

ПОЛІТИЧНІ ПРОБЛЕМИ МІЖНАРОДНИХ ВІДНОСИН

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CAN RUSSIA'S UN VETO BE REMOVED?

ЧИ МОЖНА ПОЗБАВИТИ РОСІЮ ПРАВА ВЕТО В ООН?

Ewa Salkiewicz-Munnerlyn

Calisia University, Kalisz, Poland. E-mail: ewasalkiewiczmunnerlyn@gmail.com

Ева Салкєвіч-Муннерлин

Університет Каліша, Каліш, Польща. E-mail: ewasalkiewiczmunnerlyn@gmail.com

ORCID: 0000-0002-2617-2017

Abstract. *This article examines the real status of the veto power in the UN Security Council in the light of its use by Russia and also offers ways to resolve the stalemate that has risen due to it. After the collapse of the USSR, its place as a permanent member of the UN Security Council was taken by Russia, without going through the procedure of admission to the Organization. Such a political decision led to Russia receiving the veto power in the UN Security Council and its abuse of this power. Russian military aggression against Ukraine raised the issue of veto reform before the UN. It is necessary to recall the essence of the veto power and develop legal instruments that would help to overcome the current situation and allow the UN, especially the Security Council, to act and achieve its tasks. The purpose of the article is to answer the question of whether it is possible to remove the veto power from the Russian Federation in the UN Security Council. Based on the rules of international law the article presents various ways of solving this issue with reasons of their feasibility and the possibility of their application. The author presents and analyzes the following options: 1) recognition of the veto power as illegal, 2) restriction of the use of the veto power, and 3) making appropriate changes to the UN Charter. Also, the obligation of the Russian Federation as a member of the UN Security Council to abstain from voting on issues connected with its aggression against Ukraine is considered, in particular, Russia's presidency in the UN Security Council in April 2023, the voting procedure and abstention from voting by members of the UN Security Council and the presiding country. The author of the article also addresses the issue of Russia's exclusion from the UN or suspension of its membership based on Article 5 of the UN Charter. In this context it is considered the possibility of China's veto on voting about exclusion of Russia from the UN and the possibility of reaching a compromise in this regard. Along with that, as an option for solving the problem of Russia's veto power in the UN Security Council, the author refers to the document of the General Assembly "Permanent mandate to conduct debates of the General Assembly when the veto is imposed in the Security Council" and the procedure indicated in it to overcome the imposed veto. In the article, the author raises the issue of the possibility of creating a new organization, as it was in 1945 with the creation of the United Nations and the termination of the League of Nations. In the conclusion, the author states that currently there is no consensus on the issue of reforming the veto power without amending the UN Charter, creating a new global organization instead of the UN, or excluding Russia from the UN.*

Key words: *veto power, organization, the United Nations, Ukraine, Russia, aggression, General Assembly, Security Council, CIS (Commonwealth of Independent States)*

Анотація. *Дана стаття розглядає питання реального статусу права вето в Раді Безпеки ООН у світлі його використання Росією, а також пропонує шляхи вирішення поточної ситуації, яка через це склалася. Після розпаду СРСР місце Союзу як постійного члена Ради*

