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Nemo Judex in Re Sua and the “Standing Mandate” Procedure

Valentyn M. Serdiuk*
Yaroslav Mudryi National Law University
Kharkiv, Ukraine
**e-mail: valentin_serdyuk@ukr.net*

Abstract
The institutional failure of the United Nations Security Council to fulfill its mandate to maintain international peace and security has long been a focus of attention and remains a central topic of discussion – both in intergovernmental and doctrinal contexts – regarding the United Nations reform. Art. 27(3) of the United Nations Charter enshrines not only the procedural right of veto but also the procedural obligation for a party to a dispute to abstain from voting on resolutions pursuant to Chapters VI and VIII (Art. 52 (3)); however, this obligation is often disregarded. Such deliberate actions constitute a violation of the fundamental legal principle of nemo judex in Re Sua, "no one may be a judge in their own case" – which is why this study is relevant. The aim of the study is to analyze the impact of the new procedure "Standing Mandate" procedure on the obligation of a United Nations Security Council member to abstain from voting if it is a party to a dispute, how it contributes to increasing the transparency and accountability of this principal body to the United Nations General Assembly, and whether this mechanism constitutes the initial phase of implementing elements of accountability for abuse of rights within the organization. The article examines and analyzes existing proposals for United Nations transformation, reviews the outcomes of intergovernmental debates on United Nations Security Council reform in recent years, and analyzes shifts in the core positions of states in this context against the backdrop of numerous contemporary armed conflicts that have engulfed the world, as well as the very reasons for such incremental changes in views and approaches. To this end, the study employed a dialectical method at the philosophical level; empirical methods, such as comparative analysis, observation, and description; general logical methods, such as analysis and synthesis; as well as a specialized legal method. Among the findings of this study, the following should be highlighted: an examination and analysis of current trends in shifting approaches to the transformation of the United Nations and the rationale behind them, a theoretical and legal analysis of the possibility of using the veto initiative to unlock the procedural obligation enshrined in Art. 27(3) as a response to abuse of rights, as well as a theoretical and legal analysis of the further development of the application of the "Standing Mandate" procedure. The impact of United Nations General Assembly Resolution

76/262 in the context of enhancing the role of this principal organ, as well as its influence on the introduction of preventive mechanisms for accountability for abuse of rights into United Nations practice, remains largely unexplored, particularly in domestic doctrine. Further doctrinal research into the legal nature of this mechanism, as well as its implementation through extra-statutory reform, is imperative.

Keywords: *Veto Initiative; Standing Mandate; obligation to abstain from voting; accountability for abuse of power; UN reform; implied powers doctrine.*

Nemo Judex in Re Sua та процедура «Постійний мандат»

Валентин Михайлович Сердюк*
Національний юридичний університет імені Ярослава Мудрого
Харків, Україна
**e-mail: valentin_serdyuk@ukr.net*

Анотація
Інституційна неспроможність Ради Безпеки ООН виконувати свій мандат з підтримання міжнародного миру і безпеки вже давно є в центрі уваги та лишається основою дискусій, як міждержавних, так і доктринальних в питанні можливого реформування ООН. Стаття 27 (3) Статуту ООН закріплює не тільки процесуальне право вето, а й процесуальний обов'язок утримуватися сторони спору від голосування за резолюції на основі Глав VI та VIII (ст. 52 (3)), проте даним обов'язком часто нехтують. Такі умисні дії становлять порушення фундаментального принципу права nemo judex in re sua – «не можна бути суддею у власній справі», що й зумовлює актуальність даного дослідження. Метою дослідження є аналіз впливу нової процедури «Постійний мандат» на обов'язок члена Ради Безпеки ООН утриматися від голосування, якщо такий є стороною спору; того як вона впливає на підвищення рівня відкритості та підзвітності цього головного органу перед Генеральною Асамблеєю ООН, та чи є цей механізм початковою фазою впровадження в практиці організації елементів відповідальності за зловживання правом. У статті досліджуються та аналізуються існуючі пропозиції трансформації ООН, розглядаються результати міждержавних дебатів щодо реформи Ради Безпеки ООН за останні роки, проаналізовано зміни основних позицій держав у цьому контексті на тлі багатьох сучасних збройних конфліктів, які охопили світ, як і самі причини таких не радикальних змін поглядів та підходів. Для цього, в процесі дослідження було застосовано діалектичний метод філософського рівня; емпіричні методи, такі як: порівняльний, спостереження та описання; загально-логічні методи: аналіз і синтез; а також спеціально-юридичний метод. Серед отриманих результатів дослідження слід виокремити:

