

## **United Nations at the Crossroads: Will the UN Survive Russia's War of Aggression Against Ukraine?**

Russia's large-scale invasion of Ukraine on February 24 has once again shown that, unfortunately, in the current trend of international relations and world politics the law of force prevails over the rule of law. The United Nations, which was created after the failure of the League of Nations to maintain global peace and security, seems to face the same fate today. The United Nations, an international organization of universal character, made up of 193 members and with the UN Security Council at its core, proved to be ineffective in its response to major conflicts.

The organization performs significantly worse than anyone would expect, considering the wide range of responsibilities it possesses. The UN actually encountered the biggest crisis in Europe since the end of World War II - Russia's unprovoked and unjustified war of aggression against Ukraine. Analysts, experts, and politicians often question the UN's ability to defend the rules-based world order. Some of them believe that given the current context, the Organization is facing its "San Francisco moment", which means that the

Organization is now at a crossroads and needs to change with regard to current geopolitical realities and challenges that the world faces.

Since the Organization is largely unprepared to deal with the major crises of contemporary international affairs, it has to be reformed. One could argue that the Organization is quite effective in terms of global governance, poverty relief, solving minor international conflicts, etc. Despite the growing fear of all-out war and its consequences on the European continent, the United Nations was unable to address the situation. Russia used almost all possible weaponry against Ukraine, ranging from tanks, warplanes, and military ships to ballistic and cruise missiles, artillery systems, etc. There are several reasons for the UN's weakness, including Russia holding the seat of permanent member in the UNSC and blocking any resolution that might be proposed. Hence the UN has only two ways out: to follow the example of the League of Nations or to adapt to the realities of nowadays and acknowledge that it cannot operate efficiently in the current form.

### **United Nations Efforts in the Russo-Ukrainian War**



On the night of 23 to 24 February 2022, Russia launched a full-scale war against Ukraine, putting in danger the entire population, targeting military and critical infrastructure, causing deaths and suffering among civilians. A large number of refugees from Ukraine have entered neighboring nations and thousands more have been displaced within the country. Russia brutally violated international law and the borders of a sovereign country, while breaching the UN Charter and the fundamental values of the United Nations. Russia's veto paralyzed the UN Security Council's ability to pass any resolution. Antonio Guterres, the Secretary General of the United Nations, announced the

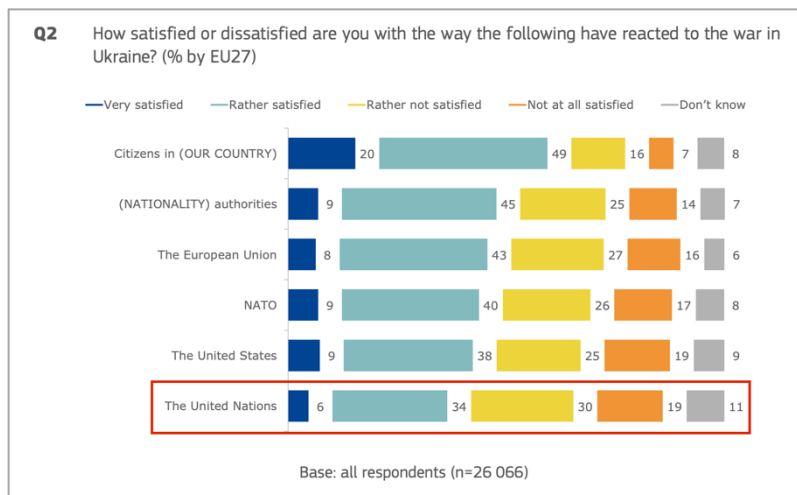
immediate allocation of \$20 million in order to urgently provide relief assistance to Ukraine. However, taking into account the size of the country, it was not enough. The UN focused mainly on providing humanitarian aid to the civilian population of Ukraine. On the 2nd of March, the United Nations General Assembly adopted a resolution condemning Russian aggression (141 votes in favor, 5 against, and 35 abstentions). On the 24th of March, the UN General Assembly demanded civilian protection and humanitarian access in Ukraine and at the same time criticized Russia for fueling the dire humanitarian situation across the country (140 votes in favor, 5 against, and 38 abstentions).

The UN supported independent investigation of possible war crimes committed during Russia's war against Ukraine and established its own independent commission. A significant measure was taken by the UN General Assembly on the 7th of April, which voted for the suspension of Russia from the UN Human Rights Council (93 votes in favor, 24 against, and 58 abstentions). It was the second time in the history of the UN when a member was suspended from the HRC, following the example of Libya in 2011.

