

THE PLACE AND ROLE OF THE NORTH ATLANTIC TREATY ORGANIZATION IN THE PROCESS OF PREVENTING AND RESOLVING REGIONAL CRISES

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The North Atlantic Treaty Organization (NATO) is a political and military alliance of 30 member states that represent most part of North America and Europe. Even though it was built as a defence system of the North Atlantic states against Soviet expansion, today NATO is a true regional structure for ensuring collective security.

This article reflects the main objectives and tasks of the organization and their place and key role in ensuring peace and security both in the territory of the Member States and in other conflict-affected areas. The need, importance and legal and regulatory framework of NATO interventions are also analysed both in the armed conflicts in the area and in the case of regional crises to prevent or combat and reduce their negative effects on the peace and security processes.

Key words: North Atlantic Treaty Organization, regional organization, collective security, regional crisis management.

LOCUL ȘI ROLUL ORGANIZAȚIEI TRATATULUI ATLANTICULUI DE NORD ÎN PROCESUL DE PREVENIRE ȘI SOLUȚIONARE A CRIZELOR REGIONALE

Organizația Tratatului Atlanticului de Nord (NATO) este o alianță politico-militară compusă din 30 de state membre care reprezintă cea mai mare parte a Americii de Nord și a Europei. Chiar dacă a fost construită ca un sistem de apărare al statelor Atlanticului de Nord împotriva expansiunii sovietice, astăzi NATO este o veritabilă structură regională de asigurare a securității colective.

Prezentul articol reflectă obiectivele și sarcinile principale ale organizației cât și locul și rolul primordial al acestia în procesul de asigurare a păcii și securității atât pe teritoriul statelor membre cât și în alte zone afectate de conflict. De asemenea sunt analizate necesitatea, importanța și baza normativ-juridică a intervențiilor NATO atât în cadrul conflictelor armate din zonă cât și în cazul crizelor regionale pentru a preveni sau pentru a combate și diminua efectele negative ale acestora asupra procesului de asigurare a păcii și securității.

Cuvinte cheie: Organizația Tratatului Atlanticului de Nord, organizație regional, securitatea colectivă, gestionarea crizelor regionale.

The North Atlantic Treaty Organization is an organization composed of states of different sizes that provide assistance on a global scale, it is designed to promote democracy, ensure crisis management, security and collective defence.

NATO was created in 1949 with the purpose of “detering Soviet expansionism, forbidding the revival of nationalist militarism in Europe through a strong North Ameri-

can presence on the continent, and encouraging European political integration.”¹ During the recovery of European states after World War II, the Soviet threat was constantly felt. Thus, the US through the Marshall Plan provided economic aid to Western European states as the affected nations needed guaranteed security during the rebuilding processes.²

Negotiations with the United States and Canada have led to the creation of a single North Atlantic Alliance, based on security guarantees and joint commitments between Europe and North America. Denmark, Iceland, Norway and Portugal have been invited by the Brussels Treaty powers to join this process. These negotiations culminated in the signing of the Washington Treaty in April 1949, establishing a common security system based on a partnership between the 12 countries. In 1952, Greece and Turkey acceded to the Treaty. The Federal Republic of Germany joined the Alliance in 1955, and in 1982 Spain became a member of NATO. The Czech Republic, Hungary and Poland joined NATO in 1999, Bulgaria, the Baltic States, Romania, Slovakia and Slovenia in 2004, Albania and Croatia in 2009, Montenegro³ in 2017 and North Macedonia in 2020.

Since the fall of Soviet communism, NATO has been involved in a wide range of activities to carry out its basic tasks of collective defence, crisis management and ensuring the security of member states. For example, in 1995, NATO embarked on an air campaign in Bosnia and Herzegovina after the failure of diplomatic efforts to facilitate the reconstruction of the region. This air campaign made it possible to sign the Dayton Peace Agreement that ended the 1992—1995 war.⁴ This operation marked a new stage for the Alliance, demonstrating that it is willing and able to act militarily in support of collective security objectives. The largest demonstration of military force by NATO allies took place between 2001 and 2014, in support of the International Security Assistance Force (ISAF) in Afghanistan, which is until the present considered one of NATO’s most important crisis management operations. NATO allies led ISAF from December 2001 until August 2003, when the Alliance took command of ISAF.