дослідження та аналіз сучасних тенденцій до зміни підходів трансформації ООН та їх обґрунтування, теоретико-правовий аналіз можливості застосування ініціативи вето для розблокування процесуального обов'язку закріпленого в статті 27(3) як відповіді на зловживання правом та теоретико-правовий аналіз подальшого розвитку застосування процедури «Постійний мандат». Вплив Резолюції Генеральної Асамблеї ООН 76/262 у контексті підвищення ролі цього головного органу, а також на початок запровадження в практиці організації запобіжних механізмів відповідальності за зловживання правом наразі є мало дослідженим, зокрема у вітчизняній науковій літературі. Подальше доктринальне дослідження правової природи даного механізму, як і спосіб його запровадження, шляхом позастатутного реформування – видаються нам як вкрай необхідні.

Ключові слова: *ініціатива вето; Постійний мандат; обов'язок утриматися від голосування, відповідальність за зловживання правом; реформа ООН; доктрина домислюваних повноважень.*

Introduction

This paper examines the issue of the application of Art. 27(3) of the UN Charter, which, in addition to a procedural right, establishes a procedural obligation for a party to a dispute to abstain from voting on resolutions under Chapters VI and VIII of the UN Charter (hereinafter referred to as the Charter). The article examines the prospects for unblocking this provision through a new mechanism adopted by UN General Assembly Resolution 76/262 *"Standing Mandate"* in 2022. The application of this procedural obligation by members of the UN Security Council (hereinafter the UNSC) has lacked consistent and systematic practice since 1946, leading to violations of the fundamental legal principle of *nemo judex in re sua* – "no one may be a judge in their own case". The article provides examples of existing proposals to reform the UNSC and the veto right, which, by their very nature, cannot be implemented without formal reform. In turn, the *"Standing Mandate"* procedure is an example of non-statutory changes based on the application of a progressive interpretation of the founding document through the doctrine of implied powers, which does not require formal amendments to the Charter and effectively leaves the untapped potential of this mechanism, which we have yet to see, explore, and analyze, unrealized.

The article provides examples of recent intergovernmental debates within the UNSC, along with some official positions of the organization's member states, which in recent years have demonstrated a cautious shift from the concept of the need for a global, formal transformation of the UN toward more targeted, non-statutory reforms. The lack of any progress on the issue of reforming the UN's principal organs is linked not only to the

extreme complexity of practically implementing the procedure for making formal changes enshrined in the Charter, which also serves a protective function, but also to the absence of a unified position among member states proposing reform packages, as they reflect diverging visions of equitable changes from various groups of states. The article provides examples and analyzes relatively new proposals by member states regarding the possibility of using the veto initiative to unblock the procedural obligation of UNSC member states, as enshrined in Art. 27(3). In addition, the article explores the theoretical potential of gradually granting the UN General Assembly (hereinafter the UNGA) greater oversight functions over the activities of the UNSC, in particular the ability to override the veto or, in exceptional cases, to assess an exercised veto as *ultra vires* – as a manifestation of responsibility and accountability within an international organization for the abuse of entrusted procedural rights.

It should be noted, however, that the issue of UN reform has attracted extraordinary and exceptional interest from both Ukrainian and international scholars. In particular, among recent studies on the reform of the UN, the UN Security Council, and the veto right, the following works can be mentioned: O. Kovtun, K. Gavlakova [1], O. Opanasenko [2], A.B. Mishchenko, R.V. Atashkade, and V.V. Teremko [3]. Among foreign scholars: J. Trent, L. Schnurr [4], M. Alene, M. Ali, K. Tadesse [5], J. Stagstrup, W. Cheng [6], G. Melling, A. Dennett [7], E. Parvanova [8]. At the same time, research into the legal nature of the *"Standing Mandate"* mechanism, as well as its impact on the process of transforming the UN in the context of maintaining international peace and security, and enhancing the UNSC's transparency, accountability, and responsibility to the UNGA, is relatively new in Ukrainian international law doctrine. In this regard, the following recent works in Ukrainian academic literature are worth highlighting: Kresin O.V. [9], Serdiuk V.M. [10]. Among foreign scholars, the issue of the *"Standing Mandate"* mechanism has been studied, in particular, by L. van den Herik, T. Maluwa [11], A. Peters [12], and R. Barber [13].

