

Agreements – Gentlemen (‘s) (Verbal) or Legal – which may Interfere Integration of Georgia into NATO

Tamar Kakhadze

PhD Candidate

GIPA – Georgian Institute of Public Affairs

Tbilisi, Georgia

Abstract

Recently, Russia which has been so dangerously active near the Ukrainian border actually speaks into ultimate language to the West and requests from it to terminate enlargement to the East - again and again makes actual such agreements - both legal and gentlemen (‘s) according to which likely the West immediately after collapse of the Soviet Union has promised to the North Atlantic Treaty Organization to terminate the enlargement to the East. The task of the given article is to detect how the mentioned fact meets the reality and if there is existing the Legal or other any type of agreement signed between NATO-Russia, which really prohibits the Alliance from enlargement to the East and hinders the countries in the former Soviet Union (Georgia, Ukraine) to become full members of NATO.

Key Words: NATO, RUSSIA, GEORGIA.

Introduction

Against the former spheres of influence, especially Georgia and Ukraine, for justify the own aggressive actions and its attitude Russian federation often uses narrative, according to which after collapse of Soviet Union, NATO likely promised Russia, that it would terminate to deploy and enlarge bases to the East and to justify it quotes the “Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russia Federation”, however the reality is different – the West had not promised Russia, that it never would deploy permanent military bases in the former Warsaw Pact Countries and NATO-Russia Founding act of 1997, does not prohibit to deploy bases in the East Europe, what Russia is attempting to prove. Even no other legal documents can confirm that to think about integration into the North Atlantic Alliance is prohibited for Georgia, be it the Washington Treaty of 1949, or the document adopted by the Alliance in 1995 entitled "Study on NATO Enlargement", which will be discussed in details below.

Methodology

The mentioned study is more belonged to the qualitative method from the existing three main methodologies (qualitative, quantitate, mixed). In the process of collecting data, together with the secondary sources, there will be used the primary sources in particular, various strategic concepts. During empirical study, there will be used online sources as well, for instance NATO documents archive. In addition, the newspapers articles will be used as extra sources. The study is mainly based on the after period of 1990s and especially to analyze such documents which are created after collapse the Soviet Union - those documents had been received directly inside the Alliance, and between the alliance and the third countries as well.

NATO-Russia Founding Act 1997

Insistence proving by Russia, that immediately after collapse of the Soviet Union, the West had promised that the Alliance would not be enlarged to the East, what has been breached by NATO many times, is well-known as the narrative entitled "Broken promises of the West".

Even during the annexation of Crimea in 2014, President Putin returned to this narrative, noting how insulted Russia has been by the West repeatedly breaking its promises, including regarding NATO enlargement.

As Ruhle (2014) points out, this narrative is occasionally addressed by Russia and used to justify its own actions (including in connection with recent activities in Ukraine). As Ruhle points out, based on an analysis of old and even recent documentary material, only one fundamental conclusion can be drawn: there is no binding document of any political or legal force that prohibits NATO from enlargement beyond the borders of a united Germany.

Like Ruhle (2014), Coffey & Kochis (2016) mention as well, that the West had not promised Russia that it would never deploy permanent military bases in the former Warsaw Pact countries, and that NATO-Russia Act of 1997, had not prohibited the deployment of the bases in Eastern Europe, as Russia attempts to prove.

The present document, which is often described as the most mentioned, but the least read (thought) document, emphasizes the following facts:

NATO reiterates that under the current security environment, the Alliance will carry out its collective defence and other missions by ensuring the necessary interoperability, integration, and capability for reinforcement rather than by additional permanent stationing of substantial combat forces. Accordingly, it will have to rely on adequate infrastructure commensurate with the above tasks. In this context, reinforcement may take place, when necessary, in the event of defence against a threat of aggression and missions in support of peace consistent with the United Nations Charter and the OSCE governing principles, as well as for exercises consistent with the adapted CFE Treaty, the provisions of the Vienna Document 1994 and mutually agreed transparency measures. Russia will exercise similar restraint in its conventional force deployments in Europe.

Almost 25 years have passed since the signature of this Act, and the "current security environment", as stated in the document, has long since ceased to exist; the attitude Moscow towards Euro-Atlantic security has changed significantly over these years, what can be proved by a number of examples, including:

In 1999, Russia promised to withdraw its troops from Moldova by 2002, although there are still about 2,000 Russian soldiers in Transnistria.

In 2006, Russia cut off natural gas supply to Ukraine, reduced gas supply to European countries that are also members of NATO.

In 2007, Russia stood behind a cyber-attack against Estonia in retaliation for destroy of a Soviet-era war memorial in Tallinn.

In 2008, Russia invaded Georgia and there were a few kilometers away the capital city of Georgia. Russia currently occupies 20 percent of Georgia's territory and often violates the agreement of 2008 about ceasefire.

