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## UKRAINE – THE EUROPEAN UNION



### KEY THEME ANALYSIS

#### What European Parliament Warns of in Its New Resolution on Ukraine

Making plans on its own European future, Kyiv simply cannot ignore the EU's demands because today they are connected not only with the recognition of Ukrainians as members of the "family of European nations", but also with the conclusion of the Association Agreement and its subsequent ratification, and with the successful hosting of the "Euro 2012" European Football Championship.

Accordingly, ***the adoption of a new Resolution on Ukraine (2012/2658 (RSP)) by the European Parliament (EP) on 24 May 2012*** became the other reminder to the national government that reforms in our country are still far from their completion, and, thus, the Ukrainian officials should make great efforts to implement all the requirements set forth in the document and, most importantly, not to deviate from them because otherwise the Association Agreement and the European future of Ukraine could be called into question.

The EU stresses that "Ukraine is a country of strategic importance to the EU" which is "a key regional actor which exerts considerable influence on the security, stability and prosperity of the whole continent, and which should therefore bear its share of political responsibility". At the same time, the European Parliament states that "whereas Ukraine's human rights record, its respect for civil liberties and fundamental freedoms and for the rule of law, with the incorporation of fair, impartial and independent legal processes, and its focus on internal reform are prerequisites for the further development of relations between the EU and Ukraine".

However, emphasizing several preconditions of the "Europeanization" of our country, the European Parliament, nevertheless, focuses on the reform of the judiciary and "measures to ensure respect for the rule of law in criminal investigations and prosecutions, including the principle of fair, impartial and independent judicial proceedings" of cases against the representatives of the opposition, in particular, the judgment on the appeal to the Court of Cassation concerning the case of the ex-Prime Minister of Ukraine Yulia Tymoshenko on the decision of the Pechersk District Court of Kyiv to be held on 26 June 2012. In fact, all the processes in our country, focused on its approach to the European perspective, depend on the trials against the representatives of the opposition. The Resolution stresses that "the more Ukraine shares common values with the EU and the more it carries out reforms in the spirit of the Association Agreement, the deeper its relations with the EU will gradually become".

This is strange because previously the approval of the text of the Agreement was considered as an exclusively technical process dependant only on the translation and adoption of the content by the 27 Members of the European Union. But now it is

prevented by the lack of respect for the rule of law, corruption and abuse of power, fundamental shortcomings on the part of the Ukrainian criminal justice system, which have negatively affected the protection of individual human rights and the rule of law. Furthermore, the Ukrainian authorities are called upon to grant the unconditional immediate release of all prisoners sentenced on politically motivated grounds, including leaders of the opposition Yulia Tymoshenko and Yuriy Lutsenko, by the beginning of the pre-election campaign before the parliamentary elections in 2012. Assuming that these people would not participate in the elections because they still remain behind bars, the European Union can simply announce the elections to be invalid.

It is likely that the procrastination of the cassation process of Yulia Tymoshenko will lead to the fact that she is simply unable to take part in the future elections by herself because she has no time for the official registration to participate in the parliamentary race by the deadline – 13 August 2012. Thus, this demand is simply leveled with the absence of the opposition prisoners as participants in the parliamentary elections.

The Ukrainian authorities cannot distinguish between political and criminal responsibility and change the existing Criminal Penal Code because, despite the statements of the President of Ukraine Viktor Yanukovich on the “anachronistic” features of the Soviet CPC under which Yulia Tymoshenko was condemned, the Verkhovna Rada of Ukraine refused to amend the proper articles in a new document: therefore, the possible revision of the document may again be delayed for months or even for a longer period. Moreover, not everything is so bad in the revised legislation: the Criminal Procedural Code, adopted recently, is consistent with the highest European standards. The Law “On free legal aid” and the Law “On Judicial System and Status of Judges” also pretend to such a status.

In addition, the Ukrainian governors appeal to the definitions of the Resolution: it is likely that, agreeing with their requests/wishes, the Europeans have changed the expression “political detainees” for the definition “prisoners sentenced on politically motivated grounds” in the text of the document. The Ukrainian representatives had supposedly requested the Legal Committee of the Council of Europe to give a clear definition of the concept “political detainee” but the latter didn’t provide it.

