Iryna Sushko is a Member of the civic initiative „Europe without borders", www.novisa.org.ua.

Andriy Chubyk, is an Executive Director of the Centre for globalistics "Ukraine XXI".

Yuliia Kurnyshova is a Chief Consultant of the National Institute for Strategic Studies, Ukraine.

CONTENTS

UKRAINE IS DEVELOPING, BUT THE NEED FOR SUPPORT REMAINS HIGH

Rapid changes within the area of international affairs and the latest developments in the global security crisis are a threat for Ukraine to melt in the turmoil of crisis. The situation requires that both the Ukrainian authorities and ally countries would remain on the highest level of alert and prevent this from happening.

Despite the conflict in eastern Ukraine and endless Russia's attempts to make Ukraine a failed state, development in various sectors is processing. However, now as never before Ukraine needs a firm support, both direct and indirect, from the West. This means, any political developments that would be beneficial to Russia would be playing against the efforts of Ukraine to move closer to Europe.

In the fifth issue of Prism.UA we focus on the most sensitive topics of the day. One of them is the perspective of the EU-Ukraine visa liberalisation in 2016. To this end, the Ukrainian Parliament even adopted a controversial and highly debated anti-discrimination law, however, closing of the borders even among Schengen members due to the security crisis, puts the perspective for visa-free regime into a question. Thus, in the first article Iryna Sushko reviews the status quo of the implementation of the Visa Liberalization Action Plan. She also maintains that the ongoing reforms are important not only for the EU-Ukraine cooperation, but also for Ukraine's internal development.

Another important issue is the ongoing processes in the European energy sector. Ukraine remains in the dangerous situation and the need for closer cooperation with the EU is crucial for overcoming vulnerabilities. Andriy Chubyk discusses four negative trends in approaching energy issues, which may have a harmful effect on the unity of Europe in the energy sector. He concludes that despite the domestic challenges, Ukraine has shown a very positive progress in the field of reform of its energy sector. The deeds and political will showed by Kyiv should also be reflected in the European debates on the future of the European energy market.

Finally, in this issue we discuss the role of the United Nations in the management of Russia's war against Ukraine. Yuliya Kurnishova presents a historical perspective on Ukraine-Russia's disagreements that were dealt with at the UN level. Subsequently, she discusses the lack of the instruments within the UN to act adequately in such crisis and summarises that the reform of the structure of the UN must be pushed forward.

Hennadiy Maksak, co-editor of digest "Prism.UA",
Coordinator of the FP expert network "Ukrainian prism"

Vytautas Keršanskas, co-editor of digest
"Prism.UA", Analyst at the Eastern Europe Studies Centre

VISA LIBERALISATION AS AN EFFECTIVE INSTRUMENT TO SUPPORT REFORMS

Iryna Sushko

Visa liberalisation is traditionally viewed as a process leading to the abolition of a visa regime requirement for the European Union. At the same time, it is one of the effective instruments for the

reform of a country seeking to facilitate free movement in the Schengen countries and the EU. It is also a process that can hardly be underestimated when it comes to the need for external stimulus

EC officials consider the abolition of the visa regime as a logical continuation of the globalisation process as well as the continuation of integration of Eastern European states into Europe.

for transformation and modernisation of such important areas of public policy as public order and security. The benchmarks laid down in the Action Plan and provided to the countries aspiring to freedom of movement within the European Union are an effective instrument for the rejuvenation of the country and bringing its policies in various public policy spheres closer to international security and effective governance standards.

A long road

However, it is only the tip of the iceberg, because performing the tasks envisaged by visa liberalisation, the country gets a chance to modernise personal identification documents, harmonise legal framework on migration management, strengthen its institutional capacity in the fight against corruption and money laundering, raise standards within the judicial system, and combat discrimination. At the same time, the political will and implementation of commitments by the governments of the countries seeking a visa-free regime, which inevitably precede the qualitative rejuvenation of the country, are a matter of great importance. Otherwise, meeting the benchmarks will face the threat of turning into the imitation of qualitative changes.

The EU-Ukraine Visa Liberalisation Action Plan (VLAP) was presented to Ukraine in 2010 and it has been fulfilling the requirements contained in four blocks of benchmarks for the past five years. The benchmarks concern document security, including biometrics, irregular migration, including readmission, public order and security, and fundamental human rights and anti-discrimination. The VLAP is a pioneering document in the relations between the EU and its Eastern European neighbours that was tested in the countries of the Western Balkans. It is the experience of these countries and their Road Maps that became the basis for the preparation of the Ukrainian Action Plan.

The distinctive feature of the Ukrainian version is a two-phase structure of the process, the essence of which is as follows: the process is divided into the "legislative" and "implementation" stages and "the momentum of liberalisation will depend on the progress that Ukraine will reach in the process of meeting the benchmarks". There will be no automatism in the process of transition from one phase to the other, and the progress in the implementation of each level of the benchmarks will be closely monitored by the EU. Appropriate decisions will be taken by the European Commission (EC), the European Council, and the European Parliament (EP).

