



## Neutrality in international law: Formation and development of the concept

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**Abstract.** The purpose of the study was to identify the main stages of development of the concept of neutrality to assess its effectiveness in the 21<sup>st</sup> century. The legal analysis of the Hague Convention of 1907 and the Geneva Convention of 1949, the content analysis of Politico, and the analysis of materials in the Digital Encyclopaedia of European History were used. The results of the study demonstrated that the concept of neutrality was formed in the times of ancient Greece and Rome. However, the rapid development of the concept is associated with the wars of the 18<sup>th</sup> and 19<sup>th</sup> centuries, especially the War of Independence and the American Civil War. In 1780, the League of Armed Neutrality was created, and in 1856, the Treaty of Paris was signed, which codified neutrality as a mechanism for ensuring international security. In the 19<sup>th</sup> century, there were also precedents that cemented the importance of neutrality, such as the Alabama Covenants. In 1907, important international conventions were adopted in the Hague, which emphasised the importance of neutrality and the rights of neutral countries in international conflicts. During the First World War, the concept of neutrality was adhered to by the US government. During the 1930s, the United States adopted legislation that regulated trade and economic relations with belligerent states. In the 21<sup>st</sup> century, the concept of neutrality is losing its relevance. Changes in the geopolitical situation, geographical proximity to Russia, which pursues an aggressive policy and does not respect international law, prompted the governments of Sweden and Finland to abandon the principles of neutrality and join the North Atlantic Alliance. The results of the study can be used to improve the international legal mechanisms governing neutrality and to develop foreign policy strategies of states in the current geopolitical environment

**Keywords:** neutrality; sovereignty; international security; international law; war

### Introduction

Neutrality in international law is an important and complex institution, the content of which has been transformed in accordance with the challenges and threats that have arisen at certain stages of historical development. For a long time, neutrality has played an important role in ensuring the security of states that, in accordance with their own national interests, have refrained from participating in international conflicts. The relevance of the study of the problem of neutrality in the 21<sup>st</sup> century is conditioned by several factors. Modern interstate conflicts are taking on new forms that call into question the effectiveness of neutrality as a

means of ensuring national security. Hybrid wars, which should be considered as a type of escalation of conflicts characteristic of the 21<sup>st</sup> century, combine the use of state and non-state, conventional and unconventional strategies, means and methods of subversive activities, cyber warfare mechanisms to achieve certain military, political and, economic goals. Hybrid wars can also be carried out against states that adhere to the principles of neutrality. In some cases, the state may be drawn into a certain conflict, even when it is not directly involved in a military confrontation. As a result, neutral states, as well as states intending to acquire neutral status,

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face the question of the expediency of observing neutrality as an effective means of ensuring their security.

In the modern world, which is characterised by geopolitical and geo-economic instability, the role of universal (United Nations (UN) and regional (primarily, the Organisation for Security and Co-operation in Europe and the North Atlantic Treaty Organisation (NATO)) in maintaining international peace and security is also changing. This, in turn, requires a review of the role and significance of neutrality in this activity. Russia's extremely aggressive policy, which for the first time since the Second World War unleashed a full-fledged war in the centre of Europe, threatening not only Ukraine, but even the leading NATO member states with nuclear weapons, poses a serious security risk to neutral European countries (Moldova, Finland, Sweden).

M. Abbenhuis & I. Tames (2021), studying the specific features of the neutrality policy of the First World War, concludes that until 1917, none of the neutral countries could avoid questions about how neutral countries would participate in international relations after the end of the war. K. Livingston (2024), based on a study of the neutrality policy conducted by the US government during the Second World War, concludes that this policy was relevant during 1939-1940, after which the United States began to adhere to the so-called "qualified neutrality", which allowed providing assistance to states that were victims of German aggression. R. Allison (2022) evaluates the effectiveness of the neutrality policies of Austria and Finland during the Cold War, as well as Moldova and Finland in the 21<sup>st</sup> century. Special attention is paid to the consequences for the concept of neutrality of Russian aggression against Ukraine. As a result, the researcher comes to the conclusion, although the author of the present study cannot agree with it, that if the military and political ambitions of the Russian government are contained, neutrality can be considered as a means of resolving the Russian-Ukrainian conflict.