The acceptance of new members into the Alliance is achieved through the use of tools such as the Partnership for Peace (PfP) and the Membership Action Plan (MAP). These tools help to put potential members in the right direction to meet the requirements for membership. The MAP, for example, has been and continues to be used “to encourage and support liberal democratic reforms” in the Western Balkans.⁵

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- 1 NATO History, North Atlantic Treaty Organization, [online] <http://www.nato.int/history/nato-history.html>. (accessed 11.11.2020)
 - 2 Lawrence S. Kaplan, *NATO Divided, NATO United: The Evolution of an Alliance*. Westport, CT: Praeger, 2004, 165 p.
 - 3 Morelli V., *NATO Enlargement: Albania, Croatia, and Possible Future Candidates*. Washington, DC: Congressional Research Service, 14.04.2009, [online] <https://fas.org/sgp/crs/row/RL34701.pdf> (accessed 18.10.2020)
 - 4 Schulte G. L., *Former Yugoslavia and the New NATO*, *Survival* 39, Nr. 1, March 1997. p. 19–21.
 - 5 Moore R. R., *NATO’s New Mission: Projecting Stability in a Post–Cold War World*. Westport, CT: Praeger Security International, 2007, p. 109.

The PfP, established in 1994, contributes to the prospects of accession, allowing potential members to participate in the activities and exercises of the Alliance. PfP members set individual national goals to be achieved with NATO.⁶ This programme is a kind of practice for potential members, as they undertake political and military reforms to better align their systems with NATO ideals, and the organization benefits from this programme in several ways.

These countries contribute to the overall security landscape, and NATO is supported in achieving its common goals without the legal obligation to defend them. NATO's collective defence obligation applies only to members. Theoretically, this means that PfP countries are alone in the event of an attack. The alliance may, however, come to the defence of a PfP participant, as political and security considerations could lead the North Atlantic Council (NAC) to act in its defence. While collective defence support is guaranteed only to Alliance members, the Alliance's principles indicate that NATO allies could, in some cases, come to the aid of a partner. However, members of the organization decided not to act in defence of two PfP partners: Georgia in 2008 and Ukraine in 2014.

The Alliance seeks to strengthen democratic institutions among its current and potential members. In the former communist states, NATO helps build institutions that are appropriate to the Alliance. The problems inherent in this process can be exemplified by the transition of the Czech Republic. The Czech decision-makers "knew how to lead the army only in a rigid, Soviet-style way, from top to bottom."⁷ The Alliance's efforts to overcome these practices are especially important for future members of the organization.

The organization is an object of study not only for the science of public international law. Approaches to the essence, purpose, importance, necessity and specificity of this international intergovernmental organization of a regional nature have been the subject of research and papers in the field of international relations and political science, which provides important explanations on the subject under analysis.⁸

For bureaucratic approaches, NATO's perpetuation is largely due to the wise behaviour of its leaders. It is up to them to make the organization an essential tool for the Member States. According to neorealists, NATO is a classic alliance that meets the selfish demands of states operating in an anarchic universe.

According to them, weak states have an interest in aligning themselves with the strongest within the alliance, who thus see their hegemony strengthened through the organization. Neorealism sees these important explanations for NATO's continuity, even after the reduction of the international threat after the end of the Cold War.

6 Partnership for Peace Programme, North Atlantic Treaty Organization, accessed August 22, 2016, [online] <https://www.sto.nato.int/Pages/partnership-for-peace.aspx> . (accessed 16.10.2020)

7 Gheciu A., NATO in the "New Europe", Stanford University Press. 2005. p. 107

8 McCalla R., NATO's Persistence After the Cold War. In: *International Security*, vol. 50, Nr. 3, 1996, p. 445-475; Walt S. M., Why Alliances Endure or Collapse. In: *Survival*, vol. 39, Nr. 1, 1997, p. 156-179.

In the light of institutional neoliberalism, NATO is more than just an alliance, it is an organization that facilitates security cooperation between a number of sovereign states. NATO is seen more as a kind of cooperation regime in the field of international security and its reason can be explained by its ability to generate a form of stability.

In this respect, constructivist sociological research has already demonstrated the extent to which NATO has a central role in building a Security community, resulting from peaceful interactions between its members.

According to this approach, within a security community, states feel so integrated that they consider that the use of force to manage their divergences has, in theory, become inconceivable. From this perspective, NATO's continuity could be explained by the existence of a sense of belonging to a common whole that promotes values such as democracy and respect for human rights.⁹

Critical and postmodern security studies have reinforced this idea, showing how Atlanticist rhetoric has given substance and contributed to the creation of a certain international order during the Cold War and Post-Cold War.¹⁰ According to these studies, NATO, as well as those who speak on its behalf without being formally part of it, embodies the image of a stable Western universe that should stand out from the rest of the chaotic and threatening world. And in this way, the continuity of the organization is explained by its ability to provide stability.¹¹

After the Cold War, many former members of the Warsaw Pact became members of the Alliance. This demonstrates how much the security environment has changed in recent decades. Each additional member brings a different perspective and a unique set of skills. Variety of skills is important for performing basic tasks, as tasks often combine or complement each other. Collective defence, for example, is in principle strengthened by cooperative security, which seeks to expand the Alliance.

