

## What is the essence of the institution of demilitarisation?

### Reflections upon Completion of the Research Project “Demilitarisation in an increasingly militarised world – International perspectives in a multilevel framework: the case of the Åland Islands”

#### Research Note

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*About the author and the project:* Sia Spiliopoulou Åkermark is Associate Professor of International Law and Director of the Åland Islands Peace Institute. She has had the pleasure of heading the research project discussed in the present article. Many thanks go to all researchers involved in it over the years, namely Timo Koivurova, Pirjo Kleemola-Juntunen, Salla Heinikoski, Filip Holiencin and Yannick Poullie for all their hard work, support, and for fruitful and pleasant cooperation. Our discussions have been enriched by the generous input and wise questions of the Scientific Advisors of the project: Lauri Hannikainen, professor emeritus; Allan Rosas, Professor, Judge at the EU Court of Justice; Gregory Simons, associate professor/docent, Uppsala Center for Russian Studies; Kenneth Gustavsson, associate professor/docent, Åland museum; Said Mahmoudi, professor emeritus; Päivi Kaukoranta, Director General Legal Affairs and ambassador, Finnish MFA; Matthieu Chillaud, PhD, France/Estonia; Geir Ulfstein, Professor, University of Oslo, Norway; Willy Østreng, professor emeritus, director, former vice-president of the Norwegian Academy for Polar Research. Alison Bailes, guest professor and ambassador (UK) was a member of the advisory board until spring 2016.

## 1. Introduction: background, research questions and theoretical framework

The three years long research project “Demilitarisation in an increasingly militarised world – International perspectives in a multilevel framework: the case of the Åland Islands” is approaching its completion.<sup>1</sup> This interdisciplinary research effort started in autumn 2015, was largely completed in spring 2018, and has focused on the following main question:

*How is the demilitarisation and neutralisation regime of the Åland Islands affected by the many, new and varying modes of military-civilian cooperation in the Baltic Sea?*

We worked across various scientific fields including law, politics, European integration, international relations, geopolitics and history, with emphasis on the concepts, the normative frameworks, the institutions and the debates concerning the continuum of demilitarisation – militarisation.<sup>2</sup>

In spite of its role as a test case of a geographically limited but multilaterally based comprehensive territorial demilitarisation and neutralisation, the demilitarisation and neutralisation of the Åland Islands has not attracted much scientific attention.<sup>3</sup> While the autonomous status of the Åland Islands and the Åland solution as an international agreement have received considerable attention in Finnish and international research and are also seen as a useful source of inspiration in efforts for the solution of conflicts, the same cannot be said about the demilitarisation and neutralisation of the islands. The reasons behind this absence of scientific treatment may be multiple, including the difficulty in obtaining research grants for such studies, or a mental state according to which the demilitarisation and neutralisation can be explained only as a case of a “military vacuum” or, more generally, the demilitarisation and neutralisation regime is to be viewed as a deviation and an abnormality in relation to “full state sovereignty”.<sup>4</sup>

This absence of scientific treatment of the demilitarisation and neutralisation is all the more remarkable in view of the fact that this legal regime has been in place since 1856 and was expanded through the neutralisation of the islands in 1921. Söderhjelm published his doctoral thesis in French under the title *Démilitarisation et neutralisation des Iles d'Åland en 1856 et 1921* in Helsinki in 1928. The next major work focusing on international

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1 The project has been funded mainly by the Finnish Kone Foundation, but it has also received a contribution from the Åland Culture Foundation (*Ålands kulturstiftelse*). The generosity and unbureaucratic ethos of both those institutions have been crucial in facilitating co-operation between the two institutions involved, namely the Åland Islands Peace Institute in Mariehamn and the Nordic and Environmental Law Institute and Arctic Centre at the University of Lapland in Rovaniemi.

2 For more information on the research project as such, see <http://www.peace.ax/en/research/research-projects> (visited 06.09.2018).

3 Cf. Peter Stearns, *Demilitarization in the Contemporary World*. Urbana: University of Illinois Press, 2013, which focuses on more recent cases of state-wide demilitarisation.

