

## BABELIC CONFUSION?

*Systemic issues in the adaptation to defence and security challenges  
in the transatlantic states, with special regard to the Eurasia-idea  
as a special aspect of hybridity\**

Ádám FARKAS

senior research fellow at the Faculty of Military Science and Officer Training  
of the University of Public Service, Hungary

### 1. Introduction

The capitalist world economy and the Westphalian power system based on nation states constitute a framework created by Europe and the Transatlantic region. In other words, both the modern world order and its capitalist variant have emerged from Europe in general, and from Europe's material and power aspirations in particular. As an obvious consequence, the Transatlantic region defined the world's power and economic system for centuries, as Europe and the United States of America strengthened.

Over time, the hub of the capitalist world economy shifted towards various states within the Transatlantic region. In the past few decades, analysts<sup>1</sup> have increasingly focused on the emerging balance between external players and the originators of the

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<sup>1</sup> See: Jakub J. GRYGIEL – A. Wess MITCHELL: *Nyugtalan határvidék.* (Restless borderlands.) Budapest, Antall József Tudásközpont, 2017.; Odd Arne WESTAD: *Nyughatatlan birodalom.* (Restless empire.) Budapest, Antall József Tudásközpont, 2020.; Klaus von DOHNÁNYI: *Nemzeti érdekek.* (National interests.) Budapest, Corvina, 2022.; J. C. SHARMAN: *A gyengék birodalmi.* (Empires of the weak.) Budapest, Pallas Athéné, 2019.; George FRIEDMAN: *A következő 100 év.* (The next 100 years.) Budapest, DryCom Kft. 2015.; Peter FRANKOPAN: *Új selyemutak.* (New Silk roads.) Budapest, Park, 2022.; Youssef CASSIS – Darius WÓJCIK: *Nemzetközi pénzügyi központok a globális pénzügyi válság és a brexit után.* (International Financial Centres after the Global Financial Crisis and Brexit.)

established world order and global system. This is not really surprising because the capitalist world economy and the interpretation of the end of the cold war as the victory of liberal democracy have necessarily resulted in narratives claiming that the world would be united in the Western model, like in a new tower of Babel, and history would end as presumed in Francis Fukuyama's famous book.<sup>2</sup> All that has necessarily led to aspiration of the "Rest"<sup>3</sup> to learn to adapt to the Western model. But recently, clear signals have indicated that economic emergence has been turning into power shifts. Players outside the Transatlantic region have become decisive factors in the race for conventional power as well. We can risk to say that the Babelic experiment of the Transatlantic region seems to relapse into a confusion of tongues.

This change allows for several interpretations, including a lingering attitude of the late 20<sup>th</sup> century which is limited to the consideration of few factors other than economic circumstances. Such approaches are focused on the opposition of (or, in more moderate cases, the relations between) Europe and Asia.<sup>4</sup> These analyses traditionally identify Russia as the counterpole, with China playing an increasingly important role. More detailed reviews also devote attention to Iran, India, Turkey, the Small Tiger countries, or Brazil.<sup>5</sup> Finally, some analysts note the increasing activity of certain powers in Africa.<sup>6</sup> It is worth considering how strongly the emergence and subsequent competition of these states have resulted from the attitude of the "West" which first involved a colonial subordination of the countries aspiring to progress, and then forced them – as periphery and semi-periphery<sup>7</sup> – to adopt capitalist operating standards. It is also interesting to note the uniqueness of this process of learning and adaptation due to the (mostly) Asian cultures, mentalities and toolsets of the power players involved.

The past 10 or more years have also made it clear that the focus on the economy should be supplemented with security and geopolitical considerations. This has long been emphasised by the cited analysts, but it was only realised by government-level thinkers after various security threats and crises. Just like economic emergence, these security events took place through the unique adoption and modification of Transatlantic

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Budapest, Pallas Athéné, 2019.; Henry KISSINGER: *Kínáról.* (On China.) Budapest, Antall József Tudásközpont, 2017.

<sup>2</sup> Francis FUKUYAMA: *A történelem vége és az utolsó ember.* (The End of History and the Last Man.) Budapest, Európa, 2014.

<sup>3</sup> A reference to "The West and the Rest" approach. "The Rest" means entities outside the Transatlantic region.

<sup>4</sup> See for example: Zbigniew BRZEZINSKI: *Stratégiai vízió.* (Strategic Vision.) Budapest, Antall József Tudásközpont, 2020.; Henry KISSINGER: *Világrend.* (World Order.) Budapest, Antall József Tudásközpont, 2020.

<sup>5</sup> See for example: Fareed ZAKARIA: *A posztamerikai világ.* (The Postamerican World.) Budapest, Gondolat Kiadói Kör, 2009.; CSIZMADIA, Norbert: *Geopillanat.* (Geofusion.) Budapest, L'Harmattan, 2016.; Parag KHANNA: *Konnektográfia.* (Connectography.) Budapest, HVG Könyvek, 2016.

<sup>6</sup> See: Chris ALDEN: *Kína az afrikai kontinensen.* (China on the African continent.) Pécs, Publikon, 2010.; David H. SHINN – Joshua EISENMAN: *China and Africa: A Century of Engagement.* Philadelphia, University of Pennsylvania Press, 2012.

