

Europe and the Nuclear Ban Treaty

The nuclear ban treaty's entry into force gives its advocates in parliaments and civil society momentum to increase pressure on nuclear-armed states and their military allies. This is notably the case in Europe, where the treaty's impact on longstanding positions could affect nuclear disarmament efforts on a global scale.

By Névine Schepers

On 22 January 2021, the Treaty on the Prohibition of Nuclear Weapons (TPNW, or the nuclear ban treaty) entered into force. The TPNW's main prohibitions, which only apply to its members, include a ban on the development, testing, production, possession, transfer, use of, or threat to use nuclear weapons. The latter points in part to deterrence doctrines, which rely on the credible threat of nuclear retaliation – a policy that the TPNW wants to delegitimize. The treaty also seeks to emphasize the inhumane nature of nuclear weapons as well as the catastrophic human and environmental consequences their use would have.

The TPNW was born out of discontent with what most non-nuclear weapon states perceive as a slow pace of nuclear disarmament. Although stockpiles have significantly declined since the height of the Cold War, most nuclear-armed states are in the process of modernizing their nuclear programs, envisioning the retention, diversification, and improvement of nuclear arsenals for decades ahead. Moreover, the breakdown of arms control treaties and the growing salience of nuclear weapons in doctrines have increased the risk of nuclear weapon use. While nuclear disarmament is one of three “pillars” of the near universal Nuclear Non-Proliferation Treaty (NPT) alongside non-proliferation and peaceful uses of nuclear energy, many non-nuclear-



Setsuko Thurlow, ICAN campaigner and Hiroshima survivor, speaks at the Nobel Peace Prize ceremony in Oslo, Norway on 10 December, 2017. NTB Scanpix / Terje Bendiksby via Reuters

weapon states saw the need to take a step further and create an instrument that explicitly bans nuclear weapons.

As of May 2021, 86 states have signed the TPNW and 54 have ratified it. States parties are mainly from Africa, South and Central America, Central Asia, South East Asia, and the Pacific. Neither nuclear-armed states, recognized by the NPT

(China, France, Russia, the UK, and the US) or outside its framework (India, Israel, North Korea, and Pakistan), nor US allies whose security depends on extended deterrence (NATO members, Japan, South Korea, and Australia) have joined the treaty. As nuclear-armed states are unlikely to join, ban treaty proponents are focusing their efforts on US military allies. In this endeavor, proponents can capitalize on ex-

isting forms of popular support against nuclear weapons, present at various levels among left-leaning political parties, members of parliament, local governments, and civil society.

In Europe, this pressure could become more acute and divisive. Between nuclear-armed states, TPNW states parties, neutral and non-aligned states, and NATO allies, including those hosting US nuclear weapons on their soil, Europe's nuclear landscape is a diverse and difficult one to navigate. The TPNW has added fresh fuel to a fire which burns at different degrees of intensity across Europe, nourished by anti-nuclear activism, humanitarian diplomatic traditions, and increasing disillusion with the breakdown of arms control and disarmament policies. Examining how the TPNW will affect the nature of the debate between deterrence and disarmament communities in Europe can serve as a testing ground for how the TPNW will impact global disarmament efforts more broadly and whether it can truly advance its goals. Promoting a constructive dialogue that addresses the underlying discontent with disarmament policies so far as

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well as the security reasons behind continued extended deterrence would be a first step in the right direction.

A Polarizing Treaty

From the early phases of the TPNW's inception (see textbox) to its entry into force, the treaty has been polarizing in disarmament debates. For its proponents, the TPNW moves well beyond the NPT in highlighting the risks to international security posed by continued nuclear weapon possession and reliance on nuclear deterrence. By delegitimizing nuclear weapons and the doctrines that uphold them, the TPNW sets abolition as the standard rather than as an aspirational goal, and creates a legal and political norm against their possession and use.

With this norm now enshrined in international law, ban treaty supporters believe it can serve as a basis to stigmatize all nuclear weapon-related activities, including the financial tools that support them. The prominent role played by civil society organiza-

The Origins of the TPNW

The TPNW follows a **tradition of humanitarian arms control and disarmament initiatives**, which place the emphasis on protecting civilians, communities, and the environment. It also focuses on the human suffering caused by nuclear weapons, bringing to the front victims of nuclear use and testing. This is widely reflected in the treaty's preamble and Article 6, which outline positive obligations related to victim assistance and environmental remediation.