Безпеки ООН зайняла Росія, не пройшовши процедуру прийняття до Організації. Таке політичне рішення призвело до отримання Росією права вето під час голосування у РБ ООН і зловживання нею цим правом. Російська військова агресія проти України поставила перед ООН питання реформування права вето. Виникла потреба нагадати про істинну суть права вето, а також розробити правові інструменти, які допомогли б подолати ситуацію, що склалася і дозволили б ООН, особливо Раді Безпеки, діяти і виконувати відповідні завдання. Метою статті є надання відповіді на питання, чи можна зняти право вето з Російської Федерації у Раді Безпеки ООН. У статті наводяться різні шляхи вирішення цього питання з обґрунтуванням доцільності та можливості їх застосування на основі норм міжнародного права. Автор наводить і аналізує наступні варіанти: 1) визнання права вето незаконним, 2) обмеження використання права вето, 3) внесення відповідних змін до Статуту ООН. Також, розглядається питання обов'язку Російської Федерації як члена Ради Безпеки ООН утриматися від голосування щодо своєї агресії проти України, зокрема, порушуючи питання головування Росії у РБ ООН у квітні 2023 року та аналізуючи процедуру голосування та утримання від голосування членів РБ ООН та головуваної країни. Автор статті звертається і до питання виключення Росії з ООН або ж призупинення її членства на основі статті 5 Статуту ООН. У світлі цього питання розглядається можливість накладення Китаєм вето у разі голосування за виключення Росії з ООН та можливості досягнення компромісу щодо цього. Разом з тим, як варіант вирішення проблеми володіння Росією правом вето в РБ ООН автор звертається до документа Генеральної асамблеї «Постійний мандат на проведення дебатів Генеральної асамблеї, коли в Раді Безпеки накладено вето» та запропонованої ним процедури подолання накладеного вето. У статті автор порушує питання можливості створення нової організації, як це було у 1945 році зі створенням ООН та припиненням функціонування Ліги Націй. У висновку автор зазначає, що наразі немає консенсусу у питанні реформування права вето без внесення змін до Статуту ООН, створення нової глобальної організації замість ООН або виключення Росії зі складу ООН.

Ключові слова: право вето, організація, Організація Об'єднаних Націй, Україна, Росія, агресія, Генеральна асамблея, Рада Безпеки, СНД (Союз Незалежних Держав).

1. How can Russia be a member of the United Nations after the former USSR dissolved in December 1991

In the statement of the MFA of Ukraine on the illegitimacy of the Russian Federation's presence in the UN Security Council and in the United Nations as a whole, 26 December 2022, 15:10, it was stated among others that: “Therefore, the Russian Federation has never gone through the legal procedure to be admitted to membership and therefore illegally occupies the seat of the USSR in the UN Security Council. From a legal and political point of view, there can be only one conclusion: Russia is an usurper of the Soviet Union's seat in the UN Security Council. In no way could the agreement of the group of countries of the former USSR in Almaty in December 1991, which was not ratified by the Parliament of Ukraine, substitute the UN Charter. This however allegedly became the basis for Boris Yeltsin, then President of the RSFSR, to address the UN Secretary General regarding "continuity" of membership of the USSR [Kuleba, 2022]. At that time, the RSFSR was not a member of the Organization either”.

During the eleventh Emergency Special Session of the General Assembly of the United Nations GA opened on 28 February 2022 at the UN headquarters in NY, addressing the Russian invasion of Ukraine, Ukraine’s Ambassador, Sergiy Kyslytsya, pointed out that while “the Russian Federation has done everything possible to legitimize its presence at the United Nations, its membership is not legitimate, as the General Assembly never voted on its admission to the Organization following the fall of the Soviet Union in December 1991”(GA/12404).

[Belarus](#), [Russia](#) and [Ukraine](#) signed the [Belovezh Accords](#) on 8 December 1991, declaring that the Union had effectively ceased to exist and proclaimed the Commonwealth of Independent States (CIS) in its place. On 21 December 1991, Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan agreed to the Alma-Ata Protocols, joining the CIS. On 22 January 1993, the Charter (Statutes) of the CIS were

signed, setting up the different institutions of the CIS, their functions, the rules and statutes of the CIS. The Charter also defined that all countries have ratified the Agreement on the Establishment of the CIS and its relevant (Alma-Ata) Protocol would be considered to be founding states of the CIS, as well as those only countries ratifying the Charter would be considered to be member states of the CIS (art. 7). Other states can participate as associate members or observers if accepted as such by a decision of the Council of Heads of State to the CIS (art. 8). Two states, Ukraine and Turkmenistan, have ratified the CIS Creation Agreement, making them "founding states of the CIS", but did not ratify the subsequent Charter of the CIS, that would make them members of the CIS. Nevertheless, Ukraine and Turkmenistan kept participating in the CIS, without being member states of it. Additionally, Ukraine became an associate member state of the CIS Economic Union in 1994 and Turkmenistan an associate member state of the CIS in 2005. However, the Verkhovna Rada did not ratify the agreement on associate membership in accordance with the CIS Charter. As a result, De jure Ukraine only had the status of a "founding state", without even being an associate member [Andriyeva].