<sup>7</sup> See: Immanuel WALLERSTEIN: *World-System Analysis An Introduction.* Durham and London, Duke University Press, 2004.

patterns. One of the consequences of these cultural specifics based on adopted methods was the emergence of new phenomena which present major challenges to the security and legal systems of the Transatlantic region.<sup>8</sup> Cyber-attacks, increasing espionage, targeted liquidations, threats to use conventional military force, and the return of local conflicts in Europe (with special regard to the hybrid conflict<sup>9</sup> in Ukraine, which entered the war phase in February 2022) have made it clear that states' defence and security functions are strongly affected and need to catch up. One could also say that hybridity has taken on a new meaning in the context of security, where the dominance of the "Western", Westphalian approach seems to be replaced by an element of different cultural and thought patterns. Hybrid threats can thus be understood in a broader perspective as a set of challenges exploiting the vulnerabilities of Western attitudes and development.

This realisation has defined the development of the capabilities of individual countries, as well as the aspirations of alliances, and primarily NATO, in the past 10 or more years. This fact is indicated by the boosting of military, law enforcement and national security capabilities, NATO's decisions concerning the cyberspace, and a strive to increase national resilience. But it is important to realise that in our age of complex security issues and hybrid threats, defence and security developments cannot be managed solely based on professional and logical considerations, separately from the framework of law as well as social and political issues in a wider sense.<sup>10</sup> Due to the interwoven nature of true globality and complex security, a geopolitical and geological realisation should be added: namely that the differentiation of the West/Europe from Asia now makes sense only culturally and concerning people's way of thinking. Instead of that differentiation, it is advisable to focus on Eurasia when analysing the various economic, security and geo-political phenomena and challenges, in view of the mutual effects of the various regions on each other, the decreasing significance of geological distances arising from the progress of digitalisation and transportation, and the relations and power-related interests of the players involved.

Consequently, this study is aimed at reviewing how the Eurasian idea – which could also be the basis for the interpretation of the new meaning of hybridity – can be

<sup>8</sup> See about this question: Aurel SARI: *Hybrid Threats and the Law: Building legal resilience*. Helsinki, Hybrid CoE, 2021.; Henry FARRELL – Abraham L. NEWMAN: *Magánszféra és hatalom*. (Of Privacy and Power.) Budapest, Pallas Athéné, 2020.; CSINK, Lóránt (szerk.): *A nemzetbiztonság kihívásainak hatása a magánszférára*. (The impact of national security challenges on the privacy.) Budapest, Pázmány Press, 2017.

<sup>9</sup> See: Jure VIDMAR: The Annexation of Crimea and the Boundaries of the Will of the People. *German Law Journal*, Vol. 16., No. 03., 2019.; Robin GEISS: Russia's Annexation of Crimea: The Mills of International Law Grind Slowly but The Do Grind. *International Law Studies – U.S. Naval War College*, Vol. 91., 2015.; Anton BELBER: Crimea and the Russian-Ukrainian Conflict. *Romanian Journal of European Affairs*, Vol. 15., 2015.; Milena INGELEVIC-CITAK: Crimean conflict – from the perspectives of Russia, Ukraine, and public international law. *ICLR*, Vol. 15., No. 2., 2015.; Grazvydas JASUTIS: *The War Report 2018 - Criema: Between Annexation and Reunification*. Geneva, Geneva Academy, November 2018.

<sup>10</sup> For more on this topic, see: FARKAS, Ádám: *A védelem és biztonság-szavatolás szabályozásának alapkérdései Magyarországon*. (Fundamental issues of defense and security regulation in Hungary.) Budapest, Magyar Katonai Jogi és Hadijogi Társaság, 2022.

interpreted in relation to complex security, and what challenges Eurasia presents to the security sector and its regulation in the Transatlantic region from the perspective of the rule of law.

## 2. Some aspects of complex security in the age of Eurasia

The conclusion that security is a complex issue not dominated by any specific sector had been drawn in the second half of the 20<sup>th</sup> century and was universally accepted by the end of that century.<sup>11</sup> This could have heralded a paradigm shift of historical significance for mankind; after several millennia, the military focus in security and defence was exceeded, and finally sufficient attention was directed at the following:

- a) the other two defence/security branches authorised to bear arms, i.e. law enforcement and national security/secret service; and
- b) “civil” areas and sectors that are crucial to the maintenance of order and safety as well as the normal operation of society.

Obviously, the importance of military defence had not decreased until the end of the cold war. Even after that, military defence should not have been forced into total degradation in Europe. That change of attitude resulted from the previous appreciation of new technologies and conventional sea powers in the cold war between the two political blocks. In fact, non-military elements, and primarily “intelligence warfare”, had gained significance in that era, along with the related areas of political, social, economic and energy security.

The reason why the re-evaluation of the notion of security could have brought about but actually did not result in a historically significant change of approach was the euphoria at the end of the cold war. That euphoria devalued the conventional interpretation of security and active defence measures due to the above-mentioned Babelic aspiration to export liberal democracy and capitalism, also because those security and defence functions are expensive public services that cannot be organised at a state’s level based on market conditions only. Partial exceptions are those major powers that have had to maintain their expedition capabilities due to their previous colonial and current economic interests, and/or the export of the Western model.

After the collapse of the Soviet Union, security in the world was generally focused on economic security and daily public safety. But various risks in that era were later identified which are presumed to have led straight to the recent increase in international terrorism and the multitude of deaths it has caused. Increasing hybrid threats and local conflicts are seen as further consequences. The events of 9/11 and the subsequent attacks in Europe have shown that the suppression of complex security on the pretext of a Babelic experiment entails much graver dangers than previously thought.

