



**Theory and Approaches in Political Science  
with relation to Strategy and National Security**

**Course Paper**

*Study of the case*

*“Withdrawal of German Police Forces from the  
United Nations Mission in the Republic of South Sudan  
(UNMISS) in July 2016”*

*using the Legal-Formal and the Psychological Approach*

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## **I. Introduction**

After 20 years of war in Sudan, the fighting parties - the Sudanese government versus the Sudanese People's Liberation Movement (SPLM) - signed a comprehensive peace agreement on 9<sup>th</sup> January 2005. The ensuing peace process lasted for more than six years and resulted in the founding of the new state of South Sudan on 9<sup>th</sup> July 2011 as a result of which the Republic of South Sudan gained independence from the Republic of Sudan. The United Nations (UN) decided to set up the mission UNMISS, based on Chapter VII of the UN Charta, in the Republic of South Sudan to back it up in building the new state.

On 15<sup>th</sup> December 2013 struggles within the SPLM government led to the outbreak of armed conflicts in the Sudan People's Liberation Army (SPLA) and afterwards to a civil war-like development. In South Sudan, the government-supporting SPLA and the opposition (especially the Vice President Rieck Machar supporting Sudan People's Liberation Army in Opposition (SPLA-IO)) fought against each other. In August 2015, the conflict parties signed a peace treaty negotiated under the intermediary of the Intergovernmental Authority on Development (IGAD). The conflict had killed thousands of people and displaced more than two million people from their homeland.

Mid July 2016 new fights arose in Juba between the SPLM and SPLM-IO for a couple of weeks. Vice President Rieck Machar fled the capital.

Because of these fights, on July 13<sup>th</sup> and 18<sup>th</sup> 2016 Germany flew out all 7 policemen, members of the international police forces of the UNMISS<sup>1</sup>; so did the United Kingdom and Sweden<sup>2</sup>.

The German policemen were members of the German Police Forces, seconded from the Police Forces of the Federal States to the Federal Police<sup>3</sup> for their duty in the South Sudan. Main reason for the withdrawal were according to the German Government welfare and protective reasons because of the deteriorate security situation in the mission area and a risk of life for the unarmed policemen. The tasks of the policemen until then were advising and training of South Sudanese policemen.<sup>4</sup>

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<sup>1</sup> See (Tagesschau, Bundesregierung lässt Deutsche ausfliegen, 2016) / (Tagesschau, "Das falsche Signal zur falschen Zeit", 2016).

<sup>2</sup> See (Local, 2016).

<sup>3</sup> Germany is a Federal Republic (Bundesrepublik Deutschland) and consists out of 16 Federal States (Bundesländer). The division of the federal republic into federal states has historic reasons and was after the II. World War maintained to distribute the power on "two legs". The German Basic Law is the base for this distribution and gives the Federal Republic and the Federal States special degrees of sovereignty. In the following, the terms "federal states" or "police forces of the federal states" refers to the 16 Bundesländer, the term "federal (republic)" or "federal police" refers to the Federal Republic of Germany.

<sup>4</sup> See (Bundestag, Drucksache 18/9450, 23.08.2016, S. 11).

The 15 soldiers of the German Armed Forces remained in the mission.

This decision, although according to German information in advance to the UN announced, led to a huge reaction of the UN<sup>5</sup>. Germany was officially criticized and disinvited from this part of the mission.

For more details about the withdrawal see Annex A.

**The main question for this paper is the following:**

Is the German decision to withdraw the German Police Forces driven by the legal status of the police forces or by psychological considerations?

Therefore I will illustrate the main facts of the legal-formal approach and the psychological approach. After that I will evaluate the decision of the German Federal Ministry of the Interior (BMI) from the point of view of the two approaches and draw a conclusion.

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<sup>5</sup> See (Bundestag, Drucksache 18/9341, 05.08.2016, p. 6) and (FAZ, 2016).

## II. Theoretical background

### A. Introduction

The examination of a political case, like here the decision of the BMI, can be done by using a variety of approaches.

According Prof. Ben Dor<sup>6</sup> we can group the approaches into three generations:

1. The Institutional-Social Generation,  
including:
  - \* The legal-formal approach;
  - \* The group approach; and
  - \* The power elite approach.
2. The Anthropological –Psychological Generation,  
including:
  - \* The functional approach;
  - \* The systems approach; and
  - \* The political culture approach.
3. The Mathematical-Economic Generation,  
including
  - \* The economic political approach;
  - \* The rational approach; and
  - \* The public policy approach.