However, in the final part of the Resolution, “expressing its hope for the success of the European Football Championship 2012 in Poland and Ukraine”, the EP called on the European politicians “who wish to attend Euro 2012 matches in Ukraine to make their awareness of the political situation in the country publicly clear and to seek opportunities to visit political detainees in prison, or to attend in their private capacity and not as VIPs”. Thus, the Resolution stated only the absence of the official “boycott” of the Championship which holding, however, depends on the implementation by Ukraine of the requirements specified in the document that, according to the text of the Resolution, would also strengthen the credibility of Ukraine’s OSCE chairmanship, due to take place in 2013.

It is, at least, illogical because, *firstly*, the unsuccessful Ukrainian presidency of the OSCE would not only call into question the reputation of our country, but also could level the security of the whole continent because the decisions of this organization are extremely important for the security and stability of all Europe.

*Secondly*, the discredit to the Euro brings to nothing not only the efforts of our country but also completely destroys Polish hopes for the Championship because this state has been a devotee of the European ideas and an active Member of the EU for a long time. It is not strange that the President of Poland Bronislaw Komorowski stated that it is necessary to stick to a pragmatic line making policy towards the Ukrainian authorities and to try to bring Ukraine closer to the EU, rather than to push it towards Russia.

Such a danger really exists in case of the removal of Ukraine from the European direction of its foreign policy. Moreover, now the authorities are resolving the issue on gas supplies and price for the “blue fuel” for our country. The Europeans understand quite well that every step backwards and every concession inevitably leads to the subordination of the Ukrainian foreign political interest to the foreign policy of the RF.

The evidence of this understanding was the intention of the EC Delegation to Ukraine to represent two new projects funded by the European Union – “Attracting Foreign Direct Investment to Sevastopol” and “Crimean Tourism Diversification and Support”. Therefore, the assurances that Ukraine will become a part of the EU if it makes steps towards the integration with the organization can be considered as the confirmation of the fact that this process is not exclusive, and its progress is possible. However, all the criticism of the Ukrainian party testifies that the European course of our state is postponed for an indeterminate time, that’s why its periodization is simply prolonged. And now it is more than understandable.



## UKRAINE – NATO



### KEY THEME ANALYSIS

#### Results of the NATO Summit in Chicago:

#### a New Wave of the Alliance Enlargement Will Take Place in 2014 when Ukraine Finds Itself Overboard the Euro-Atlantic Security System

Taking into account a non-block course of Ukraine and its non-participation in any military organizations, one could theoretically assume that the relationship between the official Kyiv and NATO should be minimized. However, a number of subjective/objective circumstances, combined with the importance of determination of the Ukrainian position in the international arena, leave the domestic authorities with less and less opportunities to balance on the East – West edge. Moreover, both “poles” of Ukraine’s foreign policy now require its efficient functional activities.

The third coming of Vladimir Putin to the Russian presidential Olympus connected with the pressure of the European community made the Ukrainian authorities face the necessity of determining their own political future, and, therefore, to decide which values and to what extent should be observed in the country. Accordingly, the decision to address the third, politically neutral partner, which has a purely pragmatic interest in cooperation with Ukraine, made Kyiv once again seek NATO support (which, in fact, was officially refused by the authorities after declaring a so-called “non-block status” in 2010).

However, the conclusions of *the 25<sup>th</sup> anniversary NATO Summit in Chicago (20-21 May 2012)* showed an unprecedented Ukrainian situation: welcoming “Ukraine’s commitment to enhancing political dialogue and interoperability with NATO, as well as its contributions to NATO-led operations” in the final Summit Declaration, NATO expressed concern over “the selective application of justice and what appear to be politically motivated prosecutions, including of leading members of the opposition, and the conditions of their detention”. It means that the North-Atlantic Alliance “encouraged Ukraine to address the existing shortcomings of its judicial system” and “to ensure free, fair and inclusive parliamentary elections this autumn”. So, it’s not surprising that during the Summit Ukraine, which earlier had always been considered one of the main partners of the organization, was presented only *at the meeting of the Heads of State and Government of Nations contributing to the NATO-led International Security Assistance Force (ISAF) in Afghanistan*.

Consistently supporting the implementation of the NATO Lisbon Strategy, which provides for the phased completion of joint military operation in Afghanistan by the end of 2014, our state welcomed the Alliance’s decision to withdraw its military



contingents from the territory of this country by 31 December 2014. In addition, unlike the authorities of France, Canada or Australia, which declare the preterm redeployment of their military units before the end of the given time limit, the President of Ukraine Viktor Yanukovych expressed full support for “the continuation of close cooperation with Afghanistan within the framework of long-term partnership policy for 2015-2024 and for the future outlook”, that was stipulated in a new NATO Strategic Plan for Afghanistan.

