

INTERNATIONAL WEEKLY

№ 33-34

21.10.2013 – 03.11.2013



Foreign
Policy
Research
Institute



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FÜR DIE FREIHEIT

UKRAINE – THE EUROPEAN UNION



KEY THEME ANALYSIS

LAST CHANCE FOR UKRAINE TO REMEDY THE SITUATION UNTIL NOVEMBER 18: WILL THE OFFICIAL KYIV BE ABLE TO TAKE ADVANTAGE OF IT?

On October 21, 2013, in Luxembourg, the meeting of the Foreign Affairs Council took place. Despite the predictions, this meeting did not become 'historic' and 'crucial' for Ukraine. The Council did not take the decision on the EU's readiness to sign the Association Agreement with Ukraine. Kyiv was given another extra time; and the problematic issues were stressed again.

Two issues from the 'Fule list' caused the most concern: improving the business climate and resolving issues of selective justice. In this context it should be emphasized, that the EU is willing to turn a blind eye to the regression in the business climate, but the Tymoshenko issue has become de facto the only key condition to sign the Association Agreement in November 2013. Moreover, the Polish Foreign Minister Radoslaw Sikorski said that at least three countries (UK, the Netherlands and Sweden) will not approve the signing of the Association Agreement if the Tymoshenko issue is not solved.

While the EU made the concessions and offered several compromise solutions to the Tymoshenko issue, the President Viktor Yanukovich relieved himself of the responsibility for this question and shifted it for the Ukrainian Parliament. On October 21 he said that Yulia Tymoshenko may be released due to the adoption of the appropriate law. On October 24 the Presidential Commission on Pardons did not address the Tymoshenko issue; the First Deputy Minister of Justice Inna Emelyanova explained that she had not seen any relevant petition¹.

It was reported that next plenary week the Ukrainian Parliament would consider the draft laws to provide the prisoners with the possibility to travel abroad for the medical treatment. This might help to solve the Tymoshenko issue. MPs Serhiy Mishchenko and Angelica Labunska have already registered the appropriate draft laws.

Non-factional MP Angelica Labunska proposes in her draft law to allow prisoners travel abroad for medical treatment and to release such prisoners from penalty. The court can make a decision on treatment abroad if a prisoner has been treated in Ukraine for more than one year but has not recovered.

MP Serhiy Mishchenko in his draft law proposes to postpone serving sentence for the prisoners who travel abroad for treatment under the court decision. Herewith the prisoner is obliged to return to Ukraine after the recovery to continue serving the

¹Американський експерт: втрата влади загрожує Януковичу арештом через корупцію - <http://tyzhden.ua/News/92665>

sentence. The prisoner should return not later than the date, determined by the court; and the court may also cancel the decision on postponement serving sentence.² The main problem is that none of these draft laws provides Tymoshenko with the opportunity to take part in presidential election of 2015.

Thereof, on October 24 three opposition factions registered their own draft law to address the Tymoshenko issue. Arseniy Yatsenyuk said that this draft law met the criteria, set by the EU Foreign Ministers on December 10, 2012. The draft law refers not only to the Tymoshenko issue, but prohibits political persecution against any person, who has won a case in the European Court of Human Rights, based on the paragraph 18 of the European Convention on Human Rights.³

So, the President of Ukraine Viktor Yanukovich has put the entire responsibility on the Verkhovna Rada of Ukraine. If the Parliament does not approve any draft law, this might look like the decision of the Ukrainian people, as the MPs were elected by the people. This maneuver is intended to share the responsibility in case of failure in Vilnius.

Cox and Kwasniewski mission of the European Parliament has been working on the Tymoshenko issue for over a year. And its mandate was extended until the November 15. In fact, the future of the Association Agreement depends on the Cox and Kwasniewski mission. The last meeting of the Council before the Vilnius summit is scheduled for November 18, and fateful decision for Ukraine will be made on this date. The decision of Cox and Kwasniewski mission will be the last point in considering the question of signing the Association Agreement. If on November 18 ministers decide that Ukraine has not met all the conditions, they are unlikely to change their position in few days, at the Summit of the Eastern Partnership. It should be emphasized that one vote against is enough to block the signing of the Agreement.