At the end of April, the Secretary General of the United Nations visited both Russia and Ukraine. This was right after the whole world witnessed the horrible images of tortured civilians and evidence of Russia's war crimes in Bucha, Irpin, Hostomel, and other cities of the Kyiv region. On May 6, the UNSC supported Secretary General's efforts to bring peace and diplomatic efforts. However, the diplomatic solution was not possible due to Russia's war efforts and the ultimatums it put on Ukraine. Even more, Moscow turned the UNSC into its platform to spread lies about Ukraine and broadcast its propaganda. As a body with vast

responsibility to ensure security and peace, the UNSC instead has been spammed by Russia with its false claims of Ukraine's use of "dirty bombs", "biological weapons" and "combat mosquitoes". As the US Representative to the United Nations Linda Thomas-Greenfield put it, UNSC meetings convened by Russia are a "waste of time" and only serve to launch disinformation campaigns and "distract from the atrocities Russian forces are carrying out in Ukraine and a desperate tactic to justify an unjustifiable war".

Nine months of war have shown that the UN was not able to deliver significant solutions in order to stop Russia's unprovoked and unjustified war of aggression. The UN was neither able to prevent the conflict before it started, nor to stop it just because of the position of one country, Russia. Therefore, the UN could only focus on three key activities: providing humanitarian aid, political condemnation of Russia's aggression using the instruments of the UN General Assembly, and supporting investigations of human rights violations by tracing war crimes committed in Ukraine.



"Satisfaction with the response of the United Nations to the war in Ukraine is lower than that for the other public authorities – at 40%". - Eurobarometer report "EU's response to the war in Ukraine", survey in EU, May 2022



Humanitarian aid was indeed useful, but still limited. The longer the war continues, the more aid efforts the UN will need to make. With respect to political criticism of Russia, the UN has been able to present the UNGA's point of view on Russia's war. It has been able to condemn Russia's actions and stop its membership in the Human Rights Council. The only big victory that the UN can record could probably be the so-called "grain deal" to unblock Ukraine's Black Sea ports to avert the global food crisis. Taking into account the significant responsibilities that were delegated to the UN and its Security Council, all of that seems to be limited and not sufficient for an organization like the United Nations. The rules-based international order cannot be preserved in the current format and configuration of the UN.

## Challenges of Russian Aggression and Why We Need the Strong UN

A stable and predictable international order cannot be achieved by the individual efforts of states; it must be the primary responsibility of the United Nations. Otherwise, coercive measures, threats of force, and the use of force will become a normal practice of inter-state relations, which is unacceptable for any independent nation. The aggressive pursuit of redrawing borders, and undermining of sovereignty and territorial integrity - are the critical challenges facing the UN that was created to handle such challenges back in 1945.

The discussions of the weak performance of the UN and its Security Council are not new to the international community. The need to reform the UN and its main bodies has been extensively discussed. The Russo-Ukrainian War finally outlined all the weaknesses of world order under the UN system. Despite having a permanent seat on the UN Security Council, nuclear power is a party to a conflict that threatens not only regional stability in Europe but also impacts far beyond the borders of Ukraine and Russia. The Kremlin not only used conventional weapons against Ukraine but also employed a strategy of total blackmail. The strategy includes threats to use nuclear weapons, and posing terrorist attacks on nuclear power plants, as Moscow did with the Chernobyl plant where it based its military personnel. The same is being done with the Zaporizhzhia NPP (which is the largest nuclear power plant in Europe).

Targeting civilian infrastructure: schools, hospitals, and residential buildings is another dimension of that strategy. Also, the use of cruise and ballistic missiles to destroy Ukrainian energy and critical infrastructure causes suffering for the civilian population. This, in its turn, might cause a humanitarian and refugee crisis of dire scales, as people will be forced to leave their homes to survive during winter. Furthermore, Moscow escalates the conflict and increases the stakes of its blackmail. It not only threatens Ukraine with its nuclear weapons but the whole world as well. Russian officials and pro-Russian propagandists have been threatening other countries, including nuclear powers like the US, France, and the UK, to use nuclear weapons against them, as well as any countries that might interfere in the conflict. This conduct even triggered a reaction from Russia's closest partner – during the G20 summit Chinese Foreign Minister Wang Yi stated that “a nuclear war cannot be won and must never be fought”.