At the same time, research into the legal nature of the *"Standing Mandate"* mechanism, as well as its impact on the process of transforming the UN in the context of maintaining international peace and security, and enhancing the UNSC's transparency, accountability, and responsibility to the UNGA, is relatively new in Ukrainian international law doctrine. In this regard, the following recent works in Ukrainian academic literature are worth highlighting:

For example, A.B. Mishchenko, R.V. Atashkade, and V.V. Teremko conducted a comprehensive theoretical analysis of existing scenarios for UN reform in their study [3]. O. Kovtun, and K. Gavlakov, analyzed the G4

reform proposal and concluded that it is one of the most balanced, though they also highlighted some inconsistencies with Ukraine's position on the veto right [1, pp. 82-83]. E. Parvanova conducted an intergovernmental analysis of the possibility of granting the G-4 the status of permanent members of the UNSC and pointed to the advisability of introducing a qualified majority vote instead of the veto right for more effective intervention in situations of armed conflict [8, p. 76]. In his scholarly work on UNSC reform, O. Opanasenko paid particular attention to approaches for substantially increasing the transparency of the UNSC's work [2, pp. 103-104]. Regarding the transparency of the UNSC, L. Van den Herik and T. Maluva noted that it was primarily due to UNGA Resolution 76/262 that the spectrum of voices involved in the discussion beyond the UNSC was successfully broadened [11, p. 268].

Materials and Methods

The research materials included the UN Charter, which serves as a universal international treaty and the organization's founding document; UN General Assembly Resolution 76/262, *"Standing Mandate,"* adopted on April 26, 2022; the official positions of member states expressed during intergovernmental debates, particularly regarding the future of the UN, the reform of the UN Security Council, and the veto right; political statements by states; proposals for UN reform put forward by groups of member states; and the results of doctrinal studies by domestic and foreign scholars.

The methodology of this study is based on a comprehensive approach to analyzing the statutory provisions of Art. 27(3), particularly in the context of the formally established procedural obligation for a party to a dispute to abstain from voting on resolutions under Chapters VI and VIII of the Charter, as well as an analysis of the general historical practice of compliance with this provision. Additionally, the article analyzes the legal nature of the adoption of the *"Standing Mandate"* mechanism, its functional features, and their impact on enhancing the legal personality of the UN General Assembly vis-à-vis the UN Security Council. The article presents and analyzes examples of positive assessments of the veto initiative by member states based on the results of its application over four years. The article explores the mechanisms' as-yet-unexplored potential, taking into account the doctrine of implied powers upon which it was adopted. The analysis was conducted using the dialectical method at the philosophical level, which allows one to trace the struggle of opposites in the process of development. In particular, it compares the formal codification of the procedural obligation under Art. 27(3) with the actual history of its application, as well as the legal nature of the veto initiative as formally codified and the existing practice of its implementation.

The study also employs empirical methods, such as comparative analysis, observation, and description. The comparative method is used to identify and examine the similarities and differences between the *"Standing Mandate"* mechanism and the restrictive obligation enshrined in Art. 27(3), to understand whether they can complement one another. Specifically, as a manifestation of the UN General Assembly's oversight and appeal powers vis-à-vis the UN Security Council in the context of maintaining international peace and security. Observation is a method used in the study to track the latest official positions of member states regarding their proposals or those they have already supported on the issue of UN Security Council reform and the veto right, whether they have been modified in any way, whether new reforms are being proposed, and whether the general understanding of member states regarding the imperative need for formal reform is changing. The descriptive method was used to document the results obtained through the observation method.

