INTERNATIONAL WEEKLY

№ 03

16.02.2016 — 01.03.2016

Foreign Policy Research Institute

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FÜR DIE FREIHEIT

NATO
OTAN

UKRAINE – THE EUROPEAN UNION

KEY THEME ANALYSIS

UKRAINIAN GOVERNMENT REPORTED ON THE IMPLEMENTATION OF THE ASSOCIATION AGREEMENT IN 2015

On February 23, 2016 the Ukrainian Government issued a "Report on the implementation of the Association Agenda and Association Agreement between Ukraine and the European Union in 2015"[1] (hereinafter referred as Report). The 169-page document prepared by the Government Office for European Integration provides an overview of key activities and results of the implementation in 2015 of the EU-Ukraine Association Agreement (AA) and Association Agenda (A-Agenda).

The Report is a well-prepared document drawn up in accordance with the Association Agenda structure and containing both factual data as well as evaluative and analytical section. It is clearly noted in the Report that it reflects the assessment of the Ukrainian party based on the information submitted by the national public authorities. This is an important note to be kept in mind when studying the evaluative and analytical section of the document on the progress made in the implementation of AA and A-Agenda, taking into account that the European Union may have distinctive views on some issues.

On p.6-10, the Report provides a list of *legislation acts* adopted by Ukraine to implement the Association Agreement and Association Agenda; on p.27-160 the detailed *analytical information* on the AA and A-Agenda implementation is given; the *mechanisms of implementation*, monitoring and evaluation of the AA and A-Agenda implementation are described on p.17-26 of the Report; and the main *further planned measures* are presented on p.160-166.

The Report is structured in accordance with the ten priorities of the Association Agenda that makes it convenient to analyze the progress achieved on one or another direction:

1. Constitutional reform.
2. Election reform.
3. Preventing and combating corruption.
4. Judicial reform.
5. Public administration reform.
6. Deregulation.
7. Public procurement reform.
8. Taxation reform, including VAT refunds.
9. External audit.

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[1] http://www.kmu.gov.ua/control/uk/publish/article?art_id=248849618&cat_id=244276429

10. Energy sector reform.

The results of implementation of the half of these priorities Ukrainian Government evaluated as "certain progress," which is quite objectively because a number of the so-called "European integration" laws are still being elaborated or have been adopted just in the first reading. However, a considerable list of measures has already been taken at each of the ten Association Agenda priorities, so "certain" progress was actually made.

Among the priorities, on which the Government noted a **"significant progress,"** we would like to highlight the **deregulation** and **public procurement** (p.7-8 and p.45-55 of the Report). The list of measures aimed at establishing the more favourable conditions for business and trade is considerable, including the following important steps: time needed to register an enterprise was reduced to 2 days; time needed to register an agency of the foreign company was reduced from 60 to 30 working days; permit procedures were simplified, and the list of activities subject to licensing was significantly reduced as well as the list of products subject to certification; the Ministry of Justice established online service providing a wide range of information previously accessible only at written request; online electronic land registry was established; and pilot project of electronic public procurement 'ProZorro' began to operate.

In 2015 Ukraine improved by 13 points its position in the annual World Bank's ranking 'Doing Business.' That indicates that certain progress was actually achieved, although it may be considered as "significant" only if to compare with the previous awful situation. In 2015, Ukraine raised its position in the 'Doing Business' ranking from 96 to 83[2] still being behind not only the EU countries, but also Belarus (44), Russia (51) Moldova (52), Rwanda (62), Azerbaijan (63), Kyrgyzstan (67), Tunisia (74) and many others.

A "Significant progress," according to the Government evaluation, was also achieved on the external audit reform (mainly due to the new Law "On Accounting Chamber," p.58-59), and on the **energy sector reform** (p.59-66). Reforms in the energy sector are really noticeable, with major achievements in the area of reducing dependence on Russian gas by expanding gas supplies from the EU countries. A number of other reforms mentioned by the Government are still in process of implementation and it is too early to evaluate their real effect.