The mere fact that the country uses nukes in its rhetoric against non-nuclear power had to be a turning point when the UN was supposed to step in. But unfortunately, the UN's response was too weak. Indeed, the Secretary General of the UN criticized the use of nuclear blackmail, but it has no practical meaning. The UN and IEA's attempts to establish a military-free zone around Zaporizhzhia NPP also failed.

Russia is probably the only country to seriously escalate nuclear conflict since the Cuban Missile Crisis. Russia's blackmail has a direct influence on the non-proliferation regime, which is a cornerstone of the world's safety and stability. Attack on Ukraine, which gave up its nukes in exchange for respect of its sovereignty and territorial integrity according to the Budapest Memorandum, by the country with the largest nuclear arsenal in the world and a signatory to that document is extremely undermining all non-proliferation efforts. A precedent set by Russia might cause instability and chaos that can be difficult to handle, as countries might start to feel a lack of security, which could be disastrous for the rules-based international order.

The war between Russia and Ukraine has shown that the UN is not able to effectively respond to threats. As mentioned earlier, the UN cannot operate in the current form, it has to be reformed as soon as possible. The weakness of the UN will further encourage states and their aggressive behavior, as the UN is not able to deliver critical solutions to stop and prevent conflicts. The present-day configuration of the UNSC does not reflect modern reality, therefore it is impossible to expect its efficiency.



*Russian Ambassador to the UN Vasily Nebenzya*

Moreover, the veto right in the UNSC allows permanent members of the UNSC to block any decision and thus paralyze the main institution whose purpose is to maintain international peace and security. According to various sources, Russia has used the veto right in the UNSC 121 times as of May 2022. In addition, the resolutions do not only concern Ukraine, but other countries that the UN was focusing on, such as Syria. The veto right seems to be out-of-date and continues to discriminate against non-permanent members of the UN. Using the privilege of veto, a UNSC permanent member can avoid responsibility and use "political mimicry", when an aggressor pretends

to be a victim and accuses the other party, the real victim, in an attempt to shift responsibility. Despite the fact, that the General Assembly adopted a resolution that forces permanent members of the UNSC to justify the use of the veto right, it does not really change the situation in general.

## **The Ways of Strengthening the UN's Response to the War in Ukraine and Future Conflicts**

- **Reform of the United Nations Security Council**

The UN's overall weak performance is not a newly emerging problem, and ways to strengthen its capabilities are being discussed widely in the scientific, political, and diplomatic communities. There are several scenarios and proposals for how to reform the UN Security Council:

**1) To expand the number of both the permanent and non-permanent members of the UNSC to strengthen the geographical representation of regions;**

**2) To abolish the veto right or the limitations of the veto privilege for countries that endanger international peace and security;**



### 3) To change the voting system – a shift from a unanimous vote to qualified majority voting (QMV).



Ambassador of Ukraine to the UN Serhiy Kyslytsya reads the book "What is wrong with diplomacy" during the speech of the Russian Ambassador

As far as none of them can be implemented without Russia's support, it is pertinent to mention that Ukraine has taken a consistent position with regard to UN reform. Permanent Representative of Ukraine to the United Nations, Serhiy Kyslytsya has been active in promoting Ukraine's views on the UN reform process and strengthening its role. During the UNGA session on the 19th of April, Kyslytsya called on the UN to review the presence of Russia in the UNSC and its veto right, which hinders the ability of the Council to accomplish its main goal of maintaining international peace and security. In his interview with Kyiv Post, Kyslytsya mentioned that **"If this war, this aggression does not bring about a meaningful change of the architecture of the Security Council and of how the Security Council deals with military aggressions, that will mean basically the end for the Security Council and its reputation and that will be very much unfortunate"**.

The reform of the UNSC is needed, but in order to achieve it, the UN Charter must be amended. It can only be done if 2/3 of the UNGA votes in favor, including all permanent members of the UNSC. Despite the fact, that many countries support the UNSC reform, it cannot be done without Russia's approval. Considering that Russia's removal from the United Nations is not likely because of a lack of political will, it could be a major precedent in the history of the UN. In addition, it could be a lesson for other states who conduct aggressive foreign policy. Nevertheless, an interesting possibility has been raised regarding the expulsion of Russia's delegation from UNGA sessions at the very least, following the case of the Republic of South Africa. In light of South Africa's apartheid policy in the 1970s, the UNGA refused to accept credentials provided by the delegation of South Africa. Still, this option is quite controversial, as international lawyers question its legitimacy. The UN should, however, intensify the discussion of such options. As long as many states support the idea of UN reform and its reinforcement, all the possibilities should be discussed. In order to transform the UN in accordance with current realities, states should take a more proactive position.

