

INTERNATIONAL WEEKLY

№ 14—15

26.04.2013 – 18.05.2013



Foreign
Policy
Research
Institute



Friedrich Naumann
STIFTUNG
FÜR DIE FREIHEIT

UKRAINE – THE EUROPEAN UNION



KEY THEME ANALYSIS

IMPLICATIONS OF THE FOUR EU FOREIGN MINISTERS' VISIT TO UKRAINE.

April 25, 2013 a joint visit to Ukraine of Minister of Foreign Affairs of the Republic of Poland Radoslaw Sikorski, Minister of Foreign Affairs of the Republic of Lithuania Linas Linkevicius, Minister of Foreign Affairs of the Kingdom of the Netherlands Frans Timmermans and Minister for European Affairs of the Kingdom of Denmark Nicolai Wammen took place.

The purpose of this visit was to get acquainted with the internal situation in Ukraine and to express support for Kyiv's path towards European integration and continuation of reforms. It was indicative that the delegation included foreign ministers who act as lobbyists of Ukrainian integration (Poland and Lithuania) as well as heads of foreign ministries of countries that are clearly not willing to make concessions to Ukraine (Denmark and the Netherlands).

This visit has become decisive because the task for Kyiv was to prove its ability to be a desirable partner for Europe. Moreover, even before the visit of the ministers, May 2013 was announced as a deadline for Ukraine. EU officials have previously stressed many times that in May Brussels would examine Ukraine's progress in implementing reforms and assess Ukraine's readiness to sign the Association Agreement. Therefore during this visit Kyiv had to make every effort to assure the ministers of its intentions.

An important result of this visit was the clarification by the EU of the deadline for Ukraine to fulfill the requirements. The European Union decided to give Kyiv extra time and another chance. R. Sikorski said that "Ukraine has three months, three critical months". But in this respect it is necessary to emphasize that credibility should be gained gradually and over a long period. If further European integration steps are carried out immediately before the Eastern Partnership summit, it will not add to Ukraine's credibility and reliability.

However, this extension of terms was expected by Ukrainian experts, who have suggested such a development, explaining it by the extension to the end of September of the Cox and Kwasniewski mission. Additionally, it was revealing that the EU foreign ministers' visit took place almost simultaneously with the meeting in Brussels on 24 April, 2013 of Commissioner for Enlargement and European Neighbourhood Policy Stefan Fule with the Secretary of the National Security and Defense Council of Ukraine Andriy Kliuiev. This coincidence emphasizes the fact that pressure on Ukraine has been

increased as well as the quantity and quality of the negotiations on the fulfillment of conditions for the Ukraine-EU Association Agreement.

In fact, Ukraine has not currently fulfilled the majority of commitments and requirements. Kyiv has adopted just a handful of laws and released former Minister of Internal Affairs Yuriy Lutsenko. However, **firstly**, *although the laws were adopted, not all of them were actually enacted*, and **secondly**, *Yuriy Lutsenko's pardoning was rather an attempt to divert Europe's attention from problematic issues in Ukraine*. Moreover, the problem of selective justice remains crucial, as Linas Linkevicius noted.

In this context, the European Union is divided into two main groups of countries in the question of Ukraine's European integration. The first group of *countries – Ukraine-optimist* agrees to support Ukraine at the Vilnius summit if Kyiv shows at least formal steps towards European integration and fulfillment of the requirements and criteria of the EU. One such step was the pardon of Yuriy Lutsenko. That means that for Ukraine it's enough to maintain at least the image of a democratic state. The second group of *countries – Ukraine-skeptics* requires concrete and significant steps towards rapprochement with the EU, namely: conducting in accordance with international standards of by-elections in constituencies where they were declared invalid; progress in overcoming selective justice and implementing reforms defined jointly by the parties in the preparations for the association agenda. Therefore, this visit is a striking example of such divisions of the EU countries on the Ukrainian issue.

