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INTERNATIONAL DEFENSE COOPERATION AGREEMENTS - NEW OPPORTUNITY OR THREAT TO A STATE SOVEREIGNTY?



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Radoslava Brhlíková's short

- University teacher, political scientist, columnist.
- She lectures at the Department of Philosophy and Political Science of the Constantine the Philosopher in Nitra, Slovakia
- Author of several studies, articles and monographs such as *The European Union after Lisbon, Security and the European Union, Policies of the European Union after Lisbon.*
- Her field of study and research is European integration and its impact on international politics, the political system of the EU and its member states, and security theories and studies.

Radoslava Brhlíková's short

- In 2002-2003, she completed a professional internship at the European Parliament in Brussels, in DG II – Interparliamentary Delegations and Committees, where she was involved in the preparation of meetings of members of the European Parliament with members from the candidate countries of the Czech Republic, Lithuania and Slovakia.
- In 2008, she was on a study stay in the USA at the University of California in San Diego, where she dealt with issues of national security after September 11, 2001.
- She took part in several study and lecture stays in the Federal Republic of Germany, Ireland, Great Britain, the Netherlands, Poland, Cuba.
- She is a co-author of textbooks for universities, as well as a co-investigator of several domestic and foreign scientific tasks.

Introduction

- The aim is to analyze the DCA between Slovak republic and the USA from the point of view of state sovereignty.
- Bilateral defense cooperation agreements, or DCAs, are the most common form of institutionalized defense cooperation. They are nothing new in the world.
- Nearly a thousand DCAs are currently in force, with potentially wide-ranging impacts on national and international security outcomes.
- These formal agreements establish broad defense-oriented legal frameworks between signatories, facilitating cooperation in such fundamental areas as defense policy coordination, research and development, joint military exercises.
- Different states approach them in different variants and combinations.
- But the approach of the USA is hegemonic. Agreements with the US are concluded for the benefit of the US and in the interest of the US.

The Literature Review

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- *The Defense and Economic Cooperation Agreement-U.S. Interests and Turkish Needs*. ID-82-31: Published: May 7, 1982. Publicly Released: May 17, 1982. [online] In: GEO U.S Government Accountability Office. <https://www.gao.gov/products/ID-82-31; https://www.gao.gov/assets/140/137457.pdf>
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The Study

- What is DCA:
- Framework treaties = “a legally binding treaty… that establishes broad commitments for its parties and a general system of governance, while leaving more detailed rules and the setting of specific targets either to subsequent agreements between the parties, usually referred to as protocols, or to national legislation.”

The Study

- In theory, DCAs:
- establish long-term institutional frameworks for routine bilateral defense relations, including coordination of defense policies, joint military exercises, working groups and committees, training and educational exchanges, defense-related research and development, and procurement.
- as frameworks reserve specific details of implementation for protocols and implementing legislation = flexibility in term of improvement of means traditional defense capabilities and address such nontraditional threats as terrorism, trafficking, piracy, and cyber security

The Study

- do not contain mutual defense or nonaggression obligations and are not alliances
- are highly symmetric, mutually committing signatories to a common set of guidelines
- involve relatively symmetric, long-term commitments for both sides, with an emphasis on coordinating core areas of defense policy and encouraging interpersonal contacts.
- - according to Kinne – DCAs are new form of defense cooperation and could be a way to eliminate conflicts between states

The Study

- The aim of DCAs:

1. to promote cooperation between the Parties in the defense and military fields, defense industry, production, research and development, and procurement of defense materiel.
2. shall establish a framework which aims to cover all cooperation activities conducted by the Parties in the field of defense.
3. The forms of such cooperation may be specifically defined by way of agreements between the relevant ministries of the Parties.

The Study

- DCAs include:

1. mutual consultation and defense policy coordination;
2. joint exercises, training, and education;
3. coordination in peacekeeping operations;
4. defense-related research and development;
5. defense industrial cooperation;
6. weapons procurement; and
7. security of classified information.

- They do not contain a mutual defense obligation or a requirement to deploy the armed forces of one state in the territory of another

Research Question(s)

- Why USA offered DCAs to East European states?
- How it jeopardize independence and sovereignty East European states?
- The USA follow its own geopolitical aim
- Eastern Europe – lack of national interest and defense of state independence and sovereignty - replaced by the terms „obligation“, "allied commitments" or “allied obligations“

Methodology

- Based on the analysis of Brandon J. Kinne, the paper analyses and evaluates bilateral defense cooperation agreements between the USA and the Slovak Republic.
- The assumption is that it is a purely vassal treaty, which makes Slovakia a second, European Puerto Rico, subordinated to the USA in the military, but also in the legislative area.

