

THE CONCEPT OF THE PERMANENT NEUTRALITY OF THE REPUBLIC OF MOLDOVA FROM THE POINT OF VIEW OF DISCREPANCIES BETWEEN JUDICIAL NORMS AND GEOPOLITICAL UNCERTAINTIES

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Abstract

Under all its aspects, as a theoretical concept and as status, neutrality has found applicability in various times and political conjectures. It represents a subject for scientific research and analytical demarches, as well as a topic for discussion in mass-media. Hence, recognising the complexity of the institution of neutrality, the researchers interested in the above mentioned subject currently tackle neutrality by having in view the fact that, during history, declaring the status of neutrality has always had an evident political substratum. It has been defined according to the position of the state declaring neutrality, the interest of the actors who have imposed it by means of various forms of pressure, and with the help of the countries which have assumed the role of security guarantor, as well as according to the relationship cause-effect or the perspective costs-benefits.

Keywords: *neutrality, Switzerland, European Union, Republic of Moldova*

1. Introductory Remarks

The distinct and complex character of the scientific studies in the field is due to a solid foundation of approaching the notion of neutrality in general, and that of permanent neutrality in particular, and is dominated by rational approaches and judicial debates. This plasticity has become possible by simultaneously approaching the respective status through geopolitical vectors oriented towards European/Euro-Atlantic integration and characterised by pro-Eastern aspirations, with the aid of evaluations of the internal political and economic climate. Analytical estimations regarding the neutrality status of the Republic of Moldova has acquired a less emphasised contributory character, mainly carried out via subscription to decisions taken in keeping with apparently stable geopolitical and socio-

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economic situations, and the critical appreciations has remained very insignificant even during periods considered crucial for the Republic of Moldova.

2. Contradictory Approaches to Neutrality

The concept of permanent neutrality in international contemporary law has been debated sufficiently in the specialised literature, not only in the Republic of Moldova, but also abroad, yet it has remained very contradictory in the end. The scientific developments contain analyses with frequent references to Switzerland's permanent status of neutrality, a unique historical case which, in our opinion, cannot be given as an example in view of arguing for the options to maintain or renounce this status on behalf of the Republic of Moldova. Moreover, we consider the cases of Austria and Ireland to be irrelevant for the Republic of Moldova, with small exceptions on the security level. Consequently, we propose to launch a challenge which swings between the idea of normative provision – like declaring the status of permanent neutrality of the Republic of Moldova, mentioned in Article 11 of the Republic of Moldova Constitution of 1994¹ – and an argument with practical weight in measuring the implementation of this status. It also seems necessary to mention that, in the context of the aspects mentioned above, without being directly approached, the status of neutrality, as Gh. E Cojocaru states, has been questioned by the Republic of Moldova on signing – at Alma-Ata, on the 10th February 1995 – the additional protocol to the Treaty on reciprocal military assistance of the 22nd September 1990².

In this respect, many researchers from the Republic of Moldova have examined the respective subject, with V. Gamurari among them, in whose opinion this notion should be defined by highlighting the distinctive features and the applicative framework of judicial foundations. The researcher has contested a number of definitions which do not correspond to the norms of contemporary international law, and has opted, with all the necessary specifications, for changes to the belief that “the permanent

¹ *The Constitution of the Republic of Moldova*, (art. 11), adopted on July 27th 1994, in effect since August 27th, 1994, published in Monitorul Oficial, no. 1, August 12th, 1994.

² Cojocaru, E. Gheorghe, *Foreign Policy of the Republic of Moldova. Studies*, Publishing House Civitas, Chişinău, 2001, p. 142.

neutrality of a state is regulated only through an international treaty”¹. Along these lines, we project the previous statement over assertions forwarded by A. Spring, who examines the concept of neutrality under various aspects, bringing explanations about the option of the states which have declared their permanent neutrality in the second half of the 20th century and about the necessity to confirm this status through a judicial document², therefore confirming J. Kuntz’s thesis – according to which a state cannot obtain the status of permanent neutrality through a unilateral statement³.

With reference to small countries, but also to countries of the size of the Republic of Moldova, a different approach was proposed by O. Jason, who considers neutrality to be a viable option for small countries to avoid international conflicts⁴. Our opinion about this vision is that, from the moment it engages in a judicial framework, a country loses some of its declared pragmatism in promoting foreign policy – a strong argument for countries with insufficient resources in the political-strategic domain.

