

## **The European Union and Nuclear Disarmament – a Sensitive Question**

Published May 25, 2016 by [Julia Berghofer](#)

Nuclear disarmament is one of the most sensitive issues in the European Union. The Member States disagree in this matter, which is why most EU officials and politicians prefer not to talk about it. The UK and France categorically refuse to participate in talks about the total elimination of their arsenals. Four EU countries host NATO's nuclear weapons on their soil and desperately try more or less to conceal their mere existence. In the meantime, some of Europe's traditional disarmament advocates like Austria, Sweden, Denmark and Ireland, joined the 'Humanitarian Initiative', a group of states that aims at a swift reduction of nuclear weapons. Especially the Austrians would prefer to prohibit them without further delay and the overwhelming majority of states outside Europe agree with them. They do not share the nuclear weapon states' concern that such a step would put the whole disarmament architecture at risk.

A consensus or common strategy regarding nuclear disarmament seems to be hardly possible in today's Europe. Some EU officials even wonder whether a common standpoint is necessary at all. Yet in the long-term the EU could face a situation in which it can no longer afford to remain silent on this issue. For instance, in case of serious negotiations about a ban treaty, or in case the international humanitarian community raises concern about the legal status of NATO's nuclear sharing in Europe. Or, in a best-case scenario, in case the EU decides to establish a collective defence structure. However, it is exactly those Member States which are in the position to influence a European strategy – and are most likely to have an influence on the position of other nuclear weapon states outside Europe – that consider the claim for a ban treaty a severe threat to international stability.

EU members Austria, Ireland, Malta, Cyprus, Finland, Sweden and Denmark as well as Liechtenstein, Iceland, Norway and Switzerland believe that it is time to change what diplomats and experts sometimes call 'nuclear apartheid': the fact that only five countries are perceived as legitimate nuclear weapons possessors according to the Non-Proliferation Treaty (NPT) which is often referred to as the 'cornerstone' of the global non-proliferation regime by the nuclear weapon states.

Those European states who joined the Humanitarian Initiative have in common that – apart from Denmark, Iceland and Norway – none of them are members of NATO and therefore it is easier for them to show their commitment for nuclear disarmament than for the 25 European NATO states. Not all of them are calling for an immediate ban. Norway, for example, hosted the first conference on the humanitarian impact of nuclear weapons, where civil society, scientific experts and delegations from almost 130 countries met to discuss about the need for nuclear disarmament. Nevertheless, the Norwegian government – contrary to the Austrian – is not in favour of a ban treaty.

Other European NATO states like Germany and the Netherlands fear a scenario in which the so-called nuclear powers cease to conduct confidence building talks and in which non-democratic states like Russia and China will do whatever they wish, without feeling tied to bilateral agreements or to the provisions of the NPT.

With a total of 191 states having joined the treaty since its entering into force in 1970, the NPT is one of the most inclusive international legal frameworks. It is the only multilateral

treaty which obliges states with nuclear weapons to disarmament.<sup>1</sup> Its goals follow the logic of the ‘three pillars’: to prevent the spread of nuclear weapons, to promote cooperation in the peaceful use of nuclear technology and, most importantly, to achieve nuclear disarmament. There is no doubt about the fact that the last pillar is not only crucial but also the most controversial. Although the NPT has existed since more than four decades, its critics complain that it does not offer effective disarmament measures. The proponents of NPT on the other hand highlight that, although four nuclear-weapon states – India, Pakistan, Israel and North Korea – are not part of the treaty, it has at least prevented the massive nuclear proliferation many experts forecasted in the 1990s.

### **Majority of states in favour of ban treaty**

The more reluctant actors of the disarmament debate emphasise that the emergence of a new nuclear disarmament framework, for example a convention or a treaty banning nuclear weapons, would be premature. As early as 1997, a group of lawyers, physicians, disarmament specialists and former diplomats drafted a nuclear weapons convention which was submitted to the UN as a discussion document by Costa Rica. It is modelled on the conventions concerning chemical and biological weapons and anti-personnel landmines and aims at the total elimination of nuclear weapons. It is still ‘under discussion’ at the Geneva-based Conference on Disarmament – a forum which is said to be blocked since two decades at least. The state parties never agreed to adopt or even negotiate such a convention.

Since the convention has been drafted, the nuclear powers fear that the mere existence of another legal framework undermines the functionality of the Non-Proliferation Treaty. Officials from the EU institutions and representatives of the German foreign ministry share this view. They are also concerned about the open-ended working group (OEWG) recently established by almost 140 states through a UN General Assembly Resolution. This working group will meet three times in 2016 at the UN Headquarter in Geneva to discuss, amongst other issues, the possibility of a nuclear weapons ban. If the state actors participating in Geneva adopt a decision by majority (e.g. to start negotiations on a ban treaty), it will be forwarded as a recommendation to the General Assembly in October.