<sup>11</sup> See: Roland DANNREUTHER: *Nemzetközi biztonság.* (International Security.) Budapest, Antall József Tudásközpont, 2016.; STEPPER, Péter – SZÁLKAI, Kinga: *A biztonság szektorális értelmezése.* (Sectoral understanding of security.) Budapest–Pécs, Corvinus Külügyi és Kulturális Egyesülte – Publikon, 2015.

The historic experiment at creating a world order based on unified theoretical and material foundations has failed. The tower of Babel, i.e. a unified world following the Western pattern, has not been built, instead we see a mix of Western and other methods, with an entirely new type of global competition caused by technological development and its consequences. Exposure to technology, actual and real-time global capitalism, and their combination with classic influence and attach capabilities have resulted in the emergence of a much less transparent threat matrix, with much more fluctuating escalations.

Thus complex security has become hugely important in the first quarter of the 21<sup>st</sup> century. Due to the various threats, actors in the Transatlantic region have realised that defence and security functions based on active operative capabilities need to be strengthened, along with increasing security consciousness and unique security procedures in “civil” sectors. One reason is that various state failures and attacks on civil systems, or state systems close to the civil sphere, have clearly shown that daily safety as well as the enforcement of personal and social rights (and consequently progress and prosperity) strongly depend on continued security. And due to technological development, security now entails several various areas, almost all of which can be subject to classic defence and security threats or attacks by state players or other actors. This interconnectedness is proven by organised crime, international terrorism, energy security issues, acts of terrorism and sabotage, various influencing and secret service actions, classic armed conflicts that affect Europe (too) ever more closely, or the Covid-19 pandemic.

But a complex defence and security system based on the cooperation of the state and society, on active defence capabilities, and on security-conscious civil areas requires extraordinary amounts of money, security awareness and developments that are acceptable to society, a truly strategic attitude, and – first of all – appropriate intellectual foundations and expertise. And due to the effects of the post-cold-war suppression of security concerns, all that cannot be provided in a matter of days.

The need for experts arises in almost all areas; as the public sector and the rule of law are strongly affected, expertise is also required in the fields of law and public administration, including organisation and regulation. In fact, the challenge in these latter areas may be especially serious, as explained under title 3. But regarding legal and public administration sciences, it should be noted that the lack of experts who understand complex security issues is grave because,

- a) after the cold war, the apparatus of specialised lawyers and the related scientific and professional background have been reduced to organisations of limited capabilities and daily operative issues, and have been marred by governmental and political issues.
- b) The modern legal attitude, and especially the post-world-war international and national legal approach, significantly limited the violence capabilities of the state, primarily via prohibitions instead of applying sound controls. Meanwhile, this approach has not been adopted by the new challengers.
- c) Deficient and erroneous legal regulations with varied interpretation options have presented a warfare / attack opportunity as part of the lawfare phenomenon. It

is advisable to move from this issue towards matters of legal vulnerability and resilience.<sup>12</sup>

These issues are of key importance amongst the criteria of rule of law because the defence and security capabilities as well as national and alliance aspirations of states in the Transatlantic region can only be successful once the open issues and potential actions have been clarified at the level of regulations, too. Lawfare is exactly about a counter-interested party spurring destabilization in an international community or a nation's society by utilising the insecurity of an ambiguous situation in international law (or deficient or outdated national regulations) via informative and influencing actions. That can shake the very foundations of operative and reactive systems in a country based on the rule of law, and can undermine social legitimation. Thus it is important to realise that legal and state organisation considerations (both in a scientific sense as well as regarding the professional and public administration factors that result from that science) play a similarly significant role in the establishment of a defence and security system aligned with the complex security issues of the 21<sup>st</sup> century as the actual defence capabilities and organisations, and their human capacities.

Besides these correlations of complex security, it is important to identify another field of power concerning the challenges faced by the Transatlantic region. This is the phenomenon which ostensibly classical geo-political thinkers call the idea or age of Eurasia. The essence of that idea from the perspective of defence and security is well expressed by Bruno Maçães: „Energy security. Islamist radicalism. Ukraine. Turkey and the global alliance. Migration. All these point towards the boundary between Europe and Asia. The boundaries between the two continents are problematic. In fact, these conflicts at the borderland stem from the irreconcilability of the principles of the political systems enmeshing the entire supercontinent.”<sup>13</sup> The essence of this view

<sup>12</sup> See: Aurel SARI: *Hybrid Warfare, Law and the Fulda Gap*. Exeter, University of Exeter, 2017. (Letöltve: 2021.05.13., <https://tinyurl.com/5hew2t5f>; FARKAS, Ádám – RESPERGER, István: Az úgynevezett „hibrid hadviselés” kihívásainak kezelése és a nemzetközi jog mai korlátai. (Addressing the challenges of so-called “hybrid warfare” and the limits of international law today.) In: FARKAS, Ádám – VÉGH, Károly (szerk.): *Új típusú hadviselés a 21. század második évtizedében és azon túl. intézményi és jogi kihívások*. (New types of warfare in the second decade of the 21st century and beyond: institutional and legal challenges.) Budapest, Zrínyi, 2020. 132–149.; HÓDOS, László: A hibrid konfliktusok felívelési szakasza, avagy a fenyegetés észlelésének, megelőzésének és kezelésének nemzetbiztonsági aspektusai. (The escalation phase of hybrid conflicts, or the national security aspects of threat detection, prevention and management.) *Honvédségi Szemle*, 2020/4. 49–64.; PETRUSKA, Ferenc: Lawfare a védelmi szférában. (Lawfare in the defence sector.) *Védelmi-Biztonsági Szabályozási és Kormányzástani Műhelytanulmányok*, 2022/18.; PETRUSKA, Ferenc: A lawfare tipológiája. (Typology of Lawfare.) *Védelmi-Biztonsági Szabályozási és Kormányzástani Műhelytanulmányok*, 2022/16.