The treaty was **negotiated in 2017** through a series of conferences mandated by the UN General Assembly. 124 nations took part in the negotiations, including Switzerland, but no nuclear-armed states were involved and the Netherlands was the only NATO state to take part, eventually being the only state to vote against the treaty's adoption. Proponents of the TPNW view the treaty as **filling a "legal gap"**, fully banning nuclear weapons in the same way chemical and biological weapons are banned through the Chemical Weapons Convention and Biological Weapons Convention respectively.

tions such as the International Campaign to Abolish Nuclear Weapons (ICAN), which won the 2017 Nobel Peace Prize for its work on the TPNW, in negotiating and promoting the treaty also reflects its objective to place people and communities at the center of disarmament efforts rather than focusing solely on states.

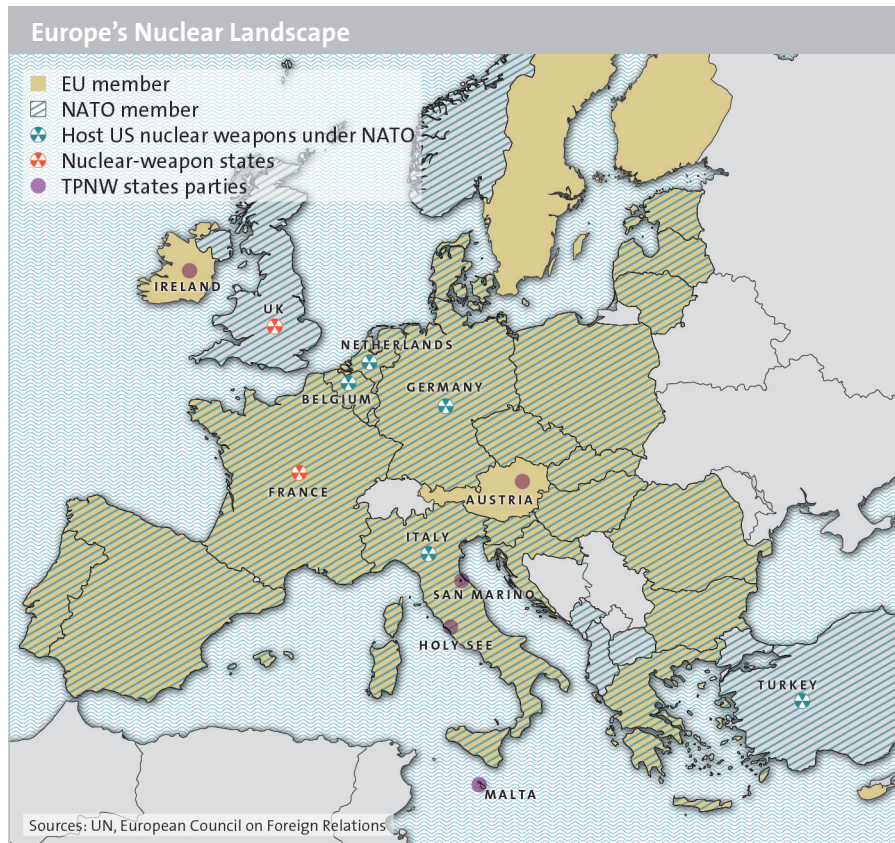
The treaty's goal of a world free of nuclear weapons is unobjectionable. However, its opponents outline a number of reasons why its methods are unfeasible and unrealistic. First, while TPNW supporters believe nuclear weapons generate instability, critics highlight the security dynamics driving deterrence policies and reliance on nuclear weapons. In the last decade, the international security environment has worsened, making it more difficult to pursue a nuclear disarmament agenda. A related issue, which critics especially in Europe point to, is the heightened focus of TPNW advocates on democratic nuclear-weapon states and their military allies, rather than autocratic ones, notably Russia and China, which are less transparent. While this could be attributed to more restricted civil society engagement in Russia and China, Western critics of the treaty perceive this insistence as misdirected and heedless of what they see as destabilizing actions by both Moscow and Beijing.