The main aims of the approaches are in general:

1. To *explain* behavior of political entities within a system and
2. To *forecast* to some extent political actions.

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<sup>6</sup> See (Ben-Dor, Nov 2016 - Jan 2017).

## **B. The Legal-Formal Approach**<sup>7</sup>

The Legal-Formal approach belongs to the Institutional-Social Approaches and had its main relevance in the time period between ~1880 and ~1920. It was followed by the Group Approach and Behavioralism. The Legal-Formal approach was influenced especially by existing structures and not that much by previous approaches.

Main writers came from law colleges and law departments. Although the Legal-Formal Approach has today almost no relevance, the principles can still be found in the legal area: *“Legal formalism is both a positive or descriptive theory of adjudication and a normative theory of how judges ought to decide cases.”* (Wikipedia, 2016).

The main areas of research of the political dimension are:

1. The study of formal law: The Legal-Formal Approach sees the study of institutions and the state as primary objects of investigation of politics, which means that the state is a sovereign entity, having the sole power to enact laws. The state has a distinct structure based on explicit structural and procedural laws. Therefore it is necessary to examine the state as a unique phenomenon by a separate research discipline.
2. The formal governmental organizations: To understand political behavior and the work of political systems, an understanding of the formal legal system is necessary because the knowledge of the laws of the political system leads to knowledge of the political system itself.

These two maintain reciprocal relations in the study of the legal system

This research perspective is very important because the Legal-Formal Approach sees the study of institutions and of the state as salient objects of investigation of politics. To my understanding, this is one of the reasons that the Legal-Formal Approach could not survive in the Western World.

As a research method, the Legal-Formal Approach has four characteristics:

1. Characteristic descriptive concepts.
2. Characteristic concepts of relationships.
  - a. A prototypical relationship to the understanding of the historical.
  - b. A causal relationship between law and formal structure.

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<sup>7</sup> Explanations based mainly on (Ben-Dor, Nov 2016 - Jan 2017).

- c. A prescriptive relationship.
- 3. Questions and characteristic problems
  - a. What are the laws of the system?
  - b. How do the legal-formal laws and formal institutions direct the general functioning of the system?
  - c. What should the formal structures be and what should the state structure be in order to ensure achieving its goals?
- 4. Characteristic method of analysis → Analysis of texts.

Although the Legal-Formal Approach in the time before the I. World War had more relevance and it continues to exist in some states, it lost its relevance afterwards because of the following reasons.

1. Especially in the beginning of the 20th century, which was characterized by a continual rise of interest in the structures of *realpolitik*, especially parties, interest groups and political competition, the pure concentration on legal-formal aspects could not explain the former situation satisfactorily.
2. The next erosion appeared in the early period between the two World Wars, which was characterized by categorizing political science as a branch of the social sciences rather than as a branch of legal science. This led to a more or less adoption of methodology/ models etc. from the social sciences and a rising interest in the mutual relations between regime, personality and the non-political aspects of society.
3. Furthermore the later period between the two World Wars was characterized by the fall of the liberal consensus and the failure of the constitutional liberal regime to ensure the political "good". Economic crises and wars, among others, proved that liberal democratic systems did not suffice. Additionally extremism fitted not in the "world picture" of the Legal-Formal Approach and could not be explained.
4. Last but not least, during the period after the Second World War, which was characterized by rising interest of political science researchers in non-Western political institutions, the "absolute" believe in the law vanished more and more.

Especially the change of the categorization and the appearance of political extremism in connection with the Industrial revolution seem to be for me the main reasons for the downfall of this approach.

However, the Legal-Formal Approach still exists in some countries as a valid approach.

The reasons are among others:

1. The socio-political developments in these countries are similar to those which existed in the West dozens of years ago; and
2. These countries have because of their cultural-religious heterogenic situation their laws as the main denominator.

In its downfall, this approach was replaced by the group approach which stressed the importance of pressure groups, lobbies and other similar groups; and the elite approach which centered on the idea of the asymmetry of political life on both the national and the international levels.

To summarize, the Legal-Formal approach was and is to some degree a good approach to explain **parts of** political activities. It was **not able to become the dominant** approach because of its limitations, e.g. rise of the realpolitik and individualism, limitations to explain irrational behavior and non-state actors. It is still valid in some countries because of its ability to explain especially **rule-based** issues. This appears especially for those questions based on decisive facts of life in many political regime and demand a special obedience/non-obedience to legal authorities.

However, I claim that it has its highest usefulness in **connection** with other approaches, for **backwards** explanations and less in forecasting political activities.

