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UKRAINE – THE EUROPEAN UNION



KEY THEME ANALYSIS

PRESIDENTIAL ELECTIONS IN BULGARIA AND MOLDOVA AS A CHALLENGE TO EUROPEAN INTEGRATION

Last weekend there were presidential elections in Bulgaria and Moldova. The outcomes showcased the victory of pro-Russian politicians. In Bulgaria, former Commander of the Air Forces Rumen Radev was elected. He was a nominee of the Bulgarian Socialist Party. In Moldova Igor Dodon, the head of the Socialist Party, was elected president. What unites these political events?

The two politicians demonstrated a positive attitude to Russia during their campaigns. Igor Dodon promised to restore relations with Moscow. Earlier, he called Crimea ‘Russian territory’¹. The newly elected Moldovan president promised to hold a referendum on the abolition of the association agreement with the EU and advocated the integration of Moldova into the Eurasian Economic Union (EAEU)².

Senior Analyst of the EU Institute for Security Studies Nicu Popescu believes that such promises will not be implemented, as in recent years, more than a 50% of turnover accrued to the EU and less than 20% to Russia. Thus, the cancellation of the Association Agreement with the EU will lead to economic disaster in the country³. In addition, it will be difficult for Igor Dodon to change foreign policy because his party does not control a majority in parliament. However, during the election campaign Igor Dodon promised to dissolve parliament.

As for the newly elected president of Bulgaria Rumen Radev, during the campaign he promised to achieve the lifting of anti-Russian sanctions. However, Rumen Radev will not be able to participate in negotiations on the continuation of sanctions against Russia to be held in December, as he will not have acquired presidential powers by that time. Bulgaria is a parliamentary republic, which is why Rumen Radev will have the same structural constraints as Igor Dodon.

The Prime Minister of Bulgaria announced his resignation. Borisov threatened to resign in order to mobilize supporters of the ruling party nominee Tsetska Tsacheva, but the latter received only 36% of the popular vote.

Some experts predict that the resignation of Borisov gives him the chance to participate in next year’s elections, as the heating season brings high bills for heat and

¹ <http://dw.com/p/2Se4O>

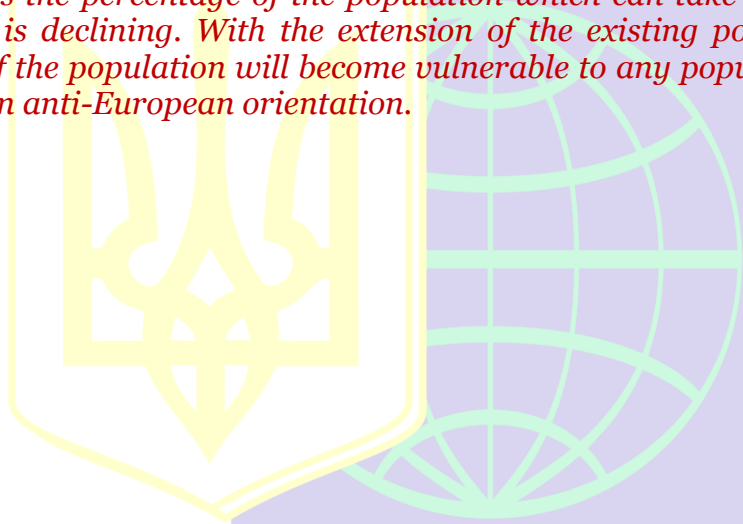
² <http://korrespondent.net/world/3773559-dodon-zadumal-referendum-ob-otmene-assotsyatsyy-s-es>

³ <http://dw.com/p/2SgMi>

electricity⁴. Rumen Radev is credited with nationalist views. The radical right received about 17% of the votes in the first round using an aggressive xenophobic campaign. In this context, it seems that the problem of refugees and proximity to Turkey are causing mass hysteria within the Bulgarian population.

Both candidates received support amid growing skepticism, anti-European sentiments, the popularity of pro-Russian slogans and faith in 'Mother Russia's' help. One should not reject the direct ideological and informational influence of the Kremlin on the elections. Both candidates demonstrate the intention to be pro-Russian players rejecting adherence to the course of European integration. The informational impact took advantage of a favorable background - the difficult economic situation in both countries. Massive embezzlement, which is credited to close friends of the ruling elite, played into the hands of Igor Dodon. The election results in Bulgaria and Moldova should be a lesson for the EU as they indicate a major setback of the Eastern Partnership instrument - the general public can not directly enjoy the benefits of European integration.