4 Sia Spiliopoulou Åkermark, Saira Heinikoski and Pirjo Kleemola-Juntunen, *Demilitarisation and International Law in Context. The Åland Islands*. Routledge Focus (2018), 3–20 & 96–112.

legal and political aspects appeared in 1997, when Lauri Hannikainen's and Frank Horn's edited volume *Autonomy and Demilitarisation in International Law: The Åland Islands in a Changing Europe* (published by Kluwer Law in the Hague) was released. This volume gave a much-needed update covering most major aspects of the so-called Åland Example, namely the self-government, the cultural and linguistic guarantees, as well as the demilitarisation and neutralisation of the islands. This edited work was written and published after the end of the Cold War and immediately after the entry of Finland and the Åland Islands in the European Union. However, edited volumes are seldom able, and are not intended, to present a coherent argument or a theoretical assessment of an issue. This is, we hope, one of the contributions of the new book entitled *Demilitarisation and International Law in Context. The Åland Islands* (2018). The research grants by the Kone Foundation and the Åland Culture Foundation made possible a long term and comprehensive scientific endeavour which has allowed for the development of new theoretical as well as empirical insights. During the research project it has been possible to engage with wider society through interviews, debate articles and open seminars on Åland, in Rovaniemi, in Helsinki, and elsewhere.<sup>5</sup> Such an endeavour has also created new networks of researchers and institutions from across the world. The final research results of the research project are expected in 2019, well ahead of the centenary of the adoption of the 1921 Convention on the Demilitarisation and Neutralisation of the Åland Islands.

## 2. Project outcome and results

In order to answer the core research question described in the previous section the project researchers have looked at a broad range of particular aspects, such as the effects of modern technology on the demilitarisation and neutralisation of the Åland Islands; the fusion of civil and military aspects in international relations and activities; and the proliferation of different forms of military-civilian cooperation, often in a non-formalised and non-treaty-based mode. The demilitarisation and neutralisation of Åland has also been studied in comparison to the Svalbard treaty.

The first results were published in 2016 by junior researcher Yannick Poullie, in an article entitled "Åland's demilitarisation and neutralisation at the end of the Cold War: Parliamentary discussions in Åland and Finland 1988–1995".<sup>6</sup> Poullie's abstract explains the thrust of the argument: as a region that is simultaneously demilitarised, neutralised

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5 See for instance, Sia Spiliopoulou Åkermark, *Ahvenanmaan demilitarisointi pohjautuu 1850-luvun Krimin sotaan – saariryhmän nykyinen asema hyödyttää Suomea*, Helsingin Sanomat 21.10.2016, <http://www.hs.fi/paakirjoitukset/art-2000002926416.html> (visited 06.09.2018) and interview with Timo Koivurova in High North News (13.03.2017), <http://www.highnorthnews.com/svalbard-treaty-meets-new-challenges/> (visited 06.09.2018).

6 International Journal on Minority and Group Rights Vol. 23, Issue 2 (2016) 179–210.

and autonomous, the Åland Islands represent a unique and long-established case in international law. However, this status was never independent of surrounding events. The early 1990s saw both the end of the Cold War and Finland's accession to the European Union. This paper offers an analysis of the discussion regarding Åland's demilitarised and neutralised status among both Finnish and Ålandic legislators during this period. It finds that Finnish policy-makers saw little need to discuss the matter. Åland's officials continuously criticised the Finnish Defence Forces' presence in the region as excessive and proved unwilling to let the issue rest. Against formal obstacles, they established themselves as a relevant actor, facilitated by differing approaches of political, diplomatic and military officials in Finland. Other sovereign states showed only limited interest in the discussion, making it appear mainly as a domestic issue at the time. However, as we have been able to show throughout the project, this is not the complete picture. For instance, also during the same period of time, in 1992, Estonia registered with the Secretariat of the United Nations a declaration of continuity with regard to the position of Estonia as state party to the 1921 demilitarisation convention, confirming thus both its own commitment as well as the continued validity of the convention itself.<sup>7</sup> Finland and the Russian Federation signed in 1992 a bilateral agreement which replaced the so called Friendship Treaty of 1948, as well as a protocol concerning the succession by the Russian Federation to other bilateral agreements between Finland and the Soviet Union. The 1940 bilateral treaty on the Åland Islands was among those explicitly included in the new protocol.<sup>8</sup>

Project researchers have published several other articles in scientific and peer-reviewed journals. Several texts are available open access. Saila Heinikoski has written mainly in the field of Finnish and European Union security politics.<sup>9</sup> During the project time, Saila Heinikoski, was also able to finalise and defend at the University of Turku her doctoral dissertation in political science entitled *European Borders of Justice – Practical Reasoning on Free Movement within the European Union* (2017).

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7 Sia Spiliopoulou Åkermark, Saila Heinikoski and Pirjo Kleemola-Juntunen, *Demilitarisation and International Law in Context. The Åland Islands*. Routledge Focus (2018), 32–33.