9 Adler E., Barnett M., *Security Communities*, Cambridge: Cambridge University Press, 1998. 488 p.; Risse-Kappen T., *Collective Identity in a Democratic Community — The Case of NATO*. In: Katzenstein P. J., *The Cultures of National Security — Norms and Identity in World Politics*, New York: Columbia University Press, 1996, p. 357–399; Gheciu A., *Security Institutions as Agents of Socialization? NATO and the “New Europe”*. In: *International Organization*, vol. 59, Nr.4, 2005, p. 973–1012.

10 Klein B. S., *How the West Was One: Representational Politics of NATO*. In: *International Studies Quarterly*, vol. 34, Nr. 3, 1990, p. 311–325; Behnke A., *Inscription of Imperial Order: NATO's Mediterranean Initiative*. In: *The International Journal of Peace Studies*, vol. 5, Nr. 1, 2000, p. 61–83; Krause M. C., Neumann I. B., *From Alliance to Security Community: NATO, Russia, and the Power of Identity*, *Millennium: Journal of International Studies*, vol. 29, Nr. 2, 2000, p. 357–387; Vedby Rasmussen M., *Reflexive Security: NATO and the International Risk Society*, *Millennium: Journal of International Studies*, vol. 30, Nr. 2, 2001, p. 285–309; Rhode E., *The Good, the Bad, and the Righteous: Understanding the Bush Vision of a New NATO Partnership*, *Millennium: Journal of International Studies*, vol. 33, Nr. 1, 2004, p. 125–143.

11 Léonard S., Balzac T., *L'impact de la révolution dans les affaires militaires sur la “culture stratégique” de l'OTAN*. En: *La Révolution dans les affaires militaires*, Paris: Economica, 2003, p. 157–185; Huysmans J., *Shape-Shifting NATO: Humanitarian Action and the Kosovo Refugee Crisis*. In: *Review of International Studies*, vol. 28, Nr. 3, 2002, p. 599–618.

Crisis management also plays a role in the overall security of the Alliance, as its aim is to prevent and mitigate the effects of crises at the beginning of them. The core tasks provide a structured framework for NATO and its members to focus their efforts.

In the eight rounds of expansion of the organization, its membership has increased from 12 founding states to 30. The last state accepted under the North Atlantic Treaty Organization is North Macedonia on March 27, 2020.

Maintaining an “open door policy” is important for attracting new members and partners to the Alliance. However, in addition to the benefits that new members bring in terms of capabilities, these new allies can also mean additional risks and responsibilities. Most states that have joined since the Alliance’s inception were previously under Soviet or Communist influence. According to Alexandra Gheciu, the internal instability, together with the problems of transition to post-communist institutions, threatened to be one of the key sources, if not the only key source, of instability in Europe.¹²

In addition to combat operations, NATO has been involved in several humanitarian missions, including providing support to affected areas in 2005: after Hurricane Katrina, which resulted in between 1,200 and 1,800 deaths and the displacement of more than 400,000 people from the New Orleans zone and the Mississippi Gulf Coast and, following the 2005 earthquake in Pakistan, which killed about 53,000 Pakistanis and injured another 75,000.¹³ Both within and outside the North Atlantic region, the Alliance fulfils its main tasks. NATO continues to be ready to “protect the freedom and security of its members through political and military means”¹⁴ and does so by ensuring that all members of the Alliance abide by the North Atlantic Treaty. This commitment to comply with the treaty has been a significant adjustment for many states, including the United States, which has sparked various controversies among isolationists.

The parties to this treaty reaffirm their confidence in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all the peoples and governments of the world. The members of the organization are determined to protect the freedom, common cultural heritage and civilization of their peoples, based on the principles of democracy, individual liberty and the rule of law, seek to promote stability and well-being in the North Atlantic and are committed to unite efforts for collective defence and for the maintenance of peace and security.¹⁵

12 Gheciu A., *NATO in the “New Europe”*, Stanford University Press. 2005. p. 60.

13 Brunkard J., Namulanda G., Ratard R., *Hurricane Katrina Deaths, Louisiana, 2005*. In: *Disaster Medicine and Public Health Preparedness* 2, Nr. 4, 2008. p. 215–223. Operations and Missions: Past and Present, North Atlantic Treaty Organization, November 9, 2015, [online] http://www.nato.int/cps/en/natohq/topics_52060.htm. (accessed 16.10.2020)

14 Kaplan L. S., *NATO Divided, NATO United: The Evolution of an Alliance*. Westport, CT: Praeger, 2004. 165p.

15 *The North Atlantic Treaty Preamble*, North Atlantic Treaty Organization, [online] http://www.nato.int/cps/en/natohq/official_texts_17120.htm (accessed 16.10.2020)

The North Atlantic Treaty is the founding and main document of NATO and all the member states of the Alliance. The fundamental reason behind the treaty was to form a group of nations that agreed to defend each other in the event of an external threat. The treaty is also a peace and cooperation agreement between the members of the Alliance. The 14 articles of the treaty describe its purpose and members' expectations, as well as how they should be implemented. Curious is the fact that the international normative act has a concise character, and most articles have only one or two sentences.