In the case of the Republic of Moldova, V. Gamurari also states that, for “a country which has declared its permanent neutrality based on a unilateral document, it is very important that this decision be well determined in order to be interpreted univocally”, completing the supposition with a definition of his own⁵. Moreover, the researcher mentions that the possibility of declaring permanent neutrality by a unilateral document has been introduced by him intentionally, with a view to excluding the notion according to which the neutrality of the Republic of Moldova, which is not guaranteed by an international treaty, could not produce judicial effects. In addition, the researcher insists on the specificities of permanent neutrality, which consists of the fact that the owner of this permanent neutrality can only be the country considered as native subject in international law, and in the case of imposing the status of neutrality by an international treaty, this

¹ Gamurari, Vitalie, *Some aspects of the Concept of Permanent Neutrality in Contemporary International Law*, Symposia professorum: Law Series. Materials from scientific session on May 4-5th, 2001, ULIM, Chisinau, 2001, pp. 240-241.

² Spring, Alexander, *The International Law Concept of Neutrality in the 21st Century. An Analysis of Contemporary Neutrality with a focus on Switzerland*, Dike, 2014, p. 22.

³ Josef L. Kunz, *Austria’s Permanent Neutrality*, „The American Journal of International Law”, vol. 50, No. 2/1956, p. 418.

⁴ Osai O. Jason, *The Neutrality as Realism in the New Global Order: A Treatise*, The International Journal of Arts and Humanities Bahir Dar”, vol. 1, No. 4/2012, p. 176.

⁵ Gamurari, V., *op. cit.*, p. 241.

can only take place under the conditions of guaranteeing suzerainty and territorial integrity¹.

3. Approach of Neutrality in Moldova

With regard to the Republic of Moldova, declaring the status of permanent neutrality has meant a prompt orientation towards solving the Trans-Dniester conflict and, according to N. Osmochescu, the idea of the permanent neutrality of the Republic of Moldova has not been spontaneous, but carefully analysed in advance. At the same time, the researcher highlights that it has been influenced by many factors, both internal and external, in order to use as example, the case of the Republic of Moldova in the process of adhering to CSI, when, guaranteeing that they will not become part of a military structure, they refused adhering to the Collective Security Treaty of 15th May 1992. It is obvious that, from its adherence and to the present day, the status of permanent neutrality of the Republic of Moldova has not been valorised in terms of classical definitions, the main causes for this being the stationing of Russian troops in the Eastern part of the country and the frozen conflict in the area. In this context, we subscribe to N. Osmochescu's statement that such situation compromises the status of neutrality, consecrated by the Constitution, with a large number of countries and international organisations having doubts about the Republic of Moldova, mentioning that this status is "badly propagated"², and that the permanent neutrality status should become a postulation of the country's foreign policy³.

By comparison, N. Osmochescu states that "permanent neutrality as judicial-political status is badly appreciated by political personalities and high state dignitaries - from absolute negation to absolutism"⁴. The separate and de-contextualized evaluations of various representatives of the political class have had the effect of misleading and delaying the essence of this status for the Republic of Moldova. Because of this, N. Osmochescu considers that an incursion in the history of the evolution of

¹ *Ibidem*, p. 242.

² Osmochescu, Nicolae, *The permanent Neutrality - An Institution of the Constitutional Law and of the Public International Law, (Comparative Study)*, The National Magazin of Law, no. 2, 2005, p. 6.

³ Osmochescu, Nicolae, *op. cit.*, p. 7.

⁴ *Ibidem*, p. 2.

this concept – largely debated and offering more examples of applying the status of neutrality in modern and contemporary eras – is necessary.¹

Concerning the resizing and acknowledgement of the neutrality status of the Republic of Moldova, but also the possibility of renouncing it, intense debates continue, especially in the academic environment. In this respect, N. Osmochescu analyses the statements of A. Tănase, President of the Constitutional Court, on the degree of applicability of the neutrality status when the country confronts itself with the imminent danger of disappearing, and on the extent to which the Constitution can be interpreted as a suicidal act (the researcher justifying his position as a member of the Commission for Elaborating the Constitution Project). The explanation is as simple as it is clear, like the article on the inclusion of the status of neutrality in the hope that the Russian Federation and other states will respect this status and that the troops stationed left of the Dnieper will be withdrawn; in reality, however, the situation has remained unchanged².