There are no resolutions of the UN admitting Russia to the United Nations membership, but also there are no resolutions or decisions admitting the newly independent Ukraine in 1991 when "Ukraine" continued the membership of the former "Ukrainian Soviet Socialist Republic," a founding member of the Organization in 1945. And at that time, Ukraine supported the Russian's holding the UN Security Council seat.

It is worthy to quote here the opinion presented by Larry Johnson, who served in the United Nations Office of Legal Affairs during various periods between 1971 and 2008, including as Assistant-Secretary-General for Legal Affairs, and is currently a Professorial Lecturer at the Vienna Diplomatic Academy [Johnson, 2022]. He said that : "In 1991, it was the Russia of Boris Yeltsin not Vladimir Putin The main factor that influenced how the issue was handled in the UN was the basic policy decision of the other P4 (China, France, the United Kingdom and the United States), including first and foremost the US government, which was that **it was in everyone's interest that the USSR be dissolved peacefully and orderly, which could be accomplished if the other republics agreed among themselves on various matters including the former USSR seat and the veto**".

And it happened that the republics of the former USSR, including Ukraine, agreed to Russia maintaining the seat of the USSR including in the Security Council and the Member States were notified that Russia declared it was not a "successor State" but a "continuing State". There was no opposition to this statement at that time.. Later on, it is worthy to quote again Larry Johnson, who was the witness of that time and a Principal Legal Officer in the Office of the Legal Counsel that:

" On Christmas Eve 1991 the Soviet Permanent Representative Yuli Vorontsov came to the UN Secretariat with a box in his hand with a new flag of something called the "Russian Federation" and a letter to the Secretary-General signed by Boris Yeltsin, "President Russian Soviet Federative Socialist Republic" (RSFSR). It said " the membership of the Union of Soviet Socialist Republics in the United Nations, including the Security Council and all other organs and organizations of the United Nations system, is being continued by the Russian Federation (RSFSR), with the support of the countries of the Commonwealth of Independent States, by the Russian Federation." Note it says "continued" not succession. In the law of succession, he was claiming that parts of the territory of his country had separated, leaving behind the rump which continued the international legal personality of the former larger State, whose name happened to change as well. Same country, just smaller, different borders and a new name and flag. The Russian Federation was the "continuing State" whereas all the bits that spun off were "successor States"—except for, ironically, Ukraine and Belarus which had been deemed as founding members of the Organization in 1945 for reasons not dealt with here. The letter also asked the Secretariat to change the name of the country from "the Union of Soviet Socialist Republics" to "Russian Federation" wherever it appeared. For our purposes, the key phrase is "with the support" of the Commonwealth of Independent States". Who were they? Eleven former ex-Soviet Republics, excluding the Baltics but including Ukraine, signed various agreements at Alma Ata on Dec. 21 1991, including one which specified: **"The States of the Commonwealth support Russia's continuance of the membership of the Union of Soviet Socialist Republics in the United Nations, including permanent membership of the Security Council, and other international organizations."** They also expressed satisfaction that Belarus and Ukraine would continue to

participate in the UN as sovereign independent States. So the UN in fact had 3 continuing members: Belarus, Russia and Ukraine. It is not for any Secretary-General to decide what is a State and what isn't, what continues a State and what does not. That is for the members of the club itself – UN Member States. Secretary-General Pérez de Cuéllar, who was ending his term in a few days, sent a note verbale to all Members and other UN organizations circulating the Yeltsin letter [Yeltsin, 1991]. And he waited for any formal reaction. There was none. Without any objections, questions, requests that anything be done such as convening a body or inscribing an item on an agenda, or the like, the Secretary-General would follow the request and change the nameplate from USSR to Russian Federation, change the alphabetical listing of members and replace the old flag with the new, including in any bodies that the USSR had been a member of such as the Security Council. Any member can change its name and flag anytime it wants” [Johnson, 2022].