The EU is ready for the compromise, and therefore any adopted law on the Tymoshenko issue will persuade the EU to sign the Association Agreement. But the longer Ukraine delays a solution, the less possible a positive scenario is.

On completion of the 24th Alexander Kwasniewski and Pat Cox visit to Ukraine, the official web-site of the Delegation of the EU to Ukraine published a statement on the Tymoshenko issue: "Our mission has studied all of the draft laws on medical treatment abroad of convicted persons. We have come to the conclusion that the Labunska draft offers the best available basis on which to generate and seek the necessary consensus between government and opposition parties. We earnestly request that every effort should be made to bring this urgent matter to finality as soon as possible".⁴

Ukraine has the last chance to remedy the situation until November 18, 2013. And Kyiv should understand that taking important steps at the last moment is not the best option to strengthen the Ukraine's position before the Vilnius Summit. The European Union has clearly defined its key requirement. Ukraine will fulfill it and sign the Agreement, or will not fulfill and rely on possible 'Plan B' options. Neither Ukraine nor the European Union will benefit from the latter scenario. Russia will be the only winner, increasing its pressure on Eastern Partnership countries, especially on Ukraine.

²Опозиційний законопроект про помилування Тимошенко зареєстрований у парламенті.- <http://ua.korrespondent.net/ukraine/politics/1618535-opozicijnij-zakonoproekt-pro-pomiluvannya-tymoshenko-zareestrovaniy-u-parlamenti>

³Опозиція пропонує свій закон для амністії Тимошенко. - <http://www.pravda.com.ua/news/2013/10/24/7000601/>

⁴ Cox-Kwasniewski mission's appeal for dialogue and consensus (31/10/2013). -

http://eeas.europa.eu/delegations/ukraine/press_corner/all_news/news/2013/2013_10_31_1_en.htm

UKRAINE – NATO



KEY THEME ANALYSIS

PROSPECTS FOR NATO MISSION IN AFGHANISTAN AFTER 2014, AND UKRAINE'S PARTICIPATION IN IT

On October 23, 2013, in Brussels, under the chairmanship of the NATO Secretary General Anders Fogh Rasmussen, meeting of the North Atlantic Council in Defence Ministers session and ISAF partners took place.

Defence Ministers discussed the current situation in Afghanistan, the preparations for the next year's presidential elections in Afghanistan, the transferring of security authority to the Afghan National Security Forces, and further increase of their combat effectiveness. An important aspect of the meeting was the approval of the Strategic evaluation of NATO-led mission in Afghanistan, prepared by the military command of the Alliance. Defence Ministers analyzed also the implementation of United Nations Security Council Resolution 1325 on Women, Peace and Security.

In June 2013 NATO Defence Ministers endorsed the detailed concept for the new NATO-led mission in Afghanistan after 2014. Mr. Fogh Rasmussen stressed that the purpose of the mission "will be to train, advice and assist the Afghan forces, not substitute for them". He said that the mission will have a regional approach and will be based on five locations in Kabul and in the North, West, South and East.⁵ The mission 'Strong Support' will replace the ISAF mission in December 2014. It is expected that NATO will assist the Afghan security forces, but will not conduct any military operations.

At the meeting of the North Atlantic Council in Defence Ministers session the Secretary General said: "We still have work to do"⁶.

One should take in mind that the success of the mission 'Strong Support' actually depends on the strategic agreements between the U.S. and Afghanistan. Key issues relate to the U.S. ability to conduct counterterrorism operations in Afghanistan, and to determining the status of the U.S. military forces, which will take part in the mission 'Strong Support'.

Ukrainian Minister of Defense Pavlo Lebedev, who took part in the meeting, said that the Ukrainian staff will continue to serve in Afghanistan. The number of staff will be optimized and its specialization will be clarified according to the operational requirements and to the agreements with the coalition partners. Mr. Lebedev said that Ukraine

⁵NATO Defence Ministers endorse concept for new post-2014 mission in Afghanistan. - http://www.nato.int/cps/en/natolive/news_101248.htm?selectedLocale=en

⁶ NATO Allies and partners stress support for Afghan Security Forces. - http://www.nato.int/cps/en/SID-CF62A753-8C9B5BDA/natolive/news_104252.htm?selectedLocale=en

supported the strategy of the mission 'Strong Support'.

