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The logo for the International Renaissance Foundation, featuring a stylized green swirl and the word "Benaissance" in a serif font.
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The Government Policy

The Ukrainian government officially distances itself from problems in Donbas districts controlled by gunmen. According to the decision of the National Security and Defense Council (NSDC), whenever it is possible, state-controlled companies and public institutions will be evacuated to the territory under Kyiv control. The government will elaborate a special accounting procedure for energy supplies to “separatist” districts, while state

expenditures on that territory will be suspended.

Meanwhile, negotiations on future coalition are ongoing. Coalition agreement is designed as a cornerstone for the whole process. Its draft version contains suggestions on reforms in 18 spheres, yet they are not united by a single methodology, contain vague wording in some parts and do not consider previous initiatives of government in respective spheres.

Kyiv policy of absence in Donbas



Ukrainian government has not elaborated comprehensive strategy on Donbas yet. The NSDC decision “On urgent measures to stabilize socio-economic situation in Donetsk and Luhansk regions”, which came into force after the presidential decree of November 14, 2014, became a feeble attempt to present the government policy on Donbas to the public.

According to the decision, all the institutions, established as a result of “separatist” elections, are recognized as the ones contradicting the Ukrainian Constitution. Though the President put a lot of efforts to adopt the law “On special order of self-governance in cer-

The law “On special order of self-governance in certain districts of Donetsk and Luhansk regions” will be cancelled

tain districts of Donetsk and Luhansk regions” this September, it will be cancelled after respective voting of a new Verkhovna Rada.

The Cabinet is assigned with the task to define a procedure for provision of humanitarian aid and to improve informational policy as regards military and political situation in the country. Within a week the government will have to work on financial aspect of humanitarian aid and payment for energy supplies consumed in the districts controlled by gunmen.

At the same time, Kyiv closes all the state enterprises and organizations on the territory, transfers all the civil servants and employees of local self-

Kyiv suspends operation of state enterprises and organizations in “separatist” districts

government to other territories, and tries to take measures on transportation of property and documentation.

In order to avoid increase of exposure for provided energy supplies, the government will have to elaborate a special procedure for centralized accounting for energy supplies to districts, controlled by gunmen.

Within a month the government will need to elaborate amendments to the Budget Code as regards mutual settlements with local budgets and examine the possibility to introduce a special procedure for taxpayers' registration in ATO area. The Ministry of Finance will elaborate a concept of "Crimea" free economic zone.

The NSDF decision gives two months to approve a comprehensive program for professional education and employment of IDPs. However, the law which guarantees rights and freedoms of IDPs was signed by the President only on November 19, 2014. As well, the government has not calculated how much implementation of the law will cost to the Ukrainian budget: free accommodation of IDPs for six months, social payments, unemployment benefits, assistance in transportation of property. While taking decisions of this kind

The government has not calculated how much implementation of the IDPs law will cost to the budget

politicians are to use specific figures: how much the implementation will cost; what potential sources of these funds are; what financial expenses the government will face if the law is not implemented etc.

One of the provisions in the NSDC decision is that prisons will be moved from ATO area to the territory controlled by Ukrainian government. Prisoners convicted for minor or medium-level offences are proposed to be released through amnesty. It is also proposed to transfer Donbas judges to the territory controlled by Ukrainian government.

In fact, through this decision Ukrainian authorities leave the districts controlled by gunmen. It transforms certain districts of Donbas into unrecognized republics, though they should be treated as the territory temporarily occupied by Russia as it was the case with Crimea.

Under occupation the aggressor state is to deal with the issues on occupied territory. As Vitali Portnikov put it, when in 1941 Germany attacked the USSR, the latter did not think of providing electricity or social payments on the occupied territories. For the historical analogy to be in place, one should avoid manipulations with notions when war is called anti-terrorist operation and the country which is a victim of external aggression lives in two parallel realities: war and pretended peace.

Under occupation the aggressor state is to finance the occupied territory

Coalition agreement: large volume does not guarantee completeness

The coalition agreement draft, published on "Bloc of Petro Poroshenko" website, lacks internal logics and specifics. An extensive text is split into 18 areas of reforms, yet it provides neither priorities nor chronological sequence. One may assume that the text was prepared by different authors and mechanically compiled into one document. In some areas description of future government actions is more detailed, while the others limit themselves to general political declarations and speculation on the eurointegration topic.