2. Three Options for the Veto Power After the War in Ukraine

In the article written [for the EJIL on April 11, 2022](#), [André Nollkaemper](#) presented three options for reforming the veto of the P5 at the SC [Nollkaemper, 2022].

- a/ First option: Declaring the veto illegal
- b/ Second option: Restraining the use of the veto
- c/ Third option: Amending the UN Charter

ad.a. This option is based on the fact, that there are legal limits to the use of a veto by a permanent member and that a veto in relation to acts that violate norms of *jus cogens* is illegal. We agree with the statement of Prof. Jennifer Trahan, that “the UNSC is bound by international law and, in particular, peremptory norms of general international law”; that “it is problematic for the veto to be used in a manner that prevents action to address atrocities”; that “the UNSC is bound to respect *jus cogens*”; and that the “use of the veto to block legitimate action in the face of atrocities and other violations of peremptory norms of international law . . . is reprehensible” [Trahan, 2020]. The question is what is the legal consequence of such illegality? It is not the veto itself that would contravene *ius cogens*, but the veto would block a response to acts in violation of *ius cogens*. The veto than to some extent can be compared to rules of immunity in their relationship to *ius cogens* and an illegal veto would still be a veto.

Ad.b. This option has two variants. First is a stricter application of art.27(3) of the UN Charter, which requires that permanent members of the Security Council when they are party to a dispute, should abstain from casting a veto in relation to decisions under Chapter VI of the Charter. Second is related to the political Declaration on suspension of veto powers in cases of mass atrocities. In August 2015, France, with the support of Mexico, launched the ‘Political Declaration on Suspension of Veto Powers in Cases of Mass Atrocity,’ aimed at securing voluntary restraint on the use of the veto by the Permanent Members of the UN Security Council when faced with mass atrocities. As of July 2022, 104 member states and 2 UN observers have [signed](#) the declaration [Global Centre for the responsibility to protect, 2015]. Here is the text: 70th General Assembly of the United Nations Political statement on the suspension of the veto in case of mass atrocities Presented by France and Mexico Open to signature to the members of the United Nations We, the undersigned, Member States of the United Nations, reaffirm that the United Nations were created to save succeeding generations from the scourge of war and to protect the dignity and worth of the human person as well as the fundamental human rights. We further reaffirm that the Security Council was given the primary responsibility to maintain international peace and security by the United Nations Charter. We consider that situations of mass atrocities, when crimes of genocide, crimes against humanity and war crimes on a large scale are committed, may constitute a threat to international peace and security and require action by the international community. In that regard, we recall that the Heads of state and government of the United Nations expressed their readiness to “take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter” when national authorities fail to protect their populations from genocide, crimes against humanity or war crimes (World Summit Outcome Document of 2005). We therefore consider that the Security Council should not be prevented by the use of veto from taking action with the aim of preventing or bringing an end to situations involving the commission of mass atrocities. We underscore that the veto is not a privilege, but an international responsibility. In that respect, we welcome and support the initiative by France, jointly presented with Mexico, to propose a collective and voluntary agreement among the

permanent members of the Security Council to the effect that the permanent members would refrain from using the veto in case of mass atrocities. We express our strong resolve to continue our efforts to prevent and end the commission of mass atrocities.

Although the General Assembly resolutions have no binding force, it should be noted that they reflect the political will of the states that sign them. In the case of this initiative, only France, the author of the resolution, signed it, while the other four permanent members of the Security Council, i.e. Russia, China, the United Kingdom and the United States, did not.

Ad.c. According to Article 108 of the Charter, amendments must be adopted by two thirds of the members of the General Assembly and ratified by two thirds of the members of the United Nations, including all the permanent members of the Security Council. The Charter has been amended five times. In any event, Russia and probably China would oppose. But the key in this process would be the General Assembly ability to act and take some tasks of the Security Council. It already happened after the Russian veto of 26 February 2022, when over 140 states condemned the Russian aggression against Ukraine. But it happened over 60 years after the Uniting for Peace resolution of the General Assembly from 1950.

