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UKRAINE – THE EUROPEAN UNION



KEY THEME ANALYSIS

WILL THE ADOPTION OF THE "EURO-INTEGRATION" LAWS FACILITATE THE EUROPEAN INTEGRATION OF UKRAINE?

The first half of November 2015 was marked by the political battles in Ukraine around the package of so-called **"Euro-integration" bills**. A number of complex and controversial draft laws were reviewed by the parliament just a few days before the meeting of EU Senior Officials on Ukraine's implementation of the Visa Liberalization Action Plan (to make advances to Ukraine, the EU postponed the meeting from November 10 to November 24).

The practice of putting over the important bills closer to the deadline and then pushing urgent voting for them has become a bad practice in Ukraine. At the times of Viktor Yanukovich, the parliament used also to urgently vote for the "Euro-integration" laws, and those MPs, who dared to disagree, were blamed for "blocking the European integration." With that, some provisions of the so-called "Euro-integration" bills actually have not much in common with the European integration.

The situation over the "Euro-integration" laws adoption demonstrated once again the shortcomings of the EU normative approach, which focuses more on the formal adoption of the European legislation norms than on the practical implications of their usage in concrete political and legal realities. For example, the bill on establishment of the *National Agency for the detection, investigation and management of assets derived from corruption and other crimes*, quite predictably caused disputes among the Ukrainian politicians. They wondered if the formal implementation of the European norms might create new options for the corrupt practice of the non-reformed Ukrainian law enforcement agencies. It is worth recalling that the adoption of the "Euro-integration" laws in Moldova did not help to fight against corruption, although Chisinau was "rewarded" with a visa-free regime.

Nobody shifts Ukraine's responsibility to fight against corruption on the EU, however, it should be noted that the European Union was not sufficiently persistent on this issue. The EU was excessively "delicate" in its recommendation here, but preferred to punish all the Ukrainian people instead of being more specific in demands to those in power, who sabotaged reforms. With that, neither the "saboteurs," nor the "politicians-businessmen" accused of corruption by the Ukrainian and European media, have problems with obtaining Schengen visas, in contrast with the ordinary Ukrainians.

Till November 12, the Parliament of Ukraine, gone through the difficulties and scandals, adopted all the major "Euro-integration" bills.

Although the experts note that Ukraine still have much work to do,¹ but after all, the ball is in the EU court, and it is Brussels, who should make a move now. Ukraine still needs to implement the adopted laws and maybe to amend some of them; and it will be useful if the EU helps with these issues via the enhanced consultation. But nevertheless, the Ukrainian side has already demonstrated a significant progress, and it deserves to receive at the **visa-free regime**.

By the way, the visa-free regime proposed by the EU is also far from perfection. Moldova's experience proves that **visa waiver does not necessarily simplify entry into the European Union territory**. The main inconvenience is not a visa itself, but the long list of documents to obtain it. **If the requirements for the list of documents remain unchanged, and people are obliged to provide them they on the border instead of the consulates, it may even worsen the situation.** Checking all the documents at the border will result in long queues, and if it turns out that a person miss any document, he/she will have to return home, possibly for hundreds of kilometers.

However, it is not clear when even such "illiberal" visa-free regime will enter into force. The optimistic Foreign Minister **Pavlo Klimkin predicts the visa-free regime for the late summer – early autumn of 2016.**² Practical implementation the EU decision may take several more months, so actually it is about a year. But the refugee crisis and the terrorist attacks give rise to the forecasts about possible termination of the Schengen agreement. Latvian Interior Minister Richard Kozlovskis believes that it can happen within a year.³ By the way, Austria, Germany, France and Sweden have already introduced the "temporal" border control.⁴ So, **it may happen that the Ukrainians will not be able to take advantage of the visa-free regime with the EU due to the possible termination of the Schengen agreement.**