The features of the concept of neutrality were the subject of research by A.P. Hetman & I.V. Yakovyuk (2020). Thus, researchers pay attention to the more benevolent neutrality of Sweden and Denmark towards Germany, and Norway's neutrality was more focused on Great Britain in 1914. The study by S. Radojević *et al.* (2023) argues that neutrality does not imply a complete abandonment of a country's own armed forces. Thus, Switzerland adheres to the policy of armed neutrality, aspects of which are also implemented by Austria. It is necessary to agree with the opinion of researchers who believe that regardless of changes in international relations, investment in defence and security is essential to ensure the sustainability of neutral states. I. Mudriievska (2023) points to the fact that after prolonged fluctuations, the Swiss government, which has been neutral for almost 500 years, eventually joined the economic sanctions against Russia imposed for its military aggression against Ukraine. J. Heibach (2024)

draws attention to the fact that some governments are actually pursuing a policy of neutrality in the context of a full-scale Russian invasion of Ukraine. For example, Saudi Arabia, whose government, on the one hand, publicly condemned Russian aggression as contrary to the principles and norms of international law, and on the other – refused to join the anti-Russian economic sanctions. Such a dual position, according to the official Riyadh, is conditioned by the national interests of the state.

R. Zajęcki *et al.* (2020) draws attention to the fact that the policy of neutrality can have a positive impact on attracting investment to the state. The phenomenon of neutrality affects the activities of international organisations in a certain way. B. Ucaray-Mangitli (2021) points to the fact that depoliticisation in the activities of international organisations supports their daily activities. I.V. Yakovyuk & E.M. Bilousov (2022), based on an analysis of the positions of modern politicians and researchers, conclude that in recent years, the policy of neutrality as a means of ensuring effective security is rapidly losing its supporters. This conclusion is supported by the position of the governments of Sweden and Finland, which abandoned the traditional policy of neutrality in favour of collective security mechanisms within NATO. Based on the above, the purpose of the study was to consider the development of the concept of neutrality as a means of maintaining national security.

## Materials and methods

In the course of the research, the author used materials from the online platform The Diplomacy, Law, and Policy Forum (Nasu, 2022). To investigate the content of the concept of neutrality of the Middle Ages, an analysis of materials from the Digital Encyclopaedia of European History (Schnakenbourg, 2024) was conducted. Information about the League of Armed Neutrality was collected and analysed from the websites of American Foreign Relations and the Oxford Reference (Armed Neutralities..., 2024; League of Armed Neutrality, 2024). The above-mentioned resources were used to reveal the features of neutrality in the 19<sup>th</sup> century (Treaty of Paris, 1856; Neutrality – The nineteenth century, 2024). The subject of careful analysis was the Declaration Respecting Maritime Law (1856) prior to the Treaty of Paris of 1856. The evolution of the concept of neutrality in the 19<sup>th</sup> century was studied using materials from the Emerging Civil War resource (Chate-lain, 2022) and The Office of the Historian website (The Alabama Claims, 1862-1872, 2024). Materials from official government websites were used to reveal the specifics of Switzerland's neutrality (Politics and History of Switzerland..., 2024).

As part of the study of the development of the concept of neutrality in the 20<sup>th</sup> century, a significant array of acts of international law was processed (Hague Convention (V) Respecting the Rights..., 1907; Convention (XIII) concerning..., 1907; Convention (I) for the

Amelioration of..., 1949; Convention (II) for the Amelioration of..., 1949; Convention (III) relative..., 1949; Convention (IV) relative..., 1949; Geneva Conventions, 1949), and blogue materials from the Peace Research Institute Frankfurt (de Vries, 2022). The subject of the study was also the ratification of the Convention (V) respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land (1907). In the context of the development of neutrality in the United States, materials from the web portal Digital History and American Foreign Relations (Declaration of Neutrality, 1914; Neutrality Acts of 1930s, 2024; Neutrality – the twentieth century, 2024) and materials from the Office of the Historian (Sama, 2024) were analysed.