When we compare how the right of veto was used by the big five in the past until now, we see that the veto was used depending on what political interests of the great powers needed to be protected [Florence, 2018].

Charter amendments would not change the different strategic interests of states, but it is worth trying, because it cannot be worse than now.

3. Must Russia Abstain on Security Council Votes Regarding the war in Ukraine.

The question arises about the Security Council Presidency, which is held by each of the members in turn for one month, following the English alphabetical order of the Member States names. In April 2023 Russian Federation will held the Presidency.

Article 27(3) of the UN Charter establishes the only limitation to a Council member participating in a vote in the Security Council: “in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.” Although this limitation applies in equal measure to all Council members, it is interesting that the very article that enshrines the veto also institutes the only restriction to its use.

Abstentions under Article 27(3) are mandatory only if all of the following conditions apply: the decision falls under Chapter VI or Article 52(3) of Chapter VIII; the issue is considered a dispute; a Council member is considered a party to the dispute; and the decision is not procedural in nature. To date, implicitly or explicitly, there have been 12 cases of Article 27(3) abstentions (see cases 1-12 below), as well as at least 14 other relevant instances (see cases 1-14 to the right) in which the question of abstentions was either raised or considered without success.

The practice of the Security Council, and its members, has been inconsistent since 1946, and basically inexistent since 2000 (S/PV.4128), as the question whether a Council member was/is a party to a dispute has not been publicly raised since then. The apparent desuetude of Article 27(3) abstentions is surprising considering that the Security Council can decide, with at least nine affirmative votes, to consider a dispute even though one or more Council members, who are also parties to the dispute, are opposed to consideration by the Council [Security Council Report].

Article 27(3) in the UN Charter states: “Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting”

It means that the permanent member of the UN Security Council which is a party to a dispute shall abstain from voting on resolutions dealing with this dispute. And it means that Russia should abstain from voting for or against resolutions regarding the war in Ukraine. But it can happen for the the permanent member states of the UN Security Council only voluntarily and Russia will never give up its veto power voluntarily. But I agree with Ariel Cohen and Vladislav Inozemtsev that, “this can allow the Security Council to send the issue to the General Assembly without Russia simply vetoing the move” [Cohen, 2022].

What the Security Council procedure says that it could prevent Russia from presiding in the Security Council or to prevent it from voting in the Council?

Rule 20

Whenever the President of the Security Council deems that for the proper fulfillment of the responsibilities of the presidency he should not preside over the Council during the consideration of a particular question with which the member he represents is directly connected, he shall indicate his decision to the Council. The presidential chair shall then devolve, for the purpose of the consideration of that question, on the representative of the member next in English alphabetical order, it being understood that the provisions of this rule shall apply to the representatives on the Security Council called upon successively to preside. This rule shall not affect the representative capacity of the President as stated in rule 19, or his duties under rule 7 [Provisional Rules of Procedure].

So if a P5 does not agree or voluntarily abstain, is it possible for the Council to decide that a P5 could not vote? What kind of issue it is, a procedural or substantive, subject to a veto itself? In the affirmative, it is difficult to imagine that one permanent SC member (P5) would enforce such an issue against another P5, because of political correctness.

4. Is it possible to expel or suspend Russia from the United Nations?

Russia could have its rights and privileges of membership suspended (**Article 5 of the UN Charter**) which says: “A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council” [Sałkiewicz-Munnerlyn, 2022].

or it could be expelled from the Organization entirely (**Article 6**), which says: “A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council”.

But both decision of the General Assembly require a recommendation to that effect from the Security Council which would be subject to the veto. So of course Russia would veto.

There is a precedent for expulsion from the United Nations when in 1971, The Republic of China (Taiwan), a UN founding nation and Security Council permanent member was expelled. This country occupied the seat from 1945 until Oct. 25, 1971, when its place was taken by the PRC. The General Assembly even lifted the supermajority requirement when adopting resolution 2758 by 76 votes to 35, with 17 abstentions.