<sup>13</sup> Bruno MAÇÃES: *Eurázsia hajnala. Az új világrend nyomában*. (The dawn of Eurasia. In search of the new world order.) Budapest, Pallas Athéné Books, 2018. 21.

has also been grasped by Kaplan<sup>14</sup>, Daniel S. Markey<sup>15</sup>, Mark Bassin and Mikhail Suslov<sup>16</sup>, Maria Raquel Friere and Roger E. Kanet<sup>17</sup>, Matthew Sussex and Roger E. Kanet<sup>18</sup>, as well as Geoffrey F. Gresh<sup>19</sup>. But the main message is also obvious in works of well-known thinkers such as Halford Mackinder<sup>20</sup>, Zbigniew Brzezinski<sup>21</sup>, Henry Kissinger<sup>22</sup>, or Fareed Zakaria<sup>23</sup>.

The gist of the approach identified as the Eurasian idea during my research is that Asia – in the European-based system of the modern world – has so far been perceived as an antagonist to Europe, or a colony – or later, a supported region – of that continent, and finally as a continent that followed Europe’s example. In any case, Europe and Asia have always and consistently been separated. In contrast, the Eurasian idea considers the two continents as a single geographical and historical entity with very strong, traditional and complex interrelations. But this perspective also highlights (besides the laws of geography that cannot be overwritten by modernity, politics or economy) how fast technological development as well as the start of true and real-time global capitalism, including the emergence of Asian players, have made it clear that Eurasia is a complex unit where the aspirations and actions of one part have a direct and significant impact on the other part (and vice versa).

“Within 20 years, the old habit of referring to Europe and Asia as separate entities will be replaced by Eurasia as a new and unavoidable phenomenon of a unified political and economic space. What I cannot predict, because it still depends on political decisions, is the geography of Eurasia. Where will the initiative come from: east or west? Will it be a bigger version of the European

<sup>14</sup> See: Robert D. KAPLAN: *Marco Polo világa visszatér*. (The world of Marco Polo returns.) Budapest, Pallas Athéné, 2018.; Robert D. KAPLAN: *A földrajz bosszúja*. (The revenge of geography.) Budapest, Antall József Tudásközpont, 2019.; FARKAS, Ádám: Az Eurázsia gondolat, mint a nyugati szemléletmód önreflexiójának alapja? Gondolatok Robert D. Kaplan „Marco Polo világa visszatér” című munkája kapcsán. (The idea of Eurasia as the basis for self-reflection of the Western approach? Reflections on Robert D. Kaplan’s “Marco Polo’s World Returns”.) *Szakmai Szemle*, 2020/2. 178–192.

<sup>15</sup> Daniel S. MARKEY: *China’s Western Horizon. Beijing and the New Geopolitics of Eurasia*. New York, Oxford University Press, 2020.

<sup>16</sup> Mark BASSIN – Mikhail SUSLOV: *Eurasia 2.0. Russian Geopolitics in the Age of New Media*. Lanham–Boulder–New York–London, Lexington Books, 2016.

<sup>17</sup> Maria Raquel FRIERE – Roger E. KANET: *Key Players and Regional Dynamics in Eurasia. The Return of the ‘Great Game’*. New York, Palgrave Macmillan, 2010.

<sup>18</sup> Matthew SUSSEX – Roger E. KANET: *Russia, Eurasia and the New Geopolitics of Energy. Confrontation and Consolidation*. New York, Palgrave Macmillan, 2015.

<sup>19</sup> Geoffrey F. GRESH: *Eurasia’s Maritime Rise and Global Security from the Indian Ocean to Pacific Asia and the Arctic*. Cham, Palgrave Macmillan, 2018.

<sup>20</sup> Halford J. MACKINDER: *Democratic Ideals and Reality*. London, Constable Publishers, 1942. (Reprint: Washington, National Defense University Press, 1996.)

<sup>21</sup> Zbigniew BRZEZINSKI: *A nagy sakktabla*. (The Great Chessboard.) Budapest, Antall József Tudásközpont, 2017.

<sup>22</sup> KISSINGER (2020) op. cit.

<sup>23</sup> ZAKARIA (2009) op. cit.

Union? Or will the European Union change dramatically and have to adapt to the new political principles developed and propagated by Russia and China, and to the emergence of new, universal values? Europeans should be careful not to repeat old mistakes by thinking that history will always be on their side...<sup>24</sup>.

And before you assume that this prognosis was only made to support the Eurasian idea, let me note the similar direction indicated in 2015 by J. M. McConell, former Director of U.S. National Intelligence: “We are engaged in a dynamic global environment, in which the pace, scale, and complexity of change are unprecedented. It is a networked world where what happens in Peshawar affects Peoria – and vice versa.”<sup>25</sup>

However, it is important to note in this regard that Asia, a continent of significant and varied cultural and historical traditions, has not identified with many of the post-world-war competition and dispute settlement solutions of the Transatlantic region. Asian countries have tried to join the modern economic system, including the required innovation, training and (last but not least) diplomatic and intelligence solutions, but in the field of dispute settlement, they have stuck to their own cultural habits in both open and covert actions. By the way, these actions are not far from the solutions employed by the Transatlantic region before WW2, or from some more recent endeavours. So while the old and new challengers to the power rivalry are gaining ground, it goes without saying that their particular power and security mindset is also gaining ground in the world as the taking root of the new hybridity.