Investigating the development of the concept of neutrality in the 21<sup>st</sup> century, the materials presented in the Diplomacy, Law, and Policy Forum were considered. In the context of new challenges and threats, a case study was conducted on the Charter of the United Nations and Statute of the International Court of Justice (1945). A content analysis of the non-partisan organisation Politico (Shkolnikova, 2024) was also used. In addition, in the context of drastic geopolitical changes, changes in the approach to neutrality of some European governments were investigated (NATO member countries, 2024). In addition to the above, a publication from the Federal Department of Foreign Affairs (FDFA) of Switzerland on neutrality was investigated. A publication by Babel further explored aspects of the development of neutrality in Switzerland.

The synthesis method was used to integrate findings from different sources, forming a coherent picture of the evolution of the concept of neutrality. The combination of historical, legal and political perspectives helped to bridge the gaps between different interpretations of neutrality in the Middle Ages, 19<sup>th</sup> and 20<sup>th</sup> centuries and modern days. The method of generalisation helped to draw conclusions about the applicability of the principles of neutrality in modern conflicts, including in cyberspace and outer space. The method of systematisation was crucial for organising and structuring the large number of legal documents, academic sources and case studies considered in the study.

## Results and Discussion

### Development of the concept of neutrality before and during the 19<sup>th</sup> century

The concept of neutrality has its roots in antiquity (Nasu, 2022). E. Corse & M. Cabrera (2023), and U. Serçe (2022) note that the concept of neutrality was not something new even in the time of ancient Greece. The concept was based on the idea that individual states can refrain from participating in military conflicts, and therefore not assume obligations of the parties conducting military operations among themselves. Initially and until the late Middle Ages, the concept of neutrality was not used in a political context.

The situation began to change due to the establishment of the concept of sovereignty (Reginbogin & Lottaz, 2020). International tension, which became a defining feature of the US War of Independence (1775-1783), led to the adoption of the Declaration on the Creation of the First League of Armed Neutrality of naval powers consisting of Austria, Denmark, the Kingdom of both Sicilies, Portugal, Prussia, the Russian and Ottoman empires, and Sweden (1780-1783) (League of Armed Neutrality, 2024). The fact is that the actions of the British Navy regarding the unlimited search for neutral vessels to search for French contraband during the US War of Independence and the Anglo-French War, in contrast to the actions of the American side, repeatedly gave rise to complaints from the Dutch, Danes, Norwegians, Prussians, and Swedes. The creation of the league involved combining the ships of the participating states into convoys and declaring that their cargo was not contraband. Members of the league did not participate in the war, but threatened to jointly avenge each of their ships searched by the warring party.

The league defined new principles of navigation of ships of neutral states, namely: the right of neutral states to trade with warring countries; the preservation of neutral navigation along the coasts of warring countries; the property of subjects on neutral ships had to be free, except in cases where it was classified as smuggling in the sense of the Anglo-Russian Treaty of 1766; military smuggling is recognised as cargo intended directly for conducting military operations (weapons, ammunition); ports are considered blocked if the aggressor state stopped its ships and made access to the port unsafe (Armed Neutralities..., 2024). The United States of America, Spain, and France, which were at war with Britain, declared their commitment to the new principle of free neutral trade, while the British ignored it. Armed neutrality, created within the framework of the league, was the first organised attempt by neutral states to ensure freedom of navigation on the high seas.

The principles of military neutrality developed by the First League were expanded and supplemented during the conclusion of the Russo-Prussian treaty (1800) on the establishment of the Second League or League of the North with the participation of Denmark-Norway, Prussia, Sweden, and Russia (1800-1801). The creation of the second league was also aimed at protecting neutral navigation during military operations. The analysis of the activities of both leagues gives grounds to conclude that armed neutrality in international law in the late 18<sup>th</sup> and early 19<sup>th</sup> centuries meant the declared readiness of a neutral state or group of neutral states to protect their maritime trade from warring states by means of armed force, primarily by escorting neutral merchant ships with warships (Van der Burg, 2021).