The opinions of local political analysts regarding the neutrality status are divided on the segment of state security. In this respect, V. Moşneagă and V. Beniuc have elucidated a number of circumstances which have conditioned this political course, and have identified the strategy and tactics for permanent neutrality as being the best, and as corresponding to the national security interests of the Republic of Moldova.³ A certain fact is that ensuring security is possible by promoting a balanced and pragmatic foreign policy and that, without a complex analysis of the contradictions between the biggest actors on the global scene, the countries participating in regional, sub-regional structures, as well as neighbouring countries, it is difficult to discuss stability in the region, especially in the context of geopolitical uncertainties which involve the extension of NATO, EU and Russian influence in the area. The immediate proximity of countries which are more developed from an economic, political and military point of view, and which tend to achieve their interests in the Republic of Moldova, represents a disadvantage, and “in order not to become the convergent point of political pressure, V. Moşneagă and V. Beniuc agree that the best solution is the status of neutrality”⁴. The researchers’ suppositions about

¹ *Ibidem*, pp. 4-5.

² Barbăroşie, Liliana; Canţir, Alexandru, *Why and who wants to change the Constitution of the Republic of Moldova? An interview with Nicolae Osmochescu, International Law Expert.* <http://www.europalibera.org/content/article/26591866.html> (Accessed on 29.06.2015)

³ Moşneaga, Valeriu; Beniuc, Valentin, *The why the Republic of Moldova must follow the path of Permanent neutrality in International Relations: History and Contemporarity..* P. I, State University, Chişinău, 1998, p. 19.

⁴ Moşneaga, Valeriu; Beniuc, Valentin, *op cit.*

the status of neutrality and “collaboration without political preferences” are expressed through the idea that the optimal choice is permanent neutrality, which “presupposes avoiding categorical steps, hasty actions and swings from one extreme to the other”¹.

The perspective based on this logic has been enunciated by A. Burian, who argues that the Republic of Moldova “will not manage without serious and powerful guarantors of its neutrality”, even if it maintains “a vast, well trained and well-equipped army”.² Also worth mentioning is the fact that the Republic of Moldova will not remain a neutral country, the choice being explained by the confrontations between East and West, this also being the reason which determines the Republic of Moldova “to strengthen its own national security in view of a possible partnership with that country of the military-political block which will be able to guarantee its independence and territorial integrity”³.

The issue of international visibility has been added to the subject-matter by V. Moșanu, who underlines the fact that the presence of foreign troops on the country’s territory, separatism, economic dependence on procurement of electric energy from Russia, as well as the ambiguous policies of the Republic of Moldova greatly undermine the country’s credibility regarding the permanent neutrality of the Republic of Moldova.⁴ Moreover, the following opinion has been formulated: abandoning the neutrality policies – a strategy which does not provide efficient solutions for the challenges in the Republic of Moldova – makes it confront realities which might become a Gordian knot for the Moldovan society in the near future.⁵ Researching this issue was subsequently carried out, exposing the real problems in the security field, both internally and internationally, with reference to various historical incursions and comparative approaches.⁶

The multitude of hypostases of the neutrality concept was solved by I. Pîntea through an analysis which particularly explored the consequences which the Republic of Moldova is going to bear after declaring the status of permanent neutrality and the repercussions on the sovereignty and

¹ *Ibidem*, pp. 24-25.

² Burian, Alexandru, *The geopolitical changes in the contemporary world and the problems of the Moldavian statality in the context of the European integration processes* "Revista Națională de Drept", nr. 1, 2005, p. 8.

³ Burian, Alexandru, *op. cit.*, p. 10.

⁴ Moșanu, Viorel, *The Neutrality Policy of the Republic of Moldova. A Case Study*, in „Central European issues – Romanian Foreign Affairs Review”, vol. 5, No.2, 1999/2000, pgs. 69-76

⁵ *Ibidem*, p. 75.

⁶ Moșanu, Viorel, *The neutrality policy of the Republic of Moldova: what chances for the future?* „Südosteuropa”, nr. 49, 2000, pp. 537-550.

security of the state in times of peace or of war. In this respect, the confrontation of ideas regarding external guarantees of a state on permanent neutrality¹ must be highlighted; in his opinion, it is represented by the irreversibility of the democratic process in the republic and the neighbouring countries, together with their consolidation as lawful states, and by the internal effort dedicated to building and consolidating the defence system (domestic policies, economy, defence policy, civic spirit attached to the values of neutrality).²