But the Eurasian idea presents a very significant challenge to security frameworks in a rule of law, because it requires an opportunity for effect and countereffect in order to maintain balance and successfully react to, prevent and address various threats and challenges. In view of the cultural characteristics and values of the Transatlantic region, this should be ensured by aligning the effective solutions with legal developments and the rule of law, at the level of both national and international law, or at least at the level of alliances.

Thus, especially through the global economy and the consumption society that is based on it, the Eurasian idea forces cooperation between the two halves of Eurasia, and also allows the Transatlantic region to prepare for the management of steps and solutions in a competition that poses an increased threat to classic power systems, including security. This dichotomy could be one of the key features of the new hybridity. Obviously, this necessitates the development of defence and security capabilities, as well as an increased security awareness in society. In addition, our regulations concerning defence and security (or national security according to the Anglo-Saxon approach) need to be renewed. This renewal, in turn, requires the following: analysis and development of our own regulations, history and systems; specific technical and scientific knowledge in various areas of security; and the analysis of the Eurasian

<sup>24</sup> MAÇÃES (2018) op. cit. 69.

<sup>25</sup> Carl J. JENSEN – David H. MCELREATH – Melissa GRAVES: *Bevezetés a hírszerzésbe.* (Introduction to Intelligence.) Budapest, Antall József Tudásközpont, 2017. 361.



phenomenon itself, as well as the patterns and models involved, in order to sufficiently identify the directions of intervention in the renewal. And that will require major and novel research, sufficient capacities of experts and researchers, as well as multi-disciplinary cooperation. The parallel, superficial and artificial application of the old methods and disciplines will not be sufficient, nor will it be enough to paraphrase and “repaint” the existing rules, procedures and tools.

### 3. Key issues for state-system adaptation: Eurasia exerts pressure on the West-centred approach

From the perspective of state-system and legal adaptation, the attitude of the West is struggling with major challenges not only regarding Eurasia, but also in the fields of defence and security, and concerning the increasing global dynamics in general. Maintaining and protecting the values of the rule of law requires that the law should be adapted to the processes of reality which shape people’s lives and thus provide a framework for the operation of a state operated subject to laws. But these processes also pose challenges to the operation of the state. In this regard, the Transatlantic region has usually applied rigid and limiting regulations (apart from some practices by major powers) especially in the defence and security sphere, in order to prevent public entities from abusing their powers, including the usage of new technologies. Experience about totalitarianism in the 20<sup>th</sup> century, especially in Europe, has given rise to a defence and security trend which

- a) was already disadvantaged in the security and technology environment of the late 20<sup>th</sup> century and needs to catch up with the challenges of the information age, as well as with novel issues in the security-focused cooperation of the civil sphere and the public sector;<sup>26</sup>
- b) makes it difficult to react in due time to targeted, more flexible threats (such as international terrorism, ISIS-type terror franchises, hybrid conflicts, hacktivism, cyber-attacks etc.) that differ from the rigid Western attitudes;
- c) does not envisage the limitation of defence and security organisations (both in national in international law) via the dynamic operation of control institutions and more flexible authorisations, but rather through rigid, prohibitive and static regulations that are based on reaction rather than proactivity; this forces states to resort to grey-zone solutions in extreme situations.<sup>27</sup>

<sup>26</sup> See Zbigniew Brzezinski (2017) or Henry Kissinger’s critique: “While Europe has established an order based on a balance of power, it has now, strangely enough, deliberately and to a great extent limited the role of the power component in its new institutions. And since it has also reduced its military potential, it has little room for manoeuvre if universal norms are flouted.” KISSINGER (2020) op. cit. 15.

<sup>27</sup> See the issue of extended self-defence and targeted killing as an example. See: Yoram DINSTEIN: *War, Aggression and Self-Defence*. Cambridge, Cambridge University Press, 2005.; Nils MELZER: *Targeted Killing in International Law*, Oxford, Oxford University Press, 2009.; KAJTÁR, Gábor: *A nem állami szereplők elleni önvédelem a nemzetközi jogban*. (Self-defence against non-state actors in international law.) Budapest, ELTE Eötvös, 2015.; SPITZER, Jenő: *Önvédelem versus terrorizmus*. (Self-defence versus Terrorism.) Budapest, Magyar Katonai Jogi és Hadijogi Társaság, 2019.