The question is whether Ukraine agrees to work under the jurisdiction of deficient Afghan legal system, in case if NATO will withdraw its military forces? Another important issue is about the number of military staff, which will remain in Afghanistan. The more military staff will remain, the more Afghanistan government will demand from the NATO.

During the meeting NATO stressed once again its interest in maintaining the constructive partnership with Ukraine. NATO Deputy Secretary General Alexander Vershbow thanked Ukrainian military forces for their active participation in Alliance-led peacekeeping activities, including the accession of frigate 'Hetman Sahaidachny' to counter piracy operation 'Ocean Shield'. Mr. Vershbow expressed his hope that Ukraine will remain the reliable NATO partner in ensuring peace and stability in Europe and the whole world.⁸

NATO Secretary General Anders Fogh Rasmussen took the opportunity to invite Ukraine to join NATO: "Let me stress there is no change whatsoever in our position when it comes to Georgia and Ukraine. And let me remind you that already in 2008 we decided that Georgia and Ukraine will become members of NATO. We decided that in 2008 and that decision still stands".⁹

It should be stressed that Georgia cooperates with NATO at all levels more actively than Ukraine. And the above mentioned Secretary General's statement gave another opportunity to be sure that NATO's door is open, but Ukraine continues to ignore it.



7П.Лебедєв: Україна залишатиметься надійним партнером НАТО у справі підтримання миру та стабільності у світі.-

http://www.kmu.gov.ua/control/uk/publish/article?art_id=246790192&cat_id=244277212

8 НАТО подякувало Україні за важливий внесок наших військових у підтримання миру. -

<http://www.mil.gov.ua/index.php?lang=ua&part=news&sub=read&id=31149>

9 Press conference by the NATO Secretary General and Chairman of the NATO-Russia Council, Anders Fogh Rasmussen. - http://www.nato.int/cps/en/natolive/opinions_104379.htm

FOREIGN POLICY OF UKRAINE



KEY THEME ANALYSIS

LAST MANEUVERS BEFORE THE EASTERN PARTNERSHIP SUMMIT IN VILNIUS

October 24, 2013, in Minsk (Belarus), the President of Ukraine Viktor Yanukovich took part as an observer in the meeting of the Supreme Eurasian Economic Council at the level of Heads of State (which is the main governing body of the Customs Union).

Summit began with an ambitious statement of the Kazakhstan President Nursultan Nazarbayev about the Turkey's wish to join the Customs Union. He also said about the talks that Syria wanted to join the CU. Furthermore, the Russian President Vladimir Putin announced India's intention to sign the free trade area agreement with the Customs Union. The conditions of Armenia's accession to the CU were also discussed during the meeting. This PR stunt was surely intended to demonstrate Ukraine how many other countries were interested in joining the CU and in cooperation with it. It was some kind of 'gentle pressure' on Ukraine. Belarusian President Alexander Lukashenko stressed that Ukraine should not "close the possibilities of participation in the Customs Union, and subsequently in the Eurasian Economic Union."¹⁰ Previously Mr. Lukashenko stated that European integration is an internal affair of Ukraine. Such inconsistent stance may be explained by the fact that Belarus is not sure that it will benefit much from possible joining of Ukraine to the Customs Union.

Possible Ukraine's joining the CU may put Belarus into the background of this Union, and Belarus may lose its present preferences. On the other hand, Kazakhstan and Belarus are not strong enough to resist Russia's pressure, that's why they need Ukraine as an additional leverage of influence within the Customs Union.

Besides the attempts to argue Ukraine out of signing the Association Agreement with the EU, another key issue of Minsk summit agenda was to discuss the project of the Customs Union transformation into the Eurasian Economic Union in 2015.