It is important to note that, among the decision-makers regarding the prospects of visa liberalisation for Ukrainian citizens, it is the EC which is most interested in that all criteria and objectives

are met by the Ukrainian authorities. EC officials consider the abolition of the visa regime as a logical continuation of the globalisation process as well as the continuation of integration of Eastern European states into Europe. Nevertheless, the abolition of the visa regime for Ukraine is possible provided that all necessary legislative and institutional changes are adopted and implemented. At the same time, relevant agencies and ministries will demonstrate effective cooperation with their European partners in the areas of justice, freedom, and security.[1]

Recent statements by EC President Juncker claiming support for visa liberalisation serve as confirmation of the interest in the country's meeting the visa-free requirements.[2] However, there is quite a different situation in the European Council, which primarily reflects the positions of the EU Member States. By their degree of support to visa-free prospects of Ukraine the EU Member States are divided into two groups of "sceptics" and "lobbyists", therefore the main work must be done in cooperation with Members States. It is necessary to provide both groups with comprehensive and objective information concerning immigration threats and security risks that have been associated with Ukraine for the past year and a half.

The lack of effective controls on the Eastern border and a large number of internally displaced persons and refugees are not only additional challenges to the security and internal stability of the state, but can also become new stumbling blocks to the readiness of EU Member States to support Ukraine's prospects for visa liberalisation.

Meanwhile, migration experts indicate an exaggerated and stereotypical perception of the threats associated with Ukraine. Following the analysis of available sources, the experts have concluded that applications for refugee status in the EU by Ukrainian citizens are usually refused. So, for example, in 2014, only 4% out of 78% of all considered requests were granted refugee status. Meanwhile, the probability that a Syrian citizen will be granted asylum in the EU is more than 90%.[3] This situation is mainly attributable to the fact that Ukrainians do not satisfy the eligibility criteria for asylum seekers. Citizens of Ukraine, including internally displaced persons from Donbass, have an unimpeded possibility to stay in Ukraine without risk to their lives because the area affected by hostilities covers only a small part of Ukraine.

[1] http://novisa.org.ua/en/visa-free-europe-for-the-eastern-partnership-a-way-to-achieve-2/

[2] https://inforesist.org/yunker-v-konce-goda-my-smozhem-dat -polozhitelnoe-reshenie-ob-otmene-viz-dlya-ukrainy/

[3] http://www.euractiv.com/sections/europes-east/ukraine-migration-threat-eu-318323

New challenges facing Ukraine confirm the necessity of reform in the fields of justice, security, and home affairs and the Action Plan aimed at the liberalisation of the visa regime for Ukraine by the EU is currently one of the most effective incentives for such reforms.

The expectations of the Ukrainian authorities that the EU will abolish the visa regime for political reasons are low in view of the risks of migration from Middle East and partially from Ukraine, but most of all because of security threats caused by the recent terrorist attack in France.
Europe's "soft power" in the form of democratic values and rules has been quite often violated by

The fulfilment of the criteria laid down in the VLAP is instrumental in enhancing security. The fight against corruption and human trafficking, strengthening of international law enforcement cooperation, in particular, building of operational cooperation with Europol, protection of personal data, and improving border management, given their proper implementation, make the country more secure and safe. New challenges facing Ukraine confirm the necessity of reform in the fields of justice, security, and home affairs and the Action Plan aimed at the liberalisation of the visa regime for Ukraine by the EU is currently one of the most effective incentives for such reforms.

Status quo of the VLAP process

Did Ukraine meet the targets and how successful were its efforts in achieving the quality indicators and complying with the EU standards in the security sphere?

Today, Ukraine is in the final implementation stage of the VLAP. Almost all basic requirements have been fulfilled. The year 2014 was quite fruitful in terms of progress achieved. In May 2015, in its Fifth Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation, the European Commission gave a positive assessment of the performance of the tasks of the first phase of the plan. Among other recommendations to the Ukrainian authorities, emphasis was placed on the following:

- To continue the issuance of biometric passports, including at the consulates of Ukraine abroad, and to furnish all checkpoints with the necessary equipment for reading documents with biometric identifiers;
- To translate cooperation with Interpol into the operational stage and to improve the databases for the monitoring of stolen or lost documents;
- To implement the Strategy and Action Plan for the prevention of money laundering and the financing of terrorism;
- To implement the Anti-Drug Strategy;
- To adopt the necessary legislation in the sphere of fighting corruption, in particular, tracing and confiscating assets gained through corruption;
- To amend the Labour Code to protect the rights of vulnerable groups, including sexual minorities.