The issue of selective justice has become an important aspect. Previously this aspect has been presented by demanding to release of Tymoshenko and Lutsenko. In this context it is worth recalling Merkel's statement in Berlin on April 17, 2013 which stressed that the Tymoshenko case was not the only obstacle to signing the Association Agreement, since Ukraine must overcome a number of problems to get closer to the EU. As a result of recent events the question now is not so much about personalities but rather about reforming the judicial system itself. ***In fact, the EU is trying to achieve this goal by means of changing the methods, thus bypassing the Ukrainian categorical position.*** In the case of reforming the Ukrainian judicial system according to EU standards, a new opportunity to appeal the Tymoshenko verdict and conduct a new trial in accordance with European legislation may arise.

It should be noted that the level of negotiations between Ukraine and the EU is growing more and more, but most details, aspects and controversies remain hidden from the public. Ukraine had a chance to gain new allies during the visit of ministers, as their position will be taken into account both in Brussels and perhaps in Berlin (whose position is very important for Ukraine). The main result of the ministers' visit was the EU Commission's approval on 15 May, 2013 of the draft decision on the signing of the Association Agreement with Ukraine. This event can be considered a great success for Ukraine. It was precisely the four ministers' visit that persuaded the European Union to give Ukraine extra time to improve the domestic situation, thereby moving towards EU standards.

Given the fact that the EU is intensifying various types of cooperation with Ukraine, this emphasizes the positive intentions and expectations of Europe. So the Association Agreement signing depends almost entirely on the actions of Ukraine in the next three months.

UKRAINE – NATO



KEY THEME ANALYSIS

10TH ANNIVERSARY MEETING OF THE JOINT WORKING GROUP ON DEFENCE REFORM, AS A MANIFESTATION OF THE NEW FORMAT OF UKRAINE - NATO RELATIONS

On April 25 the tenth meeting of the Joint Working Group on Defence Reform, chaired by First Deputy Minister of Defence of Ukraine Olexander Oliynik was held. What was this anniversary meeting marked by?

Firstly, it was a manifestation of a trend to transfer Ukraine-NATO relations from the level of integration to the level of concrete practical cooperation, mainly on technical issues, that has actually replaced the level of military and political dialogue.

Secondly, NATO is trying to find a formula for cooperation with Ukraine which would be based on a consensus of both parties' interests. In this context, such issues as democratic control of the armed forces and the security sector, transition of Ukrainian Armed Forces to NATO standards and interoperability with NATO forces were dropped from the Ukraine-NATO meetings' agenda.

Besides, the thesis on the validity of commitments made by the Alliance at the Bucharest NATO (2008) summit concerning the prospect of membership and 'open door' for Ukraine have disappeared from official documents and statements. NATO has perceived the neutral status of Ukraine as a given fact and as a guide to the formation of a military cooperation program. In response, Ukraine has committed to participate in international operations and NATO missions to maintain international stability and security.

Thirdly, on the basis of the consensus of interests two main areas of NATO-Ukraine cooperation in the military sphere were outlined. Namely: strengthening of international and regional security and providing technical assistance for military reform in Ukraine. Therefore no wonder that the agenda of this anniversary meeting of the Joint Working Group on Defence Reform included such main issues as: large-scale implementation of NATO normative documents; providing active participation in NATO-led operations and in NATO Response Forces; improving the military education system and personnel management, further professionalization of Ukraine's armed forces; and decisions on social issues in the course of military reform.

Fourthly, NATO agreed to a supporting rather than primary role in promoting Ukraine's European integration. Head of the Mission of Ukraine to NATO Igor Dolgov before the anniversary session mentioned: "The Working Group will discuss how to continue the reform of the defense sector in Ukraine, as well as how Ukraine fulfills its

commitments and implements the transformation in order to ensure the timely signing of the Association Agreement with the European Union and creation of a deep and comprehensive free trade area"¹.