The North Atlantic Treaty governs the decisions of the North Atlantic Council, the main decision-making body of NATO established under Article 9 of the Treaty. Its decisions shall be taken by common agreement, ie unanimously. The Council shall be composed of representatives of each Member State and all members "shall have the equal right to express their views and to participate in obtaining the consensus on which the decisions are based."¹⁶ Their collective decisions shape the Alliance's current and future operations. These decisions include outlining the basic tasks of the organization, as outlined in the 2010 NATO Strategic Concept.

The strategic concept is a document that helps to focus the Alliance's efforts during the implementation of the treaties. Specifically, it describes NATO's long-term goal and objectives and its core security tasks.

This document reflects the Alliance's main tasks: collective defence, crisis management and cooperative security. As agreed by the North Atlantic Council, crisis management focuses on prevention as well as crisis management that occurs and affects different areas around the world.

Cooperative security "focuses on promoting international security through cooperation."¹⁷ The main final task, collective defence, focuses on discouraging aggression against threats and defending NATO members from these threats. Each of these tasks requires dedicated resources and commitment from Alliance members.

Collective defence stands out as NATO's main goal, starting with the treaty and continuing as one of the three essential tasks of the strategic concept. Each Member State has promised to defend the other states from threats, and this brings collective strength to the Alliance. The security environment changes as threats change. The terrorist attack of 11 September 2001 remains the only time the Article 5 commitment to collective defence has been invoked.¹⁸ Despite its limited history of use, this provision forms an "umbrella" of protection over the Alliance.

The two articles that shape the treaty and the Alliance are Articles 2 and 5. Article 2 sets out the non-violent means by which the Alliance wants to operate by

16 North Atlantic Treaty Organization, April 4, 1949, art. 10 [online] <https://www.loc.gov/law/help/us-treaties/bevans/m-ust000004-0828.pdf> (accessed 16.10.2020)

17 NATO's Strategic Concept, Republic of Albania, Ministry of Defence, [online] <http://www.mod.gov.al/eng/index.php/security-policies/relations-with/nato/85-nato-s-strategicconcept>. (accessed 16.10.2020).

18 North Atlantic Treaty Organization, April 4, 1949, art. 5 [online] <https://www.loc.gov/law/help/us-treaties/bevans/m-ust000004-0828.pdf> (accessed 16.10.2020)

strengthening institutions to bring peace, stability and economic cooperation between member states. For the purposes of Article 2: “The Parties will contribute toward the further 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 wellbeing. They will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between any or all of them.”¹⁹

The political aspect is of considerable importance to the Alliance, and its practices and premises begin with Article 2.

Article 5 ensures that the members of the Alliance will be protected by each other, as if they were a single organic body under the auspices of the principle of collective defence and states that: “The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area. Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.”²⁰

Article 5 is the essence of the military side of the Alliance. It states, in specific terms, the commitment of the Allies to help each other in combating aggression.

Crisis management is an essential task that has been frequently performed since the early 1990s, with remarkable beginnings in the Balkans. A specific case has taken place in Albania since 1997, during a period of significant internal unrest. In August 1997, a NATO team travelled to the country to help repair Albania’s police system, banking institutions and economic situation.²¹ As Albania continued to face internal and external issues, it contacted NATO again in March 1998. Due to the low level of security caused by the conflicts in Kosovo, Albania became the first partner to exercise its PfP emergency consultation rights.

NATO’s effective intervention in a crisis, defined here in a very broad sense as a violent political dispute, is an idea that must be seen as a kind of “black box”. In most reports and other official documents, but also in most studies conducted by scientists, it is undeniable that the implementation of crisis management measures

19 North Atlantic Treaty Organization, April 4, 1949, art. 2. [online] <https://www.loc.gov/law/help/us-treaties/bevans/m-ust000004-0828.pdf> (accessed 16.10.2020)

20 North Atlantic Treaty Organization, April 4, 1949, art. 5. [online] <https://www.loc.gov/law/help/us-treaties/bevans/m-ust000004-0828.pdf> (accessed 16.10.2020)

21 Yost D. S., *NATO Transformed: The Alliance’s New Roles in International Security*. Washington, DC: United States Institute of Peace Press, 1998, p.235.

has an impact on the territory concerned and that this impact can be very positive for local people.²²

The problem lies in the very nature of NATO's crisis management ideal, which tends in particular to provide technical solutions to political issues. The doctrine of crisis management involves actions that go mainly in one direction — from NATO members to a target region. Thus, the technical aspect of crisis management requires those who intervene to question the existing international order. According to this view, the resolution of the crisis depends on the adjustment of the other to adapt and a negotiated change between all interested parties.

