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INSIDE UKRAINE

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The International Center for Policy Studies (ICPS) restores issuing analytic paper «Inside Ukraine», the last issue of which was prepared in September 2010.

The aim of the publication is to provide objective information on current political events in Ukraine and thorough analysis of major tendencies in domestic politics. Such analysis will assist in setting priorities in the process of implementing reforms in Ukraine and in evaluating quality of state decisions from the viewpoint of their impact and sustainability. Special attention is paid to evaluation of political competition in Ukraine and ability of key political players to address challenges.

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1. The Government Policy

MH17 air crash changed the world's attitude to events in Ukraine, having displayed that Donbas destabilization bears security risks for the whole continent. It also made world leaders explicitly declare that Russia provides support and weapons for pro-Russian gunmen. Efficiency of Ukrainian government in providing the world with information on events in Ukraine has much improved. It may become a turning point in information war between Ukraine and Russia. Evidence collected in course of objective investigation of the catastrophe, may be used in international courts and in appeals to the leaders of Western countries.

ATO and military actions in the East postpone reforms, among others being police reform. So far it has been decided to conduct pilot project in Lviv region. Its results will be used to elaborate concept of the respective reform. However, this project does not foresee changes in current law on police and in principles of law enforcement functioning. Therefore, it is unlikely to become a ground for the reform on the national level.

1.1. The catastrophe which may prove Russia to be sponsor of terrorism

The catastrophe of MH17 passenger plane over the territory controlled by pro-Russian separatists, has become a turning point in the way the world perceives events in the East of Ukraine. Earlier Russian propaganda was able to display the conflict as a civil war in Ukraine. Therefore, Western leaders were extremely careful in evaluation of the events and insisted on peace talks with separatists. Now it is obvious that rebels, as most Western media used to call them, could not have hit air targets unless they had received qualified military specialists and air defense systems from abroad. The Russian Federation is the only country that may sponsor specialists and modern weapon to pro-Russian separatists. The fact that since the very beginning separatists impeded the work of international experts proves their desire to hide something and to destroy the evidence of the northern neighbor's involvement.

Ukrainian government significantly improved informational policy, with crisis media center having become one of the major official information platforms. Officials promptly provided Western media with available audio and photo evidence concerning the air crash. It allowed them to benefit from the informational wave and neutralize Russian propaganda.

A major challenge for the Ukrainian authorities is to arrange objective investigation of the catastrophe. It will provide the world with irrefutable evidence that Russia is involved in destabilization of Donbas, which has become another step of external aggression against Ukraine after Crimea annexation. A counterbalance to the Russian propaganda machine is language of facts and legally impeccable proofs, which may be used in international litigation. It will allow Ukraine to get support of Western European countries which were not unanimous in condemning Moscow actions. Preservation of economic ties with Moscow and a fear to be involved in military conflict between Ukraine and Russia were of a higher priority for Germany, France, Italy and some other EU members.

"Malaysian airlines" catastrophe with 298 civilian casualties, most of which are the EU citizens, showed the EU leaders that destabilization of Ukraine's East threatens security of the whole continent. From now on it will be hard for them to insist on peace talks with representatives of self-

The catastrophe as a turning point in the way the world perceives events in the East of Ukraine

A counterbalance to the Russian propaganda machine is language of facts and legally impeccable proofs

proclaimed Luhansk and Donetsk People's Republics if these organizations have murdered their fellow citizens. International recognition of so called republics as terrorist organizations may be a compromise, when the EU will directly declare its attitude to pro-Russian gunmen without accusing Russia of external aggression. At the same time the EU representatives understand that the Kremlin is the only force that can influence the separatists. Therefore, they appeal to Vladimir Putin to facilitate the investigation.

In his turn the Russian President is at crossroads. Objective investigation will prove Russian support to separatists and presence of Russian soldiers in Ukraine. No investigation or investigation without international experts means silent recognition of the fault and desire to hide the evidence of involvement. The only way for Russia to improve its reputation in the world is to liquidate separatists' leaders and evacuate Russian soldiers from the territory of Ukraine. It will be perceived as steps to de-escalate the conflict. Responsibility for the tragedy may be put on liquidated separatists and proofs that the Russian weapon was used will be destroyed by then. Yet, avoiding international isolation, Putin risks facing serious criticism inside the country. Military mood of Russians is constantly invigorated through TV propaganda, which makes U-turn of the Kremlin's policy towards Ukraine almost impossible.