### **C. The Psychological Approach**<sup>8</sup>

The Psychological Approach belongs to the Anthropological –Psychological Generation and is closely connected with the Cultural Approach. It is next to the Cultural and the Rational Approach still one of the valid used approaches. The best examples are the various endeavors to explain the behavior of President-elect Trump in the USA.

The growth of the Psychological Approach arose to my understanding from the result, that

1. The sole explanations of the (undiluted) system without influences from the outside, by e.g. the individual or the people, have not been comprehensive; and
2. The pure study of the individual was as well not comprehensive. It came to the realization that the system and the people influence each other and especially the psychology of some leaders may influence a whole society respectively era.

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<sup>8</sup> Explanations based mainly on (Ben-Dor, Nov 2016 - Jan 2017).



The rise was supported by the evolution of the psychology science and the development of better research possibilities in the field of the neuroscience.

In general, the psychological approach tries to

- *explain behavior* of political entities within a system;
- To *forecast* political action and decisions; and
- To understand the *effect* of external stimuli.

The research objects are

- On the one hand Political Elites, their Behavior and Psychobiography and the results of that; and
- On the other hand Mass Behavior (of Population and Sub-populations), their effect on the political system and the effects of the system on them.

The intellectual underpinning of Political Psychology is that decision-makers (political elites) react to identified problems by analyzing information, determining objectives, formulating options, evaluating the options, and reaching conclusions through the following filters:

- Cognitive and Emotional Biases;
- Personality and Psychodynamics; and
- Biopolitics.

This leads to the fact that the rational choice is not anymore the determining factor. The rational choice is influenced by a lot more aspects than observable, the individual aspect and the psychological setting of the decision maker as well of the people have a influence on the political system. The bias – predictable or not – gains by that much importance and especially the emotional bias might overlay the cognitive bias.

This bias is likely to affect the political behavior the most,

- When the situation is novel, ambiguous, unstable, or complex (without clear precedents, expectations, or routine role requirements);
- When the situation is laden with symbolic and emotional significance;
- When power is concentrated;
- When leaders occupy strategic positions; and / or
- When institutions are in conflict.

The Psychological Approach deals mostly with the study of political leaders' personality because a political leader with a psychological profile will influence the situation differently than another one. The question whether Hitler would have invaded Poland (and other states) if the political leaders of Great Britain, Russia, France and the USA would have been other personalities is theoretically but definitely worth to consider. Additionally personalities like

Adenauer, Ben Gurion, Churchill, Ghandi, Gorbatschow, Hitler, Kissinger, Napoleon, Stalin, and nowadays President-elect Trump give enough background for detailed researches of their psychological behavior and the influence of that on their political activities.

However, the influence of the bias belongs as well to the psychological setting of the people and their political behavior, mostly visible in demonstrations or elections. Influences of all kinds, caused e.g. by political activities of others (leaders or groups), human tragedies, or environmental catastrophes, could make the people start to act in a special way and different than expected by the political system. The ongoing discussions in Germany about migration and immigration and the resulting strengthening of right wing parties caused by the huge masses of African people (and others) trying to reach Europe, were difficult to predict in forehand. The discussions are mainly driven by psychological aspects, like fear, growing nationalism, etc..

However, for all evaluations of political decisions the environment and social context (culture, ethnicity, class and other so-called background characteristics) have to be taken into account, because:

- Especially the Social context shapes the personality of leaders and of the people;
- The same social context and environment can impact different people in different ways (through its influence over their personalities); and
- Therefore, an important aspect of personality analysis involves understanding of the environment and the social context.

To summarize, the Psychological Approach is a good approach to explain especially behavior, which might be seen by a lot of people, as “irrational” or at least not rational. It closed the gap, which the more institutional approaches were not able to fill. Due the importance of the knowledge about the “non - explainable”<sup>9</sup> part in today political discussions it is a rightly still used approach in the political sciences.

However, as stated, personality and social context are not the only factors to describe political decisions. Therefore, like at the Legal-Formal Approach, I claim that it has its highest usefulness in connection with other approaches, but in contrast to the Legal-Formal Approach more in forecasting political activities.

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<sup>9</sup> In the way of irrational decisions.

### **III. Discussion of the case**

#### **A. The Legal-Formal Approach**

##### **1. The legal base for the German participation in the UNMISS**

To evaluate this case we have to consider a variety of laws:

1. The German Constitution, called Grundgesetz (GG, literally Basic Law);
2. The proper laws for the German Armed Forces (Bundeswehr);
3. The laws for the German Federal Police and for the Police Forces of the Federal states; and
4. The mandate of the UN for this mission.

