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Context

The possibility of a Ukrainian defeat in the now protracted Russo-Ukrainian war has only grown since the start of 2024. In explaining the current tide of battle swinging in Russia's favour, General Sir Richard Barrons, former commander of the United Kingdom's Joint Forces, points to the catastrophic depletion of military supplies, munitions, air defences, men, and a growing sense of defeat that may negatively affect Ukrainian resistance (Gardner, 2024). Meanwhile, recent reports by Ukraine's military chief, General Oleksandr Syrskyi, warn of a dramatic deterioration in the battlefield situation in the east, suggesting that the Ukrainian force is increasingly underequipped as Western military aid slows (Mackintosh, 2024). The renewed Russian offensive and the re-opening of the Kharkiv front have only made the Ukrainian position more precarious and exacerbate pre-existing shortages.

The Russian invasion of Ukraine is crucial for the future of Europe and the wider international security order. The consequences of a Ukrainian defeat would extend far beyond Ukraine's borders and threaten Europe's stability, fundamental principles, and values (Dalsjö, 2024). These risks have been underlined across Europe, with many pointing to the wider implications of a Ukrainian defeat and warning that Russian successes could embolden Moscow to destabilise the entire European continent (Dalsjö, 2024; Huminski, 2024; Friends of Europe, 2024).

Given the significant geopolitical, economic, and social implications, European Council President Charles Michel reiterated the need for a stronger and more unified European security architecture (Brzozowski, 2024). However, it is not certain that Europe will remain united in supporting Ukraine (Bond, 2024). Material and military assistance such as the €11.1 billion provided by the European Peace Facility demonstrates a strong commitment to Ukraine and regional stability (Council of the European Union, 2024). However, there is a discrepancy between the measures taken to support Ukraine and the EU's strategic objectives, which are to defeat Russia. While some member states, like Denmark, Lithuania, and Estonia, have shown strong bilateral commitment to Ukraine, others have dithered, such as Germany and its refusal to supply Ukraine with long-range missiles, reflecting hesitation in Europe (Posaner, 2024; Trebesch et al., 2024). Moreover, irregularities in Western support for Ukraine, like the delay in US military and financial assistance promised by the US Congress, hampers the Ukrainian defence effort and raises doubts over Ukraine's allies' commitment to a joint defence strategy and ability to maintain support (Lee, 2024; Huminski, 2024).

Implications for NATO's Strategic Cohesion and European Defence

Russia's invasion of Ukraine has dramatically emphasised the fragility of Europe's post-Cold War security architecture and a continued European reliance on the United States for leadership and military support. The war and its effects demonstrate the necessity of a stronger EU component in security and defence, agreed to by the EU's institutions and member states in the Strategic Compass, which sets out a series of objectives to strengthen the EU's security and defence policy (Bond & Scazzieri, 2022). This watershed moment has sparked urgent calls for greater collaboration between NATO and the EU's Common Security and Defence Policy (CSDP) (Joint Declaration on EU-NATO Cooperation, 2023).

A Ukrainian defeat could call the credibility and efficacy of the North Atlantic Treaty's Article 5 mutual defence clause, where signatories are to treat an armed attack on one as an armed attack on all, into question. The clause is fundamental for NATO's strategy of deterrence, as it ensures that each member's security is considered the alliance's security (North Atlantic Treaty Organisation, henceforth NATO, 2023). Article 5's core functioning could be compromised in the event of a Ukrainian defeat. The indirect consequences of a Ukrainian loss, such as an emboldened and hostile Russia, an uptick in hybrid warfare causing cybersecurity and energy security issues along with further regional destabilisation, can complicate the definition of an armed attack. These attacks risk creating dissent regarding the threshold for activating Article 5 and in determining an appropriate response (Wiedemar, 2023).

A Ukrainian defeat also risks creating gridlocking divisions within NATO. The North Atlantic Treaty, unlike those founding many other international organisations such as the EU or UN, does not establish specific decision-making procedures except for the condition of unanimity for the accession of new members. From its outset, NATO's highest decision-making body, the North Atlantic Council (NAC), has acted without any rules of procedures (Verhelst, 2022). Ever since its first meeting in September 1949, the NAC has never adopted formal written decision-making procedures.