With the aim of fulfilling these and other requirements, the President and the Government of Ukraine have developed a plan of actions, the implementation of which, in the opinion of the head of state, should be ensured as soon as possible.
The most intensive period awaited Ukraine in autumn 2015, which among other things included the EU evaluation missions and the deadline set

by the head of state, who indicated November as the time for completion of the process. However, the findings of independent monitoring conducted by experts of the Europe without Barriers civic initiative pointed out that at the end of September the most important and at the same time problematic benchmarks in terms of political will required to implement them were not fulfilled[4].

These benchmarks were related to Block 3 "Public order and security", which included fighting corruption and organised crime, and the benchmarks of Block 4 "External relations and fundamental rights" which included anti-discrimination. Despite the implementation period which Ukraine started following the green light from the European Commission, it appeared that it was the Ukrainian parliament which was expected to adopt new "anti-visa" legislation and thus to complete the process. Having prepared a necessary list of legislation in the sphere of fighting corruption, including that relating to the recovery of stolen assets and management of confiscation, the government was forced to coordinate the new rules with the parliament. So, the ball is now in the court of members of the Ukrainian legislative assembly.

- The following key tasks were identified in relation to this matter in the list of the Presidential Decree "On additional measures for introduction of the visa-free regime between Ukraine and the European Union"[5]:
- To establish a specialised anti-corruption prosecution office;
- To reform the Security Service, in particular, to clarify the duties and roles of the law enforcement authorities;
- To improve the system of information exchange between the three services: migration, border guards, and the police;
- To establish the National Agency of Ukraine for Identification, Investigation and Management of Assets Obtained through Corruption and other Crimes.

The issue of the coordination of the tasks supervised by the Ministry of Foreign Affairs (MFA) was, however, not raised, despite the fact that the Coordination Centre for the Implementation of the VLAP was established back in 2010. The MFA lacks power and authority to deal with the coordination work effectively on many issues concerning the management and harmonisation of the actions of agencies of different sectors.
Decisive time

---

[4] http://gazeta.zn.ua/internal/chya-politicheskaya-volya-v-voprose-vvedeniya-bezvizovogo-rezhima-silnee-ukrainy-ili-es-_.html

[5] http://www.president.gov.ua/ru/news/prezident-zatverdiv-dodatkovi-zahodi-shodo-zaprovadzhennya-b-35805

The adoption of the legislation by the parliament required for the completion of the visa liberalisation process and receiving a positive assessment at the beginning of December 2015 has become a real challenge. This will be the time when the European Commission is expected to publish its formal report on the advance of Ukraine, which subsequently may allow Ukraine to count on the abolition of visas in 2016.

Instead of implementing the tasks, the parliamentary coalition has demonstrated its own (different) vision of the "anti-visa" laws, which resulted in the draft laws (on anti-corruption) that, according to the EU Delegation in Ukraine, do not meet the established standards[6]. Certainly, the experts of the EU evaluation mission, who will announce the interim findings at the Senior Officials Meeting to take place in late November, will give the final evaluation.

The expectations of the Ukrainian authorities that the EU will abolish the visa regime for political reasons are low in view of the risks of migration from Middle East and partially from Ukraine, but most of all because of security threats caused by the recent terrorist attack in France.

The completion of the visa liberalisation process is beneficial to Ukraine first of all as a tool to start important changes in the sphere of public order and security. At the same time, the failure to secure the visa-free regime in 2016 could seriously weaken the European aspirations of Ukrainians, for whom the abolition of visas is an organic movement and integration in the European community.

_____

[6] http://www.eurointegration.com.ua/news/2015/11/10/7040567/

EUROPE'S ENERGY SECURITY CHALLENGES – CURRENT SITUATION AND PROSPECTS UP TO 2020. WHERE DOES THE EU AND UKRAINE AGENDA COME TOGETHER?

Andriy Chubyk

A growing number of conflicts in the areas of energy supply routes to Europe has brought back concerns over energy security to the political agenda. Declining energy demand due to the increased energy efficiency and the post-industrial trend towards sustainable, environmentally friendly economy cannot eliminate negative impacts of disruption to energy supply pathways. These disruptions are more dangerous for Central and Eastern European countries where a single energy supplier still dominates the gas market. Western Europe has more energy suppliers and delivery options and therefore is less interested in changes to energy regulation.

Since 2000, the EU energy security policy has been retroactive and introversive, aiming to change the internal energy market in response to external challenges. However, national energy mixes and politics have always dominated over a single voice approach. Political compromise at the level of the European Council was effective for the development of long-term strategies and road maps. Nevertheless, they were helpless against rapidly changing circumstances of crises and provided no effective solutions against growing threats. For instance, the gas crises in 2006, 2009 and 2014 became "frozen" politically through negotiations of a few European political leaders with their initiator – Russia and primarily at the expense of Ukraine. The EU continues to exist and operate under the business-as-usual mode, while a new wave of confrontation is starting in the world, because a single country wants to change the international order for its own benefit using non-linear, so-called "hybrid warfare" instruments involving energy that is often a key leverage. "Hard power" is becoming a decisive instrument in preserving leading positions and affecting the global political agenda.

