the existence of hybrid states (Watts 2013: 19).

As both are made up of units, the confederation is supposed to have a rather weak central government (Bauböck 2005: 93). A deeper examination of this vague description will be conducted now. The question, what a “weak central government“ is can only be found either by testing factors or by comparison of different polities of the same type. Again, the answer here is rather subjective than objective. Watts tries a further attempt of categorize federal structures and arrangements (Watts, 2013).

To distinguish first the idea of a federation from a unitary state, the federation and a unitary system distinguish themselves in the location of sovereignty and ultimate political authority (Watts 2013: 20). While in unitary states, the ultimate authority is the central government, federations include also a territorial division into units with a degree of territorial autonomy (self-rule), where elements of shared-rule between the central government and the unit authorities exist (Watts 2013: 20).

Watts claims that a Federations are:

“(...) compound polities combining strong consistent units and a strong general government, each possessing powers delegated to it by the people through a supreme constitution, each empowered to deal directly with the citizens in the exercise of its legislative, administrative and taxing powers, and each with its major institutions directly elects by the citizens. (Watts 2013: 22)”.

Federations are, according to Watts, furthermore a system, in which neither the federation, nor the constituent unit is subordinated to each other constitutionally in the way that the competencies are clearly defined (Watts 2013: 22). He also defines confederations as a polity:

“(...) where pre-existing polities join together to form a common government for certain limited purposes (usually for foreign affairs, defence or economic purposes), but the common government is dependent upon the will of the constituent governments, being composed of delegates from the constituent governments, and therefore has only an indirect electoral and fiscal base Watts 2013: 23).”.

It is obvious, that the common feature of federations and confederations by the typology of Watts is a system composed by units and a common government. Although on the first sight, they seem similar, there are quiet striking differences. First, a federation can be constituted in a top-down process by federalizing a country or a system, as happened in Belgium for instance. A confederation comes voluntarily together of pre-existing polities and the units remain full political subjects equal to each other (Watts 2013: 23). Second, a federation divides the power and delegates some competencies to the units while maintaining a series of crucial competencies (especially what we know as core-competencies of the state). A confederation and its government only shares a a very limited series of sovereign fields, depending on the voluntary of its units as they never cease to be the main actors. The units as the main actors does not cease to exist and is permanent. This, of course, does not mean, that a federalization could not take place and a hybridization by evolution emerges (Watts 2013: 19). Third, a federation has in many cases a bicameral system, in which the federation as a whole (for example the *Bundestag*), such as the units (*Bundesrat*) are represented, while a confederation is composed of delegates from the

governments, that constitute the confederation, which makes it having only an indirect electoral and fiscal base.

12.3.1 Confederal characteristics examined in the EU-prism

Is the European Union now tending to be more like a confederation with federal elements? At least, it's a confederation-like arrangement from what we could see in the previous chapter. This is the assumption, although being aware of the fact of hybrid systems and polities and the EU as a polity *sui generis*, which doesn't mean anything else than a system, that is a hybrid one as it does not resemble a pure system, neither a federation, nor a confederation. However, the assumption tends to state that the EU is as a polity more like a confederation. Reasons for that can be derived from the comparison of a classic federation and a confederation.

First, the EU was not constituted in a top-down process, but by already existing polities - the member states - which "came together" to form that polity and remaining the full political subjects, juridically the "masters of the treaties". Second, the competencies are only partially clearly divided. Also recently, the distribution of competencies wasn't clear, whether it was of the states only or the European Union, as passing CETA showed (Van der Loo 2016: 1).

However, and although the states remain formally sovereign, there is a series of shared sovereignty, which has converted them by deeper integration into interdependent states. The struggle for whether the EU shall become more federal or maintain and even expand its confederal-like agreement has never ceased to exist since the beginning and the tendency has shown here influences from both, federal and confederal elements, which will be discussed here under the confederal point of view. Here we will see that the arrangements go beyond the definition of a confederation set up by Watts, what does not make the EU less confederation, but amplifies it with federal elements, as this is normality for such polities (Watts 2013: 19).

A series of definitions on confederacy and confederation have been mentioned. At the same time, from each one of these definitions, some new aspects can be highlighted and extracted to view them in the light of the European Union. The following chapters will evaluate each of the selected aspects.

Interdependence and integration have led to joint agreements on joint tasks, as Dumont argues. Some of them, which he mentions, are complied, others are not (Dumont 2012: 85). He mentions, that certain issues are managed jointly in a confederation, such as „ (...) *ordinarily, foreign policy, defence, international trade, maintenance of order, domestic market and currency* (Dumont 2012: 85).“ These arguments will be examined in a very detailed way in order to come to reliable conclusions about the confederal character of the European Union. First, however, the examination will start with the structures of the European Union from a confederal perspective such as its duration.

12.3.1.1 The structure and duration of the EU

A structure is indubitable necessary for every organization. Regarding the confederation, authors postulate that „*Such unions require a permanent organization for the fulfillment of these aims* (Ellis 2003: 343)“. As Ellis mentions the *permanence* of the organization for that the aims it sets itself can be fulfilled, as a fundamental feature of a confederation. If permanency - which is also a vague and subjectively interpretable term - isn't given, then no trust-building mechanisms, which lead to further progress can evolve as a logic consequence. Yet it is also logical that permanence is required in order to build up and to maintain an organization, which follows certain goals, such as partly defined by Ellis as “*(...) protecting the territories of the union externally and maintaining peace between the states of the union internally* (Ellis 2003: 343)“. Especially mutual protection of and by the union by those sovereign states from internal and external threats requires political trust and mutual recognition. The security policy and the defence policy of the European Union will be discussed in a further chapter in this analysis as this chapter only aims examining the structure and the duration of the European Union from a confederal perspective.

Ellis does not give any instructions on how this union is supposed to be organized besides mentioning the *independence* of the states. It has, from his point of view, to be an organization, which recognizes and respects the independence of the states or, in other words, a full recognition of the states as full political subjects and among the union the main actor and the main sovereign (Ginsberg 2010: 185). The trust-building mechanism should also not be underestimated, as this „federal trust/distrust“, as Requejo calls it, also is in a reciprocal relation with nation building processes, which naturally exist in plurinational polities (Requejo 2006: 9). One factor for trust/distrust is the existence/absence of clear mechanism, which allow stateless nations a participation in the shared government of what he defines as a federation, from their singular character such as rules, which protect those minorities from action of the majorities (Requejo 2006: 9).

Dumont specifies the formal structure, based on international norms, on how the confederation should be established, and which is: “*(...) an association resulting from an international treaty concluded by sovereign and independent states with a view to managing certain issues jointly* (...)“ (Dumont 2012: 85).

This *association* is, hence, the outcome of international treaties - in our world the common way to establish alliances, associations, states of peace and war are judicially concluded and accepted norms - and in this case the European Union. There is no doubt that the European Union is an organization with structures, in its particular case, it is a system with intergovernmental and interdependent structures based on shared sovereignty in several fields (Ginsberg 2010: 185). First, this guarantee of sovereignty is fundamental regarding the requirements to classify the European Union as a confederacy or as a confederation-like structure. Second, the “ (...) *association resulting from an international treaty concluded by sovereign and independent states*

(...) (*Dumont 2012: 85*)“ does in fact emerge from an international treaty or, in this case, from a series of international treaties since the 1950s under international law between independent states (Zierer 2015: 84, Blanke/Mangiameli 2013: 53). Independence is given, yet complemented by the delegation of competencies to common European institutions and, hence, altered towards a hybrid interdependence between the sovereign and independent states and the European institutions. This interdependence has been deepened and is also known under the term European Integration.

Although Ellie's main focus seems to lie on internal and external defence and maintenance of the union as such, he starts his interpretation of confederation as “(...) *the permanent union based on agreement of independent states for the purpose of protecting the territories (...) (Ellis 2003: 343)*“. Regarding now the European Union and its history, we first have to remember that the European Union of today is not the European Union of what it was fifteen, thirty, forty years ago and even less, when the European Coal and Steel Community (ECSC) was founded in 1952. Cooperation and integration have been deepened, complemented by intergovernmental policy-making forms, synchronizing, harmonizing and delegating competencies and letting an own dynamic of transformation emerge. Although the European Union is completely different from the former constellations of European integration, it hasn't emerged suddenly and unexpected, but from a steady process and political will of all involved actors, mainly the member states and, as they emerged, also the EU institutions. Regarding most confederacies composed by nation-states, in the XIX and XX century, there is a clear tendency to the confederacy as a short-living and weak political constellation. The European Union is fragile and vulnerable, as the emergence of Euro-skeptic parties and, last but not least, *Brexit* have shown. Can it be said, that the European Union is a permanent union, as Ellis states (Ellis 2003: 343)? The answer is : yes, it can. At the time of writing this thesis, the integration process has lasted for more than 65 years and has been deepened by delegating competencies and creating common institutions and widened by enlarging the number of the member states. As mentioned, the EU has transformed itself and neither not set up an inflexible agenda, nor has it become a state in the Westphalian sense (Jolly 2007: 8). The European Union has not fixed itself to a term, which might determine its goal, its future, but has renamed itself from *Community* to *Union* during the deepening of the integration process (Blanke/Mangiamelli 2013: 53).

The conclusion can be drawn, that the EU can be classified as a more confederal-like structure, regarding its structure and arrangements and the time it lasts (not short-living) and, with the exception of the United Kingdom, neither a withdrawal, nor disintegration have occurred. The sovereignty and independence of the states is given and protected, yet intergovernmental structures and interdependencies on a political, judicial, economical and social level have been reached. This point of view is also shared by several researchers (McComrick 2015: 38). To exemplify it and not talking only from a theoretical perspective, decisions taken in Brussels commonly and by EU institutions do have a direct impact *on* the people, although it is not the government *of* the people, as a confederation is supposed to be (Burgess 2000: 265). The federal

aspects can also be seen for example in the European Commission as the quasi executive power within the EU or the European Court of Justice (McComrick 2015: 38).

12.3.1.2 The foreign, defense and maintenance of order policies of the EU

Foreign Policy and defense within the European Union are legally mentioned and determined in the CSFP. One vital actor here is the PSC, which on a regularly basis meets to define the EU foreign policy and which is made up by representatives of each member state and also includes the institutions European Commission, European Parliament and the EU courts (Kaczorowska-Ireland 2016: 222). Furthermore, the principles of a common foreign and security policy are settled in the Treaty on European Union in Article 21. - Article 46. NATO is also included in the concept of territorial defense, although its a different body, which also consists of non-EU states, such as the United States of America or Albania, only to mention one European and one non-European state. The Maastricht Treaty as the precursor of the Lisbon Treaty already included the formulation of a common foreign and security policy (Needham/Dransfield 2000: 240). This explanation, of course, is only a small superficial mention, that there exist some efforts and structures for a common European foreign and defense policy.

However, despite all efforts, Federiga Bindi and Irina Angelescu argue, that the strategies of the European Union for a common foreign policy can not be equated with national foreign policy (Bindi/Angelescu 2012: 325). They conclude as well that the EU hasn't been able to formulate a common foreign and defense policy regarding international events, such as the so called Arab spring, but currently, and especially due to the geographical proximity, the hostilities in Ukraine (Bindi/Angelescu 2012: 325). Both authors attest as a main reasons missing consensus in crucial questions of how to act and react to external events, to which the common foreign and defense policy is focused, but this missing consensus is at the same time part of the nature of the European Union (Bindi/Angelescu 2012: 326, 327). Especially the diversity of opinions and interests of the different nation-states and the recent crisis' lead to that missing consensus, a missing goal for a common foreign policy and also to difficulties to act unanimously on the articulation on a low-key strategy document (Bindi/Angelescu 2012: 327). Nevertheless, although defence cooperation is still quiet limited, former military structures were included into the post-Lisbon Treaty, European Union and EU-led missions can be carried out (Dominguez 2015: 33).

One should be also reminded that the Cold War also lead to two blocks with common defense and foreign policy goals, NATO in the west and the Warsaw Pact in the east, so no need for a further functioning, unique European streamlined defense mechanism was needed. Also, no common ground on forming a common foreign policy and defense strategy was elaborated after the end of the Cold War, although ideas for a unique European army were already elaborated in the 1950, especially the Pleven plan and the European Defence Community, aiming to form a *de facto* European Army. This plan, however, was never put into action. There are many reasons that can

be detected why it failed. Some might argue that in fact, no supra-national ambitions, but rather the wish to delay German rearmament, so recently after the experiences of the Second World War, were one of the main reasons (König 2004 : 404). Furthermore, an exclusively European army might weaken the NATO as a separate defense organization, as it was also argued (Large 2000: 95). Cooperation and joint units, such as the Franco-German Brigade for instance, is incorporated into NATO. However, the EU also has set up some missions with military character such as currently in Mali, only to mention one example. Armed conflicts, also within Europe, after the end of the Cold War have revealed significantly the weakness of the EU to respond adequately to threats and conflicts, as especially the Yugoslav Wars in the 1990s, on European Territory, have shown. Another significant example is the 2003 invasion of Iraq, where France and Germany spoke out against forming part of the military operation, while other states took part in the „Coalition of the Willing“, or the military intervention in Georgia in 2008 or in Libya in 2011 (McGoldrick 2004: 82). Especially countries of Central-Eastern Europe, which were just about to join the EU, but also other EU members such as Spain, Italy and the United Kingdom, took part in that US-lead operation. This, however, exemplified, how a common tendency in defense and foreign policy existed, but stressed once more again, that the states were despite all integration processes, the main actors with the last word.

The Lisbon Treaty has implemented in the European integration process also the European Union as a military alliance with defensive character, specified in Article 42, 7, yet recognizing the importance and position of NATO in case of attack. The Lisbon Treaty also implemented two further benefits for the European Union foreign policy, which are on the one hand that the EU gained “legal personality“, and on the other hand the creation of the European Union diplomatic service (Bindi/Angelescu 2012: 331).

The current situation shows that a common position on strategy for defense and foreign policy hasn't been found. In the light of the he events in Eastern Ukraine, the current President of the European Commission, Jean Claude Juncker, has spoken out for a European Army (Müller-Brandeck-Bocquet/Rüger 2015: 249). This means that the elites have, in the light of new events and challenges such as an emerging Russia and the latest statements of President Donald Trump on NATO, not given up the idea of a common defense policy and structures. Nevertheless, the European Union still does not have made more serious attempts on reviving the idea and implementing it. NATO still isn't unchallenged as the unique and genuine military alliance and a common policy also towards Russia or any big issue hasn't been found yet. Recalling Dumont's definition of “(...) *an association resulting from an international treaty concluded by sovereign and independent states with a view to managing certain issues jointly: (...), foreign policy, defence, (...)* Dumont 2012: 85).“

Besides common foreign and defence policy, but related, especially to defence policy, also the jointly agreed maintenance of order is mentioned by Dumont and shall be displayed here (Dumont 2012: 85). What can be understood under the jointly managed issue of the maintenance of order?

It is a vague expression of jointly managed issues. In this examination, one should consider three factors of maintaining order: first the military cooperation (that has already been discussed above). Second, the cooperation of further national security bodies such as police and secret services. Third, the treaties of the European Union also are a factor of maintaining the order jointly.

As the first factor has been already deeply analyzed above, the examination can directly switch to the second factor, the cooperation of further national security bodies such as the police and secret services on a European level. Internal security is an issue, which has been regarded - and still is - as a core competencies of the nation-state and a state, which had a lack of possibility to use physical force as a state monopoly has been regarded as a failed state (Jachtenfuchs 2005: 37,39). Although the military and the police has developed into two distinct organizational structures and is therefore regarded and perceived differently but, as Jachtenfuchs argues, both are one side of the same coin in terms of understanding the nature of the state and the inked potential changes in it (Jachtenfuchs 2005: 38). The need of change from a pure state monopoly towards even intergovernmental cooperation is given due to the internationalization of organized crime, as the scenery has changed within the last half a century, as the international acting terrorism and trafficking of goods, people and drugs clearly show (Jachtenfuchs 2005: 40). These circumstances lead to a change by overthinking the old structure and the problems the exposed challenging these new threats for the state and its monopoly, but its limited possibilities to act due to these old structures. It has not been only the competencies of the police and the military on a national level, which have become more fluid, but due to its international characteristic of organized crime and the single market. Especially the open border policy without control on a European level due to European integration require a rethinking and restructuring of the bodies of maintenance of order in Europe (Jachtenfuchs 2005: 40). In this light, we can take a look on military cooperation in Europe: it's not only the Lisbon Treaty, which also turned the EU into a military alliance, based on Article 42, 7 of the Lisbon Treaty, but also NATO, which - due to the Cold War and the East-West confrontation - has shown the need for the west to create a strong alliance against the Soviet Union and its allies. Now regarding police cooperation, it has emerged a lot later, since the 1970s slowly, as each country had developed differently in their organizations, norms and specializations and especially international terrorism and namely 9/11 have been a trigger for further cooperation in Europe (Jachtenfuchs 2005: 43).

Although Interpol, a tool for police cooperation fighting organized international crime, was established already in 1923, police cooperation on a European level only really started in the 1970s, as the former heads of state, namely Charles de Gaulle, did not want to give up this core competency of the state (Occhipinti 2003: 31). In 1975, during the EU Council meeting in Rome, the creation of a body for cooperation in criminal justice and policing was decided and lead to the so-called Trevi Group, which can be seen as the third pillar of the EU (Occhipinti 2003: 31). Once again, it becomes obvious, that it was a decision taken by the sovereign states in order to cooperate more tight together and also slightly sharing sovereignty over this core competency of the state. This is another indication, that cooperation in a broader sense and its effectiveness convinced the council members to disengage themselves from the old-fashioned and only limited

effective way of viewing the core competency of security issue, in this particular case the police cooperation. However, European institutions were at that time not involved, as this process was conducted intergovernmentally⁵⁵. The urgent need to act with those intense and new forms of danger of terrorism and the inability of Interpol and the United Nations have been clearly a trigger, as the 1970s were in Western Europe marked by terrorist attacks such as the RAF or the Munich Massacre in 1972 (Occhipinti 2003: 31). Being formed by ministers and experts of the countries and having an intergovernmental character, the Trevi group came simultaneously to further EU integration and seems only a logic consequence due to the internationalization of the problems and the urgent need to act more effectively (Occhipinti 2003: 32). A further expansion of the field of cooperation came hand in hand with the mentality and ideology of building a closer European Community as a true political entity as an internal factor with the idea of unification (Occhipinti 2003: 33). The idea of a complete liberalization of the four freedoms in the EU and the abolition of EC-internal border controls also lead to the requirement of a rethinking of the cooperation and coordination especially on the external Schengen border.

With Maastricht, the police and judicial cooperation was set up in the third pillar of the European Union, which previously was named the Justice and Home Affairs. In 1994, Europol - as a successor of the Trevi group - was in the light of the Maastricht Treaty created and eventually integrated into the the third pillar of the European Union (Gerspacher 2013: 151). Europol started its work only in 1999, after in 1997 further structure and organization was provided and the cooperation of the Police of the member states was adopted to the third pillar of EU law (Gerspacher 2013: 152; Milt 2016: 1). A further expansion was done with the Prüm convention in 2008, which is mentioned here especially to show another important step of cooperation and deepening this former core monopoly of the state in European structures.

It is important to mention that although this common structure was established, Europol does not posses any decision-making power regarding its approach to international police cooperation, but its mandate is drafted by the member states (Gerspacher 2013: 152). Only the national police can arrest citizens and, in this case, Europol is not comparable with the FBI (Jachtenfuchs 2005: 48). Although police cooperation is completely woven into the community framework, the European Commission and the member states share the power of initiative and the European Parliament is merely consulted on operational cooperation measures⁵⁶. Since 2010, Europol is an EU agency and financed with EU budget with 1000 staff members, aiming especially to improve the exchange of information between police authorities⁵⁷ and with grown operational powers. However, one of the limited but yet interesting competencies of Europol is the possibility to contact with third countries and to deal joint cooperations, as happened with the United States (Milt 2016: 3). Current

⁵⁵ Official website of Eur-Lex Access to European Union Law. Historical Background. The beginnings of cooperation (1975-85).

⁵⁶ Official website of the European Parliament. Fact Sheets on the European Union. Police cooperation

⁵⁷ idem

trends tend towards a further cooperation in near future with wider competencies besides a deeper development of CEPOL, the European Union Agency for Law Enforcement Training, founded in 2000 (Milt 2016: 3). One further indication for this trend is the 2010 set up COSI, the Standing Committee on Operational Cooperation on International Security in order to support this cooperation also from a further European Union standpoint or the EU INTCEN, the EU Intelligence and Situation Centre, formed in 2012 as an intelligence body of the EU supporting cooperation between national police (Milt 2016: 4). Denmark, Ireland and the United Kingdom have an opt-out right reserved, of which - in case of a hard *Brexit* - the UK might cease from Europol. Although Interpol and Europol seem to be quite similar, the quantity and the quality of information exchange is significantly higher than with Interpol and within the EU much more intensive than within the UN (Jachtenfuchs 2005: 48,49). Nevertheless, different interpretation of what a crime is and how it has to be handled is one of the main barriers of further and deeper transnational, European cooperation, such as the competencies of the national police units to act exclusively on national soil (Jachtenfuchs 2005: 48,49). Furthermore, Jachtenfuchs mentions the spillover effect, which police cooperation has (Jachtenfuchs 2005: 49,50). This means that integration on different levels such as economical or police cooperation have an effect and reveal the need also for further integration in other fields. Nevertheless, although institutionalization and embedding the monopoly of force, here in particular police, to international, supranational and intergovernmental institutions, the monopoly has not been transferred from the nation-states (Jachtenfuchs 2005: 50).

It can be said that, although there is not a single European police body, the search for efficiency given to past, present and future challenges and threats has called for cooperation, especially in a European Union with a history of growing integration among the member states.

Is this an obstacle to qualify the EU from this point of view a confederation? Not necessarily. Federal states, which imply a further integration and stricter hierarchy such as a centralized body also have autonomous police organs with determined competencies, which cooperate on a national level. One example is Germany, a federal state, where police matters are the competency of the states and the police is subordinated to the respective minister of interior of each *Bundesland* (Hildebrandt/Wolf 2016: 68). Furthermore, there exists also a Federal Police, the *Bundespolizei*, which also has determined competencies but is subordinated to the Federation. This doesn't mean that a cooperation of *Landespolizei* units can not act united if needed, for example when special occasions require a bigger or more diverse amount of police units. This, however, has also happened occasionally in Europe, such as during the last FIFA Eurocup 2016 in France, where foreign police staff was invited to support the national police, although it was exceptional and more a symbolic act⁵⁸. The EU still can be identified as a confederal-like structure, although the police cooperation lacks of a deeper cooperation and interdependence to be identified as a stable mutual factor. The existence of EU structures, namely Europol, such as the external and internal pressure seem to push together cooperation, although it remains basically a national competence, as also the EU commission had to acknowledge (Occhipinti 2003: 43).

⁵⁸ DER SPIEGEL, German weekly news magazine, *Turnier in Frankreich. Deutsche Polizisten helfen beim Schutz der Fußball-Europameisterschaft*.

It is not only the police cooperation within the EU, which has to be regarded from a confederal perspective but also the judicial cooperation. The judicial framework must also be considered part of what Dumont calls „ (...) *managing certain issues jointly: (...) maintenance of order (...)* (Dumont 2012: 85). This further judicial cooperation was requested by the member states and first met in the Maastricht treaty in 1992 and integrated into the third pillar of the European Union and named first Justice and Home Affairs (De Bondt/Vermeulen 2010: 19). The area of freedom, security and justice was introduced in 1997 with the Amsterdam Treaty aiming to facilitate and to secure the free movement of persons while jointly acting and reacting towards challenges as security and justice issues (De Bondt/Vermeulen 2010: 19). One first important step for deepening the judicial cooperation was mutual recognition of judicial decisions and judgements taken by the EU member states such as the requirement for approximation of legislation in order to facilitate judicial cooperation, mentioned in the Tampere Presidency conclusions in 1999 (Vermeulen/De Bondt/ Ryckmann 2012: 43). Within the last decade a set of tools, institutions such as a legal framework has been set up by the European Union and the member states in order to facilitate judicial cooperation and coordination in criminal matters (Vermeulen/De Bondt/ Ryckmann 2012: 43). The implementation of the Lisbon Treaty dedicates a whole chapter - the entire chapter 4 - to judicial and criminal matters.

De Bondt/Vermeulen/Ryckmann's statement can be affirmed, that the "stage of infancy" has already been passed by judicial cooperation in the EU but a lack of a long-term plan shows the difficulty of building up a structure of judicial cooperation in this union (De Bondt/Vermeulen 2010: 19). However, the European Union is not a determined Union with one determined aim and structure, but its rather flexible and evolutionary nature lets space and possibilities open in order to develop and continue to find for harmonization on the European level in judicial matters. Nevertheless, the autonomy of national legislative bodies has been affirmed and accepted by the member states. This means that a further harmonization by pressure might be hindered (Vermeulen/De Bondt/ Ryckmann 2012: 44). Nevertheless, it is logically in the interest of the member states to upgrade and improve the efficiency on the European level, as it is at the same time through different mechanisms of integration such as Schengen, the national level.

Furthermore, although the sophisticated reader should be already aware of their importance, the role of European legal institutions has not been mentioned yet but is fundamentally part of the legal framework for cooperation in the European Union. Decisions made by the EU legal bodies, known as the Court of Justice of the European Union, consisted of three courts: The General Court, the Court of Justice and the European Union Civil Service Tribunal, of which latter ceased to exist in 2016. Especially since the Lisbon Treaty, the European Court of Justice of the European Communities has received a set of judicial powers which is unique in the world for a court, which is not national, but supranational (Aliprantis 2011: 89). As the European Union is indeed the prototype of a supranational structure, this statement can also be affirmed, as all member states are committed to the European Court of Justice of the European Communities. As we could already see in the *Cassis de Dijon* case, the court has also been responsible as a legislative body crucially forth European integration process as its directives are binding for the EU member states.

This leads the states to further adaptation of the national laws with the European laws and, by doing so, to further standardization. Nevertheless, national legislative autonomy is guaranteed as far as it does not violate EU law. In concrete, the interdependence of national legislative with EU law is basic and leads to the mentioned and -in short- examined legal cooperation on a European level.

To reconsider what we discussed in this chapter, we make some conclusions on the topic of the foreign, defense and maintenance of order policies of the European Union from a confederal perspective.

In a historical and current analysis of the present state let only the conclusion emerge, that the EU is in this specific case, and from an orthodox and strict point of view, is not classifiable as a confederation. However, the duration and, due to complex internal and external challenges, the persistent and, although small, but yet visible development has been lasting for decades, despite all difficulties and not abandoned yet, except the United Kingdom due to an expected *Brexit*. Its enlargement can also be seen as a success within European Union foreign relations (Bindi/Angelescu 2012: 334). Although the EU does not classify as a *classic* confederation, measured by these standards, it is still a defense community with defense attributes and at least theoretical mechanism besides NATO. The foreign policy has shown to fail as a common direction, a clear articulation of foreign policy aims and following them jointly hasn't been seen yet. However, being not formulated or implemented can also be seen from an optimistic point of view as also a flexible attribute, not to frighten member states with contrary interests, but keeping on the integration process, although efforts and success seem tiny and almost invisible considering the importance of global events happening.

Police cooperation has been simultaneously with EU integration developed and deepened since the 1970. Events such as an internationalization of terrorism, drug smuggling, human trafficking and money laundering have pushed the states to make more efficient their fight against these challenges (Jachtenfuchs 2005: 43). The result was a shift from a pure state monopoly towards a cooperation and, with regard on the European Union, converting national police operations into European ones as the different efforts, such as building up special forces and institutions on the EU level, show. Nevertheless, there is a lot of potential for further cooperation on a European level, as integration and securing these developments demand also a further development of European police cooperation. This, however, does not mean to erase the state monopoly of the police but rather push towards a more interdependent cooperation. As in federal states for example, competencies can be shared or clearly divided, yet the integration on a European level and its potential can be interpreted to be still in the phase of a more developed beginning. It might be that further internal and external challenges such as illegal immigration and international terrorism and the global war on it for instance will deepen European integration on the police cooperation level. Having not one single police or any EU body with crucial competencies, as it lacks Europol as well, might not put in danger the concept of the EU as a confederation. Autonomy and sovereignty over police forces can still be national and exclusive matters of the member states, but the ongoing

cooperation shows a tendency towards a confederalization, as maintaining order as a joint issue is taking shape, although on a low and slow level (Dumont 2012: 85).

A third aspect which was examined here was the judicial cooperation. The framework given here is first of all the Court of Justice of the European Union, which is a legislative body and which is part of the European basic framework and its structure (Aliprantis 2011: 89). Its power over interpretation and its supervision over the compliance of the European treaties is decisive and unique. It has been a push factor for cooperation and integration on a judicial level as its directives are binding for the member states and have to be taken over into national law. This has not only smoothed and secured further integration, but also given way to a beginning synchronization of national jurisprudence. Nevertheless, the mutual recognition of judicial decisions and judgements taken by the EU member states such as the requirement for approximation of legislation in order to facilitate judicial cooperation (Vermeulen/De Bondt/ Ryckmann 2012: 43). Although it might be seen as an obstacle, it only shows how crucial mutual recognition and respect is in order to communicate and integrate as all national actors are seen on the same level, with the same importance and the same respect and power to decide over cases. We also have examined further judicial cooperation which is also still in its beginning, but push factors similar to those for police cooperation might push towards a further judicial cooperation, following the idea of the EU of a hybrid cooperation of mixed and EU-only competencies in a future. Different judicial policies due to the national competence, but at the same time woven into EU legislative and executive structures, show indeed that the idea of a confederal structure is given. While sovereignty of the national jurisprudence is guaranteed, supranational binding agreements have been done and need the approval of the members, as happened in the past with cooperation, structures and legislative bodies.

In a nutshell, the absence of a federal European army or police or any kind of similar all-European units, which are jointly managed and that have competencies all over the EU territory clearly show, that the EU is not federal in this aspect. The core competency of police and army remain genuinely within the states, although military integration exists in form of NATO and, since Lisbon, also within the EU as a defense alliance. Also, there seem to be several attempts to integrate further in security matters, which includes the military and the police forces. Such steps are highly supported by investigators on European integration and EU politicians (Verhofstadt 2006: 87) It might yet come to an obstacle, as the jurisdiction in each country is distinct and the interpretation of security issues may differ, which can cause conflicts between the EU and the member states when it comes to the question on competencies in the current state. For now, the confederal character regarding security is obvious, yet the influence of EU institutions and jurisdiction growing, which would support more the federal aspect. This, however, is up to future developments.

12.3.1.3 The domestic market and the international trade policy of the EU

If something has been the main characteristic of the European Union and its precursor organizations, it is the single market and its four liberties, for which the EU has been known to be a

successful project. This single market had, logically, effects on the internal and the external trade. This chapter will analyze the international trade policy of the European Union from a confederal perspective, diving deep into history to reveal its economical genetics. It means that not only the chronological development and the idea behind will be recalled, but also its effects on national and international, internal and external politics and the meaning of them. This chapter aims to examine it from the perspective, whether the EU can and should be qualified in this field as a confederacy or not. In order to examine the international trade policy of the European Union, the internal trade policy will be examined, as it emerged from the nation-states in a bottom-up and later a top-down integration. Furthermore, the external trade policy of the European Union from a confederal perspective will be examined.

However, and according to the definition of Dumont, examining the foreign trade policy of the European Union is impossible without examining the domestic market of the European Union, as it emerged as a basic ground for common foreign policy (Dumont 2012: 85). Therefore, no extra chapter for the domestic market will be opened here, as it would be only a repetition of what will be examined here.

Reducing the initial idea of the EU only to a single market is misleading and simply wrong. The creation of the European Single Market of today has indeed its roots in the beginning of European integration and is definitely one of the core elements, which the present EU would be simply unthinkable. However, one could see in the chapter on forming policy and defense policy, that it was not only the European Single Market and exclusively economic ideas, that formed the European Community, but also practical and political motives. Just like the (failed) idea of the European Defence Community, the economical integration or the trade policy has its roots in the late 1940s and early 1950s.

From a geopolitical perspective, Europe was *de facto* since 1945 divided into west and east. While the west contributed largely form the Marshall Plan, the Soviet lead central and eastern part of Europe formed the Council for Mutual Economic Assistance in 1949 as a reaction to the Marshall Plan (Zwass 1989: 227). It was, hence, a competition of two systems and ideologies. In the aftermath of the Marshall Plan, the West had to deliver a successful and appealing model to satisfy not only the economy, but also the people within its borders and against the much older idea of social justice under communism. Under the impression of the devastation of the Second World War, French president Robert Schuman mentioned on May 9th 1950 in a declaration to make war between France and Germany in the future "not merely unthinkable, but materially impossible"⁵⁹. Schuman referred himself here to impossibility by further integration, as it would only harm itself, whomever would attack

⁵⁹ Official website of the European Union

Based on the Schuman-Plan of 1950, the European Coal and Steel Community, formed by six countries, arose in 1952 in order to create relationship similar to a national market, focused on the branches of trade linked to coal and steel (also electricity, oil, nuclear energy) of the member states. The delegation of competencies from the member states to the European Coal and Steel Community shows that it was about to become more than a mere international economic community, but already on its way to a supranational organization or, at least, showing the trailblazer (Möller 1961: 133).