It is now clear that information, its management, protection and acquisition, along with the information society and information space, have become key issues in everyday life, in power matters, and in legal regulations. This novel and real-time dimension, which is separate from the physical space but still affects it, will be the venue of the 21<sup>st</sup> century in all areas from economic and technological competition, terrorism and organised crime as well as intelligence and counterintelligence, to law enforcement and military defence. This is confirmed by cyber-attacks, various operations and illegitimate acts designed in the digital space, terrorist recruitments, propaganda and information warfare, as well as the geopolitical significance of data<sup>28</sup>, especially because these result in changing actions and conduct in the physical space, as well as in a combination of information-related and conventional challenges. The professional and scientific community has identified a multitude of related legal issues<sup>29</sup>, but the answers are still far from reassuring from the perspective of the rule of law and the international legal regime established after 1945. What is clear is that it is very challenging for states to keep up with the defence and security environment, with opportunities for serious abuse both in the public and the private sector. Just consider the Echelon or PRISM systems, the scandal concerning the NSA started by Edward

<sup>28</sup> See the Geopolitics of the Datasphere (GEODE) project (<https://geode.science/en/home/>) as well as the following: Amaël CATTARUZZA: *A digitális adatok geopolitikája. Hatalom és konfliktusok a big data korában.* (The geopolitics of digital data. Power and conflict in the age of big data.) Budapest, Pallas Athéné Books, 2020.; Georgia WOOD: *Geopolitics and the Digital Domain: How Cyberspace is Impacting International Security.* Independent Study Project (ISP) Collection, 2020., (letöltve: 2021.04.27., [https://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=4314&context=isp\\_collection](https://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=4314&context=isp_collection)); FARKAS, Ádám: Biztonság – Geopolitika – Digitalizáció, avagy Amael Cattaruzza „A digitális adatok geopolitikája” című kötetének főbb üzenetei. (8Security - Geopolitics - Digitalisation, or the main messages of Amael Cattaruzza’s book “The geopolitics of digital data”). *SmartLaw Research Group Working Paper*, 2021/1. (letöltve: 2021. 04. 27., [http://smartlawresearch.hu/storage/app/media/Kiadvanyok/slrgrp\\_1-2021.pdf](http://smartlawresearch.hu/storage/app/media/Kiadvanyok/slrgrp_1-2021.pdf)).

<sup>29</sup> Examples: A. ERTAN – K. FLOYD – P. PERNIK – T. STEVENS: *Cyber Threats and NATO 2030: Horizon Scanning and Analysis.* Tallinn, NATO CCD CoE, 2020.; Samuele DE TOMAS COLATIN – Anna VÄLJATAGA: *Data as a Weapon: Refined Cyber Capabilities Under Weapon Reviews and International Human Rights Law.* Tallinn, NATO CCD CoE, 2020.; Josef SCHROEFL: *Cyber Power is changing the concept of war.* Hybrid CoE Strategic Analysis 21, Helsinki, The European Centre of Excellence for Countering Hybrid Threats, 2020.; Roland KELEMEN – Ádám FARKAS: To the Margin of the Theory of a New Type of Warfare: Examining Certain Aspects of Cyber Warfare. In: Marcel SZABÓ – Laura GYENÉY– Petra Lea LÁNCOS (ed.): *Hungarian Yearbook of International law and European Law (2019).* Den Haag, Eleven International Publishing, 2019. 203–226.; KELEMEN, Roland – NÉMETH, Richárd: A kibertér alanyai és sebezhetősége. (Subjects and vulnerability in cyberspace.) *Szakmai Szemle*, 2019/3. 95–118.; KELEMEN, Roland – SIMON, László: A kibertérben megjelenő fenyegetések és kihívások kezelésének egyes nemzetközi jogi problémái. (Some international legal issues in addressing threats and challenges in cyberspace.) In: FARKAS, Ádám – VÉGH, Károly (szerk.): *Új típusú hadviselés a 21. század második évtizedében és azon túl. intézményi és jogi kihívások.* (New types of warfare in the second decade of the 21st century and beyond: institutional and legal challenges.) Budapest, Zrínyi, 2020. 150–170.; KELEMEN, Roland: A kibertérből érkező fenyegetések jelentősége a hibrid konfliktusokban és azok várható fejlődése. [The importance of threats from cyberspace in hybrid conflicts and their likely evolution.] *Honvédségi Szemle*, 2020/4. 65–81.; FARKAS, Ádám: A kibertér műveleti képességek kialakításának és fejlesztésének egyes szabályozási és államszervezési alapvonalai. (Some regulatory and governance baselines for the design and development of cyberspace operational capabilities.) *Jog Állam Politika*, 2019/2. 63–79.

Snowden and others, or the fiascos related to Cambridge Analytica or the dissolution of the Facebook empire. These events highlight several legal adaptation issues caused by a changed operating environment, which present major challenges even within the Transatlantic region. We must realise that the world has speeded up and become so complex (primarily due to the grey and black segments of the information space and global capitalism) that the management of threats must be focused on prevention and prior detection, but without sliding into an Orwellian world. In addition, recent events<sup>30</sup> have shown that the databases of technological corporations as market players harbour much more information (and thus potential power) than previously imagined. This information and power, unlike the capabilities of the state, are not or only seemingly regulated by law; consensual data management is practically enforced by the need for the services concerned, so users agree to hand over their data. These are still open issues in the Transatlantic region and especially Europe, while more and more security threats emerge or are enhanced in the information space where wrongdoers take advantage of the lingering legal limitations faced by authorities. Furthermore, the other half of Eurasia limit their own capabilities to a much lesser extent, from time-to-time risking consequences in international law or economy for the enforcement of their own interests. This is evident in disputes about Far Eastern islands or the Crimean Peninsula, or a series of cyber-attacks in recent years, which could be examples of a new hybridity, a replacement of the “Western” security-view dominance.

