The Controversies of Military Neutrality of Serbia

On the concept of neutrality

The word „neutrality“ is derived from the Latin word „ne uter“ which in literal translation means „neither one nor the other.“ 1 Neutrality mostly implies a decision of a state to remain unbiased in case of eruption of an international conflict and remain without any preferences with regard to belligerents. It was only in the 19th century that normative provisions were developed which recognized the neutral status of a state in international relations. The concept of neutrality has been changing in the course of history of international relations. In the late 16th and the early 17th century, neutral countries were allowed to be favorably disposed towards the party considered to be fighting for „the just cause.“ 2 This implied two important elements: the neutral state could allow transition of foreign troops across its territory and had a right to conscript its soldiers in order to stop the conflict.

In the 19th century, neutrality changed its meaning and implied absolute lack of bias, while in the 20th century, between the two world wars, the notion of differentiated neutrality was developed according to which reserve and lack of bias were no longer crucial criteria.

At the Vienna Congress in 1815 the concept of „a permanent neutral power“ was adopted, which has since then become a standard in international law. Namely, at the Congress, all European states have recognized the status of a permanently neutral power to Switzerland. 3 Subsequently The Hague Convention V respecting the Rights

and Duties of Neutral Powers and Persons in Case of War on Land was enacted in The Hague in 1907. This document, which fully regulates military neutrality, determines its basic characteristics which imply that neutral states must not support the belligerents in conflict nor interfere in the conflict. Moreover, this document grants certain rights of neutral states, such as inviolability of territory of neutral states, prohibition of the use of its territory for transport of military troops etc. In this period, neutral states were granted the right to develop their own military forces for purposes of self-defense. It is important to note that military neutrality becomes legally relevant only when other states recognize this neutrality. In this context, professor of international law at the Law Faculty of the Belgrade University, Radoslav Stojanović, has said: „The unilaterally declared neutrality does not mean that a country is recognized as neutral."

Due to the creation of supranational institutions and organizations and to the subsequent influence of globalization and modernization, the concept of neutrality has begun to lose its meaning and become unsustainable. An analysis of literature dealing with the topic enables us to identify three broad concepts which are more or less associated with neutrality: neutrality, neutrality and the concept often confused with neutrality - non-alignment. The term "neutralism" has lost its meaning after the end of the Cold War, because it referred to a state that wanted to remain outside the conflict of great powers, but not outside of all other war conflicts. The concept of neutrality of a permanently neutral power has different variants depending on the state declaring it. For a state to be considered neutral, the nature of its foreign policy is crucial i.e. whether its foreign policy is characterized by reserve, promotion of peace and cooperation and regular deployment of troops in peacekeeping missions. The concept of non-alignment implies that a state belongs to the Non-Aligned Movement which originated during the Cold War and practically represented the third side in the political conflict.

A short historical review of military alliances of Serbia

Serbia’s claim that its neutrality is a historically grounded foreign policy orientation does not correspond with reality. During its history, Serbia was everything except a militarily neutral state. In the period before the First World War, Serbia did not declare neutrality the way Belgium and the Netherlands did. In the period between the two world wars, the Kingdom of Yugoslavia was a member of military-political alliance the Little Entente. In the period after the Second World War Yugoslavia was groping to find a way in its foreign and security policy, given that in this period, at first it was close to USSR, while later it came closer to NATO. After severing of relations with USSR in 1948, it signed the Third Balkan Pact with Greece and Turkey. The period from 1961 to 1991 is often wrongly understood as a period of military neutrality. However, Serbia as a part of Yugoslavia was one of the founding members of the Non-Aligned Movement, which represented the third bloc during the Cold War.

On the manner in which military neutrality of Serbia was declared

The National Assembly Resolution on the Protection of Sovereignty, Territorial Integrity and Constitutional Order of the Republic of Serbia of December 26, 2007 contained a paragraph on military neutrality of Serbia. The said paragraph reads as follows: „Due to the overall role of NATO, from illegal bombing of Serbia in 1999, without a UN Security Council resolution, to Annex 11 of the rejected Ahtisaari Plan, which stipulates that NATO be the final body of government in an independent Kosovo, the National Assembly of the Republic of Serbia hereby declares the military neutrality of the Republic of Serbia towards existing military alliances until a referendum is called in which the final decision on the issue will be brought.” All major parliamentary parties voted for the Resolution. Only the Liberal Democratic Party and the League of Social-Democrat of Vojvodina voted against the Resolution, while the League of Vojvodina Hungarians abstained from voting. Parts of professional public and civil sector have criticized the fact that there had been no prior public and expert debate in the spirit of good democratic practice before the decision was taken as well as the fact that such an important decision had been taken in one sentence of a document which generally deals with another topic.