Fifthly, the institutional and instrumental aspects of Ukraine-NATO cooperation have become more clear and perfect. The Joint Working Group has become an effective working tool for the implementation of cooperation plans. It has become the mechanism of solving practical aspects of military cooperation and implementation of the Annual National Program plan. It is known that for this purpose five Ukraine-NATO Joint Working Groups (JWG) were established under the Ukraine-NATO Commission: on the issues of military reform; on the issues of defense and technical cooperation; on the issues of economic security; on the issues of planning in case of civil emergencies; and on the issues of cooperation on science and the environment. As part of the JWG on issues of military reform special expert consultations are held on the Ukrainian security sector and intelligence reform, as well as on the issues of cooperation in cyber defense. The Joint Working Groups' activity is subject to the implementation of Ukraine-NATO cooperation ANP tasks and conducting internal reforms in Ukraine.

Sixthly, the ruling Party of Regions no longer considers NATO as a threat to party interests and to national interests. Rather one can say that the hostility has changed to a neutral attitude towards NATO as a security organization in Europe such as the OSCE. Thus the first Deputy Secretary of the National Security Council of Ukraine Oleksandr Medvedko in his speech to the anniversary meeting of the Joint Working Group on Defence Reform, said: "Ukraine will continue its active participation in peacekeeping operations, including the anti-piracy operation 'Ocean Shield', as well as will cooperate with NATO in combating new challenges and threats."

During the meeting the representatives of the central executive authorities of Ukraine reported on the issues of content, forms and methods of reforming the state security and defense sector; other issues of cooperation between Ukraine and NATO were also considered.

Thus, through the work of the Joint Working Groups the positive dynamics of cooperation in the framework of the implementation of the Annual National Program of Ukraine-NATO cooperation was maintained.

¹ Робоча група Україна-НАТО проаналізує підготовку країни до підписання Асоціації з ЄС.
http://www.ukrinform.ua/ukr/news/robocha_grupa_ukraiina_nato_proanalizue__pidgotovku_kraiini_do_pidpisanny_a_asotsiatsiii_z_e_s_1821078

FOREIGN POLICY OF UKRAINE



KEY THEME ANALYSIS

THE UKRAINIAN GAS TRANSPORT SYSTEM AT THE EPICENTER OF THE EUROPE - RUSSIA GEOPOLITICAL CONFRONTATION

The first months of 2013 have been marked by a new confrontation over the Ukrainian gas transportation system (GTS). Ukraine has tried to 'keep a foot in both camps' – the EU and Russia, and to build in this geopolitical triangle a model of its own gas issue solution in the form of the trilateral EU-Ukraine-Russia consortium. Such a model would strengthen Kyiv's policy of balancing between Europe and Russia, taking into account the interests of both Russians and Europeans.

The **Ukrainian position** was to restructure Naftogaz and to create a consortium to manage the GTS, but not to sell it or transfer the ownership. Ukraine insisted on renting only gas pipelines, but refused to rent gas storage. And most importantly Ukraine plans to create a consortium on the basis of the European Energy Community rules which provide for equal access of transport services consumers to the pipelines.

The **Russian position** on this issue was and continues to be very clear and constant.

Firstly, the consortium itself, which means Gazprom, will determine whose gas it will transit.

Secondly, the precondition for creating the consortium is Ukraine's withdrawal from the European Energy Community.

Thirdly, Russia is interested only in the creation of a bilateral Ukrainian-Russian consortium according to the Belarusian scenario: when at first shares are distributed between the two sides in the ratio 50/50, and then Ukraine's share becomes 100% ownership by Gazprom.

Russia is guided by a clear geopolitical strategy to establish full control over Ukraine, to deprive it of energy, economic, and, ultimately – of political independence. The director of energy programs of the Razumkov Centre V.Omelchenko mentioned that Russia may "participate in creating such structures only in the case that this will provide full control over the Ukrainian gas transportation system. The Russian government is not really interested in any balance of interests".

Fourthly, Russia considers EU participation in the consortium only in terms of funding, rather than equity participation.

The EU position turned out to be more variable. After the February Ukraine-EU summit, Europe expressed interest in participating in the consortium as a full

member. Europe also promised to finance the modernization of the Ukrainian gas transportation system, provided the Ukraine-EU Association Agreement is signed.

However, the EU did not specify the conditions under which the European side will participate in the future consortium and on what rights this infrastructure will be operated. Obviously, EU participation was limited to only the debate process on the consortium's future issues.