Naturally, this does not mean that we should follow the solutions outlined on the other half of Eurasia. But the need to find satisfactory regulatory solutions should be realised as soon as possible. In the defence and security dimension, these solutions should address the technological and resulting social and security challenges, as well as the challenges posed by the Eurasian power space, in a novel and effective manner. At the same time, the effectiveness of preventing or deterring from all kinds of illegitimate acts should be increased, while naturally maintaining or, if necessary, strengthening the required guarantees. So the goal is modernity and effectiveness, while safeguarding (to the extent suited to our age) the values and achievements in public administration and law, as well as in our societies. In this regard, some of the areas to specifically focus on are the following: data protection, intellectual property rights, telecommunication, media services, as well as the regulation and operation of law enforcement, the military, and national security / secret services in the information space. It is these areas that are primarily affected by the changing environment and upcoming players in the Eurasian power space. But innovative attempts are already apparent in the Transatlantic space as well, especially by major Anglo-Saxon powers, and at NATO’s level (which those powers dominate). But these attempts still tend to constitute balancing acts without the exclusion of grey zones, rather than clean, effectively renewed new solutions with guarantees, which could be legitimated by society and adopted into the values of the Transatlantic region based on a consensus. Some notable examples:

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<sup>30</sup> See the Cambridge Analytica issue, the criticisms of Facebook’s data management, or the data trading issue mentioned at the beginning of this paragraph.

- The “Targeted Killing”<sup>31</sup> practices of the United States and the attendant extension of the right to self-defence in international law;
- The new National Cyber Force<sup>32</sup> of the United Kingdom based on the fusion of intelligence, law enforcement and military, which is thus positioned at the meeting point of several regulatory areas;
- The decision made at the NATO summit in Warsaw to declare the cyberspace an operative area; and the confirmation of defence and security as general national responsibilities through resilience<sup>33</sup>.

All of these issues involve important questions and will require novel and innovative social, political, professional and legal approaches before we can arrive at well-thought-out solutions.

The cooperation of and connections between civil sectors (especially public and market-based services and production sectors) and areas of defence and security raises similarly important questions. The Eastern half of Eurasia differs from the Western part in this regard as well. In the West, geopolitical aspirations as well as the defence and security sectors are clearly and resolutely separated from the economy in order to avoid the conversion of interests and capabilities to the power space, and to combat corruption. Obviously, this limitation involves curbing the private sector’s obligatorily assigned defence and security activities, as well as the usage of civil activities for the open or covert enforcement of defence and security interests; and vice versa, excessive support by the defence and security sector to national market players is also limited. Meanwhile, in the East it is considered obvious that economic development and innovation are closely connected to geopolitical and defence/security interests. Consequently, in that part of the world, certain elements of the economy may also serve defence and security interests through covert influence or the relaying of important defence and security messages in target countries, or by the incorporation of important cover institutions, background protocols and technological solutions in civil tools. On the other side, the defence and security sector may actively support economic development through orders, by obtaining information, or by shaping the competitive

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<sup>31</sup> See also: Anthony DWORKIN: *Drones and Targeted Killing: Defining a European Position*. London, European Council on Foreign Relations, 2013.; Lynn E. DAVIS – Michael McNERNEY – Michael D. GREENBERG: *Clarifying the Rules for Targeted Killing*. Santa Monica, RAND Corporation, 2016.; SPITZER (2019) op. cit.

<sup>32</sup> GCHQ: *National Cyber Force transforms country’s cyber capabilities to protect the UK* (downloaded on 9 May 2021, <https://www.gchq.gov.uk/news/national-cyber-force>); FARKAS, Ádám: Kibertér művelet: Hírszerző, rendészeti és katonai műveltek elegye? Gondolatok az angol National Cyber Force kapcsán. (Cyberspace Operation: a combination of intelligence, law enforcement and military operations? Reflections on the UK National Cyber Force.) *Military and Intelligence CyberSecurity Research Paper*, 2021/1. (2021.12.21., [https://hhk.uni-nke.hu/document/hhk-uni-nke-hu/1\\_2021\\_MIC\\_RP.pdf](https://hhk.uni-nke.hu/document/hhk-uni-nke-hu/1_2021_MIC_RP.pdf))

<sup>33</sup> NATO: *Warsaw Summit Communiqué* (downloaded on 9 May 2021, [https://www.nato.int/cps/en/natohq/official\\_texts\\_133169.htm](https://www.nato.int/cps/en/natohq/official_texts_133169.htm)); Wolf-Diether ROEPKE – Hasit THANKEY: *Resilience: the first line of defence*. (Letöltve: 2021. 05. 13., <https://tinyurl.com/ycktsafk>).

environment. As general examples, I refer to analyses that highlight Eastern ways of using players involved in economic or organised crime for geopolitical purposes.<sup>34</sup>

In addition to the above, emphasis should be placed on the amalgamation of the previous two major topics during the processing of and required adaptation to the changing security environment, including the different power practices in the Eurasian region. In this regard, the expression of civil opinions in the information space is of key importance, along with its security connotations and any utilisation for information-related operations. This phenomenon has been observed at both state and other players, in the form of influencing elections in countries, the post-truth phenomenon, or terrorist marketing and recruitment. The European Union is drafting regulations to combat online content linked to terrorism<sup>35</sup>, but the range of challenges in this regard is much wider than just terrorist content. This presents a major issue concerning the limits of the freedom of expression. Also, security measures must be instant in such cases if the harmful effects are to be mitigated, which undermines the guarantees provided by multi-stage decision-making.