It would have been logical if the politics of military neutrality of Serbia had been elaborated and supplemented in terms of functionality and operability in other strategic and doctrinaire documents such as the National Security and National Defense Strategy, enacted after the doctrine of military neutrality had been declared. The non-existent Foreign Policy Strategy should also contain provisions regarding military neutrality of Serbia. There is no analysis of obligations which Serbia will have to assume under the CSDP or the degree to which these are compatible with the politics of military neutrality. Moreover, the said politics did not act as a barrier to non-transparent military-political cooperation with Russia or to the fulfill-
ment of Russian geopolitical interests in the Balkans. The same holds true for the non-transparent military cooperation with the United States of America. We consider that a militarily neutral state ought not to behave non-transparently in terms of scope and contents of bilateral military-defense cooperation with other countries, as is presently the case with Serbia and its military cooperation with Russia and the U.S. In view of the aforementioned, it is to be concluded that military neutrality, vaguely conceived and declared in the afore described manner, was introduced primarily due to the state policy towards Kosovo, which prevails over all other political decisions by Serbia as a state, limiting them.

If Serbia had truly wanted to become militarily neutral, it should have declared its neutrality by adopting a separate legal act and only after a thorough expert and public debate on the issue had been conducted. It ought to have stressed that Serbia was committed to peace, cooperation and reserve in its foreign and defense policy. Instead, the declaration of military neutrality is prompted by the stipulation of the “rejected” Ahtisaari Plan that NATO be the “final organ” of government in “an independent Kosovo.” The sentence introducing military neutrality did not reject Serbia’s possible membership in new military alliances, but only membership in the currently existing ones. Moreover, it does not prohibit presence of foreign troops on this soil, their transition over its soil or building of military bases on the territory of Serbia.

The allegedly militarily neutral Serbia has allowed setting up and opening of the Serbian - Russian Humanitarian Center for Emergency Situations in Niš. The Serbian Foreign Minister Vuk Jeremić has said that „opening of the humanitarian center in Niš is of strategic importance for Serbian - Russian relations.” The representatives of both countries claim that it is not a military base, but a center that would “guarantee better security of Serbia and the entire Balkans,” although in professional and expert circles there are doubts that this is the case.

If Serbia really had had an intention to be militarily neutral and be recognized as such by other states, its foreign policy ought to have been characterized by reserve on the basis of which others would have been able to recognize it as a militarily neutral power. However, the self-declared military neutrality of Serbia was not recognized by a single state in the international community, considered by some theories as an essential condition of military neutrality, nor has Serbia sought this recognition.

Given that none of the said conditions of military neutrality had been envisaged by the said Resolution and that Serbia, in both domestic and foreign policy, behaves as a state that has not declared military neutrality in accordance with major definitions of the term, but merely neutrality towards NATO, Serbia can better be described as a strategically disoriented state than as a state that is militarily neutral.

A short overview of the situation in the Western Balkan region

Neutrality as a concept on which security and defense policy are based is not accepted in any state in immediate neighborhood of Serbia for both economic and ideological reasons. All the neighboring states are already members of the EU and NATO or are about to become their members. Most of them estimated that military neutrality costs much more than accession to an alliance. The economic price of military neutrality represents an important question, especially when for a small and poor country such as Serbia. The Ministry of Defense of the Republic of Croatia in 2007 conducted a study that showed that entry into NATO is far cheaper than military neutrality. According to this estimate, the membership in NATO in the period of ten years costs 3 billion US$ less than military neutrality.

Croatia and Albania participated for the first time as full members at the NATO Summit in Strasbourg and Cologne on April 3-4, 2009, at which the 60th anniversary of the work of this organization was marked. Macedonia, Montenegro and Bosnia-Herzegovina were invited to join the organization. They stressed that obtaining membership in this international organization represents a priority for their countries.

At the same time, at the meeting held on April 9, 2012, the members of the Adriatic Group, consisting of Albania, Croatia, Macedonia, Montenegro, Bosnia-Herzegovina and Kosovo, decided to advance their regional security cooperation and jointly attempt to reproach their NATO to obtain membership. The Defense Ministers of the said countries at a congress in Skopje signed a decl-

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ration requesting NATO to clearly stress at the upcoming Summit in Chicago that it was committed to its policy of „open doors.” Presently, Serbia remains excluded from this most important regional initiative dealing with collective security, defense and cooperation with NATO.

