



Ukraine, the EU, Russia and Tymoshenko

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Ukraine finds itself in a risky situation, as President Yanukovich's policy of pursuing closer relations with both Russia and the European Union is in difficulty. The president's failure to resist authoritarian temptations, particularly in imprisoning rival Yulia Tymoshenko, has disrupted negotiations with the EU and displeased the Russians.

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1 Background

The 'Orange Revolution' in Ukraine saw Viktor Yanukovich deprived of the Ukrainian presidency amid widespread suspicion that he had 'won' the 2004 election through fraud. He was succeeded by Viktor Yushchenko, with Yulia Tymoshenko as prime minister from 2005. The Tymoshenko/Yushchenko duo did not work well, with the government paralysed by their disagreements. Progress towards democracy, transparency and closer association with the EU was disappointingly slow.

After the victory of Viktor Yanukovich in Ukraine's presidential election of 2010, many western observers were worried that this was a victory for Russian influence and that Ukraine would turn off the path towards democracy and the EU and move closer to Russia. While Mr Yanukovich, whose support comes largely from the Russian-speaking areas of Ukraine, said that he wanted to maintain the country's westward orientation, he also said that he wanted better relations with Russia. Significantly, he promised that Ukraine would not join NATO and extended the lease of the Russian Black Sea Fleet in Crimea. On the other hand, cooperation with NATO continued, with a joint exercise completed in June 2011.

There have been increasing reports of human rights abuses in Ukraine. Although some governments have made some progress on the protection of human rights in the country and the preceding Yushchenko government was seen as democratic if ineffective, observers fear that the present government under Viktor Yanukovich is moving Ukraine away from democracy. There are allegations of detentions without trial and police brutality and impunity,¹ and the space for independent media has decreased. However, Ukraine is still considered by some to be the most democratic country in the Commonwealth of Independent States, the group of ex-Soviet countries, and not a 'lost cause', unlike Belarus, perhaps.



Source: University of Texas Libraries

2 EU trade relations

EU-Ukraine relations are governed by a [Partnership and Cooperation agreement](#), which entered into force in 1998. Negotiations on closer relations between the EU and Ukraine have been going on since 2008 and continued after the election of Viktor Yanukovich. The

¹ [Brute Force: Torture and Impunity in Police Custody in Ukraine](#), Amnesty International, October 2011

aim is to produce an Association Agreement which will lead to economic integration and much deeper political cooperation. Negotiations are proceeding on the basis of an [EU-Ukraine Association Agenda](#), that set out in 2009 the framework for reaching an agreement.

However, the negotiations on the Association Agreement have not gone smoothly, in part because of Yanukovich's autocratic behaviour.

3 Yulia Tymoshenko

The biggest obstacle came with the trial of former prime minister Yulia Tymoshenko. Before becoming prime minister, Yulia Tymoshenko became one of the most important oligarchs in Ukraine through her business importing Russian gas, earning herself the nickname 'gas princess'. In May 2011 she was charged with exceeding her authority in agreeing an excessively high price to be paid to Russia in a gas deal signed in 2009.

From the start western observers thought that the charges were politically motivated. Other members of Ukraine's opposition were also charged with offences that international observers considered vague or dubious.

On 11 October Tymoshenko was jailed for seven years and fined £120 million. Russia reacted coolly to the development, saying that it had anti-Russian overtones. Russia also stated that the agreement was fully legitimate, having been signed on the authority of both the Russian and Ukrainian presidents.

4 Russia's free trade area

On 18 October 2011, a majority of CIS states agreed to set up a zone that would include Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan and Ukraine. The meeting was pre-arranged and membership of the CIS zone would not stop Ukraine from signing the deal on closer relations with the EU, however.

Ukraine has so far resisted Russian suggestions that it should join a full customs union with Russia, Belarus and Kazakhstan.

President Yanukovich said that the CIS agreement would not hinder closer integration with the EU and was not a hostile gesture.²

5 Economy

Ukraine is in a difficult economic situation at present. Like other countries it has suffered from the euro crisis and the global economic downturn. The government's budget is under strain, particularly because of the ballooning losses of the state gas company Ukraine Naftogaz. The price Naftogaz pays to import Russian gas, set in the 2009 contract negotiated by Yulia Tymoshenko, has risen. Naftogaz has, however, not raised prices in line and is therefore losing money, for which the state is responsible.

With a weakening currency, worsening trade deficit and financial markets in Ukraine under strain, the country was in serious need of a further tranche of support from the International Monetary Fund. Talks with the IMF were suspended in November, however, partly over the

² "President: CIS Trade Pact Not Aimed At EU", *Ukrainian Journal*, 24 October 2011

government's refusal to increase retail and industrial gas prices before the forthcoming parliamentary elections, due in the first quarter of 2012.³

Russia may grant Ukraine a reduction in the price charged for Russian gas, which might solve Ukraine's problems and allow the next tranche of IMF aid to be delivered. The situation only serves to underline Ukraine's east/west dilemma.

6 Recent developments

On 18 October, in response to the Tymoshenko sentence, the EU postponed a visit of President Yanukovich to Brussels to further negotiations on the Association Agenda. EU officials said that the visit would be re-instated if there were clear signs of the government moving to strengthen the rule of law and the independence of the judiciary. EU leaders had hoped that a gesture, such as suspending the sentence, might be forthcoming. There was talk that the article under which Tymoshenko was prosecuted might be decriminalised but, so far, no concessions have materialised.