The Government evaluation of the preventing and combating corruption reform seems to be overestimated. The Government believes that *"a significant progress was made in shaping the legal basis for reforming the system of preventing and combating corruption. With that, a moderate progress is noted in establishing and launching a system of agencies to implement the anti-corruption legislation"* (p.31). It should be noted that the number of laws and anti-corruption agencies listed on p.31-38 of the Report has not affected so far the real situation in the country, as evidenced by the opinion polls and by regular relevant statements of the EU and the U.S. officials. At the end of 2015, the main anti-corruption agencies still were not fully functional, thus indicating more the insufficiency of political will than the lack of time.

The actual state of things in combating corruption is indicated by another provision of the Report, where it is written that the moratorium on inspections by regulatory authorities of the enterprises, institutions, organizations, and individual entrepreneurs with the volume of income up to 20 million – is extended by the end of 2016 (p.151). This actually indicates *the recognition of corruption in the regulatory authorities, from whom the Government is trying to protect the entrepreneurs through*

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[2] http://www.doingbusiness.org/rankings

the extension of moratorium.

The Government also slightly overestimated its achievements on **visa liberalization**. It is stated in the Report that *"According to the Sixth report on Ukraine's progress in implementing the Visa Liberalization Action Plan, Ukraine fulfilled all the criteria of the Action Plan"* (p.11 and p.79-81). It should be noted that the European partners are not fully satisfied with the quality of meeting visa liberalization criteria by Ukraine. In the second half of February 2016, Ukraine adopted another four "European integration" laws, but the bill on electronic declaration did not satisfied the EU, and the corresponding consultations with the European Commission still go on.[3]

The Report also notices Ukraine's European integration achievements in other areas of cooperation, which have not been included to the priorities of the Association Agenda, but are very important. In particular, it is about the **security cooperation with the EU**. The following most important events in this area took place in 2015: signing of the ***Administrative Agreement between the Ministry of Defence of Ukraine and the European Defence Agency***; Ratification of the Agreement between the Governments of Ukraine, Lithuania and Poland to establish ***a joint military unit LitPolUkrBrig***; Ukraine's accession to the Memorandum of Understanding on forming ***the Visegrad Four EU Battlegroup*** (p.76-77).

Overall, the Government Report on the implementation of the EU-Ukraine Association Agreement and Association Agenda in 2015 is a thorough prepared document that provides informative general vision of the main adopted measures, contains a lot of references to the relevant documents and outlines action plan for the near future. ***The document reflects a significant work undertaken by Ukraine in 2015 in the context of European integration. However,*** *several* ***Government evaluations of the achieved progress are overestimated,*** *sometimes being determined more by the quantity of adopted laws than by the quality of their practical implementation.*

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[3] http://www.president.gov.ua/news/prezident-pidpisav-tri-zakoni-z-bezvizovogo-paketu-shodo-zak-36797

UKRAINE – NATO

KEY THEME ANALYSIS

NATO CONTINUES TO GRADUALLY STRENGTHEN ITS EASTERN BOUNDARY

In February 2016, NATO continued taking steps to demonstrate its determination in strengthening the security of the Eastern boundary. Political decisions were made and certain practical steps were taken to increase NATO presence in the countries bordering with Russia, as the most vulnerable ones in case of possible aggression.

At the meeting on February 10, 2015, NATO Defence Ministers took steps to strengthen the Alliance defence and deterrence posture. In particular, it was agreed to enhance the multinational forward presence in the Eastern part of the Alliance, which will be complemented by the necessary logistics and infrastructure – to support pre-positioning and facilitate rapid reinforcement. *The Telegraph* writes that up to a battalion of 500-1,000 troops may be deployed in each of Estonia, Latvia, Lithuania, Poland, Romania and Bulgaria, armed with surface-to-air missiles, backed up by ground-attack aeroplanes and helicopters.[4] At a meeting, NATO ministers also discussed measures to strengthen cyber defence and response to hybrid warfare, connecting NATO's Joint Intelligence, Surveillance and Reconnaissance assets. A Technical Arrangement on Cyber Defence was concluded between the NATO Computer Incident Response Capability (NCIRC) and the Computer Emergency Response Team of the European Union (CERT-EU).[5]