Among the general logical methods used were: analysis – an examination of the legal nature of Resolution 76/262 and its adoption, its overall assessment by member states and an evaluation of its implementation, as well as the contradictions between its current formal provisions and practical application, with the potential to exert a real influence on the decision-making process within the UN Security Council as a supervisory or appellate body; synthesis – based on the analysis, developing a scientific and legal assessment within the existing system of operation of the principal UN bodies to utilize the influence of the veto initiative to restore the fundamental legal principle of *nemo judex in re sua* and to limit the right of veto through non-statutory reform based on the doctrine of implied powers. Likewise, to develop an assessment of the possibility of a further evolutionary interpretation of the *"Standing Mandate"* procedure in its future application.

In addition, a specialized legal method was employed to examine the provisions of international legal instruments regarding innovations in the activities of the United Nations.

Results and Discussion

A shift in focus regarding the transformation of the UN

Problems with the UN's institutional capacity to maintain international peace and security began to emerge as early as the first years of this universal international organization's inception. First and foremost, this can be attributed to the dissatisfaction of small states with the existence of the veto power, which creates privileged conditions and rights for certain member states, thereby partially contradicting the fundamental legal

principle *par in parem non habet imperium* (*"an equal has no authority over an equal"*). In addition, the decades of UN operations, and especially the UNSC, have clearly demonstrated a systemic institutional failure to fulfill its tasks as enshrined in the preamble and Chapters I and V of the Charter, as well as the practice of abuse of the procedural right of veto by the permanent members of the UNSC.

The ongoing process of developing proposals for the reform of the United Nations, and particularly the UNSC – including proposals to limit its powers, enhance the role of the UNGA, restrict the veto power, and expand the membership of the UNSC – has led to the formation of various coalitions among Member States that support one reform plan or another. Among the most well-known are: the G4 Group, Uniting for Consensus or the Coffee Club, the Ezulwini Consensus, the S-5, the E10, the L69 Group, and the Franco-Mexican Initiative. However, despite numerous viable proposals regarding the expansion of the UNSC's membership to include permanent, non-permanent, and semi-permanen[1] members, the restriction of the veto or even its abolition, and changes to the voting system, and adapting to new realities where a country's economic success and population size matter – which better reflects today's realities rather than the outdated framework established in 1945 – states are unable to reach a common consensus that would satisfy their equitable vision. The most acute contradictions stem from the fact that many states are convinced that they, specifically, should be included in the renewed UNCS, as well as the existence of approaches to limiting the veto right that differ radically from one another[2].

Intergovernmental debates within the UNCS and the UNGA on the reform of the UNCS persist to this day. However, since 2022, when the Russian Federation launched an aggressive war against Ukraine, these debates have gained significant momentum. Unfortunately, the armed aggression against the State of Palestine, U.S. military operations in the Latin American region, and joint military actions by the State of Israel and the United States against Iran further underscore the UN's paralysis in maintaining international peace and security and strengthen the arguments of states in favor of

[1] A third category of seats on the UNSC, proposed as a general concept to help reach consensus in disputes over which countries are more deserving of a permanent seat on the UNSC. In fact, semi-permanent members are more privileged than non-permanent members of the UNSC, but not as privileged as permanent members [14, pp. 206-210].

[2] The G4 group is prepared to give up its veto power in exchange for becoming a permanent member of the UNSC.
The Coffee Club proposes granting veto power on a regional basis (for example, Europe would have a single permanent representative on the UNSC who would represent the region's interests) [4, p. 69], [15, p. 7].
The position of African states, based on the principle of equality, calls for either the complete abolition of the veto or granting it in full to all new permanent members [5, pp. 70-72], [16].

reforming the UNCS and enhancing the role of the UNGA in matters of peace and security. Thus, beginning in 2022, UNGA Resolution 76/262 *"Standing Mandate"* [17] received particular attention; it has been viewed positively by nearly all member states participating in the annual discussions, including the permanent members of the UNCS. States welcomed this new procedure and its successful implementation, as the permanent members of the UNCS have already accounted for before the UNGA on their use of the veto in accordance with the procedure of Resolution 76/262 on 17 occasions, which improves transparency, openness, and accountability of the UNCS and enhances the role of the UNGA in these matters [18-22].