Accordingly, Ukraine strives, **firstly**, *not to find itself in the complete isolation pursuant to the situation in the spheres of human rights and the justice system.*

**Secondly**, *the authorities wish to develop profitable ties and to assure, in fact, free improvement of professional skills for representatives of the Ukrainian Armed Forces.* In addition to the increase of Ukrainian personnel with the instructors of Army Aviation in August 2012, Ukraine is ready to continue cooperation on the usage of our strategic transport aviation in accordance with the Memorandum between the Government of Ukraine and NATO Command in the context of completion of the military operation in Afghanistan, and to cooperate within the framework of the Project on training of Afghan and Central Asia experts specializing in the fight against illegal drug trafficking. ***It was also confirmed Ukraine’s readiness to join the Danish initiative “Coalition of Committed Contributors”, and its commitment to provide the transit corridor for deliveries of the necessary goods to ISAF in future. The last manoeuvre, taking into consideration blocking of the transport corridors by Pakistan, is quite deliberate: finding the search for the alternative ways for NATO cargoes deliveries*** (e. g. the signature of the agreement on transit of ground goods with Kyrgyzstan), ***Ukraine can really count on a positive solution of the issue and, consequently, on the deepening of cooperation with the Alliance.***

Analyzing the bilateral meetings held by Viktor Yanukovych during the Summit, one can suppose that their significance was not lower than the Summit itself, because their “tete-a-tete” format and a limited number of counterparts was determined exclusively on the basis of pragmatic mutual interest. So, the meeting with the President of the Republic of Poland Bronislaw Komorowski might concern the future European Football Championship and the promotion of the Ukrainian positions on the European arena in the light of the not very positive attitude to Kyiv of the German and French politicians, the possible “boycott” of Euro 2012, as well as the refusal of leaders of the majority of European countries to participate in the CEI Summit to have been held with the Ukrainian presidency in early May 2012 in Yalta. The negotiations of Viktor Yanukovych and the Presidents of Romania and Turkey – Traian Basescu and Abdullah Gül – were most likely related to the future deployment of the NATO AMD systems in the territory of these states. Because their immediate proximity to the Ukrainian borders makes possible not only further cooperation in this area, but also puts Ukraine in the crossfire of the RF – Alliance contradictions.

Talks with the President of Afghanistan Hamid Karzai were probably the “most important” to Kyiv. *Because due to the access to USD 4.1 billion, which will be every year directed to Kabul by the international community to rebuild the country, our state could get new profitable contracts in this region.* Thus, the presidents of Ukraine and Afghanistan agreed to establish a joint intergovernmental commission on trade and economic cooperation which is to develop a wide range of provisions on construction of various facilities of transport and energy infrastructure in Afghanistan, as well as on the maintenance of the Soviet military equipment in future. By the way, before the end of the Summit the Ukrainian Government approved a draft Presidential Decree under which Kyiv will also provide Kabul with humanitarian aid totalling USD 1.5 million. The costs will be transferred for the needs of the Afghan Government in parts (in 500 thousand dollars) during the period from 2015 to 2017.

However, ***the most topical ones were the meetings of Viktor Yanukovych with the leaders of the countries which have the potential to diversify the domestic energy market and to establish the domestic production of hydrocarbons in order to reduce the energy dependence of our country on its Northern neighbour.*** That's why, besides the traditional negotiations with the leader of Azerbaijan, Viktor Yanukovych met the President of «ExxonMobil Exploration» Steven Greenly and the Vice-President of «Chevron» Europe, Eurasia and Middle East Exploration and Production Ian MacDonald. It is known that on 14 May 2012 the Cabinet of Ministers of Ukraine announced the results of work of the Interdepartmental Commission for the determination of the winning companies which will produce hydrocarbons within the Oleska (Lviv and Ivano-Frankivsk regions) and Yuzivska (Kharkiv and Donetsk regions) gas-bearing stratum. «Chevron» became the winner of the competition for the development of the Oleska stratum (its resource is estimated at 2.98 trillion cubic metres of gas). Ukraine may establish cooperation in this direction but the main condition, nevertheless, is not the negotiations or authoritative agreements: it is the establishment of favourable conditions for good business climate to attract transparent foreign investment to the territory of our state.