4. The Concept of Permanent Neutrality

Permanent neutrality has also been tackled with by V. Gamurari, as “the position of the state on international level, which assumes the obligation not to participate in military conflicts except in self-defence cases, and which, during times of peace, must promote a politics which excludes involvement in military conflicts”. Gamurari underlines that “the state which has declared its permanent neutrality has the obligation to stay neutral during armed conflict and to perform neutrality policies during times of peace”.³ The author analyses and confronts several definitions and opinions regarding the concept of permanent neutrality in contemporary international law. The author has expressed a profound opposition against some of the existing definitions, especially against the one according to which permanent neutrality of a state is only regulated by an international treaty. V. Gamurari believes that this arises from the sovereign right of each country to promote an independent politics, without any involvement in its internal affairs, which derives from two fundamental principles of international law: the sovereign equality of states and non-interference in the internal affairs of a state.⁴

B. Brooms compares permanent neutrality under judicial aspects with an “interesting” phenomenon and, beyond historical considerations, he approaches in detail some of the neutrality models recognised by

¹ Pîntea, Iurie, *The problems of Permanent Neutrality*, in "Securitatea și apărarea națională a Republicii Moldova", Editura ARC, Chișinău, 2002, pp. 80-81.

² *Ibidem*, p. 82.

³ Gamurari, Vitalia, *The defining features of the Institution of Neutrality in relation to State Sovereignty*, published in the "People's Advocate Magazine: The Publications of the College of Lawyers of the Republic of Moldova" no. 11-12, 2003, p. 23.

⁴ *Ibidem*, p. 25.

international law.¹ In short, he sustains the idea that the affirmations of some authors – who sustain the fact that the states which declare permanent neutrality lose in sovereignty – cannot be accepted, because states are free to change their status according to circumstances, the existence of a treaty which guarantees the respective status having the potential of imposing certain restrictions to the permanently neutral state.²

N. Osmochescu insists that “the institution of permanent neutrality can and must be examined under many aspects: as a state institution of constitutional law; as a public institution of international law; as an element of national and international security”³, underlining the fact that “until the present day, the Republic of Moldova has not concluded any agreement with other states by means of which this status will be recognised and guaranteed”; however, “the status of permanent neutrality creates a general obligation for all states to respect it”.⁴ We subscribe to N. Osmochescu’s view that, except for not allowing the dispatch of military foreign troops on the territory of the Republic of Moldova, the Constitution does not establish any other conditions of permanent neutrality⁵.

V. Juc presents his view regarding the unilateral proclamation of permanent neutrality, maintained by own volition, which does not contribute to valorising the strategic object targeted, being defied and depreciated by the presence of foreign military forces on its territory, even if temporarily being under the control of secessionist authorities. Although it has broken the permanent neutrality status of the Republic of Moldova, the Russian Federation now encourages maintaining this quality, but, following its objectives under the conditions of Ukraine and Georgia opening towards the Euro-Atlantic, and “in order to ensure compliance with the neutrality of the Republic of Moldova, it is necessary that Russia honours its assumed commitments and immediately evacuates its military troops, weapons and ammunition, in a methodical and complete manner”, the author considering that “the foreseen beneficial effects of the permanent and auto-proclaimed neutrality have proved to be illusory, based on the fact that the project itself is drawn up as an ideal, auto-sufficient and fetishized model, especially by the concept of the national

¹ Mohammed Bedjaoui (ed.), *International Law: Achievements and Prospects*, UNESCO, Paris, 1991, p. 53.

² Mohammed Bedjaoui (ed.), *op. cit.*, p. 55.

³ Osmochescu, Nicolae. *Permanent Neutrality of the Republic of Moldova in the Context of Contemporary International Relations*, published in *the Academy of Public Administration - 15 years of modernization of the public service in the Republic of Moldova*. vol. 2. Chisinau: AAP, 2008, p. 182.

⁴ Osmochescu, Nicolae, *op. cit.*, p. 183.

⁵ *Ibidem*.

security of the Republic of Moldova".¹ Noteworthy is the fact that "the abrogation of the permanent status of neutrality does not expressly presuppose the Euro-Atlantic integration of the Republic of Moldova, yet the quality of NATO member state is the best way to efficiently ensure the country's national security according to Article V of the Washington Treaty of 4th April 1949".² In this respect, explaining the notion of neutrality, O. Serebrean uses the case of the Republic of Moldova as an example to make a distinction between permanent neutrality (imposed by an international agreement) and auto-assumed neutrality (considered valid for the Republic of Moldova)³.