Such detachment from the direct discussion of the consortium project indicates a lack of European interest in Ukrainian gas pipelines as well as in the increasing of Russian gas consumption. This uncertainty has forced Kyiv to hold in Brussels on 3 May, 2013 a tripartite round table on the issues of the future consortium. Russian Gazprom ignored this meeting.

As a result of the round table a consensus of interests between Ukraine and the EU was found. Its essence was expressed by the EU Energy Commissioner Guenther Oettinger. It is that the consortium may be bilateral – Ukrainian-Russian, but consider EU interests. These interests are: *firstly*, free access to Ukrainian pipelines, and *secondly*, free use of Ukrainian gas storage, which meets Ukrainian interests also.

Thus, Ukrainian Energy Minister Eduard Stavytsky noted that European countries have expressed an interest in commercial use of Ukrainian underground gas storage facilities: "Poland is interested in using our storage to save gas and adjust gas pricing at home". The minister said that German, Italian and Hungarian gas companies had also expressed interest in this issue. This allows Kyiv to consider plans for *moving from the status of the main EU gas transitor to the status of the magistral unit (gas hub)*. "We expect that successful models of gas hubs in the UK and the Netherlands will be gradually implemented in other EU countries. Such a European gas market is interesting for us in the context of gas supply diversification, as well as a source of revenue for gas transit to Europe, gas storage based on long-term transit contracts, and as a stable and attractive market for future exports of own extracted gas", - the Minister explained².

It is assumed that after the restructuring and privatization of Naftogaz we get the opportunity to lease our underground gas storages to Europeans and to take from storage Russian gas which is already European, avoiding the transit expenses. According to the calculations, Ukraine could buy all the needed 30 billion m³ of gas from the Germans, and this scheme would make Gazprom more compliant.

However, what consequences would result from practical implementation of the bilateral Ukrainian-Russian consortium? At the beginning of 2012, responding to the urging Ukrainian side, Russia agreed to consider the issue of discounts on gas. Moscow took this step taking into account a 10% discount on Russian gas achieved by European companies. But for Ukraine such a discount was conditional on the obligation to buy at least 33 billion m³ of gas stated in the agreement between the countries. For the larger discount from \$415 to \$250 per thousand m³ on which Ukraine insisted, Russia may settle for only provided Kyiv agrees to establish a bilateral consortium in which Gazprom gets at least 50% of the GTS. Herewith the Russian side estimates the cost of the entire Ukrainian GTS at \$3 billion, while the Ukrainian side – at \$20 billion without underground gas storage, and at \$40 billion with this included. At the same time the representatives of the independent American Society of Appraisers estimated the value of the GTS at \$6 billion³.

Ukrainian political analyst V.Horbach seems to be right saying that "now the situation is such that Russia can afford to demand concessions from Ukraine, conceding

² Россия отказалась от газовой встречи с украинцами в ЕС. http://www.ng.ru/cis/2013-04-25/6_ukraina.html

³ Ринкова вартість української ГТС складає 61 млрд доларів.

http://dt.ua/ECONOMICS/rinkova_vartist_ukrayinskoyi_gts_skladae_61_mlrd_dolariv.html

nothing on its own part"⁴. Indeed, judging by the terms of Russian rent payment for the Black Sea Fleet base, Ukraine may not receive even those \$3 billion. Rather they will be counted by Gazprom as Ukraine's debt for Russian gas consumption.

Another challenge is that without lifting the ban on privatization Ukrtransgas can't be completely separated from the Naftogaz structure, keeping the gas transport system in balance. It is about the division of Naftogaz into three companies that Ukraine should provide to fulfill the second EU energy package implemented as a member of the Energy Community. Energy programs director of the Borisen Intel analytical center Sergey Dyachenko mentioned, that the gas market should be diversified before the Naftogaz privatization. But under present conditions such a privatization would mean the transfer of control over the Ukrainian gas market to Gazprom.



⁴ Янукович и Путин подпишут Крымские соглашения. <http://ubr.ua/ukraine-and-world/power/ianukovich-i-putin-podpishut-krymskie-soglasheniia-139142>.