Besides, description of some reforms is not related to the government progress in respective spheres

The coalition agreement lacks internal logics and specifics

made over the last years. For instance, in terms of anticorruption reform it is planned to establish National agency on prevention of corruption in IIQ 2015. However, the anticorruption package adopted by Verkhovna Rada in October 2014 does not mention such a body. According to anticorruption initiatives announced before the elections, two bodies are planned to be established: National commission on prevention of corruption which will be accountable towards the government, and National council on anticorruption policy

The agreement authors do not refer to the government actions already taken in respective areas

which is an advisory body at the presidential administration. Still, functions of both institutions are overlapping, and it is unclear where authors of the coalition agreement took an idea as regards establishment of National agency.

Vague wording in description of anticorruption reform is illustrated by formulas such as “liquidation of corruption schemes in public sector”. Besides, schedule for anticorruption reform implementation is quarter-based. However, the description does not follow chronological order and continuity, not to mention logical hierarchy, what steps should be first and what actions require certain ground to be made.

Comparing to anticorruption one, justice reform seems to be more comprehensive. Selection of judges will be competitive; requirements for the position will be formulated, including the need to declare revenues and expenditures for the candidates and members of their families. Judges’ actions will be regularly assessed and the law will define a procedure for a judge to face disciplinary punishment. Supreme Court will get back its authorities the institution lost in the times of Viktor Yanukovich. The coalition agreement declares principle of competitiveness in the court, when judge is an independent arbiter, while prosecutors and lawyers are granted with equal rights. In criminal proceedings it is planned to use lay court. The agreement authors promise to introduce efficient legal mechanisms to meet deadlines in courts and to improve the procedure of court decision implementation, when there will be accountability for violation of deadlines and there will be stimuli for voluntary fulfillment of court decisions. The justice reform description even contains necessary amendments to the Constitution: tougher requirements for potential judges as regards age and professional experience, judges being provided only with functional immunity as well as chapter on prosecution being excluded from the Constitution.

Concept of law enforcement reforms, indicated in the coalition agreement, corresponds to the text, elaborated in cooperation with human rights activists and presented by Arsen Avakov before the elections. Within the structure of National police transport police, veterinary police, police dealing

The justice reform description is more precise and comprehensive

with juvenile crimes, State Guard Service and State Motor Vehicle Inspection will be abolished. Functions of the Inspection as for traffic safety will be delegated to single patrol service.

It is proposed to conduct re-attestation of all the policemen and to renew human resources in police. Education system will include four police schools and a Police academy.

By IQ 2017 it is proposed to introduce positions of detectives. Ministry of Interior will include State Bureau of Investigations which will receive investigation functions of prosecutors and Security Service of Ukraine.

Ministry of Interior reform repeats the concept announced by Arsen Avakov

The Bureau will implement policy on fight against corruption and organized crime. It is unclear why some anticorruption functions will be delegated to the State Bureau of Investigations if there is Anti-corruption bureau.

The coalition agreement authors promise to provide local authorities with a right to create municipal police which will deal with public security issues.

In the army military police will handle investigation of crimes done by military men, including those that happened during hostilities.

There are questions on public administration reform. The coalition agreement does not define a clear mechanism for division of political and administrative positions in central executive bodies. The agreement authors offer to introduce position of state secretaries in the ministries, yet they do not say who will appoint state secretaries, what scope of authorities they will have and how they will be protected from party influence.

The agreement does not provide state secretaries with authorities sufficient for management of civil servants. Instead, it is proposed to establish typical secretaries of ministries and other executive bodies, which will just do office work and will not influence HR policy.

As regards electoral reform, it is proposed to introduce proportional representation system with open lists even at the local level. It is only elections to village councils that will be held under FPTP system. Mayors of large cities will be elected in two rounds. The agreement authors emphasize the need for transparent financing of political parties and legislation to secure punishment for electoral violations.