The OEWG did not come out of the blue. The humanitarian standpoint – often called an ‘irrational vision’ of a nuclear weapons free world – by representatives of the NATO states and the nuclear powers has gained momentum since the NPT Review Conference in 2010. The consensual outcome document, which included a reference to the ‘catastrophic humanitarian consequences’ of any nuclear weapons detonation and a 64-point Action Plan, was celebrated as a success by both state actors and civil society. But in the end implementation was more than poor. As a result, an increasing number of countries joined the ‘Humanitarian Initiative’ which today consists of 159 states. Most of them endorse a legal framework that prohibits nuclear weapons deployment and use, similar to those already in place for anti-personnel landmines and cluster munition. Most of the states that are not part of the Humanitarian Initiative describe the call for a ban treaty as premature and hasty, since the states with nuclear weapons would not be willing to participate in such negotiations. Instead, they usually point to the urgent need for deterrence against Russia, Islamist terrorism and, last but not least, the North Korean provocations.

---

<sup>1</sup> United Nation Office for Disarmament Affairs (UNODA): Treaty on the Non-Proliferation of Nuclear Weapons, available at <http://www.un.org/disarmament/WMD/Nuclear/NPT.shtml>.

### **Widening ideological gap**

Due to the growing ideological gap between humanitarian states and self-proclaimed realists, the last Review Conference of the NPT in 2015 was a total failure: state parties were not able to agree on a substantive outcome document. Nor was the EU's inability to present a joint position very helpful. Although often overlooked within the disarmament discourse, Europe is the only region in the world where standpoints are that divergent. There is already a number of so-called Weapons of Mass Destruction Free Zones (WMDFZ): Latin America, Africa, Southeast Asia, Central Asia and the South Pacific all adopted treaties turning them into nuclear weapon free zones. One of the most controversial conflicts the NPT parties are regularly confronted with is the establishment of a nuclear weapon free zone in the Middle East. Due to the lack of consensus among certain state parties negotiations were postponed again and again over the last decades. Iran and Egypt are the leaders among those states who have constantly called for a nuclear weapons-free Middle East. During the last NPT conference, the UK, the U.S. and Canada blocked a proposal pushed by Egypt and other Arab countries to convene a conference aiming at 'launching a continuous process of negotiating and concluding a legally binding treaty' in 2016. Among disarmament advocates and civil society it is said that these three countries – especially the U.S. – blocked the proposal in order not to undermine Israeli interests. The conference on a nuclear weapons free zone in the Middle East would be held with or without Israel's participation. The other sensitive factor is that Israel never officially confirmed that it controls the Middle East's only nuclear arsenal and still refuses to do so.

At first sight it might appear unnecessary to establish nuclear weapon-free zones in regions where nuclear weapons are prohibited by the NPT. Logically speaking, if one state is willing to acquire nuclear weapons and to breach international law, it does not matter if this state breaks one or two agreements. But there is another important point that affects the EU particularly. The additional WMDFZ treaties mainly aim at preventing 'ordinary' horizontal proliferation. But they are also in place to prohibit the deployment of nuclear weapons arsenals in countries which are non-nuclear weapons members of the NPT. Whether this is legal or not is subject of a controversial debate among experts. After the collapse of the Soviet Union, Belarus, Ukraine and Kazakhstan, following the Lisbon Protocol to the 1991 Strategic Arms Reduction Treaty (START), transferred their nuclear weapons back to Russia before joining the NPT. On the other hand, NATO has deployed nuclear weapons in Canada, Turkey, Greece, the Netherlands, Germany, Italy and Belgium. Canada and Greece decided to unilaterally end their participation in 1984 and 2001, respectively.

### **The EU and its nuclear dilemma**

Thus, today there are about 150 to 200 nuclear weapons deployed in four European countries which are formally non-nuclear-weapon states. In times of war, the U.S. administration would hand control of these nuclear weapons over to the non-nuclear weapon states' pilots for use with aircraft from non-nuclear-weapon states. This requires that the U.S. soldiers guarding the weapons enter the correct Permissive Action Link code. After this procedure and once the aircraft begins its mission, control over the respective weapons is transferred<sup>2</sup>. The concept of nuclear sharing is highly disputed in terms of international law. Some experts regard it as a breach of the non-proliferation provision of the NPT. Therefore, the EU is not only confronted with the question of how to deal with its nuclear powers UK and France, but also with the legally uncertain status of the nuclear sharing arsenals. The EU-28, among them 22

---

<sup>2</sup> Otfried Nassauer: Nuclear Sharing in NATO: Is it Legal?, April 2001, BITS, available at <http://www.bits.de/public/articles/sda-05-01.htm>.