**On validity of the argument in favor of military neutrality of Serbia and the link with CSDP**

The argument that Serbia will be militarily neutral like other neutral states in Europe is not completely true. Austria, Ireland, Finland, Switzerland, Cyprus, Malta and Sweden have become neutral in a completely different historical and military-political context.¹³ This happened not due to their own will, but due to the compromise reached among great powers, and in the case of some countries, military neutrality was meant to punish them. After the end of the Cold War, all countries of the former Warsaw Pact, which are now EU members, as well as the aforesaid neutral countries, have rushed to become members of the Partnership for Peace. The membership in Partnership for Peace implies signing bilateral agreements with NATO. It is paradoxical that it is precisely the neutral countries within Partnership for Peace that are more active in international peacekeeping missions than many full NATO members.

The neutral countries in Europe cannot be compared with Serbia in any of their aspects. There are huge differences between these states and Serbia. In the cultural sense, they have always been considered a part of Western civilization and NATO Alliance regards them as friendly countries. Moreover, they are wealthy countries that can finance their own neutrality. Most of those militarily neutral states are EU members, the founding and other acts of which also concern supranational articulation of foreign policy, as well security and defense policy. The Lisbon Treaty transformed the security and defense policy into the Common Security and Defense Policy.¹⁴

Since the Maastricht Treaty till now, all EU member states, by ratifying the Treaties, assume obligations ensuing from all treaties, including the Lisbon Treaty, unless there is an explicit agreement that would envisage otherwise. For example, under the Edinburgh Agreement of 1992, Danmark is allowed not to participate in ESDP (European Defense and Security Policy). All states which accede to the EU or have signed the Lisbon Treaty have to abide by its provisions. However, some provisions, in particular the ones concerning CSDP are not as precisely normativized as the ones concerning implementation of laws within the Union’s „first pillar.” The states have an obligation to take part in articulating and implementing the Common Foreign and Security Policy, but that’s all. Participation is based on cooperation and solidarity that are not strictly and precisely stipulated.

Furthermore, the CSDP as well as the CFSP are articulated in those cases when, according to the assessment of the EU, there is a need to do it, but member states still maintain their sovereign power in shaping their foreign, security and defense policies. It is only when they, through EU bodies, „approve“ some EU course of action within CFSP and CSDP that the „common policy“ assumes a shape and becomes binding.

Some experts in Serbia¹⁵ consider that these changes bring small states in the situation to follow and support foreign policies of „big“ EU member states even if they occasionally do not concur with all decisions of „vital interest,“ but that otherwise it would not have been possible to reach an agreement on a „common“ policy.

The aim of this policy is to ensure EU’s operative capability to carry out military and civilian missions throughout the world. The Lisbon Treaty introduces an expanded list of Petersburg tasks which, in addition to traditional operations such as humanitarian missions, also includes rescue missions, peace-brokering and peacekeeping missions, crisis management missions, common disarmament operations, military advisory and assistance missions and operations against terrorism.¹⁶ The Treaty also formulates the so-called „common defense provision“ according to which an EU member state which has accepted provisions of the Common Security and Defense Policy is obliged to help another member state in the case of an attack. Since the kind of assistance that the states are obliged to provide to one another is not specified, this provision cannot be compared to Article 5 of the Treaty of the North Atlantic Treaty Organization. The Lisbon Treaty also contains „the solidarity provision“ which obliges member states to provide possible military assistance to a member state affected by humanitarian or natural catastrophe or a terrorist attack. The Treaty also envisages „permanent structural cooperation.“ It is open to all countries that wish to be a part of the program of European military armament and to place at its disposal instantly deployable combat units. The Treaty with its „solidarity clause“ envisages binding, but loosely defined, possible military assistance among EU member states.

The great debate is conducted about the extent to which military neutrality acquires new meaning with a country’s EU accession, partly because the Lisbon Treaty itself says: „introduction of the mutual defense clause shall not prejudice the specific character of the security

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¹⁵ The talks conducted by the CEAS team with high state administration officials of the Republic of Serbia.


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and defense policy of certain Member States.” It is questionable whether, taking into account the very essence of the clause, the neutrality of those states will be able to be preserved.17 Swedish Ambassador to Serbia, Mr. Christ- ter Asp said that in case of an attack on an EU member state Sweden would not remain passive and that politics of neutrality in the new circumstances would not be relevant.18 These provisions in no way imply that assistance has to be limited to military means. In case of an attack, military assistance to an attacked EU member state would not have to be regulated by CSDP in order to be provided.19 Even though the Lisbon Treaty entered into force a month after the adoption of strategic documents by the Republic of Serbia, there was no adequate professional debate in Serbia about changes which it introduces to the realm of security and defense. In Serbia the fact that the Lisbon Treaty confirms that NATO still remains the foundation of collective security of those members that are at the same time EU members is not very widely known. This may not concern those EU member states that are not NATO members if they do not want to.