The Russian Federation can be expelled from the UN through the General Assembly, which can be done under art.18. 2 “Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions. Obviously, if a country loses its status as a UN member, it also loses its seat on the Security Council”.

To do so, a resolution proposing Russia’s [expulsion/suspension needs to go to the General Assembly from the Security Council, based on article 12.1 of the UN Charter, which says: “While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests”](#). After that, it must be a vote by the General Assembly by a two-thirds +1 supermajority in favor of expulsion.

According to Ariel Cohen and Vladislav Inozemtsev: “China is the only country in the Security Council that might veto sending a vote on expelling Russia to the General Assembly. If we want Russia to be appropriately punished, **China must be offered a deal**: Make Beijing’s abstention in the Security Council the first test of President Xi’s proposal for a US-China condominium in

managing world affairs. China must accept shared responsibility for facilitating international peace. To refuse would be to embrace Russian aggression and present China tying itself to an unstable and declining actor on the world stage” [Cohen, 2022].

5. “Standing mandate for a General Assembly debate when a veto is cast in the Security Council”, document A/77/L.52, GA/12417, 26 April 2022 [Security Council, 2022].

The text (document A/77/L.52) was tabled by Lichtenstein, and co-sponsored by 83 Member States, including three permanent Security Council members — France, United Kingdom and the United States. Two other permanent Council members China and the Russian Federation abstained. It was adopted without a vote. The General Assembly decided that its President shall convene a formal meeting of the 193-member organ within 10 working days of the casting of a veto by one or more permanent members of the Council and hold a debate on the situation as to which the veto was cast, provided that the Assembly does not meet in an emergency special session on the same situation.

The General Assembly invited the Security Council, in accordance with Article 24 (3) of the Charter of the United Nations, to submit a special report on the use of the veto in question, to the Assembly at least 72 hours before the relevant discussion is to take place.

The permanent representative of Poland to the UN in NY, amb. Krzysztof Szczerski said: “that the resolution is a response to the excessive use of the veto, which has been negatively perceived in international public opinion. The members of the Security Council were entrusted by the United Nations Member States with the power of veto to be guardians of the Charter. The veto must be regarded as a responsibility, not a privilege, by all permanent members of the Security Council. A situation when one of the Security Council permanent members, which is responsible for violating international peace, uses the veto to evade responsibility for its wrongdoings and to continue to enjoy impunity, is simply unacceptable by today’s societies. The resolution’s adoption is a significant step towards greater democratization of the Organization, and towards strengthening of multilateralism and contributing to the international peace and stability”.

The debate was a follow up of the United Nations General Assembly Resolution ES 11/1, adopted on 2 March 2022, during the [eleventh emergency special session of the United Nations General Assembly](#). It deplored [Russia's invasion of Ukraine](#) and demanded a full withdrawal of [Russian forces](#) and a reversal of its decision to [recognise](#) the [self-declared People's Republics of Donetsk](#) and [Luhansk](#). The tenth paragraph of the [United Nations General Assembly](#) Resolution of 2 March 2022 confirmed the involvement of [Belarus](#) in unlawful use of force against [Ukraine](#). The resolution was [sponsored](#) by 96 countries, and passed with 141 voting in favour, 5 against, and 35 [abstentions](#).

The mechanism was introduced in 1950 with the [Uniting for Peace](#) resolution, which declared that:

... if the Security Council, because of lack of [unanimity](#) of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefore [Plunck, 2013]. ...

In 1962, an [advisory opinion](#) of the [International Court of Justice](#) stated that, while "enforcement action" is the exclusive domain of the Security Council, the General Assembly has the authority to take a wide range of decisions, including establishing a peacekeeping force [Advisory opinion, 1962].

6. Create a new/successor organization with a new Charter, similar to 1945 when the UN was created, and the League of Nations was dissolved.

Last but not least, there is another possibility, presented by Prof. Vesselin Popovski [Stimpson Center, 2020].

“Let’s imagine four possible scenarios as to what may happen with the UN Charter in the future:

1. Live with the current Charter and make the best within it, including by building upon initiatives like those of the ACT Group, Liechtenstein, and others.