A chapter on constitutional reform is the shortest, though it is probably the most complex reform. Special temporary commission in Verkhovna Rada, formed by representatives of all the factions under proportional principle, will elaborate necessary amendments. Such commission was already formed at the beginning of the year, but lack of results and closed nature of its decision-making process caused a wave of harsh criticism from the public. Elaboration of new Constitution will be possible only beyond the parliament, with active participation of different re-

Elaboration of constitutional reform should be inclusive and public

gions and representatives of civil society.

In order to be efficient, the coalition agreement should not necessarily have hundreds of pages. It should indicate priorities for reforms and specific theses on their vision. The latter will become a basis for public policy documents in respective spheres. Both parliament and government will have to work within these policies. Such an approach will ensure systemic nature of reform-making and contribute to informational support of the government initiatives.

The coalition agreement is to be a set of key theses for future public policies, but not of political declarations

Economic Situation

The main economic chapters of the coalition agreement are regulatory policy, entrepreneurship development, competitive market, financial sector reform, the rapid acceleration of economic growth. According to the authors of the coalition agreement, these spheres will ensure a favourable business environment, foreign investments, higher quality of

financial services, new jobs, competitive products on the market, increased export etc.

The current competition between democratic parties and distribution of ministerial powers has a negative impact on Ukrainian energy security. Instead of proposed energy reforms, Ukrainian state authorities only tightened control over energy producers.

Economic part is one of the main parts of the coalition agreement



Economic part of the coalition agreement provides for some institutional and legal changes. However, these changes are characterized by the lack of systemic approach and selectivity of the spheres that need to be regulated. Thus, they are unlikely to bring about expected economic progress.

As regards the part of the coalition agreement which mentions rapid economic growth, its biggest merit is the political will to develop high technology industry, which will foster production of goods with high value added. Given current GDP

fall, this is definitely silver bullet for the problem. In order to carry out such ambitious tasks, effective innovative infrastructure should be created and effective copyright protection system should be introduced, which are the highlights of the coalition agreement. Effective implementation of the main provisions of this chapter is possible only through implementation of anti-corruption, administra-

High technology holds the key to faster economic growth

tive, law enforcement, judicial, deregulation, tax reforms, which should ensure attractive conditions for the development of innovative business in Ukraine, especially property rights protection.

By tasking themselves with creating a favourable investment climate, the authors of the coalition agreement do not mention any concrete action plan for the future parliament. The existing system of state governance is not effective anymore. For this purpose, the great challenge for Ukraine is to create an absolutely new system

The authors of the coalition agreement do not explain how the parliament will ensure a favourable investment climate

of market regulation. It is necessary to introduce institutional and legal amendments which would not only ensure “proper implementation of 2003 Law “On the main foundations of regulatory policy” by all central executive bodies, as stipulated in clause 1 in the relevant chapter of the coalition agreement, but which will completely change the existing administrative command system.

Tax reform is a high priority for Ukraine. The merit of the coalition agreement is the reduction of a total number of taxes to only nine. However, it is not clear which taxes should be changed and which should be cancelled. Corruption element in tax administration should be removed altogether. It is unclear what criteria have been used to single out land use charge and environmental taxation in the coalition agreement.

It is planned to reduce the number of taxes. However, it is not clear what taxes will be cancelled

The reduction of State Fiscal Service staff should be made alongside the increase of its effectiveness and revision of functions. In particular, it is important to introduce personal financial responsibility of tax and customs authorities’ staff for losses incurred by entrepreneurs as a result of illegal actions or inaction of civil servants. However, there might be the problem with the mechanism for the implementation of this rule as tax administrators are civil servants.

At the present moment, there is a public database of individual tax consultations. So, we can now only talk about the modernization of the existing database. This also applies to legal prohibition

to prosecute economic agents under the Criminal Code for tax evasion until all tax obligations have been cleared. The presumption of innocence principle is entrenched in Ukrainian legal system.

An attempt to reform VAT is a positive step, in particular as regards the abolition of the Law of Ukraine No.1621-VII on the introduction of the system of electronic VAT administration, which had been heavily criticized by entrepreneurs and accountants. The biggest problem is the absence of the mechanism of the influence of different enterprises on state authorities in case of non-compliance with tax legislation. The principles of reforming of tax bills administration are also unclear, which does not allow for proper assessment of this initiative.