Second, opponents believe the TPNW creates a competing instrument that is not compatible with the NPT. TPNW supporters have refuted this claim, noting that both treaties have the same aim. In their view, the TPNW, like other subsequent instruments to the NPT such as the Comprehensive Nuclear-Test-Ban Treaty serve to give effect to principles already outlined in the NPT. Even if the TPNW does not

pose a legal challenge to the NPT in the long term, it poses a political one in the short term. The upcoming NPT Review Conference, scheduled to take place in August 2021 following several delays due to the pandemic, already faces a number of challenges (see [CSS Analysis 261](#)). The extent to which TPNW supporters will seek to have the treaty recognized at the Conference could impact consensus building and hinder progress on other matters.

Third, several issues related to the implementation of the TPNW remain unclear, notably the absence of an established verification regime and its withdrawal clause, which, given nuclear weapons' unique potential for destruction and role in defense doctrines, are key concerns. Moreover, TPNW members need to develop the necessary institutional and technical infrastructure to make the treaty not just a normative instrument but also an operational one. It remains to be seen how they will address these concerns as they start to establish rules of procedure and implementation mechanisms at the first meeting of states parties in January 2022, but this will undoubtedly be a long-term process.

While nuclear disarmament has always been a contentious issue, the TPNW has accentuated these differences by moving away from consensus making and the status quo. Following the treaty's adoption in 2017, debates between disarmament and deterrence defenders have grown more virulent. Both sides talk past each other and resort to "naming and shaming" tactics. Nuclear-weapon states initially adopted a hostile stance toward the treaty, with the Trump administration even pressuring several states to withdraw their ratification. Since the TPNW's entry into force, many have simply dismissed it rather than sought to engage with its advocates constructively.



Europe and the TPNW

In Europe, states' geographical proximity and political interconnectedness through the EU, NATO, or partnerships, make the debate over the TPNW difficult to ignore. Nuclear weapons and the question of whether they provide or hamper security has long been a source of contention given states' wide ranging positions (see map). It is therefore unsurprising that the TPNW has underlined these differences more vividly. Yet, the TPNW has also galvanized existing anti-nuclear feelings, providing a platform from which to exert increasing pressure.

NATO has so far presented a united front against the TPNW. Several of its European members, however, face increasing popular pressure to sign the treaty. In Belgium, Germany, Iceland, the Netherlands, Norway, and Spain in particular, the treaty has gained the support from some political parties and local governments, with the issue of its signature raised in national parliaments. Many larger cities such as Berlin, Oslo, and Paris have signed the ICAN cities appeal, pledging support to the TPNW. In Belgium, Germany, and the Netherlands, TPNW supporters tap into existing

sentiments against the presence of US nuclear weapons on their territories. Yet, opposition to being a nuclear host state does not necessarily equate to opposition to being a member of NATO.

Given NATO is at its core a nuclear alliance and will remain so as long as nuclear weapons exist, joining the TPNW and remaining a member of NATO are incompatible, as are being part of NATO without subscribing to its nuclear mission. New Zealand's decision to become a nuclear-free zone in 1985 halted its military cooperation with the US for 25 years and serves as a reminder for what signing the TPNW could mean for a NATO state today. At this stage, it seems that the risks of withdrawing from the defense and security arrangements provided by NATO largely outweigh the benefits of joining the TPNW in order to satisfy popular support.

There is little benefit, however, in taking an overly hostile stance against the TPNW as it only risks negatively affecting public opinion against NATO. If a NATO member does decide to join the TPNW, this

could lead to a domino effect. The impact would certainly be greater if such a move originates in a state that contributes dual-capable aircraft to the NATO mission and hosts nuclear weapons. Yet, any ally joining the TPNW would still have deep ramifications for the entire alliance, its foundation, posture, and capabilities. European governments of NATO members should seek to engage on nuclear disarmament questions with the public and with ban treaty proponents, as all have an interest in reducing nuclear risks and avoiding nuclear escalation.

Differences on nuclear issues are far more pronounced within the EU, which includes a nuclear-weapon state (France); NATO members among which four host US nuclear weapons (Belgium, Germany, Italy, and the Netherlands); states such as Sweden and Finland, which are not part of NATO but still significantly contribute to its missions and operations; and TPNW member states (Austria, Ireland, and Malta). The EU's diverse nuclear landscape has earned it the nickname of "laboratory of consensus" in the NPT context, meaning it is sometimes seen as representative on a smaller scale of the main international positions during conferences and can serve as an example for finding compromises.