The CIS summit was only a third question on the agenda of the Minsk meeting. On October 25, the decision on Ukraine's presidency in the CIS for 2014 was finally approved. Previously Ukraine's presidency had been appointed for 2013, but due to its chairmanship in the OSCE, Ukraine agreed with Belarus to change the sequence of their presidency in the CIS.

Speaking at the Minsk meeting, Viktor Yanukovich stressed that during Ukraine's presidency in the CIS the focus will be made at the further development of the CIS, and at the strengthening of mutually beneficial cooperation that meets national interests of every member-state. He also said that among the Ukraine's priorities is the development of trade and economic cooperation, based on the CIS Agreement on free trade area, and on the principles of the WTO.¹¹

¹⁰ Янукович на «приставному стільці» Митного союзу. - <http://www.radiosvoboda.org/content/article/25147277.html>

¹¹ Янукович окреслив принципи головування України в СНД. -

Despite the formal approval of the Ukrainian presidency in the CIS, the main aim of Yanukovych's visit to Minsk was to discuss the further cooperation between Ukraine and the CU countries. In Minsk the Ukrainian President had to hear again about the economic restrictions, which Kyiv might face after the signing of the Association Agreement and DCFTA with the EU. In his turn, Viktor Yanukovych urged his colleagues not to set the EU in opposition to the CIS and to the other integration projects in the post-Soviet space.¹² But still in Minsk *Ukraine was clearly explained about the problems, difficulties, and restrictions it might face, if Kyiv does not change its European integration course.*

Another example of Russia's pressure on Ukraine was demonstrated at the state border in Rostov region. On October 28 Russia introduced new changes of transit rules in this region. It caused congestion, because many trucking company were not ready for the new rules. Russia didn't provide any temporary adaptation period and thus created a problem for transit.

The expected meeting of Viktor Yanukovych and Vladimir Putin did not take place in Minsk. Instead, two Presidents had informal meeting in Sochi on October 27. It is likely that plans were changed due to Russian President's wish to have more private conversation, not limited to protocol events and dedicated time. One might wonder why it was necessary to hold an additional meeting, given the opportunities to talk at Minsk summit. Press-services of the Presidents reported that in Sochi Viktor Yanukovych and Vladimir Putin discussed the questions from the Minsk summit agenda. But what was the sense to hold additional meeting in this case?

Most experts believe that at this meeting President Putin used all possible mechanisms and tools, from bargaining and advantageous offers to the blackmails, trying to persuade President Yanukovych to abandon the signing of the Association Agreement. It should be something like so-called 'Armenian scenario': previously Armenia was also going to initial the Association Agreement with the EU, but after the meeting with Putin, Armenian President Sargsyan said that his country would join the Customs Union.

The very fact of negotiations between Viktor Yanukovych and Vladimir Putin indicates that *the Ukrainian President is seeking some options and scenarios for the case of possible failure of plans to sign the Association Agreement with the EU at the Vilnius summit.* President Yanukovych still has some time to bargain possible privileges from Russia to be used in case of failure at the Vilnius summit. On the other hand, Viktor Yanukovych by his visit to Sochi warns the European Union that Ukraine might agree with Russia if the Association Agreement with the EU is not signed, despite all the unsolved issues.

But such an activity is unlikely to persuade the EU to abandon the requirements from the 'Fule list'. The EU will make a step towards Ukraine only if the latter makes at least minimal concession in the Tymoshenko issue. At the same time, the Kremlin pressure and all its 'trade wars' and 'gas wars' make political and economic harm to Russia itself. The more Russia put pressure on Ukraine, the more Kyiv is assures in need to move towards the European Union, because without the EU support Ukraine will not be able to stand against Moscow.

In this context it is necessary to remember that there is almost no time until the Vilnius summit, and Ukraine has to make a final decision on its foreign policy vector. All these foreign policy 'games' are too risky for the country's future, its national sovereignty, national identity, and territorial integrity.

http://www.ukrinform.ua/ukr/news/yanukovich_okresliv_printsiipi_golovuvannya_ukraiini_v_snd_1876948

12Зустріч лідерів СНД: застереження і пропозиції для України. -

http://www.bbc.co.uk/ukrainian/business/2013/10/131025_cis_minsk_az.shtml