The legal base for all governmental activities is the German Grundgesetz. *”The Basic Law is the constitution of the Federal Republic of Germany. It lays down the fundamental structure and essential values of the state. Among other things, the Basic Law defines the principles according to which the elections to the German Bundestag are conducted. It provides the basis for the status and rights of Parliament’s freely elected members and outlines how the German Parliament should be organized and carry out its business.”* (Bundestag, The Basic Law, 2012). The GG is accompanied and complemented by a variety of laws on the federal level (Bundesebene) and the federal states level (Länderebene).

The Bundeswehr and their main tasks are covered in a variety of articles (Art) in the GG. According to many sources<sup>10</sup> these are among others especially<sup>11</sup>:

Art 87a (Armed Forces); and

Art 24(2) (Transfer of sovereign powers – System of collective security).

The Bundeswehr is basically since 1992 acting in international (UN) missions<sup>12</sup>. The participation 1993 in Somalia led to the groundbreaking appeal to the German Constitutional Court (Bundesverfassungsgericht, BVerfG) concerning the lawfulness of this mission. The Decision by the BVerfG was taken on 12<sup>th</sup> July 1994<sup>13</sup> and explained especially the understanding of Art 24(2) GG and the relation of the use of military force and the transfer of sovereign powers to a system of collective security.

According to this decision and based on Art 24(2) GG Germany is allowed to participate in missions of the UN and other international organizations. This participation can be conducted in the full range of military tasks. As a necessity for the use of military forces under the head

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<sup>10</sup> Among others see e.g. (Wagner A. und Gießmann, 2009, p. 4).

<sup>11</sup> See (Bundestag, Grundgesetz, engl. Translation, 2012).

<sup>12</sup> See (Wagner A. und Gießmann, 2009, p. 4).

<sup>13</sup> The decision of the BVerfG see e.g. (Tschentscher, 2016).

of the UN the decision requests a UN mandate, based on a UN Security Council Resolution (UNSC Res).<sup>14</sup> Additionally, the participation of the Parliament has to be ensured beforehand or in the case of emergency at the earliest possible point of time. This participation of the German Bundestag took place, latest in November / December 2016, when the German participation with up to 50 soldiers was again confirmed.<sup>15</sup>

To sum up, the current legal base allows – under some circumstances – the conduct of all possible military tasks in international missions / operations ranging from non-executive training, advising, mentoring and monitoring missions to executive full combat operations.

Basically Police work in Germany is in general a task of the Federal States (*Bundesländer*). However, some police tasks are by law task of the Government at the federal level. Therefore, to fulfill these tasks we have to draw a distinction between the following types of police forces in Germany:

1. Federal Police Force (Bundespolizei, BPol)<sup>16</sup> and
2. Police Forces of the Federal States (Polizei der Bundesländer, LPol).

The police of the Federal Republic and of the Federal States have their overall base as well in the German GG, especially in Art 20(1) (Constitutional principles), Art 23 (Protection of basic rights, Principle of subsidiarity), Art 25 (Primacy of international law), Art 28(1) (Land constitutions), Art 30 (Sovereign powers of the Länder), Art 31 (Supremacy of federal law), Art 35 (Legal and administrative assistance and assistance during disasters) and Art 73 (Matters under exclusive legislative power of the Federation).

The specific tasks and regulations are laid down:

- For the Federal Police Forces in the Law for the German Federal Police (BPolG, Bundespolizeigesetz);
- For the Police forces of the Federal States in one of the appropriate 16 Laws for the Police of the German Federal States (LPolG, Landespolizeigesetz).

German polices forces are more and more involved in missions and operations abroad. This includes in addition to missions and operations of an International Organization as well

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<sup>14</sup> See (Wagner A. und Gießmann, 2009, p. 6).

<sup>15</sup> See (Bundestag, Drucksache 18/10188, 02.11.2016), (Bundestag, Drucksache 18/10547, 01.12.2016) and (Bundestag, Namentliche Abstimmung zu UNMISS, 15.12.2016).

<sup>16</sup> The German Federal Police (Bundespolizei = BPol) is nowadays a (primarily) uniformed federal police force in Germany and subordinate to the Federal Ministry of the Interior (Bundesministerium des Innern; BMI). The Bundespolizei was previously known as the Bundesgrenzschutz (BGS, Federal Border Police) and has a different role since 1st July, 2005 when the law renamed the BGS to the BPol. Prior to 1994 BPol members also had military combatant status due to their historical foundation and border guard role.

bilateral or multilateral projects. In almost all cases the participation of police forces (which means Federal Police and Police of the Federal States) is based on the consent of that particular state or a legal treaty which all sending states and all receiving states have signed, for example the Shengen Agreement<sup>17</sup>.