The idea of crisis management, gradually developed through repetition, has become a kind of technical and professional truth so common to those debating NATO's role that it appears today as an indisputable common mechanism, and when a crisis seems difficult to manage, experts tend to state that the necessary means and measures must be adapted.²³

So, NATO should not be treated as a rigid, fixed, once-stabilized organization, but as an interpretive community that affirms, disseminates and legitimizes the idea that post-war international crises can be technically managed and resolved with an often decisive military component. Through reports, manuals, statements, etc., this organization is the generator of an ideology or a culture of crisis management.²⁴

This community is based on the belief that crises can be resolved and will serve as the absolute necessary point of support for any decision to engage effectively in crisis management actions.

It cannot be a matter of identifying a mythical moment in NATO's crisis management interpretation initiative. However, it is interesting to note that this structure has ramifications that have its roots far back in the past. Specifically, these ramifications cross unmistakably what is now considered classical strategic thinking.²⁵

Therefore, strategic thinking has gained official status. This becomes evident with the publication of tactical, operational and other regulatory manuals. This process must certainly be understood in the light of the movement towards total war.

The strategic documents drawn up by NATO's highest military body, the Military Committee, since the 1950s, contribute in some way to this development, considering the possibility of major inter-state conflagrations.²⁶ They are placed in the continuity

22 Pouligny B., *Ils nous avaient promis la paix: Opérations de l'ONU et populations locales*, Paris: Presses de Sciences, 2004. 356 p.

23 Scott Tyson A., "NATO's Not Winning in Afghanistan, Report Says", *The Washington Post*, Thursday, 31 January 2008.

24 Fish S., *Is There a Text in the Class? The Authority of Interpretive Communities*, London: Harvard University Press, 1980.

25 Gat A., *A History of Military Thought from Enlightenment to the Cold War*, Oxford: Oxford University Press, 2001. 890 p.

26 Heuser B., *NATO, Britain, France and the FRG: Nuclear Strategies and Forces in Europe 1949–2000*, London: MacMillan, 1997. 256 p.

of the classical strategic structure and argue that the use or threat of force may be technically useful in resolving international disputes.

According to the 1991 London Declaration and the 1991 Strategic Concept, the Alliance should be concerned not only with wars but also with crises and the guarantee of peace, and the strategic nuclear dimension has been diminished. *Massive Concept 400* (MC) is considered today as the act that marked the end of the Cold War for NATO.

However, the above-mentioned document left room for interpretation on the nature of the crisis management process, and the actions taken in Bosnia and Herzegovina did not follow a doctrine considered sufficiently articulated.²⁷ For this reason, in mid-1996, it was decided to develop a MC 400/1. This act expresses a consensus on the importance of crisis management. The latter point is even stronger in the positions adopted following the 1999 Kosovo conflict, which eventually led to a new strategic concept in 1999.²⁸

In general, let us remember that the security offered by the North Atlantic Alliance is largely based on a form of textual coding that underlies the interpretive community.²⁹ These are the texts that legitimize and maintain NATO in its role of security. It is a codification performed by MC 400/2 and is a codification stage of the strategic experience, which modifies some previous provisions in order to broaden its meaning and applicability.

Cooperative security is the last basic task and is achieved in part by expanding the Alliance, which is included as part of cooperative security in the Strategic Concept.³⁰ This task allows the Alliance to expand its activities in areas that were previously misaligned or hostile. These activities include several locations in which to deploy military resources, depending on the need, in the face of potential threats. It should be noted that cooperative security involves efforts in addition to the NATO enlargement process. These activities include collaborating with international organizations and concluding arms control treaties.

Cooperative security can only be successful if all partners speak the same language and the right balance between investment and benefits is identified. Cooperative security like a double-edged sword requires NATO and its partners to find the right balance and use the sharpness of this weapon to reduce security challenges.³¹

27 J Sperling J., Webber M., NATO: from Kosovo to Kabul. In: *International Affairs*, vol. 83, Nr. 3, 2009, p. 493; Roper J., NATO's New Role in Crisis Management. In: *The International Spectator*, vol. 34, Nr. 2, 1999, p. 51-61.

28 The Alliance Strategic Concept, 24 April 1999 [online] www.nato.int/cps/en/natolive/official_texts_27433.htm. (accessed 16.10.2020); Clark W. K., *Waging Modern War — Bosnia, Kosovo and the Future of Combat*. New York: Public Affairs, 2001. 479 p.

29 Coker C. Globalisation and Insecurity in the Twenty-first Century: NATO and the Management of Risk. In: *Adelphi paper Nr. 345*, London, 2002. 120 p.