Europe's "soft power" in the form of democratic values and rules has been quite often violated by European top-politicians of Member States and even at the EU level when negotiating energy cooperation with evidently autocratic or totalitarian regimes across Europe. The latest example of the violation is the binding agreement between five European companies and Russian Gazprom to build Nord Stream II despite the sanction regime, aggressive Russia's behaviour with regard to Ukraine and Syria, and Russia's anti-European propaganda. Top German officials have made several statements in favour of this project, despite its clear connection with Russia's plans to disorganise the development of the European single energy market. It seems that several European energy companies are trying to hijack the development of the entire European gas market in order to preserve their own private interests and revenues, or, eventually, only those of a few top managers.
Active external energy policy of the EU under

European top-politicians of Member States and even at the EU level when negotiating energy cooperation with evidently autocratic or totalitarian regimes across Europe.

current conditions is extremely important, but it may be effective only if significant changes are made and if it starts defending its own interests both within EU and outside the EU Member State territory by employing a wider set of means, including "hard power". Ukraine can serve as an example of diversification, changes in the energy market, and readiness to protect European values despite negative economic, political and even existential consequences.

Europe's energy security is facing several significant challenges, which may heavily damage the EU's resilience against negative effects from its neighbours. Among them, the following challenges should be mentioned:

1. Lack of solidarity

The EU remains divided in terms of both coordinating the internal energy policy and maintaining relations with external energy suppliers. National energy mixes are not a good excuse for selfish politics of the governments aiming to preserve preferential energy relations at the expense of the development of the common energy market and failures in reforming the domestic energy sector. A very evident example is the discussion around the Energy Union[1] as the future framework of the European energy sector, where short-term and radical changes were sabotaged in order to retain national long-term contracts for gas business with Russia.

The EU imports gas from different countries and many companies of European and foreign origin are among its partners. Energy supply from three main directions – west, north and south – is ensured either under commonly accepted commercial rules (Norway) or by purchasing small volumes where the diversification level is not critical for the EU (Algeria). Russia, remaining the biggest energy supplier for many European countries, refuses to adopt common regulation (Energy Charter Treaty)[2] or obey by the rules of the energy market and regularly uses energy supplies as an instrument to exert pressure on their counterparts for political advantages. Some examples include the "gas for fleet" deal with Ukraine in 2010, the "gas for independent foreign policy" with Armenia in 2013, and gas supply reduction for Poland, Slovakia, Austria and Germany in 2014 to limit reverse supply to Ukraine.

Despite that solidarity is mentioned among the five mutually-reinforcing and closely interrelated

dimensions of the Energy Union Communication[3] of 25 February 2015, there is still little progress in this regard. Political attitudes of Germany and Austria particularly differ from what is important for Central and Eastern Europe, namely, preservation of current energy flows, wider introduction of spot market based pricing, cancellation of the "take or pay' clause, etc.

Strong support of Germany towards Russia-backed Nord Stream II project might change the gas supply architecture of the entire Central and Eastern Europe significantly. One of the reasons seems to be the growing expense of German "energy transition" and therefore eventual return of socialist-led forces to Schröder's approaches to exclusive gas relations between Germany and Russia for covering energy demand until 2020, when most of nuclear capacities are decommissioned.

Ukraine has a few things, both of negative and positive kind, to say to the EU with regard to solidarity. No one will undermine united European concerns about violation of the European territorial integrity and international order by Russia. However, solidarity stops at this level, and sanctions have seriously divided Member States.

Ukraine has shown solidarity with the EU in terms of protecting common values by keeping the course toward the Association Agreement after facing direct economic, political and military threats from Russia. Ukraine continues its efforts to diversify energy supplies despite external and internal pressures, price differences, and imposed conditions, thus following the European approach to single energy market rules and regulation. Ukraine has achieved the biggest progress in building cooperation with European neighbours in the gas sector.

Becoming a part of the European energy market, Ukraine is ready to support solidarity among the EU Member States by offering its own capacities for transportation and storage of gas for sustainable supply; to provide support in promoting the European energy acquis with respect to Russia by requesting to change the gas delivery point; and to allow access to transport infrastructure for independent Russian gas producers and transit for Asian countries.