Another important aspect of the European integration is establishing the **Deep and Comprehensive Free Trade Area between the EU and Ukraine** (DCFTA). The EU Ambassador to Ukraine Jan Tombinski assured that the DCFTA would take effect from January 1, 2016.⁵ However, under the present circumstances, the benefits of mutual opening markets seem to be dubious for the weak Ukrainian economy. The DCFTA specifications were developed at the time, when Russia was not waging trade war against Kyiv. Current Russian restricts on imports from Ukraine and possible embargo on Ukrainian goods from January 1, 2016, **actualize the need for revision of a number of quotas for Ukrainian goods in the EU market.** Besides, while elaborating the DCFTA treaty Kyiv hoped that the European investment would help to reform the national economy, making it more competitive. But the actual state of war scares the investors, as well as the slowness of reforms does.

Ratification of the Association and DCFTA Agreement turned out to be a tortuous and time-consuming process. Greece has not yet started the process of ratification, and given the pro-Russian sentiments of the Greek government and parliament, delays are possible. The Netherlands scheduled a referendum for April 6, 2016;⁶ its initiators call for the cancellation of the Association Agreement and DCFTA with Ukraine. The EU officials assure that the referendum will not prevent a free trade area from entry into force on January 1, 2016. But the fact is that the Association Agreement and DCFTA will not function on a full scale before the ratification process is completed. Restrictions will include such important areas as the common security

¹ <http://gazeta.dt.ua/internal/chiya-politichna-volya-u-pitanni-zaprovadzhennya-bezvizovogo-rezhimu-silnisha-ukrayini-chi-yes-.html>; <http://www.eurointegration.com.ua/articles/2015/11/12/7040685>

² <http://www.pravda.com.ua/news/2015/11/13/7088566>

³ <http://www.lsm.lv/ru/statja/mir/novosti/ministr-shengen-mozhet-prekratit-suschestvovanie-cherez-god.a154612/>

⁴ <http://mfa.gov.ua/ua/press-center/notes/5029-do-uvagi-gromadyan-ukrajini-podorozhujuchih-do-krajin-shengensykoji-zoni>

⁵ <http://www.eurointegration.com.ua/news/2015/11/12/7040659>

⁶ <https://www.kiesraad.nl/nieuws/referendum-over-associatieovereenkomst-met-oekra%C3%AFne-op-6-april>

policy, protection of intellectual property rights, prevention of discrimination against the EU and Ukraine citizens legally employed in the territory of the other party.⁷

It is important to secure that the European integration process does not look similar to the implementation of the Minsk peace agreements – unilateral implementation by Kyiv in the absence of mutual concessions. *Disappointment of the Ukrainian people in the European integration is exactly what the Kremlin is seeking for. And such disappointment will come if the EU continues to postpone such symbolic step as a visa-free regime.* The EU should also consider a more active role in promoting the implementation of reforms in Ukraine, moving from the present tactics of "punishment" for the unfulfilled "homework" to the more efficient strategy of active involvement.



⁷ <http://www.eurointegration.com.ua/news/2015/09/28/7038834>; <http://www.dw.com/uk/угода-про-асоціацію-україни-з-сс-неприємні-сюпризи-процесу-ратифікації/a-18799515>

UKRAINE – NATO



KEY THEME ANALYSIS

EASTERN EUROPEAN ALLIES CLAIM FOR THE INCREASING NATO PRESENCE; UKRAINE POSTPONES THE PROBABLE DATE OF JOINING THE ALLIANCE

On November 4, in Bucharest, the summit of nine Central and Eastern European NATO member states took place. Following the meeting, the presidents of Bulgaria, Poland, Romania, Hungary, Estonia, Latvia, Lithuania and Slovakia, and the President of the Chamber of Deputies of the Czech Parliament issued a joint statement in which they expressed grave concern on Russia's "continuing aggressive posturing," and **called for "a robust, credible and sustainable" NATO military presence in the region, as well as the deepening of cooperation between NATO and the European Union.**⁸