One of the sources of neutrality law is customary international law (Nasu, 2020). However, customary law is an unwritten set of certain rules of conduct that,

although necessary to comply with, are not an officially approved pattern of behaviour of governments or other subjects of international law. One of the first attempts to codify certain aspects of the principle of neutrality was made in the Treaty of Paris (1856) and Declaration Respecting Maritime Law (1856), signed as a result of the Crimean War. The treaty was aimed at ensuring the neutrality of the Black Sea, so that its waters were open to merchant ships of any states and simultaneously closed to warships. The treaty stated that a certain uncertainty of the law and obligations during periods of war in the context of the law of the sea can lead to disagreements between neutral and belligerent parties, which can lead to additional conflict situations. The Treaty of Paris had a positive impact on the development of the concept of neutrality (Neff, 2022). The Treaty of Paris had a positive impact on the outcome of the American Civil War, although neither the South nor the North were parties to it (Chatelain, 2022). Therewith, A. Mahmutovic (2023) points out some shortcomings of the Paris Treaty, such as the lack of obligations of neutral parties and the existence of only their rights.

The American Civil War (1861-1865) shook the American government's position on neutrality. The fact is that the Confederation was not declared war, and therefore was not granted the status of a belligerent party (Neutrality – the nineteenth century, 2024). Administration of the president of the United States A. Lincoln viewed its military operations as aimed at suppressing insubordination on the part of the rebels through the use of police means. In view of this, decision by A. Lincoln to blockade of Confederate ports in April 1861 was an exclusively domestic political decision. Despite this, in May 1861, the government of the British Empire declared its status as a neutral party. This, in turn, meant that the Confederation was actually recognised as a belligerent party. As a result, the blockade by the Confederation Ports by the Union will continue to be considered by official London in accordance with the norms and customs of international law (Schnakenbourg, 2024).

During the American Civil War, a number of precedents were set that influenced the development of international law and the concept of neutrality. This refers primarily to the Alabama Claims (1862-1872) – a diplomatic dispute between the governments of the United States and Britain in the context of the Civil War. The reason for the conflict is the conclusion by the Confederation of an agreement with a British shipbuilding company to build warships disguised as merchant ships in order to circumvent the laws of Britain, which declared its neutrality in relation to the American Civil War. One of the most successful vessels was the cruiser Alabama, launched in 1862, which captured 58 northern merchant ships before being sunk in 1864. In addition to Alabama, British shipyards built the cruisers Florida, Georgia, Rappahannock, and Shenandoah for

the Confederate Navy, which together sank more than 150 northern ships and forced much of the U.S. merchant fleet to adopt a foreign registry. This situation provoked a strong reaction from American officials, who raised the issue of London paying compensation for non-compliance with neutrality and assistance in building a fleet for the Confederacy (Slinger, 2023; The Alabama Claims, 1862-1872, 2024).

As for the neutrality of other states, in 1815, during the work of the Congress of Vienna, 4 documents were signed (Act of the Congress of Vienna, appendices to Act of the Congress of Vienna no. 90, Declaration of States on the Affairs of the Helvetic Union, and the Act on the Recognition and Guarantee of the Permanent Neutrality of Switzerland and the Inviolability of its Territory), which created the legal framework for the recognition and implementation of the neutrality of Switzerland, which became the core of foreign policy, prohibiting state intervention in any armed conflicts and joining military-political alliances (Politics and History of Switzerland..., 2024). However, Switzerland took the first steps towards neutrality back in the 16<sup>th</sup> century, when Confederate forces were defeated at the Battle of Marignano (1515) and the following year signed an eternal peace with France, which forced the Confederation to permanently abandon the idea of territorial expansion. However, the end of aggressive wars, according to T.Q. Marabello (2023), did not yet mean the transformation of the state into a neutral one. In fact, the Westphalian peace treaty was an important milestone in the process of turning Switzerland into a permanently neutral state. For the first time in the international arena, Switzerland acted as a neutral state in connection with the post-war settlement of the consequences of the war of the Spanish succession. It was at this stage of state and legal development that the accumulated domestic and foreign policy experience was transformed into a single national concept of neutrality.

Thus, the idea of neutrality was known long before it was fixed in the norms of international law. The original forms of mutual non-interference, which were rather customary in nature, gradually developed into more precise forms, especially in the modern era. Conflicts between European powers in the 18<sup>th</sup> and 19<sup>th</sup> centuries, which led to the creation of the First and Second Armed Neutrality Leagues, contributed to the recognition of neutrality as a way of ensuring national security both at the level of individual governments and the international community. The precedents of the American Civil War have shown the difficulty of observing neutrality by individual states, and demonstrated the harmful consequences of violating it.