It is also worth noting that, over the years, when it came to reforming the UNSC, states have consistently promoted only the reform plans of their coalitions, which were formed as far back as the last century or at the beginning of the 21st century, without offering any substantially new proposals. However, since 2023, states[3] began to actively focus on Art. 27(3) of the Charter, which, in addition to the procedural right of veto, establishes a procedural obligation for a party to a dispute to abstain from voting on decisions based on Chapters VI[4] and VIII [23], [19-21]. For this provision to apply, it must be established that:

1) the resolution put to a vote is not procedural;
2) the resolution falls under Chapter VI or Art. 52(3);
3) there is a dispute;
4) a member of the UN Security Council is a party to the dispute [24, p. 2].

This provision has generally been overlooked[5]. Moreover, since 1946, it has not been the subject of established, consistent practice and has been virtually unused[6] [24, p. 2], while all global reform plans have envisaged

[3] Austria, Italy, Liechtenstein [19].

[4] In fact, this is very important, as there are well-founded arguments that UN peacekeeping operations should be regarded precisely as actions and measures based on Chapter VI of the Charter, rather than enforcement measures based on Chapter VII, which could, on a global scale, increase the scope and effectiveness of peacekeeping activities and contribute to the maintenance of international peace and security.

[5] The provision of the Charter set forth in Art. 27(3) is quite difficult to apply in practice, since such components of the prescribed formula as establishing the existence of a threat to peace and whether a permanent member is a party to the dispute fall within the jurisdiction of the UNSC itself, which effectively makes it impossible to establish the relevant fact and adopt the corresponding decision [23].

[6] In 1946, France and the United Kingdom raised objections regarding the existence of a dispute between Lebanon and Syria, on the one hand, and France and the United Kingdom, on the other; however, they abstained from voting on the question of whether a dispute existed. The United Kingdom abstained from voting: on draft resolutions concerning the Corfu Channel in 1947 (S/PV.122 and S/PV.127), 11 times on the Egyptian question; in 1947, on draft resolutions and amendments thereto (S/PV.198, S/PV.200,

a more comprehensive approach to transforming the procedural law governing the veto and its application[7]. In addition, not every situation involving a breach of international peace and security can be recognized as a legal dispute, as it constitutes a far more serious violation of international law; therefore, this statutory provision remained largely overlooked for a long time.

However, since 2023, some states have called on the Permanent Five to develop best practices for interpreting and applying this provision. In addition, in 2025, Slovenia proposed referring the matter to the International Court of Justice (hereinafter ICJ) for an authoritative interpretation of Article 27(3) and the methods of its implementation in cases of large-scale crimes and the penalties for ignoring it, as well as which vetoes should be considered ultra vires on this basis [6]. In our opinion, such a request for an advisory opinion to the ICJ regarding the use of the procedural right of veto in cases of mass atrocities, genocide, or to justify one's own aggression – which constitutes a violation of the fundamental principles of the UN – in cases where a permanent member is a directly interested party in the "situation" rather than necessarily in the "dispute," etc. – is entirely justified. Such an opinion could form the legal basis for future state practice in applying the internal procedures of the UN and the international organization as a subject of international law, which would establish the sources of its powers in accordance with the provisions of the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations[8]. However, there is also a risk that the court will take a more conservative approach in resolving this issue and interpret the supremacy of veto as taking precedence over everything else, including the peremptory norms of general international law *jus cogens*.

It is equally important to mention the outcomes of the agreements reached by member states following the 2024 Summit of the Future and enshrined in the Pact for the Future, Global Digital Compact and Declaration on Future Generations. Thus, Action 41 (a) emphasizes the obligation to comply with all provisions of the Charter in the UNSC's decision-making process, including the provisions of Article 27(3). Paragraph (c) reinforces

and S/PV.201). Egypt abstained from voting once on the question of Palestine in 1950, explicitly invoking Art. 27 (3) (S/PV.524). Argentina invoked Art. 27 (3) and abstained during the adoption of Resolution 138 (1960) on the Eichmann issue (S/PV.868). India and Pakistan abstained from voting on relevant resolutions and decisions considered during their membership in the UNSC in 1950-1953 [24, p. 2].

[7] For example, a statutory restriction on the use of the veto in cases of mass atrocities and human rights violations, or a statutory restriction on the use of the veto solely to votes on resolutions based on Chapter VII of the Charter [25, p. 87], [14, pp. 212-213].