On 24 October, in what could be perceived as a further snub to the EU, another case against Tymoshenko was reopened, this time related to accusations of embezzlement from the federal budget and failure to pay taxes. These charges related to events that took place before Ms Tymoshenko was prime minister; when Tymoshenko became prime minister in 2005, the case had been dropped. On 8 November another four criminal investigations were reopened against Tymoshenko.

Further underlining the rift between the EU and Ukraine, Ukraine said on 7 November that there was no need to initial the Association Agreement in a meeting planned for 19 December. The deputy foreign minister said that a "powerful statement" that Ukraine has concluded the negotiations was needed, but that initialling the agreement was not so important.⁴

The deputy minister's comments referred to a commitment to Ukraine's eventual membership of the EU. Since future enlargement of the EU is by no means certain, holding out for any sort of declaration at present puts the conclusion of the Association Agreement at risk. EU officials said that the December meeting was on balance likely to go ahead but one diplomat said:

I think Barroso and Van Rompuy realise they went a bit over the top [in cancelling the October meeting]. If nothing else negative happens, the summit should go ahead. But if nothing positive happens, the atmosphere will be very cold.⁵

7 UK policy

In a recent debate in Parliament, Foreign Office minister Jeremy Browne set out why he thought Ukraine is important to the UK:

A stable, prosperous and democratic Ukraine that is anchored to European and Euro-Atlantic institutions is in the United Kingdom's national interest for several reasons.

As the hon. Lady said, first, Ukraine is of immense geo-strategic importance, as it borders four European Union member states and, of course, Russia. We must also consider the size of the Ukrainian market, coupled with its near double-digit gross

³ "No IMF Deal Agreed for Ukraine Yet", *IHS Global Insight*, 7 November 2011

⁴ "Ukraine lowers ambitions for EU summit" *EUObserver*, 7 November 2011

⁵ "Ukraine lowers ambitions for EU summit" *EUObserver*, 7 November 2011

domestic product growth potential. That might not be the same as having double-digit growth but, if political and other institutions were put on the necessary footing, there is clearly the prospect for Ukraine to become an increasingly economically prosperous country. Obviously, that would offer significant opportunities to UK exporters and investors, as well as being of more immediate benefit to the people of Ukraine. Ukraine is also making a significant contribution to safeguarding international security. For example, it is the only non-NATO partner that regularly contributes to NATO missions.

Finally, Ukraine is a major part of the European energy security jigsaw. It is an important transit route from the east to Europe, with 80% of Russian gas sold to EU customers transiting through Ukraine. Of course, that matter is the nub of the issue, but it is also hugely important to the Ukrainian economy and makes the country more widely important in terms of the energy requirements of countries elsewhere in Europe. Ukraine's closer integration with the EU offers the surest way of ensuring that not only Ukraine's long-term interests, but ours and those of our European partners are met. If developments in Ukraine are damaging its prospects for EU integration, it is a matter of concern for the UK and our EU partners, as well as being of more narrow and immediate concern to the people of Ukraine.⁶

In relation to progress on the Association Agreement, Mr Browne said that it would be good to initial the agreement promptly as that would not commit EU members to proceed to ratification if no progress on the Tymoshenko case was observed:

We firmly believe that we should proceed with the initialisation of the association agreement, indicating that negotiations have been concluded and locking in almost four years of hard work. However, we should make it clear that formal signature by the EU and member state Governments, followed by ratification by the European and member state Parliaments, will be jeopardised without a satisfactory resolution of politically motivated trials and convictions. I urge the Ukrainian authorities to reflect on that point.⁷

8 Outlook

Yanukovich has sought advantage by flirting with both Russia and the EU. The policy appeared to be working well enough until the Tymoshenko affair, which has upset the balance. Ukraine may now have decided to raise the stakes: either a firm prospect of EU membership or further integration with Russia.

Failure of the relationship with the EU could have serious consequences for the Ukrainian economy. In need of inward investment, the uncertainty about Ukraine's relationship with the EU could discourage European and other western investors and leave the county dependent on Russia. Whether that is wise at a time when Ukraine badly needs to win a price cut from Russia is open to question.

Reforms to promote the rule of law and transparency are likely to be delayed without EU pressure. But powerful big business interests in Ukraine may be happy with that outcome.

According to one analyst, the derailing of the Ukraine-EU Association Agreement would have serious implications for the EU's relations with other eastern partnership countries, particularly Georgian and Moldova:

⁶ HC Deb 1 November 2011, c252WH

⁷ HC Deb 1 November 2011, c 256WH

Should the EU not conclude an AA with Ukraine, it may have serious repercussions for the whole Eastern partnership region, particularly Georgia and Moldova. While the long-awaited talks on Deep and Comprehensive Free Trade Agreements (DCFTA) with Chisinau and Tbilisi are likely to be launched this year, the overall atmosphere around these talks will be different. It will be difficult to find reason for optimism at these talks if the first—and the most important DCFTA in the region—went down the drain after four years of negotiations.⁸

The EU, meanwhile, still has an interest in closer relations with Ukraine and needs to find a way to show its strong disapproval of Viktor Yanukovych's undemocratic actions while not shutting the door to Ukraine. The present political and financial turmoil in Europe makes such a trick more difficult to pull off.

⁸ Olga Shumylo-Tapiola "Checkmate for Yanukovych?", Carnegie Endowment for International Peace, 19 October 2011