If Russia stops supporting pro-Russian gunmen with weapon, stabilization of the situation in the East by Ukrainian army will be a matter of time. Though at this moment Moscow will not reach its aim to turn Donbas in Ukrainian Transnistria, it may attempt to ignite civil conflict in Ukraine in October-November 2014, when economic and energy crisis in Ukraine aggravates. By then role of the Kremlin in Donbas events will be forgotten, at least in international informational space.

Ukrainian troops may use a short period when Russia decides on its further strategy towards Donbas in order to decrease the territory controlled by gunmen and completely re-establish control over the border with the Russian Federation.

1.2. Lviv experiment as a ground for police reform

ATO and participation of large numbers of policemen in it impede initiation of police reform. Representatives of Ministry of Interior claim that in spring 2014 there were already two concepts of police reform elaborated, but both are designed for peaceful time and are impossible to implement under current circumstances. Thus, there are no institutional changes in police and no lustration campaign, which slows down investigation of crimes committed by police officers during the Maidan.

Sort of alternative to lustration was proposed by Arsen Avakov, Minister of Interior. In June 2014 he claimed that all combat and patrol units of the Ministry would participate in ATO, which would become a test whether they fit the job. Besides, now many former employees of "Berkut" and other police units, which participated in confrontation at the Maidan, show themselves extremely positively in the East, as a part of National Guard.

However, police lustration is inevitable, especially in Donbas where many policemen assisted separatists. On May 24, Volodymyr Hrynyak, head of Public Security Department of MOI informed that 17 thousand policemen from Donetsk betrayed Ukrainian people. As a result, in two months only 585 policemen from the region were dismissed, other 242 people who are

Recognition of self-proclaimed republics as terrorist organizations may become an acceptable step for the EU

Propaganda makes U-turn of the Kremlin's policy towards Ukraine almost impossible

ATO as a formal obstacle for police reform

Police lustration is inevitable

currently on sick leave are being checked. Criminal proceedings will be initiated only after the dismissal. It repeats the story with “Berkut” officers who were dismissed due to the Maidan crimes, but they were not arrested. It allowed them to avoid punishment and escape to Crimea and Russia.

Discrepancy of figures in the Minister’s statements does not only concern Donbas. In April Arsen Avakov claimed that in Kharkiv region 30% of police officers will be sacked. But in four months only 200 police officers in the region lost their jobs due to cooperation with separatists.

Large-scale lustration bears a number of risks. Thousands of policemen will lose the job, which will increase social tension in the society. Re-qualification training programs and assistance in employment will allow integrating these people in the society. However, policemen’s crimes which were numerous in winter 2013-2014, require legal assessment as well. The society demands that the guilty bear criminal liability, dismissal is not enough.

By September 2014 the government promises to elaborate a new draft law on police. Meanwhile, in Lviv an experiment was started to improve work of law enforcement agencies. The results of the experiment, which will last from July 1 to October 31, 2014, will be used to elaborate concept of the reform. It means that the reform itself is postponed by indefinite period of time.

Among the first steps there will be audit of Chief Administration of MOI in the region, evaluation of the property and re-attestation of seven thousand local policemen. Patrol unit and traffic police will merge, while security agencies will deliver security services. Lviv is one of few regions where a new police chief was appointed after consultations with the public. The practice of this kind is to be continued.

Municipal police will be subordinated to local government. It has been already created in Zhytomyr, Vinnytsya and Ternopil. Kyiv mayor Vitali Klitschko also expressed the intention to create municipal police. It will make police accountable to community, yet it bears risks that police units will be used by regional leaders for their own purposes. Municipal police may handle public safety and traffic issues, but criminal cases are a domain for specialists subordinated to MOI vertical. Thus, it will be more independent from interference by local elites.

Even designers of Lviv experiment do not call it police reform, but a means to improve law enforcement functioning. The major reason is that the experiment will take place under current version of police law and no institutional changes are foreseen. Besides, it does not include cut in policemen numbers and salary increase for employees who have successfully passed attestation. Thus, policemen will remain subject to corruption risks.

The EU understands importance of justice reform in terms of restoration of public trust to state bodies, fight against corruption and control over office abuse. Therefore, the EU ministers of foreign affairs have taken a decision to send a special advisory mission on public security issues to Ukraine. The mission will last for two years, while the budget of the initial stage (until November 30, 2014) will make up EUR 2.68 mln.