The main problems and preoccupations regarding the permanent neutrality status of the Republic of Moldova have also been examined, especially at the stage of activating the cooperation with NATO, of the predominance of the alliance and of its influence in the region. Declaring such a status presupposes, in S. Cebotari's opinion, an efficient defence of state interests, resulting from the geopolitical situation, of consolidating peace and stability in the Republic of Moldova. The researcher manifests a preoccupation for clarifying the indispensability of the permanent neutrality status of the Republic of Moldova, underlining the fact that, otherwise, the priority will be joining NATO - , which will guarantee security in the region, as well as in the Republic of Moldova. It must also be stated that the status of permanent neutrality does not envisage the promotion of national interests by keeping the great powers at distance and by treaties, but, on the contrary, that it contributes to ensuring national and regional security by establishing a number of relations, adjusting political and economic interests with the goal of achieving prosperity.⁴

The dilemma of choosing between security and neutrality has been successfully exemplified by J. Beyer and S. Hofmann, who analyse the difficulties faced by Austria, Ireland and Sweden regarding the significance of neutrality resulting from their status of EU member states, or, more precisely, from their security policies and common defence as stipulated in the North Atlantic Treaty Organisation, as well as in the Peace Partnership concluded.⁵ The concept of neutrality continues to complement the foreign

¹ Juc, Victor, *The significance of the national interest in defining strategic foreign policy priorities of the Republic of Moldova*, "Akademos", no. 4 (15), 2009, p. 46.

² *Ibidem*, p. 47

³ Serebrean, Oleg, *Geopolitics Dictionary*, Polirom, Iași, 2006, p. 191.

⁴ Cebotari, Svetlana, *The Republic of Moldova between neutrality and NATO membership status*, in „Postmodern Openings”, 2010, vol. 3, September, Publishing House Lumen, Iași, 2010, p. 90.

⁵ Beyer, L. Jessica; Hofmann, C. Stephanie, *Varieties of neutrality. Norm revision and decline in „Cooperation and Conflict”*, vol. 46, 2011, pp. 285-311.

and security policies of these four neutral members of the EU at different levels. Noteworthy will be explaining the types of neutrality data and their significance in connection with the quality of PSAC member of the EU and of the NATO Peace Partnership. The main focus remains on neutrality as a norm. Understanding neutrality as a norm facilitates the clarification of the way in which neutrality is adjusted to fit national identity, this indicating the interactions between local value systems and international security conditions, as well as the way in which the definition of a norm can be improved to allow the application of the requested political options. To this end, researchers maintain that there are four independent key factors for explaining how and why each state has modified its interpretation of neutrality in the relationship with NATO and PSAC: the reason and the calendar for institutionalising neutrality, the form of institutionalisation, the opinion of police elites and public opinion.

5. Moldova's Neutrality under the Academic Look

In the context of longer negotiations on international level concerning global military-strategic security, but also of the discussions about reforming the Constitution of the Republic of Moldova, an academic debate regarding the neutrality of the Republic of Moldova – against the background of remodelling continental security in a nuclear era, as well as of the attitude of the Moldovan state towards these processes – is shown to be indispensable. Bringing arguments in favour of this aspect, E Țugui underlines the share of national interest in the Republic of Moldova in the actual international situation, which presupposes military neutrality, accompanied by a dignifying attitude, neutral on continental strategic repositioning¹.

Another opinion about the status of neutrality and the option to maintain it further, has been expressed by V. Juc, who came to the conclusion that “the auto-proclaimed status of permanent neutrality has not contributed to an immediate, unconditioned and methodical withdrawal of the Russian military forces stationed in the Eastern part of the country, and, implicitly, did not solve the Trans-Dniester conflict”. The researcher strongly supports the possibility of “opening towards the North Atlantic Alliance”, which

¹ Țugui, Eduard, *Dilemma of Security in the Nuclear Age: The Missile Shield and the Neutrality of the Republic of Moldova*, in the "Philosophy, Sociology and Political Sciences Magazine", no. 3, 2010, p. 91.

will bring more advantages, including the assurance of accelerated European integration, even if tensions and controversial standpoints will emerge"¹.

V. Ungureanu underlines that "the neutral state does not have another security "umbrella" which can ensure protection against various threats, and it must be financially and militarily prepared to ensure its neutrality."² The researcher elucidates the particularities of the permanent neutral state by explaining the security aspect and the interests of other important actors; in his view, "neutrality is an option as long as a state is able to ensure its military security at a reasonable price", but "this is not the case of the Republic of Moldova"³.

With reference to the documents with a strategic character, V. Ungureanu points to the fact that "permanent neutrality, which is mentioned in the Constitution (Art. 11), but also in the concept of national security, generates multidimensional incertitude in the field of security from the political, military and energetic points of view, and may be considered a vulnerability which contributes to the diminishing of national security in the Republic of Moldova"⁴.