#### 4. In lieu of an afterword: self-review is the first step towards adaptation

The above issues and problem groups are highly sensitive and varied, and require considerable research and analysis focused on legal and security aspects. But we must realise that unless these topics are examined, constructively discussed and re-regulated, only two ways are left before our region's states and societies in the complex security landscape of the 21<sup>st</sup> century, which is defined by the Eurasian idea – *as a special aspect of hybridity* –:

- a) Preserving the limitations of the rule of law built up in the previous century's environment and accepting the erosion of security, which will lead to a gradual weakening of economic development, welfare and law enforcement;
- b) Maintaining competitiveness and security with grey zone solutions, but sacrificing some or all of the values of the rule of law.

<sup>34</sup> Examples: Hanns Günther HILPERT – Gudrun WACKER: Geoeconomics Meets Geopolitics. China's New Economic and Foreign Policy Initiatives. *SWP Comments*, Vol. 33., 2015. (letöltve: 2021.05.09., <https://tinyurl.com/47jnv8rs>); Heather A. CONLEY – Donatienne RUY – Ruslan STEFANOV – Martin VLADIMIROV: *The Kremlin Playbook 2. The Enablers*. Lanham-Washington, Center for Strategic & International Studies, 2019.; Heather A. CONLEY – James MINA – Ruslan STEFANOV – Martin VLADIMIROV: *The Kremlin Playbook. Understanding Russian Influence in Central and Eastern Europe*. Lanham–Boulder–New York–London, Center for Strategic & International Studies, 2016.; Ling CHEN: *A globalizáció manipulálása. A bürokraták befolyása Kína üzleti világára*. (The manipulation of globalisation. The influence of bureaucrats on China's business world.) Budapest, Pallas Athéné Books, 2019.; Loreatta NAPOLEONI: *Maonomics: Why Chinese Communists Make Better Capitalists Than We Do*. New York, Seven Stories Press, 2011.; Mark GALEOTTI: *Crimintern: How the Kremlin uses Russia's criminal networks in Europe*. London, European Council on Foreign Relations, 2017.; Mark GALEOTTI: *Russian Political War Moving Beyond the Hybrid*. London, Routledge, 2020.; Mark GALEOTTI (ed.): *The Politics of Security in Modern Russia*. London, Routledge, 2010.

<sup>35</sup> Cf.: *Terrorist content online: Council adopts new rules*. (downloaded on 13 May 2021, <https://tinyurl.com/y8tdjimb>)

According to a quote that summarises the essence of the security environment of the 21<sup>st</sup> century and the legally definitive Eurasian idea – *as a basis for a new understanding of hybridity* –, “the times are over when everything was certain and war could be clearly differentiated from peace based on conflict or competition”<sup>36</sup>. This should force us to review our own attitudes and practices, including especially the following questions:

- What is the true role of the state and the law? To what extent should they be adapted to the external environment for the welfare and safety of citizens?
- To what extent can our current regulatory and operative systems meet the challenges of the 21<sup>st</sup> century and the Eurasian idea?
- What needs to be examined, reconsidered and developed to arrive at solutions that respect the basic values of rule of law but are still effective in the 21<sup>st</sup> century?
- Where to find the philosophical, professional and scientific synergies that can give complex answers to a complex security situation, replacing the previous delineations?
- How could professional and security needs, as well as the criteria dictated by progress and the changed environment, be much better expressed in legal regulations, while still respecting the basic values of civic, constitutional state development?

Naturally, these issues are connected with the relationship and sound balance of abstraction and practicality; they also force us to consider why and to what extent we have neglected defence and security issues in law and state administration over the past decades. Similarly, it is worth examining what changes and frameworks are needed in research and education in order to offset the loss of capabilities, professionalism and intellect in the past decades, so that we arrive at skills and solutions that are in line with the new challenges. Finally, those skills and solutions should be maintained and developed in repeated adaptation to the changes and developments ahead of us. But for that, first of all we need to face our own attitudes, including the issue of neglected defence and protection, as well as the lack of a political culture that places basic defence and security issues above daily political fights. In such a culture, those basic issues are subject to social dialogue, and political fights and any control steps do not endanger the operation of systems and functions; instead, they serve the constructive management of the identified problems.

Thus our self-review should involve the admission and mental correction of numerous mistakes and erroneous ways. But before that, we need to realise that security is the basis of economic, scientific, cultural, social and individual progress and welfare, which must not be subordinated to momentary political fights, career objectives, or euphoric emotions, and should not be burdened with half-baked solutions. Otherwise, the resulting arrears, capability loss and inconsistency will be very difficult to correct, and each omitted element will lower the security level.

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<sup>36</sup> MAÇÃES (2018) op. cit. 60.

All that has been proven by the various security threats and experiences of the past years. The primary lesson is that defence and security finally need to be considered as a minimum requirement at national, federal and Transatlantic levels, and not only at the level of declarations. And that requires carefully worked out, complex solutions and foresight aimed at preventing losses, instead of belatedly taking stock of the lost lives and property. Indeed, in the age of Eurasia, the challenges we face are more complex than previously thought and hybridity can be interpreted as a threat much broader than the specific scenarios and modalities of individual crises, especially the Ukrainian crisis.

“Just as in the last decades of the 20<sup>th</sup> century, the new world order believes in the unavailability of mutual dependence and interconnectedness, but with the recognition of divisions and conflicts. We have entered the second age of globalisation where borders are becoming increasingly blurred, but cultural and civilisational differences are also ambiguous. The resulting insecurity raises problems. This is what I called the age of Eurasia.”<sup>37</sup>

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<sup>37</sup> MAÇÃES (2018) op. cit. 17.