Another important issue, which was actively discussed at the NATO Summit, was ***the deployment of the AMD system in Europe***, which is now entering the stage of "intermediate readiness". It means that US warships, armed with interceptor missiles, will be deployed in the Mediterranean Sea, and a new radar will start operating in Turkey. In general, Poland, Romania, Spain, the Netherlands, Turkey and the Czech Republic will participate in the first phase of the project. It is clear that in this case NATO Member States will not avoid the severe reaction of Russia. The latter requires that the Alliance provides it with legal guarantees of non-direction of the AMD elements against Russian rocket and nuclear forces. However, according to the results of the Summit, its participants managed to approve only a political declaration, reaffirming that the NATO antimissile defence is not directed against Russia and doesn't undermine its strategic deterrent forces. Thus, ***the North-Atlantic Alliance provides Russia only with the political guarantees that the AMD system will not undermine Russia's security, that's why one cannot hope for the settlement of this issue which certainly concerns Ukraine due to Russian strategic interests.***

The only thing that does not concern our state is entering the Alliance as its Member State. However, under the Washington Treaty "NATO's door will remain open to all European democracies", ***but now the support for integration efforts to join NATO was given only to Georgia, the former Yugoslav Republic of Macedonia, Montenegro, Bosnia and Herzegovina***, and in future the "green light" will probably blink for Serbia. ***It is obvious that a new wave of accession of these applicant countries to NATO, in accordance with the obligations of the Bucharest Summit, will take place in 2014.***

Georgia, which up until the NATO Summit in Bucharest in 2008 had had in this way equal chances to the Ukrainian ones, received not only a kind of confirmation of Alliance membership, but also the guarantee of protection of its territorial integrity and sovereignty. According to NATO, in 2008 the government of this country didn't use violence against the people of Abkhazia and South Ossetia, to be supported by Russia, and contributed to the democratic reforms in the country. Accordingly, even the existence of the territorial disputes does not prevent the country from accession to the organization. There were also no obstacles in the case of Greece and Turkey in the past. That is why, while there is the authoritative desire and the focus of the foreign policy of our state on the right direction, the Ukrainian officials "would not also have to solve any border problems".

*But today Ukraine should be satisfied with the status of contributing country to Afghan security without having any privileges or benefits which were given to Ukraine, at least, by the Charter on a Distinctive Partnership of 1997. To be more precise, this situation could be more satisfactory to NATO which is not obliged to give to our country any guarantees of its security or to be in any way responsible for its stability. So, now one can see not only the European, but also the Euro-Atlantic removal of leading actors of the political arena that could ultimately lead to the complete isolation of our state at the international level and, accordingly, to its return to the border zone of Russian interests with a visible bias toward the East.*





## FOREIGN POLICY OF UKRAINE



### KEY THEME ANALYSIS

#### **“Gas Agreements” and Ukrainian – Russian Partnership at the Congress of the “United Russia” Party**

While Moscow presents ultimatums and demands their unconditional fulfilment, Kyiv desperately “prays” for the discounts for Russian gas for its oligarchs. Accordingly, the main purpose of ***the visit of the Prime Minister of Ukraine Mykola Azarov to Moscow for attending the Congress of the political party “United Russia” on 26 May 2012*** was gas problems and the most sensitive issues of bilateral relations.

During the Congress Mykola Azarov had meetings with the President of the RF Vladimir Putin and the Prime Minister of the Russian Government Dmitry Medvedev elected as the chairman of the party “United Russia”.

At the beginning of the meeting Vladimir Putin drew attention to the fact that bilateral trade between Russia and Ukraine has increased, how the businesses of the two countries can cooperate effectively, and expressed his firm concern that such positive tendencies should be extended to all areas of cooperation. It was also discussed the completion of the 3<sup>rd</sup> and 4<sup>th</sup> units of the Khmelnytsky nuclear power plant, which according to the Russian party had allegedly been agreed positively, and therefore the parties need agree only technical issues. However, it is unknown which term will be given to harmonize all technical peculiarities of these agreements.