The concept has been approached in the context of reshaping the security architecture which impacts the realities of the "nuclear era". E. Țugui mentions that the Republic of Moldova has chosen another solution to ensure security, the solution of neutrality, considered optimal, at least for now, but neutrality does not simply mean an article included in the Constitution. Neutrality, in the expert's opinion, must be guaranteed by international actors, as a consequence of strong and neutral diplomacy, otherwise the situation would become less favourable, and the comparison with the experiences of other states would be futile⁵.

¹ Jucu, Victor, *Opportunities and Alternatives for Strengthening the National Security of the Republic of Moldova*, The Philosophy, Sociology and Political Sciences Magazine", no. 3, 2010, p. 18.

² Ungureanu, Veaceslav, *Reflections on ensuring the national security of the Republic of Moldova*, in the "Philosophy, Sociology and Political Sciences Magazine", no. 3, 2010, p. 52.

³ Ungureanu, Veaceslav, *The geopolitical interests of the Great Powers and their impact on the National Security of the Republic of Moldova*, PhD Thesis in Political Science, Chișinău, 2011, p. 145.

⁴ Ungureanu, Veaceslav, *Opportunities for Strengthening the National Security of the Republic of Moldova in the European Geopolitical Context*, in the "Military Review", no. 2 (8), 2012, pp. 5-17.

⁵ Țugui, Eduard, *The Dilemma of Security in the Nuclear Age: The anti-missile shield and the Neutrality of the Republic of Moldova in the National Security of the Republic of Moldova in the European geopolitical context*. Abstract, ed. P. Varzari, Chisinau, 2010, p. 27.

O. Dorul has also formulated an opinion on the subject of the Republic of Moldova adopting the status of permanent neutrality, in connection with the following: geopolitical realities in the context of the fight for spheres of influence; the poor economic, political and military potential of the Republic of Moldova (considering that, “in order not to become a convergent point of political pressures, adopting the status of neutrality will be the best decision”); the situation of the neighbouring countries; the necessity of the Republic of Moldova to orient its economy towards external markets (with the author mentioning the fact that, on an international level, this status has not been valorised).¹ At the same time, the researcher focuses on the applicability of a number of normative documents on the matter of the status of permanent neutrality of the Republic of Moldova and on ensuring state security, while, with reference to the UN, she tries to elucidate the place and the role of neutrality in the present day universal system of collective security². Moreover, O. Dorul insists on outlining the concept of permanent neutrality of the Republic of Moldova, emphasizing the ambiguity of the formulations in the text on national security concept, and stating that the concept acquires specific features³ in the case of the Republic of Moldova. The status of neutrality is seen as an instrument of achieving foreign state policies, of ensuring national security, but also as the goal of foreign policy, which has an indisputable value for our statehood”.

6. Moldova Neutrality or Approach to NATO?

In the context of national security, there are many issues that the Republic of Moldova is facing. These have been identified by A. Lavric as follows: terrorism, drugs and people trafficking, illegal immigration, unresolved conflicts. The author detects the efficiency of permanent neutrality in preventing the problems mentioned and concludes by saying that “only renouncing the principle of neutrality and intensifying the efforts towards

¹ Long, Oglă, *Measures for the implementation in the National Legal System of the norms of International Law compatible with the status of Permanent Neutrality of the Republic of Moldova in the Implementation of the norms of International Law in the National Legislation of the Republic of Moldova*, red.-coord.: Burian, A; CEP USM, Chisinau, 2011, p. 202.

² Dorul, Olga, *op. cit.*, p. 205.

³ *Ibidem*, p. 213.

tightening the interaction with NATO may contribute to ensuring security to the Republic of Moldova, to solving the conflict in the Dniester region”¹.

The position of the Russian Federation regarding the neutrality of the Republic of Moldova has been multi-faceted, according to the domestic and foreign political conjuncture. Mention must be made here of the fact that, although neutrality is introduced by the Constitution, “this provision seems to be inefficient to Eastern partners, who demand that status of neutrality be secured by means of a special law, offer guarantees that the Republic of Moldova will not slide towards political-military alliances, especially towards NATO”.² It is concluded that the Republic of Moldova must make sure that it can resist the pressures coming from Russia, at least until they sign the Association treaty, and the political class of the Republic of Moldova is forced to deal with these pressures in a rational manner, since “it risks to engage in processes which will harm the internal stability and the process of European integration”³.