There is also a Ukrainian proposal which seems to be quite creative and logical in terms of how to limit Russia's participation in the UN. The problem with the UN and its Security Council lies much deeper than one could think. When the United Nations was first established at the San Francisco conference, **Article 23 provided that "the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council"**. It is argued by Ukrainian diplomats that there are no public records confirming that Russia applied for UN membership after the collapse of the Soviet Union as required by the UN Charter. The UN Secretariat has not yet disclosed any official documents supporting Russia's position in the UNSC. In the case of Czechoslovakia, which ceased to exist in 1992, the Czech Republic and the Republic of Slovakia have undergone a new accession process. They have received approval from the UNSC and the UNGA. The same can be said about the dissolution of the Socialist Federal Republic of Yugoslavia. Serbia, just like Russia, declared itself to be a successor of the previous political entity, however, its application was rejected by the UNSC. That is why all the newly formed states were supposed to follow the same procedure as the Czech Republic and Slovakia. Thus, Ukraine demands that Russia must pass through this process of being accepted into the UN and UNSC, but until then, Russia's membership should be considered illegal.

- **Strengthening of the United Nations General Assembly in Promoting International Peace and Security**

As UNSC is not able to be a true safeguard of international peace without being reformed, members of the UN should pay attention to the UNGA. Even though UNGA resolutions are recommendations, they can be crucial in providing a political assessment of Russia's actions in Ukraine, holding Russia accountable, and developing a joint position among states within the UN to isolate and pressure Russia. After all, the UNGA is the only universally representative body of the UN, it has a substantial political significance. As it may be difficult to expel Russia in practice, UNGA instruments are crucial in keeping Russia within the scope of international legal responsibility. The backbone of the coalition to exert pressure on Russia via UNGA could be all the members of the "Rammstein format", aiming to expand the number of countries supporting Ukraine in the UN, including those who stick to the non-alignment policy with regard to Russia's war against Ukraine.

There are two examples of how the UNGA recently supported the rules-based order. First of all, its adoption of the resolution **“Territorial integrity of Ukraine: defending the principles of the Charter of the United Nations”**, which gathered 143 countries voting in favor, which means that the support of Ukraine in the UN increases. The resolution condemned Russia’s pseudo-referendums that were held in the temporarily occupied territories of Ukraine. The second significant outcome is a resolution **“Furtherance of remedy and reparation for aggression against Ukraine”**. The resolution recommends that UN members in cooperation with Ukraine create an international Register of Damage that would serve as a record basis for Russia’s reparations to Ukraine and the victims of Russia’s war of aggression. 94 members of the UNGA supported this resolution. Even though UNGA resolutions are not binding in nature, they still carry political weight. Volodymyr Zelenskyi in his address mentioned that **“The reparations that Russia will have to pay for what it has done are now part of the international legal reality”**. Of course, we need to see the impact of the resolution in the near future, but in practice, it can be a deterrent to future aggressive wars. The UN resolution empowers states and their governments to implement mechanisms that would allow using frozen Russian assets to compensate for the damage caused by the war. As Russia is unlikely to pay reparations in good faith, the resolution could be an invaluable step towards justice and international law’s reinforcement. Any country which would like to follow Russia’s example could face the same result of its assets being frozen and confiscated. Any potential aggressive intentions could be deterred and hampered by this. As Kyslytsya noted when he talked about the resolution, **“It will work for the benefit of all those who are being threatened now or might be threatened later by the use of force”**.

Therefore, it is high time to restore the authority of the United Nations. If not now, then we might expect a series of unpredictable events in the nearest future that will put the world in chaos. Russia’s war of aggression has to be a lesson for the UN and its members. Members of the UN should support Ukraine’s claims about Russia’s illegal occupation of the seat of the permanent member of the UNSC. Participating countries must continue strengthening the power of the UNGA and accelerate cooperation within this influential body of the United Nations. The success of the United Nations depends on how much meaning its members give to the Organization. If member states continue to ignore the UN’s instruments and potential, the Organization will suffer the same fate as the League of Nations. International affairs, in such conditions, will revert to old-style power politics with significant consequences for the stability and predictability of the world.

Vitalii Rishko, TDC Visiting Researcher