Russia illegally annexed Crimea in 2014 and continues to support and assist separatists in the Donbas region (and not only here). The subject of a separate article is the ongoing military exercises and the increase of military forces near Ukrainian border in the given period and the game initiated by Russia in this context.

At least, these events are enough to prove that the "current security environment" in Europe no longer exists and has changed dramatically since 1997, and that only this fact is enough to justify the permanent presence of NATO troops in the Central and Eastern Europe.

As the Coffey & Kochis (2016) have pointed out, it is important that the myth of the deployment of the permanent troops in Europe be ended once and for all and that America openly states, that agreement of 1997 does not prohibit the deployment of NATO permanent troops in the Eastern and Central Europe. The authors also point to the misinterpretation of this act by some NATO member states (for instance Germany), which use the document of 1997 to justify their opposite mind to the permanent deployment of NATO forces in the Eastern and Central Europe.

As Dannreuther (1999-2000) writes, Russia expressed one of its first discontent about NATO enlargement in the early 1990s, When in 1993, President Boris Yeltsin wrote a letter to his

American counterpart Bill Clinton talking about the illegality of enlargement, as evidenced by the agreement of 1990 on German reunification. Belief that German reunification would prevent further NATO enlargement was widespread among the Russian elite. For example, Russian analyst Sergei Karaganov writes: "In 1990, we were told quite clearly that German reunification would not lead to NATO enlargement. We did not ask for written guarantees, because in the euphoric situation created at that time, it would have seemed unacceptable action. "

Dannreuther (1999-2000) mentions, that this proving by Russia is quite doubtful, since it refers to 1990, when the main issue of the negotiations was the reunification of Germany and there was no specific evidence that the leaders of the West and the Soviet Union were interested with the issue on further enlargement of NATO. Dannreuther (1999-2000) believes that the main source of heartache for Russia towards NATO is the perception that initially NATO allies made a promise on the issue of enlargement, which was later violated. This understanding is the result of a widespread consensus in Moscow that NATO's attempt to cooperate with Russia cannot be reliable, as the main goal of the Alliance is to marginalize Russia and exclude it from European and international affairs.

As Kroenig (2015) was writing, one might think that actions of NATO in the Baltic States and Poland, which are linked to defense of these countries, violate the promises made in the NATO-Russia Founding Act, however, the author notes that "Putin himself has entered us into a new era", which in turn has broken many of the most important promises made to the West, including the attack on Georgia and Ukraine - There is indicated in the above-mentioned act, that Russia should refrain from threatening or using force against any country, as well as from any actions that would threaten the sovereignty, territorial integrity or political independence of another country.

The Washington Treaty and the Study on NATO Enlargement

According to a widely spread view, the main obstacles to get member of the North Atlantic Alliance for Georgia are the separated territories from Georgia, Abkhazia and South Ossetia. As Latvian Ambassador to NATO Janis Eichmanis (2010) mentioned in an interview with the newspaper "24 Hours" years ago, it is quite difficult to prove that the occupied territories are hindering the process of NATO integration for Georgia, whereas according to the diplomat, for

example, the issue of the border between Latvia and Russia was resolved and completed only after Latvia became a member of NATO. It should be also mentioned the example of Germany - in 1955, the western part of Germany, which was split in two, joined NATO.

According to the main charters and documents of NATO, despite the occupied territories, the possibility of membership in NATO for Georgia's remains. Washington Agreement of 1949 and Study on NATO Enlargement adopted by the Alliance in 1995 are considered in the first place among these documents.

According to Article 10, of the Treaty of Washington, in order to join such treaty "The Parties may, by unanimous agreement, invite any other European State in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area."

This article indicates that getting of a new member to the Alliance takes place in the result of consensus of the member states, in accordance with the decision of the North Atlantic Council, and the third party (a non-NATO country) has no right to influence the decision-making process in any way.

Regarding the "Study on NATO Enlargement", this document lists the main requirements that the country will have to meet, which aspires to join the Alliance and which is important for Georgia, it can be said that the country meets the main requirements, including:

The membership applicants shall agree to and help to promote the purposes and principles of the Charter of the United Nations, and the safeguarding of the freedom, common heritage and civilization of all Alliance members and their people, founded on the principles of democracy, individual liberty and the rule of law. New members will need to conform to these basic principles;

Accord strictly with Article 10 of the Washington Treaty which states that "the parties may, by unanimous agreement, invite any other European state in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty ...";

Be on the basis that new members will enjoy all the rights and assume all obligations of membership under the Washington Treaty; and accept and conform with the principles, policies and procedures adopted by all members of the Alliance at the time that new members join;

Strengthen the Alliance's effectiveness and cohesion; and preserve the Alliance's political and military capability to perform its core functions of common defence as well as to undertake peacekeeping and other new missions;

Be part of a broad European security architecture based on true cooperation throughout the whole of Europe. It would threaten no-one; and enhance stability and security for all of Europe;

Take account of the continuing important role of PfP, which will both help prepare interested partners, through their participation in PfP activities, for the benefits and responsibilities of eventual membership and serve as a means to strengthen relations with partner countries which may be unlikely to join the Alliance early or at all. Active participation in the Partnership for Peace will play an important role in the evolutionary process of the enlargement of NATO;

Complement the enlargement of the European Union, a parallel process which also, for its part, contributes significantly to extending security and stability to the new democracies in the East.