The Treaties of Rome in 1957 formally sealed the efforts of further integration, also on an economical level. Here, the European Court of Justice was established in order to clarify the meaning of community laws and the European Commission with the aim to monitor, implement and propose policies and laws and, by doing so, ensuring that free movement within the Community was effectively developed and implemented (McDonald/Deardán 2005: 40). With this political and judicial framework, the reciprocal integration process also on an economical level between the member states on a common European ground was established.

Although the European Coal and Steel Community did not cease to exist until 2002, the main actor became the European Economic Community in trade policy on an international level. In Rome already, the states were committed to create a Customs Union and a common market, requiring the free movement of capital, goods, people and services among the member states (McDonald/Deardán 2005: 39).

These efforts, of course lead to a reciprocal relation with the policy makers of the governments and the jurisprudence of each state, developing a genuine reciprocal dynamic of construction and integration of and within the political, judicial and economical field. The development in terms of integration can neither be mentioned, nor seen separately and isolated, but as all have become interdependently connected, their development must be seen linked to each other.

An integration, hence, required a framework, which was given by the politics and the judicial part of each member state. One example of a judicial decision in favor of integration of the single market is the well-known *Rewe-Zentral AG vs. Bundesmonopolverwaltung für Branntwein* case in 1979. The European Court of Justice interpreted in this case as unlawful, as the German administration wanted to ban the import of this specific liquor, as it did not match with the national standards of level of alcohol. Since then, the competition of most goods manufactured within the European Union was opened (Jovanović 2007: 184). This judicial top-down decision, simplified portrayed here, has given path to a further standardization and mutual recognition, the harmonization of standards and the EU setting only essential characteristics of the good as the corner stones of the European Market (Jovanović 2007: 184, 186; Gerken 2013: 89).

In the light of Maastricht, the European Single Market was finally created and realized as the customs union and a common external tariff barrier were created by the Single European Act (Needham/Dransfield 2000: 240). The harmonization and the standardization of course are not possible without political will and the mutual acceptance and recognition of national

and supra-national jurisprudence and political institutions, which develops its own dynamics of integration (Gerken 2013: 93).

With the implementation of the Maastricht Treaty, the European Community changed its face and its name. The European Union, with its advanced cooperation and integration on the field of trading policy, a further developed decision-making process within the European Union and the importance of the European Court of Justice were finally established (Needham/Dransfield 2000: 240). It seems that the common market as a trading space with its liberties has had a positive effect for both, industry and customers for various reasons, such as the freedom to choose the place of production sites, a bigger variety of goods and services available for reasonable prices compared to the homeland of the good, and the bigger market to sell them. Otherwise, the industry and the people would have most likely opted out by vote, lobbyism and social and political pressure from this framework.

Looking back on this short description of the history of the establishment of the foreign trade policy of the European Union, we can confirm that, what started as a cooperation between states has become an economic union with a stable political and judicial framework. While the trade cooperation was first an external policy of the single member states, it has converted itself in many aspects into an internal trade policy, now not anymore genuinely and exclusively national, but a European one. The German, French, Spanish, Polish, etc. market is not anymore exclusively national, but at the same time European. This transformation has had its consequences on the trading relations not only of the single member states - sovereign and at the same time bound to common agreements, decisions and laws - but also on the trading relations of the European Union as a whole. If Dumont argues that a confederation is “(...) *an association resulting from an international treaty concluded by sovereign and independent states with a view to managing certain issues jointly: (...) domestic market (...)* (Dumont 2012: 85).“

This leads us now to examine the external dimension of the international trade policy of the European Union. On a global scale and as a trade region, the European Union is nowadays the biggest economy in the world⁶⁰. The EU trade policy is integrated in the first of the three pillars of the European Union, the European Communities. Although national economies have their own weight on the international world market, the EU is seen as a trading bloc and is emblematic for the EU speaking with one single voice (Dominguez 2015: 31). It was established already in the Treaties of Rome in order to establish the necessary external dimension of the European Economic Union and is, therefore, according to the authors, the oldest and also most developed external policy of the European Union (Marín Durán/Morgera 2012: 46). The common commercial policies were also expanded, from goods also to services and since the Lisbon Treaty, a stronger legal basis was found compared to the foregoing Treaty of Nice, with focus on the rising

⁶⁰ Official Website of the European Commission. EU position in World Trade.

importance of the level of the European Parliament, the European Union itself as an actor and the European Commission (Dominguez 2015: 31, 32).

This doesn't mean that there is one centralized external trade policy, but nation-states continue to generate their own import-export numbers and their own GDPs. However, the member states have mutually agreed on standards and guidelines in order to form instead single trade regions (the nation-states) one single major trade region, the European Union. The already mentioned single market was a necessary requirement to act as a supranational trading bloc on a global scale. Not only the abolished inner tariff barriers and the standardization by internal integration converted the several single markets into one single big one. These conditions also gave path of acting with a single voice, as mentioned before, by a EU governance on external trade. Dominguez points out four different characteristics on the EU governance on foreign trade relations: first, a functioning, highly developed, functioning and stable institutional framework at the regional level, which is , second, equipped with a developed set of policy instruments, that gives the EU the capacity to perform variety of economic functions (Dominguez 2015: 32). Third, the EU policy-making influences the trading policy of the member states and leads, by internationalization, also to an adjustment of their international trading policy of the member states. Fourth, the European Union is recognized as a trading partner itself on a global scale as a global actor by other global actors (Dominguez 2015: 32).

From a confederal perspective, the given facts show that the EU does indeed fulfill the requirements of being classified as a confederacy or as a confederal structure regarding this specific field, the domestic market and the foreign trade policy. Standardization and harmonization on the economical field, which goes hand in hand with cooperation and integration on the political and the judicial level, have successfully created an economically integrated community. Abolishing barrier tariffs and the mentioned standardization and integration have created the European Single Market, which makes the member states still being trading entities as such by creating trade agreements for instance. They are still full entities, however integrated into a common structure for economic purpose, regarding especially this point. Without them losing their status as full and sovereign political subjects within the union, but by voluntary integration, this process has lead to a series of single markets into one European Single Market and the EU as a trading actor as well, which is regarded one of the biggest success of integration (Dominguez 2015: 31).

The EU is also a body, which has a series of policy instruments and an institutional framework with capacity to function, the EU is recognized as a partner which signs and deals trading treaties and is represented at the World Trade Organization (WTO) as a single actor (Dominguez 2015: 32). This integration process, however, has lead to the EU signing, negotiating or implementing as a formal body external trade relation treaties with 175 entities, such as single countries or other trade associations like MERCOSUR for instance⁶¹. The latest, and most likely the most polemic and debated trade agreement between the European Union and a foreign entity were the negotiations

⁶¹ Official website of the European Commission. Trade Policy, Countries and Regions

on TTIP and the following CETA, a free trade agreement between the United States of America and the European Union and, the latter, between the European Union and Canada.

These agreements are, from a confederal point of view on the European Union, very interesting. For weeks, the ratification of the CETA free-trade agreement between the European Union and Canada was in doubt because Wallonia, an administrative region of Belgium, was hindering Belgium from signing the free-trade agreement (Van der Loo 2016: 1). One of the basic requirements for the approval of the CETA free-trade agreement was the unanimous approval of all member states. No qualified majority vote could have taken over the process as all member states still remain sovereign and full political subjects and can in this process not elided.

Nevertheless, the question about the competency over deciding its ratification was not as clear as it seems today from the beginning but was controversially discussed in the EU and its member states as negotiations began in 2009 (Kleinmann/Kübek 2016: 1). While the European Commission argued that it was an exclusive matter of the EU only to decide over it, several member states such as Germany⁶² saw the competency on a national state level and therefore a mixed agreement, while Italy, namely the minister of economic development Carlos Calends, backed the “EU-only“ position⁶³ (Kleinmann/Kübek 2016: 1). In the end of the day, the agreement was interpreted also by the largest group in the European Parliament, EPP⁶⁴, as a mixed agreement, which required the ratification of the national parliaments.

This decision is therefore interesting, as the EU can be regarded as a single market as the national markets are fully integrated into the single market. However, as the member states share, but not fully ceased their sovereignty and still continue to be full sovereign, yet integrated and interdependent political subjects, a hybrid situation has arisen. In this case, the weight of the arguments towards national competencies as the ultimate sovereign in this question finally became accepted.

Now coming back to the case of Wallonia from a confederal point of view. How can an administrative region like Wallonia have such an influence to block or delay, as happened in this case, such a significant matter? In fact it is comparable to the same reason, why a single member state can block or delay matter that affect the whole European Union. As all member states are not uniformly organized and competencies are internally distributed differently, Belgium has as a state itself an interesting constellation that seems quiet unique within the European Union. The reasons and roots are in the Flemish-Walloon conflict.

⁶² Official website of the German Federal Ministry of Economic Affairs and Energy, FAQ about the CETA free-trade agreement

⁶³ Die Zeit Online, German national weekly newspaper, EU könnte CETA ohne Parlamente verabschieden

⁶⁴ Official website of the EPP group in the European Parliament. The ratification of CETA by national parliaments - a stepping stone in the transition from the old world of trade towards the new world of international trade.

Within the last decades, Belgium has transformed from a pretty centralized towards a very decentralized state with three communities and three regions, something in between a federation and a confederation (Caramani 2014: 188). Although the Belgian Federal Government emphasizes that Belgium is a federal state⁶⁵, competencies of the communities go beyond those of other federal entities in other states. The fact that Belgium considers itself a federation is not measurable with objective elements as what a federation or a confederation is, especially in names, depend on the interpretation of the state. Switzerland also carries officially the name Swiss Confederation and is not a confederation, but latest since 1847 a federal state (Caramani 2014: 188). One competency that goes beyond usual federal agreements within federal states is that the communities and the regions have the power to establish and to maintain foreign relations⁶⁶. Exactly this competency also for Wallonia and the rejection by Wallonian parliament lead to the paralyzation of further negotiations, as the Belgian Prime Minister, Didier Reynders, didn't regard himself entitled to ignore the Walloonian decision, although it was only his competency to sign it (Kleinmann/Kübek 2016: 23). Kleinmann/Kübek argue that the signing of the Belgian prime minister might have been regarded problematic under domestic (Belgian) law, but would be valid from an international law point of view (Kleinmann/Kübek 2016: 23). Both authors criticize the possibility of a 3,5 million inhabitant entity to be able to block an agreement, which affects 500 million people and interpret it as a weakness of the EU as an external actor and as "nostalgic", if someone does defend the mix agreement in such questions and such constellations, especially if multi-level-governance takes effect (Kleinmann/Kübek 2016: 23). They might be right that the EU as a supra-national, hybrid and confederal-like construct approaches a lot more obstacles, that might even lead to the end of negotiations, if an unanimous conclusion and basis can't be found. The EU does not ignore as foregoing constellation the voice of the single entity by imposing its exclusive decision over the entities, which possess competencies and the right to exercise them. It is, hence, and even though a lot more fragile and weaker yet a lot more democratic, legitimate and consensual and, by doing so, a lot more fairer and approving from both, the demoi and their different bodies. The EU showed, by doing so, a confederal mechanism, which fully respected and integrated different political realities and competencies of the composing entities, the member states.

Regarding now the European Union, its domestic market and the international trade policy from a confederal point of view, we can resume that integration and interdependence indeed fulfill the requirements of a confederacy. Through voluntary integration, standardization, harmonization interdependence, and shared sovereignty by ceding sovereignty to the EU as a supranational institution, the creation of a single market resembles in many aspects the single market of a state internally. Creating the internal market is also based on the free will of the main actors, the states, but has lasted for 70 years, and continued to be stable and even enlarging itself after fundamental changes of the world order in the early 1990s. The term "single market" has changed and shifted

⁶⁵ Official website of the Belgian Federal Government. Belgium, a federal state.

⁶⁶ Official website of the Belgian Federal Government. Belgium, a federal state.

from the single market on a national level towards a single market on the European level. A hybrid situation has emerged as the national markets haven't ceased to exist, and Germany for instance is according to the latest GDP numbers still the biggest national economy in Europe and the fourth largest in the world⁶⁷. The European Union at the same time can also be counted as a single market and is, therefore, having the second largest GDP, after the United States of America the second largest economy in the world (Eurostat 2016: 96; OECD 2015: 135). As for the European Single Market, it can be concluded that it has been a success, and although also being targeted by eurosceptic groups and politicians opposing further integration, never being in the main focus of the attacks (Dominguez 2015: 31).

The European Union, due to its pretty complete integration on an economical level can and is also counted as a single actor. It might on the supranational already go beyond confederal structures, mechanisms and policies and even more into federal structures, as the EU has many competencies regulating, harmonizing and standardizing the EU internal market. Some interesting and curious examples here are the Commission regulations on the detailed standards of bananas, condoms or cucumbers, which has often caught the attention and was criticized as a technocratic obsession for standardization on a for many people ridiculous level by the European Union (Purnhagen 2015: 56). Nevertheless, the EU has also shown itself able to act as a single actor on the global scale as the ability of signing external trade agreements show. The the EU is regarded as a serious and recognized partner and that the EU being able to speak with a single voice internally and externally in many matters is true and at the same time exposes the confederal structure of the EU. Speaking with a single voice doesn't mean here uniformity, but given the structure of the European Union sometimes long and hard negotiations with the national actors in order to come to an unanimous conclusion and result. This might imply that progress is slow and small or even hindered if resistance of the political main subjects, the member states, emerges. In economical terms, this occurred lately in in the CETA negotiations, the free-trade agreement between the European Union and Canada, as Wallonia blocked, due to its competencies on a national level, the unanimous vote to approve this agreement. The fact that the EU as an entity could not bypass or ignore the single vote of every member state reveals in an excellent way the confederal-like structure and mechanism, which qualifies the EU on an external level not only as a trading-bloc, but as a confederacy.

We can conclude that the European Union forming a single market and internally and externally speaking with one voice as a recognized trading partner, without ignoring the sovereignty of the states in the policy-making process qualifies it as a confederacy, as domestic and foreign trade relation are managed jointly (Dominguez 2015: 32; Dumont 2012: 85).

⁶⁷ Official website of the World Bank. Gross Domestic Product 2015

12.3.1.4 The EU monetary policy

Examining the monetary policy of the European Union from a confederal perspective is therefore important, as it is tightly linked to the previously examined fields of the European Union economy and European integration (Verdun/Wylie 2002: 241). Furthermore, Dumont stressed a jointly managed currency and its policy as a fundamental feature of a confederacy (Dumont 2012: 85). Therefore, the road to establishing the Euro as the common currency for several member states in the European Union from a confederal perspective will be examined.

As mentioned, the currency is tightly linked and interwoven with the economy and its policies. Understanding it from a confederal point of view, a throwback into history is required and inevitable. The idea of a common currency for Europe roots back at least till the beginning of the XX century, when already after the First World War, when the German foreign minister Gustav Stresemann demanded at the League of Nations in 1929 a common European currency (Heise 2013: 5, 9). Although with the Treaties of Rome, the economic and, therefore, also political and judicial integration was set up, the idea of a common monetary policy attracted only the interests, when the Bretton Woods System began to collapse and rethinking monetary coordinations were required (Heise 2013: 9). It was, hence, an external factor, which had its effect on a global scale and due to international trade and the geopolitical situation also of the European countries of the western bloc, which made this idea favorable.

In 1964, the decision, that central banks of EEC Member States in the field of international monetary relations should cooperate, was taken by the European Council, was taken (Heise 2013: 9). Regarding the collapse of the Bretton-Woods-System, already before, and based on the so called Barre Report or Barre Memorandum, the idea of maintaining the increased living standards and the faster economic growth should not be endangered by divergent and destabilizing macroeconomics forces, which were foreseeable already in the late 1960s (Mulhearn/Vane 2008: 28). Also, from the point of view of the Commission, the integration process needed to be carry on (Mullhearn/Vane 2008: 28). Communication on the exchange rates could only be favorable for the European Single Market and its integration in terms of the exchange of goods, especially since volatile exchange rates were commonly seen as a barrier to further and deeper economic integration on a European level and unfavorable especially for smaller national economies (Heise 2013: 10). Therefore, in 1969 at the summit at The Hague, the creation of a Economic and Monetary Union (EMU) (Heise 2013: 9).

Once again we can see that the creation of the Economic and Monetary Union at The Hague in 1969 was build upon the voluntary and sovereign will of the member states, as economic integration was seen favorable in economic aspects. It was, in this sense, no top-down implementation and imposition by the European Economic Community (EEC), but from a confederal perspective the voluntary first step to "fusion" by interweaving and integrating national competencies on the monetary policy level. It is, hence, a regionalization and, due to the status of the nation-states as full and sovereign political subjects, a *confederalization*. The EEC created, in

the light of a foreseeable collapse of the Bretton Woods System, an alternative for the EEC members to become more independent from the effects of US monetary policy and economy, in fact a European alternative to external macroeconomic shocks (Mullhearn/Vane 2008: 31). Already in the 1970s, further integration of economic and monetary policy on a European level were seen to lead to a common currency in a future, although in the beginning, smoothening the capital exchange and the internal market were the main goals as trailblazers (Heise 2013: 10). The so called "snake in the tunnel" system was designed to stabilize the European currencies together against the Dollar and was also adopted by the new members, Ireland, the United Kingdom and Denmark, which meant a further integration and expansion of the EEC, but as a whole failed to work as a system for closer monetary integration and cooperation (Heise 2013: 11; Kaelberer 2001: 106,107).

In 1979, initiated by France and Germany, but agreed by the European Council, the European Monetary System (EMS) was created with the goal to compromise all currencies of the EEC, which are based on a European Currency Unit, the known ECU, to maintain monetary stability (Heise 2013: 11). This system was embraced by all member states, except the United Kingdom, with the aim to replace the German Deutschmark symbolically as the political currency of Europe and to introduce a benchmark for calculation of exchange rates for a credit mechanism between the member states (Heise 2013: 11-12). Heise sees the creation of the EMS as a turning point in European monetary integration (Heise 2013: 12) The EMS central rate changes now were no longer unilaterally, but commonly decided and lead to more political integration as well as it affected directly political posts such as the minister for finance of the member states (Ungerer 1997: 173). It permitted, that external effects of national policies were authentically internationalized, as an integrated monetary policy with the member states interwoven disciplined and motivated the own behavior (Ghymers 2005: 59). The creation of an economic and monetary union was concreted in the late 1980s as the complete liberalization of capital movements was passed in a directive by the European Council in 1988 (Heise 2013: 12). Under the french minister Delors, former minister for economy, finance and industry and with the approval of the European council, the creation of the Euro as the common currency was adopted. Some authors argue that sacrificing the Deutschmark, the national currency and also part of its successful post-war identity, was the price Germany under its chancellor Helmut Kohl had to pay to unify, but opinions differ here (Heise 2013: 12-13; Leaman 2013: 120). This step could be seen as some kind of political blackmailing as France and the United Kingdom were expressly opposed to German unification (Larivé 2016: 53). Sacrificing the Deutschmark, the strongest currency of the European Community by Kohl was indeed a harsh step, which many people in Germany rejected. Nevertheless, the European Council - all member states represented by their governments - came in 1989 together to identify the final tasks to implement the European Monetary Union to deal the creation of a monetary, economic and political union (Heise 2013: 13). The outcome was the Maastricht Treaty in 1991, signed in 1992 and ratified in 1993 and from a monetary policy point of view, giving path to the creation of the Euro as common currency and creating the European Central Bank and fixing exchange rates of the national currency for the common currency (Heise 2013: 13). The heads of the member states of the European Community - later the European Union - decided to cede

sovereignty over monetary management to that supranational, European institution (Kaltenthaler 2006: 1). Although some crisis' during the 1990s due to difficulties of harmonizing the exchange rate to the real GDP, Germany's demand for a Stability and Growth Pact were accepted by the Council meeting in Madrid in 1995 - a step, that from the late 2000 would expose the vulnerability and lead to the so called Euro Crisis (Heise 2013: 14). In 1998, the Council of the European Union announced, which member states meet with the requirements and would form the first group of states adopting the Euro as their currency and in 1999, with fixed rates, the Euro became adopted by the market and in 2001 handed over to the people (Heise 2013: 15).

Since then, the Euro area was enlarged towards the East (Lithuania, Latvia, Estonia, Slovenia and Slovakia), while the North and West of Europe (Sweden, Denmark, the UK) refused to introduce it and withdraw from their national currency to the Euro as a common currency. The Danish *demos* refused to give up its currency by refusing the Maastricht Treaty in a first referendum, but as Denmark finally would not take part of the common currency Euro, the Maastricht Treaty was approved in a further referendum (Mulhearn/Varne 2008 :121). A further referendum in 2000 confirmed the rejection of the Euro. It was not only the concern on losing its sovereignty over the own monetary policy by adopting a common currency, now in the hand of a supranational institution and sharing sovereignty on this issue. Further integration was also seen skeptical due to a possible influx of centra-eastern Europeans into Denmark and the referendum became a proxy vote on other issues than only on the common currency (Mulhearn/Varn 2008: 122).

Sweden joined the European Union in 1995, with only a 52% to 47% vote in a referendum in favor of entering it. Different from other countries of Western Europe, who haven't joined the Euro, Sweden did not match with the requirements and, different from Denmark, would have to join automatically the Euro zone, as soon as it would meet all requirements (Mulhearn/Varne 2008: 124). In 2003, Sweden hold a non-binding referendum on adopting the Euro as a currency, but a majority of 56% to 42% voted against the introduction of the Euro. A proxy vote, not matching fully the requirements and the fear of losing sovereignty over the monetary policy lead were one of the main factors for Sweden not to join the Euro zone, although joining the EU (Mulhearn/Varne 2008: 127).

A further actor is the United Kingdom, and as already several times before in other European affairs, the UK was like Denmark granted an EMU opt-out clause in order to approve the Maastricht Treaty (Mulhearn/Varne 2008: 127). The British Government set up a series of requirements in order to consider joining the EMU and eventually the Euro, but was rejected by the British Treasury in 1997 (Mulhearn/Varn 2008: 128). It seems that by formulating them more specifically and from a different angle, the British government followed different aims than France and Germany, and more centered on a very British advantage as the ultimate ratio than on a better and stronger integration of the market and benefits for all its members.

All decisions of the three western countries - basically driven by political and economical reasons - exemplify the "no" on joining the common currency, and by not doing so, also not delegating and sharing sovereignty to and with a supranational EU body and its incorporated main actors, the

member states. It also shows that an economic and monetary union or a customs and monetary union are not necessarily linked with a currency union, but the European Union has shown flexibility - regarding Denmark especially, remaining in the ERM but outside the Euro - and recognition of the states and their decisions - the referendums and the decisions of the governments - on ceding sovereignty of their national currencies and joining the Euro area. Furthermore, the confederal-like character of the EU is exposed again.

While the states share commonly their sovereignty over the currency together and with EU institutions, no member can be imposed the decision to join the European Union. It's up to the member state and its decision-making process. Here, the sovereignty of the country and the free decision of its government is the factor that drives to the decision. Germany for example did not have any referendum neither on the Maastricht Treaty, nor on the Euro, as it considers itself a representative democracy and therefore, and also due to its own history of decision-making process' (Castillo Ortiz 2015: 150). Other countries hold several referendums as a policy-making instrument, and in our particular case on the common currency the mentioned cases Sweden and Denmark, where the idea of the common currency was rejected. Using this instrument - or not, as in the German case for instance - is completely a matter of the member states and once again shows the autonomy, which the member states as the main actor in the European Union, its structure and its unification process possesses.

However, the mix of freedom of the choice of decision-making and the obligation by the EU joining the common currency can lead to a lack of acceptance, the rise of euro-skeptical movements and parties and a loss of trust in the currency and, eventually, also possibly in the European Union. The Treaty of Accession of the European Union obligated Latvia to eventually join the Euro and adopt it as its currency. Support for the Euro in Latvia for example seems to be quiet low yet⁶⁸.

In Germany, the conservative right "Alternative für Deutschland" (*AFD*) party emerged first as an anti-Euro party and has become for now the leading eurosceptic party in Germany (Baker/Schnapper 2015: 123).

Poland, which is also obligated to adopt the Euro as a currency according to the treaties, did not actively pursue membership of the Euro area after joining the EU and for now, no new attempts have been made, but the far right *PiS* Party under the lead of Kaczynski has presupposed a referendum over joining the currency (Copsey 2015: 204-205). For now, no new active attempts have been made, which also shows that it seems not to be a national priority. During the Refugee Crisis, Poland has also shown, together with other states of the so called Visegrad group, to advocate for a different European Union as the mainstream seemed to follow for the past twenty years.

Nevertheless, this aspect can only be mentioned here as a secondary, but highly important effect on the monetary policy of the European Union from a confederal standpoint. In this light, it shows that a common monetary policy has been able to be established, with four decades of planning it

⁶⁸ FAZ Frankfurter Allgemeine Zeitung, German daily newspaper, Euroeinführung in Lettland

by harmonizing, liberalizing and standardizing national economics and equipping them and delegating national sovereignty over this subject to the EU-institution ECB. A decade and a half after the introduction of the Euro, no member state has left it yet. However, an anti-Euro sentiment has arisen and has also converted itself into euro-sceptic political tendencies not as a minor factor, but as in France and other European member states a major one. The crisis' has indeed shaken the Euro's confidence and has been translated and developed into a lack of confidence in the EU itself, as the rising euro-sceptic movements and parties and their support by the voters reveal. Also in southern Europe, parties, which are skeptical towards the monetary policy of the EU have arisen such as Syriza in Greece or Podemos in Spain, only to mention some and established themselves as potent actors on the political scene.

What does this tell us about the monetary policy of the EU from a confederal perspective? Fragility on one side is visible, as the lack of confidence and the open rejection of the Euro as a currency and the monetary policy by important political actors reveal, although decades of preparation lie behind. On the other side, the EU has managed to enlarge its Euro-zone towards Central-Eastern Europe and the Baltic states and no Euro-member has withdrawn from the currency, although it was and is still proposed for Greece for example (McCormick 2014: 68). People warning from a *Grexit* have also linked it to the collapse of the Euro as a currency itself and a danger for the continuation of the European Union itself (McCormick 2014: 68).

The nation-states have fewer possibilities to react to economic imbalances on their national market, since the monetary policy-making autonomy was transferred to the European Central Bank to Frankfurt (Verdun/Wylie 2002: 241). Is this positive or negative? It depends on the point of view. In order to start an attempt to create a common monetary policy, this is probably the right thing to do by unifying and jointly managing the monetary policy. At the same time, the national central banks lose, logically, power, which gives the peoples also a wrong impression: somebody else, that is not part of our state, is managing our monetary policy and who can guarantee that he or she will do it with the very best intentions for my nation and not for a different one? Who can guarantee, that our national economy, although linked with the European Single Market, will not suffer from it and have more benefits from disadvantages? These questions arose and arise again in countries especially with traditionally strong currencies such as Germany for example, where the EU sceptic party *AFD* emerged first with the demand to leave the Euro and to reintroduce the Deutschmark as the currency for Germany. Scandinavian countries, except Finland, haven't joined the Euro, as they also have had a stable and strong currency. Neither has the United Kingdom. The trust, which has been mentioned already to be a crucial factor for the existence of such a polity, has been distressed and shown instability, especially since the Euro crisis and the banking crisis' began. The spill-over effect, that is produced, is hence a lack of trust and a withdrawal of the same in several countries. A common monetary policy is, hence, a dangerous feature, where all can be lost, if crisis' question the common EU project as a whole. This is logic, as not only an idea of a common Europe of whatsoever shape might be gone, but in case of a collapse of the monetary policy the livelihood of entire nations. The peoples, the voters know that.

To close the chapter and not to extend it unnecessarily, short resume with a conclusion should be drawn. We can say that the fact of establishing a common currency among the some of most powerful European economies required decades of planning and integration on different political, economical and social levels. The final introduction of a shared currency is based on the principle of shared sovereignty as an essence of the European Union. Nevertheless, the confederal character of the EU can be seen in the light that on the one hand, the (especially post-Maastricht-Treaty) member states in fact have the obligation to join the common currency when they meet the requirements, but the EU does not impose this step, but leaves it to the member states themselves, when and how to decide to join the common currency. Furthermore, the EU has shown itself flexible when it comes to deals between the states and the EU concerning the issue of the currency, such as it was the Danish case. As mentioned above an economic and monetary union or a customs and monetary union are not necessarily linked with a currency union and Sweden, Denmark and until *Brexit* is adopted, the UK also stays part of the EU. Although it seems from a scientific perspective like a slow but smooth and steady integration, sharing sovereignty over the common currency has lead to serious threats for the currency and the EU itself. As Greece didn't meet the requirements, yet was permitted the adoption of the Euro currency, such as the following and impacting economic crisis', a lack of trust and steps towards disintegration have gain weight on a political level, in concrete making it easy for EU-sceptic movements and parties to raise in votes and popularity (McCormick 2014: 68). The fragility of the currency project Euro and with it the lack of trust in the whole European integration project of this style has been critically exposed, yet expansion of the Euro currency area has progressed and for now, no withdrawal, no imposed currency exit, no steps towards dissolving the Euro has been made.

How should this be evaluated from a confederal point of view? As the EU does not cover also the Euro area at the same time, yet a connection between the currency policies between the existing national currencies and the European Central Bank exist (EMU), a common monetary policy has been found and could be seen not from an orthodox, but a more flexible point of view as a confederal-like agreement. Hence, we can interpret that Dumont's requirement of a joint monetary policy is met by the EU and the member states, and the monetary factor can be regarded as a confederacy-like met requirement (Dumont 2012: 83). Time will show, in which direction the EMU will shift, maybe towards a closer, more federal model. This step, however, couldn't be done unilaterally but would require the approval of the member states, possibly unanimously as it affects all member states. At the same time, it would give an important shift towards more federalism.

12.3.1.5 The national question in the EU

As a confederacy does not seek to dissolve the entities as political subjects, which make up the confederacy, but rather integrate them within a common framework, without them losing their political status as full and sovereign subjects, the creation of a common market is a good common ground. Historically there is the *Zollverein*, a precursor of the later German nation-state. However, it was not only the common trading area, which lead to a German nation-state, but also other

factors as the pre-existing German national movement. Regarding the European Union, a single market does not qualify as a starting point for a common European state or superstate, as there is no national European movement, no European “supernation“. One shall remember that the European Union was founded in its initial beginnings on the ground of a single market and, with it, trade policy (McDonald/Deardán 2005: 40). According to McDonald/Deardán, there has been no other regional economic agency, which has approached the level of a custom union and a common market as the European Community has (McDonald/Deardán 2005: 40). We live in a world of nation-states and national identity, which does not go against integration into a larger polity, which is a supra-national *sui generis*. With other words, there is no attempt made by any government, to impose a European identity instead of the national identity as such a project would be doomed to fail. One example is the Soviet Union, where soviet identity was implemented, but not embraced as a national identity. We don't want to pretend that there hasn't been anyone, who would not have embraced this identity as his one. Nevertheless, one should in this context also remember, that these areas, where the Soviet Union existed, were areas of very weak and relatively late nation building such as in Ukraine, Belarus and not to mention, central Asia. Furthermore, the Soviet Union never pretended to be a democracy as most Western states did throughout their history.

The question of the nation is not that rational, but has to do with identity, which can be “irrational“⁶⁹ and not pragmatic in economical sense for example. No attempts have been made to give up its identity as a nation. A different thing is the integration with parts, which are economically stronger for example, which has been the case of the European Union. Maintaining the national identity as full political subjects is probably also a reason, why a confederacy can not be qualified as a state and shows some internal weakness and why it can not be classified as a sovereign state (Bevir 2006: 136).

But is national homogeneity necessary to run a plurinational democracy as a polity? This is exactly, where the European Union is completely different from a nation-state, that maintains the „one state one nation“ logic. And this is also, why the European Union, as a confederation, does not qualify as a state, but as a supranational polity *sui generis*. Yet, this hasn't prevented the nation-states to join the project and to continue the enlarging and integrating process'. The European Union carries its plurinationality already in its DNA and neither an imposition, nor an embracing of European nationality is on the horizon anywhere. The *identity*, however, can come along perfectly with different nationalities. The question here is, if people, who also identity as Europeans also equate the term *European* with *European Union* and its institutions. What nationals of member states of the European Union share indeed is the European citizenship, which grants them a series of rights and privileges. The European citizenship makes it here also possible to act for members of stateless nations within the European sphere, not only based on the nation-state institutions and documents, but also within a common European space, its documents and its institutions. This is already a huge step towards plurinationality implemented into action, leaving behind theories of *if*

⁶⁹ In this context, it means that it does not follow a determined logic but can develop its own logic pattern.

and *how* a plurinational democracy could and should also benefit stateless nations and their members. When it comes to stateless nations, they are not seen as actors on the European scene, but as sub-state actors. This is due to the nation-state, which are the “Masters of the Treaties“ and make up the EU and, therefore, are not willing to make a step towards a proper recognition on the European level by the EU, as long as the concept of nation-state in our current state stays in power (Isensee 2016: 10; Möller 1961: 132). With other words, where the EU as a confederation creates a common space, which gives access to all members as EU citizens, it allows stateless nation’s and their members to act on a level superior to the nation-state level, yet it has failed to provide adequate answers also on the European level at present for stateless nations to accommodate themselves by recognizing them as full political subjects, as they wish.