Taking part in a mission of the UN, NATO, the EU or any other international organization the legal base is either the consent of the state, a signed treaty, a UNSC Resolution acting under Chapter VI or VII of the UN Charta<sup>18</sup> or any other mandate in accordance with Chapter VIII of the UN Charta (e.g. OSCE).

The tasks of police forces in these missions / operations are mainly to secure the public security by monitoring, advisory and in some parts executive police work. The specific tasks are laid down in the mandate; and do not include military tasks<sup>19</sup>.

The members in those missions / operations are formally members of the BPol. Due to the fact that the number of the BPol is limited, the BPol is supported by members of the LPol<sup>20</sup>, who are according to the valid federal state laws in connection with §14 Civil Service Statutes (Beamtenstatusgesetz, BeamStG) delegated from the LPol to the BPol. § 14 BeamStG rules the (part-time) secondment of policemen/women for reasons of the (temporarily) service from one LPol to another LPol or to the BPol. The delegation to the BPol and afterwards into the international mission takes place in accordance with a variety of other laws, so inter alia with the Federal Civil Service Law (Bundesbeamtengesetz, BBG). However, it has to be mentioned, that the participation of policemen and women is based on voluntary base<sup>21</sup>.

All these participations are based on Art 24(2) GG in accordance with § 8 BPolG<sup>22</sup>, which determines that policemen can only be used for police or other non-military tasks, which includes the prohibition to fight like military forces. This does of course not prevent the use of force for self-protection or emergency assistance. Hence it can be concluded that policemen have no combatant status<sup>23</sup>, which includes that the external security against opposing military forces has to be ensured by other, mainly military forces. If security cannot be assured, a withdrawal should take place<sup>24</sup>.

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<sup>17</sup> See (Kugelman Dr., 2007, p. II 1).

<sup>18</sup> See (Bund-/Länderarbeitsgruppe, 21.02.2014, p. 5).

<sup>19</sup> See (Bund-/Länderarbeitsgruppe, 21.02.2014, p. 6).

<sup>20</sup> This secondment is based on a decision of the Members of the Permanent Conference of the Federal States Ministries of Interior in 1994. See (Bund-/Länderarbeitsgruppe, 21.02.2014, p. 9).

<sup>21</sup> See (Bund-/Länderarbeitsgruppe, 21.02.2014, p. 17) and (Kugelman Dr., 2007).

<sup>22</sup> See (Bund-/Länderarbeitsgruppe, 21.02.2014, p. 8).

<sup>23</sup> See (Gewerkschaft der Polizei, 2011) and (Bund-/Länderarbeitsgruppe, 21.02.2014, p. 12).

<sup>24</sup> See (Bund-/Länderarbeitsgruppe, 21.02.2014, p. 20+21).

Important is furthermore that for the use of police forces a mandate of the Bundestag is not necessary (Bundestag, Drucksache 18/9450, 23.08.2016, S. 1). However, in line with Art 24(2) GG and the decision of the BVerfG in 1994, it can be stated, that the German Parliament has the right to call back the policemen and stop the participation of German police forces in an international mission.

Last but not least, the main tasks of UNMISS<sup>25</sup> are

- Protection of civilians;
- Monitoring and investigating human rights;
- Creating the conditions for delivery of humanitarian assistance; and
- Supporting the Implementation of the Cessation of Hostilities Agreement.

These tasks are covered by a range of UN Security Council Resolutions (UNSC Res), so among others UNSC Res 1996(2011), UNSC Res 2132(2011), UNSC Res 2155(2014), UNSC Res 2241(2015) and UNSC Res 2304(2016). Especially the latest ones clarify the tasks and the possible upper limits of soldiers and policemen<sup>26</sup>.

## **2. Evaluation**

Para 1 has shown that military forces and police forces in general have a common base for the participation in a mission or operation of an International Organization.

Art 24(2) GG in connection with the decision of the BVerfG in 1994 defines that Germany can participate with own forces under certain circumstances in mission or operations of UN, NATO, EU or other organization. The main principle is the existence of a valid mandate, based like in this case on an UNSC Res.

However, there are some specific regulations, which make a huge difference in the use of military and police forces.

