

Submission to Alþingi Inquiry into Resolution 57/149, “Bann við kjarnorkuvopnum”

From Nuclear Weapons Ban Monitor, Norwegian People's Aid

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Introduction

1. The Nuclear Weapons Ban Monitor is an independent research programme established in 2018 by Norwegian People's Aid. It constitutes a *de facto* monitoring regime for the Treaty on Prohibition of Nuclear Weapons (TPNW). We are pleased to make this submission to the Foreign Affairs Committee of the Icelandic Parliament (Alþingi) regarding Resolution 57/149, “Bann við kjarnorkuvopnum” (“Prohibition of nuclear weapons”).

2. Nuclear Weapons Ban Monitor measures progress related to signature, adherence, entry into force, and universalization of the TPNW. It also evaluates the extent to which the policies and practices of all states comply with the core obligations of the TPNW. The Nuclear Weapons Ban Monitor makes objective research and facts available and is thus of utility to both proponents and opponents of the TPNW. The 2018 Nuclear Weapons Ban Monitor report can be accessed on www.banmonitor.org. This short submission is based on some of the key findings of the research so far.

NATO membership and adherence to the TPNW

3. Setting out clear interpretations of each of the core prohibitions in the TPNW, the Nuclear Weapons Ban Monitor has concluded that combining NATO membership and signature and ratification of the TPNW is entirely feasible. The TPNW does not rule out membership in security alliances that include one or more nuclear-armed states, or joint military operations with nuclear-armed states – as long as this does not involve assistance or encouragement of prohibited activities. While the TPNW does not contain an express license to engage in cooperation with states not party to the Treaty, along the lines of the Convention on Cluster Munitions, there is nothing in the TPNW that suggests that such cooperation would be unlawful. The Anti-Personnel Mine Ban Convention, the Biological Weapons Convention, the Chemical Weapons Convention, and various protocols to the Convention on Certain Conventional Weapons similarly do not contain any such express formulations, and have not been interpreted by their parties as preventing membership in alliances with states that do not observe those agreements.

4. As can be seen from the summary below, the Nuclear Weapons Ban Monitor has found that Iceland is already compliant¹ with all of the prohibitions in the TPNW apart from Article 1(1)(e), which prohibits states from assisting, encouraging, or inducing other states to engage in acts prohibited by the Treaty.

¹ The Nuclear Weapons Ban Monitor uses the term “compliance” in a broad sense to refer to the compatibility of all states’ policies and practices with the prohibitions of the TPNW, regardless of whether it has adhered to the TPNW.

This means that Iceland may sign and ratify the TPNW but would have to make changes to its policies and practices to become compliant. The Nuclear Weapons Ban Monitor finds that Iceland's policies and practices do not constitute "assistance", but that they do indeed constitute "encouragement or inducement". Iceland's current non-compliance with 1(1)(e) results from its active endorsement of nuclear deterrence (i.e. possession/stockpiling of nuclear weapons). As mentioned above, there is nothing in the TPNW that rules out membership in military alliances that include one or more nuclear-armed states. The TPNW does, however, prohibit states from encouraging or inducing their nuclear-armed allies to continue to possess, test, or use their nuclear weapons.

ICELAND'S COMPLIANCE WITH ARTICLE 1(1) OF THE TPNW

(a) Develop, test, produce, manufacture, otherwise acquire, possess, or stockpile	Compliant
(b) Transfer to any recipient whatsoever, directly or indirectly	Compliant
(c) Receive the transfer of or control over, directly or indirectly	Compliant
(d) Use or threaten to use	Compliant
(e) Assist, encourage, or induce, in any way, anyone to engage in any prohibited activity	Not compliant
(f) Seek or receive assistance, in any way, from anyone to engage in any prohibited activity	Compliant
(g) Allow any stationing, installation, or deployment in its territory or any place under jurisdiction or control	Compliant

5. NATO's foundational document, the North Atlantic Treaty, does not mention nuclear weapons. However, some of NATO's strategy documents endorse the retention and use of nuclear weapons as elements of the alliance's posture. For example, NATO's "Strategic Concept", a policy document adopted by the member states by consensus, maintains in paragraph 17 that "[d]eterrence, based on an appropriate mix of nuclear and conventional capabilities, remains a core element of our [NATO's] overall strategy." In paragraph 18, the Concept notes that NATO will retain nuclear weapons for as "long as nuclear weapons exist". It is difficult not to read these statements as an "encouragement" of the nuclear-armed allies' continued retention of nuclear weapons. In France, the United Kingdom, and the United States, increased spending on nuclear weapons is frequently justified as a means of "reassuring" allies or meeting "extended deterrence commitments". The language of the Strategic Concept enables such justifications and, by extension, the development and possession of nuclear weapons. Endorsing specific statements in support of the retention or use of nuclear weapons – such as those in paragraphs 17 and 18 of NATO's current Strategic Concept – appears incompatible with Article 1(1)(e) of the TPNW.

6. In order to be compliant with the TPNW, non-nuclear NATO members such as Iceland must disavow any and all possession and use of nuclear weapons on their behalf. This is entirely feasible. First, signing and ratifying the TPNW could be tantamount to a disavowal of any use or possession of nuclear weapons, "overriding" previous endorsement of extended nuclear deterrence. A non-nuclear NATO ally would thus become compliant with the TPNW through the acts of signing and ratifying the Treaty. Second, having signed the TPNW, non-nuclear allies would be obliged to refrain from endorsing future alliance language supporting the retention and use of nuclear weapons. A preferable approach would be for the state in question to allow such documents to be adopted in NATO, but to clearly reject possession or use of nuclear weapons on its behalf, for instance through "footnotes", an interpretive or declaratory statement, or other means of signaling disagreement. NATO members are not obliged to endorse every line of alliance language. There is a long tradition of member states' distancing themselves from specific statements in alliance documents.