12.4 Conclusions

In the previous chapters, we have tried to argue that the European Union is a plurinational polity, that has a tendency towards what scientist define as a confederation or a confederation-like arrangement with also federal features, what makes it a polity *sui generis*.

The nature of the EU is a plurinational one, it is already in its genetics and has evolved in that direction. Principles, mechanisms, institutions and processes of uninational federal democracies could not be applied as the complexity required a rethinking and development of a new form in order to establish a series of values of liberty, equality, individual dignity and pluralism and the linked mechanisms, institutions, richest and procedures to ensure accommodation of the units (Requejo 2006: 17).

Dumont argues that the EU as a model for others and for itself needs more than only a pure recognition of the “other“, such as other point of view but understanding the otherness in its plurality in a positive manner (Dumont 2012: 102). He argues for a further approach of the units and the citizens, that make up the units as nationals, but also as EU citizens with empathy for the other/s in order to build an authentic European space and make the EU as a political entity more active (Dumont 2012: 102). On the question of a possible further integration as a federation in the sense of a “United States of Europe“, Dumont argues that the idea of cosmopolitan law would in fact exclude such an approach. However, Dumont also does not exclude it *per se*, but considers it possible in a context, in which the hypothetical United States of Europe would also enter a wider plurinational federation, which would mean the expansion of European cosmopolitanism (Dumont 2012: 102). Of course, the nations and their states forming the EU would first require to renounce their formal sovereignty and enter a federal European state (Dumont 2012: 102-103). However, these ideas are hypothetical and theoretical philosophical ones, only existing so far as thoughts and ideas as for now, there are now clearly visible attempts or reasons, that would trigger immediately such steps like some serious internal o external shocks or even the missing European

feeling of belonging to a bigger “supernation“ and demanding for political unification under one sovereign polity.

The European Union *can* be a confederacy, but it also has federal elements because the units of that Union decided to cede these elements. This means that the EU is more likely a confederacy with federal elements, but as it is an evolutionary and flexible model, as the units decided to distribute the power. However, the units never lose their status as full sovereign political subjects, which makes this union genuine as a polity.

The plurinational character of the European Union lies within its political DNA. It emerged from a voluntarily wish for cooperation, developed its own dynamics of integration on a political and economical level. This, however, never led neither to a dissolution of the states within a more or less centralized federation kind of super-state, as them as political subjects as they are still regarded as the main actors.

In this case - and different from most states -, it was a bottom-up creation by the states by joining the European Union voluntarily to the space of free movement of goods, the free movement of persons, the free movement of capital and the freedom to provide and establish services. The “pieces“, or, in this case, the main actors joined voluntarily, open to share sovereignty, integrating into a single market and expanding the integration also on a political and judicial level, the so called integration. At the same time, none of the main actors, the states, forming this bottom-up construct, lost its status as a fully equal and sovereign political subject.

Brexit exemplifies very well and against all eurosceptic tendencies, that the states haven't lost completely sovereignty and their status to act as equal political subjects, which under all circumstances have to obey an almighty centralized commission. The Treaty on European Union includes Article 50. This article explains the formal procedure of a member state leaving the European Union or its intention to do so. The article points out clearly, that exiting the European Union is the exclusive decision of the member state, which has decided to do so. With other words, the European Union has no power to obligate any member state to stay within the Union, as the states are still not only the main actors, but also the full political subject and, therefore, the only responsible, authorized and competent one to decide to do so. An important feature to add here is the possibility of exercising the right for secession, a right that breaks with the traditional understanding and logic of federations (Requejo 2006: 16). But this is exactly one of the unique features of the European Union, sticking out from all the other existing arrangements with plurinational realities. The interesting and at the same time contradicting fact is, that this practice is fully accepted by the states on the European, but in all cases (except Denmark) on the state level not a permanent right for entities within the state, but either fully rejected, prohibited or tightly linked to conditions (such as the Scotland referendum 2015).

Also, the foregoing Article (Article 49) mentions the procedure of a state with the intention of joining the European Union. Here, all member states have to backup this step unanimously in order to let

another state join the European Union, despite all the other requisites that exist, which have to be fulfilled before.

When it comes to question of the *demos*, the EU has no one single *demos*, but several *demoi*, united under a series of factors of which one of them is the common European citizenship, which guarantee them fundamental European rights and a direct link to the EU institutions over the shoulders of national authorities (Dumont 2012: 92). However, being a EU citizen does not take away or ease the fact of national identity of being German, Polish, Finnish, Portuguese, and all other EU members. Having one common ground - the EU - and being part of a larger polity does not mean to disappear as a nation with all its rights and particularities. The continuity of being a polity, which is a full political subject, and formally sovereign is, hence, a crucial factor in this investigation defining, which factors are needed for a plurinational democracy.

12.4.1 Examination of the essences of cooperation on a European Level

Using both, the framework of the joining procedure into the European Union on the one hand (Article 49), and exiting the European Union on the other hand (Article 50), we can detect some main aspects, features and quintessence, which shall be extracted here, that interests us in our investigation:

First, the factor of voluntariness. No state can be neither forced to join, nor be prohibited to leave the European Union. This means, that the EU is a bottom-up project, not imposed, but handed over to the national institutions to decided, whether they want to join, whether they prefer only a tight relationship such as Switzerland or Norway do, or whether they want even to leave, as the voters have decided in Great Britain as a whole.

Second, the maintenance of the states as sovereign and full political subjects. The bottom-up creation of the states has not lead to a dissolution of the states, but to a transformation, from independence to interdependence, from sovereignty to shared sovereignty. Yet the states haven't ceased to exist as the main actors, which, although delegating competencies, still having the final decision, as the states form the union. In the European context, the decision is to be made by the states and negotiating. Here, all states are on the same level, although - as already said - resources, interests, size, etc. vary. States and the union have legal personhood and at least legislative and executive autonomy (Dumont 2012: 84).

Third, with this comes mutual recognition as equals on terms of being a single and full political subject and the respect as such. The common form of decision-making among the states has been consensus rather than the crucial vote. Although it might be less drastic and with smaller effects and outcomes, it keeps the idea of trying to do justice to all member states. A crucial vote seems in this delicate constellation of equal political subjects trying to integrate not only a drastic instrument,

but one with potential for serious conflict between the states. Thus, the integration process seems more likely to be successful in this context by consensus, which has its roots in the consciousness of all member states being full political subjects on an equal level despite all other different factor such as size, numbers of vote, etc.

Fourth, the agenda for a unified Europe is pretty vague and flexible. We have learned that in the past, several models of Europe were favored by governments and by the people voting for their governments or voting against, like the referendum on the so called “European Constitution“, which failed due to the veto of several states. It also leaves a lot of space for creative approaches, such as paradiplomacy for instance. In this sense, a vague and open end agenda seems to be one of the main reasons for the states to participate, also knowing that the flexibility means having an influence on that polity-building process, including the states’s interests.

To give the European Union a framework in a juridical and political, but also and especially in an economical sense, a framework consisting of “constitutional pacts“, as Dumont argues, several of such structures have been created. As the referendums on Constitution for Europe in France and the Netherlands turned out to be negative towards such a common constitution, Lisbon emerged as its successor treaty.

Here, the question whether we can talk about a constitution in our traditional sense is challenged. Dumont argues that taking the word “constitution“ in its orthodox sense, it wouldn’t stand the fact that it was done by sovereign units as in an orthodox sense, a constitution of a state (which has been always the preceдер) would go against unity of the state also in its orthodox sense, since the units subordinate and delegate their negative and positive sovereignty to the federation (Dumont 2012: 88). The word “constitution“ can also be seen here as a formality, a symbol, and not taken orthodoxly, but in its real sense, a series of constitutional pacts, but by using “constitution“, it may mislead also to the real nature, its competencies and structure of this EU (Dumont 2012: 88,91).

Having a flexible and towards the future vague and pretty open agenda might be seen as an ugly blemish, as a handicap or even as failure of the European project, as no clear aim has ever been articulated. At the same time, this flexibility can easily respond to both, internal and external factors, which have or might have an impact on the states, the different societies and, therefore, also on the European Union. Let’s imagine that the idea of a European Federation would have been declared the final aim of the whole integration process: impacts such as the financial crisis might not only have put this aim in danger, but the inflexibility and a heady adherence on that aim, despite all difficulties, could have a negative impact. The voters might have changed their preference extreme towards EU-scepticism and the project would have failed before it was even finished. Besides that, the project can not only respond more adequate and democratically towards the demand of the citizens, it can also continue by being flexible and bypass crisis’ more easy.

Fifth, a certain sustainability and a real political will behind that. If a project wants to succeed, it needs a political will to realize it on the one hand, on the other hand sustainability of the project is

required. This political will can be explained as “federal loyalty“, which is based on a “constitutional pact“, as Dumont argues (Dumont 2012: 83).

12.4.2 The EU - a plurinational democracy as a model for states with plurinational realities?

The European Union is a unique prototype of a polity, which indeed includes a lot of factors, mechanisms, values, processes, which can be classified as plurinational. The fact, that this series of arrangement is possible is due to a system of values and understanding of democracy and pluralism different than on the state-level. With other words, the EU as a polity structure, as an entity, is its time ahead in the XXI century, while its member states are stuck in definitions of demos, legitimacy, democracy and pluralism in terms of the XX and XIX century, which does not work and leaves all actors unsatisfied (Requejo 2006: 17).

Examining the essences of cooperation within the EU from a plurinational perspective has shown that a series of factors, a special framework, a different starting point than the classic nation-states and political will and voluntary from all national actors are essential for such a genuine and prototype project. The integration process of the European Union is not only economically, although it started as such. Soon, the political impact and the will for an economic, but in the 1950s already mentioned political integration developed their own dynamic and lead to what the EU is nowadays - a supra-state structure, where states share sovereignty. This model of cooperation and integration on an economic, political and judicial such as social field can be described as post-Westphalian, as the states do not act as if they were isolated sovereign “islands“ in Europe (although they never really were due to ties in the past but pretended to be such), but through integration interdependent political subjects, which remain formal sovereign. However, these subjects are not subordinated to a central power, but both, the Union and the member states, have legal personhood and an apparatus, that works sometimes unanimously and sometimes by the majority of vote in a decision-making process (Dumont 2012: 84). Having legal personhood does not equal formal sovereignty, as it is the case in the EU, but is based on a constitutional pact among those equals (Dumont 2012: 88).

This post-Westphalian polity model should definitely let a question emerge among the national actors: if mutual recognition, which leads to a trustful win-win integration and cooperation by sharing sovereignty on the supranational level, why shouldn't it be possible to exercise it also on the national level, where states nations demand so? Can the confederal-like model with a relatively “open end“ be a model for a democratic change of statehood?

Caminal argues that pluralist federalism, as he calls it, might be a new way to permit plurinational transformations of the nation-state and that the idea of sovereignty and state means nation equivalence concepts need to be abandoned in order to draw a new concept and design according to the plurinational realities and demands (Caminal 2011: 226). The European Union has done this

and is, according to this examination, the prototype of exactly what Caminal demands. For the classic existent nation-states, it would be indeed a revolution as it would overthrow the old order of statehood starting with leaving behind the “one state equals one nation“ doctrine and develop towards a model, which is more legitimate as the peoples can not only be free to declare their national identity politically equal, but also legitimate the state by the people voting for a plurinational state - or not. Both would be based on democracy. Here, the democratic state would rather become a state democracy regarding its arrangement and framework. The European Union has shown such capacity as it has developed towards a confederation-like arrangement. Confederation does not lead to greater unity, argues Cini, but that “(...) *the community is rather stuck between integration and sovereignty (Cini 2013: 77)*“. This, however seems to imply a negative tendency and EU skeptic movements and parties. The EU has grown together in the past and a unity in a state-sense is also not sought, but a unity not by force, but cooperation through voluntary and convincing integration. How else should it work? It is true that a central government can apparently create a greater unity. However, as we could see, this has a cost, which is the cost of plural voices, a striking factor in democracies as we understand them. Aldecoa stated that a plurinational state - in our case a plurinational polity such as the EU - could carry on the old, unitary state doctrine and even impose identities or decisions by force, where unanimity would be required. This, however, would resemble a single-party government, where plurality has no voice (Aldecoa 2013: 92). One should ask him or herself, which would be more adequate from a democratic point of view. The answer as obvious as this question is a rhetorical one.

Caminal has argued that a polycentric and asymmetric approach, which is the case in a plurinational democracy, would enlarge the federal space with municipal and supra-state spheres and, by doing so, depend the territorial division of powers (Caminal 2011: 233). He argues that this would have a positive effect, as the center-periphery conflict would be weakened and thus nationalism in the center (state) and the periphery (stateless nations) would be challenged and also weakened, as the conflict scenario center-periphery as such would not exist anymore. Given the premise and following the hypothesis, that the EU is a prototype of plurinational democracy, this assumption must be seen critically in the light of the rise of euro-sceptic politics. The center-periphery conflict in this case has risen one level. Whereas it was (and still is) on a state level between the nation-state and the stateless nations, this conflict constellation has emerged between the center (EU, often reduced to “Brussels“) and the nation-states themselves. The reason for eurosceptic politics and their success among national elections is worth itself a thesis to be written about. However, and very reduced and adapted to our assumption, the interests between this supranational center (Brussels) and the peripheries (the nation-states) seem to differ a lot from each other. Several shocks, both internal and external, have lead to this. We can name the different crisis' such as the Bank Crisis and the Euro Crisis since 2007, external events such as the unique illegal immigration from the Middle East and Africa, and internal events such as the *Brexit* and and the question of Europe's reaction to the war in Ukraine, regarding the rising tension between the so called west and Russia as Europe's direct neighbor.

The European Union is still existent and functional in its institutions and processes, but the weakness of such polycentric and asymmetric arrangement have revealed a dangerous weakness of acting during events, in which its polycentric and asymmetric arrangement has shown to be an obstacle. At the same time, an imposition by some powerful nation-states united might have been at first sight useful, but would completely destroy trust and the constellation itself of mutual recognition and a designed policy making process of equals. Furthermore, one should add that the question of the democratic deficit within the EU is a huge concern, which is for sure one of the reasons of a full embracement by the people. We don't deny, that a lot of work and amplification is needed here. It's more, we call for a deep and full democratization of the European Union. Nevertheless, the representatives of the national units - the government - haven't done so. These governments are voted by the people themselves. This means that instead of only being bothered about the existent democratic deficits within the EU, they should not complain about the symptoms, but rather fix the roots. Here, communication of what the EU is and how it works is required on a regular and professional basis, which reaches the masses and gets involved into debates about that. In a nutshell, what counts for the existence of nations in the sense of Renan, counts also for polities as the EU: it is a daily plebiscite (Billig 1995: 95).

13. Plurinational democracy - approaches and definition

13.1 Approaching to plurinational democracy

A definition of what plurinational democracy is, depends on the author and the subjective point of view on that topic. The set up definition will be based on the examinations several authors have made, who already investigated the topic of plurinational democracy. This theoretical approach and examination of the different extracted definitions of plurinational democracy will help to set up later a series of factors, that provide the possibility to apply them on the different cases in the light of plurinational democracy and democracies.

The term, which first requires a clear definition is *plurinational democracy*, which consists of the two parts *plurinational* and of *democracy*. Both terms will be examined in their core meaning and their link within the following chapters. The final chapter set up a definition, based on the extracted conclusions, in order to define clearly the purpose and the design of plurinational democracy.

First of all, a clarification of the question, why the use the expression *pluri*-national and not *multi*-national is used, should be delivered. There exist a series of reasons for referring to it *plurinational* over *multinational* democracy. In fact, *multinational* and *plurinational* have also been used as synonyms (Swenden 2013: 61). In the past and at present, multinational states have existed, to for example, the Habsburg Empire. It never regarded itself officially as a multinational state, neither as a binational one as Austria-Hungary, but as an empire, being aware, that several nations and ethnicities have lived within its borders: Poles, Czechs, Slovaks, Ukrainians, Croats, Slovenes, Germans, Hungarians, only to name some of them. Nowadays, Western democratic states would not call themselves even a multinational states officially, with the exception of , as on several occasions happened, like the former British Prime Minister David Cameron did, when he spoke the day after the Scotland referendum 2014 about nations within ⁷⁰. In Spain, there is a *de facto* recognition of so called “historical nationalities“ referring to the Basques, the Catalans and the Galicians (Lecours 2005: 147). There are many more examples ,that could be mentioned and will appear later in the text.

Although a plurality of identities and regional differences within the nation-state have been somehow acknowledged and the state framework has delivered them (different) possibilities to express themselves democratically, entities claiming being nations have not been fully recognized as such. This is the striking difference between the idea of a *multinational* state, where a difference is limitedly recognized and the idea of a *plurinational* democracy, that goes beyond that rather symbolic and limited recognition. With other words, in a *multinational* state, nationally different societies claiming to be nations different from the state-nation have been limited in their democratic expression of self-determination, while the *plurinational* idea does fully recognizes them as full

⁷⁰ Official Homepage of The Telegraph Scottish Referendum: Cameron begs Scots not to leave the UK

political subjects, which leads immediately to a set of rights, the same set of rights as the state-nation has, secession included.

There have been several attempts of defining plurinational democracies in different shapes and from different angles for the so called Western World. Authors as Michael Keating (2001), Ferran Requejo (2011, 2016), Noé Cornago (2009, 2013: 134), Francisco Aldecoa (2009, 2013), Wilfried Swenden (2013), Dumont (2012), Caminal (2011) or Genevieve Nootens (2011) have already introduced the issue of plurinational democracy or the idea of plurinationalism in their publications. Having a look on the political map of Europe between now and 100 years ago shows clearly, that major changes have occurred. A comparison between both maps show, that empires have been replaced into fragmented states, which more or less resemble the national identity of the population of the determined territory. Organized within their own nation-states, these nations are fully recognized as such and the state serves as the political body of representation and as an actor on the international level. An assumption of this thesis is, that those cases, where a vast majority has supported independence, are settled. These nations have gained full political recognition by creating their own nation-state. Strategies such as decentralization or autonomy haven't been enough to satisfy the national demands. Those cases, where only a democratic minority within the claimed territory of a stateless nation demands can not justify its claim democratically. However, there are apparently a series of cases in Europe, in which there exists a national double majority, but where a clear majority supporting independence doesn't exist. As this thesis states, these collectives seek to achieve recognition as full political subjects, as nations, within a different framework within the polity they live in. In those cases, new strategies to address these demands are required, as decentralization, autonomy continues to be not equal to a proper recognition. Such an approach is the concept of plurinational democracy. This approach tackles the classic nation-state doctrine of one single *Staatsvolk*, one *Staatsgewalt* and one *Staatsgebiet*, as the existence of states with plurinational realities is by the mentioned researchers not disputed, but confirmed in their *de facto* existence (Dumont 2012: 86). The concept of plurinational democracy could open a new way to challenge nationality conflicts in plurinational states from a new approach and is gaining recognition, as the old ones have not been able to give satisfactory solutions, but also lead to disputes to those sticking to the old order (Caminal 2011: 226; Cornago/Aldecoa 2009: 244, 265). As Requejo argues, certain schools of thought - mainstream liberalism and socialism - are not intellectually prepared to take the challenge of plurinational societies or, as he says, nationalism, that doesn't coincide with state-nationalism (Requejo 2006: 7). Democratic liberal states know plural societies. However, when it comes to plurality, liberalism recognizes plurality on an individual level like rights and autonomy and the individual relationship to the state and the state is the protector of these rights - yet, a plurality of different national groups (stateless nations) makes the present state and liberalism incapable of coping with them in this world, which consists of nations and nation-states (Nootens 2011: 115-116). However, it's not the individual, but the group, that is the fundament of political theory and self-rule not to individuals *per se*, but to a community which is formed by individuals, that form a group and that collectively claim and want to decide (Nootens 2011: 120). As one could see in the prior chapters, this is rooted in the conflict

between state, democracy and nationalism, especially between state nationalism and stateless nation nationalism and the interpretation of democracy.

The plurinational concept within a democratic construct would have two basic premisses: First, national pluralism is acknowledged and properly recognized by the state and, second, the resulting division of powers (Caminal 2011: 226). This would lead to the required replacement of the concept of the current idea of the modern sovereign nation-state by a “union“ of states and nations for instance, as Caminal proposes, based on shared and divisible sovereignty (Caminal 2011: 226). It's, hence, not anymore one dominant nationalism, embodied by the nation-state, but a form of plurinational, polycentrist and asymmetrical arrangement, which replaces it (Caminal 2011: 231).

There is a need for a formula how to deal with such pluralism without either neutralizing it or even destroying it with regard on the question of popular sovereignty, as this can not be integrated in the legal order otherwise now (Nootens 2011: 121). A plurinational democracy does not look for the classic division of either a unity by suppress democratic expressions by nations claiming their identity as an equal one to the dominating one, but a unity, which is build on different grounds (Nootens 2011: 125). It is imposed, but voluntarily and in consent by each nation formed. The idea, that one state equals one nation is a doctrine, that does not match with plurinational and also with multiple identities of states and its citizens (Resnick 2011: 75). Taking all this into account, the question emerges: why would the state then rather follow a doctrine or dogma, that is based on ignorance of realities and maintaining the power in the center while calling itself democratic at the same time but limiting democracy? Several arguments that support this justified question will follow and help us to set up the definitions for plurinational democracy.

It is obvious, that this concept has caught the attention of experts, who are actively researching in this field, especially since some of these researchers and authors are also personally affected by this topic. Also, the year of their publications shows, that it is a recent field and not yet as expanded as the idea of federalism on a European level for instance.

13.1.1 Examining the term *plurinational*

First of all, in a plurinational democracy the existence of several political subjects on the same level is fundamental. It is, as Keating defines it, a term that describes the recognition of a nation and not about “ (...) *cultural pluralism, or with claims to special policy concessions, but with nationality claims, with all that is implies* (Keating 2001: 161)“. The first part of this term is *plurinational*, which means that there are at least two different communities within the territory, differing by various factors from each other such as languages, culture or ethnicity for instance and understanding themselves to be different political communities with a different identity to the state as a whole (Swenden 2013: 61). As Swenden argues, a *plurinational* state is not equal to a *plural* state in religion or ethnicity or the fact of being centralized or decentralized - the striking element here is that there is a political demand as a nation, which is usually seen as the legitimate sovereign over a territory (Swenden 2013: 61; Dumont 2013: 62). This idea of classic nation-state

doctrine clashes with the social realities in those territories with such societies, which regard itself a nation different from the state-nation. It is the *struggle* for proper and full recognition as a full political subject, hence, that is a vital feature for plurinational states and make them what they are: *plurinational* (Resnick 2011: 73)

The state has tried to close the gap of maintaining its position by not violating the hierarchy in its wholeness, which emerges from the classic state doctrine and its interpretations of people, territory and legitimacy. Some of them have been decentralization, federalization, autonomy, devolution or different kinds of implementation of self rule, partly as results of demands, but usually as a granted top-down “privilege“.

A further one, which is in this chapter important, has been the symbolic recognition (Swenden 2013: 71). One example are the so called historical nationalities in Spain, the Basques, the Catalans, the Galicians (Lecours 2005: 147). Although the authorities of these three entities signed in 1998 an agreement to promote the understanding of Spain as nationally plural state, but despite the recognition of the so called historical nationalities, any full recognition of Spain’s plurinational state character has been achieved (Lecours 2005: 147). The expression “historical nationality“ doesn’t also have any effect in the sense of real plurinationality and the creation of such as state, as the state does not share its understanding. As said, its symbolism. Understanding the differences does not go beyond the classic nation-state doctrine and, therefore, the gap between demands by stateless nations on the one hand, and the state’s willingness to interpret its own understanding as plurinational, could not be closed. This apparently insuperable gap of demand from stateless nations and the missing willingness from the state is currently clearly visible in the recent events, which occurred in Catalonia, after the Spanish Supreme Court forbade the term “nation“ referring to the Catalans in the new Catalan constitution.

A further example is Scotland, which *de facto* was seen during *one* concrete event as a proper political subject and the only responsible for that matter: the referendum on Scottish independence in 2014. In this particular case, Westminster delegated the power over deciding over Scotland’s independence to the Scottish authorities, where a deal was previously made, that a referendum should take place and that the question should not be up only to the Scottish parliament.

The UK, however, shows an anomaly in this matter. Whereas usually the people are the sovereign in democratic states, sovereignty in the UK resides in the parliament, which is due to historic reasons and this arrangement prior to the idea of the people as the sovereign (Qvortrup 2014: 76). This, however, has been a unique event, as the *Brexit* vote counted the UK and its vote as a whole, despite the fact that Scotland expressed in a majority its wish to remain in the EU, while it was overruled by the majority, namely England and Wales together. It means that, although there exist precedence cases in democratic states of plurinationality and plurinational democratic events, these events have taken place only occasionally (as in the case of Scotland). Obviously, the *de facto* plurinational state character has not been fully embraced, accepted and consequently followed. One reminder should be, that this happened in a democratic context, not in a dictatorship or any other policy, which could not be classified as a democracy. This reminder of the case is important in the context of policy making, which is in a democracy the *people* with rights to do so by voting for instance.

If a democratic demand is ignored by the state due to its classic interpretation of state doctrine, it shows that the conflict has not an ethnical, but rather a democratic fundament. Both examples show that the old classic formula “state equals nation“ is in some cases incorrect and hasn’t worked (Caminal 2011: 26). Transformations of the state are not impossible. If the state could have changed from genuinely possessing competencies towards a state, which has shared or outsourced its traditional core competencies due to transformation and integration, the transformation of the classic nation-state should not be ignored in its possibility (Caminal 2011: 226). Transformations, especially by outsourcing or sharing classic core competencies of the state have been examined in the book “Transformations of the State?“ by Leibfried/Zürn (2005).

When the state recognizes these groups as culturally different or even as “cultural nations“ and granting them a certain level of self-rule, while keeping the old model of “state equals nation“, it is in fact a trap, it is, as Caminal mentions “(...) *incorrect, discriminatory and exclusive* (Caminal 2011: 237-238)“. Following these arguments, Caminal’s statement is confirmed. It is incorrect because already when self-government is granted, the state recognizes that there is a need of decentralization and delegation of power; discriminatory, because when treating these groups as “culutral nations“, it only reduces them to the cultural distinctive factor but never give them the chance of becoming recognized as a proper, an equal political subject; exclusive, because the political nation is usually linked with the cultural nation and in a nation-state, this would exclude somehow these other nations (Caminal 2011: 238). The same could be conducted for stateless nations seeking the establishing of their very own nation-state by adopting those old models. None of these stateless nations is culturally homogeneous as well.

This means that the adoption of current and classic state models by stateless nations would also treason their own demand to the existing nation-state. A plurinational state is, once in the building, also in danger of being hijacked by those demanding plurinational democracy and, in the end of the day, them taking advantage of the situation and build their own state on classic principles. This would incredibly damage the reputation of a plurinational democracy, if the democratic principle and the plurinational heterogeneity would be denied in a favorable moment by those, who exactly demand this from the state (Caminal 2011: 240).

In the light of supranational and international integration, the question of sovereignty emerges in the light of the plurinational context. This means that sovereignty is in such constellations shared and not anymore genuinely part of the state. Regarding now stateless nations’ support for such interdependence and shared sovereignty, it can be concluded that it’s not about sovereignty in a classic way, but rather about exercising power and the demand to do so (Aldecoa 2013: 85). This challenges the state, which is contradictory, as the state claims to share sovereignty on a supranational level (EU), but keeping sovereignty monopolized despite all democratic demands from stateless nations within its own borders. In this case, Aldecoa drafts a comparison between the *de facto* plurinational state carrying on the old, unitary state doctrine as a single-party government, which denies the plurality of the state’s society and societies (Aldecoa 2013: 92).

Regarding the *Staatsvolk*, which can be translated in a democracy as the *demos*, who also usually holds the sovereignty of a democratic country, this concept clashes in a state with plurinational

realities, as the dogma “state equals nation” is kept up until today, but has been one of the main reasons for conflict and blocked development (Caminal 2011: 226). The doctrine that *demos* is tightly linked to *nation* is a challenge from plurinational societies within a state (Nootens 2011: 116). However, an asymmetric and polycentrist distribution of power does not mean that some are more and some are less equal, but the existence of various *demos* already excludes the idea of different equalities. The *liberty* of belonging to one group, one *demos*, is limited or even denied, but imposed by the nation-state in the classic sense of state nowadays. With other words, when a group of free women and men within a state for example decide, that they constitute a political community (such as a nation), there is no way to prevent that *democratically*, but only by oppression (Caminal 2011: 235). Furthermore - how was the *demos* composed and who defines it? From a classic state-centric view, the state legitimates the *demos* and vice versa. Thus, the state defines the *demos* and it's only the state, which does so, usually through its juridical framework, its constitution.

The democratic conflict has been shown before in the chapters on the triangle of conflict between democracy, nation and nation-state. *Plurinational* would not only mean to overcome the old and not working patterns of the nation-state. It would directly mean to overcome the “state equals nation” pattern and that those nations are in their self-government juridically and politically equal (Caminal 2011: 238). The idea that the state equals nation is a belief. This belief possesses certain powers, as people believe in this doctrine/dogma/belief. From a constructivist point of view, this belief is just as real as imagined communities like nations are (Anderson, 2006: 6). As it is a belief, backed by set up, imposed and institutionalized doctrines, Caminal, therefore, argues for a secularization in this sense (Caminal 2011: 248).

A plurinational democracy must, hence, rethink popular sovereignty, as claims of recognition challenges the modern doctrines of popular sovereignties (Nootens 2011: 111).

When it comes to the ideological design of a plurinational federation, Dumont traces back such thoughts to Kant, where he argues in favor of a world federation, where room for the plurality of national identities is given (hence not to be mixed up with a world state) (Dumont 2012: 98).

A cosmopolitan law is supposed to be the philosophical fundament for such a union, as this would recognize individuals with respect to their universal aspects (freedom as persons and equality as citizens) and also their specific aspects of identity as belonging to a nation, which are not erased by republican integration (Dumont 2012: 99). The claim of recognition and respect for the other being different in national identity is one of the crucial matters.

In addition to the territorial difference from the “minority nation”⁷¹ (stateless nation) within the state, which differs due to different subjective and objective aspects to the “majority nation” (state-nation) and the demand for some kind of self-government, Requejo adds two further aspects to distinguish those nations in plurinational spaces: a) there is a distinct party system in this determined territory compared to its state-level counterparts b) at least one party, that advocates for secession is

⁷¹ “Minority nation” and “stateless nations” can be used as synonyms.

present (Requejo 2006: 3). Here enters the principle of democracy and the expression by the stateless nation.

13.1.2 Examining the term *democracy*

The second part of the term is *democracy*. Examining the term *democracy* in this context is tightly linked to the foregoing term *plurinational* and can here be only seen as the second part of it, not as a part of itself. Only seen in a common context, which is further developed and exposed here, the interwoven terms to one concept can be understood.

States have reacted somehow, when a group has declared its distinctiveness from the state and the state-nation's identity. Different methods and strategies have been carried out, depending on the case from oppression over ignorance to decentralization and also full recognition as what the group was demanding. In the latter case, this has historically in cases with a clear majority lead to independence. The demand can be reduced to the demand for recognition and self-rule in the sense to be the ultimate institution to decide over how and if to cooperate with or without the state in the present and the future. Here, the very subjective impression of this stateless nations decide, if they feel accommodated in the current framework or not, in democracies by voting for the party or movement which represents the opinion of this distinct society. Its not only that they feel different. By voting such parties, they *are* already different and express this democratically and, hence, politically.

With other words, the expression of those distinctive societies depend on how they approve (or not) the current distribution of competencies within the state and differs from case to case. It is a democratic demand, hence, by the stateless nations for change. Ferran Requejo mentions that the view on pluralism in classic theories of federalism and democracy have been usually seen the way, that the center of gravity is situated in the governance of a nation-state, which leads to a supremacy of the central power and makes the union more important than the units, as it was established by the first modern democratic nation-state, the United States of America (Requejo 2006: 9). This interpretation of federation and the arrangement between the units and the union wasn't fully settled until the end of the American Civil War in 1865, nearly 90 years after its declaration of independence and decades of consolidation of the state. Nevertheless, as the plurinational realities and especially independence movements show, the traditional liberal-democratic theories and the traditional federal theories have not been able so solve the questions of what Requejo calls a „federal deficit“ and what is known as the demand for proper accommodation of those, who regard themselves as proper and equal political subjects (Requejo 2006: 9).