2. Business-as-usual approach

In terms of doing business, the EU aims to keep its own energy sector as close as possible to free market conditions. Aiming to gain access to de-

---

[1] http://ec.europa.eu/priorities/energy-union/index_en.htm

[2] http://www.europeanenergyreview.eu/russia-and-the-energy-charter-process-which-way-forward/

[3] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2015:80:FIN

Ukraine might become a "success case" for the EU both in terms of rapid adaptation of the energy acquis and reform results outside the community.

posits or cheap energy sources, energy companies and even state officials often pay too little attention to political and social matters or the situation with democratic rights and freedoms in other countries. The historical attitude of "business-as-usual" prevails in relations with most of African, Middle East, Caspian and Asian countries and Russia. That the nations should be responsible for the situation in their own countries is an obvious, although not officially recognised position of the EU. However, in Russia's case Europe is faced with aggression, directed against both individual countries and the EU in general with the long-term goal of destroying unity of Member States and defeating competitors in terms of values or development strategies.

The EU has already failed in its Neighbourhood Policy towards several Eastern and Southern partner countries. The Eastern Partnership Programme lost Azerbaijan and Armenia; Belarus from the very start refused to extend cooperation beyond the economic sphere. There is growing Euro-scepticism in Moldova and Georgia fuelled by corruption scandals and maniacal persecution of political predecessors. Ukraine is fighting heavily in the military conflict with Russia and against the corrupted political system inside the country without clear signals about integration perspectives.

Military clashes with several authoritarian leaders in the North Africa and Middle East resulted in sanctions and oil trade blockade, yet similar measures have never been officially applied against Russia. Former EU Energy Commissioner Günther Oettinger[4] tried his best to prevent gas and oil trade with Russia from being included in the sanction list. The "sacred" Russian energy companies and their CEOs can continue their business with European partners despite that they are responsible for decisions to reduce or cut gas supply to several countries in Europe thus causing significant economic losses. While the EU is accusing Euro-inspiring countries of the lack of transparency, Russian and European energy mayors register new joint ventures in offshore zones[5].

Despite being deeply affected by corruption, Ukraine has shown strength and firmness in gas deals with Russia, thus making the strategic choice more important than short-term economic advantages. Ukraine is opening its own energy market to European companies and is creating opportunities for profitable business and investments without neglecting commonly accepted rights and values.

[4] http://www.wsj.com/articles/eu-official-dont-place-sanctions-on-imported-russian-oil-and-gas-1406133066

[5] http://www.moneyhouse.ch/u/new_european_pipeline_ag_CH-170.3.039.850-1.htm

3. Introversion of energy policy

The EU has been responding to external energy challenges mostly through changes to its internal energy legislation and improvement of the domestic energy market. Contrary to the US and Russia, the EU has not developed a clear external energy policy with a set of measures to attract interests of energy rich countries, thus excepting profitability of the market, and, what is more important, failing to defend its own interests by comprehensive and effective involvement.

The diplomatic attitude of the EU and the negotiation mandate of the European External Action Service together with top officials from the European Commission have proven their weakness and inefficiency in both promoting European interests in new energy supplies and solving conflicts in the energy sphere. Failure of the Nabucco gas pipeline, helplessness in negotiating prospects for gas deliveries from Turkmenistan, and inability to provide security guaranties to the Caucasus region with regard to the implementation of the South Energy Corridor are a few examples of failed EU efforts in foreign energy policy-making.

The long-term trend of the EU towards energy sustainability through energy efficiency, utilisation of domestic renewables potential, and simultaneous reduction of greenhouse emissions might be the correct, environmentally- and human-friendly strategy for the development of the energy market. However, in order to succeed in ensuring imports of energy in times of escalating conflicts around Europe, the EU should change its energy policy to the more proactive one.

Ukraine might become a "success case" for the EU both in terms of rapid adaptation of the energy acquis and reform results outside the community. By combined efforts in future energy negotiations, Ukraine and the EU will be able to speak from the position of power, demanding regulatory compliance from Russia as a preliminary precondition for any cooperation rather than compromising their own legislation requirements.

Ukraine has suffered enormous threats – from cyber attacks to explosions – to its energy infrastructure, which forced it to develop and introduce a comprehensive protection programme. The EU needs to change its attitude to the protection of energy infrastructure in the areas of the routes of supply and to introduce onshore analogues of Atalanta taskforce, for instance, in Caucasus.

4. Compromise-based "soft power"

The EU has proven to be successful in terms of common currency, the Euro, and the Schengen zone. These required consolidation of efforts on internal issues. As mentioned above, negotiations

Ukraine has demonstrated "red lines" in terms of the acceptable framework of relations with Russia.

with external suppliers on energy issues often violate principal European values and norms, because the counterparts may represent autocratic or even totalitarian regimes, which neglect democratic rights and freedoms and use revenues for own benefits and strengthening of the power vertical. Russia has particularly succeeded in bilateral talks with individual European countries using the "carrot and stick" approach. At the time when energy companies from Germany, Austria, Netherlands and France, unofficially backed by national governments, are negotiating new deals with the Russian counterpart, Poland and Sweden are testing new options for oil imports from non-Russian sources, while Central Europe makes efforts to establish new gas interconnections.