8 Finnish Treaty Series 63/1992 *Överenskommelse med Ryska federationen om grunderna för relationen mellan länderna*. Finnish Treaty Series 24/1940 *Treaty between Finland and the Union of Socialist Soviet Republics concerning the Åland Islands*. Many of the documents pertaining to the international status of the Åland Islands can also be accessed in various languages here: <http://www.kulturstiftelsen.ax/internationella-avtal> (visited 06.09.2018).

9 Saila Heinikoski, "The Åland Islands, Finland and European security in the 21st century", *Journal of Autonomy and Security Studies*, Vol. 1(1) 2017, 7–45). Available Open Access at: <http://jass.ax/volume-1-issue-1-Heinikoski/>; "Pool It or Lose It? A contrastive analysis of discourses concerning EU military integration and demilitarization in the Baltic sea" (*Journal on Baltic Security*, 2017; 3(1):32–47). Available Open Access at: <https://www.degruyter.com/view/j/jobs.2017.3.issue-1/jobs-2017-0002/jobs-2017-0002.xml?format=INT>

Timo Koivurova and Filip Holiencin have written an article concerning the demilitarisation of Svalbard/Spitzbergen.<sup>10</sup> They explore the origins, interpretation and practice concerning Article 9 of the Svalbard Treaty (1920, in force 1925) which provides in a rather brief passage:

Subject to the rights and duties resulting from the admission of Norway to the League of Nations, Norway undertakes not to create nor to allow the establishment of any naval base in the territories specified in Article 1 and not to construct any fortification in the said territories, which may never be used for warlike purposes.

Koivurova and Holiencin examine the dual ambition of a peaceful utilization of the islands while permitting industrial activities for many different states parties. The Svalbard Treaty granted sovereignty to Norway, while trying to keep the islands out of the grip of the great powers. Koivurova and Holiencin discuss the absence of a dispute solving mechanism in the Svalbard treaty as well as the increasing pressures due to commercial and geopolitical interests in the region.

Pirjo Kleemola-Juntunen has been the maritime law expert and postdoc researcher of the project. She has explored the civil-military nature of the Proliferation Security Initiative and issues of passage rights through international straits, focusing on the Åland Strait which is adjacent to the demilitarised and neutralised zone of the Åland Islands along the maritime border between Finland and Sweden.<sup>11</sup> Kleemola-Juntunen has also contributed to a book on maritime law in Finnish and is currently preparing a monograph on the Åland Strait.<sup>12</sup>

Sia Spiliopoulou Åkermark has focused on international legal aspects, military-civilian fusion in what is called Sea Surveillance Co-operation in the Baltic Sea (SUCBAS), the interface between domestic and international law, and in particular on matters pertaining to the demilitarisation in the airspace above the Åland Islands.<sup>13</sup>

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10 Timo Koivurova and Filip Holiencin, “Demilitarisation and neutralisation of Svalbard: how has the Svalbard regime been able to meet the changing security realities during almost 100 years of existence?” (2017), *Polar Record*, Vol. 53(2) 131–142.

11 Pirjo Kleemola-Juntunen, “The Right of Innocent Passage: The Challenge of the Proliferation Security Initiative and the Implications for the Territorial Waters of the Åland Islands” in *The Future of the Law of the Sea: Bridging Gaps between National, Individual and Common Interests*, ed. Gemma Andreone, Springer publisher (2017), 239–269. Available Open Access: <http://www.springer.com/la/book/9783319512730>; *Straits in the Baltic Sea: What Passage Rights Apply?* in “Regulatory Gaps in Baltic Sea Governance: Selected Issues”, ed. Henrik Ringbom, Springer, MARE Publication Series, Vol. 18, 2018, 21–44.

12 Timo Koivurova, Henrik Ringbom, Pirjo Kleemola-Juntunen, *Merioikeus ja Itämeri* (Tietosanoma, 2017); Pirjo Kleemola-Juntunen, *The Åland Strait* (forthcoming, Brill).

13 Sia Spiliopoulou Åkermark, ‘The Meaning of Airspace Sovereignty Today – A Case Study on Demilitarisation and Functional Airspace Blocks’ 86 *Nordic Journal of International Law* (2017) 91–117; ‘The puzzle of collective self-defence: dangerous fragmentation or a window of opportunity? An analysis with Finland and the Åland Islands as a case study’, *J Conflict Security Law* 2017 Vol. 22(2), 249–274;