Usually, the tendency is that the state-nation is more interested in projecting their interests at the center than those stateless nations, who mostly live in the periphery of a state, as the state-nation projects its interest to the center of its own political project (the state) (Swenden 2013: 64). The conflict between the center and the state periphery has been a traditional cleavage in states with plurinational realities (O'Leary 2013: 36). The point, that the center can in theory revoke the

autonomy of a periphery shows clearly that, the relationship is a top-down hierarchy, and not a bilateral, as stateless nations argue for when demanding proper and full recognition as political subjects (Swenden 2013: 64). Nevertheless, this means that one structure (center) can exercise power over the other, even though the other structure (periphery) is not conform with such a move. This has been, for example, mentioned as an option in the Catalan case if the Catalan governmental institutions keep on developing Catalonia towards independence, or has been done so already in many cases in many other states in the past (Bossacoma/López Bofill 2016: 127).

It means that the peripheral, nationally different societies are naturally in a weaker position. This kind of relationship is an imbalance and exactly one of the fundamental points, as an unilateral suspension of competencies such as autonomy by the center is seen as an imposition from one nation over an other nation and the lack of full recognition as an equal one among others. A strategy of western democratic states, which are also a state of the rule of law and therefore bound to the law, interpret and implement the law such as the constitution in a way that does not weaken the position of the state in crucial matters (Swenden 2013: 67). Nevertheless, an imposition instead of a proper inclusion on an equal level lowers the trust in the federation, as Requejo generalizes arrangements in polities with plurinational realities, that are not designed according to their plurinational realities (Requejo 2006: 15). Loss of trust can lead also to loss of loyalty towards the federation or the state as it is organized. Core competencies and their distribution are decided by the state, by the center, which is therefore seen from the periphery as imbalanced, unfair and arbitrary, as the periphery is not taken into account as an equal partner, but a weaker partner. Decentralization strategies, as mentioned, have been implemented in order to manage the conflict(s), but the limits of the periphery are given by the central state and in case of a crucial different interpretation of the law and the hierarchy, as one could see in the Catalan case, an imposition from the center is considered as an appropriate tool by the state (Requejo 2006: 10). However, if asymmetry such as decentralization or asymmetric federalism is used to try to solve nationality conflicts, they are usually useless in the end of the day, as Caminal proves (Caminal 2011: 232). The reason is that, as the old approaches are hold by, one of them (the center or the periphery) will oppose or demand the same treatment and further, the peripheral nationalism is not exhausted, but revitalized. Sticking to the old patterns has not been able to deliver a solution of the demands in a plurinational democratic context, as therefore, this new approach is required.

What could be a solution, a way out from this dead end? Caminal argues that a polycentric and asymmetric approach with bilateral and multilateral, intergovernmental cooperation, which is the case in a plurinational democracy, would enlarge the federal space with municipal and supra-state spheres and, by doing so, depend the territorial division of powers (Caminal 2011: 233). He argues that this would have a positive effect, as the center-periphery conflict would be weakened and, thus, nationalism in the center (state) and the periphery (stateless nations) would be challenged and also weakened, as the conflict scenario center-periphery as such would not exist anymore.

What is striking here is that the stateless nation expresses its distinctiveness politically by democratic vote. This means that, as mentioned in the beginning, a different party system and at least one party demanding independence exists (Requejo 2003: 6). Plurinational states have the particularity, that in the territories, where stateless nations claim their demand by democratic

expression, those parties are even have a majority if one includes also those, which don't reject independence as a possibility, but not necessarily as the first option. This means that a majority, at least, defines the idea of the nation being recognized as a proper, equal political subject to the state-nation. It is an interesting phenomenon, when the stateless nation is a minority on state-level, yet within its territory, it is the majority: the double majority. Keating, however, argues that there are nowadays *no clear majorities* also within the stateless nations as the question of the double majority also within an area of the territory of the stateless nation could and would possibly emerge and would clearly show in case of a not clear independence voting the treason of the own principle, which was claimed before by a stateless nation, if they would not allow from its side a recognition of the right of secession from the seceded part (Keating 2001: 162). It's a conflict, which is seen as unfair in a decision making process, if the double majority moment is ignored and the claim "one person, one vote" is applied, even though the stateless nation has voted different from the state as a whole (Nootens 2011: 111). Nootens argues, that not the recognition of such political plurality, but the non-recognition leads to further instability (Nootens 2011: 110). Exactly this "one person one vote" pattern ignores the existent of plural national identities, which are politically expressed as well and may differ from the majority nation, a problem, which is based in classic liberal democracies, which may ensure individual liberty, but limit or even negate collective liberty of a collective that differs from the majority (Nootens 2011: 110). This error is rooted in the idea that the nation-state represents one single demos. As being a minority within the polity, the stateless nation, which remains unrecognized as such, can never achieve its political demands as it is by the "one person one vote" and the resulting one-demos ideology outvoted. A classic case was the change of the Canadian Constitution, where the amendment formula changed without Québec agreeing on that (Nootens 2011: 111). This has also to do as a change of the population of a determined territory, which claims this distinctiveness from the state might have happened physically, by immigration for instance, by redefining its own identity or by redefining its political preferences. This can be volatile and depending on internal or external factors (Swenden 2013: 62). Double majorities, hence, rebuke the myth dogma of the "one state one demos" and confirm the *de facto* existence of various national *demos*.

However, when taking into account the double majority as a political reality, it can have also new approaches on conflicts. In this case, the Northern Ireland Peace Agreement can provide an example of how the question over a disputed territory could be approached, as the United Kingdom and Ireland have a certain degree of influence and trusteeship o the territory and there hasn't been stated a determined end, but its open (Keating 2001: 163). Countries have done steps towards a partial recognition of their plurality of certain territories, but have reached limits in order not to violate the classic state doctrine and the necessity of questioning and restructuring sovereignty, legitimacy and democracy itself. These terms are tightly linked with each other. As in a modern and democratic nation-state, the nation is the legitimate sovereign which democratically governs itself, this interpretation of democracy hasn't got its approval by the stateless nations as they see themselves as a distinct *demos*. The accommodation of this distinct demos also influences the demand for change or, as happened in several cases, due to not being accommodated enough and with no change in sight, independence.

How to approach the *demos* question? Swenden argues that the institutional design is the key of success for governing “divided societies” (Swenden 2013: 67). The investigation also follows this thesis as a democracy, from our point of view, is a tool to improve a situation. In plurinational states, hence, the arrangement is crucial. This requires an interpretation of *democracy*, which has a common basis. A new interpretation of democracy, especially in a plurinational context is not impossible, as democracy is not a static system, but a dynamic process, which mutates and which reflects the political pulse of societies (Caminal 2011: 241). This common basis is mutual recognition as equal political subjects and respect. From this standpoint, a common cooperation in any way can eventually emerge, yet this is the big difference, which states with plurinational realities have not been able to fully accept. This means that the future design of the state has to be agreed with on a common level and instead of vertical, horizontal.

Some strategies for managing the territory with plural national identities and claims have been introduced already such self-rule, shared rule, devolution, autonomy or symbolic recognition (Swenden 2013: 68). Has that gone far enough to satisfy the demands? While the center sees it as a form of granting privileges to a part of itself, the stateless nation sees it as a fundamental, a basic right it has and which is negated or limited by an other entity, in which it is, the state. Those different standpoints have made it in the past and the present impossible to develop further an arrangement but current politics have come to an dead end as they have reached the limits of the state’s monopoly to cede. There hasn’t been an unilateral answer of federalism, confederalism, decentralization, but each case has generated different scenarios. While the UK has witnessed devolution, Spain has set up the “State of Autonomies” for example. The ongoing conflicts show, that these approaches have maybe been able to calm down some of them, but their intensity also reveals that these approaches haven’t gone deep enough or, in this context better said, beyond what is needed. Both parties can deal more or less with the current institutional constellation, but the potential to develop is hindered by the Westphalian dogmas, which are required to be left behind (Keating 2001: 171). Self-rule, decentralization, autonomy or devolution can lower the state of conflict, but ongoing demands for proper recognition and full independence show, that there is more required and that these strategies only fulfill their mean only partially. The argument, that an increased decentralization and further competencies for a nationally distinct territory might increase the confidence for independence movements to come closer to their goal, which is independence (Swenden 2013: 68-69).

In the end of the day, its exactly this argument, which shows and confirms the assumption brought up here, that these strategies run by the state are not enough to satisfy the stateless nation. It will still vote for independence, as long as it does not feel comfortable and accommodated in the exiting state structure and its design. The error here is that the center thinks, that by “granting” some “privileges“, it can satisfy the demanding peripheries. Like a parent trying to calm down the rebellious child. This is how the state, the center, may perceive those democratic demands. The state sees it as a demand from a part of the *Staatsvolk*, which is crucial for the interpretation of the situation by the state and the further steps, while the distinct community sees itself as a nation equal to the state-nation, yet not granted the same rights and, from that, the emerging possibilities,

tools and mechanisms. It is, that the point of departure, a common interpretation of democracy in these double majority cases, has not been met yet. The stateless nations, however, don't see themselves in the role of a rebellious child, subordinated to parental advisory, but it can be better compared to a family or even a marriage between two partners. Once one partner imposes the conditions and secures having the last word by law (in this case the constitution), and even threatens the other partner by sanctions (suspending autonomy, using military force, etc.) in case of disobedience, the intimidated partner might most likely consider, that this relationship is unhealthy and undesirable as he/she sees itself limited by the imposed rules⁷².

This can be proved as the states already determined usually in their constitutions or basic laws exactly, what the state is, who the demos is, and how it is organized - and all that from the standpoint of classic interpretation of the state. Keating defends in this context, that the idea of a plurinational state can not be captured in a definitive constitutional settlement, as a better way of proceeding would be a constitutionalism, which is a conversation or dialogue, allowing for mutual learning and influence and linking the various deliberative spaces (Keating 2001: 163). At the same time, a vague framework is requested such as universal principles, which are incorporated to the various, especially national and the other experiences (Keating 2001: 164).

Caminal argues, that the starting point for a pluralistic federation, as he calls it, can not be imposition, but a free and voluntary unification and the resulting or foregoing feeling of belonging to this union is essential for the stability and loyalty to and of such an union (Caminal 2011: 233). From a philosophical perspective, the liberty of a society is guaranteed by the liberty of the individual and, lifted up to an imagined space of plurinational democracy, the liberty of the units makes up the liberty of the whole (Caminal 2011: 247). With other words, the acceptance (or not) of individual liberties and rights is not the end but leads also to the collective right or liberty, which is the right of self-determination of the state collectivity and its demos (Requejo 2006: 7). When the liberty of the individual is guaranteed and protected by the state, and several individuals with the same interest of liberty unify, the state limits automatically this freedom of liberty, which is in fact a contradiction and shows the limits of classic state doctrine concerning themselves as liberal democracies and at the same time facing plurinational realities (Nootens 2011: 116). The question, if plurality and unity are really indivisible, emerges.

A coexistence can not be exercised if there is no recognition of diversity. Instead of trying to invent or to impose e a cultural domination in order to create or introduce a dominant culture in a historical sense, Caminal proposes the introduction of republicanism or republican patriotism as a tool to make proper recognition compatible with a common political structure and system, based on this republican ethnic and shared cultural values (Caminal 2011: 247).

In the light of transnationalization and interdependence as for a constellation of the plurinational construction, Keating states that "*A post-sovereign conception of authority, by lowering the stakes in nationalist politics and favoring the diffusion of authority across multiple levels, eases the plight of both minority nations within states and minorities within the minorities (Keating 2001: 166).*". This means that it should take constructive approaches and leave behind traditional nationalist politics

⁷² The example of comparing the way of perceptions by stateless nations in their relationship with the state to a human relationship was originally created by Dr. Igor Filibi within academic discussions on the topic.

from both, the state and the stateless nation's actors as they haven't been able to find satisfying solutions and, with the diffusion of authority across multi-levels, opening new perspectives of governance. It might sound revolutionary, but it is required as these approaches are not illusional, but rather pragmatic and constructive. Keating also argues that setting up a plurinational democracy would not mean to erase everything that has existed before, as it is just simply not feasible because of its impact and consequence it has on societies, but on rather rethinking the existent constellations, its failures, needs and possibilities (Keating 2001: 168). It's not about utopia, but about pragmatic and constructive approaches, which are able to replace structures, which have failed to improve the situation and have shown to have come to a dead end as further development would mean basically violating their basis, such as the nation-state.

Besides that, plurinational democracy does not mean necessarily the disappearance of states as organizations as such, as they still play a crucial and fundamental role as actors on the international level, especially, as Keating argues, on the fields of security, but also for the guarantee of domestic and international law (Keating 2001: 170). Therefore, plurinational democracy should be seen as a tool rather than an ideology in order to manage better nationality conflicts (Keating 2001: 171). Although the nation is linked to the state, in times of international cooperation and integration on an international (NATO) and a supranational level (EU) and shared sovereignty, the question arises, if the state still is needed. The answer is yes. The state is still needed and will continue to be also in the future one of the main actors in international relations. However, how the state is designed and interpreted, is crucial and a challenge for plurinational states, since the old paradigms haven't been able to provide lasting satisfaction (Keating 2001: 170, 71). With other words, the design and the interpretation of democracy is, due to the given circumstances, required.

There have been attempts made to develop from a unitary state towards a plurinational democracy by partial recognition and limited autonomy, yet, here hasn't been any single state, which has gone completely beyond the classic interpretations of the state. Spain has developed from a centralized dictatorship towards a democratic state of autonomous regions; Belgium has become from unitary state a decentralized federation with a complex structure; Canada has recognized that Quebec's right for secession is not illegal as such and views the indigenous community nowadays as such, calling them *first nations* and granting them autonomy; has recognized Scotland's right to decide once over its independence, yet hasn't recognized Scotland's and Northern Ireland's vote on the *Brexit* referendum. Movements demanding decentralization in France are minimal compared to those in other states with regard to the autonomy of Corsica and are not anywhere near a plurinational solution. Denmark has recognized in the past Greenland and the Faroe Islands as *de facto* full political subjects and given the right for secession, and is one of the most decentralized and closest states to plurinationality. Poland does not recognize at all almost one million people claiming Silesian nationality since the last census in 2011. These and other cases will later be discussed and examined more precisely.

However, also here, the nation-states limit the stateless nations in crucial decisions and hasn't shown itself ready for rethinking those limits, as everything beyond is still considered an exclusive

monopoly of the state. It shows that a further development is required, which is a new way of rethinking sovereignty, demos, legitimacy and the interpretation of *democracy*.

The fact that state borders are recognized and respected are a key factor as only this recognition and respect allows cross-border initiatives in new form of cooperation in different fields (Keating 2001: 170). This means that a recognition and respect are fundamental for a further constructive development as the hierarchy here is not the stronger versus the weaker one, but both on the same level as equals, which changes the structure of relationship between both. Mutual recognition as equal political subjects, defined by democratic expression and respecting the distinctiveness is, hence, a basic fundament to interpret democracy in the light of a plurinational democracy. There is no true formula of what is right and wrong, but it depends on the very subjective point of view of the author and researcher. This is reflected by the approach on the topic of researches, whether they are departing from the classic nation-state dogma and tend to see decentralization strategies as some threat, or, as argued here, a right that needs to be fulfilled (Swenden 2013: 65).

For the design of such a plurinational federation, a philosophy is required, that goes beyond the existing state philosophies, but that works, according to Dumont, *in sensu cosmopolitico*. This means that there exists a constitutional pact between the units, which on the one hand recognizes, accepts the mutual national difference of the individual in mutual respect (Dumont 2012: 99). Furthermore, the sovereignty of the states and the co-sovereignty of the union is guaranteed and agreed (Dumont 2012: 99). This co-sovereignty implies a reciprocal relationship between union and the units, but also and especially its citizens, which can demand the compliance of rights and obligations by them and the states over the shoulder of the states directly from the union, which is in current nation-states not given (Dumont 2012: 99). The cosmopolitan law is based on a set of common values agreed on, while mutually respecting the competency of each other. For now, a mutual agreement has only been recognized within the pattern of the “one *Staatsvolk*, one nation, one demos”.

The conclusion can be drawn, that states with plurinational realities deal with basic conflicts of the understanding of democracy, legitimacy, the question on the sovereign (demos) and the resulting institutional state design, as both - the nation-state and the stateless nation - act on fundamentally different assumptions and starting points.

13.2 Setting up a definition of plurinational democracy

The foregoing chapters have introduced some basic reasons for plurinational democracy as a required approach and have examined both linked terms, *plural* and *national* by extracting also the main features for its necessity. If the idea is set up, that plurinational democracy is in fact the most favored political structure within a plurinational, democratic polity, several questions have to be recapitulated in order to set up the definition of plurinational democracy. This thesis is not the first examination, that deals with the question of finding a way out of that vicious circle and approaching the questions of *state*, *nation*, *legitimacy*, *sovereignty* and *territory* from a democratic standpoint.

Several scientists have dealt with that topic before, such as Michael Keating (2002), Ferran Requejo (2011, 2016), Noé Cornago (2009, 2013: 134), Francisco Aldecoa (2009, 2013), Wilfried Swenden (2013), Dumont (2012), Caminal (2016) or Genevieve Nootens (2011), which have been discussed above examining the concept of plurinational democracy. It is, however, an approach deeper to detect a series of factors, criteria or elements, which make up a plurinational system, how and in what shape it is developed, if it is satisfying enough to please the demands of the units. It goes beyond examining the degree of decentralization, but also the deepness and the effects of recognition and the design, which embodies it.

First, what is plurinational democracy? To answer this question, two approaches will be conducted here. The first step will be a comparison of what plurinational democracy is with its counterpart, what plurinational democracy is not. Counterpart examples help better to visualize the concept itself and stop solve pending questions. The second step will be a resume of the ideal type of plurinational democracy within a definition.

1) Plurinational democracy is a polity, whether it be a state or a supranational organization, or any kind of polity, which includes more units, that regard themselves as nations and recognizes them as full political subjects as holder of their own sovereignty. Nations, as they are due to the given reality the holder of sovereignty, still embodied nowadays as nation-states or in supranational organizations, and linked with political ambitions of self-determination since the American and the French Revolution (Chouinard 2016: 55). Proper and full recognition as political subjects of the nations is embodied juridically, constitutionally, and visible in its design and its institutions such as in its power distribution and the existence of *demos* on the unit level equal to each other as the ultimate level.

Plurinational democracy is not a polity, whether it be a state or a supranational organization, or any kind of polity, which includes more units, that regard themselves as nations, but in which this recognition is limited and always to the Westphalian state dogma subordinated, like a symbolical one (Toubeau 2013: 72; Nootens 2011: 125).

2) Plurinational democracy is a polity, in which the national units are the ultimate holder of sovereignty, hence sovereignty is divisible, but can also be shared if the units wish so (Caminal 2011: 226).

Plurinational democracy is not a polity, in which only the polity is the holder of sovereignty on the highest polity level, which in the and sovereignty can only be ceded in sub-polity cases like in a classic federation without the consent of the units.

3) Plurinational democracy is a polity, in which the units define and compose the polity and design it in consensus, hence the units control the polity, and subordination only with the full approval of the units by sharing sovereignty.

Plurinational democracy is not a polity, in which the polity defines and composes the units, which can be also unilaterally possible and exclusively by the polity, which makes the polity always controlling the units and subordinating them.

4) Plurinational democracy is a polity, in which the units make up together in consensus the institutional, juridical and constitutional design, always on the base of full self-determination of the units, which is a bottom-up process (Caminal 2011: 226).

Plurinational democracy is not a polity, in which the institutional, juridical and constitutional design primarily secures the existence of the polity first and is the only justification for the existence of the polity, and where the position and competencies of the units always on the base of the sovereignty of the polity arranged.

5) Plurinational democracy is a polity, in which the democratic consensus of the units and the relations between the polity and the units is based on democratic decisions of the units and their internal design of the decision-making process (Caminal 2011: 226). This means that the sovereignty is always secured within the structural framework of the polity and constitutionally and juridically immediately and permanently granted. In concrete, the minority nations claim besides their proper recognition a certain level of self-governing (Requejo 2006: 3)

Plurinational democracy is not a polity, in which the consensus between the units and the polity is founded on the base on the polity-favoring juridical and constitutional framework, which subordinates the units and limits their competencies to the extend, that sovereignty and legitimacy are reserved for the polity only on the end of the day. It is also not plurinational in this matter, where a collective doesn't demand some claim of recognition as a nation and a certain level of self-government, as a political and juridical distinction from the majority nation isn't wished, hence, and the concept of plurinationality isn't given.

6) The stateless nation identity, such as double identities composed by the stateless nation identity and the majority nation identity forms the vast majority by the population within the plurinational democracy.

It is not a plurinational democracy, if there is no majority of identity, which differs from the majority nation identity within one determined territory, claimed by the stateless (or minority) nation.

7) Parties, which define the existence of the minority nation are within the determined territory the majority (double majority), while secessionist parties (at least one) are existent, but aren't the majority, but recognition over independence with all the consequences it bears (also unilateral secession) is the preferred political project.

Plurinational democracy is not where parties defending the idea of the existence of the minority nation are the minority, or where a clear support for secession is lasting and visible by the majority of the population.

A significant and concentrated definition of Plurinational Democracy is the following:

A plurinational democracy is a polity composed by several nations, recognized as full political subjects who cannot be completely blurred within the overall state, and where the political

accommodation of them is made through a free negotiation. These nations share some powers which are managed by common institutions while other powers are managed by each nation. Nations are genuine and non-derived subjects (true nations and not regions or nationalities), as it is expressed by the exercise of two rights: self-definition and self-organization. Self-definition means that only the nation itself can affirm its national identity. Self-organization implies that each nation has the right to organize itself internally and to consent on any limitation of its power or to acquire any obligation under wider political structures. This means that the nation should be a part in the negotiations of those structures and must accept explicitly any change in the constitutional arrangements affecting to it, including the possibility of freely abandoning the polity (secession).

Further questions, which have been indirectly treated above in the foregoing chapters, will now be addressed directly and answered. It helps to recapitulate and to retake the reasons for the plurinational democracy model, its context and its requirement.

Why is plurinational democracy required? Such a new approach is required, since the nation-state has set up dogmas in the Westphalian tradition, in which units are not recognized as proper ones, but the idea of sovereignty is still reserved for one, formerly the nobility, now embodied by the state-nation and the nation-state and their fusion as one (Requejo 2016a: 318). This dogmatic continuation of Westphalia has hindered the nation-state of responding properly to the sociopolitical plurinational realities within its borders, such a democratic development towards new approaches, which makes such a new approach necessary. The nation-state dogma has led to a series of conflicts of state, democracy and nation, including the factors of sovereignty, legitimacy and demos and, as mentioned, due to its self-limitation to these dogmas found itself within a dead end. Given answers such as some decentralization or symbolic recognition are only limited and unsatisfying (Toubeau 2013: 72). With other words, the question of state vs. democracy and which of these composing elements of the democratic nation-state has more weight, has been revealed and requires a true and honest answer. The reason has been examined by several scholars, as the chapters before have revealed and their striking arguments need a formula for these challenges.

When is plurinational democracy as a new approach required? First of all, when the foregoing, by the Westphalian nation-state dogma imposed approaches aren't able to satisfy the demands and the socio-political realities within a state. Decentralization or symbolic recognition are not enough as demands for recognition, even for independence exist, but the state can't due to its own set-up system and values answer that, as it would go against the basic axioms of indivisible sovereignty, one demos on the state level and a set up legitimacy by not violating the highest value, the existence of the state itself. The core element for plurinational democracy here is, that there are nations without a proper state or nations within a polity, where a clear majority in favor for full independence, but for proper recognition with all the juridical and political effects it bares, exist. Therefore, a reformulation, that takes into consideration, in fact as a base these axioms, is required and is embodied in the approach of plurinational democracy.

Why is it required? The nation-state has shown, that, due to its Westphalian-rooted dogmas set up for the modern nation-state model, such demands of national collectives can not be satisfied as it

would require to go beyond these basic values and the understanding of the state and its societies, the question on the demos, legitimacy and sovereignty. Strategies within the given framework, such as symbolic recognition or further going decentralization have been largely unsatisfactory. In these socio-politically and nationally distinctive collectives, no clear majority in favor of independence can be found, but a clear majority for a reformulation. The national units aim for proper recognition as being one equal among other equals, which means that this polity recognizes this demand as a basic condition on order to exist and to be found on and institutionalizes and constitutionalizes it by giving this system legal security, beyond symbolic recognition (Toubeau 2013: 72). This means that, if the state can't cope with the demands due to its own set of values and the framework of the democratic nation-state model, but a clear majority for reformulation instead of full independence exists in such a nationally and socio-democratically distinct society, a reformulation, which takes into account these given facts, is required. This reformulation can be found within the approach of a plurinational democracy, as neither the state will disappear as such, nor will the nationally and socio-politically distinct units be permanently subordinated against their will, as the nation-state dogmas will be overcome (Keating 2001: 170). Plurinational democracy is, hence, a further development of the liberty of the individual, which has been achieved by the nation-states, but the development of liberty of collectives nationally different than the state-nation, has been impeded (Nootens 2011: 115-116).

How is plurinational democracy embodied? There are several approaches on how a nation can be perceived and the state, maintaining its favorable interpretation, is based on the idea of maintaining the power within the given structures over the territory, the people and the administration (Keating 2002: 166, 167; Smith 1986: 1; Spencer/Wollmann 2002: 69; Seymour 2012: 2; Thompson 2012: 137; Baglioni 2013: 213). It depends on the demands and the negotiations of the polity with the units, always on the ground of a full and proper recognition of them as the ultimate holders of sovereignty. This means that the structure can vary, depending on how the design is negotiated, whether federal, confederal, or just asymmetrically or symmetrically decentralized (Caminal 2011: 231). A negotiation between the units among each other and the units with the polity is, hence, is a negotiation between equal political subjects on the same level, the polity without the possibility of overruling the unit or imposing, but by respected negotiations. It includes the existence of various demoi and the full and proper recognition of them as it is symbolic recognition, that allows only a certain degree of self-determination, but is always subordinated to the state and its vision, its dogma (Keating 2007: 18; Seymour 2010: 173). This design can vary in its degrees, depending on the polity, its concession and the demands of the units.

A plurinational democracy has an institutional design, which secures juridically this recognition of the national units as holders of full sovereignty, embodied in the constitution or a constitutional text or a constitutional pact, based on the consensus of the units forming the polity (Caminal 2011: 226). This polity recognizes this demand as a basic condition on order to exist and to be found on and institutionalizes and constitutionalizes it by giving this system legal security, beyond symbolic recognition (Toubeau 2013: 72). What is important is not symbolic recognition, which could be equated with tolerance, but the recognition of differences, embodied by a system that fully does so

(Carranza 2015: 53). It's not the uniformity, that unites the plurinational polity, but the essential part is the recognition of what unites this polity are the differences (Carranza 2015: 58).

It reflects the legitimacy, which is set up by the common consensus of the units. It is, hence, also embodied by the polity structure and the design of institutions and the distribution of competencies, based on the agreed terms between the units (Caminal 2011: 226).

What is even more important, in fact the base to set up plurinational democracy, is the set of values, as the nation-state dogmatic model is overcome, nationalism rather seen as a political identity than a cultural-ethnic based one, and the respect of the horizontal hierarchy by the acknowledgement of the units as proper parts. This change of mentality might be the biggest struggle, as both, politicians and the civil and the political societies have grown with the idea of the Westphalian-rooted nation-state model and takes it for natural and for granted. However, accepting that this model is the hindering factor of a deep and true solution within a democratic framework - which is by all, the titular nations and the stateless nations the most desired one -, is the first step for a more just and more democratic society. In concrete, this means to take serious the double majorities and to respect them as such, not only on the national level, but also embracing it on the sub-polity level. Not the disappearance of the state as such is the aim - states have shown to be the most desired and the most desirable form of territorial political organizations, as the copy of the model has shown by the growing number of states. What is aimed is, that plurinational democracy yet means definitely a step-back of the nation-state and a turn away of the dogma and of Westphalia in the traditional way, initiating a development towards democracy as the protagonist within the polity (Keating 2001: 170).

13.3 Measuring plurinational approaches within states and polities

Social sciences are not natural sciences, where natural laws are always applicable and where the formula $a \rightarrow b$ is always under the same conditions applicable. This means that the truth is scientifically in many cases not objective, but subjective (Gerring 2001: xix). Social sciences include the diversity of cases and even though cases seem to be similar or show similarities, an uncountable series of factors have effects on the cases. With other words, each case is different and, therefore, measuring approaches and strategies within polities, which tend more or less towards the formulated plurinational ideal require, besides visible and easy detectable indicators, also interpretation and "reading between the lines" approaches, when setting up a series for indicators to measure the grade of strategies and approaches conducted by states. Although this means, that trying to measure the approaches of the polities, and whether they are closer or further away from the plurinational democracy ideal is a huge challenge, this chapter aims to put together a series of factors to measure it. Some of them are objectively measurable, while others require more interpretation and empathy, as each case is different and has different factors, that influence its development and the relation with the polity.

As seen in the foregoing chapters, there have been a series of factors mentioned within single texts, that serve to identify the ideal type of a plurinational democracy. Several mentioned authors

delivered a series of such criteria (or factors), which are measurable in order to detect a plurinational polity. There are three main sections, which include a series of factors. First, the section of national realities, where all cases undergo an examination of their national composition and the claims. Second, the section of political realities examine the “inner life“ of the stateless nation in the given political constellation. The third section tests a series of factors, which are linked to the arrangements between the polity/state and the stateless nation in order to understand the relationships between state/polity and the stateless nations. A deeper explanation of each factor and of each section will be delivered in the following:

1. National realities

First, the measurable and interpretable factors of the national realities within the examined states/polities will be listed and interpreted.

1.1 First, there exist a territory within a state, which is, due to the collective which lives there, distinguishable to the rest of the state (or the surrounding area) by culture, language, history and other similar characteristics (Requejo 2006: 3). With other words, there exists a collective within this determined territory, that claims to be recognized as a nation different from the majority one within the state or the polity, there is national pluralism within the polity (Caminal 2011: 226). As this one is not an empirical, but a highly interpretable and subjective factor, it might be the most critical one to evaluate and is based on the assumptions of the author. This factor is embodied in table 1.1 “One or more collectives claim to be recognized as a nation part from the majority nation within the polity“.

1.2 To continue a reasonable research, table 1.1 works as a filter, distinguishing between collectives, in which a national demand exists and entities, which do not have a national demand. Furthermore, the identity is tested here: only territories, in which there is a national identity, which is different in its majority from the state (including double identities) make sense to continue the research in this context, as otherwise, no double majorities of double national realities would be detected. Double majorities are crucial, not only in the political sense, but also in the national sense. Otherwise, if the stateless nation is, within the claimed territory, a minority, a continuation of such a case in this investigation would be rightfully regarded as an imposition of the agenda of a minority on the majority. This would not correspond to the democratic rules and, at the same time, manipulate the factors for measuring the closeness to plurinational model of each case. Table 1.2 investigates, therefore, evaluates those cases, where the stateless nation’s identity & double identities form the majority within the claimed territory by the stateless nation.

1.3 This collective⁷³ within the determined territory, the nation, reclaims a certain level of self-government in both, historically and at present and which can vary on the level of demand (from

⁷³ During the thesis, the terms “stateless nation“, “minority nation“ or, in this context, “collective“ have been used and shouldn’t create any confusion.

only autonomy or any other special arrangement different from the rest, up to more decentralization up to full secession) (Requejo 2006: 3).

2. Political realities

Second, the measurable and interpretable factors of the political realities within the examined states/polities will be listed and interpreted. Only those cases, which have clearly qualified themselves in section 1. are proceeded within further examinations.

2.1 As a more empirical factor in addition to the foregoing, rather diffuse theoretical and highly interpretative factors is the existence of “(...) a *distinct party system that of its state level counterpart* (Requejo 2006: 3)” in terms, which include and reflect minority nationalist parties. This means that table 2.1 examines, whether the cases contain within their territory a party system, which recognizes the existence of the stateless nation as a given fact.

2.2 Within this particular party system, parties defending the existence of the minority nation form the majority, while state-nationalism parties are the minority (double majority). This indicator confirms the existence of double majorities as a factor for a democratic justifiable base .

2.3 Within this system, at least one party, which defends the idea of secession from the state/polity exists, but there isn't a clear majority in favor of independence in the determined territory (Requejo 2006: 3).

2.4 As neither secession, nor maintaining the status quo of a decentralized arrangement, a further factor is to investigate in table 2.1, whether the most supported political project of the stateless nation are reconfigured relations with and within the polity/state. Cases tested positively automatically exclude them embodying a majority in favor of classic secession or of a majority of maintaining the status quo.