NATO Defence Ministers also confirmed enduring support for Georgia's reforms bringing the country closer to the Alliance.[6] Two weeks later, on February 25, at Budapest security conference, **Hungarian Foreign Minister Péter Szijjártó said NATO should complete the accession process of Montenegro and keep its door open to Georgia as well as Macedonia.**[7] The prospects of Ukraine's membership have not been mentioned, probably for the reason that Kyiv did not dare itself to officially declare course toward NATO membership. Ukraine continues relying on limited aims of achieving NATO standards, forgetting that the extension is primarily a political decision, which should be prepared beforehand.

As for the practical measures to strengthen NATO's Eastern borders, the U.S. Department of Defence signed a contract to build a comprehensive missile defence

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[4] http://www.telegraph.co.uk/news/uknews/defence/12149403/Nato-may-deploy-thousands-of-troops-in-Europe-to-ward-off-Russia.html

[5] http://www.nato.int/cps/en/natohq/news_127836.htm?selectedLocale=en

[6] http://www.nato.int/cps/en/natohq/news_127982.htm?selectedLocale=en

[7] http://uk.reuters.com/article/nato-hungary-idUKL8N1643NA

system in northern **Poland**.[8] Construction should be completed by April 2018, and then the portable batteries with medium-range SM-3 missiles will be deployed there. A new training ground is being built in north-eastern **Latvia**, near the border with Russia. In future, NATO troops may be deployed there.[9] **Lithuania** declared its intention to purchase in Germany 88 'Boxer' armoured vehicles.[10]

The U.S. stepped up its military presence in **Norway**, deploying battle tanks, artillery and logistics equipment inside Norwegian caves.[11]   About 20 U.S. 'Stryker' armoured vehicles will take part in the 'Arrow' military exercises to be held in **Finland**, in late spring.[12] Finland is not a NATO member, but is deepening cooperation with the Alliance against the growing aggressiveness of Russia.

NATO Secretary General Jens Stoltenberg said the Alliance increased naval presence in the Mediterranean and in the **Black Sea**.[13] Romania announced the development of strategic plan on a new NATO naval group in the Black Sea.[14]

However, the measures taken are still not sufficient to guarantee security of the Eastern NATO borders against the possible Russia's provocations and aggressive actions.

The RAND Corp. conducted a multiple games simulating the invasion of Russian troops in the Baltic countries. It was concluded that with current number of troops NATO cannot successfully defend its members in this area. The Alliance currently has twelve battalions in the Baltic countries, but seven of them are light and not equipped to fight against the armoured vehicles. According to the RAND experts' calculations, in order to avoid a possible defeat, NATO should to deploy in the Baltic countries about seven brigades, including three heavy armoured brigades adequately supported by airpower, land-based fires, and other enablers on the ground.[15]

The Alliance's inability to protect Eastern boundary in case of Russian aggression was also noted in the report prepared with participation of the former NATO top officials, namely ex-Secretary General Jaap de Hoop Scheffer, Deputy Supreme Allied Commander Europe Richard Shirreff, and former Chairman of the NATO Military Committee Giampaolo Di Paola. They criticized NATO for insufficient plans to reinforce the Eastern flank after the Russian invasion in Ukraine, as well as insufficient funding of the armed forces in the European Allies, particularly in Germany.[16]

During the presentation of the 2015 annual report, **NATO Secretary General Jens Stoltenberg said that "after many years of substantial reductions in defence spending, the cuts have now practically stopped among European Allies and Canada."**[17] On the one hand, this is good news, but on the other, *military spending should have grown after the Russian aggression, not just stop cuts*.