30 Yost D.S., *NATO's Balancing Act*, Washington, DC: United States Institute of Peace Press, 2014, 480 p.

31 Cooperative Security as NATO's Core Task, North Atlantic Treaty Organization, [online] https://www.nato.int/cps/en/natohq/topics_77718.htm?selectedLocale=en (accessed 15.12.2019)

The declaration of the 2006 Riga Summit was the first official NATO document to address the Alliance's so-called comprehensive approach to "out-of-area" conflicts and crises. Building on the experiences of Afghanistan and Kosovo, NATO's global approach has been designed as a way to better respond to crises by involving a wide range of civilian and military instruments, while fully respecting the mandates and decision-making autonomy of all those involved.

As the need for appropriate mechanisms for cooperation with other international actors and civilian agencies was considered particularly acute at the early planning stage of an operation, NATO adapted its operational planning to improve support for reconstruction and civilian development.³²

Developing closer links with the EU, the UN and other international organizations has been a critical part of this approach, and better allocation of mandates would help NATO function better in the intervention theatre. NATO's 2010 strategic concept states that the Alliance will commit itself, "where possible and necessary, to preventing and managing crises, stabilizing post-conflict situations and supporting reconstruction" and that "a comprehensive civilian and military approach is needed for effective crisis management."³³

The organization intensifies political consultations between allies, forms a civilian crisis management capacity to cooperate more effectively with civilian partners, improve integrated civilian and military planning and develop the capacity to train local forces in crisis areas.³⁴

A plan has been developed to stimulate the transformation of NATO's military mentality in a comprehensive operational manner, with a clear focus on effective multilateralism both inside and outside the organization and combined with local government. In the context of a rapidly evolving security environment, the 2016 Warsaw Summit called for a review of the strategic concept and an action plan with new elements for conflict prevention, combating hybrid threats, cyber security and operational cooperation at sea and in the field of migration.

That being said, military culture remains overwhelmingly predominant in the Alliance. On the ground, NATO remains the first *inter pares* to support or engage in military engagement in crisis situations.

Initially set on a goal of collective self-defence against the Soviet threat to Western Europe, the activities that NATO was able to manage in the former Yugoslavia

32 Gheciu A. Communities of Security Practices in the Age of Uncertainty. In: J. Regional Sec, Nr. 7, 2012. p. 151-162.

33 NATO, Active Engagement, Modern Defence: Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organization, Adopted by Heads of State and Government at the NATO Summit in Lisbon, 19-20.11.2010 [online] https://www.nato.int/cps/en/natohq/official_texts_68580.htm (accessed 15.12.2019).

34 NATO, Active Engagement, Modern Defence: Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organization, Adopted by Heads of State and Government at the NATO Summit in Lisbon, 19-20.11.2010 [online] https://www.nato.int/cps/en/natohq/official_texts_68580.htm (accessed 15.12.2019)

at the end of the last century and, more recently, in Afghanistan and Libya, have nevertheless distorted the organizational image focused on protecting its members from external aggression, and the only relevant legal reference for these interventions is Article 51 of the Charter of the United Nations.

Indeed, it is clear that when it comes to identifying which of Chapters VII or VIII serves as the legal basis for the actions of the organization that is often described as the “armed arm” of the UN, the doctrine does not provide a unanimous answer.

On the one hand, NATO would only serve as an institutional justification for a number of states called, on behalf of the UN, to use force to respond to events that UN structures consider to be acts that compromise international peace and security.

On the other hand, part of the doctrine argues that, even if NATO had long been considered an exclusively military structure, in a pragmatic way, nothing would prevent its attachment to the agreements in Chapter VIII, since the recognition of such a status by the United Nations is, in fact, a matter of legal interpretation and political interests.³⁵ Its recent actions, sometimes without the explicit authorization of the Security Council, would suggest a broad interpretation of the powers contained in Chapter VIII of the UN Charter.

Thus, if during the Cold War, the USSR consistently refused to recognize the Atlanticist organization as a regional organization, in order to prevent the possibility of US intervention in European conflicts, neither its member states nor the United Nations questioned any NATO intervention in the former Yugoslavia, when the organization responded favourably to the call of the Security Council to take “necessary measures” in the airspace of Bosnia and Herzegovina during the conflict that led to the disintegration of the Socialist Federal Republic of Yugoslavia.

The Security Council, in its Resolution 816 (1993),³⁶ could indeed have declared that it was acting on the basis of Chapter VII, but the provisions of Chapter VIII had also been mentioned in advance and NATO Member States had decided to act, not as independent states, but “within national organizations or arrangements” which is nothing more than a more or less direct reference to the provisions of Chapter VIII.³⁷

And, indeed, “NATO seems to have evolved from a single-centred defence role to a range of more diverse tasks, which may include peacekeeping operations over large areas.”³⁸

35 Abass A., *Regional organisations and the development of collective security : beyond Chapter VIII of the UN Charter*, Oxford: Hart Publishing, 2004, p. 8–9.

