

Demilitarisation and Neutralisation in the Context of European Security

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I. Developments/background EU CSDP

The theme for my presentation is the Åland Islands' status as demilitarised and neutralised in the context of the EU Common Security and Defence Policy, CSDP, which was originally launched in 1999 and developed in the Lisbon Treaty that came into force in 2009.

I will give a brief overview of security and defence developments in the EU, and thereafter point to specific implications for the Åland Islands' status as demilitarised and neutralised.

The idea of a security or defence alliance is as old as the Union itself, but attempts made have failed. However, new efforts are being made, emanating from a heightened sense of insecurity in the EU, for a number of reasons. Views differ on what exactly these efforts will result in.

When looking closer at these security developments it might be interesting to note how the formulations in two major EU strategic documents, one from 2003 and one 2016, differ. In the first European Security Strategy of 2003 – at a time when the wars in the former Yugoslavia had been laid to rest – it is stated that “Europe has never been so prosperous, so secure, nor so free”. In 2016 that had changed, and in the EU's global strategy of 2016 it was stated that: “We live in times of existential crisis, within and beyond the European Union. Our Union is under threat.”

In 2016 the then Commission President Jean-Claude Juncker proposed a fully-fledged defence union by 2025, and the EU Commission presented a European Defence Action Plan in 2016. Around a month ago also the current Commission President Ursula van der Leyen called for a European Defence Union.

EU initiatives that have been rolled out since 2016 include:

- the European Defence Fund – which is meant to increase cooperation on defence projects,
- the Strategic Compass – which, based on a common threat analysis, aims to define the EU's level of ambition as a security provider,
- A military mobility project – which aims at facilitating the movement of military troops and assets, a flagship project within the EU-NATO cooperation,
- Permanent structured cooperation, PESCO, introduced in articles 42(6) and 46 Treaty on European Union is aimed at fostering a sense of military solidarity across the EU – this corporation can be framed as an economically rational cooperation in defence procurement, whilst an opposing view is that it as a threat to military non-alignment in states such as Finland and Sweden. Another way of looking at PESCO is as a step towards a European security community.

Having listed a number of elements that are referred to as part of an EU Security and Defence Policy, it seems appropriate to recall that in the on-going work EU-NATO complementarity is stressed on both the EU and NATO sides.

II. The Åland Islands

Turning to Åland: Åland is not mentioned in CSDP documents. The demilitarisation of Åland is a *sui generis* arrangement, which is why it can be difficult to locate in a European security context.

However, importantly, as is well known, a reference to the demilitarised and neutralised status of the Åland Islands was included in primary EU law in connection with the accession of Finland to the EU in Protocol No. 2 attached to the Accession Treaty. After the Finnish EU accession, it has been confirmed in subsequent EU acts that the Åland Protocol will continue to apply. In the Lisbon Treaty of 2007, which amended the basic treaties of the EU, it was stated that the Åland Protocol would continue to apply. In 2010 Finland gave a unilateral declaration at a meeting of the permanent representatives (COREPER), stating that the demilitarised and neutralised status of Åland remains in force even after the entry into force of the Lisbon Treaty.

III. The EU assistance and solidarity clauses

Turning to two specific clauses in the security and defence field that are of particular interest for Åland's demilitarisation, there are two clauses on mutual assistance and solidarity within the EU. The two clauses have their origin in the Western European Union Treaty (the Brussels Treaty of 1954) and the proposed 2004 EU Constitutional Treaty that did not come into force. But the Lisbon Treaty, which came into force in 2009, contained the mutual assistance and solidarity clauses from the Constitutional draft.

- Article 42.7 Treaty on European Union (TEU) – mutual assistance clause or mutual defence clause

This clause provides that if an EU state is the victim of armed aggression on its territory, the other EU states have an obligation to aid and assist it by all the means in their power, in accordance with article 51 of the United Nations Charter. The formulation is reminiscent of the better known article 5 of the North Atlantic Treaty.

In the clause the formulation “this shall not prejudice the specific character of the security and defence policy of certain Member States” is intended to take care of concerns

of non-aligned states (including Finland and Sweden) in the EU, which are of somewhat varying character.

France invoked article 42.7 after the 2015 terrorist attacks, the only time it has been applied so far, and asked for assistance from other EU Member States. Belgium did not invoke it in 2016.

Article 42.7 does not set out any formal procedure. It implies an intergovernmental process – no Council decision is needed to start the process.

Importantly, the duty to assist according to the article is subsumed to the relationship with NATO. It is considered that the EU's mutual assistance clause cannot be invoked if NATO's article 5 has already been invoked.

- Article 222 Treaty on the Functioning of the European Union (TFEU) – the solidarity clause

The clause provides that EU states are obliged to act jointly where an EU state is the victim of a terrorist attack or a natural or man-made disaster.

Turning to a possible concrete case: if an EU Member State, for some valid reason, requests access to the demilitarised territory of Åland under the EU mutual assistance clause or the solidarity clause, Finland would have to balance the requirements of the demilitarisation regime (assuming that we are in peacetime) against the assistance to be given under EU law, and the requirements of the UN Charter and international law. In such an exercise, in particular the 1921 Convention – which we celebrate today – is detailed regarding what is permitted in peacetime. It can also be recalled that, arguably, exceptions to the main rule should be interpreted restrictively.

Article 222 could seemingly be used, if necessary, as a basis for strictly non-military access by other EU states to the demilitarised territory of Åland, for instance, through international police cooperation in the case of terrorist attacks or disasters.

IV. Conclusion

Finally, a few reflections regarding security aspects in general. The EU can be seen as the most important security organisation for Finland. The demilitarisation was intended to prevent war and decrease tension in the Baltic Sea and Northern Europe. Regional cooperation, for instance within the EU, may have the same purpose. And EU and regional cooperation can serve to safeguard the autonomous and demilitarised status of Åland, if the cooperation is pursued with an intention to safeguard the Åland Islands' status. In that way EU cooperation and regional cooperation will contribute to continued stability in the region.