2. Reinterpret texts of the current Charter. Are there legal arguments to be made for GA Resolutions to be considered legally binding? Can a P-5 member participate but not vote when it is part of the conflict under discussion? (e.g., extending Art. 27).

3. Introduce Charter amendments under Art. 108 or convene an Art. 109 review. The Charter amendments cannot come into effect without the ratification by all P-5. Are there legal or practical ways around such potential blockage to the will of most states? Can a Protocol be added to the UN Charter to limit the veto?

4. Create a new/successor organization with a new Charter, similar to 1945 when the UN was created, and the League of Nations was dissolved. The new organization can inherit everything that works in the current UN system, and re-constitute not only the Security Council, but implement other important proposals from the OCA Report, draft reasonable, periodic Charter review mechanisms, ensure a genuine international rule of law, etc.

If we put these scenarios into desirability-feasibility assessment, **we may find that some of the P-5 might never ever accept any change of the UN Charter that limits the right of veto.** Hardly anything will change, and we may be in Year 2050 and still continue to see acts of aggression, war crimes and genocides happening and being sheltered by the veto of one or more of the P-5. The question therefore arises whether **the fourth** scenario might indeed prove to be both the most desirable and the most feasible.

If 140 Member States gather and create a new organization without the right to veto of any member, there is nothing that Russia and China can do against that. They can decide to join, or decide to stay out, but in both situations their veto will no longer be applicable. What is crystal clear is that international peace and security is too important to be left entirely to the Security Council”.

7. Conclusions

This is not the time or place to judge why some countries with large economic potential pay less than others with the same potential, but the disparity in annual fees to the UN by the richest countries, especially the permanent members of the UN Security Council with veto power, is astounding to say the least.

The discussion on reforming the composition of the UN Security Council and the rules for the use of vetoes by permanent members of the Security Council actually began when the UN was founded, i.e. in 1945, and continues to this day. The problem is that the states that have the right of veto do not want to give it up or transfer this right to other states. Even if this were to happen, under what rules, to whom, why, how much, etc.? This is, as it were, an attempt to find an impossible compromise in the current UN and world geopolitical situation. Of course, as shown above, various theorists of international law make various proposals, which possibly will contribute little besides self-promotion.

The truth is that there is no golden mean or possibility in the current situation without amendments to the UN Charter or the establishment of a new global organization in place of the UN, based on other, democratic principles using the right of veto, if it is maintained. Or throwing Russia out of the UN framework. But there remains the question of contributions and maintenance of the organization itself, which, like any other, is growing to unimaginable proportions, but unable to prevent wars and victims of wars, punishing the aggressor.

Unfortunately, if we compare who and when used the right of veto in the SC from 1945 to today, it turns out that states act according to their interests, and not to the interests of the international community. However, if we talk about the current situation of war caused by Russia's aggression against Ukraine, it should be emphasized that Russia has taken as hostages the other permanent members of the SC except China.

This situation will not change until Ukraine militarily defeats Russia and either a new organization is created in place of the UN , or the veto of the permanent members of the SC is

abolished, limited or extended. For this to happen, the majority of states, members of the UN or any other global organization created in its place, should express their will in the direction of such a change. It cannot be that states possessing a nuclear arsenal will blackmail those that do not. But we also know that in international law, one of the elements of creating this law is the will of the states. And it's not 100%, but the majority, and the belief that this practice constitutes law, that is custom.

Maintaining the current situation does not serve anyone, neither the UN nor the international community, except perhaps the aggressor. But even in this situation, an immediate solution must be found, because mechanisms must be created when the aggressor, violating all the rules of international order, continues to go unpunished, because the right of veto cannot be taken away.... It seems that the current war has changed the attitude of some countries towards Russia, but still not enough for them to put the interests of the international community or Ukraine above their national interests.

There is for example the Convention on the Prevention of the Crime of Genocide, which constitutes *ius cogens*, it means a peremptory norm. It is a fundamental principle of international law that is accepted by the international community of states as a norm from which no derogation is permitted.

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