36 United Nations Security Council Resolution 816, adopted on 31 March 1993.

37 Wilson G., *The United Nations and collective security*, Milton Park, Abingdon, Oxon, Routledge, 2014, p. 192.

38 NATO, *Active Engagement, Modern Defence: Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organization*, Adopted by Heads of State and Government at the NATO Summit in Lisbon, 19–20.11.2010 [online] https://www.nato.int/cps/en/natohq/official_texts_68580.htm (accessed 15.12.2019).

The UN also adopts a flexible attitude shaped by political demands and specificity when initiating a relationship with a specific “region”. Thus, when it allowed NATO intervention in Bosnia and Herzegovina, this would not reflect a valuable judgment of the United Nations on the legal status that should be given to this organization, but rather a neglect imposed by the political imperatives of the moment.

In addition to the declaration of typological affiliation through its constituent instrument, therefore, political factors seem decisive in defining the character and type of the organization: collective defence organization within the meaning of Article 51 of the UN Charter or a regional collective security organization provided for in chapter VIII. A modification of the original “casus foederis”³⁹ could be the solution to go beyond the legal formalism that provides a useless picture of the possibilities established by the constitutive act of an international organization, which is a living tool able to adapt to changes in practice.⁴⁰

States may have expressed a wish not to accept military alliances within the meaning of Chapter VIII of the UN Charter and NATO could be perceived as a collective self-defence organization within the meaning of Article 51 of the Charter and in accordance with Article 5 of the North Atlantic Treaty the legal consequence would be the non-application of the “regional agreement” on the obligations arising from Article 53 of the UN Charter on coercive action. None of the provisions of the Charter limits the right of the regional organization to make use of these provisions of the Charter, if it is found that its members support the extension of its tasks in this regard.

It should also be noted that, although regional organizations do not explicitly benefit from the content of Article 51, it is clear that the insertion of self-defence was intended to protect regional organizations and since no provision in Chapter VIII prevents a regional organization from acting effectively under this article, the “inherent”, “natural” right of all states, this can be done, which does not preclude the qualification of this organization as part of the scope of Chapter VIII once it cooperates with the United Nations in maintaining peace.

Thus, one can see the distinction between military alliances and regional organizations that are affected by obsolescence.⁴¹ Some exegetes in the field consider this distinction to be “outdated” because organizations traditionally qualified as falling

39 Abass A., *Regional organisations and the development of collective security: beyond Chapter VIII of the UN Charter*, Oxford: Hart Publishing, 2004, p. 21

40 De Wet E., *The relationship between the Security Council and regional organizations during enforcement action under Chapter VII of the United Nations Charter*. In: *Nordic Journal of International Law*, vol. 71, 2002, p. 8–9.

41 Liégeois M., *Le rôle des organisations régionales dans le maintien de la paix et de la sécurité internationales. Éléments pour une approche comparative*. En : *La sécurité internationale après Lisbonne. Nouvelles pratiques dans l'Union européenne*, Louvain-la-Neuve : Presses universitaires de Louvain, 2013, p. 170–171; Moller B., *European security: the roles of regional organizations*. Farnham: Ashgate, 2012, p. 85.

within the scope of Chapter VIII have assumed functions of collective self-defence, and military alliances have been able to assume the functions of the planned regional organizations, provided for in Chapter VIII.⁴²

In practical terms, the Security Council also had the opportunity to deal with NATO as such when entrusting it with these military execution warrants, the purpose of which attests to the fact that it sometimes acts as a partner of the United Nations in maintaining international peace and security, since they include the management of conflicts and crises with neighbouring countries. In the same vein, the constituent instruments of the Organization of American States (OAS) and the Economic Community of West African States (ECOWAS)⁴³ provide for a collective self-defence function, which does not preclude them from being perceived as regional organizations within the meaning of Chapter VIII.⁴⁴

Another interpretation of these military interventions by NATO can be made in view of the logic behind the implementation of Chapter VII and, in particular, the reference to “local conflicts” in paragraphs 2 and 3 of Article 52 of the UN Charter.

Certainly, in addition to the clear territorial separation between two of its members (the United States and Canada) and the rest of them (concentrated in the European area), NATO is not an organization whose main vocation is to see its activities concentrated and limited to a certain geographical area and to control disputes that may arise between its members.