It is obvious that this "mini" NATO summit is a prelude to the Warsaw Summit to be held the next year. Poland's new government clearly declared its intention to seek a larger NATO presence in the region – to get "the same security guarantees" for the Eastern European Allies as the Western ones enjoy. *Polish Foreign Minister Witold Waszczykowski rightly considers illogical the fact that the U.S. military bases are deployed in the territory of Western European Allies, but not in the Eastern Europe, where the Russian threat is much more real.*⁹

On the eve of the Wales NATO summit of 2014, Poland and the Baltic countries advocated the similar ideas of strengthening the Alliance's military presence in Eastern Europe, but they did not sufficiently coordinate their action, and failed to overcome the resistance of Berlin. This time the Eastern European Allies decided to act as a united front and to thoroughly prepare this issue for the next NATO summit to be held in Warsaw. Now they have more prospects to succeed, for the Western Allies are unlikely to put at risk the NATO unity.

Top U.S. military officials tend to support the idea of strengthening military presence in Europe to effectively contain Russia.¹⁰ Although Barack Obama opposes such policy, the Pentagon may expect that a more decisive politician will chair the White House in a year. Besides plans to increase the U.S. military presence in Europe, the Pentagon agrees to supply arms to Europe. In November, it was reported that Lithuania intends to buy the U.S. *Stryker* armored vehicles at \$599 million;¹¹ France plans to buy the U.S. military equipment at \$650 million; Finland intends to buy the U.S. missiles for multiple launch rocket systems and other munitions at \$150

⁸ <http://www.reuters.com/article/2015/11/04/us-nato-cee-bucharest-idUSKCN0ST1EW20151104#tWd87y6kQ4k05D57.97>

⁹ <http://www.naszdziennik.pl/polska-kraj/146433,rowne-prawa-w-nato.html>

¹⁰ <http://www.wsj.com/articles/u-s-military-officials-aim-to-bolster-troop-presence-in-europe-1447034653>

¹¹ <http://www.defensenews.com/story/defense/land/vehicles/2015/11/09/lithuania-wants-strykers-with-powerful-gun/75459388>

million, and UK is going to buy the U.S. munitions at \$80 million.¹²

The U.S. also plans to provide substantial military support for Ukraine. **It is worth noting that the reduction of Pentagon's 2016 budget at \$5 billion, approved by the Congress, did not reduce the amount of aid for Ukraine (\$300 million).** This indicates that the issue of assistance for Ukraine is among the Pentagon's and Congress' top priorities.

It is expected that this time Barack Obama will not veto the Pentagon's budget, but still there is no reason to expect for significant arms supplies to Ukraine during the Obama's presidency. *Former Deputy Assistant Secretary of Defense for Russia, Ukraine and Eurasia, Evelyn N. Farkas, who resigned in late October, told reporters that she had not succeeded in attempts to convince the Obama administration to assist Ukraine with lethal weapons, including the anti-tank¹³ (apparently, it refers to Javelins, requested by Kyiv).*

Vladimir Putin criticized the Congress' decision to envisage aid for Ukraine in military budget. **Russian leader accused the U.S. of the intention to "provoke a war and fighting again."** Berlin actually supported the cynical Kremlin's position, despite the fact that lately Russia itself stepped up weapons transfer to militants in Donbas. Putin's words about the alleged U.S. intention to "provoke a war again" were literally quoted by *Deutsche Welle*, as well as Putin's unsubstantiated allegations against Kyiv. And the title of the article on *DW.COM* did not leave doubt on who really cares of stable peace in Donbas: *"Putin warned against frozen conflict in Donbas."*¹⁴ German Foreign Minister **Frank-Walter Steinmeier also criticized "those who called on to supply weapons to Ukraine."**¹⁵

The policy of "appeasement" Russia held by the U.S. and German leaders apparently influenced the position of official Kyiv on its course towards NATO membership. **In November 2015, Petro Poroshenko told German journalist that Ukraine "needs at least six to seven years" to reach the NATO's criteria, "and only then we shall ask the Ukrainians via referendum whether they want to become a member of NATO."**¹⁶ It should be recalled that **in December 2014, Petro Poroshenko said that Ukraine could reach the NATO membership criteria within five years.**¹⁷ A year has passed since then, and the distance to NATO criteria has increased to 6-7 years.