Press release on defence expenditures of NATO countries indicates that in 2015 the total defence expenditures decreased at $42 billion compared to 2014, from $942.8 to $900.5 billion. The major cuts accounts for the U.S., France, Germany and Italy. To

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[8] http://www.radiopolsha.pl/6/136/Artykul/242051

[9] http://rus.delfi.lv/news/daily/latvia/latvii-nuzhno-bolshe-soldat-nato-vozle-aluksne-stroyat-novyj-poligon.d?id=47098735

[10] http://www.dw.com/uk/змі-литва-планує-закупити-у-німеччині-88-бронетранспортерів-boxer/a-19066512

[11] http://edition.cnn.com/2016/02/18/politics/u-s-tanks-artillery-norwegian-caves/index.html

[12] http://yle.fi/uutiset/ministr_oborony_v_finlyandiyu_priedet_amerikanskaya_bronetekhnika/8682222

[13] http://www.nato.int/cps/en/natohq/opinions_127825.htm

[14] http://rri.ro/uk_uk/Румунія_пропонує_розмістити_в_Чорному_морі_нову_флотилію_НАТО-2543084

[15] http://www.rand.org/content/dam/rand/pubs/research_reports/RR1200/RR1253/RAND_RR1253.pdf

[16] http://www.ft.com/intl/cms/s/87ca9324-dbd8-11e5-a72f-1e7744c66818,Authorised=false.html

[17] http://www.nato.int/cps/uk/natohq/news_127503.htm?selectedLocale=en

the contrary, Poland and Lithuania most of all increased military spending.[18]

The North Atlantic Alliance gradually strengthens its Eastern frontiers, being forced to such measures with Russian aggressive actions. At the same time, the pace and scale of such measures are insufficient to ensure real protection, and are rather designed for the psychological effect, with a false expectation that the Kremlin will regain self control and roll out its aggressive plans. Such overcautious approach hinders the deepening of NATO's relationship with Ukraine. But the key limiting factor is **the unwillingness of the Ukrainian leadership to formally launch a course toward NATO membership**.

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[18] http://www.nato.int/nato_static_fl2014/assets/pdf/pdf_2016_01/20160129_160128-pr-2016-11-eng.pdf

FOREIGN POLICY OF UKRAINE

KEY THEME ANALYSIS

BERLIN AND PARIS EXERT PRESSURE ON KYIV, PUSHING AHEAD THE IDEA OF ELECTIONS AT THE RUSSIA-OCCUPIED DONBAS

During a February visit to Kyiv, the foreign ministers of Germany and France declared the intention to reach at the next 'Normandy' meeting an agreement on holding the elections in Donbas. Given the lack of conditions for holding such elections, this initiative suits Moscow's interests, which seeks to legalize its puppet regimes in Donbas and force Kyiv to provide their maintenance.

On February 22-23, 2016 the foreign ministers of Germany and France – **Frank-Walter Steinmeier and Jean-Marc Ayrault stayed in Ukraine with a two-day visit** and held a series of meetings with the state leaders. There were two main topics for the talks: ***avoidance of a political crisis (the government's resignation and the coalition collapse) and the implementation of the Minsk agreements (holding of elections at the occupied Donbas)***. Presumably, the second theme was more important for distinguished guests, and that was exactly this one on which their clear plans were presented. The 'Normandy' ministers' concern on the possible Arseniy Yatsenyuk resignation may be also related to the 'Minsk' context – if the parliamentary coalition collapse, it would become virtually impossible to adopt the law on elections in Donbas.

At a joint press conference with Ukrainian and French counterparts ***Mr. Steinmeier stated he expected achievement of "the necessary compromises" over the situation in Donbas during the meeting of the "Normandy" Four Foreign Ministers in Paris, scheduled for March 3***.[19] This thesis was clarified by the German minister's words that ***"all provisions of the Minsk are valid. But we monitor very carefully their sequence and the next point is holding elections."*** Moreover, according to Mr. Steinmeier, ***"the security situation cannot justify the fact that we stopped moving to the approval of the election law."***[20]

The sequence, which German Foreign Minister has set for the Minsk agreements implementation is surprising, given the fact that Russia has not fulfilled even the first paragraph of agreements, and its militants do not cease attacks on Ukrainian positions.