It was even agreed “to taste Ukrainian cheese together”, proving that Ukrainian production is fully acceptable to the Russians. However, in this case one cannot talk about the unconditional victory of Kyiv. The Russian Federal service on customers' rights protection and human well-being surveillance lifted the embargo on deliveries of cheese of four Ukrainian companies but the domestic cheese will be exported to Russia in small batches and under special conditions, as Ukrainian cheeses still contain an “undetermined fat balance”. Therefore, the parties “in a friendly way” decided to discuss those and other specific projects of cooperation (which, of course, have a number of unresolved “nuances”) at the Meeting of the Intergovernmental Committee on 27 June 2012, and to bring them to the stage of implementation during the Meeting.

However, the main task in the list of current assignments is the review of the so-called “gas agreements” of 2009. According to the Head of the Ukrainian Government, Vladimir Putin and Dmitry Medvedev expressed a firm intention to remove issues which overshadow the relations between Ukraine and Russia, in particular, to solve problems of the gas contract in a brief period of time. Taking into account that Ukraine doesn't require any discounts but wants to review the contract under normal market conditions which are applied to other Russian partners, it is difficult to consider whether Kyiv executes such a maneuver without critical losses. Taking into consideration the previous experience of cooperation with the Kremlin, one can now state that it is not true.

Shortly after this Meeting the representatives of the board of the OJSC “Gazprom” declared the absence of agreements (even preliminary ones) with the

Ukrainian party to change the existing contracts. In response, making concessions Kyiv expects to receive gas discount by establishing a trilateral gas transportation consortium. For this purpose, an assessment of the Ukrainian GTS was begun. However, in this context there are a number of preconditions according to which our country should not rush to estimate the national gas transportation system, and to transfer it to the jurisdiction of the newly formed gas transportation consortium Ukraine – Russia – the EU, moreover that this assessment is unlikely to be objective.

**Firstly**, such assessment will be always low, because due to the preliminary results Moscow may offer Ukraine, for example, only USD 3 billion compared to the real USD 20 billion.

**Secondly**, the sharing of control over the GTS in the 30% – 30% – 30% format is not effective: Ukraine should reserve at least 50 % of shares in this consortium. Moreover, there is the example of the Lithuanian «Lietuvos dujos» divided only into two companies, leaving “Gazprom” with the gas distribution right, but not with the control over the Lithuanian GTS.

**Thirdly**, the AC “Ukrtransgaz” has 12 underground gas storage facilities with total active capacity of about 31 billion cubic metres. The underground gas storage facilities are an integral part of Ukraine’s gas supply and gas transit systems, that’s why they can be controlled by the Ukrainian party, which can provide for modernization within the consortium only the transit part of the GTS.

**Fourthly**, the Russian “Gazprom”, which threatens Ukraine to redirect most of the gas transit to the bypass pipeline “Nord Stream”, can now hardly realize this threat due to the recent decision of the European Commission to limit the “Gazprom” gas transit through “Nord Stream” to 50 % of the pipeline capacity. In conformity with the Third EU Energy Package, the other 50 % of its capacity should be reserved for the access of different gas suppliers. Therefore, Russia will be able to send by this way only 27.5 billion cubic metres out of 150 billion cubic metres of gas annually required in Europe.

**Fifthly**, Kyiv is vividly negotiating on the diversification of energy sources. Of course, the signing of the framework agreement on gas supply with the German company «RWE Supply & Trading GmbH» cannot be called successful, especially if one takes into account that the Germans would sell to Ukraine the same Russian gas. But, in fact, its price should be lower than the present price for the Russian gas which Ukraine receives directly from Russia under the existing scheme of payments. However, the attempts to receive Turkmen gas and the development of Ukrainian hydrocarbon deposits within the Oleska (Lviv and Ivano-Frankivsk regions) and Yuzivska (Kharkiv and Donetsk regions) gas-bearing stratum could become an alternative in the amount of 7 billion cubic metres of gas per year.

Frankly speaking, taking into consideration these factors, Ukrainian officials should not hope for a quick and painless process of the gas issue solution because Kyiv could hardly achieve the revision of gas contracts, even at the cost of transferring the Ukrainian GTS to Russia.

The EU is not filled with Ukrainian gas realities. The Member States of the organization are anxious about the uninterrupted gas supplies but not about the future of the Ukrainian GTS. First of all, the Ukrainian authorities will lose after its “surrender”. They simply lose a part of our state’s energy sovereignty, however today, in fact, they may successfully manipulate with that in a political sense. Thus, if the issue is resolved in a positive context for Russia, the official Kyiv would appear another step closer to lose the state independence.