European energy companies are often the "cause and effect" of compromises made by national governments in favour of doing business with undemocratic political regimes in energy rich countries. Conversely, Russian energy companies are instruments of foreign policy and are ready to suffer financial losses in order to gain political advantages for their own government.

The EU is able to send very strong messages to countries with Euro-integration aspirations like Ukraine, blaming them for slow reforms and monopolisation of the energy market. At the same time, Directorate General for Competition has been playing for two years with Gazprom in antitrust investigation games without a clear vision as to how to arrange a "happy-end" for both sides.

The EU still does not believe that it has become an object of cynic and mortal aggression from Russia for its sophisticated "soft power" in the form of democratic values and freedoms openly violated by politicians and businesspersons in the "third world" countries. Although capable of making its "soft power" a really powerful tool through consolidated position and carefully calculated sanctions, the EU usually follows the US enforcement measures, simultaneously blaming for interfering into sovereign rights of national governments and actually defending violators because of short-term economic interests.

Ukraine has demonstrated "red lines" in terms of the acceptable framework of relations with Russia. The EU also needs to define its clear strategic interests in compliance with the promoted rights and values and, what is more important, to approve a clear set of measures in case they are violated. A common dialogue and cooperation between Ukraine and the EU could help "reset" European external policy and determine the limits for both politicians and businesspersons.

However, the challenges described above will most likely continue to have an impact on the European external energy policy and the energy security of the EU until and beyond 2020. The EU will opt for internal compromise-based improvements in the energy market with strong emphasis on energy efficiency and eventual innovations in the field of energy conservation and storage, which could boost further development of renewables. The core of the EU – major Western economies – are ready to sacrifice short-to-medium-term economic losses of peripheral Member States and Euro-inspiring neighbours to evolutional development of the internal energy market under the business-as-usual approach. Major EU economies correctly assume that the risk of suffering from external challenges is much higher in border areas of the EU. Meanwhile for those other countries it is important to insist on greater financial support from European structural funds in order to facilitate integration of their markets and reduction of energy consumption.

Ukraine should consider its own prospects in the most pessimistic scenario of close to zero gas transit and put all efforts in energy efficiency in the coming years. Becoming self-sufficient in terms of energy will have a decisive role after 2020, especially in view of growing escalations around Europe and eventual large-scale confrontations in Russia, caused by the lack of financial resources to compel obedience of all groups, including oligarchs and law enforcement agencies.

MILITARY CONFLICT IN UKRAINE AND USE OF UN MECHANISMS

Yuliya Kurnishova

Since Ukraine does not belong to any security block, the appeal to the United Nations in a situation of military threat is a measure of absolute necessity. Ukraine gained the possibility to defend its interests in the UN after the disintegration of the USSR. Before that time, although with an in-

dividual mission to the UN, Ukraine had acted in line with Soviet policy.

Repeating history

Two incidents that took place before the military

Since Ukraine does not belong to any security block, the appeal to the United Nations in a situation of military threat is a measure of absolute necessity.

conflict in Ukraine are worth mentioning in the context of the experience of cooperation between Ukraine and the UN.

In the early 1990s, the Russian Federation tried to secede the Crimean Peninsula from independent Ukraine for the first time. In 1993, the Supreme Council of the Russian Federation adopted the resolution "On the status of Sevastopol", whereby the city was granted the "Russian federal status". Ukraine appealed to the UN Security Council and received clear confirmation of its territorial integrity (Resolution S/26118). At that time, the international situation was favourable for Ukraine. The wave of the emancipation of the former Soviet republics and a rather successful role of the UN during Iraq's aggression against Kuwait were instrumental in raising the profile of the organisation. As a result, in January 1993, US President George W. Bush stated that "the United Nations has been given a new lease on life, emerging as a central instrument for the prevention and resolution of conflicts and the preservation of peace"[1].

In 2003, during the territorial conflict around Tuzla foreland and the construction of a Russian dam in the Kerch Strait, Ukraine found itself faced with the necessity to request help from the UN for the second time. The 1997 Treaty on Friendship, Cooperation and Partnership, on the basis of which disputes were to be "settled by consultations and negotiations between the High Contracting Parties" was already in force between the parties. The political leadership of Ukraine was, however, not interested in a significant deterioration of relations with Russia. Thanks to the personal diplomacy of Kuchma and Putin the conflict was settled. Also, the international context around the UN in 2003 was completely different from that ten years earlier. It was affected by the unsuccessful operations in Yugoslavia, Somalia, and Rwanda, while the operations in Kosovo and Iraq were not mandated and, therefore, relations with the main donor the United States deteriorated and the budget was cut significantly.