[8] Article 2, paragraph 1(j) [26]

the call for further democratization of the UNSC's working methods and improved interaction with the UNGA, including a review of voting mechanisms, in particular through the full implementation and application of UNGA Resolution 377 A (V) *"Uniting for Peace"* and the veto initiative. Paragraph (d), in turn, enshrines the right of UNGA members to participate in the work of the UNSC and its subsidiary bodies, to strengthen the Council's accountability to UN members and increase the transparency of its work [27, pp. 27-28].

A theoretical and legal analysis of the potential impact of a Veto Initiative on a party's duty to abstain from voting

In this context, the proposal to link the procedure for a permanent member – who is a party to the dispute – to refrain from exercising its veto with the new *"Standing Mandate"*[9] mechanism deserves special attention. In our view, such a combination represents a promising new approach to internal administrative procedures within the UN based on informal reform, which could positively impact the institutional capacity to act in the process of maintaining international peace and security. In general, the procedural unblocking of Art. 27(3) of the Charter regarding the abstention of an interested party embodies the general legal principle of *nemo judex in re sua* and would constitute a significant victory on the path to the gradual transformation of the UNSC's powers through the application of either an authoritative interpretation or the doctrine of implied powers, particularly when combined with the *"Standing Mandate"* procedure. Furthermore, as we have already noted in our previous studies of the veto initiative, this mechanism is a step toward establishing accountability for the abuse of the veto by creating, within the UNGA, a mechanism for public discussion of each instance of veto use and its subsequent critique by all , which could serve as a deterrent for permanent members in exercising this procedural right and lead to the full potential of this resolution being realized in the matter of accountability [10, pp. 254-255].

In our opinion, the new *"Standing Mandate"* mechanism does not explicitly provide for the possibility of assessing and making such decisions regarding the restriction of a disputing party's voting rights, nor is this consistent with the provisions of the Charter. However, the new procedure can serve as an effective tool and foundation for developing a gradual practice of restricting the voting rights of an interested party or holding a permanent member accountable who abuses procedural rights and violates the principles and objectives of the organization. In our view, the authors of the resolution intended for such actions to be evaluated during its drafting for subsequent procedural steps, just as the procedural obligation of the interested party

[9] Spain, Norway, Mexico, Belgium [20, p. 28].

to abstain from voting is enshrined in the Charter. Thus, with the adoption of UNGA Resolution 76/262, the level of transparency and accountability regarding the use of the veto has increased, allowing Member States to form their own positions and assess the actions of a permanent member of the UNSC.

It is equally important to note that calls for permanent members to be required to provide an official explanation for the use of the veto have been made since the end of the last century by representatives of various countries[10], and today this has become a reality with the introduction of greater transparency and accountability of the UNSC to the UNGA [28, pp. 788, 800, 809, 1154; 29, p. 64]. Back in the day, "The Elders"[11] emphasized in this regard that any explanation for the use of a veto by a permanent member of the UNSC must relate to the maintenance of international peace and security, rather than purely national interests of states [30, p. 96; 7, p. 296].

Possible ways to implement the "Standing Mandate" procedure as part of accountability for abuse of power and strengthening the role of the UNGA

The further procedural involvement of the UNGA in assessing voting within the UNSC and potential violations or abuses could well be applied in conjunction with an updated procedure or an updated interpretation of the *"Standing Mandate"* procedure, along with the procedural obligation enshrined in Art. 27(3), which could unlock this provision for decision-making under Chapter VI of the Charter. Thus, we believe that the use of the veto initiative in this context is possible in the following cases:

1. Forming a public assessment by UNGA member states through the adoption of a non-binding resolution on the nature of the situation and a conclusion as to whether a permanent member is a party to the dispute. It should be noted that even a UNGA recommendation, supported by an absolute majority of member states, is capable of exerting significant political pressure and serves as an expression of the will of the international community. For example, V.A. Vasylenko noted that the practical significance of recommendations lies in their "permissive effect", which is intended to highlight appropriate changes to existing norms and eliminate legal gaps, thereby outlining the contours of legally permissible models of behavior [31, p. 179].