The experience of the elections in Bulgaria and Moldova also applies to Ukraine and must be comprehended both by civil society and European politicians. The Ukrainian government tends to use such ostentatious projects as the visa-free regime to avoid real reform of political institutions in the country. This strategy is not effective in the long run as the percentage of the population which can take advantage of the visa-free regime is declining. With the extension of the existing political course, all other segments of the population will become vulnerable to any populist ideology that is likely to have an anti-European orientation.



⁴ <http://dw.com/p/2Sgi2>

UKRAINE – NATO



KEY THEME ANALYSIS

WHAT IS NATO'S FUTURE FOLLOWING THE ELECTION OF TRUMP?

The recent US presidential elections, won by the Republican candidate Donald Trump, stirred up a wave of discussions among policy experts worldwide. The extravagant style of the newly elected president together with his sharp statements has sparked controversy about the future of NATO and the situation in Syria and Ukraine.

As for NATO, during the election campaign Hillary Clinton accused Trump of his intention to withdraw the US from NATO. In fact, he never quite said that⁵. He did, however, **describe the alliance as 'obsolete' and pledged to 'take a look' at US membership because it was 'costing us a fortune'**⁶. In other words, Donald Trump wants all NATO members to spend 2% of GDP on defense⁷. Currently, such expenditures are observed in only five countries out of 28⁸. This approach seems to be a rather realistic one, given the fact that German Chancellor Angela Merkel earlier this month promised to work on reaching a two percent level of defense spending⁹.

The outcomes of the US presidential election have stirred up the internal processes in the EU. For the first time since the 1950s, serious talks about the prospects of a defense alliance have resumed. On November 14, EU countries agreed to strengthen cooperation in the defense and security sector to achieve 'strategic autonomy'. This plan would allow the EU to send its **crisis response forces** abroad before UN peacekeeping forces can take over. According to Mogherini, governments have agreed on using so-called EU battle groups of 1,500 personnel, which have been operational since 2007 but never used. However, the creation of a European army was not considered. Overall, the Action Plan is devoid of clear phrasing and does not envisage increased defense spending, but the plan broke taboos that have restrained European defense cooperation since the 1950s.

As for Donald Trump's position on NATO's involvement in resolving the conflict in Donbas, now it is difficult to make any serious predictions. Most of Trump's claims that were voiced during the election campaign were quite dilettantish¹⁰. This indicates that he did not pay enough attention to examining the issue because it presents no interest to the average American voter. An important factor that will influence the policy of the new US administration on this issue is the secretary of state nominee. The two contenders for this role - the former Speaker of the House Newt Gingrich and Senator

⁵ <http://www.factcheck.org/2016/05/whats-trumps-position-on-nato/>

⁶ <http://www.reuters.com/article/us-trump-putin-nato-commentary-idUSKBN1391SJ>

⁷ <https://www.theguardian.com/commentisfree/2016/nov/10/donald-trump-nato-europe>

⁸ http://www.nato.int/nato_static_fl2014/assets/pdf/pdf_2016_07/20160704_160704-pr2016-116.pdf

⁹ <http://www.dw.com/en/merkel-germany-to-heavily-increase-bundeswehr-budget/a-36054268>

¹⁰ http://www.bbc.com/ukrainian/politics/2016/11/161108_trump_quotes_sa_embargo

Bob Corker of Tennessee - support the idea of supplying Ukraine with lethal weapons¹¹. The Republican majority in Congress will present an additional structural limit for Donald Trump if the latter wishes to pursue a rapprochement with Russia.

Despite the complexity of Donald Trump's policy on NATO and its place in US security policy, one thing is clear - the Alliance will expect hard times and problems of its survival under conditions comparable to the end of the Cold War, and possibly the beginning of a new 'Hot' War. Other NATO members decided to defer the Summit to next year so that Trump's administration can define its NATO policy¹².



¹¹ <http://www.reuters.com/article/us-usa-election-trump-ukraine-idUSKBN1361IS>

¹² <http://www.eurointegration.com.ua/rus/news/2016/11/12/7057339/>

FOREIGN POLICY OF UKRAINE



KEY THEME ANALYSIS

WILL UKRAINE TAKE ADVANTAGE OF THE INTERNATIONAL CRIMINAL COURT REPORT?

