

Summary

DISARMAMENT AND PROVISION OF INTERNATIONAL SECURITY: THE CASE OF THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE

Since times immemorial, security has been one of the mankind's principal concerns. In the 20th century, the concept of international security entered the vocabulary of international law. International security can be defined as a „state of international relations where national security interests of individual states, neither international peace are challenged “. The question of international security is thus inseparably linked to international peace, a connection confirmed in key documents of contemporary international law such as the United Nations Charter. Notwithstanding two approaches, to peace, negative and positive, it is evident that international security reflects the theme of war and use of force.

The understanding of international security evolved in parallel with the perception of war as a means of dispute settlement. In the traditional international system, war was considered legal as long as it was justifiable. The relations between states were governed by the principle of efficiency. One of the traditional ways of strengthening a state's power and ensuring its security was to increase its levels of armaments. Gradual complexity of international relations along with progressive modernisation of and increase in armaments led, at the end of the 19th century to an „armed peace “.

Following the bloodshed of the First World War, discussions on the excessive level of armaments as one of the causes of war and on the legality of use of force were brought about. Throughout the 20th century, new concepts of security developed, including multiple reference objects and threats as opposed to the traditional concept of national security articulated in military terms. In the second half of the century, international security became a complex institute concerning not only states but also individuals and the international community as a whole. Apart from military aspect, it has simultaneously acquired economic, environmental, social and political dimensions. The perception of international security shifted again at the end of the Cold War. Nevertheless, all security concepts formulated during the last century underline the mutual co-dependency of states and their common responsibility for ensuring international security.

Three main concepts of international security involve the concept of collective self-defence, collective security and cooperative security. The main role in today's international security system is attributed to the Organisation of the United Nations as a universal system of collective security supplemented with regional agreements and arrangements. Three of the principles governing this system closely pertain to international security: the prohibition of the use or threat of force, the prohibition of

intervention in a state's internal affairs and the principle of peaceful settlement of disputes by states. One of the core elements of this system is disarmament.

The United Nations Charter attends to the question of disarmament on three occasions. Rather vague formulations, possibly inspired by the failure of ambitious disarmament efforts of its predecessor, the League of Nations, have undoubtedly added to different approaches to the issue. The theory and praxis of international law distinguish several methods such as disarmament, limitation of armaments or arms control, depending also on convenience of the author. Nowadays, however, many of these approaches are perceived as interchangeable and complementary.

The central mechanism of limiting armaments lies within the system of the United Nations, namely the General Assembly and the Security Council assisted by other organs, including the Conference of Disarmament which is not part of the UN but closely cooperates with it. Furthermore, the questions of disarmament have been discussed in several regional forums and on bilateral level, particularly between the USA and the USSR in the era of Cold War.

Disarmament closely relates to international security. In fact, a progress in disarmament is not likely without strengthening international security, which requires parallel application of confidence-building measures. The mechanisms of disarmament should be governed by two main principles. These are the principle of parity and that of undiminished or equal security of the states concerned.

The sum of legal norms pertaining to disarmament and limitation of armaments has evolved in a vast complex distinguishable from other norms of international law. This has led some authors to a conclusion that the law of disarmament has been forming as a separate branch of international law. However, many authors do not share this view and study disarmament within the non-use of force, international security or even the law of armed conflicts. As much as we do not agree with this approach, we, however, consider more pertinent to speak about the law of international security and disarmament given the nature of disarmament as one of the instruments of international security. We subscribe to the view, too, that there is no legal obligation of disarmament stemming from the customary international law.

While we can describe the current situation in the field of disarmament as deeply unsatisfactory, characterized by worldwide increasing military expenditure and growing disrespect for conventional forms of limitation of armaments, the decade of 1987 to 1997 on the contrary saw the conclusion of an array of important international agreements on disarmament. The Treaty on Conventional Armed Forces in Europe (the "CFE Treaty") was one of them.

The CFE Treaty represents a key agreement that significantly reduced

and established parity in levels of armaments of the two antagonistic politico-military blocks in Europe. It, however, introduced a block-based arms control regime at a time when the block structure in Central and Eastern Europe was already falling apart together with the local communist regimes. Subject to fierce criticism for its obsolete structure throughout the 1990s, namely from the part of the Russian Federation, the treaty was adapted in 1999 in order to accommodate for the new security environment in Europe. Nevertheless, the agreement on adaptation has not entered into force to date owing to conditionality of its ratification by political commitments of the states parties.

In December 2007, the Russian Federation unilaterally suspended its performance of the CFE Treaty in a way that casts doubts as to its admissibility under international law. Nonetheless, it has not faced any sanctions nor have any other states parties withdrawn from or suspended their participation in reaction to a presumed violation of the treaty. On one hand, this suggests the specific nature of disarmament agreements which depend more on a factual situation and balance of powers than other international conventions. On the other hand, it may motivate other states to violate international agreements and hinder future efforts in the disarmament field.

Assessing the significance of the CFE Treaty, one can conclude that although it did not fulfil its original purpose of maintaining stability and balance between the two blocks, it has however maintained relevance in the European security environment. It has facilitated the transition from the Cold War to the new era by establishing closer contacts between eastern and western European military structures, by significantly reducing the number of military equipment in Europe, thus allowing for modernisation of armies, and ensured regional military balance in some critical conflict areas such as the South Caucasus.

The future of the CFE regime is yet to be seen, the most recent political developments, however, do not offer much ground for optimism as to an early ratification of the adapted treaty. Unfortunately, that reflects the general situation in the field of disarmament today.