Discrepancy of figures in the Minister’s statements on policemen dismissed

In Lviv the experiment is ongoing to improve police work

As the experiment does not foresee changes in law on police, it does not change principles of system functioning

2. Economic Situation

The IMF mission has reached consensus with Ukrainian authorities and recommends providing a second tranche to Ukraine in the amount of USD 1.4 bln. Due to economic situation and the IMF requirement on further decrease of budget expenses, the government offers another budget cut.

The IMF and Ukraine have developed common vision of reform in energy sector in order to improve payment discipline and transparency together with cut in expenses of “Naftogaz”. Regardless of the intentions, the government has to settle a difficult situation with “Naftogaz” through record-breaking issue of bonds to capitalize the company.

2.1. The IMF mission recommends second tranche to Ukraine

The IMF European Department held a mission in Ukraine from June 24 till July 17. Positive outcome of the mission will provide Ukraine with a second tranche in the amount of USD 1.4 bln. (a line of credit totals USD 17 bln.) in mid-August, after the respective decision of the IMF Board of Governors. Such delay is caused by situation in Ukraine’s East.

Approved measures and further implementation of the reform plan are supported by the IMF loans. It will result in internal and external macroeconomic balance and stable economic growth. The following reforms are foreseen:

- Tax and budget reform, which includes measures in the sphere of budget revenues and expenses: cut and strict control over budget expenses, limited increase in salary and retirement benefits – not more than the inflation rate in 2015, decrease in number of budget-financed employees;
- Banking reform foresees modernization of monetary policy structure with a focus on domestic price stability and preparation to inflation targeting. It will include improvement of operational structure and financial standing of Retail Deposit Guaranteeing Fund, which will strengthen trust to banking system. An important decision is to replenish gold and FX reserves of the NBU through intervention into FX market;
- Energy sector reforms in order to strengthen payment discipline, restructure “Naftogaz”, increase its transparency and cut expenses;
- Strengthening state governance and improving business climate;
- Anticorruption measures and creation of independent anticorruption agency with broad authorities.

The IMF deteriorated forecast of GDP drop from 5% to 6.5%, which is similar to the ICPS forecast. World Bank expects 5% economic recession in 2014 and Ukrainian economy may show 2.5% growth in 2015. The EBRD foresees 2014 GDP drop by 7% and stagnation for 2015, believing that the economy will still survive.

2.2. State budget will face another cut

The government presented Verkhovna Rada propositions on budget cut. It is expected that income will increase by UAH 5.9 bln. (up to UAH 378.865 bln.) and expenses will decrease by UAH 5.8 bln. (down to UAH 442.631 bln.). The budget amendments include decrease of tax proceedings by UAH 13 bln. (at the expense of income tax and VAT). Lack of proceedings will be compensated through amendments in tax legislation (change in rates and tax benefits) and the EU assistance program. In general,

Ukraine may receive second IMF tranche in August

The IMF deteriorated forecast of GDP drop from 5% to 6.5%

additional resource to general fund of state budget will make up UAH 18.6 bln.

The budget cut will not influence social expenditures, as they were already cut in the first half of 2014. The changes mainly concern expenses on public sector. This time the government offers to cut (by 70%) expenses on control bodies and to forbid inspections. It is proposed to cut the expenses on public sector (except for judicial system and defense) by 90% of two-month volume. The expenses will decrease as heads of budget-funded entities will be allowed to give employees unpaid leave or introduce shorter working week, cut staff numbers, decrease or cancel premiums.

Besides, it is proposed to cut expenses on Unemployment Fund and Temporary Disability Fund by UAH 1.4 bln. and UAH 0.6 bln. respectively. Released funds will cover part of Pension Fund deficit.

The budget cut is a must due to economic situation and the IMF requirements. However, proposed decrease of expenses will aggravate social tension among public servants who are mainly motivated by premiums. Constitutional rights are violated in terms of unpaid leaves and working schedules. Thus, it is important to hold comprehensive administrative reform which will help to optimize state apparatus and decrease its expenses. Another question is how efficient control over state budget fulfillment will be ensured as it is a hard task for control agencies with their current scope of authorities.