On November 14, 2016 the Office of the Prosecutor of the International Criminal Court (ICC) issued a report on the preliminary examination of activities as to the events in Ukraine. This document is important because it provides an international legal assessment of Euromaidan events, the annexation of Crimea and the conflict in Eastern Ukraine.

According to this report, the ICC noted that the situation within the territory of Crimea and Sevastopol amounts to an international armed conflict between Ukraine and Russia, which began at the latest on 26 February 2014. The law of international armed conflict would continue to apply after 18 March 2014, when the ARC was 'incorporated' into the Russian political system. In this case, the situation in Crimea and Sevastopol amounts to an ongoing state of occupation. For purposes of the Rome Statute an armed conflict may be international in nature if one or more States partially or totally occupies the territory of another State, whether or not the occupation meets with armed resistance¹³.

In fact, this report establishes on international legal level the fact of the occupation of Ukrainian territory by the Russian Federation. Also, the report records the state of international armed conflict between two countries. This is a strong argument against ideological accusations that the population expressed a desire to join the Russian Federation, and the latter only provided for the people the right to do it. In this context, the absence of direct armed clashes between the Armed Forces of Ukraine and the occupant forces, as well as non-recognition of the state of war between Ukraine and Russia, were used to depict the occupation as the decision of the people of Crimea. It should be recalled that the General Assembly resolution 68/262 'underscores that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol'¹⁴.

The competence of the ICC is limited to four crimes under general international law: genocide, crimes against humanity, war crimes and, potentially, *the crime of*

¹³ <https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-PE-Ukraine.pdf> , p.158

¹⁴ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/262&Lang=R , p.5

aggression¹⁵. Will Ukraine take advantage of this opportunity to impose appropriate punishment for the crime of aggression on the aggressor?

Ukraine signed the Statute of the International Criminal Court (Rome Statute) on 20 January 2000, **but has not yet ratified it¹⁶**. The Constitutional Court of Ukraine in its Opinion of 11 July 2001 decided that it is necessary to amend the Constitution of Ukraine before the ratification of the Rome Statute¹⁷. However, the amendments to the Constitution that the Parliament had voted on June 2, 2016 involve the provision that postpones the recognition of the jurisdiction of the ICC in Ukraine for 3 years - from 2019¹⁸. Despite the fact that Parliament postponed the ratification of the Rome Statute, Ukraine in April 2014 and September 2015 it used the opportunity provided in article 12 of the Charter and established jurisdiction of the ICC in a special manner as to crimes committed between 21 November and 22 February 2014 (in the context of the events of Euromaidan), and for all the crimes committed on the territory of Ukraine since February 20, 2014. In fact, ***Ukraine has undertaken the majority of obligations of Parties to the Rome Statute¹⁹***. Moreover, the idea of accession to the Rome Statute is enshrined in the Ukraine-EU Association Agreement (Article 8)²⁰.

This report is a preliminary examination of the case, which is necessary for the ICC Prosecutor to initiate an investigation proprio motu. According to the expert in international law Mykola Gnatovsky, this preliminary stage will continue for quite a long time²¹. Although this report does not provide established judicial facts, it nevertheless influences the discourse. If international law experts in recent years argued that common Article 2 of the four Geneva Conventions of 1949 definitely qualifies occupation of any part or all of the territory of one state by another state as an international armed conflict, whether or not the occupation meets with armed resistance, this position now receives official validation in the report of the Office of the Prosecutor of the ICC.

The situation with events in eastern Ukraine is more complicated. Paragraph 169 of the report qualifies these events as an international and non-international armed conflict simultaneously. According to Mykola Gnatovsky, a large number of modern conflicts, which are limited to the territory of one state, but are characterized by interference from abroad, receive similar qualification²².

Noteworthy is the reaction of the Government of the Russian Federation on the publication of this report. President Putin ordered to inform the UN Secretary General of Russia's refusal to ratify the Rome Statute, which it signed in 2000. Obviously, the Russian authorities were not going to pursue ratification in the foreseeable future, but this move was revealing. However, the ICC maintains its jurisdiction over the events on the territory of Ukraine, which means it applies to citizens of states that have not joined the ICC.