[10] Slovakia, Germany, Small Five Group (Costa Rica, Jordan, Liechtenstein, Singapore, Switzerland).

[11] It consists of a diverse and independent group of global leaders working to promote peace and human rights, and was led by former UN Secretary-General Kofi Annan [7, p. 296].

2. Further informal refinement of the *"Standing Mandate"* procedure and the obligation to abstain from voting based on the doctrine of implied powers, as a derivation of the existing obligation, with the UNGA likely having the authority to make such a decision. From a scientific point of view and based on proposals from member states[12], there is a view that such supervisory powers should be transferred to the UNGA, along with the authority to override such a veto by a two-thirds of its majority.

For example, the representative of India argued that in national jurisdictions, a veto by the executive branch can be overridden by the legislative branch, and within the UN, the UNGA could play that role. Colombia advocated for the creation of an appellate body within the UNGA based on a special majority vote, which is similar to Ukraine's position, which proposed granting a special composition of the UNSC or the UNGA the right to override a veto if it is exercised by only one permanent member. The Non-Aligned Movement considered it necessary to enshrine the procedural possibility of overriding a veto, specifically a two-thirds vote of the UNGA based on the *"Uniting for Peace"* procedure and a progressive interpretation of Articles 11 and 24(1), which is identical to the Philippines' proposal [28, pp. 402, 405-406, 787, 798, 1145-1146].

Conclusions

Concluding, it is worth noting a relatively new understanding among member states regarding the processes of UNSC transformation. Indeed, there appears to be a slight shift away from maximalist demands for sweeping changes – which largely require formal reform supported by all permanent members of the UNSC – toward a gradual, targeted procedural limitation of the permanent members' powers, a gradual resolution of transparency and accountability issues, and the interpretation or informal extension of existing rights and obligations through the doctrine of implied powers. At the same time, large-scale plans remain and are supported by member states; however, as noted by B. Fassbender, the lack of consensus among coalitions of states on key issues – such as limiting the veto or determining who truly deserves to become a new permanent or semi-permanent member of the UNSC – and the complexity of the formal reform procedure push these plans into the background [14, pp. 206-210].

The renewed discussion regarding the need to interpret Art. 27(3) of the Charter and the development of a practice among permanent members for its application – in particular, the idea of implementing this through a new *"Standing Mandate"* procedure – is a positive step toward enhancing the UN's ability to respond to threats to peace and security during the early stages of conflict, based on an approach of informal reform. Many states

[12] Colombia, Ukraine, India, the Non-Aligned Movement, the Philippines.

express the understanding that the full potential of the veto initiative has not yet been realized, and we may yet see a gradual evolution of this very mechanism in conjunction with UNGA Resolution 377 *"Uniting for Peace"* [32] and their impact on enhancing the UNGA's role regarding the accountability of permanent members for the abuse of the procedural right of veto and the ability to influence such abuse. Furthermore, such use of the doctrine of implied powers in attempts to interpret the existing powers of the principal organs of the UN creates favorable conditions for non-statutory reforms of the existing instruments of the UNGA and the UNSC. And just as proposals were once made regarding a permanent member's obligation to report on every veto exercised, justifying its actions in accordance with the duty to maintain international peace and security or proposing alternative solutions to the issue – today this has become a reality in which, among other things, every state can express its position and condemnation, as well as adopt a general resolution within the UNGA on an issue that was vetoed within the UNSC and left without due attention. Similarly, based on these non-statutory changes, we can surmise that the direction of such reforms is moving toward interpreting the powers of the UNGA as an appellate body in exceptional cases – a development that may well eventually be put into practice.

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Valentyn M. Serdiuk
Ph.D. Student of the International Law Department
Yaroslav Mudryi National Law University,
61024, 77 Hryhoriia Skovorody Str., Kharkiv, Ukraine
e-mail: valentin_serdyuk@ukr.net
ORCID 0009-0002-9428-339X

Валентин Михайлович Сердюк
аспірант кафедри міжнародного права
Національний юридичнийуніверситет імені Ярослава Мудрого,
61024, вул. Григорія Сковороди 77, Харків, Україна
e-mail: valentin_serdyuk@ukr.net
ORCID 0009-0002-9428-339X

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