To ensure that the individual income tax is paid in the place of business activities, but not residence registration is a positive step, as this rule will create additional stimuli for financial development of communities and rise in employment. However, the rule on the decrease of fiscal burden on payroll is rather controversial in view of the deficit in the Pension Fund of Ukraine, totalling UAH 18 bln. in 2014.

Individual income tax will be paid in the place of business activities which will ensure financial development of communities

One of the biggest drawbacks of the coalition agreement is the absence of systemic approach to the modification of tax administration. The focus is laid upon VAT and income tax. The coalition agreement does not mention changes in taxation, which was stipulated in the Association Agreement with the EU.

Financial sector reforms make the important part of the coalition agreement. The effectiveness of foreign investments, transformation of savings into investments will allow for the development of the real sector of economy, which has an impact on Ukrainian GDP. The coalition agreement provides for changes in insurance, stock, credit, and currency markets as well as corporate management, which provides for the harmonization of Ukrainian legislation with European laws, single international standards of electronic documents circulation and development of infrastructure, financial market, which is undoubtedly essential to further economic progress.

Energy sector reforms vs political competition

After the team of Ukrainian President and Prime Minister won early parliamentary elections, it seemed that it would not take long to create a strong coalition and start the implementation of much-needed reforms. However, instead of unity, we can see an internal competition between democratic parties, which threatens the execution of the main task of a new Parliament and government, i.e. the renewal of Ukrainian state through reforms. The Prime Minister is trying hard to get total control over economic and energy sector. By announcing a new composition of the government, Arseniy Yatseniuk suggested that the Minister of energy and coal industry Yuriy Prodan be replaced with the incumbent head of PJSC “Naftogaz of Ukraine” Andriy Koboliev. Thus under current coal deficit, when the state warns about possible disconnection of industrial companies from energy supply, the control over national resources may make the Prime Minister a key figure with an influence on MPs with business background, irrespective of the party they represent.

Energy sector reforms are a pressing issue both for the President and Prime Minister. The draft coalition agreement of “Bloc of Petro Poroshenko” contains the provision on structural guidelines for further reforming of energy sector: «We will ensure necessary conditions to attract investment into energy sector to ensure structural modernization, reconstruction of infrastructure and increase in domestic gas, oil and coal extraction in order to reform competitive and effective infrastructure, lessen dependence on energy imports and ensure stable energy supplies to consumers».

Arseniy Yatseniuk’s variant of the coalition agreement stresses that a high priority task for a new government should become “strengthening of Ukrainian energy independence, diversification of energy supplies, enhanced energy effectiveness of production and implementation of energy-efficient technologies”.

However, government actions do not correspond to such statements. On November 7, 2014

the Resolution of the Cabinet of Ministers No. 596 was adopted, which obliged industrial enterprises and thermal power stations listed in the regulation (a total of 90 economic agents) purchase natural gas only from PJSC “Naftogaz of Ukraine” from December 1, 2014 until February 28, 2015”. It is quite possible that the reason for the adoption of this resolution is an attempt to tighten control over production and financial capacities of economic agents.

However, government intention to monopolize gas market, even given the current emergency situation, contradicts the European vector of Ukrainian foreign policy and implementation of the Third Energy Package.

The decision on the monopolization of gas market scandalized the European energy community. The Head of the Secretariat Janez Kopac stated that “Liberalization and creation of an open gas market is one of the main principles of the Energy community... Ukraine should understand that it cannot secure energy supplies by abolishing already implemented reforms”.

By doing so, Ukrainian government departs from the main principles of the Energy community, though they are legally binding for Ukraine.