Gh. Riciu and S. Cebotari have tackled the subject of neutrality by means of pros and cons to joining NATO or to maintaining the status of neutrality, “which determines an exclusively defensive military policy” and represents “an optimal and real idea of existence and affirmation of the Republic of Moldova as an independent state”⁴. The authors mention that, together with the text on the concept of national security, the neutrality status has also been recommended in the military doctrine of the Republic of Moldova, coming with recommendations on this subject for decision makers”⁵.

The evolution of the concept of neutrality has been examined by V. Mija, who classifies and defines it to identify the model and the politics of neutral states.⁶ The author has contrasted a number of standpoints on the applicability of the concept of neutrality in various periods of time and in various geopolitical contexts. V. Mija has finalised the study by concluding that “the most important reasons and origins of neutrality are the internal, external and traditional ones, together with factors threatening national security”, expressing the conviction that geopolitical realities in global and

¹ Lavric, Aurelian, *The issue of the neutrality of the Republic of Moldova in the context of ensuring its security*, "Studia Securitatis", no. 1, 2012, p. 87.

² Litra, Leonid, *The Neutrality and Sovereignty of Moldova in the Perspective of Russia*, "Foreign Policy Bulletin of Moldova", no. 49, 2012, p. 2.

³ *Ibidem*, p. 3.

⁴ Riciu, Gheorghe; Cebotari, Svetlana, *Dilemma of the Republic of Moldova: Adhere NATO or Maintain the Status of Neutrality*, "Military Magazine", no. 1 (9), 2013, pp. 47-48.

⁵ *Ibidem*, p. 49.

⁶ *Ibidem*, p. 51.

regional contexts “may contribute to changing the perception on the neutrality of these states”¹.

The main tendencies gravitating around a major cleavage – neutrality versus joining NATO – from the perspective of the consequences of the Ukrainian crisis on the Republic of Moldova have been identified by C. Ciurea. The author believes that, “in the present day situation, the idea of neutrality loses more and more of its meaning (...), transforming neutrality into an almost corrupted concept”.² Based on a series of examined realities, C. Ciurea supports the idea that “some actions betray vindictive impulses and reflect a perpetual swing between two extremes: of the security policy of the Republic of Moldova (neutrality and disengagement), on the one hand, and of the will to definitely escape Russian influence, on the other hand”.³ Furthermore, he reiterates the idea that “even when officially recognised, neutrality cannot substitute the security solution, because its compliance depends on the direct need of another major actor. However, more costs are involved in renouncing this concept than in preserving it”⁴.

In a critical way, we refer to the present position of international organisations, but also to their subsequently adopted attitude. This has been highlighted by N. Osmochescu, who expresses his disagreement with the lack of insistence of state institutions towards specialised international organisations, mainly towards NATO, that the status of neutrality be recognised at least by the UN. In addition, the researcher reminds that the answer to the address sent by the Republic of Moldova has been that it does not fulfil the base criteria for a neutral state, and that there are foreign military troops on the territory of the republic⁵.

Within a certain historical context, projected on the systemic-security aspect, the status of neutrality is declared for a determined period, the end of which must coincide with the final settlement of conflicts/crises and with formulating key-priorities in favour of the state which has declared itself neutral, not for regional or global actors. A separate case is represented by the status of neutrality of the Republic of Moldova and, in order to illustrate it more complexly, we agree with V. Mija, who first presents a synthesis of R. Asmus’s statements on the war in Georgia of August 2008, to which he adds the presupposition that “the sooner the

¹ Mija, Valeriu, *The concept of Neutrality in International Relations*, "Moldoscopie (Issues of political analysis)", no. 1 (LXIV), 2014, pp. 109-110.

² *Ibidem*, p. 115.

³ Ciurea, Corneliu, *The crisis in Ukraine and its impact on the security system of the Republic of Moldova*. The Association for Foreign Policy, Chisinau, 2014, p. 2.

⁴ *Ibidem*, p. 16.

⁵ *Ibidem*, p. 18.

Republic of Moldova takes the necessary measures to integrate itself into Euro-Atlantic and European geopolitical institutions, the more certainly the Russian Federation will act against it because, it mostly controls the solving of these sensitive situations or conflicts”¹ (the conflicts in the Southern and Eastern part of the Republic).