To compare, we should note that the issue of Georgia's membership also extremely annoys Moscow, and the part of Georgia's territory is also occupied by Russian troops. But Tbilisi consistently continues preparations for NATO membership; and recently the U.S. officials reaffirmed the orientation on Georgia's joining NATO, and expressed support for its aspirations on this way.¹⁸ At the same time, Washington prefers not even to mention the prospects of Ukraine's membership, which is not surprisingly, given the inconsistency of Kyiv itself.

Yes, the Ukrainian army needs reforms, but the armed forces of NATO member states also need improvement, including the U.S. army.¹⁹ **The technical formalities will not prevent from the Euro-Atlantic integration, if the proper political will exists. Due to the restoration of military threats comparable to the "Cold War" times, NATO will gradually but inevitably return to its origins,**

¹² <http://www.defensenews.com/story/defense/policy-budget/warfare/2015/11/11/three-us-sales-arm-european-allies/75585766>

¹³ <http://ukrainian.voanews.com/content/farkas/3037882.html>

¹⁴ <http://www.dw.com/uk/путін-застеріг-від-замороженого-конфлікту-на-донбасі/a-18848392>

¹⁵ <http://www.ukrinform.net/rubric-politics/1913257-steinmeier-germany-to-apply-osce-tools-to-resolve-conflicts-in-ukraine-and-syria.html>

¹⁶ <http://www.dw.com/uk/порошенко-в-інтерв'ю-dw-україні-потрібно-6-7-років-для-вступу-в-нато/a-18842945>

¹⁷ <http://www.5.ua/polityka/poroshenko-ukrajni-potribno-pyat-rokiv-shob-dosyagti-kriterijv-neobhidnih-dlya-vstupy-v-nato-66308.html>

¹⁸ <http://www.rbc.ua/rus/news/ssha-podtverdili-natselnost-chlenstvo-gruzii-1446591823.html>

¹⁹ <http://www.politico.com/magazine/story/2015/11/pentagon-fight-over-russia-213316>

to the priority of military component of security. And the approaches to expansion will also be changed – the military-strategic reasons will take over the formalities. In this context, Ukraine could become the most important component of the NATO's European security, revised in concordance with the current threats.



FOREIGN POLICY OF UKRAINE



KEY THEME ANALYSIS

"NORMANDY" FOUR MEETING: IMPLEMENTATION OF MINSK AGREEMENTS IS POSTPONED TO 2016 – AS RUSSIA STROVE FOR

On November 6, 2015, in Berlin, another meeting of "Normandy" foreign ministers was held. Judging by the final statement of Frank Steinmeier, as well as by comments of Sergey Lavrov and Pavlo Klimkin, **the talks were favorable for Russia.**

First of all, Moscow managed to authorize the postponement of the Minsk agreement implementation to 2016, without any negative consequences for Russia. After the meeting, **Russian Foreign Minister said that "the implementation of the Minsk to be postponed to the next year," and he actually placed responsibility on Ukraine**, blaming it for the absence of commonly acceptable law on local elections in Donbas.²⁰ No one said about the additional sanctions for Russia, who failed to implement the Minsk agreement till the end of 2015; so, it is clear that the German and French sides were satisfied with Lavrov's arguments. **Frank Steinmeier even said that local elections in the occupied areas of Donbas "may take place in 2016, if Kyiv and the separatists wish it."**²¹ So, Mr. Steinmeier does not consider impossible to hold fair elections in the presence of Russian troops and in the atmosphere of daily shooting. The only real obstacle for him seems to be the lack of corresponding will in Kyiv.