The main and condensed outcome of the project is a book co-authored by three of the project researchers.<sup>14</sup> The book covers in its 128 pages, including a map, tables and illustrations, the more than 162 years old institution of the demilitarisation of the Åland Islands. It offers in a condensed form some of the core elements of the research findings. The authors argue that the demilitarisation and neutralisation of the Åland Islands is a confirmation of, and – at the same time – an exception to, the collective security system in present-day international affairs. Its core idea is that there is no need for military presence in the territory of the islands and that they are to be kept out of military activities. A restricted use of military force has a confidence building effect in cases where competing interests may be so intense that banning the very presence of military force remains the only viable option. The demilitarisation and neutralisation of the Åland Islands does not prohibit completely all military presence and activity, but it introduces considerable limitations to them differentiating between the rights and obligations of Finland and those of other states. While there seems to be general agreement among legal experts concerning the customary law standing and even an objective regime status of the demilitarisation of the islands, an institution that has been in place since 1856, the neutralisation of the islands is much more recent and has only been put to the test once, namely during the Second World War. The demilitarisation is also, paradoxically, both a limitation to and, at the same time, a confirmation of Finnish sovereignty.

The regime of the Åland Islands is thus the result of pragmatic and contingent political compromises where diplomatic and legal tools have precedence over the use of force. As such, the case of the Åland Islands offers an alternative trajectory to the increased militarisation we witness around the world today. Through parliamentary and archival materials, international treaties and academic works, the authors examine the legal rules and institutional structures of the demilitarisation regime. In this process the book reassesses core concepts of international law and international affairs, such as sovereignty and security, and introduces a theoretical view on the empirical case study of the Åland Islands. The book covers legal, political and policy discursive aspects of demilitarisation, international co-operation, defence and security matters around the Baltic Sea with a broader European and global relevance.

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‘Old rules and new technology. Drones and the demilitarization and neutralization of the Åland Islands’ (forthcoming in *Finnish Yearbook of International Law*).

14 Sia Spiliopoulou Åkermark, Saira Heinikoski and Pirjo Kleemola-Juntunen, *Demilitarisation and International Law in Context. The Åland Islands*. Routledge Focus (2018).

### 3. Concluding reflections

On the basis of the collected wisdom in the project output it can be argued that there are in fact three main lines along which the Åland demilitarisation regime can be observed.

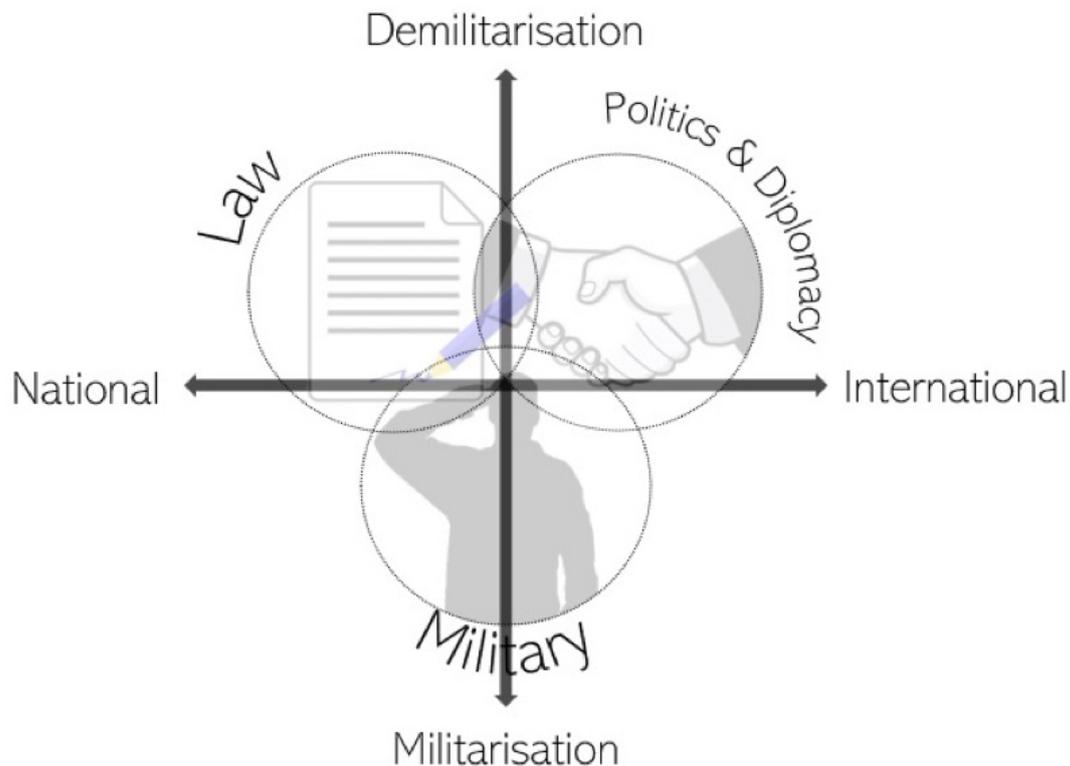
Firstly, there is the continuum of the militarisation – demilitarisation with shifts in time, space and functional areas. While we here speak of a continuum, in law this relationship is understood as binary. Something which is defined as military cannot be at the same time civilian. This distinction is crucial as a precondition of basic rules of humanitarian law and the law of war. Enemies, partaking in the military sphere, can be attacked during war. Civilians and civilian places should be protected and remain outside the reach of hostilities, something which is all too often disregarded in contemporary warfare. Domestically too, the constitutional and other legal rules and decision-making processes differ under conditions of war and conditions of peace.