### **Development of the concept of neutrality in the 20<sup>th</sup> century**

Favourable conditions for further development of the concept of neutrality developed in the 20<sup>th</sup> century.

During the Hague Conference, initiated by the United States in 1907, the codification of international law (two conventions were signed) regulating relations of sovereignty was carried out. The Hague Convention (V) Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land (1907). According to the provisions of the Convention, the territory of neutral states is recognised as inviolable, and therefore, the belligerents may not use them for their own purposes (movement of personnel or ammunition, creation or use of military facilities in the interests of the belligerents). Neutral states were obliged to respect equal

treatment of all parties to the conflict; in addition, they were recognised as having the right to repel attempts on their neutrality, even with the help of armed forces, which did not qualify as a hostile action. The final provisions of the convention emphasised that its rules should be applied only when all belligerents were parties to it, and that it should be ratified as soon as possible (Table 1). The Hague Convention was the first international treaty to regulate neutrality. Although the convention was signed by leading European countries, some of them, unfortunately, did not ratify it (Convention (V) Respecting the Rights..., 1907).

**Table 1.** Signatures and ratifications of the Convention on the Rights and Responsibilities of Neutral States and Persons in Case of War on Land

| Country        | Signature | Ratification |
|----------------|-----------|--------------|
| Finland        | -         | 1918         |
| France         | 1907      | 1910         |
| Germany        | 1907      | 1909         |
| Italy          | 1907      | -            |
| Switzerland    | 1907      | 2010         |
| Sweden         | 1907      | 1909         |
| Spain          | 1907      | 1913         |
| United Kingdom | 1907      | -            |

**Source:** created by the author based on Convention (V) respecting... (1907)

The second codified Act adopted at the conference was the Convention concerning the Rights and Duties of States in Naval War, which defined the position of military vessels of belligerent states in the ports of neutral countries (Convention (XIII) concerning..., 1907; Schmid, 2024). Article 6 of the Convention prohibited the supply of ammunition and any military goods by a neutral state to belligerent states. This Article, although it regulates relations in the event of a naval war, has become a generally accepted norm of international law and has had a positive impact on the development of the concept of neutrality in the 20<sup>th</sup> century (de Vries, 2022).

The First World War was a serious test of the concept of neutrality. President W. Wilson declared U.S. neutrality in military conflict (Declaration of Neutrality, 1914). In his address to Congress, the president expressed concern about the possible violation of neutrality and stressed the need to respect the spirit of impartiality, justice, and friendliness towards all participants in the war (Neutrality – The twentieth century, 2024). Wilson's Declaration demonstrated a commitment to the isolationist tradition of the United States, which provided for the rejection of permanent political alliances with European states and non-interference in European affairs.

The US administration's departure from the policy of neutrality was conditioned by the deepening of the conflict between the United States and Germany, whose government was dissatisfied with supplies to England across the Atlantic, and therefore, decided to declare certain waters around the island a war zone.

In the future, Germany threatened to sink even neutral ships in the designated zone. A landmark event was the sinking of the British liner *Lusitania*, which killed almost 1,200 people, of whom 128 were Americans. This prompted the American government to declare war in April 1917 (Sama, 2024). According to S. Byas (2024), the sinking of *Lusitania* was just an excuse to abandon neutrality. Maintaining neutrality in the context of the Second World War was contrary to the national interests of the United States. In turn, E.D. Tillman (2022) notes that although the U.S. government declared its neutrality in 1914, it has become increasingly interventionist over time to strengthen U.S. trade opportunities in the Caribbean. In this regard, it should be noted that the claim that the principle of neutrality has changed and allows neutral states to discriminate in favour of victims of aggression dates back to the period after the First World War (Clancy, 2023).

The implementation of the concept of neutrality in the United States peaked in the 1930s (Neutrality Acts of 1930s, 2024). The first Neutrality Act was published in 1935. Its provisions imposed a general embargo on the trade in weapons and other military materials with all warring parties. The law also stated that American citizens travelling on ships of warring parties do so at their own risk. The provisions of the law were first applied in 1935 during the war between Italy and Ethiopia. The next Neutrality Act was passed in 1936. Its provisions supplemented the previous law and extended it for another 14 months; in addition, a ban on loans and credits for warring countries was established.