The issue of energy security in Ukraine is extremely urgent. On November 14, 2014 the President issued a decree “On condition of energy security of state and urgent measures to secure heating season 2014/15’, according to which private gas-extracting companies, including those operating under joint venture agreement, are obliged to sell gas to the state for the needs of households in heating season of 2014/15 starting from December 1, 2014. According to “Ukrigasvydobuvannia”,

Government actions do not correspond to government declarations

The possibility of gas market monopolization is against Ukrainian obligations under the Third Energy Package

Energy sector reform is of great importance both for the President and Prime Minister

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“Naftogaz” purchases gas of national extraction for approx. USD 50/tcm. If the government plans to commit private gas distributors to sell it at this price, this will inevitably lead to bankruptcy of private gas-extracting companies. In fact, according to the estimates of Wood Mackenzie company (2013), the prime costs of gas-extracting in unconventional fields of Dnipro-Donetsk cavity is at least USD 265/tcm, but according to private companies — prime cost is around USD 200/tcm (excluding taxes). Consequently, private companies are forced to sell gas to the state at their own loss.

It is an appropriate step to strengthen the control on optimizing the price of imported coal of anthracitic group, to introduce coal export licensing, to annul a treaty of concession (rent) of enterprises in coal mining and to monitor the budget subsidies to coal mines as regards partial coverage of prime cost of finished marketable coal.

However, there are negative aspects in issue of the

decree. First, it is planned to reduce the use of natural gas and fuel oil by domestic Central Heating and Power Plant and TPS by exporting electricity from the Russian Federation. Ukrainian energy balance, which is already dependent on Russian energy resources by 65% (coal, gas, oil, fuel for nuclear power plants), will reach the fifth level of dependence in electricity. Thus, the main problem of the Ukrainian fuel and energy complex is not the level of self-sufficiency in energy resources, but almost monopolistic dependence on energy supplies from Russia.

Reforming and development of the domestic energy sector are declared by the President and Prime Minister, but declarations do not transform into actions. Instead, practical steps of Ukrainian government actually return Ukraine to the Soviet model of governance — total state control and manual management.

Government
steps return
Soviet model of
energy sector
management

Political competition

Prime Minister and President of Ukraine compete for the initiative to form a coalition and it leads to a growing conflict. Arseniy Yatsenyuk has presented his vision of the future government composition without consent from the other members of coalition talks, while Petro Poroshenko has published a draft coalition agreement in terms of reform implementation. “People’s Front” also puts pressure on the President by exploiting the results of sociological polls, which reveal that most people see Arseniy Yatsenyuk as a Prime Minister and Oleksandr Turchynov as a parliamentary speaker.

The distribution of posts can be launched only when political aspects of future coalition are agreed on. All controversial issues of the government vital steps should be settled after discussions in groups which will comprise a representative with relevant authorities from each political force. Future coalition stability will also require effective cooperation between the government and parliament. The intentions of some political parties to be represented in the coalition, but distance themselves from the government’s actions will result in failure of such majority.

Zero-sum game in rivalry between Prime Minister and President



Last week Arseniy Yatsenyuk hastened to announce his vision of the future government composition and urged all the members of coalition talks to do the same. He explained this step by willingness to make the distribution of posts public and entirely transparent. In fact, the Prime

Arseniy Yatsenyuk announced his vision of the Cabinet without consent from other members of negotiations

Minister once again wanted to seize the initiative in coalition-making and impose his own rules in the game.

Beside the members of his party, “People’s Front” leader put representatives of “Bloc of Petro Poroshenko”, “Samopomich”, the Radical Party and “Batkivshchyna” on the list, allocating mostly minor ministries to them. The Ministries of Internal Affairs and Justice intend to keep their incumbent leaders and, at the same time, loyal associates of Ar-

seniy Yatsenyuk: Arsen Avakov and Pavlo Petrenko, respectively. “People’s Front” will struggle manfully to retain control over the two agencies, which together with the Ministry of Finance constitute the so-called “functional minimum” for the efficient work of the Prime Minister.

A number of candidates for ministerial posts from other political parties immediately announced that nobody consulted with them on their appointments, which indicates that the list was compiled hastily. Moreover, there were no such consultations with future coalition members.

Having announced his vision for the office, Arseniy Yatseniuk made a fool not only of himself, but of other coalition partners as well. Besides, he significantly limited his room for political bargaining, as his urge to get three ministries is now regarded as a basic plan.