The Council is composed of Permanent Representatives from all NATO member states (Verhelst, 2022). According to the NATO Encyclopedia (2019) and the NATO Legal Deskbook (2010), the decisions are made by consensus, which means that it is required the agreement between all Member States. Common consent is required, whereby each member state accepts decisions in lieu of formal objections and must align with each member's national policies. The principle of consensus extends throughout NATO, from the highest authority down to the smallest working group, ensuring continuous and coordinated support for the Council's initiatives across the entire organisation.

On the contrary, the consensus model is different from the unanimity model, in the sense that all Member States must support the measure, whereas consensus allows more flexibility as a Member State can abstain from supporting the measure without opposing it (Verhelst, 2022). This implies that with the consensus method, it is not mandatory to obtain a positive consent from all member States in order to adopt a decision (Verhelst, 2022). Through the consensus method, each NATO member state has a de facto veto by being able to raise objections or propose amendments (NATO Legal Deskbook, 2010). Even though this practice is not enshrined in the North Atlantic Treaty, through the practice of its Member States it has become a customary method of decision-making, ensuring equality between them. (NATO Legal Deskbook, 2010; Honkanen, 2002). Although rare, states under external influence or with divergent interests may persistently and openly exercise their de facto veto (Smith & Timmins, 2000).

There are pre-existing examples of member states exercising their veto. When the United States requested that NATO begin planning defensive measures for Turkey in preparation for likely Iraqi counterstrikes after the 9/11, France, Belgium, and Germany opposed the decision due to national objections and international law concerns (Gordon, 2003). This deadlock is caused by the consensus rule, which requires complete agreement between its members without raising any objections to adopt a decision. In an attempt to circumvent this blockage and France's obstruction, the decision-making process was transferred from NAC to the Defence Planning Committee (DPC), which France had left in 1966. The DPC, which has the same jurisdiction as the NAC in defence affairs, approved the deployment of AWACS observation aircraft and Patriot missiles to Turkey (Verhelst, 2022).

NATO and the United States remain central to European territorial defence (Ratti, 2023). The 2023 Joint Declaration on EU-NATO Cooperation explicitly acknowledges the continued reliance of Europe on the United States for its defence. The declaration states that "NATO remains the foundation of collective defence for its Allies and essential for Euro-Atlantic security".

To decrease dependence on United States, EU Member States should considerably develop their military capabilities. Although NATO must retain an essential role, EU Member States have to enhance the PDSC, so that it can assume a greater role in collective defence and play a leading role in regional security (Ratti, 2023). These efforts will enable EU Member States to act in a complementary way to NATO, with the possibility of acting autonomously when necessary (Ratti, 2023).

The introduction of Article 42(5) of the TEU, established by the Lisbon Treaty (2007), may be considered as an alternative to Article 5 of North Atlantic Treaty Organisation. While an 'armed attack' triggers Article 5 NATO, 'armed aggression' activates Article 42(7) TEU. This distinction matters for the extent to which these mutual defence clauses can be used. NATO's Article 5 has only been activated once, in response to the 11 September 2001 terrorist attacks by the international terrorist organisation Al-Qaeda (Navarro I Serradell, 2024).

For Article 5 to be triggered, the attack must originate from outside the affected member state (Navarro I Serradell, 2024). Consequently, the North Atlantic Council declared on the following day that, if it is established that the attack was launched from abroad against the United States, Article 5 of the Washington Treaty might be invoked (NATO, 2001; Navarro I Serradell, 2024).

In contrast to NATO's Article 5, Article 42(7) TEU is employed in the event of "armed aggression". The term is referenced in several provisions of the United Nations Charter, including paragraphs 1(1), 39, and 53(1) (Navarro I Serradell, 2024). 'Aggression' is defined as the unlawful use of armed force by a state against another state's sovereignty, territorial integrity, or political independence (United Nations Charter, 1945). This definition is broader than armed attack, encompassing a wider range of circumstances and with less stringent requirements (Navarro I Serradell, 2024).