The disadvantage of these laws was that they did not apply to cases of civil war. That is why during the Spanish Civil War (1936-1939), American companies freely sold trucks and oil on credit to Spain. During the Second World War, oil supplies to Spain continued, although there was speculation that this oil was transported further to the Reich.

R. Seltzer (2022) draws attention to the fact that only 19% of Americans wanted changes to the neutrality legislation to allow the supply of weapons to loyalists in Spain. Despite this, in 1937, the Neutrality Act was passed, which did not have a final validity period, and its provisions extended to civil wars (Neutrality Acts of 1930s, 2024). U.S. ships were prohibited from carrying both passengers and goods for warring parties. However, the law contained a provision according to which the president could allow the sale of goods to warring countries in Europe, provided that they organised logistics and paid for the goods in cash. According to the president's entourage, the United States in this case will not be directly involved in a military conflict. However, Japan's invasion of China did not leave the US Congress aside, as isolationists began to argue that the spirit of legality was beginning to erode. In the autumn of 1937, the appeal of T. Roosevelt announced the transition from neutrality to "quarantine" of all aggressors and also imposed an embargo on the supply of American aircraft to the Japanese Air Force.

A radical change in the position of the US government on the issue of neutrality occurred with the beginning of the German invasion of Czechoslovakia, Poland, and the declaration of war between Great Britain and France. In a speech to Congress, President F.D. Roosevelt said that a policy of neutrality could lead to passive assistance to the aggressor (Patel, 2020). Accordingly, the Neutrality Act adopted in the fall of 1939 lifted the embargo on the supply of weapons and other military materials to the countries of the anti-Hitler coalition. The next step was the adoption of the Lend-Lease Act in March 1941 to lease and provide military materials to those parties to military conflict that the US government would like to help (Neutrality Acts of 1930s, 2024).

The next stage in the development of the concept of neutrality was made after the end of the Second World War, when four Geneva Conventions were signed in 1949: Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949); Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (1949); Convention (III) relative to the Treatment of Prisoners of War (1949); Convention (IV) relative to the Protection of Civil Persons in Time of War (1949). The Protocol Additional to the Geneva Conventions (1977) was published on the protection of victims of international armed conflicts. This was a clear confirmation of the continued codification of international law on the issue of neutrality.

### **Difficulties in implementing the concept of neutrality in the 21<sup>st</sup> century**

The new century has brought significant developments in information and communication technologies, and with-it innovations in international conflicts. As aspects of conflict evolved, the concept of neutrality could be criticised due to the existence of a new concept of cyberspace and aspects of non-international military conflicts. Cyberspace is a mechanism that can create problems for the concept of neutrality. This may be in view of the fact that from time to time there is a need to ensure the best possible observance of neutrality aspects when it comes to the cyber infrastructure of a neutral state. In this context, the location of physical devices such as computers or servers is unimportant, since cyberspace has an intangible structure, and therefore, aspects of the previously studied Hague Conventions are not always applicable in the 21<sup>st</sup> century. A belligerent party can carry out malicious cyber-attacks in such a way that its guilt will not be proven, since cyber activity will be directed through the servers of another, neutral state. In this context, Article 8 of the Hague Convention (1907) is important, which states that a neutral state is not obliged to restrict the use on behalf of belligerents of telegraph or telephone cables or wireless telegraph machines owned by it or companies or individuals. Aspects of cyber threats in the context of neutrality policies are being raised by N. Neuman (2021). The researcher came to the conclusion that in the modern world it is extremely difficult to apply neutrality rights to cyberspace, since there are no relevant international legal provisions and state practice.