New members, at the time that they join, must commit themselves, as all current Allies do on the basis of the Washington Treaty, to:

Unite their efforts for collective defence and for the preservation of peace and security; settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered, and refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations;

Contribute to the development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being;

Maintain the effectiveness of the Alliance by sharing roles, risks, responsibilities, costs and benefits of assuring common security goals and objectives.

As it turned out, despite insistence proving by Russia that the alliance had promised it after the collapse of the Soviet Union that enlargement to the East would no longer take place, behind all of these there is no document with any legal force that proves that such agreement/treaty really took place and an in-depth study of the issue reveals, that the Alliance has not broken its promises

of enlargement to the East or any kind of agreement. In fact, there is no legal barrier - both inside and outside the country - that would prevent a country from joining the organization. This applies as the domestic legislation of the country and the legal instruments of the Alliance itself, the agreements concluded between the Alliance and third countries as well.

Probably that is why, that especially recently, Russia, which has become so dangerously active near the border of Ukraine, is directly seeking guarantees from the West, without any disguise - Guarantees that the Alliance will stop enlargement and Ukraine will never become a member of the Alliance, there is not spoken about Georgia, to which it mentions less. However, it is hopeful (perhaps no one else had other expectations) US officials and NATO diplomats respond to the rude demands of Russia - they have once again observed the unacceptability of the ultimatum - that a third country could not intervene before and cannot now decide the enlargement fate of the North Atlantic Alliance, and that it is only a choice of NATO member states and the partner country itself. However, to avoid remain words just as words, it is high time to take unfavorable concrete steps for Russia from the side of the West, to convince Russia that the time to speak in the language of threats, blackmail, ultimatums is over and it can no longer interfere in the choice of its "backyard" countries to determine their own vector.

Conclusion

As it was mentioned, there is no gentlemen(s) agreement or legal barrier that would prevent Georgia from joining the Alliance, as evidenced by the key NATO documents that speak of getting new members to the Alliance, including - "Study on NATO enlargement of 1995" and Washington Treaty of 1949 - In this document there is directly mentioned, that the third state could not make a decision the issue of enlargement the Alliance, only Alliance member states participate in this process. Regarding the "Study on NATO Enlargement" - here are the requirements that must be met by the candidate country, and it can be said that if we take the example of Georgia, a country desiring and pending to join, Georgia can actually meet the main listed criteria.

Normally, Russia should be more wary of its loud statements that the Alliance promised Russia to terminate its eastward enlargement under the NATO-Russia treaty of 1997, which it subsequently broke - When it comes to enforcing the treaty and adhering to its terms - Russia is the one who

undermined the 1997 agreement and violated its main records - whether it be deploying bases or launching cyber and armed attacks on neighboring, former Soviet Union countries.

In the context of Georgia, all this may give the impression that if a country meets the legal requirements for membership in the Alliance, the main obstacles to the country integration into NATO, for example, are political barriers, which are difficult for the country to overcome - be it the serious challenges to the country's electoral system or the rule of law. However, the reality and comparative analysis (this is the subject of another thesis) show that in this respect the situation in the country is subjected to correction and compared to other countries (which have already passed the path to NATO membership) does not lag behind them in the terms of these criteria, what makes it possible to conclude that this criteria, like the legal barriers, can be considered satisfactory and removed from the list of serious, decisive obstacles on the path to NATO membership.

References

Ruhle, M. (2014). NATO Enlargement and Russia: Die-Hard Myths and Real Dilemmas. Research Division NATO Defence Collage.

Coffey, L. and Kochis, D. (2016). The 1997 NATO – Russia Founding Act Does Not Prohibit Permanent NATO Bases in Eastern Europe. The Heritage Foundation. N 4555.

Dannreuther, R. (1999-2000). Escaping the Enlargement Trap in NATO-Russian Relations. *Survival*, 41:4, pp-145-164.

Kroenig, M. (2015) Facing Reality: Getting NATO Ready for a New Cold War. *Survival: Global Politics and Strategy*, 57:1, 49-70, DOI: 10.1080/00396338.2015.1008295

Eichmanis, J. (2010, October 26) Patience is Very Important. (T.Kakhadze, Interviewer). 24 Hours. Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation, (1997) Retrieved from - https://www.nato.int/cps/en/natohq/official_texts_25468.htm

Washington Treaty (1949) - Retrieved from https://www.nato.int/cps/en/natohq/official_texts_17120.htm

Study on NATO Enlargement (1995) - Retrieved from - https://www.nato.int/cps/en/natohq/official_texts_24733.htm