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**FROM NUCLEAR DISARMAMENT TO MILITARY AID:
AN INTERNATIONAL LEGAL ANALYSIS OF UKRAINE'S RIGHT
TO SELF-DEFENSE IN RESPONSE TO RUSSIAN AGGRESSION**

**ВІД ЯДЕРНОГО РОЗБРОСННЯ ДО ВІЙСЬКОВОЇ ДОПОМОГИ:
МІЖНАРОДНО-ПРАВОВИЙ АНАЛІЗ ПРАВА УКРАЇНИ
НА ЗАХИСТ У ВІДПОВІДЬ НА АГРЕСІЮ РФ**

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This paper examines the international legal dimensions of Ukraine's renunciation of nuclear weapons in 1994 within the framework of the Budapest Memorandum and the subsequent Russian aggression. The analysis highlights the non-binding nature of the security assurances provided by the signatory states and the resultant shifts in the global security system. These shifts were triggered by the armed aggression of the Russian Federation and its implications for international law.

The full-scale invasion of Ukraine by the Russian Federation in 2022 became one of the gravest challenges to international stability and humanity in modern Europe. This act of aggression forced millions of Ukrainians to flee their homes to escape incessant shelling, bombings, and destruction. The conflict represents not only a brutal attack on a sovereign state but also a profound trauma for Ukrainian society, its economy, culture, and hopes for a peaceful future. The continuous attacks on Ukrainian cities serve as a stark reminder of the inadequacies of international security guarantees, where promises of protection often remain unfulfilled.

Ukraine has sought international assistance through various alliances and collective agreements to safeguard its sovereignty and territorial integrity [11]. A critical aspect of this discussion is the role of the Budapest Memorandum, a document signed in 1994, which provided assurances of Ukraine's security in exchange for its renunciation of nuclear weapons [1]. However, the events following 2014 and the full-scale invasion

of 2022 have exposed the Memorandum's ineffectiveness and its failure to ensure Ukraine's security [5].

Signed on December 5, 1994, the Budapest Memorandum [3] involved Ukraine, the Russian Federation, the United States, and the United Kingdom. In exchange for Ukraine's commitment to relinquish its nuclear arsenal, the signatories pledged to respect Ukraine's sovereignty and territorial integrity. At the time, Ukraine inherited the world's third-largest nuclear arsenal, comprising 176 intercontinental ballistic missiles and a fleet of 44 strategic bombers. Ukraine's denuclearization [6], conducted under international pressure, became a landmark decision in global nuclear disarmament efforts.

The Memorandum's key provisions included:

1. Respect for Ukraine's independence, sovereignty, and existing borders.
2. Refraining from the threat or use of force against Ukraine.
3. Commitments to avoid economic coercion against Ukraine to influence its political decisions.
4. Consultation mechanisms in case of a threat to Ukraine's sovereignty or territorial integrity.

Despite these assurances, the Memorandum lacked legally binding enforcement mechanisms, rendering it ineffective during the Russian aggression in 2014 and 2022 [8].

Ukraine's nuclear disarmament process was fraught with obstacles. In 1993, Ukrainian politicians introduced additional conditions for the ratification of the Strategic Arms Reduction Treaty [10]. These included security guarantees from Russia and the United States, financial assistance for dismantling nuclear facilities, and compensation for the nuclear material. Although criticized by Russia and the United States, these demands reflected Ukraine's concerns over its security vulnerabilities [7].

Ukraine's decision to transfer its nuclear arsenal to the Russian Federation stemmed from:

Pressure from partners: The United States, the United Kingdom, and other Western nations actively lobbied for Ukraine's nuclear disarmament, emphasizing the importance of non-proliferation and global security.

Economic weakness: Post-Soviet Ukraine faced severe economic challenges and relied heavily on Western financial and diplomatic support. Refusal to disarm risked isolating Ukraine from critical international resources.

Security guarantees: The Budapest Memorandum’s assurances were presented as a pivotal argument for Ukraine to relinquish its nuclear weapons.

The Budapest Memorandum’s failure to protect Ukraine highlights its limitations:

- non-binding nature: The Memorandum offered political assurances rather than enforceable legal obligations.

- ambiguity in commitments: The provisions lacked clarity on the specific measures to be taken in case of violations.

- absence of military support: Unlike NATO’s Article 5 [2], the Memorandum did not include provisions for collective defense.

While the Russian Federation’s actions violated the Memorandum, the international community’s response was limited to economic sanctions and political condemnation [4]. Western allies provided military aid to Ukraine, but the lack of direct military intervention underscored the weaknesses of the security assurances.

The main challenges were:

1. The Budapest Memorandum’s non-binding nature rendered it inadequate in safeguarding Ukraine’s sovereignty.

2. Ukraine’s reliance on international guarantees without enforceable mechanisms left it vulnerable to aggression.

3. The crisis revealed significant flaws in the global security architecture, emphasizing the need for robust legal frameworks [9].

The obvious response to the above seems to be the implementation of the following changes:

Reforming international law: Establish legally binding mechanisms to enforce security guarantees, ensuring accountability for violations.

Strengthening regional alliances: Ukraine and other nations should enhance regional defense coalitions to mitigate reliance on non-binding agreements.

Improving deterrence strategies: Lessons from Ukraine’s experience should guide the development of strategic deterrence measures, including expanded collective defense capabilities.

Increasing guarantor accountability: Clear obligations and consequences for failing to uphold guarantees are essential to restoring trust in international agreements.

Bolstering Ukraine’s defense capacity: Ukraine must prioritize strengthening its defense infrastructure and reducing dependency on external guarantees.

Unlike the aggressor state, which systematically violates international law and the rules of war, Ukraine upholds its international obligations. The Russian Federation's actions – including attacks on civilians, use of non-conventional weapons, and violations of humanitarian law – stand in stark contrast to Ukraine's commitment to the Geneva Conventions [12], and other legal norms. By adhering to these principles, Ukraine not only strengthens its moral position but also garners international support in its fight for sovereignty and territorial integrity.

The current norms of international law, designed to prevent acts of aggression and protect state sovereignty, have proven to be insufficiently effective in practice. They fail to provide adequate mechanisms for a timely response to acts of aggression, leaving victim states effectively defenseless against violations of the international order. This underscores the urgent need for a reassessment of existing legal frameworks and the development of more robust tools capable of safeguarding peace and stability in the face of contemporary challenges.

The lessons from Ukraine's experience underscore the need for a more robust international security framework that ensures the protection of states against aggression and upholds the principles of sovereignty and territorial integrity.

Glory to Ukraine, Glory to the Heroes!

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