2.3. The IMF mission and structural changes in the energy sector of Ukraine

The IMF mission and Ukraine managed to reach a common understanding of the national energy sector transformation. It involves the implementation of the Ukrainian international obligations concerning improving payment discipline, providing transparency and cost reduction of “Naftogaz”.

Despite the fact that there are no actual results of “Naftogaz” reform implementation, representatives of the mission appreciated the steps in this direction (in particular concerning the draft law “On amending some laws of Ukraine on reforming the single gas transportation system of Ukraine”).

Government has already formed the basis for possible measures to improve payment discipline in the energy sector. According to the draft law “On special period in the energy sector”, some stricter requirements for possible enterprises cut out may be provided due to the unpaid balance for consumed energy. Today “Naftogaz” has expressed an intention to cut out “Kyivenergo” and “Kharkiv CHPP-5” from gas supply for the accumulated debt. However, implementation of these measures combined with the rising costs of almost all types of utilities during this year according to the IMF requirements can contribute to increased social tensions, especially during the heating season. For instance, since May 1, 2014 the gas cost for the population increased by 50%, since June the electricity tariffs for households increased by 10-40% (depending on the volume of consumption) and since July - tariffs for water and water removal increased.

Due to unresolved problems with debt repayment of Ukraine to “Gazprom” and the lack of agreement on new gas prices, the IMF mission did agree to fix the increase in the “Naftogaz” deficit to 3.7% (in the previous program it was fixed at the level of 3.3%). The fund also recognized that there is no chance to reduce the level of state budget support

General fund of state budget will additionally receive UAH 18.6 bln.

The budget cut is a must due to economic situation and the IMF requirements

IMF mission positively assessed steps to reform "Naftogaz"

IMF mission agreed to fix the "Naftogaz" deficit increase

to the company. Conversely, we may even expect the growth of such aid. In this regard, the Cabinet of Ministers of Ukraine proposes to increase the maximum amount of bonds for “Naftogaz” capitalization by 70.6 billion. (from UAH 33.33 bln. to UAH 103.927 bln.). These measures are important in order to balance the company’s deficit, to provide the opportunity for gas debt repayment and to support reverse gas supply for the heating season needs. Despite the fact that it has a negative impact on the budget, these measures are necessary to sustain the company, to provide further subsidized rates and debt repayment.

However, use of such means is not a panacea to solve the problem of “Naftogaz” in the long-term period. Ukraine has to accelerate the implementation of “Naftogaz” reform that would create transparent companies that are open to foreign investment. Simultaneous market liberalization will facilitate the entry of foreign companies in the energy market of Ukraine that will help to improve the energy system in line with international standards.

Market liberalization will facilitate the entry of foreign companies in Ukraine

3. Political Competition

A growing threat of direct Russian military intervention and ongoing armed conflict in Donbas are hindering political competition in Ukraine. All these factors question the possibility of snap parliamentary elections. For this reason, the majority of political parties prefer just to wait and see.

Though Vitali Klitschko was elected Mayor of Kyiv and Head of Kyiv City State Administration more than a month ago, he has not announced his reform agenda in the capital yet. Instead, he focused on the appointments of new high-ranking officials.

The main news on political competition front is an abolition of the communist faction in the Parliament and a potential total ban of the Communist Party of Ukraine as the party that backs separatists and endangers territorial integrity of Ukraine. However, it is not parties but politicians that should be held accountable for their illegal actions. And it is not a judge but a voter that evaluates the party performance.

3.1. The merger of positions in Kyiv has not brought reforms

Following the presidential elections, Vitali Klitschko demanded the merger of the positions of Kyiv Mayor and Head of Kyiv City State Administration in order to ensure the implementation of reforms in Kyiv as well as the fight against corruption and illegal trade. A month ago Ukrainian President Petro Poroshenko issued a decree by which positions of Kyiv Mayor (elective post) and Head of Kyiv City State Administration (administrative post) were merged together.

Vitali Klitschko's electoral campaign consisted of three main principles: improving city administration system, making municipal property inventory and creating the conditions for business growth and entrepreneurship.

No structural reforms have been implemented in the capital so far. After Vitali Klitschko was elected Kyiv Mayor, he started a campaign aimed at removing illegally installed points of sale. After the demonstrative removal of some street kiosks representatives of local authorities faced fierce opposition by owners of some sales outlets, the majority of which are owned by Kyiv City Council deputies.