3. Plurinational realities of the polity/state in its arrangements

The states with plurinational realities have also usually a certain amount of arrangements, which do or do not display the demand and the recognition of the minority nations within the state/polity.

3.1. Plurinationality is resembles by the division of powers within a polycentrist, plurinational or asymmetrical arrangement (Caminal 2011: 226, 231). In this table, all cases will be tested whether they go beyond usual decentralization arrangements.

3.2 The plurinational institutional and constitutional design reflects the level of plurinational recognition by the polity and the demands of the national units (Swenden 2013: 68). It reflects the satisfaction level of the cases within their current arrangement and examines the reasons for, why they are (un)satisfied. In case of full satisfaction, the plurinational polity is composed by voluntary will of the units in consensus and institutionalized within a constitutional pact (Caminal 2011: 226;

Dumont 2012: 99). This means the question of legitimacy is solved by those units qualifying themselves as positive.

3.3 Sovereignty is on the polity level shared and divisible into its national units (Caminal 2011: 226). The question, how and if sovereignty can be shared, is also part of the discussion of the table.

3.4 This table examines, if a stateless nation, that qualifies already in table 2.2, has juridical or political ways to express its (dis)agreement on the current political status and the current political recognition. With other words, it shows, up to which point a stateless nation is taken as such and included into the process of change.

3.5 Plurinationality recognizes the nations fully as such with all the consequences it bears Swenden 2013: 71; Lecours 2005: 147). This means, a full recognition of national *demos* and their recognition as holders of sovereignty, including the right for an unilateral decision for secession (Nootens 2011: 111). As one of the fundamental factors of a plurinational reality, it is part of the investigation and, therefore, indispensable.

What is crucial, in fact, in order to detect polities with more or less plurinational democratic approaches are the relations between the units and the polity they compose and how the units - whether composing the polity or demanding within the polity - are represented juridically, institutionally and in the polity design such as the question on the recognition of the *demos*, the sovereignty and the legitimacy. *Demos*, whether if there is only one (and how it became it, whether by proper will or by imposition); Sovereignty, detecting who is the holder of the sovereignty, if it's more or less Westphalian inspired or more or less inspired by the recognition democratic demands, hence by democracy; This would mean a shift of hierarchy and sovereignty of interpretation from the state to the people and, by doing so, abandoning the single-party like arrangement towards a liberal and plural basis (Aldecoa 2013: 92). Legitimacy, whether the polity is composed by voluntary will and a on the recognition of the units and their voice, or whether it's imposed by the quantitatively stronger and bigger part, focusing on number and strength or focusing on the premise of all units as equal partners, although they may vary in strength and number of inhabitants or economical force.

The mentioned characteristics of the definition are, of course, only extracted and combines as an ideal type and leave also space for interpretation. In practice, states or polities with plurinational demands have found and implied different strategies to challenge these demands. The type or the degree of recognition is usually resembled in the design of ceding powers to the unit or units, but a more decentralized state doesn't necessarily mean that there are more plurinational demands, as in Germany or Austria for instance. This only resembles the recognition of substate units, but shall not be confused. More or less decentralization, hence, can be seen as a an institutional approach reacting towards plurinational demands, but needs to be seen in the context and doesn't alone qualify to detect a system closer or further away of the ideal type of plurinational democracy.

Usually, the type of demand is required to be examined, such as the possibility to articulate and to express this demand. Only trying to measure demands by vote is inaccurate and this approach would have two weak points. First of all, there are states, in which socio-political actors or parties demanding to represent a nation different from the state-nation are not allowed and delegalized, as it was the case in Poland for instance or France and, therefore, detecting them as indicators of the democratic society in a territory with potential national demands can be difficult (Sweeney 2013: 202; Arnaud 2016: 19). If a stateless nation is not able to manifest itself because the state hinders it, it doesn't mean that the stateless nation does not exist, but say a lot about the strict interpretation of the nation-state and the linked concepts and its understanding of democracy. Second, the question of whether a nation can be determined by vote or other democratic manifestation can be also a weak factor, as priorities of the people voting in this territory might change due to a series of factors such as corruption and the loss of credibility of such parties, economic crisis or dependency by the nation-state or different democratic systems such as the majority voting system vs. proportional representation, also the democratic culture of that territory is a factor. A further factor such as a census can not be seen as a single sufficient factor to detect, whether a stateless nation is existent or not in a territory, as although many people might claim a different nationality apart from the state-nation one (and not including other national minorities), the claim to be a nation is always linked with political ambitions of self-determination since the American, latest since the French Revolution and differed them from ethnic minorities (Chouinard 2016: 55). In the end of the day, this are the datas available to assume that there is a socio-political demand for being a nation apart and although the danger of oversimplifying or monocausal definitions exists, it's a confident base to work on with.

The cases to work with will be examined one by one in the light of plurinational demands and their strategies on how they have challenged them. This will give for each case a set of indicators to be applied and finally to be compared, visualized in a table and interpreted in the context of each case.

In cases they are not recognized, their status has been a demand for recognition and with different aims, whether it be recognition within the polity or full sovereignty and independence. These units aim for proper recognition as being one equal among other equals, which means that this polity recognizes this demand as a basic condition on order to exist and to be found on and institutionalizes and constitutionalizes it by giving this system legal security, beyond symbolic recognition (Toubeau 2013: 72). Within the ideal type of plurinational democracy, these units make up the polity by proper will and can leave it by proper will. This, of course, has a crucial effect on the institutional and constitutional design and the distribution of competencies. Talking more straight about terms discussed above, some sovereignty is exclusive, while other is shared, and the distribution is negotiated ideally on a consensus of the units. Hence, this certain system and its structure embody the recognition of the units and implies it consequently, which means, that the internal order of sub-units within the composing units is respected as a basic value. Plurinational democracy is, hence, a further development of the liberty of the individual, which has been achieved by the nation-states, but the development of liberty of collectives nationally different than the state-nation, has been impeded (Nootens 2011: 115-116). A clear sign of having reached a

level of plurinational democracy would be the abandoning of the nation-state model, its rhetoric, its constitutionalization and its institutionalization as such.

14. Testing the factors of the ideal model of plurinational democracy on the cases

14.1 Explaining the tables, such as the measured factors in each case.

The setup of a series of table in order to measure the plurinationality of a polity includes, besides a series of factors, also a series of difficulties. The factors can be selected by the suggestion of investigators and experts, who examined the plurinational approach, such as Caminal (2011), Requejo (2006, 2011, 2016), Nootens (2011) or Dumont (2012). Nevertheless, besides classifying the cases with a clear YES or NO, a lot of interpretation in each case and of the explicit circumstances is required before taking a decision. This means, that not only the current position or circumstance is taken into account, when the decision between YES and NO is taken, but the whole context of each case, which includes long-term trends for instance. The evaluation, hence, is tightly linked to the interpretation of the tendency of a case and taking into account the context means to read between the lines, to distinguish between strategies or internal or external shocks, between long-term strategies and tendencies and short-term strategies and tendencies. All decisions taken for the creation of the tables will be explained and follow a certain, subjective logic. Therefore, the explaining texts, which belong to each table, are crucial to understand the decisions taken and the logic they follow.

14.2 Testing the factors individually on the examined cases

To avoid any confusion with the order of the chapters and sections, the following numbering and ordering of the factors is identical to that being used in the tables.

I. NATIONAL REALITIES

1.1 One or more collectives claim to be recognized as a nation apart from the majority nation within the polity

This factor is mentioned by Ferran Requejo as a basic factor to proceed with further investigations (Requejo 2006: 3). The premise and the logical consequence is, that the polity or the state has a plurinational reality (Caminal 2001: 226) It is logical, that investigations on plurinational democracy require cases, in which the collectives define themselves as nations apart the majority nation. Here, two factors were especially taken into account when evaluating each case individually:

A) support for nationalist parties B) opinion polls/census’.

Since a nation is a political subject or, at least, in the end of the day aims to become one, support for parties, which defend the stateless nation⁷⁴ and its recognition seems appropriate to take it as a first identifying factor (Chacon Delgado 2013: 24). Second, opinion polls or census’ on national

⁷⁴ The terms “minority nation” and “stateless nation” can be used synonymously.

identity are a further factor, which can identify a stateless nation as well. Especially in cases, where parties, which defend the existence of a nation apart the state-nation, are declared unconstitutional and, therefore, are forbidden or differently marginalized or excluded from the political participation process, opinion polls and census' are a reliable source of information.

Denmark

In case of the Faroe Islands, there is no doubt that the Faroese collective perceives itself as a nation. This reflects the long history of support for parties, which defend the existence of the Faroese nation. Not only parties, which support independence, have shown such rhetorics and policy supporting this argument. It is especially visible in the draft for the new Faroese Constitution, which will be voted on in a referendum in 2018 and in which even the social democratic party expressed their support, although they don't support independence⁷⁵. The constitution includes the expression of the Faroe Islands as a nation with natural rights such as self-determination⁷⁶. Further features are the cultural distinctiveness and the geographical distance from continental Denmark, which support a strong YES in case of the Faroe Islands, when it comes to the question, if the Faroe Islands, as a collective, claim recognition as a nation apart (Caminal 2011: 226).

Greenland shows a similar pattern. Since the introduction of autonomy, support for parties, which express, that Greenland is a nation, has risen and is on an actual high. Also, the cultural and ethnical differences such as geographical distance from continental Denmark support a classification as YES, when it comes to the claim of the Greenlandic collective as a nation apart within the Danish state.

United Kingdom

In the cases of Scotland, Wales and Northern Ireland, the existence and the support for parties, which claim these collectives to be national collectives - nations - within the United Kingdom, have existed over decades⁷⁷. The self-awareness of the United Kingdom as a state with a plurinational population has never been an issue, since people declared themselves as British, but never as "United Kingdomers". Therefore, a state-nation in a classic sense never existed. The name "United Kingdom" already reveals the nature of the state: it is a *union* of kingdoms and the nature of the United Kingdom as a "family of nations" has been recently expressed again in many ways (Douglas-Scott 2016: 191).

Especially, the history of the Union between Scotland and England to the United Kingdom in 1707 and the stronger support for the *SNP* since the second half of the XX century lead to the conclusion, that Scotland regards itself as a nation. Recent polls also the number of people stating

⁷⁵ The Government of the Faroe Islands. Solidarity, Self-sufficiency and Liberty

⁷⁶ The Government of the Faroe Islands. Referendum on Faroese Constitution to be held on 25 April 2018

⁷⁷ England as a nation and its national identity have been examined in the chapter on the United Kingdom. However, forming the vast majority of the United Kingdom, the English nation can hardly be described as a "stateless nation", as the United Kingdom embodies in fact the English nation within that state. Therefore, England is not part of the investigations.

themselves as Scottish in a national sense is by far the highest⁷⁸. Therefore, Scotland can only be classified with a YES in the Table 1.1.

Although Wales was incorporated early into England and first opposed devolution, Plaid Cymru emerged as a player, as a national party, which embodies explicitly the interests of part of the Welsh collective, which identifies as a nation⁷⁹ and never rejected the option for independence. Welsh Labour, traditionally the most voted party, also never opposed the idea of the existence of a Welsh nation. Opinion polls and census' on national identity leave no doubt, that Wales is a collective in national sense.

Northern Ireland is in a different position than Scotland and Wales, since it practically has for those, who claim to be Irish, yet native of Northern Ireland, a mother-state. It isn't a stateless nation in that sense. This is supported by the vote of both, Irish and non-Irish voters, since the assembly of Northern Ireland reflects clearly a different national realities than other parts of the United Kingdom. Opinion polls also support the factor, that Northern Ireland distinguishes itself nationally from the rest of the United Kingdom, although it is questionable, if there exists a strong Northern-Irish only national sentiment, or if it is rather a subordinated to British national identity, which is strong among protestant, loyal and Scottish-English rooted inhabitants⁸⁰. Nevertheless, the existence of the Irish as a nationally different identity from the rest of the United Kingdom politically, such as in polls, qualifies as a YES in the Table 1.1.

Gibraltar and London never expressed themselves to be a nation within the United Kingdom. Gibraltar indeed has, due to its geographical position and distance from Britain, a different reality, but it never became a national reality as in Scotland, Wales or Northern Ireland, but remains an identity, which doesn't claim national distinctiveness expressively. Also in the light of *Brexit* and the clear opposite vote of the Gibraltarians, no claim for national distinctiveness within the United Kingdom could be detected.

London also has, due to different reasons - its size, the city and the financial sector and other industries - different realities, but neither historically, nor *de facto* has there been a national claim for London as a national identity. Opinion polls show, that Britishness is the highest exactly in London⁸¹.

This leads for Gibraltar and London to the conclusion that any of them qualifies as a collectives which claims to be recognized as a nation apart from the majority nation within the United Kingdom.

⁷⁸ Scotland's Census.Census 2011: Detailed characteristics on Ethnicity, Identity, Language and Religion in Scotland – Release 3A

⁷⁹ University of Manchester. Who identifies as Welsh? national identities and ethnicity in Wales. p.2

⁸⁰ Northern Ireland Assembly. Understanding the 'Northern Irish' Identity. p.3

⁸¹ BBC. How British is Britain?

France

This state is the one with most cases tested in this thesis. The reason is due to its historical state-building by expansion from the center Île-de-France into culturally different territories or by the annexation of polities (Keating 1988: 33).

In the first case, Flanders hasn't shown any political movement detectable in the French state, which would assume, that the Flemish people would support actively their recognition as a nation in a political sense, since culturally, there exists activity. France has managed to assimilate the Flemish part nationally according to Baycroft, expert on the field of identity of French Flanders (Baycroft 2004: 196, 201). Flanders does not qualify here.

Alsace has traditionally been the bone of contention between Germany and France, as ethnically and culturally, Alsace has undoubtedly been part of the German cultural circle and the German nationalism, while it became since its annexation from 1648 on under French rule and influence of French political identity. After two World Wars, any support for Germany has either voluntarily or forcibly, vanished and an Alsatian claim for being a nation apart has not emerged besides underlining cultural elements or as a regional identity (Schrijver 2006: 187). With other words, there is no visible support for Alsace as a nation apart, also not as part of the German nation like in the Northern Irish case. Therefore, Alsace does not qualify.

Occitania, which historically never existed as a polity, yet being culturally different and also aware of being conquered, has seen a series of national awareness, which went beyond a cultural and linguistic awakening, but lead to demand for autonomy and Occitan nationalism, embodied by parties and social movements. There have been and there are people who believe in the existence of an Occitan nation (Amit 2014: 59). Therefore, Occitania qualifies as YES.

Corsica is the only case, which also leads to a clear YES, as besides ethnocultural differences, which have been in Corsica underlined since their belonging to France, violent movements (FLNC) advocating for the Corsican nation, such as nationalist parties, especially on the Corsican level and clearly visible during the Corsican elections in 2015, which stand for the existence of the Corsican nation leads to the conclusion to qualify Corsica as YES in the table.

The Catalan case must be seen in the greater Catalan nationalist case, since it doesn't exist apart. Although the territory in France is very small and poll numbers aren't available for France, when it comes to the national identity, there has been a strong cultural support advocating for the Catalan cause, such as a branch of the Catalan party *Convergència i Unió* in France, which leads to the conclusion to qualify Catalonia in France also with YES.

The Basque case (*Iparralde*) is similar: since no official polls on national identity exist, the cultural difference such as the support for cultural, but also political movements, who defend the existence of the Basque nation also in *Iparralde*, is taken here as the factors to measure. In *Iparralde* exist a branch of the *PNV* party (*EAJ-PNB*), such as the left nationalist movement (*Abertzaleen Batasuna*, *Euskal Herria Bai*). It has also been the *Hinterland* of ETA during decades, the French Basque Country can, therefore, be qualified as YES.

Brittany, as a polity, was annexed by France and became one of the peripheries of the France, yet culturally different, political ambitions as a nation emerged already in the XIX, but especially in the XX century (Schrijver 2008: 2010-211). Also, violent actions by Breton groups were carried out.

Nowadays, there are still parties existing, which defend the idea of Brittany being a nation such as UDB and others. Brittany therefore qualifies as YES.

Poland

The Silesian case has been studied profoundly here and qualifies as YES due to growing numbers of Silesian national identity, such as various socio-political groups and parties, which defend the existence of the Silesian nation.

Spain

Catalonia and Basque Country show here similar features. There exists a broad consensus in both societies, that Catalonia and the Basque Country are nations. This is expressed not only culturally, but especially in opinion polls (such as the Euskobarometro for the Basque Country⁸²) as by the existence of local parties, which claim Catalonia and the Basque Country to be nations. Also, in the Catalan case, the socialist *PSOE* branch (*PSC*) approved the new status in 2005 stating and defending, that Catalonia is a nation (Lluch 2014a: 265). It is, hence, not only a nationalist demand, but comes from a broad majority of the Catalan society. Therefore, both cases qualify as YES.

European Union

The member states and the titular nations of the states never abandoned their national identity and their claim to be nations, as there isn't such a thing as a European nationalism embodied in any political movement or party or as a national identity. Therefore, member states qualify as YES.

The fact that "stateless nations" as a case was taken also into this table has some reasons: First, many member states do not equal only with the titular nation (or state-nation), but include also collectives, which claim recognition as nations apart from the titular nation. Second, one of the hypotheses states, that there is a pro-EU trend within the stateless/minority nations. Third, these nations are also represented by politicians on the European level, beginning from the municipal up to the European level and taking part in the policy-making of the European Union. Stateless nations claim for recognition and see themselves as national collectives different from the titular nation. Therefore, they also qualify as YES.

1.2 Stateless nation identity & double identities make up together the majority of identities within the territory claimed by the stateless nation

The factor of distinguishing between majorities of identity is a helpful factor to filter out those cases, where the minority nation within the state is also a minority within the claimed territory and on the one hand, and on the other hand those cases, where a majority of inhabitants claim to belong in their majority to the minority nation. This means, that a clear majority of the inhabitants of

⁸² Euskobarometro Octubre 2016. Estudio periódico de la opinión pública vasca.

a claimed territory supports the identity of the nation, whether as a singular identity, or as a “double identity“ together with the titular nation identity of the polity or the state.

To facilitate further investigations, those cases, which didn't qualify in Table 1.1 won't be considered here as well, as the main investigation of this thesis is *plurinationality*. Therefore, those collectives, which don't claim to be such in a measurable sense won't be taken into account anymore.

Indeed, the reasons can be disputed, but this examination works with the data available, such as reasonable interpretations of national realities in all cases without trying to manipulate voluntarily the outcome.

Denmark

The Faroe Islands clearly identify themselves as a nation in their majority. This can be seen in the traditional support for nationalist parties on the one hand, but also on the absence of a dispute, whenever the Faroe Islands are referred to as a nation⁸³. The discussion on independence on the Faroe Islands never disputed the topic, whether the Faroe Islands were a nation or not, but rather the economical viability, such as possibilities, advantages and disadvantages of belonging to the Danish state were the main topics among Faroese parties or the Faroese people (Stepan/Linz/Jadav 2011: 224). Therefore, it's safe to say that a majority shares national identity as Faroese, while politically, it might be linked with Denmark for some.

Greenland shows a similar pattern as the Faroe Islands. Support for the introduction of Home Rule was due to social and political pressure from Greenland to be regarded nationally different from mainland Denmark and is also embodied in the support for pro-independence parties. It has been deeply analyzed in particular in the chapter of Denmark and its relations between the Faroe Islands and Greenland. Both cases qualify as YES.

United Kingdom

National identity in the United Kingdom is, as mentioned before, different than in classic nation-states. The common identity of being British, and not “United Kingdomer“ is crucial, as it doesn't explicitly exclude the existence of a plurality of nations. It has been shown to be an accepted constellation by both, the state and the nations within the United Kingdom. Polls show clearly, that national identity is linked to the territory and that in all three cases - Scotland, Wales and Northern Ireland -, the majority of the polls show national identity of the minority nation either as the majority, or as shared with the British identity⁸⁴. In Northern Ireland, it seems safe to say that probably within decades, Irish identity will under current circumstances pass British or non-Irish identity (Roche/Barton 2013: 180). Furthermore, Scotland shows a clear support within the last years for the Scottish National Party as the leading force in Scotland. All three cases qualify as YES.

⁸³ The Government of the Faroe Islands. Foreign Relations

⁸⁴ The data are available in the references on the topic of the existence of national claims in the chapter before.

France

The problem examining national identities in France is the lack of data or reliable polls or census' on national identity, as anything else would be declared unconstitutional. Therefore, the only vague, but yet also reliable source to measure national identity is the support for political parties and the reaction of the state, which is relatively up to date. The only cases, where a majority of votes has supported national distinctiveness also politically, and where the state has reacted in a special way towards then knowing existence of a national collective has been lately Corsica. Therefore, and under the given circumstances of limited possibilities within this examination and estimations, only Corsica can be qualified with YES, while Occitania, Catalonia, the Basque Country and Brittany don't qualify.

Poland

In Poland, both measurable factors can be taken into account: support for parties, that defend the idea of Silesia being a nation and national census' of 2002 and 2011. In both cases, there is no detectable majority, that supports Silesian national identity. Therefore, Silesia doesn't qualify.

Spain

In both cases, Catalonia and the Basque Country, a majority confirms national identity as a majority as either Basque or Catalan or Basque and Spanish or Catalan and Spanish. With other words, in both cases, no detectable majority of Spanish identity can be found, while support for nationalist parties is also visible, especially in the Basque Country, where the nationalist PNV and Bildu make up together the vast majority and parties, who have tendencies towards recognizing the Basque and the Catalan nation as such (Podemos, PSOE) make up the majority of popular support. Catalonia shows a similar pattern, where nationalist parties (Junts pel si, CUP) make up together with state-wide parties, which show a tendency towards recognizing Catalonia as a nation (Podemos, PSC), the vast majority. Therefore, both cases qualify as YES.

European Union

There isn't any case in any member state or among any stateless nation, in which any party has support, that denies the existence of the nation of the nation-state or within the stateless nation. It's more, the parties defend also on the European level national interests and are voted on this purpose. Therefore, both cases qualify as YES.

1.3 A majority within the stateless nation claim a certain level of self-government

The claim of a certain level of self-government by a majority within the minority nation is a crucial factor to be tested and to show up in a table in order to test plurinationality (Requejo 2006: 3). The reason is simple: if there isn't any majority, which claims a certain level of self-government, a change towards more decentralization as a bottom-up movement or pushing element wouldn't be

justified, as a majority within a territory claimed by a stateless nation is apparently satisfied with the current status or, at least, doesn't make any move towards a change of the status quo within the state or the polity. The simple existence of such movements or parties is interesting, but not enough to qualify a case with YES. Therefore, only if a majority within the claimed territory or within the national collective claims a change in the relations, the distribution of power or acquiring competencies, the case is qualified with a YES. Self-government doesn't only mean, that there is a wish for slight decentralization, but in the context of this thesis, a national recognition and self-government as a consequence come here simultaneously.

Denmark

Throughout the last seventy years, both Greenland and the Faroe Islands have shown a large support for self-government by referendums and the lately updated self-government agreements with Denmark. The historical continuity and the current support for parties (including not nationalist or pro-independence parties) which aim to maintain the level of self-government, or even its expansion qualifies both cases with YES.

United Kingdom

Scotland, Wales and Northern Ireland are different cases in many matters, but all three show a clear support for self-government in their majority. Although Wales first renounced devolution clearly in 1979, support for self-government was expressed by the referendum in 1999 and hasn't been questioned by any majority since then. This indicates, that there is a majority supporting the self-governed system.

Latest since the various victories of the SNP party, but also by the referendum in 2014 and the debate on Brexit have shown, that a certain level of self-government is clearly supported by the majority of Scotland.

Northern Ireland has, due to the steady conflict between pro-loyalist and pro-Irish groups, shown, that the introduction of a certain level of self-government has enabled a more peaceful time and transferring the issue on the political, democratic level. One can say that due to the majority of pro-loyalist parties votes, further extension of self-government isn't an option at present. That might be true for now, yet the higher birth rate of the Irish might change the political balance in the future. However, one can state that, although the pro-Irish political parties aren't now a majority, pro-loyal and other independent parties represented in the Northern Ireland Assembly oppose now. A further question, that will arise in near future, is the self-government and its extensions in the aftermath of *Brexit*. This question, however, has to be postponed to the future to answer as now, neither *Brexit* has begun, nor are there any datas for safe future observations and interpretations.

As said before, the United Kingdom has never imposed a classic state-nation model, but national pluralism is accepted as a natural circumstance. Within this context and no opposing political power towards self-government, all three cases qualify as YES.

France

Occitania doesn't qualify, as there aren't any other data available on that topic than results of elections. It's obvious, that for the last century, French nationalism has triumphed over Occitan nationalism. There is no majority in the Occitan space, that claims a certain level of self-government towards the centralist structure nowadays in France. The newly set up region *Occitanie* doesn't qualify as a substate polity or as a self-governed territory, as such also wasn't claimed by a majority at any time. Occitania, therefore, doesn't qualify.

Corsica has shown lasting, violent resistance against France, but a majority claiming a certain level of self-government can only be detected by the electoral results. Currently, a majority is in favor of a certain level of self-government and after the establishment of the Corsican Assembly in 1982, no majority has been found to oppose it as an institution and to abolish it. Given these facts, one can say that a majority of Corsicans supporting self-government. Therefore, Corsica qualifies as YES.

Catalonia has, as all the other parts with plurinational realities in the French state, no other data to deliver than the electoral results on a majority or a minority in favor of self-government. Catalonia's *Procés* indeed has drawn a lot of attention and has also inspired the creation of CiU branches in Northern Catalonia. Also, the creation of the new region *Occitanie* has led to protests⁸⁵ in order to establish a region with reference to Catalonia. Catalan nationalism claiming self-government isn't a majority. Nevertheless, no majority can be found to support a CiU branch, nor have the governing parties there announced such a step. Catalonia therefore doesn't qualify.

Same can be said in the French Basque Country in *Iparralde*. Although branches of Basque parties exist, there isn't a broad consensus on a demand for self-government based on the basque national identity. Nevertheless, the creation of the Basque Municipal Community *de facto* within the historical borders and the claimed territory of *Iparralde*, such as the acknowledgement of the success southern autonomous model show a slight decentralization. However, for now there isn't any support of a majority pushing towards a further level of self-government based on national basque identity as a political project. Therefore, *Iparralde* doesn't qualify.

Brittany has no major support for self-government, and although there is some dissatisfaction among some nationalist parties referring to the territorial integrity of Brittany, there is no majority supporting a level of self-government on national Breton identity. Therefore, Brittany doesn't qualify.

Poland

The only case in Poland, which has been investigated, has been Silesia. The only political force is the Silesian Autonomy Movement (RAŚ), which itself is within the regional parliament a minority. As it is officially the only party, which *de facto* and actively advocates for the Silesian case as a different ethnicity or nationality, and no other data are available, which are of political importance and influence, Silesia doesn't qualify.

⁸⁵ France 3 info. Près de 10 000 personnes disent oui au Pays catalan à Perpignan.

Spain

In Spain, both cases, Catalonia and the Basque Country, have shown a clear historical tendency towards the establishment of self-government, as well as the support for such. Although there is no consensus, to what extent and with what political effects a Catalan or a Basque nation can or should be defined (or even if), the majority of the parties represented in the parliaments support the idea, of self-government based on the existence of a nation apart the Spanish one. No party represented in any of both assemblies is advocating for abolishing the autonomous model. Furthermore, a support on that assumptions has existed historically. Therefore, both cases qualify as YES.

European Union

There is actually no member state, which doesn't claim a certain level of self-government. *Brexit* has shown that a majority in the United Kingdom, as a whole, chooses even self-government outside the European Union. There is no tendency at the moment, that seeks to abolish the self-government of the nation-states, yet the tendency, how this self-government will be shaped, differ. The stateless nations here might be a little bit confusing. In fact, what is tested here are the stateless nations, which qualify in their majority on the basis of national identity for self-governing within the European Union. In those cases, where the minority nation can mobilize a majority claiming a certain level of self-governance and where the national identity or double identities are the majority, a claim for self-governance within the European Union is also given. Therefore, both cases qualify as YES.

II. POLITICAL REALITIES

2.1 The territory claimed by the stateless nation contains a party system, which takes the existence of the stateless nation for granted

Plurinational realities are often also embodied politically. In this case, not only the existence of a party system on a determined territory is important. Germany, for instance, has 16 assemblies of each *Bundesland*, although no plurinational claims can be detected there. Therefore, not only the existence of a territorial assembly and the competencies the territory has, are factors that influence a possible measuring of plurinationality. Within a territory, where the majority shares the stateless nation's identity or at least double identity, including the stateless nation's identity, is the biggest group, these socio-political realities should also be reflected within the territorial party system, which recognizes the existence of the stateless nation as a given fact. As interpretation of each case, such as the historical and social circumstances are crucial to conduct the measuring, not a majority, that explicitly claims it, but rather a visible political discourse on a daily basis is more important, as it is closer to the reality than only taking expressions made by parties literally.

Denmark

The Faroe Islands and Greenland have shown a party system, which itself is distinct from that of continental Denmark. As all three territories have different socio-political realities, different parties emerged in all three of them. It's, hence, not the parties, which is the factor that all three entities have in common, but rather the question on unionism, independence or an extended autonomy. The Faroe Islands and Greenland have such parties, that either defend unionism, independence or extended autonomy. Although both entities are not officially recognized as nations, their distinctiveness is within the statutes. One can say that they are *de facto* recognized by Denmark as nations. The discourse on, whether the Faroe Islands and Greenland are nations apart, is in fact not an issue on both entities. The issue rather is, how to continue and how to develop the relations with the Danish state. It can be summarized, that there might be in the Faroese and the Greenlandic society a question on unionism as status quo, independence or extended autonomy, but there hasn't been heard any voice and seen any action on one of these territories denying the existence of a Faroese or a Greenlandic nation. Both cases clearly qualify as YES.

United Kingdom

It has been mentioned before, that the United Kingdom has a different understanding of the state in the sense of a nation-state. Latest since the Royal Commission on the Constitution, also known as the Kilbrandon Commission, which initiated devolution in the United Kingdom, the conclusion on what a nation is, can only be leave over to the collective itself. This, at least, is the conclusion, which Eduardo García de Enterría draws from the report (García de Enterría 1985: 58).

Also, taking into account the creation of the Union in 1707, there has never been any declaration whatsoever, which declared some sort of "abolition" the pre-existent national identities by imposing a different, British state-identity. Therefore, in Scotland and Wales, the existence of the Scottish and the Welsh nation are also represented in those parties, which clearly aren't nationalist ones. Britishness has never excluded the existence of nations, and as for Scotland as for Wales, the different party system has embodied these different realities. Furthermore, there has never been - neither from the state's side, nor from any party represented in these regional assemblies - the existence of nations apart.

The existence of the Irish as a nation apart has also never been questioned, but even institutionalized with the Good Friday Agreement in 1999 and the party system, that embodies the case of Northern Ireland. This is also visible in both, pro-Irish and pro-unionist parties, which reflect a different socio-political reality than in other parts of the United Kingdom.

All three cases qualify, therefore, as YES.

France

The Corsican case reveals a crucial difficulty when it comes to an evaluation. Although parties, which clearly defend the existence of the Corsican nation, have risen lately only, both major parties have been the most voted ones. On the one hand, one can say that historically, the majority of parties taking the existence of the Corsican nation as a given fact wasn't given. This would disqualify Corsica clearly. On the other hand, the party system has been turned over by the

fulminant and clear victory of nationalist parties lately. However, the existence of such parties, and the tendency for pushing towards recognition also politically can be interpreted as a distinction within the party system, but also furthermore the use of the Corsican language besides French in the assembly and the rising vote for nationalist parties. Therefore, the circumstances allow Corsica to qualify also as YES.

Spain

Catalonia has a different party system with a growing tendency towards parties supported, which are not state-wide parties, or which recognize Spain's plurinationality. Historically, there have been different Catalanist parties and now, together with Podemos, they make up the vast majority within the *Generalitat* as the territorial parliament.

The Basque Country can be evaluated equally. Historically, there has been a political microcosmos when it has come to the vote in territorial and general elections with either Basque nationalist parties coming out strong or those state parties, which recognize Spain's plurinationality and the Basque Country's plurinationality as well. Both cases qualify as YES.

European Union

Each member state has a different party system and although there are some mainstream fractions on the European level, there is no all-European party as such, but nationally different ones with other accents and priorities on the national level. As for the qualified stateless nations, the same can be said, both cases qualify as YES.

2.2 Double majorities - stateless nation and its political projects are supported by majority in the claimed territory by the stateless nation

The table helps to highlight the cases, where a clear support for nationalist parties is visible. This indicates, that a strong support for a party, which exclusively advocates for the nation and the territory, is given, and that there is a strong socio-political backup in the territory. As nationalist parties tend to support a policy for newly negotiated relations between the stateless nation and the state/polity, the evaluation helps to indicate also the legitimacy of state-wide policy within the territory.