It should be accepted that the provisions of the conventions of the early 20<sup>th</sup> century were intended to codify the behaviour of states in international military conflicts. However, in the 21<sup>st</sup> century, such a form as non-international military conflict has become widespread. In addition, in the 21<sup>st</sup> century, there are non-governmental military groups whose assistance may mean direct intervention and departure from neutrality, but it is necessary to fully understand whether providing economic assistance to such groups will be considered acts of departure from neutrality. Against this background, there are some contradictions. For example, if one state provides only humanitarian support to another, but these resources are unfairly distributed, should the helping state stop sending humanitarian aid, because it actually becomes a party helping one of the parties to the conflict. All this gives relevance and practical significance to the issue of revising the norms and principles of previously adopted conventions. Given the complexity of the geopolitical situation in the 21<sup>st</sup> century, as evidenced by the Russian aggression against Ukraine, the aggravation of relations between the US and Chinese governments, the implementation of nuclear programmes by the Democratic People's Republic of Korea and Iran, it is necessary to recognise the growing threat of a nuclear war.

In the mid-1990s, the International Court of Justice held discussions on the threat of the use of nuclear weapons (Legality of the..., 2024), the conclusions of which remain relevant today. In particular, the decisions of the International Court of Justice did not define the scope of neutrality in the case of the use of nuclear weapons. This is conditioned by the very nature of such weapons, since the consequences of their use will obviously go beyond their primary use, and therefore, the very concept of neutrality loses its meaning. The use of nuclear weapons will also have a negative effect in the event of a “nuclear winter”, deterioration of the quality of soil and groundwater, and the environment as a whole. This gives grounds to recognise radioactive fallout along with nuclear weapons as a means of warfare. This means that any indirect damage caused that was not intended for a neutral state indicates a gross violation of the state’s status as a neutral, as noted by I. Mingashang & C.T. Banungana (2024).

Important from the standpoint of implementing the concept of neutrality in the 21<sup>st</sup> century is also outer space, which is considered “rescommunismum”, that is, the property of all mankind. This means that since the right of neutrality applies exclusively to sovereign territories, it cannot be applied to outer space. However, when it comes to space objects that a sovereign state can use for its own purposes, they are recognised as the territory of the state, the sovereignty over which must be respected by other states. This statement comes not even from the right of neutrality, but from the Charter of the United Nations (1945). Only if the belligerent uses certain neutral space objects to perform certain military purposes, the other party will have the right to destroy such objects without fear of violating the principles of neutrality. In addition to the above, it should be noted that the laws of neutrality also prohibit the launch of any military facilities from the territory of a neutral state, since this would violate the content of the concept of neutrality. Transit of aircraft, unmanned aerial vehicles, or missiles through the territory of a neutral state is also added to this list (Shkolnikova, 2024).

The concept of neutrality has been the core of the foreign and security policies pursued by the governments of Sweden and Finland for a long time. However, the changing geopolitical situation, in particular Russia’s large-scale invasion of Ukraine, has forced the governments of these countries to abandon neutrality in favour of collective security mechanisms, as noted by A.B. Kaynak (2023). During 2022, the governments of Sweden and Finland applied for membership in NATO, and in 2023-2024, both countries became its full members (NATO member countries, 2024).

In the 21<sup>st</sup> century, approaches to implementing neutrality have also evolved in Switzerland. During the Iraq War (2003-2011), Switzerland invoked neutrality laws, since the invasion of the Armed Forces of the international coalition led by the Armed Forces of the

United States of America and Great Britain was carried out without obtaining an official mandate from the UN Security Council. Accordingly, coalition warplanes were not allowed to fly over Swiss territory, and the government banned any export of military goods to states that were involved in the conflict. However, the Swiss government has allowed flights over its territory for humanitarian and medical purposes. The Swiss government took a similar position during the military intervention against Yugoslavia in 1999, according to M. Rodriguez (2022). After Russia’s annexation of the Crimean Peninsula, the Swiss government focused its efforts on making it impossible for the Russian government to use its territory to circumvent the sanctions that were imposed on it. After another Russian aggression against Ukraine in 2022, the Swiss government decided to apply sanctions against Russia, with regard to both its neutrality status and national interests. T. Greminger & J.-M. Rickli (2023) point to the fact that after Russia’s full-scale invasion of Ukraine, support for neutrality fell in Switzerland for the first time in 20 years, which indicates a more critical perception of the concept and openness to international cooperation.