The Bundeswehr is mainly acting in accordance with a valid UNSC Res and Art 24(2) GG, which allows the use military force according the Rules of Engagement<sup>27</sup>.

The use of force by police forces is not covered by this regulation<sup>28</sup>. § 8 BPolG limits the use of force to the use in police or other non-military tasks, which prevents a fighting task like the military has.

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<sup>25</sup> See (UN DPKO, 2016).

<sup>26</sup> See (United Nations Security Council, UNSC Res 2155(2014), 2014) and (United Nations Security Council, UNSC Res 2304(2016), 2016).

<sup>27</sup> See (Bundestag, Drucksache 18/10188, 02.11.2016, p. 2).

<sup>28</sup> With the exception of Formed Police Unit with military tasks. This will not be covered in this paper.

Therefore, the withdrawal decision is from the point of the Legal-Formal Approach fully justifiable, because:

- Although the current international situation shows that police forces become more and more a mean of German and EU Foreign politics, especially in the Comprehensive Approach of the EU, it has to be noted that police forces in this case were unarmed, their mission was training and advice and there was no planned active participation in ensuring a safe and secure environment, like military forces do<sup>29</sup>.
- Prior to 1994, before the BGS has become the BPol, BPol members also had military combatant status due to their historical foundation and border guard role, nowadays policemen are no combatants<sup>30</sup>, so an active participation in fighting would be legally not justified.
- The BMI, as the representative of the Government and as the highest responsible hierarchy for the policemen, had an obligation to secure the policemen and to guarantee welfare<sup>31</sup>.

## **B. The Psychological Approach**

### **1. The psychological effect in this decision**

For the discussion of the psychological aspects in this case, there is a range of groups which have to be considered:

#### **a) The Government**

The government is in this case represented by the BMI; so we do not have a single political leader with a more or less definable personality. In this case the BMI, a governmental entity, took the decision and had to stand all the questions and to deal with the –in some parts harsh– comments of others (like the UN or the media).

Germany supports UNMISS since 2011 and before that UNMIS since 2005. The withdrawal is a fortiori remarkable because Germany enlarged the possible contingent in October 2015 from 10 to 20, being aware that the “*security situation in parts of the country has deteriorated dramatically*” (Bundesregierung, 2015). So therefore the dilemma of the Government in this case was the decision between further participation and endangerment of the policemen.

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<sup>29</sup> See (Bundestag, Drucksache 18/9341, 05.08.2016, p. 6) and (Bundestag, Drucksache 18/9450, 23.08.2016, S. 11)

<sup>30</sup> See (Gewerkschaft der Polizei, 2011, S. 5)

<sup>31</sup> See (Bundestag, Drucksache 18/9341, 05.08.2016, p. 6)

## **b) The UN**

The UN was effected by the consequences, because although only a limited number of policemen have been flown out, the signal regarding the security situation in South Sudan as well as concerning the effectiveness of UNMISS could be enormous. They even claimed that the withdrawal was a hit against the moral of the whole mission and the remaining policemen and soldiers (FAZ, 2016). This hit was for them even harder, because – due to the information by the UN – that withdrawal took place without information by the German government<sup>32</sup>, which was denied by the German Government<sup>33</sup>. So this German decision hit psychologically one of the self-proclaimed pillars of the UN, its credibility.

## **c) The policemen**

The main tasks of those seven policemen were -as depicted above- advising and training. Therefore they were unarmed and dependent on the provision of security by others. The deteriorating security situation made furthermore the fulfillment of their tasks difficult. It has to be stressed that in contrast to the soldiers, the participation of policemen and women is based on voluntary base<sup>34</sup>. Their security is a high value<sup>35</sup> and in some parts crucial for the willing of policemen to participate on a voluntary base. So decision - to withdraw or not - could influence the further willingness to participate of those seven policemen and the one of other policemen in the future.

## **d) The remaining German soldiers**

These 15 soldiers, also member of the UNMISS, but based on a different decision (mandate) of the German government<sup>36</sup>, remained in the South Sudan and had to cope with the deteriorating security situation. They were all armed and included in other units / headquarters of the UN. The soldiers are all professional soldiers, non-career soldier or at least short-service volunteers; main base for their contracts is the permanent willingness to participate in missions and operations of the Armed Forces abroad. However, the danger for their life seems to be even higher than to the policemen. A withdrawal of the policemen could have a demotivating effect on the soldiers.