Denmark

The Faroe Islands and Greenland clearly show double majorities, not only when it comes to the question of national identity, but also the support for nationalist parties. Currently, the support for the Faroese nation as a fully recognized political subject is supported by the voter and has historically been sixty percent, which doesn't mean that the other forty percent are opposed this project. However, it has always been linked with the question on independence. Having a look on the elections in the Faroe Islands throughout the last decades, a clear support for parties in favor of extended self-government or independence is visible.

Greenland shows similar results with even a bigger support for independence parties. Therefore, both cases qualify as YES.

United Kingdom

Scotland has a solid double majority, which has continued and even has expanded after the independence referendum in 2014. Wales, however, does not have a major support for such political actors as Plaid Cymru, which is a minority. Northern Ireland also has seen a support for the loyalist and pro-British side, while the Irish side has not yet become a majority.

While Scotland qualifies as YES, Wales and Northern Ireland don't qualify.

France

Corsica has not seen historically a continuous support for nationalist parties, but a steady growth of it. It triumphed in the Corsican regional elections in 2015 and is since then the biggest coalition in the Corsican Assembly. However, polls state that support for further going autonomy is the most favored among other options (status quo and independence⁸⁶) (IFOP 2008: 12). Although the poll data are almost a decade old, the latest victory of nationalist parties confirm the support. Therefore, it's safe to say that there is a double majority in Corsica and Corsica qualifies as YES.

Spain

In both cases, in Catalonia and the Basque Country, stable majorities of nationalist parties or of parties, which support the recognition of both entities as nations exist. This position has been stressed during the latest elections. Therefore, both cases qualify as YES.

European Union

As there is no all-European party, but all member states do have their own realities and national parties, there are double majorities in all member states and stateless nations. Therefore, both cases qualify as YES.

2.3 At least one party is demanding secession from the polity

Testing this factor is crucial, as it stresses, that the nation as a political subject also includes support for full independence within a claimed territory, as nations are, embodied by nation-states, currently the only successful actors to be taken as a serious and equal subject on the political international level.

⁸⁶ IFOP. Enquête sur la situation en Corse.

Denmark

In both, the Faroe Islands (Tjóðveldi, Fólkaflokkurin, Framsókn, Miðflokkurin) and Greenland (Siumut, Inuit Ataqatigiit, Partii Inuit) demand secession. In both cases, these parties are represented in the local assemblies. Therefore, both cases clearly qualify as YES.

United Kingdom

Although *SNP* demanded in the beginning devolution and the so called *devo max*, it was pushed from Westminster towards independence, a path, which has gained new power after the *Brexit* referendum.

Wales' only nationalist party represented on the political stage is *Plaid Cymru*, which itself has never openly talked about Wales' independence. First, there doesn't seem to be a majority in favor, second, the party interprets the word "independence" not in a strict, but in a broader sense (Schrijver 2006: 327). However, *Plaid Cymru* also hasn't explicitly excluded the possibility. What remains is to interpret the given facts, which is that *Plaid Cymru* currently does not advocate in favor of independence.

Northern Ireland has, with *Sinn Fein* and *SDLP* two parties, which stand for Irish nationalism and, therefore, opposed to loyalism towards the United Kingdom (McGaw 2015: 104). Together with the Good Friday Agreement, a possibility for secession is juridically possible and is on the long run the declared aim of both parties (McGaw 2015: 104).

While Northern Ireland and Scotland qualify as YES, Wales doesn't qualify.

France

Corsica has with *Corsica libera* a party, which demands secession from France. Corsica, therefore, qualifies as YES.

Spain

In both cases, Catalonia and the Basque Country, there exist parties, which demands secession from Spain (*Bildu*, *CUP*, *CiU*, *Esquerra Republicana*). Catalonia and the Basque Country, therefore, qualifies as YES.

European Union

Talking about demands for secession from the European Union means to analyze the existence of EU-sceptic parties. Although there are countries, which don't have such parties on the political level, which could demand a withdrawal from the EU (Spain and Portugal for instance), there are such parties in those countries, which economically and politically have most influence (Germany, France). Some of them also include the withdrawal from the European Union of the member state, *Front National* for instance or, in the past, *UKIP*, which has fulfilled its aim with *Brexit*.

Among stateless nations, there are also EU-sceptic parties. The Flemish *Vlaams Belang* is probably the most known party, which is EU-sceptic. Although this case hasn't been examined here, it has to be taken into account, when drawing a true picture of stateless nations.

Nevertheless, there is no explicit indicator, that shows, that stateless nations in Europe advocate with one or more party to leave the European Union, also not Vlaams Belang (Laible 2010: 143). Therefore, stateless nations don't qualify here, while member states qualify as YES.

2.4 Reconfigured relations between stateless nation and polity/state is the most supported political project within the stateless nation

With "reconfigured relations", not only one kind of arrangement, but aiming for a different arrangement between the stateless nation/minority nation and the state/polity is supported by most of the voters. The differences between the arrangements will be examined here in each case, as the reconfigured relations depend on each case and its circumstances.

Denmark

In both cases, the Faroe Islands and Greenland, parties supporting independence or, at least, not rejecting it as a possible option, have made up the majority of political parties over the last decades. Denmark has announced several times on several occasions, that independence would be possible (Stepan/Linz/Yadav 2011: 224). Although pro-independence parties or parties not rejecting it as an option are continuously leading in both territories, no move towards independence referendums have been done so far. However, the Faroe Islands will hold a referendum on a new constitution in 2018, which includes the notion of the Faroe Islands being a nation and the constitutionalization of a possible withdrawal from Denmark. This means that indeed, the Faroe Islands are aiming towards a reconfiguration of the current relationship with Denmark.

Greenland is in a similar position: independence parties are in the lead, but no move towards independence has been done so far. The economical viability of independence is in fact one of the top issues, that hinders a continuation of such moves (Stepan/Linz/Yadav 2011: 224). Greenland has gradually modified its relationship with Denmark by introducing further devolution of powers and competencies. In the current context, a reconfiguration of the relationship between Greenland and Denmark seems in near future also as the favored option. Both cases qualify as YES.

United Kingdom

Scotland has historically sought its position within the United Kingdom and, after the end of the British Empire and the decline of its influence and importance in the world, devolution has been a favored option. The independence referendum was the outcome after the British government didn't allow any other modification of the relationship as either current devolution or independence. However, investigations support the assumption that a reconfigured relationship between the United Kingdom and Scotland were the most favored option (*devo max*) (Keating 2017: 167). A similar assumption can be drawn after the *Brexit* referendum. For now, *Brexit* means also a withdrawal of Scotland from the European Union, although Scotland's vote was clearly against *Brexit*. A recognition of the Scottish demos, hence, has been pushed forwards by the *SNP* and in

case of an unwanted withdrawal from the EU imposed by British authorities, the setup of a second independence referendum has been put as an option on the table by *SNP*. Scotland, therefore, qualifies as YES.

Wales seems to be historically more passive or, better said, fine with its status within the United Kingdom. Historically, devolution was first opposed, but later accepted by a majority in two different referendums. For now, and also in the light of a majority in Wales supporting *Brexit*, it seems that Wales feels well accommodated now with the degree of devolution and that there is no major support for a change of the relations within the United Kingdom. It's also uncertain, how things might develop, after *Brexit* is carried out and if Wales will demand a reconfiguration of its relationship with the United Kingdom for its loyalty.

Northern Ireland doesn't have a majority of votes, which would indicate that a reconfiguration of the relationship with the United Kingdom is required. The status of Northern Ireland was reconfigured with the Good Friday Agreement and the option for independence in the future from the United Kingdom, such as setting up the Northern Ireland Assembly. Things will become interesting yet after *Brexit* is carried out, as Northern Ireland borders right with the European Union and Ireland, as one of the main actors involved in the Northern Irish question.

Northern Ireland and Wales don't qualify.

France

The examined factor is not very obvious in Corsica. First of all, decentralization was introduced in 1982, setting up the Corsican Assembly and in 1991, Corsica gave itself a statute, the *Statut Joxe*, recognizing the existence of a Corsican people (Elias 2009: 118). A continuing process of decentralization and reintegration of the territory of Corsica was foreseen in the so called *Matignon* process, but was rejected by 49%-51% by the Corsican people. However, Corsican nationalist parties have grown in support and reached a spectacular victory of over 35% of the votes in the second tour and making up 24 out of 51 seats in the Corsican Assembly. The creation of new regions also includes the fusion of both Corsican departments from 2018 on⁸⁷. The program of *Femù a Corsica*, the senior partner in the nationalist coalition in Corsica since 2015 states the creation of an autonomous Corsica in Europe⁸⁸, while the junior partner of the coalition, *Corsica libera*, aims traditionally for full independence, yet also didn't exclude other possibilities like extended autonomy (Heppburn/Baldachhino 2016: 82; Serrano 2016: 236). As there has historically been a top-down (de)centralization, but also a growing support for nationalist parties since 2015 as the strongest coalition, and despite the rejection in 2002 with over a decade and a half ago, it seems that Corsicans seek reconfigured relations between Corsica as a recognized collective and the French state. Therefore, Corsica qualifies as YES.

⁸⁷ Assemblée Nationale. Fiche de synthèse n°11: L'organisation territoriale de la France.

⁸⁸ Femù a Corsica. Da fà Nazione in Auropa. (Political objectives of the party)

Spain

Catalonia and the Basque Country have seen support for nationalist parties and their aims already from the XX century on. Especially in the Basque Country, nationalist parties have been strong and the PNV party has, with only one exception, been present in all Basque governments. The main aim has been reconfigured relations with the Spanish state on the base of recognition of the Basque nation and the natural rights such a recognition includes (Loughlin 2011: 48).

Catalonia has, throughout its history, also sought a reconfiguration in form of more autonomy. The proof is the statute, which was dismissed in 2006 and opened to the conflict with the central government to what is known today as the Catalan *Procés*. In the end of the day, independence has not been the first choice, but rather - similar to Scotland - the outcome of being limited in the own decision-making process, which was aiming for further autonomy.

It is arguable, if in case of passing the 2006 statute, the position of the Catalan government and independence supporters will change, or if the independence process will continue. As this would only lead to speculation, and taking into account the historical context, such as a missing broad support for independence among the Catalan population, it can be interpreted, that reconfigured relations with the Spanish state have been and still are among the population the most supported political objective. Both cases, hence, qualify as YES.

European Union

Member states have negotiated over the decades over a new constellation of Europe and the distribution of competencies within the polity. As the states are the masters of the treaties and the EU is composed by them, internal and external shocks steadily lead to a reconfiguration, and the discussion on the future of Europe is in the light of massive illegal immigration and the *Brexit* up to date and sought.

Stateless nations also, showing a EU friendly tendency, are seeking some sort of reconfiguration, based on their recognition as nations. Yet since the European Committee of the Regions does not offer a lot of competencies and also doesn't possess a lot itself, stateless nations continuously seek recognition of them as national collectives and of their political aims within EU institutions. European Integration is a constant process and leads to a dynamic and variable reconfiguration of the EU, its institutions and its competencies. Therefore, both cases qualify as YES.

III. PLURINATIONAL REALITIES OF THE POLITY/STATE IN ITS ARRANGEMENTS

This section of tables includes an examination of the plurinational realities of the polities or the states tested and discusses the arrangements between stateless nation and state/polity. It helps to underline the differences between the self-perception of the state and its approaches towards plurinational realities within its borders and opens space for a deeper, comparing discussion between the polities/states as well.

3.1 Division of powers within a polycentric/plurinational/asymmetrical arrangement is given

This table reflects the division of powers and the delegation of competencies as a result of the negotiated arrangement between the polity/state and the minority nation. Each case requires an examination of its own circumstances, which means that what might seem only a slight decentralization for one case, is for a different case an exceptional agreement between state/polity and the case and can, therefore, be classified as asymmetrical compared to other cases within the state/polity.

Denmark

The Faroe Islands became a self-governed, autonomous entity within the Danish state already in 1948 as a result of the unrecognized referendum on independence, in which a slight majority voted in favor of independence. Denmark has had in its history various cases, where plurinational demands in the end of the day lead to full independence or to secession (Schleswig-Holstein and Iceland) and developed a series of strategies to both, accommodate those demands within the state and to maintain the state together on voluntary will of all units. In 2005, Faroese autonomy was expanded (Fámjin Agreement) and seems now to follow a new expansion with the set up referendum on the new Faroese constitution in 2018.

Greenland became also, in the context of decolonization worldwide, and taking into account growing Greenlandic demands, an autonomous region within the Danish state in 1979. In 2008, autonomy was extended and approved in a referendum, as happened before in 1979.

Both cases are similar in their competencies and assemblies and only part of the classic state-reserved dimensions belong to Denmark (head of state, foreign, defense and monetary policy). Hence, the division of powers is both, constitutionalized and institutionalized. Both cases, therefore, clearly qualify as YES.

United Kingdom

Devolution was introduced after the vanishing influence of the disintegrating British Empire became obvious, while national demands, especially in Scotland and Northern Ireland, gained influence. In order to challenge also disintegration within the United Kingdom, the Royal Commission on the Constitution was set up to define the framework of the current British context (Parpworth 2016: 169). The outcome was the so called devolution and was introduced effectively in 1999 after a series of acts by establishing the Scottish Parliament with devolved powers.

Wales, in the context of devolution, also established an own Parliament in 1999, after the second referendum on devolution was successful.

Northern Ireland, not only in the context of devolution, but especially in the context of the Northern Irish conflict and European integration introduced devolved powers from London with establishing the Northern Ireland Assembly in 1999. The Good Friday Agreement is not a constitutionalization, but a juridical validation for continuous development, if the people of Northern Ireland would wish so. Devolution in all three cases and the linked division of powers qualifies all three cases as YES.

France

The only territory with a special agreement between the central government in Europe is Corsica. As the result of the armed conflict and the growing demand, autonomy was introduced in 1981 with its own assembly and the implementation of a “Corsican collective/community“ instead of “the territorial community of Corsica“ from 2018 on (as a continuity of the process stopped in 2003) will expand the powers of Corsica⁸⁹. This is an arrangement, which no other territory in Europe within the French state in Europe possesses. With this asymmetrical arrangement within France exclusively for Corsica, this case clearly qualifies as YES.

Spain

Spain faced a series of crucial changes after the end of the Franquist period, which also affected both territories, the Basque Country and Catalonia. The establishing of the so called sState of Autonomous Communities is in fact can be seen as a historical development. The Basque Country, although divided into the three provinces and claiming also Navarre, enjoyed autonomy, which was especially embodied by the *fueros*. Autonomy was also implemented during the II Spanish Republic for both, the Basque Country and Catalonia. The post-Franquist state recognized “historical nationalities“, including Catalonia and the Basque Country, and also implemented a system of autonomous communities. This includes a series of competencies delegated to the autonomous communities. In the Basque case, fiscal autonomy reflects, different from Catalonia, a wider autonomy. Autonomy is also constitutionalized in the Spanish constitution (Art. 2). Both cases, therefore, qualify as YES.

European Union

Member states as the holder of sovereignty, which means, they never lose the status of being a political subject, also includes that they maintain their state competencies as long as they don't share them voluntarily. In the end of the day, states decide over their belonging to the EU or not, make domestic decisions as long as they don't violate the juridical framework negotiated in the treaties and maintain the national character also politically in both, domestic and international affairs. The European Union, hence, is a plurinational arrangement (Dumont 2012: 83). Stateless nations seek national recognition, which includes the exercising of powers as such within the European Union. EU norms are not necessarily transferred from the member state to the autonomous units, but can be implied directly (Zelaia Garagarza 2012: 388). As the EU is a plurinational polity, both cases qualify as YES.

3.2. Institutional/Constitutional design fully reflects the demands of the national units, that make up the polity

The institutional and constitutional design isn't just a territorial order on power distribution and hierarchy, but it reflects the self-perception of the state/polity. Logically, if the entities are

⁸⁹ Assemblée Nationale. Fiche de synthèse n°11: L'organisation territoriale de la France.

comfortable with the arrangement within this given design, no major demands to transform it are usually existent, but the design is rather permanent (Federal Republic of Germany for instance). However, dissatisfaction can emerge, especially when the units or entities within the state/polity regard themselves as nations and, therefore, demand a constitutional and an institutional design, which reflects their perception of natural rights as nations. Testing this factor reveals in fact the viability of the current design of the state or polity and, as each case is examined, the directions, in which the entities push.

Denmark

The Faroe Islands and Greenland have shaped the current political arrangements together with Danish willingness and deep empathy. Both arrangements result of negotiations between the entities with the Danish state. The question, if the current design fully reflects the demands of the national units, that make up the Danish state, must be regarded highlighting the word *fully*. It is true that Denmark has satisfied a lot of demands by delegating decision-making powers to the entities and their bodies. However, the support for pro-independence (nationalist) parties and aims declaring areconfiguration of the relations show, that the arrangement satisfies, but not *fully* reflects a satisfaction of the demands of Greenland and the Faroe Islands. This can be proven not only by the existence of pro-independence parties, but also political projects and aims, which have been set up. The Faroese government has announced to set up a new constitution in 2018 after a positive turnout in the referendum. It would expand the Famjín agreement of 2005 and, as it seems, push towards relations similar between Iceland and Denmark 1918-1944. Greenland, as well, has announced, that the aim to set up a constitution in 2021 is a political aim and to develop the relations with Denmark towards further devolution (Pram Gad 2016: 123). Both cases don't qualify here.

United Kingdom

Socio-political support for a new arrangement beyond devolution has been shown widely and embodied first by SNP demanding a new relationship with the state known as *devo max*. The result was, that only devolution or independence would be the only two options to chose from, as Westminster imposed. The result of the independence referendum in 2014 does not mean, that Scotland supports the continuing of the status quo, but as support for *SNP* has gone up in the Scottish elections in 2016, a continuation of reconfiguring relations. Although independence, as the "second best solution" available, wasn't successful, Scotland is aiming for a different arrangement, which currently seeks the full recognition of the Scottish vote in the referendum on *Brexit*. The current design does not reflect it, therefore, *SNP* has put a second referendum on independence on the agenda. Scotland, therefore, doesn't qualify.

Wales showed first a lack of support for devolution in 1979 during the referendum, and an acceptance of a slight majority in 1999, when devolution was introduced in Wales by establishing the Welsh Assembly. For now, there is neither a support, nor a demand for a change in the relations within the United Kingdom. Also, the Welsh vote during the *Brexit* referendum states, that

there is a majority in Wales, which follows the mainstream of the United Kingdom by voting with a slight majority in favor of *Brexit*. The examination leads to the conclusion, that Wales is currently fine with the institutional and constitutional design within the United Kingdom and, therefore, qualifies as YES.

Northern Ireland settled the Good Friday Agreement devolution a conflict and opened the process of devolution and a reconfiguration of the future design of Northern Ireland and its relations with the United Kingdom. As the current design allows all groups to participate within the policy-making decisions and also keeps open the possibility for a unification with Ireland, demands for a changed institutional or constitutional design aren't present for now. However, the vote for *Brexit* might in future challenge the current constitutional and institutional design of Northern Ireland. For now, there is no evidence, that there is a majority doing so. The conclusion, that Northern Ireland is currently satisfied with the institutional and constitutional design, can be drawn and Northern Ireland qualifies as YES.

France

The Corsican case has shown, that Corsica was with a slight majority in 2003 in favor of maintaining the current status, but the rise of and support for nationalist parties - latest in 2015 - reveals, that a different arrangement is obviously favored. However, the implementation of decentralized powers, delegated to the Corsican Assembly, doesn't reflect, if such an arrangement is satisfying for the majority of Corsica, as it will be implemented only from 2018 on. For now, support for more autonomy is given, which means that the current institutional and constitutional design does not fully reflect the demands of Corsica. Therefore, this case doesn't qualify.

Spain

In both cases, nationalist parties and parties, which are ready to negotiate a new arrangement within the constitutional and institutional design, have made up the majority of the votes and the Basque and Catalan parliament. Catalonia's new statute, dismissed in 2006 by Spanish authorities, show, that Catalonia was pushing towards a new constitutional design and not towards independence. Also, *PSC* and *Podemos* approve such a step, which means, that a majority is not satisfied with the current arrangement. The Basque Country is, represented by both nationalist parties, shows clearly, that a change of the relations is constantly supported by the Basque demos. Such changes would also have impacts on the constitutional and institutional design, which means, that both cases reflect, that they are not satisfied with the current institutional and constitutional design. Catalonia and the Basque Country, therefore, qualify as NO.

European Union

The member states have shown, that steady development of the European Union is part of its nature and that a steady state isn't lasting, but changing interests, internal and external shocks push the EU to changed relations. European integration has shown, that the states have pushed towards an "ever closer union", a term, which is also used in the Treaty of Rome. However, the EU as a polity *sui generis* implies, that changes, especially after *Brexit* and in the light of massive

illegal immigration are likely to happen. Especially the Euro crisis reveals, that changes also in European monetary policy are required. The question, where the EU will head to is up to either the future or to speculations, which won't be taken into account here. What is a fact is, that change is constant although the people within the member states feel comfortable within the EU, as pro-EU parties are still in the lead, yet the rise of EU-sceptic parties show, that there is "something going wrong" and dissatisfaction widely spread. Neither for pro-EU political power, nor for EU-sceptic parties, a continuity as before is likely. However, there are - after *Brexit* - no tendencies for a crucial change of further disintegration, but of adjusting the design. This leads to the assumption, that the constitutional and the institutional design fully reflect the current demands of the member states, as changes within the design are not only possible, but usual.

Stateless nations, however, are currently not satisfied with the current design within the EU, as they are not recognized as nations and only included within the design as substate regions or by particular MEPs. The question on the unsatisfied design for stateless nations can be clearly seen in the Scottish and the Catalan question, as most prominent examples during the debate on unilateral secession. Being unsatisfied with the design, and in particular the lack of recognition, does not mean a lack of pro-EU tendencies.

While the member states qualify as YES, stateless nations continue to be unsatisfied and, therefore, don't qualify.

3.3 Political competences (sovereignty) are on the polity level shared and divisible into its national units

The term "political competencies" is in fact replacing the term, which is usually widely - and incorrectly - used in scientific investigations: sovereignty. The question, if sovereignty is divisible, is disputed. While it can be argued, that sovereignty of a territory, that lies within the people seen as a collective, is one as well and, therefore, as a concept indivisible, others argue, that divisible sovereignty is crucial for a plurinational agreement (Jackson 2007: 243; Hawes 2006: 92; Caminal 2011: 226, Rabkin 2009: 63).

The question of the divisibility of sovereignty is not asked the right way. An entity already isn't sovereign anymore, once it shares its sovereignty. The concept of "shared sovereignty" might seem desirable and satisfying for the members of a polity, as it gives the impression, that sovereignty is still in their hands. However, this contradicts the concept of sovereignty, as once shared or divided, the concept of sovereignty is violated (Hawes 2006: 92). Either one is sovereign - or not. Thus, no state is fully sovereign. A better, more true approach would be, therefore, to call this concept differently, "political competencies" for example. What distinguishes this table from the table on the division of powers within an arrangement (Table 3.1) is the question on the divisibility of political competencies, which is known as "shared sovereignty". This means, if the state or the polity accepts to share core competencies (Leibfried/Zürn 2006). Leibfried/Zürn have in their book "Transformations of the state?" detected a series of such core competencies, which, due to integration in supranational organizations (EU, NATO, etc.), integration process' (European

integration for instance) and global process' (globalization) also show, that the concept of sovereignty requires a new approach, as the concept, as it is still defended, does not correspond to the realities, but to the wishes of the sovereigns of each unity (Leibfried/Zürn 2006: 12, 18). Sovereignty is embodied by the nation-state, which itself is legitimized by the state-nation. The nation-state is the political body and Leibfried/Zürn have detected the modern nation-state in four dimensions as

“(...) *resources*, or control of the use of force and revenues; *law*, or jurisdiction and the courts; *legitimacy*, or the acceptance of political rule by the populace; and *welfare*, or the facilitation of economic growth and social equality. (Leibfried/Zürn 2006: i)“.

Denmark

In a strict sense and guided by Leibfried & Zürn's detected dimensions, there is no *full* sharing of political competencies by Denmark with the Faroe Islands and Greenland, as some core competencies in the control of the use of force, law and, due to monetary transfers, also welfare are in Copenhagen's hands. Nevertheless, Denmark has shown itself in various occasions open in other dimensions, such as *legitimacy*. If the Danish state as such doesn't have the legitimate approval by the Faroese or the Greenlandic demos, expressed in a referendum, it will be recognized and accepted fully by Denmark. This means a *de facto* recognition of Greenland and the Faroe Islands as nations in a political sense. Although political competencies are mostly only partly, or better said, to a certain extend, shared with the Faroe Islands and Greenland, the core concept of legitimacy, which is crucial for the existence of the state in its form, is shared. Revenues have also been delegated from Denmark to the Faroe Islands and to Greenland within the agreements. Furthermore, the development of the Danish state and its relations with the Faroe Islands and Greenland tend towards more sharing of political competencies. Both cases, therefore, qualify as YES.

United Kingdom

Sovereignty lies in the United Kingdom within the Parliament of Westminster, which is the Parliament of the United Kingdom of Great Britain and Northern Ireland (Kingdom 2005: 73). Thus, sovereignty is also embodied by the executive body of the state and, hence, *de facto* indivisible. What happened by devolution was a delivery of competencies to Scotland, Northern Ireland and Wales, but the final levels of the dimensions are kept within the state. However, the dimension of legitimacy has been transferable. The unwritten constitution has been, therefore, very helpful as it did not restrict and frame these concepts into a steady state and to determined interpretations.

In the case of Northern Ireland, the dimension of legitimacy can be transferred, according to the Good Friday Agreement. In 2014, the dimension on legitimacy was uniquely transferred during the referendum on independence in Scotland. However, the question on the legitimacy of transferring it uniquely and not permanently is since then with good reason as an option on the table. Pandora's box was opened, but it probably also is a pending debate, that in the long run can't be avoided. If Scotland was recognized *de facto* once as a nation in a political sense, and statements, stressing

the UK's character as plurinational have been recently repeated, how can the question on legitimacy be only exceptional, and not permanent? In the light of *Brexit*, an answer will be required.

Wales has indeed due to devolution extended powers, as already answered in Table 3.1. However, all dimensions remain neither demanded by Wales, nor is there any attempt or constitutional treaty of handling them over to Wales as in the case of Northern Ireland or, as happened, in the case of Scotland in 2014. While Scotland and Northern Ireland can be classified with YES, Wales does not qualify.

France

Corsica indeed has an extended autonomy, and although decentralization is continuing since 2015 and further autonomy will be implemented in 2018, all dimension remain in the end of the day in the hands of the French state and its institutions. Therefore, and although decentralization is given, the question on shared political competencies does not qualify in the case of Corsica, as it is too limited to be qualified as such.

Spain

Spain is in its state design a hybrid of autonomy and centralization and sovereignty juridically resides in the Spanish nation, according to the Spanish constitution (Art. 1.2). Any of the detected dimensions of sovereignty have been transferred to either Catalonia or the Basque Country. One argument for Basque sovereignty is usually the *Concierto economico*, which means that fiscal matters are largely in Basque hands. Nevertheless, it is not a real sovereignty, which is exclusively in the hands of the Basque Country. Although fiscal autonomy gives very far reaching autonomy to the Basque Country, it doesn't mean a full delegation of the dimension of resources. In fact, when talking about Basque sovereignty, embodied by the *Concierto economico*, it rather reflects the aspiration of the level Basque parties want to reach, which is the same autonomy as Spain within its territory, as the concept of fiscal sovereignty also for EU member states became obsolete (Gray 2015: 62). However, in this light, one can say that the dimension of revenues have been largely transferred to the Basque Country and other dimensions are decentralized and handed over to the Basque authorities (territorial police for instance as a level of the use of force).

Catalonia tried to set up a fiscal agreement oriented on the Basque model, but was stopped in its project by Spanish authorities. This means that, besides an asymmetrical arrangement of the state and its units concerning their relationship, Catalonia does not benefit from any shared dimension of political competency. If it is already highly interpretative in the Basque case, the Catalan case seems to be even more difficult to qualify as YES. Therefore, and only given the premise of the interpretation of Basque fiscal "sovereignty", the Basque Country qualifies as YES, while Catalonia doesn't qualify.

European Union

The European Union is a polity, which was and which is voluntarily created by the nations, embodied by the member state. Its DNA is the one of “shared sovereignty” in economical, but also political fields. Since the Lisbon Treaty and besides NATO, the EU has become also a defense alliance. It shares a series of laws and juridical institutions, which influence the EU member state jurisdiction on a national level significantly. Legitimacy is in the hands of the member states, as they compose the EU, as they can decompose it or leave it, as the *Brexit* as the first example of a member state (after Greenland as a non-state entity) will do approximately. The dimension of welfare is also shared, as economic growth is tightly linked to European jurisdiction when it comes to the compulsory advertisement on a European level for investment or development. The same is applied by and within the stateless nations, but only through the nation-states. With other words, it's in the end of the day up to the nation-states, whether sovereignty between the EU and the nation-states can be divided and shared into the national units of the state/polity. Therefore, only the member states qualify as YES, while the stateless nations do not qualify.

3.4 A stateless nation with a majority within its claimed territory (Table 2.2) has juridical or political ways to express its (dis)agreement on their political status and its status of recognition

The possibility to express the agreement or disagreement on an arrangement allows to understand the national entities, which are part of the polity or the state. In concrete, the possibility to measure plurinational democracy also includes the possibility for a stateless nation to express its discontent over the current political status and its recognition. It includes to be heard by the state or the polity and to negotiate over the current political status and the recognition. In the very best way, this also means that a process for a change of the political status and its recognition can be a) negotiated b) initiated c) and controlled conducted also by the stateless nation. With other words, the stateless nation is recognized as an actor on the same level with the polity, and not in a subordinated position, where the final decision can be imposed on the stateless nation by the state or the polity.

Denmark

Neither in the Faroe Islands, nor in Greenland exist institutionalized or juridical ways to express their agreement or disagreement on the current political status (autonomy) and their recognition within the Danish state besides parties, embodying the socio-political wish and movement for change besides the permanent representatives in the Danish parliament. Usually, nationalist parties express the discontent. Nevertheless, the context of the Danish state and its sensibility and empathy towards those nations throughout history has shown, that there exist ways not only to express the discontent, but Denmark has been open for negotiations and expanding autonomy. First, the introduction of autonomy in the Faroe Islands (1948) and Greenland (1979), but also their position regarding the belonging to the European Community. Denmark, as a traditionally integration friendly country, fully supported the disaccord of both entities towards the European

Community and helped them to either not entering (Faroe Islands) or leaving the European Community (Greenland). Also, the expansion of the autonomy agreements, such as its openness to full independence, if Greenland and the Faroe Islands wish so, has been proved in various occasions. The Danish state might not provide a juridical framework for such a discontent, but pragmatism and the constant political willingness to react to the expressed discontent of the current status. The past 60 years have shown that both cases clearly qualify as YES.

United Kingdom

Expressing the discontent of the arrangement within the United Kingdom can be understood by taking into account two facts. First, as mentioned already above, the creation of the United Kingdom is different from the creation of the classic nation-state, which makes an acceptance of the existence of nations within the United Kingdom more natural. Second, the decline of the British Empire and the focus of the nations within the United Kingdom back on the British Isles lead to demands, embodied by nationalist parties in Scotland, Wales and Northern Ireland eve before the decline even started. Devolution, as a top-down implementation in order to challenge nationalist tendencies within the British nations was carried out in consent with the nations, expressed in referendums. Scotland, for instance, approved devolution and the creation of the Scottish Parliament in 1997, but continued to advocate for more competencies. Here, the *SNP* party was the driving political force and the growing support also implied a support for more competencies. *Devo max* was on the agenda, but negotiations with Westminster only lead to the possibility of either voting yes or no in the independence referendum in 2014, although data show, that the majority was in favor of *devo max*. Scotland, hence, has had a word and political way to express its discontent of the current arrangement within the United Kingdom. Transferring in one occasion sovereignty in this matter from Westminster to the Scottish demos in 2014 proves, that there are political ways and the special circumstances, such as the unwritten constitution, and the sovereignty lying within the British Parliament have left a flexible way for Scotland to express its discontent and a flexible way of the British parliament to deal with it. Negotiations with Scotland on *Brexit* will show, how these opened possibilities continue. The mere possibility to negotiate with Westminster and the involvement of Scotland as in 2014 show, that there are ways for Scotland to express its discontent. Therefore, Scotland qualifies as YES.