NATO member states, is the only region where there is enough political power in place to exercise substantial influence on the nuclear weapons possessors. This has been demonstrated recently during the E3+3 negotiations with Iran. But within Europe's borders, there is hardly any scope of action.

In previous years, the European Parliament was able to agree on resolutions ahead of NPT conferences. In 2010, the Parliament recalled in a resolution the need to 'move toward a world without nuclear weapons' and pointed out that 'the withdrawal of all tactical warheads in Europe could... set a precedent for further nuclear disarmament.'<sup>3</sup> The statement Catherine Ashton made at the NPT meeting in 2010 was based on this resolution and reaffirmed: 'The European Union has come to this Review Conference fully aware of its significance and the importance of reaching a common understanding for concrete advances.'<sup>4</sup> Five years later Federica Mogherini, the EU High Representative for Foreign Affairs and Security Policy, made a statement on the NPT conference at the United Nations in New York, but this was not backed by a European Parliament resolution. It was more an attempt to show European engagement where no agreements were possible. The EU Member States did not speak with one voice. Whereas the Austrians spoke on behalf of the Humanitarian Initiative, France and the UK refused to admit that nuclear weapons detonations have 'catastrophic humanitarian consequences', a wording all state parties to the NPT agreed on in the 2010 outcome document.

Since the beginning of this year, MEPs involved in the topic of nuclear disarmaments have been working on a European Parliament resolution. They want to put the issue on the agenda again and initiate a political debate to raise awareness within the member countries. But as was already the case last year, the draft resolution was not adopted due to the lack of consensus among Parliamentary groups. This year, many believe that there are more important topics to be addressed – especially in light of the Brussels attacks and the terrorist threat in Europe, explains an EP employee.

#### **'Multilateral disarmament is off the table'**

Some EU officials do not share the view that putting nuclear disarmament on the Parliament's agenda or sending an EP delegation to the Geneva working group would have any serious effect on the actual situation. The reasons behind their doubts vary. One official fears that the Geneva process and the Humanitarian Initiative per se lead to dangerous developments. Attempts to get rid of the nuclear weapons in Europe, she states, would weaken the UK's and France's defensive capabilities, while authoritarian states like Russia and China could not be bothered at all about a treaty banning nuclear weapons as long as the U.S. is not making deep cuts in its existing arsenals. She describes the civil society engagement as 'pushing at an open door.' 'They are talking to democracies. In Russia or China, there is no civil society that puts pressure on the government,' she explains.

Another expert goes even further and concludes: 'Multilateral disarmament is off the table.' The role of the EU's External Action Service (EEAS) delegation during the OEWG process could only be one of an observer: 'They can attend the OEWG but they cannot coordinate any

---

<sup>3</sup> European Parliament Resolution of 10 March 2010, available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0062+0+DOC+XML+V0//EN>.

<sup>4</sup> Statement on behalf of the European Union by H.E. Catherine Ashton at the General Debate of the review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), 3 May 2010, available at: [http://www.un.org/en/conf/npt/2010/statements/pdf/eu\\_en.pdf](http://www.un.org/en/conf/npt/2010/statements/pdf/eu_en.pdf).

position.’ It is perfectly possible to have an UNGA resolution in the follow-up to Geneva, he believes, but as is usually the case with the ‘UNGA machinery’, without any sanctions mechanism in place the resolution is just one of the numerous paper tigers. He also criticises that the voice of the non-nuclear weapon states ‘is not being heard’ at the OEWG which he thinks is going to deepen the front lines within the international community and especially within the EU. His conclusion: ‘All hands are completely tied.’ In fact, it is true that the nuclear-weapon states do not participate in the Geneva talks. On the other hand, it was their decision to stay away. According to the resolution, the OEWG is open to any state and non-state actors, but the nuclear powers collectively boycott this forum.