The two episodes concerning Russia's encroachments on Crimea have demonstrated two different types of the UN involvement. Both also showed the dissatisfaction of Moscow with Ukraine's sovereignty over Crimea and were to serve as a warning to Ukrainian politicians. However, in 2013, neither the Ukrainian ruling elite nor the society at large had any suspicion of the danger or possibility of the annexation of part of the country's territory. The events that began in March 2014 and continue to the present day in the form of a "hybrid war" in Eastern Ukraine were even more unexpected.

Lack of sufficient response in time of crisis

After the events of March 2014, Ukraine appealed to the UN stating the annexation of part of its territory and the manifestation of unprovoked aggression by the Russian Federation[2]. It was clear that Russia's actions were in contradiction not only with international security standards, but also with the existing bilateral agreements as well as "the spirit and the letter" of international safeguards to Ukraine enshrined in the Budapest Memorandum.

Furthermore, in legal terms, Russia's actions fell within the definition of aggression provided by the UN General Assembly in Resolution No 3314 adopted on 14 December 1974. Moscow carried out a military occupation of part of the territory of Ukraine and continues its incursions in certain areas of Donetsk Oblast and Lugansk Oblast.

On 24 March 2014, the General Assembly adopted Resolution 68/262 whereby it affirmed the sovereignty and territorial integrity of Ukraine, recognised the referendum in Crimea as illegitimate, and called upon countries of the world and international organisations not to recognise any changes in the status of the Autonomous Republic of Crimea and the city of Sevastopol[3].

The Resolution was supported by 100 UN member states out of 193, which revealed the ambiguity as far as the support for the preservation of the norms and rules of the UN Charter in the world was concerned. Most of the countries which abstained from voting – the countries from South America, Asia and Africa – did it for pragmatic reasons and out of a desire to distance themselves from the conflict, which reminded many of the "Cold War" confrontation.

With further escalation of military events in Eastern Ukraine, the response of the UN remained passive. Six times attempts to adopt a resolution on Ukraine in the UN Security Council, including on the annexation of Crimea, the creation of a tribunal for the investigation of the crash of the Malaysian Boeing, and the terrorist attack in Mariupol, failed because of Russia's position. Other members of the body did not oppose Moscow's participation in the voting as provided for by Paragraph 3 of Article 27 of the Charter of the United Nations: "in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting"[4]. This position of the organisation was to a great extent regarded

---

[1] National Security Strategy of United States. The White House. Washington. – Jan. 1993, p. 7.

---

[2] http://zakon4.rada.gov.ua/laws/show/873-18

[3] http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N13/455/17/PDF/N1345517.pdf?OpenElement

[4] http://www.un.org/en/documents/charter/

The functional failure on the part of the UN Security Council repeatedly occurred during the times of the "cold war".

by the Russian leadership as the absence of obstacles to further realisation of its goals in Ukraine.

The functional failure on the part of the UN Security Council repeatedly occurred during the times of the "cold war". However, once the bipolar confrontation was overcome and international relations liberalised, the demand for peacemaking increased significantly, while the lack of effective instruments for its implementation threatened the stability of the entire system of international security.

The need for reforms?

This calls for the urgent need to restart the UN as an effective international mechanism. However, there is a lack of consensus on this matter between the permanent members of the Security Council. As evidenced by the course of the discussion on the reform of the organisation, one type of reform on which the members of the organisation could agree is the expansion of the number of Council members without the extension of the right of veto to these states. Notably, the United States, China, and Russia are almost unanimous regarding the immutability of the formula of the right of veto in the UNSC.

While all the permanent members of the UN are interested in preserving their leading positions, for Russia, in the conditions of narrowing of its foreign environment, the UN represents perhaps the last resort of international influence and the last global organisational resource. Not without reason did Russia's President Putin decide to break the isolation imposed on him and to speak at the 70th UN General Assembly in September 2015 for the first time in ten years. However, the claims of Russia, which allege to deliver "security functions" for the international order, are extremely weak[5].

In its confrontation with the West, Russia transcends the limits even on issues of high moral and emotional colouring. This was manifested in its use of the veto power over the UN resolutions concerning the establishment of the international tribunal for the investigation of the crash of Flight MH-17 over Donbass and the recognition of the genocide in Srebrenica.

An important area exposed to the destructive impact of the conflict provoked by Russia is the international safeguards system based on the principles of the UN. According to the Budapest Memorandum, there are two modes of action in the case of threat to Ukraine: appealing to the UN

Security Council (paragraph 4) and consultations (paragraph 2). Both provisions have demonstrated their low effectiveness in the current conditions of the conflict.