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<sup>32</sup> See (United Nations, 2016)

<sup>33</sup> See (Bundestag, Drucksache 18/9341, 05.08.2016, p. 6)

<sup>34</sup> See (Bund-/Länderarbeitsgruppe, 21.02.2014, p. 17)

<sup>35</sup> See (Gewerkschaft der Polizei, 2011, S. 5)

<sup>36</sup> See especially (Bundestag, Namentliche Abstimmung zu UNMISS, 15.12.2016) and (Bundestag, Drucksache 18/10547, 01.12.2016)



### e) **The society**

The society in this case is only indirectly involved. As a political interested person, the society takes notice of these decisions. In a lot of cases, the population is even not really interested in political discussion; a lot of security discussions take place only between experts<sup>37</sup>. However, in cases where dead soldiers or – like in this case possible – dead policemen would be brought back to Germany, the discussion would quick start in the media and also held by the society. And like in almost all cases, the acceptance of political decisions (in this the withdrawal) by the society is important for the politicians because it might strengthen their chance for a re-election.<sup>38</sup> The acceptance of the decision also influences the support of the society for the policemen abroad.<sup>39</sup> Furthermore, it has to be taken into account that there were at that time a lot of discussions about the too little number of policemen in Germany<sup>40</sup>.

## 2. **Evaluation**

As shown above there are a lot of psychological aspects taken into account. The in some parts conflicting positions (UN: to show strength and effectiveness of the mission; policemen: danger of life and no real chance to fulfill the mission; soldiers: even higher danger to life and the continuance in South Sudan; society: question about usefulness of UN participation and number of soldiers in Germany) have to be considered when to evaluate about the “correctness” of the German decision to withdraw seven policemen.

It seems that especially the expected opinion of the voter and the policemen are rated higher by the BMI than the ones of the soldiers and the UN because it could be assumed that the first ones might have a quicker and more immediate influence at the political level.

The reaction of the BMI<sup>41</sup> leads to the assumption that the BMI did not really took too much care of the opinion of the UN in the moment of the withdrawal.

Welfare and the loss of life by (militant or martial) activities is in these times, 70 years after the last war in the center of Europe, is quite a matter of concern for politicians and lead often to broad discussions in the society.

So from the psychological view it was absolutely comprehensible that the BMI withdrawal the policemen especially because of the fact that the withdrawal was aimed to be temporary

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<sup>37</sup> See (Wagner A. und Gießmann, 2009, p. 8)

<sup>38</sup> See (Wagner A. und Gießmann, 2009, p. 7)

<sup>39</sup> See (Bund-/Länderarbeitsgruppe, 21.02.2014, p. 29)

<sup>40</sup> See e.g. (FOCUS, 2016)

<sup>41</sup> See (Bundestag, Drucksache 18/9341, 05.08.2016, p. 6)

(“zeitweilige Abzug” / temporary withdrawal, (Bundestag, Drucksache 18/9341, 05.08.2016, p. 6)).

#### **IV. Conclusions**

The decision of the German government, represented by the Federal Ministry of the Interior, was a political decision with multifaceted aspects. The analysis of this decision by using two different approaches of two generations of the political sciences stresses this.

The Legal-Formal Approach proved that the German police forces in UNMISS were not allowed to participate in military activities of UNMISS. The legal base (§ 8 BPolG) prevents these participation and in connection with the tasks of the German Armed Forces, laid down in the German GG, in the mandate of the German Parliament and the mandate of UNMISS, limit those militant activities to the military forces. Additionally, the BMI is as the highest political echelon for the police forces responsible for welfare and personal security of the policemen. Therefore, to secure that, the retirement was – at least temporary – absolutely justified.

The Psychological Approach illustrate that there is more than just “sticking to the facts”. The consideration of psychological aspects and effects on and of decisions is an absolute important factor and has to be considered for the evaluation of political decisions. In this case, especially the effects of the return of in war-act killed German policemen in a time where German policemen have been needed in Germany could have massive effects on the opinion of the voters (society) and steered the decision.

The use of the psychological approach in this case shows well that the consideration of just legal facts is not enough, we also have to take into account that there are “irrational” decision which are aiming at the perception of the people, which is not easy if you have to respect the opinion of a range of people, like in this case the policemen, the soldiers, the voter, and the UN. The balancing between opinions and values of different groups, taking into account the psychological effects of one decision on a range of groups, is probably one of the more challenging issues in the political arena.

So, as already mentioned in the discussion of the two approaches, the best evaluation of a political decision arise by connecting at least two out of the range of approaches

To sum up, both approaches (the Legal-Formal Approach as well as the Psychological Approach) show that the decision as such was comprehensible. However, only the connection of both shows the whole range of this decision.