Since Klitschko took office, no step towards the lustration of high-ranking officials engaged in corruption and public funds embezzlement under Yanukovych's presidency has been taken. Instead, the appointment of property developers and big businessmen to top public positions in Kyiv City Council and Kyiv City State Administration, whose business was thriving at the time when Oleksandr Popov and Leonid Chernovetsky were in office, drew severe criticism.

Many experts believe that Vitali Klitschko does nothing to change the corrupt system. On the contrary, his actions preserve the existing one. This can be evidenced by the practice of personnel selection, operation of Kyiv City Council according to the Rules of procedure which were observed during Popov and Chernovetsky's tenure, and upcoming property development that is being lobbied by Klitschko's team.

After taking office Vitaly Klitschko started the appointment process within Kyiv City State Administration, Kyiv City Council and municipal enterprises.

On July 22, Vitali Klitschko introduced first deputy head of Kyiv

***Vitali Klitschko
has failed to
start the
lustration of
Ukrainian
officials involved
in corruption***

City State Administration, Ihor Nikonov, and deputy head, Pavlo Ryabikin, as well as heads of such municipal enterprises as “Kyiv metro” (Viktor Brahynsky), “Kyiv advertising” (Oleh Kalinichenko) and “Kyiv transport parking service” (Murad Mahomedov). Since the majority of newly appointed heads of lucrative public utilities are not well known to public, it is too early to rate their professional competence.

Vitali Klitschko appoints officials under party quota principle. He also chooses candidates for top public positions among his people. In district state administrations some deputy heads have UDAR “party tickets”.

Thus, though more than a month has passed since Kyiv elections, Vitali Klitschko and his team have failed to start the implementation of local administrative reforms. Moreover, the merger of positions of Kyiv Mayor and Head of Kyiv City State Administration poses a threat to the politician. By failing to fulfil their electoral promises and obligations, UDAR and its political leader Klitschko may face low electoral support at the next elections. Since the next regular elections are to take place very soon, further delay with reforms may have serious political ramifications for Klitschko’s party.

Vitali Klitschko appoints persons to top official positions under party quota principle

3.2. Crimes of individuals cannot be a reason to ban parties

An overtly pro-Russian stance of the Communist Party of Ukraine as well as their support for separatists in Donbas has drawn harsh criticism from Ukrainian political circle and may lead to the ban on the Communist party altogether.

On July 22, Verkhovna Rada of Ukraine adopted amendments to the Regulations of the Verkhovna Rada which provide for the liquidation of parliamentary factions if the number of their members is below a required minimum. It is noteworthy that the Communist Party of Ukraine already had had the smallest faction in Ukrainian Parliament before a number of MPs from the Communist party left the faction thus leaving the party status open to question. After the President signs the law, the Parliament speaker will declare the Communist faction dissolved. Taking into account that communists tend to ignore most voting procedures in Ukrainian Parliament while using the faction status for pro-Russian propaganda inside the Parliament, the loss of the faction status will not affect their pro-Russian activity.

The dissolution of the communist faction in Ukrainian Parliament is well-grounded

The ban on the Communist party will have larger repercussions than liquidation of the communist faction in the Parliament. The relevant lawsuit was filed to the administrative court in Kyiv by the Ministry of Justice of Ukraine. The first hearing on this case is due to take place on July 24, 2014. According to Minister of Justice, Pavlo Petrenko, the Communist party has committed a number of illegal actions by supporting separatists in Eastern Ukraine, as well as Russian occupants in Crimea, calling for changing the borders of Ukrainian territory as well as constitutional order, organizing and holding separatist meetings, financing and providing food, equipment and weapons for terrorist organizations, backing pseudo-referendums and fake republics in Ukraine’s East.

However, it is actions taken by individual politicians rather than parties that require a legal opinion. It is individuals that provide support for separatists. They are unlikely to stop helping separatists once their party is banned. On the contrary, repression of political parties on ideological basis may strengthen positions of those parties and create conditions in which they

The Communist party may be banned due to its support for terrorists

will appeal to international institutions for protection. Ukrainian communists have already started applying this tactics by appealing to representatives of communist parties in European countries.

Political parties should bear political responsibility which would be defined by the level of their electoral support. If politicians think that communists have no right to be represented in the Ukrainian Parliament, they should organize snap elections rather than ban the Communist Party through a court of law.

***Parties are
accountable
towards its voter
rather than
towards a court
of law***