In Serbia the fact that CSDP for the time being does not pretend to become the functional defense structure that can be an alternative to NATO is not widely appreciated. The CSDP does not have a common line of command, so it cannot be an alternative to NATO membership in the way proposed by some politicians and analysts in Serbia.20

As was already mentioned, accession to EDSP does not mean that members have to renounce their military neutrality. However, some CSDP provisions, primarily those that concern common interests and missions, such as the functioning of EULEX,21 are not compatible with

21 The EU rule of law mission in Kosovo (EULEX) is the largest civilian mission which has ever been deployed within the Common Security and Defense Policy. The central aim of this mission is to assist and support Kosovo institutions in the area of rule of law, concretely in strengthening the justice system, the way in which Serbia has defined its military neutrality and its foreign policy, the fact which was admitted by the previous government in answers to the EC questionnaire regarding Chapter 31.22

Conclusion

Before any politics of military neutrality had been adopted, one ought to have answered the essential question whether the militarily neutral Serbia, regardless of all bilateral agreements on defense cooperation, is capable of responding to all security challenges, risks and threats of the new century on its own. Globalization accelerated many transnational processes such as development of communications, traffic, free and liberal market, making borders among states porous. Furthermore, new threats to security of states are emerging, such as failing states, international terrorist organizations and organized transnational criminal groups. Most states of the political West maintain that in such circumstances they cannot on their own respond to the said threats and therefore attempt to ensure their security and defense by engaging in common action and cooperation and resorting to membership in alliances.

The notion of military neutrality in the said circumstances implies that Serbia should develop a defense system which would enable it to rely on its own military capabilities. It would imply redefining its security and defense strategy. In addition, many important questions about the country’s defense are thus opened, such as those concerning army organization and number of troops, possible renewed introduction of conscript military service,23 and conducting comprehensive studies that would require huge expanses. If Serbia wants to be understood as a serious militarily neutral power, it has to have its own military forces which ensure its unhindered functioning. It implies huge defense budget which overly indebted and demographically challenged Serbia cannot afford.

We think that for the start, Serbia should intensify its cooperation with NATO, as well as participate in the work of Adriatic Initiative. In this way, Serbia would be able to accomplish more intensive and institutionally the police and customs service. This mission is not meant to administer or rule Kosovo. It is a technical mission carried out through monitoring, mentoring and advising exercise some executive responsibilities in specific areas of competence. EU- LEX works under the framework of the UN Security Council Resolution 1244 and has a unified line of command stretching to Brussels. Available from: http://www.eulex-kosovo.eu/sr/front/ (Accessed 27 July 2007).
22 Almost all neutral states have a standing army and enforced conscription.
better defined cooperation with its Euro-Atlantic partners without having to renounce its neutrality. The expanded mandate of NATO military liaison office in Serbia should be used to take these steps. We reiterate that the EU and NATO consist of mostly the same group of states, that these are the same armies as well as the same sets of taxpayers and that, despite all problems, such as functioning of the Berlin Plus Agreement, the EU and NATO will continue to cooperate in the future. That’s why it is good that the EU increasingly profiles itself as „a specialized provider of international security.“225

For Serbia it is very important to continue the process of European integration and assume obligations ensuing from CSDP, because it implies implementation of badly needed reforms in the security sector (strengthening institutions of democratic oversight over the security sector, reform of the judiciary...), which the self-proclaimed military neutrality does not require. We urge the EU in its negotiations with Serbia to open negotiations on Chapter 31 as early as possible, the way it was decided for Chapters 23 and 24.