Moreover, Russian diplomacy has reached significant scholastic heights in the interpretation of the safeguards favourable to it. On 1 April 2014, the Ministry of Foreign Affairs of the Russian Federation announced that the basic obligations of Russia under the Budapest Memorandum "was only the non-use and no threat of the use of nuclear weapons against non-nuclear states" and, therefore, Russia's commitments to Ukraine were not broken[6]. Let us remember here the conference of the states participating in the NPT held at the UN in May 2015. At the conference, the representative of Russia not only rejected the US proposals on the reduction of nuclear arsenals, but on the contrary, threatened to "build up their capacity under certain circumstances"[7], which meant increasing confrontation of the parties because of the conflict in Ukraine. Moreover, that build-up can occur not just anywhere, but in Crimea[8]. Negative consequences for the global process of denuclearisation were obvious. This anniversary session of the UN General Assembly was marked with some progress that had been made by the UN member states on Iran's nuclear programme. However, this success became possible in spite of the escalating atmosphere of the lack of confidence in the assurances that countries receive in exchange for the abandonment of their nuclear programmes.

The systemic crisis of underfunding should also be mentioned among the problems of the functioning of the UN. The total budget deficit of the UN for humanitarian aid alone is about 12.5 billion dollars. Despite the conflict with all the negative consequences for the humanitarian situation, Ukraine was among the countries which simply lacked the financial support of the United Nations. The causes lie both in the increasing number of crises globally and the urgent need to reform the budgeting situation of the UN.

Ukraine's position on calibrated UN

All of the above challenges are deep-seated and their elimination will require complex institutional solutions. In the short term, it appears to be difficult to agree on a mechanism that would deprive a permanent member of the UN Security Council of the right to vote in the case where it is a

[5] For example, see the article by the former Minister of Foreign Affairs Igor Ivanov, http://russiancouncil.ru/inner/?id_4=6546#top-content

[6] http://archive.mid.ru//brp_4.nsf/0/E2C2FECC50FB-D22944257CAD0047429D

[7] http://tass.ru/politika/1974156

[8] http://www.unian.ua/politics/1054034-u-lavrova-zayavili-scho-mojut-rozmistiti-yadernu-zbroyu-u-krimu.html

It took the Ukrainian government almost a year to officially appeal to the UN and the EU to send a peacekeeping contingent to the country.

party to the conflict. There are certain legal foundations for it, however, they run into the need to recognise Russia as a source of armed aggression, but the UN Security Council, as the body authorised to qualify Russia's actions towards Ukraine, cannot do it for the reasons stated above. Even more, in 2014 the organisation's attitude to the war in Ukraine was that it was an internal conflict. Furthermore, Ukraine itself, by applying the definition of an "anti-terrorist operation", has denied the fact of aggression and, consequently, undermined its legal position to call Russia to account.

This implies yet another complication, namely, sending of UN peacekeepers to Ukraine. The preventive deployment of peacekeeping forces of the UN or regional organisations with the approval of the UN could prevent the infiltration of heavy weapons and military mercenaries in the territory of Eastern Ukraine. However, it took the Ukrainian government almost a year to officially appeal to the UN and the EU to send a peacekeeping contingent to the country.

Under the current conditions, Ukraine faces two major challenges that will determine the content of its cooperation with the UN: first, to exert pressure on Russia in order to persuade it to pursue a more constructive policy in the UN or to reduce its influence on the decision-making process; second, to expand the use of instruments other than the UN Security Council for solving security problems.

For this purpose, it is required:

- To intensify efforts to support reform of the UN institutions that deal with security issues. Today Ukraine not only speaks for the expansion of the entire composition of the Security Council and increasing the number of its permanent members, but also supports calls for a voluntary moratorium of the exercise of the right of veto by permanent members of the UN. This latter position seems to be the most favourable for Ukraine. The distinction between permanent members of the Security Council in relation to the voluntary moratorium will be an additional factor of pressure on Russia, which rejects this idea; it will significantly hurt Russia's image and deny it the moral right to speak from the position of an advocate of collective interests.

- To advocate for the adoption of decisions on the assurance of security outside the Security Council. This applies to decisions to send a UN peacekeeping mission to Ukraine through the mechanism of the use of Resolution 377 (V) of 3 November 1950, which grants the General Assembly the right to act in matters of peace and security on its own in cases where the resolution on such issues is blocked by the permanent members of the Security Council. The competence of the GA covers the issues of the administration and financing of peacekeeping operations (in this respect, work in the Fourth and Fifth Committees of the GA is important). Furthermore, the GA has a crucial role in respect of the actions of the UN aimed at post-conflict reconstruction, which will be a relevant issue on the Ukrainian agenda after the cessation of the conflict; it is also advisable to prepare for the discussion of this issue in advance.

- To enhance the practice of forming "clubs" within the UN, i.e. groups of states agreeing on joining efforts to achieve the desired vote on a particular issue. At the General Assembly, the centre of gravity of efforts aimed at resolving the conflict in Ukraine, relations of partnership and mutual commitments to support each other's position at voting will become an important element in achieving positive outcomes in the UN.