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[19] http://ukrainian.voanews.com/content/germany-france-ukraine/3202841.html
[20] http://www.eurointegration.com.ua/news/2016/02/23/7045288

Equally controversial is the opinion that the security situation is not an obstacle to the adoption of the election law. Hardly Mr. Steinmeier does not know that Russia is blocking negotiations on the modalities of the elections, as the Kremlin-controlled separatists reject the participation of Ukrainian parties and media in the elections.

On March 1, in Washington, at a joint press conference with the U.S. Secretary of State John Kerry, ***Mr. Steinmeier stated that "we need two things" for the elections in Donbas to be held: "first an election law and second security conditions which allow an election to be held".***[21] These words give ground to make disappointing findings for Kyiv:

1) Mr. Steinmeier believes that Kyiv should adopt a law on elections in Donbas even prior to the Moscow's order to militants to cease attacks;

2) German Minister charges Ukraine with the responsibility for the slowdown of the Minsk agreements implementation, since the adoption of the law on elections in Donbas is the prerogative of the Ukrainian Parliament;

3) According to Berlin, the withdrawal of Russian troops is not an obligatory prerequisite for the elections in Donbas. It would be sufficient just to stop shooting to provide at least the minimum "security conditions."

After the UN Security Council meeting Mr. Steinmeier told the reporters that **he had expected the elections in Donbas to be held in the first half of 2016.** And Permanent representative of France to the United Nations François Delattre said that **the 'Normandy' meeting in Paris would also consider the other measures provided by the Minsk agreements, including the constitutional reform and decentralization.** [22]

Thus, the Ukrainian side will face a harsh challenge at the Paris 'Normandy' meeting. **Berlin, Paris and Moscow will exert pressure on Kyiv requiring adoption of the election law for Donbas as soon as possible, without waiting for a ceasefire.**

One can assume that certain Moscow's "concessions" concerning the draft law text may be represented as a "compromise." Since Russia will be satisfied indeed by any document that would give formal grounds to separatists to hold their fake elections and to obtain legalization before the world community. **Whatever the Ukrainian Parliament envisages in the law, the Kremlin-backed separatists will hold elections in their own way. And the West seems to have already been prepared "to close its eyes" to violations.**

So far, Kyiv is firm to defend its position. At the common press conference with the German and French colleagues, ***Foreign Minister Pavlo Klimkin stated***: ***"We are committed to the Minsk agreements, but not to their Russian vision, when Russia wants Ukraine to integrate Donbas that is under Russian quasi-governance."*** [23] However, Berlin and Paris might place Kyiv before a difficult choice: to agree to the advantageous for Moscow plan on legalization of its Donbas puppet regimes, or to be accused of the Minsk agreements sabotage with the subsequent lifting sanctions imposed on Russia.

The scenario of formal implementation of the Minsk agreements, actual legalization of the occupation regime in Donbas and lifting sanctions imposed on Russia – fully corresponds with the Kremlin plan. Kyiv should exert every effort to prevent such development while at the same time avoid groundless accusations of the Minsk process sabotage. ***Arrangements on the election law for Donbas should***

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[21] http://www.reuters.com/article/us-ukraine-crisis-germany-idUSKCN0W333N?feedType=RSS&feedName=worldNews
[22] http://www.ukrinform.ua/rubric-politycs/1974253-stajnmajer-vibori-na-donbasi-maut-vidbutisa-v-persij-polovini-roku.html
[23] http://www.pravda.com.ua/news/2016/02/23/709998

include clearly defined preconditions for holding such elections as well as safety clauses against the legalization of the Russian puppet regimes. Ukraine's European partners should clearly guarantee Kyiv that they would not recognize the Donbas elections if they do not comply with the Minsk agreements, Ukrainian law and democratic standards.