## V. Abbreviations

<b>Abbreviation</b>	<b>Longform</b>
Art	Article
BBG	Federal Civil Service Law, Bundesbeamtengesetz
BeamtStG	Civil Service Statutes, Beamtenstatusgesetz
BGS	Federal Border Police, Bundesgrenzschutz
BMI	Bundesministerium des Innern , Federal Ministry of the Interior
BPol	Bundespolizei, German Federal Police
BPolG	Bundespolizeigesetz, Law of the German Federal Police
BVerfG	Bundesverfassungsgericht, German Constitutional Court
EU	European Union
GG	Grundgesetz, German Constitutional Law / Basic Law
IGAD	Intergovernmental Authority on Development
LPol	Landespolizei, Police of the German Federal States
LPolG	Landespolizeigesetz, Law of the Police of the German Federal States
MP	Military Police
NATO	North Atlantic Treaty Organisation
OSCE	Organization for Security and Co-operation in Europe
SPLA	Sudan People's Liberation Army
SPLA-IO	Sudan People's Liberation Army in Opposition
SPLM	Sudanese People's Liberation Movement
UN	United Nations
UN DPKO	United Nations Department for Peacekeeping Operations
UNMIS	UN Mission in Sudan
UNMISS	UN Mission in South Sudan
UNSC	United Nations Security Council
UNSC Res	UN Security Council Resolution
USA	United States of America

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## VII. Annexes

### A. Background of the German participation in UNMISS and the withdrawal

#### 1. More specialists for South Sudan<sup>42</sup>

*“In response to a UN request, the number of German police officers involved in the United Nations Mission in the Republic of South Sudan (UNMISS) is also to be raised from 10 to 20. This mission has strong military, police and civilian components. German troops are also deployed in South Sudan, so that the police component once again rounds off the overall German engagement.*

*The security situation in parts of the country has deteriorated dramatically, and the humanitarian emergency has worsened. Currently almost 200,000 internally displaced persons are being cared for by UNMISS facilities in South Sudan. The scale of conflict-related violence, particularly towards women and children, is giving grounds for serious concern.*

*For this reason the mission would like to use a team of specialists to tackle the field of sexual and gender-based violence exclusively and in the longer term. For this team the UN has requested German expertise in particular. Germany has earned itself an excellent reputation in this field, and has specially trained police officers for this area.*

*Since 1948 the **United Nations** has conducted a total of 69 peacekeeping missions (also known as blue helmet missions). Currently 16 UN peacekeeping missions are ongoing, with more than 125,000 peacekeeping forces from 120 countries.”*

**The following are private translations<sup>43</sup> of parts of the reports about the German withdrawal of Police Forces.**

#### 2. “Fighting in South Sudan: Federal government induce fly out of Germans”<sup>44</sup>

Due to the ongoing fighting in southern Sudan, the federal government is letting German nationals leave the country. The Bundeswehr has already brought several diplomats and development aid with a Transall to safety. The US wants to send

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<sup>42</sup> See (Bundesregierung, 2015).

<sup>43</sup> An official translation could not be found.

<sup>44</sup> See (Tagesschau, Bundesregierung lässt Deutsche ausfliegen, 2016).

additional soldiers into the country.

For days, the army and rebels have been fighting hard in the South Sudan capital Juba, hundreds of people have already been killed. The Federal Government has now decided to fly out German nationals for security reasons. This was stated by a Foreign Ministry spokesman, confirming several media reports. The evacuations were already on Wednesday. However, the 15 soldiers who are stationed in southern Sudan as part of a UN operation remain in the country.

...

### **3. “Disengagement of German policemen from southern Sudan ‘a serious blow’ ”<sup>45</sup>**

...

The police were part of the UNMISS mission in South Sudan to train and advise the local police. The Blue Helmet Mission is supposed to help pacify the conflict-torn country. Within the scope of this mission are also some soldiers of the Bundeswehr in southern Sudan. The federal government had brought most German citizens with four evacuation flights from southern Sudan in mid-July, after heavy fights between rival troops there.

### **4. Germany ignores Bans' demands<sup>46</sup>**

...

The message was clear: this UN mission must not falter. We stay and help. But two days later in Juba, the capital of South Sudan, landed a Transall of the Bundeswehr. All seven German police officers for the UN mission were flown out on 13 and 18 July as a duty of care on the order of the German Ministry of the Interior.

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<sup>45</sup> See (FAZ, 2016).

<sup>46</sup> See (Tagesschau, "Das falsche Signal zur falschen Zeit", 2016).