France

Corsica has no official ways to express its discontent other than voting nationalist parties, which have a more decentralized vision or even full independence on their agenda. Although Corsica is, - due to its decentralized organization and the recognition of being a community - a region, which is handled differently from others within France, there are in fact no basis for negotiations between the Corsican Assembly as the executive body and the French government. Article 1 of the French constitution clearly shows, that the Republic of France is indivisible: "*France shall be an indivisible, secular, democratic and social Republic.*⁹⁰" The possibility of sharing or even splitting up

⁹⁰ Constitutional Council of the French Republic. Constitution of 4 October 1958.

sovereignty is also impeded by Article 3. of the French constitution. It clearly states that “*National sovereignty shall vest in the people, who shall exercise it through their representatives and by means of referendum. No section of the people nor any individual may arrogate to itself, or to himself, the exercise thereof.*”. With other words, negotiations between Corsica and French authorities are not foreseen. Expressing its discontent and negotiate a different status, hence, would be outside the nature and the self-understanding of the French state. Corsica’s special status, hence, must be seen as an exception, not the rule which, furthermore, was implemented in 1982 (Henders 2010: 103). In 2003, a consultive referendum on the implementation of autonomy was held in Corsica, in which a slight majority of 0,12% voted against. Although it had no binding legal power, French authorities took the vote into account and stoped a further decentralization process. As mentioned, the referendum was only consultive, as the power to implement or to quit autonomy or any other status lies alone in Paris (Henders 2010: 223). Corsica is invariably regarded as permanently subordinated to state decisions and can only count on the goodwill of France taking into account the Corsican decision, as happened in the 2003 consultive referendum. Therefore, the possibility for Corsica to express its content or discontent is so limited and minor, that Corsica does not qualify.

Spain

Spain does not recognize any other nation or divisible sovereignty⁹¹ within its borders according to Article 1.2 of the Spanish constitution⁹², as all sovereignty resides in the Spanish nation. Furthermore, the indivisibility of the Spanish state is constitutionalized in Article 2., as only the Spanish nation is regarded as the sovereign, and even though “nationalities” are mentioned, and therefore, recognized within the same Article, there is no evidence of that these “nationalities” can express their discontent with the constitutionalized Spanish State of Autonomies (Zelaia Garagarza 2012: 391). However, these nationalities are organized within autonomous communities, as the Basque Country or the Catalonia for instance. As autonomous regions, they can initiate a process for a constitutional reform, a process, which is constitutionalized in Article 166 of the Spanish constitution⁹³. It refers to section 1 and 2 of Article 87⁹⁴. Article 87.2 states, that the assemblies (parliaments) of the autonomous communities (among other political bodies, as stated in Article 87.1) can initiate a reform process and a legislative initiative. However, in case this mechanism would be enabled, the autonomous communities lose control over the process, as it will be handed over to the Spanish parliament and the Senate of Spain. Although very limited, there are ways for both nations, embodied in their corresponding autonomous communities, to initiate such a process and, by doing so, express their discontent. The question on how efficient this mechanism for both

⁹¹ See footnote on the Spanish Constitution.

⁹² Agencia Estatal Boletín Oficial del Estado. Constitución Española.

⁹³ Agencia Estatal Boletín Oficial del Estado. Constitución Española.

⁹⁴ Agencia Estatal Boletín Oficial del Estado. Constitución Española.

nations is, is a different one. In this light, and taking into account the pure existence of ways, Catalonia and the Basque Country qualify as YES.

European Union

Composed by the member states, the member states as the “Holders of the Treaties“ can initiate negotiations and set up reunions on changing constellations within the European Union and, also, formalizing them. Shared sovereignty, or better said, shared power competencies allow a wide range of autonomy within the states and flexible ways to conduct eventual changes. Flexibility, pragmatism and the constant change of the community of European states shows clearly, that the member states - the nations within the polity - indeed have a lot of ways to initiate processes of changes of the particular status. An outstanding example is United Kingdom - with Thatcher’s deals, United Kingdom had a special position within the European Union and Article 50 of the Lisbon Treaty allowed to trigger the process of leaving the European Union.

A further example is the Euro. With exception of Denmark and United Kingdom, which negotiated opt-outs for the Euro, all other member states are *de facto* obligated to join the currency once they meet the required EU convergence criteria. States such as Sweden or others haven’t met the criteria and, in fact, no real pressure has been seen by the European Union pushing member states towards joining the common currency (Arestis/Sawyer 2013: 15). The opt-out negotiations for the United Kingdom, the negotiated UK rebate and a series of other special deals regarding other cardinal principles of the EU show clearly, that the EU has a lot of ways for its member states to express their discontent and to negotiate a new deal between state and supranational polity (Niedermeier/Ridder 2016: 8).

Also, referendums in the Netherlands and France on the Treaty establishing a Constitution for Europe, both could have been overruled if only one demos would have been interpreted to vote on the treaty. However, both rejections were taken into account and the whole process was stopped. This third example clearly shows clearly, that not only ways exist to express the discontent of a current or an upcoming change, but also the efficiency in favor of the single correspondent member states.

Stateless nations, in contrast, don’t have such options, as they are neither “Holders of the Treaties“, but regarded as fully subordinated to the nation-state they are in. In fact, and in case they are organized, they are nothing more than sub-state units and, therefore, not entitled to negotiate on their own with the European Union. The case of Greenland and the Faroe Islands in the late 1970s and 1980s show, that it was Denmark - the member state-, which spoke on behalf of both entities, when it came to the non-access of the Faroe Islands and Greenland leaving the EC zone. Furthermore, the European Committee of the Regions is not entitled as it is rather a consultative body established with Maastricht (Buonanno/Nugget 2013: 61).

While the member states qualify as YES, the stateless nations do not qualify.

3.5 Full recognition of national demoi on the state level (including secession)

A plurinational democracy has its essence, that it takes serious the term *plurinational* and *democracy*. *Plurinational* means nothing else but fully recognizing nations as what they are and what the purpose is - to be, as a national collective, a political subject. Besides constitutional and institutional recognition, a *de facto* recognition also qualifies. This is more likely to happen, as European nation-states still stick to the Westphalian paradigm of the nation-states, which is more a trap than a solution and which ensures in the end of the day a limited and closed hierarchy of power instead of enabling democratic development on a new level. The possibility for legal secession can be regarded as the litmus test of a state and its understanding of *plurinationality*. Democracy means also to respect the existence of a different national demos, or better said, of various national demoi within a state or a polity and the conclusion, the state draws: full respect for double majorities.

Denmark

Throughout its history, and especially since the XX century, Denmark has shown a rising recognition of its sensibility and empathy towards its multinational makeup. Failed attempts of forming a classic nation-state in Schleswig-Holstein the XIX century lead to a rethinking of strategies of state-formation and accommodation of stateless nations. This rethinking, in fact, lead to a Danish state, which converted its multinational character into a plurinational. Denmark has, since 1949 clearly shown an increasing acknowledgment of the existence of different national demoi besides the continental Danish one. First, the introduction of wide autonomy in the Faroe Islands and later in Greenland, such as the expansion of their autonomy. Second, the question on joining (Faroe Islands) or leaving the EU (Greenland). In both occasions, Denmark has fully respected the national demos in both entities. Third, Denmark has shown itself in various occasions open towards secession of the Faroe Islands and Greenland, tight to the only condition of them being democratically embodied (by a clear outcome in a referendum) and only a short period of financial support after independence. Although Denmark does not explicitly defines itself as plurinational, or recognizes officially constitutionalized its plurinational character, *de facto* it does. The near future might reveal this character even clearer as the Faroe Islands will vote on a proper constitution in 2018, where they define themselves as a nation and where the right of self-determination will be constitutionalized. Greenland has foreseen such a move probably already for 2021, replacing or complementing the former self-governing agreements. Therefore, the Faroe Islands and Greenland clearly qualify as YES.

United Kingdom

It has been mentioned before, that the United Kingdom is not a classic nation-state in the sense of imposing the state-nation, but *de facto* respecting and acknowledging the existence of various nations within its borders. Now the question on the recognition of national demoi is not as clear as it seems, though. First, there is no *de jure* recognition if a plurinational character, but the every day politics, such as devolution and rhetoric used by all parties underlines the perception of being a

state of nations. The national *demos* was first taken into account, when it came to devolution. Scotland and Wales were asked in a referendum and both decisions were accepted. In the case of Wales first, as it refused devolution in 1979, but the Welsh *demos* was called again in 1997, when a slight majority voted in favor of devolution and establishing a proper Welsh Assembly. Same can be said for Northern Ireland - together with the people of the Republic of Ireland, the decision over adopting the Good Friday Agreement and the establishing of a Northern Irish Assembly in 1998.

The question on secession only really affects currently Scotland and in the long run probably Northern Ireland. The Good Friday Agreement foresees a possible referendum on the secession of Northern Ireland and a unification with Ireland. This, for now, remains a legal, but existent possibility. Scotland did not have any precedent, but the independence referendum emerged after Scottish demands for further devolution were rejected by Westminster, and only the continuation of devolution, or full independence were negotiated options to choose from. In 2014, the first case of a possible and legal secession within the EU from a member state emerged, embodied in the Scottish referendum on independence. Future *Brexit* negotiations will show on how and if the Scottish voice will be heard as a different *demos*, and if a permanent recognition of the Scottish nation as a political *demos* will be implemented. This, however, is not predictable. What indeed is visible, is taking into account the national *demos* on the question of devolution, the possible legal option for secession in the Northern Irish case, such as the 2014 referendum in Scotland. History, especially during the last half century, has shown, that the United Kingdom is not *per se* against a recognition of its plurinational character, but has openly opted for it. Secession is possible in Northern Ireland. The possibility for secession was given in Scotland and has not been explicitly denied for the future. Wales neither has a legal base for secession, nor is there a demand for such at present. Given these information, the factor of the existence of national *demos* in the United Kingdom is fulfilled, although not unconditionally and (except the Northern Irish case), permanently. The absence of a clear position on Wales, such as the absence of demands there don't allow to qualify Wales, while Scotland and Northern Ireland qualify as YES.

France

The French constitution does not recognize any other national *demos* as the French one. Regional elections are not based on the *de jure* or the *de facto* recognition of a nation. In the Corsican case, the collectivity of Corsica has been recognized as the "territorial collective of Corsica" and will be replaced by the "Collectivity of Corsica" from 2018 on (Lamulle/Larralde/Leclerc/Lioret 2016: 83). Given the self-perception of the French nation-state, the added recognition is only a complementation to Corsica's special status, which is rather symbolic. The referendum in 2003 also did not have any binding legal character, but was taken into account at that time. Nevertheless, secession is also prohibited by Article 1 of the French constitution⁹⁵. Therefore, Corsica does not qualify.

⁹⁵ Constitutional Council of the French Republic. Constitution of 4 October 1958.

Spain

From a legal point of view, there is only one national collective foreseen and constitutionalized such as institutionalized by the Spanish constitution and the Spanish institutions. Article 1.2⁹⁶ states, that sovereignty resides within the Spanish nation and does not include any other possibilities for nations. Article 2 states clearly about the indivisibility of Spain, and although it mentions also the existence and the recognition of “nationalities” within autonomy. The term “nationalities” does not have any further meaning in the sentence of national *demos*, as such are *per se* excluded by the cited Articles. Therefore, no *demos* in a national sense are recognized in Spain and secession isn’t as well, which makes Catalonia and the Basque Country not qualify.

European Union

The European member states are the political body of the nations they represent at the European Union. The EU is known as a an intergovernmental and supranational structure (Toemmel 2014: 34). This indicates already, that nations are recognized as such with all their rights as full political subject embodied by the nation-state. The existence of national *demos* is an axiom as there isn’t any dissolution, but rather an integration of states within the EU. Article 50 of the Lisbon Treaty includes also the possibility for legal and unilateral secession.

Stateless nations are not regarded as nations, as already mentioned before, and only seen as sub-state (and therefore sub-nation) *demos*. Therefore is also no possibility for them to trigger Article 50 or to use a similar mechanism. Within the European Union, member states are fully recognized as *demos* in a national sense, including the possibility and the right for unilateral secession, while stateless nations don’t qualify for any of these factors. Therefore, only member states qualify as YES.

14.3. Comparative table of all examined cases in the context of plurinational democracy

This table allows a direct comparison of the cases and their evaluation within only one table. One case is here standing out: the member states of the European Union. It qualifies in all tested tables with YES. This means that, having the highest score - twelve out of twelve, or 100% -, the design of the relations between the European Union and its member states is apparently the closest model to a plurinational democracy.

The second closest cases are the Faroe Islands, Greenland and Scotland. All three cases score eleven out twelve with only one score missing in Table 3.2., which is equal to 91,67% of all tested criteria. This table indicates, that the institutional or constitutional design fully reflects demands of national units that make up the polity. All three cases follow an agenda in order to change the design and the arrangement of the relationships with the state. One can say that they seem to push towards the same direction within the state (Denmark and the United Kingdom) in the current context. All three cases can *de facto* go for independence. However, in the Faroe Islands and in

⁹⁶ Agencia Estatal Boletín Oficial del Estado. Constitución Española.

Greenland, no moves are done towards this aim, but apparently rather to a widening of autonomy and, by doing so, a reconfiguration of the state with the new aimed constitutions. Scotland was entitled to decide democratically over its independence in 2014. After the referendum turned out against independence, but *Brexit* was triggered, the question on how to continue a second time, there is a Scottish democratic support for a second independence referendum is not decided yet. Nevertheless, within the democratic framework, which was opened by the British government since devolution and with the possibility of deciding democratically once, it seems unlikely that in the long run, Scotland can be denied a permanent right of self-determination. Nevertheless, the Faroe Islands and Greenland can count with a permanent consent on self-determination, although it is not institutionalized yet. Also, in all three cases, the stateless nations are not recognized officially, but *de facto* as such. These circumstances keep all three mentioned away from regarding their relationship with the state on the state level, and with the EU on the supranational level, as one, that fully qualifies as a plurinational democracy. The circumstance, that all three cases do not meet the same criteria makes the cases easier to be compared. However, the simplicity of the tables do not allow to fully distinguish the quality of the criteria and to draw any conclusion on the quality of the criteria, which are met and the one criteria, which isn't met.

The next cases, with a score ten out of twelve, are the Basque Country and Northern Ireland. Although both cases have reached the same score of ten out of twelve, which equals to 83,3%, they might from a quantitative point of view range on the same level. In reality, both cases don't qualify in three different factors, which do not coincide. While Northern Ireland doesn't qualify when it comes to the question of majorities in section two, the Basque Country doesn't qualify in section three, when it is about the arrangement. This is therefore problematic as, different from the foregoing ones, the reasons for not qualifying are of different nature. While Northern Ireland is in the United Kingdom the second highest case, the Basque Country is on continental Europe the highest one. In case a hard *Brexit* will be carried out, it will be from a quantitative point of view also the case with the highest score within the European Union. This also means at the same time that, according to that table, the case, which is closest to the ideal model of plurinational democracy only scores 83,3%, while those outside the European Union in Europe of stateless nations score between 88,3% and 91,67%, which is indeed higher. The question, if the European Union is for stateless nations the very best political environment, can under these circumstances not be confirmed.

Both cases have a high score, yet it shows, that the gap between the ideal plurinational democracy model, the Basque and the Northern Irish case is getting bigger compared to the cases before. This also explains the Basque society supporting in its majority a model, which aims for a reconfiguration between the central government and the Basque Country itself. Lately, a bilateral model between the Basque Country and Spain on the base of recognition of the Basque Country as a nation has been discussed. It shows that, according to the support, this or a similar model is the most supported one and that a plurinational agreement promises to be satisfying, if the

demanded criteria are met⁹⁷. Same can be said about Northern Ireland, where the Good Friday Agreement settled fundamental political question and prepared a safe juridical and institutional model for the future. Nevertheless, while the Basque society is aiming towards fulfilling these factors which are still missing, by empowering in their majority parties on the territorial level to carry out these demands on the political state level, there are no further moves in Northern Ireland. As the catholic Irish birth rate is higher, it seems only a matter of time, until the criteria will be met (Roche/Barton 2013: 180). The question, if a plurinational model, or a unification with Ireland is more desired, can only be answered in the future.

Catalonia meets with nine out of twelve criteria, which equals a score of 75%. Just like the Basque Country, the failed criteria to meet are all within the arrangement between the state and the Catalanian national collective. The missing factor, which is met by the Basque Country, (3.3) is linked to shared power competencies ("shared sovereignty"). The Catalan *Procés* also emerged due to the demand for fiscal autonomy, which was denied and, besides the missing recognition of being a nation (as in the Basque case), this lead to an intense conflict with the state. Meeting 75% (or 9,6 out of 12) of the criteria means being below the average of the tested cases.

Corsica meets eight out of twelve, which equals to 66,67% of all criteria. From these 33,3% (or four criteria), which are not met, all belong to the third section of the political arrangement. Given the structure of France and its understanding of nationhood and the linked concepts of state and democracy, there is a majoritarian demand on Corsica for a change currently, visualized in the last victory of nationalist parties. This has been challenged by a state-wide reconfiguration of the administrative regions, delegating more powers to Corsica and complementing its special state. Only time will show, if these changes lead to higher score and to more satisfaction among the Corsican people, which eventually may lead to a growing score.

The lowest score in the ranking have Wales and the stateless nations in the European Union. Only six out of twelve criteria are met by both cases, which makes up exactly 50%. Quantitatively, they are on the same level. It is a low score, as half of the criteria of a plurinational democracy aren't met. They coincide in four out of six not met criteria, which can be found in the second and the third section of compared criteria. However, Wales seems to be a lot more satisfied with its status, when analyzing the case alone, than the stateless nations in general within the European Union. In any of these cases, neither among the stateless nations, nor within Wales, there are demands for secession from the United Kingdom/ the European Union and, currently, Wales isn't looking for a reconfiguration, while the stateless nations are. As in other cases, it is highly problematic to compare both cases, as reasons and effects are absolutely different from each other. With other words, while from a quantitative point of view, they share the same fate and are on the same level, the cases are too different to be compared from a qualitative point of view, as both cases have other ambitions and political aims. The fact that Wales only meets 50% of the criteria doesn't

⁹⁷ EAJ-PNV. Declaración del EBB en el 60 aniversario de los Tratados de Roma

express too much about its discontent, while 50% of the stateless nations do express indeed a high level of discontent, especially on the arrangement.

What can be said, when it comes to a review on the main sections and the criteria not met is, that within the United Kingdom, with exception of Scotland, Wales and Northern Ireland fail to meet together half of the criteria tested as the only state. This includes exclusively the internal criteria within the stateless nations. What is outstanding is a clearly visible accumulation of not met criteria in section three, when it comes to the plurinational realities of the state/polity. In general, there is a discontent of the current political relationship and the recognition of the stateless nations.

14.4 Score: cases in comparison with the ideal model of plurinational democracy

This table is a full comparison of the score out of the twelve tables, which have been tested and discussed above. The standard to compare with is the ideal model of plurinational democracy (PD), which would qualify twelve times with YES. It gives a better overview on the score of the cases discussed in the foregoing chapter. However, this is only a quantitative comparison and does not allow in fact conclusions to be drawn on the quality. The data in percentage indicates the closeness of each case to the ideal plurinational model. Furthermore, data indicate, in how many cases the factor was met by each case.

14.5 Secession and recognition as nations. A visualized comparison

Table 6. shows a different visualization of the cases with reference to the ideal model of plurinational democracy. Different from the other, it is an evaluation of the quality of the cases and their closeness to the ideal model of a plurinational democracy. The Y-axis reflects the possibility of secession, such as the tendency of it. One fundamental argument of a plurinational democracy is the full and permanent recognition of a political subject, which includes the possibility of secession. The X-axis reflects the recognition of the cases as nations within the states/polity. The arrows of the cases show the tendency, where the cases are trending towards. The evaluation are not mathematically calculated, as it is not the aim of this table. It should rather give an idea of where the cases in such a system are situated.

Corsica visibly has no possibility, and not enough socio-political support for secession, but the support for nationalist parties, such as symbolic recognition by the French state show a trend towards more recognition.

Catalonia and the Basque Country are subjected to the same constitution in Spain. However, the Basque fiscal "sovereignty" reflects a qualitatively higher recognition as a national subject, different from Catalonia. The trends are not the same: while the Basque Country aims for a reconfigured

relationship within the Spanish state, Catalonia abandoned this aim and trends towards secession, which is under the current constitution and the current political constellation impossible.

Wales has, due to the nature of the United Kingdom, a relative high recognition as a nation and in the context of devolution, a more complete recognition as a nation is not unlikely. Secession is not *per se* forbidden, but unlikely to happen at the moment, as there neither is a broad support or demand in Wales for such a step, nor has the British parliament ever had to treat this matter.

Scotland is also *de facto* recognized as a nation and, in the light of *Brexit* and the precedent of 2014 (independence referendum) more likely to convoke a second referendum on independence. At the same time, the Scotland aims for a proper recognition as a nation to have a fundament also within the state to continue its process.

Greenland and the Faroe Islands are also *de facto* recognized as nations by the Danish state. Both entities have constantly pushed towards a reconfiguration and also opening doors towards possible independence, which is given in the Danish case, and why secession is not unlikely to happen. At the same time, both are aiming for reconfiguration of the competencies and the relations between them and the state. The Faroe Islands are slightly closer evaluated to secession, as the announcement of a referendum on the new constitution in 2018 is a declared political project, which Greenland hasn't enabled yet.

Northern Ireland already has such a constitutionalized framework. Taking into account the birth rate of Irish, secession is, under the current circumstance (including *Brexit*) eventually possible. However, given the population, the population is still mixed and slightly protestant and British minded. Therefore, a recognition of Northern Ireland as a nation means here the recognition of the Irish. Northern Ireland is not in its majority a homogeneous collective, but rather divided into two, of which one part demands national recognition apart from the British, while the other is just in contrary to it.

The last case in this table is the European Union. Not a distinction between member states and stateless nations is given here, but the EU has been evaluated as the model, which fulfills the criteria set up for a plurinational democracy. The case is in the very intersection of the possibility of legal secession (Article 50) and the full national recognition.

14.6 Difficulty of the methodology

As it became more obvious in the discussion of the Table 4 (Comparative table of the cases in the context of plurinational democracy), there are a lot of concerns on the methodology of testing and of interpreting the results.

First of all, a general problem should be highlighted. Testing social sciences with methods of natural sciences, and interpreting the results the way natural sciences do are in such highly complex topics not too effective (Gerring 2001: xix). The results may give an idea of the cases and their relation to the ideal type of plurinational democracies, but they can not give accurate results, which include the whole complexity of the cases.

In concrete, a higher score does not always necessarily mean, that the case is closer to the ideal type of plurinational democracy, but to the ideal type, which has been set up here. Each case can perceive the idea of an ideal type of plurinational democracy differently, depending on the case and its very own circumstances.

Hence, the question on the quantitative approach emerges. What is more important, quantity or quality? The quantity of the score of a case in this testing series can indicate indeed a tendency, but to give an accurate and qualitative valuable result, it requires at the same time a case-by-case explanation in order to include the context, the complexity and the factors of each individual case. This means, that not only quantity, but also quality of the tested factors is important. For example, the circumstance, that Scotland has the *de facto* constitutionalized possibility to negotiate independence or an arrangement is an advantage, which the Basque Country doesn't have. On the other side, fiscal autonomy gives the Basque Country a way bigger independence in fiscal questions, than Scotland has. Who knows, if in case of Scottish fiscal autonomy a push towards independence would have ever been an option. With other words, while Scotland has a higher score, it lacks self-governing in essential policy fields and competencies. As already said, although a higher score might indicate a tendency, a higher score -especially with only one factor of difference - does not necessarily indicate a better deal for Scotland and a worse deal for the Basque Country.

This leads to the criticism, that an over-simplification of the cases with only YES or NO does not allow a deeper comparison of the cases. Over-simplification ignores the complexity of each case's circumstances and may lead to inaccurate conclusions. Hence, not only the quantity, but also the quality of the criteria for each case is required. In concrete, while cases have a similar score, they might evaluate factors differently, either more or less important and different from each other. For example, while fiscal autonomy is a crucial factor for Catalonia, it isn't so for Wales. Yet, both cases have the same outcome in the table. This is one of the crucial points, when making such a comparative table. Over simplification may lead to a quantitative comparison, but the question, if cases with the same result on the table are comparable, emerges and leads to the conclusion, that it is highly problematic. Same can be said about cases, which have an equal or close score.

A further word on the qualification of the cases is needed. The evaluation of the cases as YES or NO is highly subjective, although the most objective evaluation has been intended by the author and proved by a profound argumentation. The intention does not however make sure, that everybody else agrees with the causal chain and follows the same logic as presented during the evaluation process. Once again, social sciences are not natural sciences as perceptions can vary from person to person, depending on the individual point of view.

Especially the evaluation of the final tables leads to one main conclusion using the presented method: not the score, not the quantity, but the quality of each factor it has for each case is more important when it comes to a comparative approach. This means, that not only putting the weight on the score, but comparing the main groups (section 1, 2, 3) lead to a qualitatively better comparison when it comes to detecting main reasons for being closer or nearer to the ideal of plurinational democracy.

The percentage states maybe the score compared to the ideal type of plurinational democracy and, as mentioned, gives an idea of the developed arrangement, design and model the state or the polity offers. The percentage, however, does not say, that the higher the score is, the more satisfied a case is. Wales might score only a 50%, Corsica might have only 66,6%, but Wales and Corsica might be a lot more satisfied with the current arrangement than Catalonia, which meets 75% of the criteria. This has also been discussed in each case individually and one can say that, if there is no significant push or pressure from the stateless nation, it is more likely to be satisfied with the model they live in.

Do all nations aim for the plurinational democracy model presented here? It depends from case to case. Wales, for example, obviously isn't. Or better said, the current design seems for the Welsh nation close enough to a plurinational constellation, although only 50% of the set up criteria are met. It means also, that the Welsh perception, the Welsh point of view is different from the Basque or the Faroese one. Lower and higher score also doesn't say anything about the intensity of the conflict between the case and the state or the polity. While Catalonia, for instance, has a higher score than Wales (hence being closer to the ideal type of plurinational democracy), the intensity of the conflict is a lot more intense. One could assume that it would be the other way around, that for not meeting a higher score and being further away, the intensity of conflict would be higher, but it isn't. However, the reason why Wales feels more accommodated than the Basque country, or why some cases feel more accommodated in the current model although their score is a way lower, is a task for further investigations in a different research.

Table 6. gives a more accurate picture of the quality of the factors. One can see a correlation between the score of Table 4. and Table 5., but Northern Ireland and Wales, such as Corsica do not correspond correctly. The reason therefore is, first, that only two factors are being evaluated here: the possibility of secession and national recognition. Vectors only give an interpretable idea of the trend of each case. As mentioned before, it's not only the quantity, but especially the quality of the factors tested, that influence in the end of the day the evaluation and the positioning of each case.

14.7 Information on the tables

The examined cases have been adopted in a table, which allows a visualization of the discussion. All cases (except the state/polity) have been mentioned with specific abbreviations. In order to avoid confusion, the cases and their abbreviation will be explained here:

FAR: Faroe Islands

GRE: Greenland

SCO: Scotland

WAL: Wales

NIR: Northern Ireland

GIB: Gibraltar

LON: London
FLA: Flanders
ALS: Alsace
OCC: Occitania
COR: Corsica
CAT: Catalonia
BAS: Basque Country (France)
BRI: Brittany
SIL: Silesia
MS: Member states
SN: Stateless nations

I. NATIONAL REALITIES

Table 1.1. One or more collectives claim to be recognized as a nation apart from the majority nation within the polity.

	DENMARK		UNITED KINGDOM				FRANCE						POLAND		SPAIN		EUROPEAN UNION		
	FAR	GRE	SCO	WAL	NIR	GIB	LON	FLA	ALS	OCC	COR	CAT	BAS	BRI	SIL	CAT	BAS	MS	SN
YES	✓	✓	✓	✓	✓					✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NO						✗	✗	✗											
CASES	FAR	GRE	SCO	WAL	NIR	GIB	LON	FLA	ALS	OCC	COR	CAT <td>BAS</td> <td>BRI</td> <td>SIL</td> <td>CAT</td> <td>BAS</td> <td>MS</td> <td>SN</td>	BAS	BRI	SIL	CAT	BAS	MS	SN

Table 1.2. Stateless nation identity & double identities make up together the majority of identities within the territory claimed by the stateless nation.

	DENMARK		UNITED KINGDOM				FRANCE						POLAND		SPAIN		EUROPEAN UNION		
	FAR	GRE	SCO	WAL	NIR	OCC	COR	CAT	BAS	BRI	SIL	CAT	BAS	BRI	SIL	CAT	BAS	MS	SN
YES	✓	✓	✓	✓	✓		✓									✓	✓	✓	✓
NO						✗			✗	✗	✗				✗				
CASES	FAR	GRE <td>SCO</td> <td>WAL</td> <td>NIR</td> <td>OCC</td> <td>COR</td> <td>CAT</td> <td>BAS</td> <td>BRI</td> <td>SIL</td> <td>CAT</td> <td>BAS</td> <td>BRI</td> <td>SIL</td> <td>CAT</td> <td>BAS</td> <td>MS</td> <td>SN</td>	SCO	WAL	NIR	OCC	COR	CAT	BAS	BRI	SIL	CAT	BAS	BRI	SIL	CAT	BAS	MS	SN

Table 1.3. A majority within the stateless nation claim a certain level of self-government.

	DENMARK		UNITED KINGDOM				FRANCE						POLAND		SPAIN		EUROPEAN UNION		
	FAR	GRE	SCO	WAL	NIR	OCC	COR	CAT	BAS	BRI	SIL	CAT	BAS	BRI	SIL	CAT	BAS	MS	SN
YES	✓	✓	✓	✓	✓		✓									✓	✓	✓	✓
NO						✗			✗	✗	✗				✗				
CASES	FAR	GRE <td>SCO</td> <td>WAL</td> <td>NIR</td> <td>OCC</td> <td>COR</td> <td>CAT</td> <td>BAS</td> <td>BRI</td> <td>SIL</td> <td>CAT</td> <td>BAS</td> <td>BRI</td> <td>SIL</td> <td>CAT</td> <td>BAS</td> <td>MS</td> <td>SN</td>	SCO	WAL	NIR	OCC	COR	CAT	BAS	BRI	SIL	CAT	BAS	BRI	SIL	CAT	BAS	MS	SN

2. POLITICAL REALITIES

Table 2.1. The territory claimed by the stateless nation contains a party system, which takes the existence of the stateless nation for granted.

	DENMARK		UNITED KINGDOM		FRANCE	SPAIN		EUROPEAN UNION		
YES	✓	✓	✓	✓	✓	✓	✓	✓	✓	
NO										
CASES	FAR	GRE	SCO	WAL	NIR	COR	CAT	BAS	MS	SN

Table 2.2. Double majorities - stateless nation and its political projects are supported by majority in the claimed territory by the stateless nation.

	DENMARK		UNITED KINGDOM		FRANCE	SPAIN		EUROPEAN UNION		
YES	✓	✓	✓		✓	✓	✓	✓	✓	
NO				✗						
CASES	FAR	GRE	SCO	WAL	NIR	COR	CAT	BAS	MS	SN

Table 2.3. At least one party is demanding secession from the polity

	DENMARK		UNITED KINGDOM		FRANCE	SPAIN		EUROPEAN UNION		
YES	✓	✓	✓		✓	✓	✓	✓		
NO				✗					✗	
CASES	FAR	GRE	SCO	WAL	NIR	COR	CAT	BAS	MS	SN

Table 2.4. Reconfigured relations between stateless nation and polity/state is the most supported political project within the stateless nation

	DENMARK		UNITED KINGDOM		FRANCE	SPAIN		EUROPEAN UNION		
YES	✓	✓		✓	✓	✓	✓	✓	✓	
NO			✗							
CASES	FAR	GRE	SCO	WAL	NIR	COR	CAT	BAS	MS	SN

3. PLURINATIONAL REALITIES OF THE POLITY/STATE IN ITS ARRANGEMENTS

Table 3.1. Division of powers within a polycentrical/plurinational/asymmetrical arrangement is given

	DENMARK		UNITED KINGDOM		FRANCE	SPAIN		EUROPEAN UNION		
YES	✓	✓		✓	✓	✓	✓	✓	✓	
NO										
CASES	FAR	GRE	SCO	WAL	NIR	COR	CAT	BAS	MS	SN

Table 3.2. Institutional/Constitutional design fully reflects the demands of the national units, that make up the polity.

	DENMARK		UNITED KINGDOM		FRANCE	SPAIN		EUROPEAN UNION		
YES				✓				✓		
NO	✗	✗	✗		✗	✗	✗	✗	✗	
CASES	FAR	GRE	SCO	WAL	NIR	COR	CAT	BAS	MS	SN

Table 3.3. Political competences (sovereignty) are on the polity level shared and divisible into its national units.

	DENMARK		UNITED KINGDOM		FRANCE		SPAIN		EUROPEAN UNION	
YES	✓	✓	✓	✓			✓	✓	✓	
NO			✗		✗		✗			✗
CASES	FAR	GRE	SCO	WAL	NIR	COR	CAT	BAS	MS	SN

Table 3.4. A stateless nation with a majority within its claimed territory (Table 2.2) has juridical or political ways to express its (dis)agreement on their political status and its status of recognition.