Consequently, its mandate can certainly be interpreted extensively with reference to the activities carried out and supported by its Member States in the former Yugoslavia, Afghanistan and Libya⁴⁵ in order to represent, in reality, a broader concept of collective security than the traditional defence objectives initially conferred, only that, unlike organizations whose inclusion in Chapter VIII seems indisputable, this extended role of crisis management “crystallized only outside the borders of its members.”⁴⁶

Erika de Wet represents the doctrinal current that considers that Article 53 does not prohibit coercive actions without the authorization of the Security Council, the

42 Liégeois M., *Le rôle des organisations régionales dans le maintien de la paix et de la sécurité internationales. Eléments pour une approche comparative*. En : *La sécurité internationale après Lisbonne. Nouvelles pratiques dans l'Union européenne*, Louvain-la-Neuve : Presses universitaires de Louvain, 2013, p. 170–171; Moller B., *European security: the roles of regional organizations*. Farnham: Ashgate, 2012, p. 85.

43 Charter of the Organization of American States, art. 2 and 3. http://www.oas.org/dil/french/traites_A-41_Charte_de_l_Organisation_des_Etats_Americains.htmResp.

44 Kelsen H., *Is the North Atlantic Treaty a regional arrangement*, A.J.I.L., vol. 45, 1951, p. 162.

45 United Nations Security Council resolution 1244, adopted on 10 June 1999; United Nations Security Council resolution 1386, adopted on 20 December 2001; United Nations Security Council resolution 1973, adopted on 17 mars 2011.

46 E De Wet E. *Regional organizations and arrangements : authorization, ratification, or independent action*, in *The Oxford handbook of the use of force in international law*, Oxford: Oxford University Press, 2015, p. 317.

relevant legal basis that would allow it to send its troops “outside the area” because it would not act as an organization engaged in military action in its geographical area or against one or more of its members. Article 42, which allows the Security Council to designate the Member States that will participate in the provision of military troops, and Article 48, which makes it possible to take such decisions “directly” or through “appropriate international bodies”, would therefore be the regulatory basis sufficient for NATO involvement in such operations. The Council’s authorization to states to use force in Libyan regional organizations or structures based exclusively on Chapter VII confirms this approach.⁴⁷

Attempts to include this organization within the normative limits set out in Chapter VIII of the UN Charter and its extensive interpretation are futile, as it is not even possible to see that there is a will to react to tensions in its Member States, if be conditioned by the presence of the agreement of the Security Council. The relevant legal basis for peacekeeping operations in cooperation with the United Nations is Chapter VI or VII of the Charter.

What seems decisive is not so much the nature of the organization as the nature of the action taken by this organization. When NATO uses force in Bosnia and Herzegovina, Afghanistan or Libya, it may not act as a reaction to an external armed aggression against one of its member states. Finally, it does not matter whether some authors see Chapter VIII as the relevant legal basis for its involvement, as long as, above all, there is an authorization from the Security Council to provide it with the necessary legal basis.⁴⁸ The assumption that NATO was established on the basis of the provisions of Article 51, rather than on the basis of Chapter VIII, does not in any way allow it to neglect the other provisions of the Charter governing the use of force.

The prior authorization of the Security Council is not required in the case of the implementation of collective self-defence provided for in Article 51 of the Charter and in accordance with its content. The finding of an armed attack on one or more members of the organization does not impose an obligation to notify measures taken under this “natural law”.

Priority tasks in accordance with the provisions of the NATO Concept are collective defence, crisis management and cooperative security. Collective security is at the heart of NATO and is based on the provisions of Article 5 of the Treaty, under which each state undertakes to support and defend any member of the organization in the event of an attack.

Despite being a regional military structure, NATO has proven to be able to intervene in crisis prevention and resolution situations within the meaning of Chapter

47 E De Wet E. Regional organizations and arrangements: authorization, ratification, or independent action, in *The Oxford handbook of the use of force in international law*, Oxford: Oxford University Press, 2015, p. 317.

48 Johnstone I., When the Security Council is divided: imprecise authorizations, implied mandates, and the “unreasonable veto”, in *The Oxford handbook of the use of force in international law*, Oxford: Oxford University Press, 2015, p. 230.

VIII of the UN Charter, and to classify and divide regional organizations based on competencies indirectly established by Chapters VII. and VIII proves to be outdated by everyday realities.

The systematization of the knowledge, skills and experience of the Member States of the common contingents delegated in the theatres of battle, ordered by experts in the field of international security, forms an indisputable legal and didactic tool for all subjects interested in ensuring security in general and for NATO members in particular and makes a great leap forward in terms of transmitting these experiences to delegated forces in the field.

What we must note is that NATO has intervened in situations that have occurred outside the territories of the Member States, which, strictly legally, is a violation of the Charter, but this exception has been imposed by the realities of the moment and tacitly accepted by the UN Security Council, and the opinion of this structure, in accordance with international normative provisions, is absolutely mandatory in the case of military interventions carried out by regional organizations in order to ensure peace and security.