From the Steinmeier's statement it becomes apparent that **Pierre Morel continues elaborating of the election modalities**, and his group is working on five questions now: if (and how) the displaced persons can vote; who will be allowed to run as candidates; the role of the media; control over the election commissions; and monitoring the elections.²² Actually, the separatist leaders have publicly answered to these questions: only those, who have been living in the occupied areas for the last 10 years, including the last one (i.e., during the occupation) will be allowed to run as candidates²³; and only "truthful" media will be allowed to work in the region²⁴ (that should be understood as Russian and separatists' media). In circumstances where the pro-Ukrainian candidate will not be allowed to run as candidates, all the other

²⁰ <http://ukrainian.voanews.com/content/minsk-ukraine/3043153.html>

²¹ <http://ukrainian.voanews.com/content/minsk-ukraine/3043153.html>

²² http://www.auswaertiges-amt.de/DE/Infoservice/Presse/Meldungen/2015/151106_BM_Vierer_AM_Ukraine.html

²³ <http://www.pravda.com.ua/news/2015/11/12/7088457>

²⁴ <http://lug-info.com/news/one/ukrainskie-telekanaly-smogut-rabotat-v-lnr-esli-budut-pokazyvat-pravdu-plotnitskii-7941>

modalities issues are senseless.

The rest of the issues, discussed during the Berlin meeting, also had little sense in terms of implementation. For example, the foreign ministers condemned the access denial to the occupied territories for the international humanitarian organizations. But it is no secret, who actually make decisions on such issues; so, instead of condemnation, the German and French ministers would better appeal to their Russian counterpart. And it is premature to discuss the further withdrawal of arms, the demining and the restoration of infrastructure, while the pro-Russian militants are increasing their attacks. By the way, **Pavlo Klimkin's proposal to establish additional bases for the OSCE mission in Donbas that could really assist in verification of the Minsk agreements implementation²⁵ was not even mentioned in Frank Steinmeier's final statement;** therefore, we can conclude that it was not supported.

No wonder that, in contrast to the upbeat German minister, ***Pavlo Klimkin believes that "now the whole Minsk process, especially the withdrawal of weapons, is definitely jeopardized."***²⁶ The relevance of Klimkin's statement is confirmed by the permanent increase of attacks by the separatist, with result in deaths of Ukrainian soldiers – on November 13, five soldiers were killed.²⁷

Statements of the "Normandy" four counterparts on the "progress" in Minsk agreements implementation contrasts with the position of Washington. ***The U.S. Ambassador to the OSCE, Daniel Baer said that Russia and it Russia-backed separatists must commit to Ukraine's proposals on local elections in Donbas. Mr. Baer made it clear that Washington blamed Russia for the failure to meet the deadlines of the Minsk II agreements.***²⁸

The refugees crisis, the business interests, and the growing terrorist threat in Europe (especially after the Paris attacks of November 13) – all these factors stifle the will of the European leaders. They are more and more inclined to meet the Kremlin's requirements, hoping that this will help them to solve problems, the majority of which were inspired by Russia's actions. In such circumstances, **it becomes difficult for Kyiv to rely on the "Normandy" format, and the urgent need appears to create a new international platform for conflict resolution.** But this time it is Ukraine as most interested party, who should initiate establishing of a new negotiation format and develop a realistic peace plan.

²⁵ <http://www.ukrinform.ua/rubric-politycs/1910385-ukrajina-napolyagae-na-dodatkovih-bazah-obse-na-donbasi-klimkin.html>

²⁶ <http://uatoday.tv/politics/ut-exclusive-ukraine-rsquo-s-foreign-affairs-minister-on-visa-free-regime-with-the-eu-532536.html>

²⁷ <http://www.pravda.com.ua/news/2015/11/14/7088707>

²⁸ <http://www.ukrinform.ua/rubric-politycs/1913380-ssha-chas-rosiji-na-donbasi-splivae.html>