For Ukraine, the official report of the International Criminal Court establishes a way out of the deadlock of the Minsk process, since it allows changing the modality from internal conflict ('the Ukrainian crisis') to the current reality of the Russian-Ukrainian war. Also, it enables Ukraine to confirm Russia's status of aggressor, contrary to the status of 'mediator' as is enshrined in the Minsk agreements. In the future, this will open the opportunity for the international community to recognize

¹⁵ <http://voxukraine.org/2016/01/12/ukraine-and-the-international-criminal-court-a-constitutional-matter-ua/>

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ http://dt.ua/POLITICS/sudova-reforma-v-ukrayini-oficiyno-nabude-chinnosti-z-zhovtnya-212436_.html

¹⁹ <http://www.eurointegration.com.ua/experts/2016/11/17/7057564/>

²⁰ http://zakon2.rada.gov.ua/laws/show/984_011

²¹ <http://www.eurointegration.com.ua/experts/2016/11/17/7057564/>

²² Ibid.

Ukraine as a victim of aggression and apply the full force of international law against the aggressor, which has committed an international crime.



COUNTERING RUSSIAN HYBRID WARFARE



KEY THEME ANALYSIS

‘RUSSIAN WORLD’ SPREADS WHERE THERE ARE ENCLAVES OF SOVIET CONSCIOUSNESS

The essential characteristic of Russia's hybrid warfare, which was unleashed against the West, is its blurred signs. F. Hoffman calls this principle of hybrid warfare the modality. Ukrainian researcher of hybrid war, the head of the research project ‘Antares’ M. Honchar also highlights the key role of the uncertainty factor in hybrid war, when the enemy and third parties face difficulties in defining what happens, because an aggressor stakes not on the classical component of warfare, but aims to stimulate the domestic conflict potential of victims²³. The election of pro-Russian presidential candidates in Bulgaria and Moldova have shown that this war has its effect – the ‘Russian World’ not only captured the post-Soviet space, but also successfully masters the European space, replacing European values.

Unfortunately, the European Union and all European leaders have turned a blind eye to it, seeking a truce with Putin and trying to prevent a new Cold War, not noticing that there was ongoing ‘hybrid warfare’ in the middle of the European Union. ***One of the intermediate objectives of this ‘hybrid war’ was the establishment of pro-Russian governments, with which Russia can then manipulate these countries according to Russian interests.***

Informational influence is the most powerful factor, and it operates not only through the Russia Today channel, but also through national channels. In addition, one of the tools of this ‘hybrid war’ is an extensive network of think tanks, hired experts, who formed pro-Russian, anti-Western, anti-American discourse. These manipulations were very successful, because the pro-Russian idea was actually formed. It is no secret at all, but local elites turned a blind eye to it. Of course, this ‘Russian World’ resides within the Orthodox culture, so its first victims were Orthodox countries: Greece, Bulgaria, Moldova, and Cyprus. That means that the launching ground for the ‘Russian World’ involves not only the former Soviet Union, but even Europe countries.

On the other hand, the democratic forces have discredited themselves greatly over the recent period. In the case of Bulgaria, people expected living standards to

²³ Гибрессия Путина. Невоенные аспекты войн нового поколения. / Фрагменты исследования Центра глобалистики «Стратегия XXI» в рамках проекта «Антарес». К.: Центр глобалистики «Стратегия XXI», 2016 – С. 12-13.

increase after joining the European Union. Bulgaria has not undergone significant reforms and therefore there has been no economic miracle. The Bulgarians have drifted towards Mother Russia, recalling the story of the liberation movement against the Ottoman Empire as well as the Russians' help, etc.

In this context, the pro-Russian candidates won the presidential elections in Bulgaria and Moldova. Since the democratic forces were completely discredited, pro-Russian candidates won predominantly due to the support of the older generation. If you look at the population of Moldova, the most capable and active population has left the country and became migrant workers. The remaining two forces are pro-Romanian, one that associates itself with European integration, and the other is pro-Soviet, which operates in a Soviet thinking paradigm, which will always be associated with Russia. We had a similar situation in Donbas. It is no mere chance that **'Russian World' is built on the values of the Russian Empire and the Soviet Union**. Everything is perfectly matched and is based on each other. And we see today that **the 'Russian World' spread where there are enclaves of Soviet consciousness**.

Bulgaria is one of the poorest EU countries, so that is why a part of the population does not expect prosperity within the EU. While Brussels was supporting Bulgaria with financial resources, the ruling elite supported the European course.

These elections have shown how dangerous the 'Russian World' is. Neither the EU nor NATO membership has helped Bulgaria. There was a disruption which occurred inside the country. The introduction of Article 5 is not expected, if such processes happen domestically. In this situation, NATO can do nothing. This is a very dangerous type of 'hybrid warfare', which concerns few people in the West.