### **The OEWG: a step in the right direction?**

Contrary to these rather pessimistic prognoses, some experts share a more optimistic view. Tom Sauer, associate professor in international politics at the University of Antwerp and expert in the field of disarmament research, is convinced that the OEWG will reach substantial progress. ‘We should start somewhere. The OEWG might be the necessary interim step where plans are made to start multilateral negotiations for a nuclear weapons ban treaty in the foreseeable future,’ Sauer says. His prognosis: once disarmament talks start as a result of the OEWG, the UK might change its position. ‘If you make a ranking of the nine nuclear weapon states, the UK will be the easiest target because of the Scottish National Party and Labour members. If this happens, it might have cascade effects also in other nuclear weapon states, firstly in the democracies.’ He assumes that if the UK gives up its nuclear arsenal, there will be pressure on France to do the same. He also believes that states like Germany who attend the negotiations in Geneva but do not show their commitment for a ban treaty yet, will change their mind once the treaty is on the table.

Jean-Marie Collin, an independent consultant on defence and security at the Brussels-based Group for Research and Information on Peace and Security (GRIP) and director of the French section of the Parliamentarians for Nuclear Non-Proliferation and Disarmament (PNND) is also strongly in favour of the OEWG. He thinks that the presence of an EEAS delegation in Geneva is a good sign, even when they do not present a common statement. ‘It is very motivating that there are EU delegates since this signals that they are aware of the huge gap between the Member States’ positions. They want to understand why the humanitarian states believe that there is a legal gap in the nuclear disarmament regime.’ His colleague Maika Skjønberg, associate researcher at GRIP, highlights the important role of the NATO states. ‘It is hard to only look at the EU in this field without taking into account NATO’, she states, ‘NATO members cannot really adopt a “humanitarian stance” on nuclear weapons because of the Alliance’s nuclear posture.’ In its 2010 Strategic Concept, NATO describes itself as committed to the goal of a nuclear weapons free world. But as long as nuclear weapons actually exist, NATO will maintain its nuclear capabilities<sup>5</sup>. European NATO members are expected to follow this policy line, ‘making the reach of any common EU standpoint for nuclear disarmament very difficult’, Skjønberg adds. She believes that the only common position the EU can agree to, is a very vague position saying that the EU is in favour of nuclear disarmament under the condition of undiminished security for all. This assessment is almost in line with what one of the EU officials working on nuclear matters, regards as a realistic strategy: ‘the lowest common denominator is nuclear security. Every state is interested in keeping global nuclear weapons arsenals safe and secure.’

---

<sup>5</sup> Strategic Concept for the Defense and Security of the Members of the North Atlantic Treaty Organisation, available at <http://www.nato.int/lisbon2010/strategic-concept-2010-eng.pdf>.

**The EU will come under pressure in the long run**

But first there has to be a debate on nuclear weapons in Europe. Tom Sauer shares the opinion, that the EU is momentarily paralysed, mainly due to the NPT failure in 2015. Nevertheless, he believes that the next (and realistic) step must be a nuclear-weapon-free zone in Europe to overcome the paralysis and to make substantial progress. This is true for two reasons. Even when the focus is usually on those states with the largest arsenals – the U.S. and Russia – the nuclear weapons in the EU; the UK and French arsenals and the NATO arsenals in Belgium, the Netherlands, Germany and Italy might become a problem for the EU, too. First, as Otfried Nassauer, director of the Berlin Information-center for Transatlantic Security (BITS) writes, ‘at some point in the future, the EU’s members will have to decide whether to integrate their military forces into a collective defense structure or even whether they are going to become a unified state with unified armed forces.’<sup>6</sup> Second, the question of whether the concept of nuclear sharing is legal or not, Nassauer states, has not been thoroughly addressed by the state parties to the NPT.

In the long run, if the Humanitarian Initiative gains further momentum and decides to begin negotiations on a nuclear ban treaty, the EU cannot avoid putting these issues on the agenda. If some states in the EU are clearly in favour of the prohibition of nuclear weapons, other states (and the EU as a whole) will inevitably come under pressure to justify their non-humanitarian standpoint. The Dutch Parliament, for example, held a debate on a ban treaty in late April. A civil society initiative had proposed a national ban on nuclear weapons and although no majority can be expected for this legislation, the issue is on the political agenda. And in spite of the frustrating lack of a common strategy and the extremely diverse standpoints within the EU, some EU officials remain cautiously optimistic. One even went so far as to say: ‘The doors are not fully closed.’ He believes that it might be possible that a ban treaty, even in the unfavourable form of an UNGA resolution not supported by the nuclear weapon states, could begin to have an effect in the long term. The Comprehensive Test Ban Treaty (CTBT) that prohibits nuclear explosions, he explains, has also never been ratified by key actors. Nevertheless, it is today regarded as an essential part of the non-proliferation regime and: ‘The same might happen once a nuclear ban treaty has been implemented by a certain amount of states.’

---

<sup>6</sup> See 2