Methodology



Results

- The assumption that the agreement with the USA is a vassal agreement rather than an agreement between two equal partners was confirmed.
- The treaty significantly limits the sovereignty of the Slovak Republic, which contradicts Article 1, paragraph 1 of the Constitution, which states that "The Slovak Republic is a sovereign, democratic and legal state." And therefore, in this case, the Slovak authorities should follow Article 2, paragraph 2 of the Constitution which states: "State authorities can act only on the basis of the constitution, within its limits and to the extent and in the manner established by law."
- This means that the relevant ministry should not have negotiated such an agreement because it contradicts the constitution, and vice versa, to negotiate an unconstitutional agreement should have no mandate.

Results

- This treaty does not create mutual cooperation between military of host country and the US military
- This treaty constitutes an interference with state sovereigns and threatens peace in Europe
- With such a treaty, NATO loses its justification and has become just an appendage of US foreign policy.

Discussion

Offer of US administration differs from typical DCAs in several ways:

- Asymmetry in the rights and obligations of the partners, unequal partnership (Artl. 2, Artl. 3- 29)
- Deployment of foreign troops - US troops on the territory of the state (Artl. 3 – 29)
- Request to give up sovereign criminal jurisdiction, civil and administrative jurisdiction (Artl. 12, 13, 14, 15, 16-17, 20, 26, 27)
- The host country does not have access to US military bases (Artl. 3 - 29)

Discussion

- The host country does not have the ability to control the import and export of goods and weapons on its territory (Artl. 7, 16-20, 21, 22, 23)
- The US military can set up police units (Artl. 9, 14,
- The US military can move freely anywhere in the territory of the host country (Artl. 3, 7, 9, 11, 18, 19, 20)
- The US military can bring in and take out anything and anyone without the control of the host country (Artl. 18, 19, 20-22, 23)
- Alignment of passing laws - f. e. in the field of environment -with US requirements (Artl. 27)

Discussion

The Slovak Republic on the basis of this agreement, if ratified, under the conditions specified in this agreement in particular:

- cedes its territory to a foreign state for military purposes, outside the framework of collective defense through the North Atlantic Treaty,
- during the entire period of validity of this agreement, it will lose complete control over part of its territory, not only over Malacky-Kuchyňa Military Airport and Sliač Military Airport,

Discussion

- will have to allow the entry and use of land and facilities (including roads, ports and airports) owned by the state, self-governing regions and municipalities, as well as privately owned by the US armed forces and their suppliers, for an unlimited period of time and without compensation,
- will not have proper control over who enters its territory and who is on its territory,
- resigns from guaranteeing the protection of basic human rights and freedoms granted by the Constitution of the Slovak Republic even to foreigners,
- waives its criminal jurisdiction,

Discussion

- grant to members of the US armed forces and dependents who are arrested, detained, in custody or serving a prison sentence such privileges that other perpetrators of crimes are not granted by Slovak legal system,
- will enable the exercise of the authority of the military police of the US Armed Forces on the territory of the Slovak Republic, even in communities outside military facilities and premises,
- will allow the US Armed Forces and organizations performing military service activities to employ dependents as well as local civilian employees (dependents will not be required to have a work permit); in the area of labor law, it will enable the application of US laws and regulations in our territory,
- will enable exemption from paying taxes, duties, fees and insurance premiums, even in cases where such exemption will distort the business environment,

Discussion

- must fulfill the obligations arising from the Basel Convention on the Management of Movements of Hazardous Wastes across State Borders and their Disposal, without being able to influence the generation, quantity and danger of this waste for the environment, public health and safety,
- must recognize the substantive and procedural exemption of members of the US armed forces, including the civilian component, from liability for damage in civil or administrative proceedings,
- will lose many of its sovereign rights in areas in which it transfers part of the exercise of its rights to the US or US armed forces.

Implications

- On the basis of this agreement Slovak republic lost its sovereignty in several ways as was already mentioned
- This agreement is significantly asymmetric, favorable to the interests and needs of the stronger party.
- This agreement is an example of a vassal agreement that favors one party over another, limiting the sovereignty of one party without compensation.

Implications

- For the USA, Slovakia represents the last pearl in the necklace of American military bases in Eastern Europe, pulling around Russia.
- With it, the USA is creating a frontier for the protection of its own territory, the so-called an eye that will attract a possible attack. This means that in a possible conflict with Russia and China, Bratislava will be bombed instead of Washington, Warsaw instead of New York, and Bucharest instead of another American city.

Implications

- Slovakia does not need this treaty for its defense, because membership in NATO should provide it with sufficient guarantees, as politicians convince citizens.
- This treaty will not bring anything new or good to Slovakia, it is already radicalizing the domestic political scene. More than 51% of Slovak citizens are against this treaty, which rudely trampled on the legacy of November 89 and killed security guarantees in Europe.
- This agreement represents a threat to Slovakia, it increases the need to invest in defense and at the same time makes Slovakia a target
- In fact, nowadays Europe is on the brink of an outbreak of war

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