The ambiguity of Article 42(7) TEU lies in its failure to stipulate the criteria for determining which state may claim to have been the victim of armed aggression. The Foreign Affairs Council – a configuration of the Council of the European Union composed of the member states' ministers of foreign affairs and other relevant ministers – notes that, per the existing legal framework, implementing the mutual assistance clause "will not require any formal decision or conclusion from the Council" (Verhelst, 2022). Politically, this has been perceived as a sign of flexibility and an opportunity to accelerate the decision-making process (European Parliament, 2015). Nevertheless, the High Representative has indicated that 42(7) does not entail a CSDP operation but rather the activation of bilateral aid and assistance, which, due to a lack of clear EU-wide defence planning, would presumably be ad hoc. In the absence of any indication to the contrary from the European Council or the Council of the EU, the activation of Article 42(7) TEU would require a unanimous vote by the Council in accordance with Article 42 TEU, as it is part of the CSDP and therefore requires unanimity (Council of the EU, 2015).

Impact on Western influence

Russia has mixed conventional military operations, alliances with separatist movements, use of cyberspace as a battlefield, propaganda wars, and economic pressure in its campaign against Ukraine (Ball, 2023). This mix presents a major challenge for Ukraine and its allies, who are simultaneously handling multiple threats and attacks from and in several regions (Chivvis, 2017). However, the biggest threat to the broader international order seems to be Russia's use of lawfare, or the "use or abuse of the law to replace conventional military means to achieve military objectives" (Stephens, 2003). By leveraging domestic and international legal tools, Russia and other revisionist states could shape the international legal order in ways that better align it with its interests (Munoz Mosquera & Chalanouli, 2024). This manipulation of legal paradigms undermines current legal frameworks and poses challenges to international peace and security.

A Russian victory against Ukraine could vindicate Russia in the eyes of the world, especially among its allies and countries beset by democratic instability (Dalsjö, 2024; Polyakova et al., 2023).

It could also legally shield Russia from retaliation, as it asserts its invasion is a humanitarian intervention that is conducted under the responsibility to protect. Furthermore, it would serve to reinforce the alleged legality created by the revocation of the decisions of the Russian parliament and the accusation brought by Russia against Ukraine for crimes against humanity and genocide (NATO, 2014). Moreover, the concept of self-determination allows it to intervene with the consent of a recognised state, something Russia has used to circumvent international legal barriers and jeopardising international security by recognising proxies they established (Bachmann & Munoz Mosquera, 2015). Russia's use of the law already poses a serious danger to all its neighbours, as Russia can launch 'peace-making operations' at will in a legal grey area to 'protect' any population that supports Russia (Voyger, 2019).

It is abundantly clear that Russia's seizing of Ukrainian territory creates an unprecedented humanitarian crisis, threatens European and international security, and undermines the Ukrainian identity, human rights, and the West as a promoter of peace and stability (Lange & Masala, 2023). With China's rise and the revival of Russian influence, Ukrainian defeat could decisively end Western pre-eminence.

Russia's foreign policy since 2023 has been focused on reducing the influence of the United States and other unfriendly states, and creating conditions to prevent neo-colonialism or hegemony (The Concept of the Foreign Policy of the Russian Federation, 2023, §19.1). The policy further asserts that the US and its allies have used Russia's actions in Ukraine as an excuse to further their anti-Russian agenda and engage in a hybrid war to weaken Russia (The Concept of the Foreign Policy of the Russian Federation, 2023, §13). This text makes it clear that Russia is seeking to establish itself as the defender and liberator of oppressed peoples while undermining the West's credibility and directly threatening it.

Conclusion

Russian aggression against Ukraine continues to cast a wide shadow over international relations. European Council President Charles Michel has underlined the gravity of the situation and declared that a Ukrainian defeat is simply not an option (Brzozowski, 2024). The stakes are high. A Ukrainian defeat would devastate the country and shake the foundations of European security. The EU and NATO are at a critical junction, and firm action is needed to prevent further aggression and protect the foundations of the rule of law, democracy, and collective defence. The need for unity and determination in the face of external challenges has never been greater, and neither have the consequences of inaction.

The outcome of this conflict could redefine Europe's borders and security while simultaneously changing the dynamics of the NATO alliance. Russian advances pose a direct threat to the integrity and unity of the EU and its ability to function as a coherent and effective security organisation, as well as to Ukraine's existence. As the EU strives to balance immediate assistance to Ukraine and long-term strategic autonomy, calls for a new security framework are only growing (Brzozowski, 2024). Europe's response must, therefore, be diversified and reconsider military capabilities and strategic partnerships. Regardless, there is an urgent need to improve Western military preparedness and to develop closer cooperation between European states and NATO partners for peace operations and crisis management (The Economist, 2024).

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