CEAS Recommendations

Taking all this into account, we recommend the following short-term practical policy measures:

- to fully use the possibilities offered by the Partnership for Peace program
- to overcome political obstacles which impede adoption of an Individual Action Plan for Cooperation with the NATO Alliance
- to take part in the work of the Adriatic Group in order to advance regional security cooperation, especially by setting up regional medical teams, networking all training centers and expanding cooperation in the field of prevention of natural catastrophes and eliminating their consequences
- to continue on the path of European integration, especially to urgently assume obligations ensuing from CSDP and fulfilling tasks ensuing from Chapter 31, such as establishment of regulatory bodies for controlling trade of arms and ammunition
- to analyze obligations ensuing from CSDP in terms of their compatibility with Serbia’s politics of military neutrality and foreign policy of the new government of the Republic of Serbia
- to implement intensive reforms in the security sector both in terms of personnel and in terms of security institutions, primarily when it comes to setting up parliamentary and judicial overview over the security sector
- to adopt a coherent Foreign Policy Strategy of the Republic of Serbia which would prioritize the EU integration process, cooperation with NATO, providing for the possibility of applying for membership and regional cooperation and to redefine the National Security Strategy in accordance with the new Foreign Policy Strategy.

Literature:


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227 CEAS understands the security sector as encompassing the judiciary, the army, the police and the intelligence services.
The Center for Euro-Atlantic Studies – CEAS is an independent, atheist, socially oriented left liberal think-tank organization, founded in 2007 in Belgrade. With its high quality research work CEAS generates precise analysis in the field of foreign, security and defense policy of the Republic of Serbia. Simultaneously, CEAS publicly promotes innovative, applicable recommendations and creates practical policy whose aims are:

- Strengthening of the socially oriented, left liberal democracy in Serbia;
- Adopting the principle of precedence of individual over collective rights, without disregard for the rights which individuals can only achieve through collective action;
- Development of the concept of transitional justice and the establishment of mechanisms for its enforcement in the Western Balkans region, exchange of positive experiences, emphasizing the importance of mechanisms of transitional justice for a successful security sector reform in post-conflict societies in transition towards democracy;
- Acceleration of the processes of Serbian EU integration and strengthening of its capacities for confronting global challenges through collective international action;
- Strengthening cooperation with NATO and advocacy for Serbian Atlantic integration;
- Strengthening a secular state principle and promoting an atheistic understanding of the world;
- Contributing to the erection and preservation of a more open, safe, prosperous and cooperative international order, founded on the principles of smart globalization and equitable sustainable development and the international norm of ‘Responsibility to Protect’.

CEAS fulfills the mentioned activities through various projects organized in four permanent programs:

- Advocacy for Serbian Euro-Atlantic Integration;
- Security Sector Reform in Serbia;
- Transitional Justice;

CEAS is an active member of the REKOM coalition which gathers more than 1,800 civil society organizations, individuals from all the countries stemming from the break-up of former SFRY. Among them are also missing persons’ parental and family societies, veterans, news reporters, representatives of minority ethnic communities, organizations for the protection of human rights, etc. The REKOM coalition suggests that governments (or states) establish REKOM, an independent, inter-state Regional Commission for the Establishment of Facts on all the victims of war crimes and other heavy human rights violations undertaken on the territory of the former SFRY in the period 1991-2001.

During 2012 CEAS became an associate member of Policy Association for an Open Society – PASOS, the international association of expert non-governmental organizations (think-tanks) from Europe and Central Asia which supports the erection and functioning of an open society, especially in relation to issues of political and economic transition, democratization and human rights, opening up of the economy and good public governance, sustainable development and international cooperation. PASOS now has 40 full and 10 associate members, amongst which is the prestigious European Council on Foreign Relations from London–ECFR, and, until now, only the Belgrade Center for Security Policy –BCBP, from the non-governmental sector in Serbia.

During the same year, the Center for Euro-Atlantic Studies became the first civil society organization from the region of South-Eastern Europe to join the International Coalition for the Responsibility to Protect - ICRtoP as a full member. The coalition brings together non-governmental organizations from all over the world to collectively strengthen normative consensus for the doctrine of Responsibility to Protect (RtoP), with the aim of better understanding the norm, pushing for strengthened capacities of the international community to prevent and halt genocide, war crimes, ethnic cleansing and crimes against humanity and mobilize the non-governmental sector to push for action to save lives in RtoP country-specific situations. Among the prominent members of the Coalition are organization such as the Human Rights Watch -HRW and the International Crisis Group –ICG.

*Social liberalism claims that society needs to protect freedoms and equal opportunities for all citizens and encourage mutual cooperation between government and market institutions through a liberal system. In the process of evolution, it agrees that some limitations placed upon economic affairs are needed, such as anti-monopoly laws in the fight against economic monopoly, regulatory bodies or legislation concerning minimum pay. Social liberals believe that governments can (or must) cater for the comfort, health protection and education through revenue gained from taxes, so to enable the best use of the populations’ talent. Furthermore, liberal-socialism fights against extreme forms of capitalism and communism. It also vows for calmer anti-clericalism and religious freedom.