In summary, the implementation of neutrality in the 21<sup>st</sup> century faces significant challenges due to the evolution of conflict dynamics, particularly in cyberspace, non-international military conflicts, and nuclear threats. Traditional legal frameworks, such as the Hague Conventions, struggle to address modern complexities, necessitating a reassessment of neutrality norms. Additionally, geopolitical shifts have prompted historically neutral states like Sweden, Finland, and Switzerland to reconsider their stance in favor of collective security. The evolving nature of warfare, including cyberattacks and space militarization, further complicates the application of neutrality, highlighting the need for updated international legal provisions.

## Conclusions

Historical and legal analysis showed that the concept of neutrality has gone through a long path of its own development, starting from the use of customary norms in ancient Greece and Rome to the codification of international law in the 19<sup>th</sup> and 20<sup>th</sup> centuries. The relevance and practical significance of neutrality began to grow in the Middle Ages, but the concept became most popular after the establishment of sovereignty as an indispensable attribute of state power. One of the key stages in the process of formation and development of the concept was the creation of the first and second leagues of armed neutrality, and the codification of international legal norms of neutrality. The Civil War in the United States and related events, in turn, developed the provisions of the concept of neutrality and showed the importance of their compliance.

The 20<sup>th</sup> century was marked, on the one hand, by the continuation of the process of codification of

international legal norms in the field of neutrality, and on the other – by the spread of doubts about the effectiveness of the status of a neutral state for ensuring security. In the 21<sup>st</sup> century, the concept of neutrality faces the greatest challenges in its history. This is conditioned by the emergence of new challenges and threats in the context of the existence of cyberspace and the presence of non-international armed conflicts. The effectiveness of neutrality is increasingly being questioned, firstly, because of the growing role of outer space and the threats of the use of nuclear weapons, the consequences of which can affect both the object of influence and neutral countries through radioactive fallout, and, secondly, because of Russia's implementation of a neo-imperial aggressive foreign policy.

The rejection of the neutrality policy by Sweden and Finland indicates the emergence of a tendency for neutral states to abandon their status in favour of using collective security mechanisms. Future research on the topic may be based on the medium-term consequences of the withdrawal of the governments of Sweden and Finland from neutrality, and the dynamics of changes in public sentiment in Switzerland due to Russia's full-scale invasion of Ukraine.

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### Conflict of interest

The author declare no conflict of interest.

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## Нейтралітет в міжнародному праві: становлення та розвиток концепції

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**Анотація.** Метою дослідження було визначити основні етапи розвитку концепції нейтралітету для оцінки її ефективності у 21 столітті. Було використано правовий аналіз Гаазької конвенції 1907 року та Женевської конвенції 1949 року, контент-аналіз видання Politico, а також аналіз матеріалів Цифрової енциклопедії європейської історії. Результати дослідження показали, що концепція нейтралітету була сформована ще за часів Стародавньої Греції та Риму. Однак стрімкий розвиток концепції пов'язаний з війнами 18-19 століть, особливо з Війною за незалежність та Громадянською війною в США. У 1780 році була створена Ліга збройного нейтралітету, а в 1856 році був підписаний Паризький договір, який кодифікував нейтралітет як механізм забезпечення міжнародної безпеки. У 19 столітті також були прецеденти, які закріпили важливість нейтралітету, такі як Алабамські пакти. У 1907 році в Гаазі були прийняті важливі міжнародні конвенції, які підкреслили важливість нейтралітету і прав нейтральних країн у міжнародних конфліктах. Під час Першої світової війни концепції нейтралітету дотримувався уряд США. У 1930-х роках Сполучені Штати прийняли законодавство, яке регулювало торговельно-економічні відносини з воюючими державами. У 21 столітті концепція нейтралітету втрачає свою актуальність. Зміна геополітичної ситуації, географічна близькість до Росії, яка проводить агресивну політику і не поважає міжнародне право, спонукали уряди Швеції та Фінляндії відмовитися від принципів нейтралітету і приєднатися до Північноатлантичного альянсу. Результати дослідження можуть бути використані для вдосконалення міжнародно-правових механізмів, що регулюють нейтралітет, та для розробки стратегій зовнішньої політики держав у сучасних геополітичних умовах

**Ключові слова:** нейтралітет; суверенітет; міжнародна безпека; міжнародне право; війна