Coming back to the status of neutrality declared by small states, and including the Republic of Moldova in the category of states with insufficient strategic resources, what needs to be mentioned is the developments which elucidate the concepts of neutrality by applying the case study to Sweden, Switzerland and Austria², although, in the case of the Republic of Moldova, a different context is valid. The problematics and the dilemma of small states security remains a debated subject in scientific research. Numerous authors concentrate their research on the relations between small states and alliances, more precisely on the causality, modality and the conditions under which some small states engage in alliances, identifying the benefits and the costs of membership to alliances and equality among members. The status of neutrality of some European states in various present day geopolitical situations is approached from the perspective of small states security or, rather, from the perspective of the security interests of smaller states inside alliances. Scientists, practitioners, decision makers and counsellors from various countries have proposed to debate such issues in order to identify inconsistencies and identify solutions, referring to historical, empirical and theoretical subjects, while bringing forth political recommendations for the security domain.

E. Karsh has tackled the inter-relationship between neutrality and international cooperation by researching the experience of European neutral states during the post-war period, advancing not only practical and theoretical considerations, but also emphasising the interface between them. He has debated on the implications of the experiences of these countries to some small states, in general.³ With reference to the neutrality of small states, the study published in 1983 by J-F Flauss, entitled “La neutralité de Malte”, deserves special attention. It describes the concept of neutrality from a judicial standpoint, with reference to a detailed historical-analytical illustration, and supported by samples from confirmative

¹ Barbăroșie, Liliana; Cantîr, Alexandru, *Why and who wants to change the Constitution of the Republic of Moldova? An interview with the International Law Expert, Nicolae Osmochescu*. <http://www.europalibera.org/content/article/26591866.html> (Accessed on: 29.06.2015)

² Mija, Valeriu, *The risks and benefits of the Republic of Moldova's neutrality in the context of cooperation with NATO*. <http://nato.md/riscurile-si-beneficiile-neutralitatii-republicii-moldova-in-contextul-cooperarii-cu-nato/> (Accessed on 06.10.2016)

³ Gaertner, Heinz; Reiter, Erich, *Small States and Alliances*, Springer, Berlin, 2001.

documents. From the very beginning, the author mentions that the institution of neutrality is condemned by the doctrine of third-world-ism, and brings forth a systematization of the criticism formulated against neutrality as a judicial status.¹ Moreover, the researcher has emphasised the consensual nature of Malta's neutrality, has then identified its advantages and disadvantages, opting for resizing the "sources of inspiration" in view of maintaining this status and of drawing up a revision of the functions of neutrality².

Under 'recommendations', Professor N. Osmochescu insists that it is necessary to adopt a special constitutional law regarding the permanent neutrality of the Republic of Moldova, and that the idea of foreign policy should contain a special section entitled "permanent neutrality", clearly stipulating all the rights and obligations of the Republic of Moldova - internally and internationally - arising from the special status of permanent neutrality. The researcher concludes by saying that permanent neutrality may be consecrated by an international treaty, by a legislative or normative internal document, or by both, , the acknowledgement of this status by other states being extremely important.³

An initiative to move from neutrality to post-neutrality arises from the experience of European states. The idea has been debated both by constructivist and rationalist experts. Worth mentioning here is that the ex-neutral states opt for a subsequent reconfiguration of the security policies in reflecting this evolution, thus simultaneously contributing to European and NATO security initiatives and to their own "soft security" experiences. Ch. Agius has defined such an experience, by problematizing this transformation, while examining the discourses derived from certain conjectural interests to facilitate the given change. The reshaping of the forms of cooperation in the field of security, which subsequently will hasten giving up neutrality, may provide a possible solution⁴.

¹ Efraim Karsh, International Cooperation and Neutrality, in „Journal of Peace Research, 1988, vol. 25, p. 65.

² J.-F. Flauss, La neutralite de Malte, in „Annuaire francais de droit international", vol.29, 1983, p. 175.

³ J.-F. Flauss, *op. cit.*, p. 185.

⁴ Christine Agius, Transformed beyond recognition? The politics of post-neutrality, in "Cooperation and Conflict", vol. 46, 2011, p. 394.

7. Conclusion

In conclusion, the status of neutrality of the Republic of Moldova – approached distinctly, but also contrastively – remains primarily indebted to historical, judicial, geopolitical and systemic arguments. The subject of permanent neutrality has been investigated in order to demonstrate the advantages or to criticise the option of maintaining this status, the theoretical approach conceding to the empirical one, which is confirmed not only in the case of the Republic of Moldova. Decision makers are guided exclusively by geopolitical interests, and approaching the dominant paradigm of realism has repeatedly demonstrated the direct relationship between declaring and imposing the status of neutrality in contexts favourable only to major actors.

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