However, diverging European views on nuclear disarmament, further exacerbated by the TPNW, have increasingly complicated the formulation of joint positions on disarmament. Non-proliferation and arms control, meanwhile, enjoy broader agreement. As an entity, the EU cannot take a formal stand on the TPNW since defense and security remain competences of the member states. Yet the absence of EU consensus on the TPNW impacts its ability to exert influence within the NPT Review

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Conference and its ambition of becoming a normative power. Disagreements over the TPNW and nuclear disarmament have become the main dividing line and significantly affect finding a common position and, by extent, the leverage and visibility the EU has in the NPT context.

Switzerland and the TPNW

Switzerland took part in the TPNW's negotiation and voted in favor of its adoption

despite a number of concerns. The Swiss government, however, has not signed the treaty despite facing pressure to do so from the Federal Assembly. A 2018 report by an interdepartmental working group laid out several reasons for not joining the treaty at this time, notably the unclear relationship between the NPT and the TPNW and the uncertain impact of the treaty on disarmament efforts given the lack of participation from nuclear-weapon states and their allies. It also noted the potentially negative consequences for future military cooperation with those states.

For many states including Switzerland, the upcoming NPT Review Conference will serve as a basis to further evaluate the TPNW and whether it is seen to strengthen or hamper disarmament efforts. Following the conference, Switzerland will begin its reassessment of the treaty. It will also attend the TPNW's first meeting of states parties as an observer, which should help to clarify open questions related to the treaty's relationships with existing instruments, its implementation mechanism, and internal rules of procedure, among others.

Outlook

The TPNW's status in international law has given further impetus to its advocates in parliaments and civil society across Europe. Given the difficulty of impacting nuclear-armed states' positions, treaty proponents will be focusing their efforts on states that rely on extended deterrence, particularly in Europe, and building on existing anti-nuclear sentiments and disillusion with nuclear disarmament efforts. Since the treaty is here to stay, the manner in which governments and elected officials tackle the TPNW will be important in set-

ting the tone of the discussion. They can focus on the treaty itself and make legal arguments, which could risk sounding hollow, or engage in a substantive debate about

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security, threat perceptions, and the ways in which to address them. Ignoring the TPNW altogether could be damaging to democratic processes, especially if popular support continues to increase.

The Biden administration, which has yet to make an explicit comment about the TPNW, could lead the way in defining allies' approaches toward the treaty. While Donald Trump adopted a "denounce and condemn" strategy, President Joe Biden is likely to be more subdued, perhaps even conciliatory to an extent, given his desire to reduce reliance on nuclear weapons. If he indeed is open to engagement, this could enable a dialogue on ways to promote restraint and, perhaps, even start a discussion with NATO allies regarding the necessary conditions to consider the removal of US nuclear weapons in Europe. This would have to occur within the framework of an arms control agreement with Russia that would cover both strategic and non-strategic nuclear weapons.

Given the centrality and near universality of the NPT, the way in which the TPNW is addressed during the NPT Review Conference and whether it strengthens or impedes existing disarmament efforts is seen as a test case for many states still on the fence regarding the TPNW. In Europe,

this is particularly the case for non-NATO states such as Switzerland, Sweden, Finland, and Cyprus. However, there is a risk in making this already laden Review Conference the point of reference for assessing the TPNW's value. It sets an undefined bar for success, or worse, an extremely high one given what are considered to be irreconcilable differences in some positions.

After all, the TPNW is just a few months old. It still needs time to establish itself institutionally, devise implementation, verification, and compliance mechanisms, and develop rules of procedure. The first meeting of states parties in January 2022 will be able to set these in motion, but many mechanisms will take years to build and require institutional experience and financial means. Member states will have to clarify within the framework of the treaty, rather than through civil society experts, several legal questions related to implementation as well as compatibility with existing regimes and military cooperation. However, they should be able to set the tone they seek to use in conducting disarmament diplomacy, which will provide an indication for how proponents will choose to engage with treaty skeptics.

For more on perspectives on Euro-Atlantic Security, see [CSS core theme page](#).

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