	DENMARK		UNITED KINGDOM		FRANCE		SPAIN		EUROPEAN UNION	
YES	✓	✓	✓	✓		✓	✓	✓	✓	
NO					✗					✗
CASES	FAR	GRE	SCO	WAL	COR	CAT	BAS	MS	MS	SN

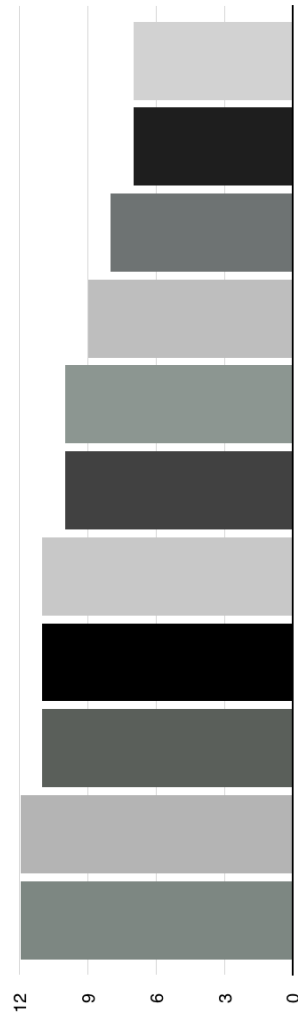
Table 3.5. Full recognition of national demoi on the state level (including secession)

	DENMARK		UNITED KINGDOM		FRANCE		SPAIN		EUROPEAN UNION	
YES	✓	✓	✓	✓					✓	
NO				✗	✗		✗	✗		✗
CASES	FAR	GRE	SCO	WAL	NIR	COR	CAT	BAS	MS	SN

Table 4. Comparative table of the cases in the context of plurinational democracy

	DENMARK		UNITED KINGDOM			FRANCE	SPAIN		EUROPEAN UNION	
	FAR	GRE	SCO	WAL	NIR	COR	CAT	BAS	MS	SN
1.1	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
1.2	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
1.3	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
2.1	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
2.2	✓	✓	✓	✗	✗	✓	✓	✓	✓	✓
2.3	✓	✓	✓	✗	✓	✓	✓	✓	✓	✗
2.4	✓	✓	✓	✗	✗	✓	✓	✓	✓	✓
3.1	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3.2	✗	✗	✗	✓	✓	✗	✗	✗	✓	✗
3.3	✓	✓	✓	✗	✓	✗	✗	✓	✓	✗
3.4	✓	✓	✓	✓	✓	✗	✓	✓	✓	✗
3.5	✓	✓	✓	✗	✓	✗	✗	✗	✓	✗

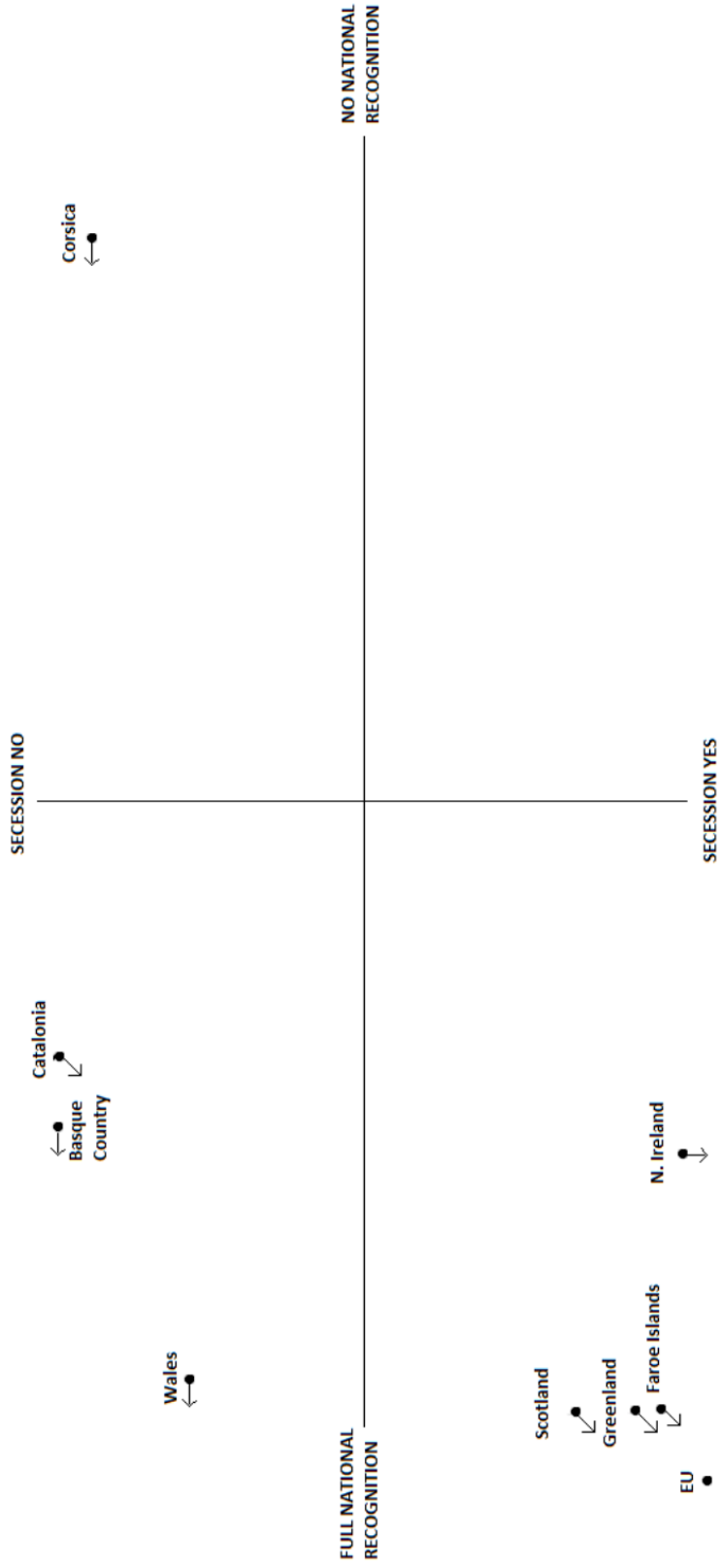
Table 5. Score: cases in comparison with the ideal model of Plurinational Democracy



PD	MS	FAR	GRE	SCO	BAS	NIR	CAT	COR	WAL	SN
100%	100%	91,7%	91,7%	91,7%	83,3%	83,3%	75%	66,6%	50%	50%

MS: 12/12; FAR: 11/12; GRE: 11/12; SCO: 11/12; BAS: 10/12; NIR: 10/12; CAT: 9/12; COR: 8/12; WAL: 7/12; SN: 7/12

Table 6. Comparative visualized evaluation of the cases on secession and recognition as nations



15. Examination and evaluation of the hypotheses

15.1 Hypothesis I

The paradigm of the nation-state can not solve these conflicts in a fair, pacific and democratic way.

This hypothesis can be verified. Although the modern nation-state of the XXI century has developed a series of strategies on how to challenge claims coming from those stateless nations, socio-political realities within most of these nations show, that there is a continuous dissatisfaction on the outcome. With other words, the strategies conducted by the nation-states have not been able to create a stable political framework, but claims for proper recognition as nations, including the political and juridical consequences continue to be present.

The chapter examining the genesis of the nation-state, the chapter about conflictive relationship between the concepts of state, democracy nationalism and the cases have shown in their majority, that the conducted strategies might soften, but not solve the conflict.

The reason therefore is, that the state of the XXI century continues to implement the bases of the Westphalian perception of the state and, with the fusion of nation and democracy has only been possible to develop a limited series of strategies (decentralization), which don't violate the dogma of the nation-state. *Cuius regio eius natio* is in all examined cases juridically and constitutionally implemented (Voigt 2006: 311). The nation-state defines, implements, imposes nationhood and the resulting interpretation of demos, legitimacy and sovereignty. This simplification, this reduction of the society and its understanding becomes a tool of power of the state in order to maintain itself (Lefebvre 1991: 106). Therefore, the recognition of national pluralism would put in danger the power position of the state over the interpretation and implementation of the mentioned concepts, which leads only to limited recognition, which is in the end of the day unable to fairly, pacifically and democratically solve the conflicts between the nation-state and most stateless nations. Following this logic, only submission or secession continue to be solutions, as the Scottish and the Catalan case recently have shown. Furthermore, the high support for pro-independence in several examined regions support the hypothesis, that a solution by the conducted strategies (such as devolution, autonomy or decentralization) of the nation-state have failed to give satisfactory solutions.

15.2 Hypothesis II

Stateless nations with double majorities prefer a reformulation of their relationship with the polity/state on the base of full recognition as political nations over secession.

This hypothesis can be verified. The examination of the cases has shown, that in none of these cases, there is a majority in favor of independence, which is also willing to carry out such a political step immediately. A series of arguments can be found, which support this hypothesis, that have

been examined individually in all cases such as discussed within the tables. In most cases, parties which since the beginning support secession are not the most voted parties. In those cases, where a clear majority of parties support independence (Greenland, Faroe Islands) make up the parliaments, secession has not been announced as an immediate political aim. In fact, the Faroe Islands and Greenland aim for reconfigured relations between them and the Danish state, including national recognition, the right for self-determination and delegating more competencies from the Danish state. The Scottish *SNP* has been the political wing supporting independence in 2014, as the preferred *devo max* solution was dismissed by the British authorities (Kidd/Petrie 2016: 31). While in the Basque Country, the *PNV* party as the most voted party and, almost constantly forming part of the Basque government, it continues to negotiate a new arrangement, which is currently a bilateral one between the Spanish state and the Basque Country. Catalonia shows a similar turn like in Scotland. Both, a reformulation, which orientated itself on the demands of the Catalan demos, and the “second best” alternative over status quo - independence - have been dismissed by Spanish authorities. Historically, support for independence wasn’t (and currently also isn’t) backed by a broad majority of Catalans, but a readjustment of the relations, that go beyond the current design. Corsica, which depends on the goodwill of the French authorities, also continues to postulate demands for further recognition, while France has enabled a further decentralization, that will be implemented from 2018 on. The EU embodies a reformulation of relationship between national entities, represented by the nation-states, which doesn’t impose a limited devolution, autonomy or decentralization, but which has been accorded on mutual agreement. *Brexit* is at the current state an exception and applying for membership among other states is still an attractive option, which is followed by several states such as in the Balkans for instance. Stateless nations also seek a reformulation of the relationship on the base of proper recognition as nations. These cases have in their examination shown a strong support for this hypothesis.

15.3 Hypothesis III

The cleavage between state and stateless nation is not only a cultural or ethnic one, but primarily a political conflict on the interpretation and implementation of sovereignty, legitimacy and *demos* embodied by the concepts of state, nation and democracy.

The assumption, that conflicts between the nation-state and stateless nations are of a cultural or ethnic culture has been falsified throughout the examination of the cases in particular. In almost all cases, cultural rights are gradually granted, constitutionalized or institutionalized such as devolved competencies of the territorial unit, where the stateless nation is present. There is also a gradual recognition of the different nations in an ethnic sense. However, the self-perception of the stateless nations has also changed. It’s not primarily anymore about cultural rights, as they are in most cases ensured and implemented. A nation is also in the investigated cases a political subject, that goes beyond a distinct culture and a distinct ethnicity since the concept of the nation-state emerged (Dieckhoff 2003: 89). Thus, the question on the interpretation and the implementation of

concepts of sovereignty, legitimacy and demoi in democratic nation-states differ the titular nation from the stateless nation, as the titular nation has an instrument - the nation-state - to implement its vision of these concepts. The stateless nation aims to be an actor recognized on the same level as the titular nation. This has been deeply examined in the chapters of the genesis of nationalism, state and democracy and the chapter of conflict between these three concepts verifies this hypothesis together with the examined cases.

15.4 Hypothesis IV

Stateless nations have adapted their ideologies and strategies to the environment of the EU integration process, accepting the EU as the overall framework for their national and political claims.

This hypothesis can be verified. First of all, the general political tendency within stateless nations in Europe is rather EU friendly. There is no evidence of any stateless nation party or any other political party, that opposes the European Union as such in any of the examined cases. Furthermore, socio-political movements in Catalonia and Scotland show, that the aim is belonging to the EU. In particular, this has triggered in Scotland after *Brexit* the debate on a second referendum on independence, which means that the leading Scottish party *SNP* would chose secession over leaving the European Union at present. The threat towards Catalonia tending towards secession of automatically leaving the EU seems to have an impact, as the debate over Catalonia's or Scotland's independence for instance and the membership is a discussed topic among researchers (Vaubel 2013: 297; Douglas-Scott 2016: 175-176; Duerr 2015: 183-184). However, the European Union provides a framework for stateless nations, that provides a certain protection of fundamental cultural and political rights. Stateless nations obviously set hope in the design and the self-understanding of the EU as a plurinational democracy, which has transcended the nation-state polity and gives a constant example for nation-states on how an alternative polity can work. With other words, the EU isn't only a shelter for rights, but also a constant reminder of a new form of a successful polity composed by voluntary will (bottom-up legitimation), a constant recognition of the member states as full political subjects (Art. 50 as a security option) and mechanisms such as unanimity when crucial changes occur or, at least, a majority vote of the member states. Thus, for stateless nations, the EU is an attractive, complementing and, in fact, completing supranational structure. However, as the tables and the chapter about the discussions of the tables show, stateless nations demand a further development of the European Union as their demands are yet not satisfied enough. With other words, in order to satisfy their demands, the EU would have to grow beyond a mere union of member states and embrace national plurality existent within the member states - but this could only happen, if the member states agree. Or the nation-state model on the state level would have to be overcome and an EU like arrangement system, for instance, would be adopted on the state level.

15.5 Hypothesis V

The European Union is the most advanced model of a polity of the ideal type of a plurinational democracy, which currently exists.

After examining the European Union as part of the series of cases, extracting the factors for an ideal type of plurinational democracy and testing and comparing cases within the tables, this hypothesis can be verified.

First of all, there are striking parallels, when Caminal (2011: 226, 233), Requejo (2006: 9, 16, 17), Dumont (2012: 88), Cornago (2013: 99), Aldecoa (2013: 92) and others detect a series of factors for the concept plurinational democracy, the European Union and also the EU as a reference taken for a plurinational arrangement. Furthermore, the comparative approach between the factors of the ideal model of a plurinational democracy and the European Union in the tables such as the graphics support this assumption, that it is the closest model in a qualitative and quantitative terms to the ideal type of plurinational democracy.

What differs the European Union mostly from the nation-states is that it doesn't only accept national plurality as a given circumstance, but embraces this fact by institutionalizing and constitutionalizing it without ever challenging the member states of their nature as full political subjects. Article 50, which can be unilaterally triggered, is probably the most striking prove.

Conclusions

The idea for this thesis has emerged in a context in which demands of European stateless nations towards recognition have become more and more visible. Scotland and Catalonia are probably the most prominent examples, as the conflict between them and their states have caused a worldwide media echo. At the same time, such attention has stressed the importance of such kind of conflict for both, the nation-state and the stateless nations. The question on how to react towards such demands has not yet a satisfactory answer, neither in the aforementioned cases nor in the several others examined in this thesis.

Based on the impressions of a rising awareness of the political importance of these demands and their potential for changing the states as principal actors on the international level in their basic dogmas, such as the European Union as the supranational *sui generis* structure, a series of objectives for this thesis have emerged.

First of all, the changing nature and the transformations of the state in the West have been already deeply analyzed in the homonymous book, which has been cited several times. These thought processes have been a fundamental inspiration for this thesis, stating that transformations in the age of globalism and supranational integration in the international system are natural and required. At the same time, the state continues to preserve the myth of what realists call a “black box“, meaning that the “inner life“ of a state doesn’t really matter. But it really does matter, when talking about democracy and how the state faces the demands of stateless nations. While international relations have focused on the question of power on the international level of different actors, the factor of democracy has been, if not fully ignored, at least seriously marginalized.

One of the main goals has been stressing this factor to address a new approach of solutions in those conflicts. The theoretical framework has provided an analysis of the concepts which make up the democratic nation-state: democracy, state and nation. By analyzing them in their genesis chronologically, the understanding of its roots, its development and its interaction with each other could be reconstructed. This has made possible to understand each of those concepts separately, but at the same time one could see that these three concepts overlap and interact reciprocally. The more interaction emerged, the more conflict lines were revealed. The question arising is whether these three concepts can coexist while overlapping and interacting at the same time. The answer is: it depends. It depends on how the balance of these three concepts is set by the state or the polity, to which concept more centrality is given, and to which less. In the end of the day, the concept of democracy is usually secondary.

The hierarchy of importance is also visible when talking about the *democratic nation-state*. While *democracy* is only the adjective, *nation-state* is the substantive. It’s not by accident, but language usually expresses the way one perceives the world (Gorham 2014: 111). The constellation of hierarchy has been able to retrace due to the chronological review of each concept. The Westphalian state-model, including a determined interpretation of the sovereign and sovereignty, of legitimacy and of the demos continued the subordination of these concepts, when it merged with the concept of nation and emerged as the nation-state. For stateless nations which make up a majority within their claimed territory, this is a fundamental contradiction about how a democracy

should organize its hierarchy and evaluation of these concepts. The theoretical framework has highlighted the conflicts between the concepts and the contradictions arising when the democratic nation-state is challenged by plurinational demands within its borders.

The focus was put on a series of cases with a special significance: stateless nations, which within their claimed territory make up a majority, when it comes to national identity, such as a major support for parties, which take the existence of the stateless nation for granted. A series of cases in states with plurinational realities have been analyzed, but not all have met the criteria. London and Gibraltar, for instance, clearly don't express themselves as nations. Silesia, *Iparralde*, Northern Catalonia, Brittany and Occitania don't show such a double majority within their claimed territories yet, which is why further examinations with these cases did not, logically, continue. Cases where a clear majority opts in favor of full independence and moves, backed up by a broad majority towards it, did not appear within the examinations. Instead, the analysis has shown that most of these cases demand a reconfiguration of their relationship with the state. This has been also one of the hypotheses, which could be confirmed after an analysis of each case.

As these cases clash with the classic nation-state dogmas and the set, determined framework of conflict solution, yet don't opt for full independence, an alternative approach, an alternative concept is required. Therefore, the concept of plurinational democracy has been broadly discussed, as it transcends the Westphalian framework and offers a new design. As Keating argues, this would not mean that the state itself would cease to exist or disappear (Keating 2001: 170). It does mean indeed, that the idea of the nation-state, as it is known today, and as it believes to be, definitely should change.

The breaking point is the acceptance of national pluralism, its institutionalization and constitutionalization. This would automatically mean to expand the current understanding of liberalism and autonomy from the individual to the collective level, in this case the national collective level (Nootens 2011: 115-116). Such an arrangement would mean the end of the myth the nation-state has believed to be and which the nation-state has imposed others to believe in (Caminal 2011: 248). However, myths and beliefs are hard to challenge, especially when they have been interiorized and recited over centuries.

It would take time and there would still be many people and institutions, which would resist to abandoning this belief for many reasons. One reason might be the loss of a belief, which is part of the personal and of the collective identity. Such a loss hurts and, therefore, some prefer to continue in their belief than embracing a point of view which might question the identity they have believed to represent. In this case, the other truth is rejected and one prefers to remain within its own truth, some kind of 'comfort zone'. Other reasons might be the loss of the power position within the polity. This, however, would reveal that such an institution or political function is more interested in maintaining power than implementing democracy.

However, plurinational democracy is not only a theoretical approach, but there are polities which have embraced to a large extent this model: the European Union. The European Union is a polity *sui generis*, which means that there is no comparable example. It is therefore an interesting model, as it abandons the Westphalian polity model, being more than only a league or a multilateral alliance, but becoming a supranational union. In this thesis, the European Union is the longest

chapter of a case, as, first, many parallels between the proposed features of a plurinational democracy provided by a series of authors coincide. Second, because these authors have taken the European Union as a reference model for plurinational democracy. For the first time in a democratic context, such a supranational polity has been built without imposing an all-polity identity, but embracing national pluralism, embodied by the member states. This becomes, therefore, interesting, as a series of the transformations of the state have been conducted by and for the creation of the European Union by sharing political competencies (sovereignty).

With the exception of the (now *brexiting*) United Kingdom as a whole, a positive attitude towards a continuity of this polity is expressed by the several *demos* within the European Union. This means that, apparently, a majority of the individuals, but also of the titular nations feel accommodated within such a framework. It respects and recognizes the member states as full political subjects with the enabled mechanisms such as unanimity in crucial questions or the legal and institutional framework, which embraces liberalism on the collective level. The most striking and proving element is the institutionalized Article 50, which clearly expresses that it's only a competency of the member state to decide voluntarily over the membership.

With other words, the European Union offers a constitutionalized and permanent framework for self-determination. Thus, the comparative study revealed that the European Union is clearly the closest model to what has been described by experts and researchers as an ideal model for plurinational democracy. Different from the Westphalian nation-state model, the plurinational democracy polity model of the European Union is a successful model when it comes to the accommodation of national plurality of the member states. It is also a model, which is embraced by the nation-states themselves, as they, as the "Holder of the Treaties", are the constituting units of the European Union, which has emerged over decades as a bottom-up creation.

The limited possibilities of the nation-state model to react democratically towards internal national plurality have been revealed within a study of a series of cases. It is the Westphalian state model which does not coincide with democratic demands, but rather serves as a power-securing constellation for the state and for the titular majority nation within the polity. It stands in flagrant contrast to the polity model of the European Union, of which all examined states are part of. Of course, the strategies these states have developed to answer to the national plurality demands within differ in their quantity, in their quality and the graduation they have been implemented and interpreted.

What all have in common, though, is that support for independence hasn't significantly dropped. This is because the state in such a constellation, based on Westphalian dogmas, only lets two options: either subordination or secession. The examination of the cases have revealed that all cases demand two crucial things: a full recognition as nations and, in their majority (with the exception of Wales), as full political subjects, equal to the titular nation. This includes to make arrangements on sharing sovereignty. According to the Westphalian model, this isn't possible, as within the polity, sovereignty (usually) resides within the nation, which is a nationally indivisible *demos*. Most states (except the United Kingdom and the Danish state) have constitutionalized this dogma. At the same time, the state contradicts itself. If political competencies (sovereignty) are nationally indivisible on the national level, how could they be shared on the supra-state level? The

state has crucially transformed itself towards “outside“ by overcoming the Westphalian model, especially within the European Union.

This transformation has also had impacts on the individual level, as EU citizens can establish a direct relation to, and derive directly rights from the European Union. Thus, also a transformation towards the “inside“ of the state has evolved. Nevertheless, the state can't overcome its dogmas and implement the exact plurinational arrangement inside – in opposition to the ideal model of plurinational democracy embodied in the European Union. The expression “democracy“ would mean that national collective decisions are fully respected. It would also mean that the nation-state would, as such, start reducing its centrality and going towards *plurinationality*, what means to be the adjective, and *democracy*, becoming the subject. As already said, it's not only grey theory, as the state has been doing so the supranational level for decades and the tendency goes towards a deepening of this concept.

Overall, the objectives set at the beginning of the thesis have been fulfilled and a series of new insights and understandings have been revealed and discussed.

The hypotheses, set up at the beginning of the thesis, have been tested by discussing the framework and the concrete cases in a detailed way. As already stated above, and as verified by the hypothesis, the paradigm of the nation-state cannot solve these conflicts in a fair, pacific, stable and democratic ways. This is also the reason why the state cannot act in a satisfactory way towards the demands of those mentioned cases of plurinational realities. Only two options are left for these cases, which are trying to find accommodation within the given, unsatisfactory framework or full independence. With the exception of Wales, all cases seek a different accommodation beyond these constellations determined by Westphalia. In the end of the day, as the state only leaves these two options, political independence movements have a remarkable backup in the cases, although not supported by a majority. Each case has its distinct dynamics and different factors, which influence the development. Therefore, a historical deconstruction of each case has provided a deeper understanding of these factors.

A further conclusion, which can be drawn from the hypothesis, tested in each case, such as from the emerging discussion is that the conflict between the state and the stateless nation is not only an ethnic-cultural, but primarily a political one. This political conflict consists basically of the different standpoint of the interpretation of national plurality with double majorities and the linked conclusions, following their own logical chains. Neither do the state and the stateless nations depart from the same standpoint, nor do they coincide in their logical chains. What is “nation“ to the state is not equal to the stateless nation. What is state-nationalism follows a different logic than nationalism of a stateless nation. In which both do coincide is the assumption that a nation equates a political subject. Nations, as political subjects, have also political ambitions, which include political projects. All cases have in their examination shown that they tend towards a civic development of nationalism and that an identification with the stateless nation is at the same time also an identification with a political project. This is exactly the reason why the nation-state avoids such recognition. Once again, this doesn't speak precisely in favor of the state putting emphasis on

democracy, but on its power position within the polity. With other words, democracy continues within the nation-state paradigm to be only an adjective.

Thus, for most stateless nation, the nation-state reveals a fundamental democratic deficit when it comes to national pluralism and its democratic expression.

What has provided a certain shelter from the abuse of several rights has been the European Union. Although it's either a direct relationship between the states or its nationals as individuals, and not for the stateless nations, the European Union and its precedents have set up a framework which secures also linguistic rights by the European Charter for Regional or Minority Languages, or the Framework Convention for the Protection of National Minorities. These rights are secured on the supranational level by the juridical and institutional framework of the European Union. The examined stateless nations have a rather positive tendency towards the European Union, but are not fully satisfied, as national plurality within the European Union is only accepted by the embodying of the nation-states.

This pro-EU tendency can be also seen in the current cases of Catalonia and Scotland. EU membership is an important issue in both cases. Scotland voted in its majority to remain within the EU and being pushed out against the will of the *Scottish* demos, a second referendum on independence is back on the table. Catalonia is constantly threatened with the menace that any unilateral declaration of independence would lead automatically to an exclusion from the EU. This, however, is disputed, although likely, but not free of potential problems. Algeria left after its independence the European Communities as a result of independence. However, times have changed since 1962. The European Union is in 2017 and its depth of integration is not anymore what the European Communities were in 1962. Algeria was a colony, while the examined stateless nations are officially not regarded as such, but as self-governed territories with different levels of autonomy. This is a crucial difference and provides a very different context for cases with different preconditions. Nevertheless, this debate is up for the future, not only in a legal, but also, and especially, within a political context.

With regard to the European Union, it must also be stated that this model is not perfect, although it scored twelve out of twelve in the tables. Especially embracing national diversity within the state is fundamentally lacking and the insecurity of how to react towards such demands, once they become legal, shows that it is still an uncertain terrain for the European Union, as the Scottish independence referendum revealed.

What can be said in general about the examined cases? As mentioned before, each case is individually different in its dynamic, its development, its circumstances and several factors. It was also already summed up that most cases seek a reconfiguration of the relationship with and of the constitutional and juridical design within the state. The different demands seem to tend towards the ideal model of plurinationality, which has been set up in a chapter especially dedicated to this topic. It has been a contribution to the academy trying to give visibility to cases which have been for now marginalized: especially the Faroe Islands and Greenland, but also the case of Silesia were introduced to break the silence and the ignorance, which usually surrounds them in the study fields of stateless nations and the conflicts and solution approaches with the state.

One can say that most cases, which are inside the EU, tend to be EU friendly⁹⁸. Besides some dissatisfaction on the point of recognition and the juridical shelter against the abuse of fundamental rights, it opens new perspectives and possibilities for the stateless nations. An aspiration towards being a part of this structure beyond the nation-state model - within a federal model of Europe for instance -, would possibly provide more influence than they have via the nation-state at present. The Scottish and the Catalan case have shown also a crucial conclusion: the examined stateless nations, which are within the EU, make in general their independence dependent from the EU status. While in Scotland, the question of independence is back on the table after an obligated *Brexit*, Catalonia fears an exclusion from the EU as a consequence of a unilateral declaration of independence. This coincides with the verified hypotheses that stateless nations in general tend to prefer a plurinational reconfiguration within the polity, while the European Union is the most advanced model of a polity of the ideal type of a plurinational democracy, which currently exists. However, one also has to say being within the European Union does mean a closer model to plurinational democracy. The Faroe Islands and Greenland have explicitly opted out from the European Union. Nevertheless, both have been able to develop together with and within the Danish state a model that comes closer to the proposed and tested ideal model of plurinational democracy. Hence, if it does not mean that the EU is the fully preferred political framework, it is true that stateless nations tend to aim for in general. Several small nations, whether with a proper state or as stateless nations, have voluntarily decided to stay outside the EU, while others make it a crucial matter on their further political development, as one can see.

The same can be said about Wales, which as a stateless nation has also opted out from the EU. Furthermore, it reveals that it is quiet far away from the ideal type of a plurinational democracy. Nevertheless, the tension of conflict between the United Kingdom and Wales is not as intense as in cases which are closer to the ideal model of plurinationality, such as Corsica, the Basque Country, or Catalonia. A better comparison can be drawn by interpreting Table 5.

Two conclusions can be drawn from this. First, quantity does not equal quality. A higher score can, but not necessarily does, define the level of satisfaction of the stateless nations. Wales seems to be a lot more satisfactory within the current model offered by the United Kingdom (with a score of 50%), while Catalonia reaches a 75%, but dissatisfaction is politically clearly more expressed by the Catalans. Second, each case depends on its very own factors, which have shaped the way the nation is going through. What Wales and Catalonia or, to remain on the same state territory, Wales and Scotland have in common, is the fact that they regard themselves as nations. While Scotland is highly dissatisfied with the current model, Wales feels completely accommodated. For Wales, the current design is plurinational enough to satisfy national demands, while for Scotland, Catalonia, and in fact all other cases, it isn't.

What is conspicuous, are the cases of the Faroe Islands, Greenland and Scotland, which show the highest score and, thus, quantitatively the closest position to the ideal model of plurinational

⁹⁸ Not all cases are in their overwhelming majority EU friendly. Wales, for instance, voted in favor of *Brexit* with a slight majority. While some 68% define themselves as "Welsh only" or "Welsh and British", some 52,5% of the Welsh voted in favor of leaving the EU. This number is above the state-wide average vote. Furthermore, the Faroe Islands and Greenland have opted out in 1973/1985.

democracy. It is not a coincidence that these are exactly the cases where sovereignty, demos and nation aren't determined in the constitution. It's safe to say that this provides the state with a lot more freedom to negotiate a model of national accommodation than in cases where these concepts became victims of constitutional codification. At the same time, Wales, which finds itself within the same constitutional framework as Scotland, doesn't come even close to that score.

This leads to a conclusion on the methodology. It must be concluded that the methodology could not fully satisfy the expectations which emerged when setting up this framework. It was supposed to make the conflicts in the light of the hypothesis that stateless nations' preference is a plurinational arrangement within the polity they are part of. The problems have been discussed and shortly recapitulated before. There might be some reason for this. First, social sciences are not natural sciences. Norms, laws, identities, etc. are highly volatile and don't follow a predictable pattern. Therefore, "measuring" plurinationality as a social science experiment with methods derived from natural science is highly problematic, as this framework has shown. A second reason might be that the factors were not set the right way. Here, it should be reminded that the factors have been set up by extracting them from the existent literature on plurinational democracy. Also, the interpretation has been subjective, although the author has always tried to examine it as objectively as possible.

However, the framework shouldn't be called a failure, although it could not satisfy the expectations put in before, but further conclusions should be drawn from that. First, it remains highly problematic to try to measure in social sciences with methodologies of natural sciences. Second, the framework does contribute to give an idea where the cases are situated. Especially Table 5. provides the trend of the cases within a coordinate system. After all, and despite the not fully satisfied expectations this methodological framework and its outcome can offer a new perspective for the reader. It is the first comparative attempt, based on empirical methodology, which explicitly examines cases of stateless nations in the light of plurinational democracy.

What can be further concluded are the following facts. First, the term "plurinational democracy" has been rather concentrated within the Spanish speaking area. Bolivia, for example, adopted the term "plurinational" as part of its official state name in 2009. In Spain, this term has been also used in political discourses referring to the national character of the state. Outside the Spanish speaking sphere, this term has been only used by few experts, which themselves have ties with the Spanish speaking world. Many discourses are still held in the context of "multinational", "multicultural" or "supranational", when defining arrangement of this kind. The expression "plurinational" does embody precisely the difference from the pattern within the Westphalian polity model and is gaining steadily fame and use also in the International level and the growing use, as the latest literature shows.

Second, the question that arises is: can plurinational democracy exist? Does it work? The answer is not closed. It depends on several factors, namely, if the polity is ready to abandon the Westphalian nation-state paradigm and to embrace national plurality, which is expressed politically. The price to pay would be to sacrifice the nation-state. The price to win would be to embrace socio-political national plural realities and give centrality to an expanded concept of democracy.

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