Secondly, there is the continuum of the national and the international, where international legal rules concerning air or maritime law, the demilitarisation and neutralisation of the Åland Islands as found in a number of international legal conventions and in customary law, or the decisions of the League of Nations Council and the agreement on the Åland Question in 1921, coexist side by side with the constitutional framework of the Åland Islands as part of the Republic of Finland. While representatives from the Åland Islands often highlight the international dimensions of the regime and other states, including Sweden and the Russian Federation, follow discretely developments in the geographical region and subject area, the predisposition of Finnish authorities is that of emphasising the internal and constitutional dimension of the regime. As regards the Finnish view, this is the case in fact ever since the discussions on the so-called Åland dispute in the early 20th century. The first set of actors signal the message ‘don’t forget us; the Åland regime is an international regime’, the second category signals ‘we keep an eye’, while the third one argues ‘this is mainly a matter of internal affairs’.

The above two lines (the militarisation/demilitarisation and the national/international) operate within three distinct forms of exercise of state power and of international affairs. There is legal regulation and multiple legally binding agreements forming a web of rights and obligations which connect different states, national as well as international actors. There are domestic and international politics and diplomacy and, finally, there is military logic and military priorities, so called geopolitics. The demilitarisation and neutralisation of the Åland Islands is thus situated in the area where these three fields meet and interact and is an excellent example of what is often referred to as multilevel governance. The democratic entrenchment of such multilevel governance remains an evolving project.

The above account could be illustrated as follows:

Figure 1. The lines and core elements of the collective security regime of the Åland Islands<sup>15</sup>



The three fields of societal and state decision-making and activity, namely the political-diplomatic, the legal and the military coexist under conditions of delicate balance in the case of Finland, including the Åland Islands.<sup>16</sup> The position of those three fields is not constant over time or in various specific functional areas. Each field holds a different position and level of prominence at each given point of time, including as regards the Åland Example and the demilitarisation and neutralisation of the Åland Islands. The long-term effort of the regime as a whole has been to minimise military presence and activity in the demilitarised zone, moving thereby the military box higher up along the militarisation – demilitarisation axis. It has also been found that while the central Finnish authorities often emphasise and focus on the domestic dimensions of the Åland solution, for instance the constitutional framework and national legislation or institutions, the Ålandic authorities often highlight the international dimensions and the international legal basis of the Åland regime. However, as also discussed (though without focusing on the Åland Islands) by

15 Many thanks go to Hasan Akintug and Lauren Stevens, interns at the Åland Islands Peace Institute, for their assistance in the technical editing of Figure 1. This figure is a new output of the knowledge generated in the project and has not been published previously. © The Åland Islands Peace Institute and the authors.

16 George Maude, “Problems of Finnish Statecraft: The aftermath of legitimation”, *Diplomacy and Statecraft* 1:1 (1990), 19–39.

George Maude, different actors within the Finnish state or on the Åland Islands, as well as different experts and academic voices, may hold different positions on the factual or appropriate position and on the descriptive or normative understanding of the three boxes (law, politics & diplomacy, military) along the national – international and militarised – demilitarised axes.<sup>17</sup> While this is indeed the case, the complexity of the Åland Islands regime have prompted seasoned diplomats, such as Finnish ambassador René Nyberg, to compare this regime to a wooden 3D puzzle, easy to disentangle but difficult to put back together again.<sup>18</sup>

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17 Ibid. See also Saila Heinikoski, “The Åland Islands, Finland and European Security in the 21st Century”, *Journal of Autonomy and Security Studies* 1, No. 1 (2017), 8–45.

18 René Nyberg, “Åland är som en träknut – lätt att plocka isär, men svår att sätta ihop”, *Hufvudstadsbladet*, 24 November 2015.