On the same day, November 14, 2014, a draft coalition agreement was published on “Bloc of Petro

Poroshenko” site. Instead of general principles and regulations of the coalition activities, it contained only future reform programs. Notably, it is the general principles and regulations of the future coalition which are the major subjects of discussion between the parties, while the reform program, published on the website, was left to be debated by experts and civil activists. Low quality of the document also signals its botch preparation and interprets it as a compilation of proceedings made by several expert groups. The fact that the document was published so quickly and on the site of pro-presidential party reflects Petro Poroshenko’s reaction to Arseniy Yatsenyuk’s actions and his desire not to lag behind. However, such inconsiderate actions of both politicians jeopardize the tasks and challenges they face, turning consolidation of the political elite into a trivial tug-of-war.

Coalition agreement low quality signals its botch preparation

Swedish experience in drafting coalition agreements

The key to the smooth day-to-day operation of the coalition is a detailed plan for its activities. The distribution of posts may take place only after future government policies are agreed on. Besides, both government and all coalition members should take responsibility for implementation of these policies.

The involvement of experts to develop the program of coalition activities is essential but in the end it is signed by politicians, not experts. That is why it is crucial that representatives of political parties are directly involved in drafting reform programs which they are committed to fulfil.

Politicians should be directly involved in drafting reform programs

In this regard, Sweden experience in 1991, when the coalition was created by four parties, is invaluable. Three working groups were set up and comprised one representative from each of the four parties.

The first group dealt with macroeconomic issues in order to devise a common macroeconomic strategy for the government.

The second group addressed taxation and

made an attempt to summarize the parties’ stance on this issue.

The third group scrutinized all key political areas and reviewed the bills submitted to the parliament but shelved. It was considered which of them to withdraw and which to push through. The executive team also put forward a list of policy issues about which four parties had divergent opinions.

As a matter of fact, there were 147 contradictory issues in all areas of government policies. The executive group established subgroups consisting of one representative from each party to solve controversial issues. The subgroups successfully conducted the negotiations in their own field and passed down their proceedings to the executive group, which welcomed their conclusions with minor corrections.

A week after round-the-clock negotiations, the executive group was able to report to the party leaders. The resolution on 140 provisions with signed protocols and amendments were adopted. The executive group failed to reach a total agreement on less than ten issues regarding public policy. The party leaders resolved these issues personally.

Coalition members' joint responsibility for the government activities

The active cooperation between parliamentarians and government officials is an important condition for sustainable and efficient government and coalition operation. Ministers are supposed to hold regular meetings with coalition members and the heads of coalition factions are expected to participate directly in the meetings of the Cabinet. The structures responsible for the coordination of such cooperation function in most Western governments.

The active cooperation between government and majority is essential for sustainable coalition operation

Otherwise, Ukrainian political elite will continue to make mistakes by distancing from the Cabinet. After Yanukovich's run away, "Udar" employed such a strategy. They joined the coalition, but did not delegate their representatives to the executive branch, trying to avoid reputational risks. All government portfolios were divided between "Batkivshchyna" and "Svoboda" on quota basis. Soon it became harder and harder for the government to mobilize MPs to support government initiatives. As a result, an internal opposition to the PM appeared within "Batkivshchyna", though it was this party that delegated Arseniy Yatseniuk to the executive

branch. It was one of the factors that led to collapse of coalition in July 2014 and emotional declaration on PM resignation.

"Samopomich" and "Batkivshchyna" are likely to pursue this strategy. They will join a coalition and exploit the topic of reform implementation, but will not become a part of the government. Such an attempt to distance from plausible failures of the government will undermine the coalition stability.

In this case, it would be better for the country if these parties participated in drafting the reform bills or introducing changes to the government initiatives without being a formal member of parliamentary majority. The appointment of technocrats, who are suitable for the heading relevant ministries, is another option for these political forces. However, in this case "Samopomich" and "Batkivshchyna" are also responsible for the actions of these ministers, although they may not be members of these political parties.

Joining a coalition, "Samopomich" and "Batkivshchyna" may still distance from government operation

Both approaches are idealistic under current conditions in Ukraine, when Prime Minister forms his Cabinet independently after consulting with coalition members.

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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