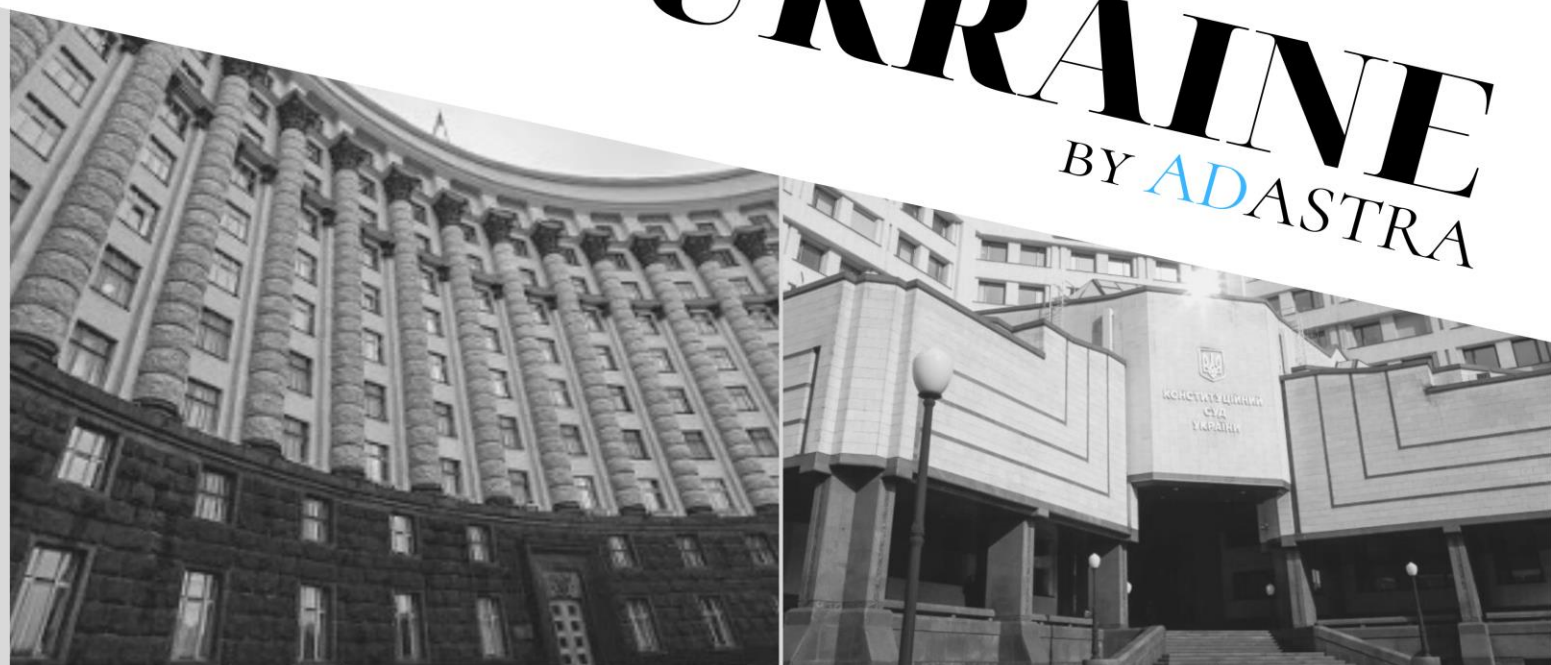


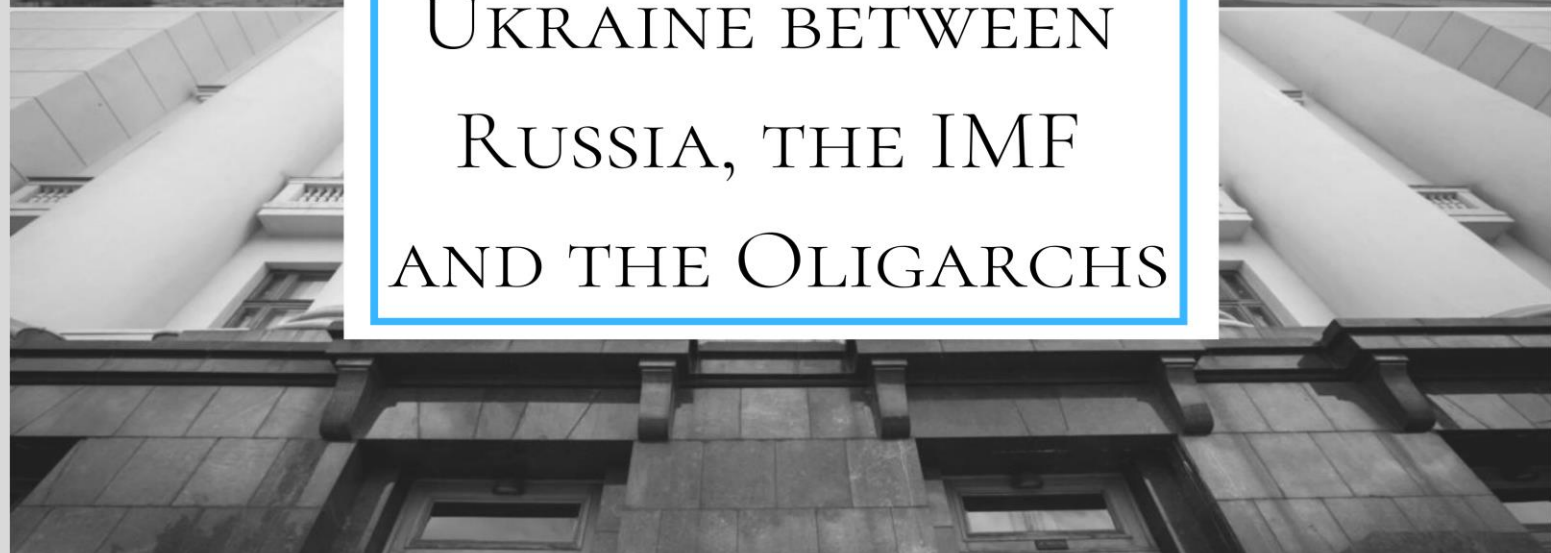


HACK UKRAINE

BY **AD**ASTRA



UKRAINE BETWEEN
RUSSIA, THE IMF
AND THE OLIGARCHS



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Ukraine between Russia, the IMF and the Oligarchs

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Advisory Board at Minsk Contact Group – Smoke and Mirrors

The Russia-Ukraine conflict over Donbas and the annexation (or the occupation according to the new rhetoric of Ukraine's Ministry of Foreign Affairs) of the Crimea are surely to become not only a severe threat for the national security of Ukraine but one of the most significant challenges for the regional security in general. In 2014, the Russian Federation proposed a new coordinate system of international relations, which turned out to be imbued with the spirit of realism, security dilemma, egoism referring to the issues of national interests' realization and merciless fixed game rules neglecting. Thus, it is fair to say that the Russian Federation constructed its own reality. It is converting the relations certain post-Soviet states into a zero-sum game when one side's gain presupposes an automatic loss of the other.

Prequel: Why Does Russia Need Ukraine?

Currently, Ukraine is playing its part in this reality and in order to become integrated into the world of mutually beneficial cooperation and European values it has to pass the exam on economic success, democracy, availability of the rule of law and respect for ethnic and cultural features first. While those in the highest echelons of power chose the way of disguising the absence of a long-term strategy of conflict resolution by imitating full-on democracy building and conceited "fighting against the aggressor", the competitiveness of Ukraine within security issues has shrunk to the minimum.

Given the circumstances, preserving political influence over Ukraine, one of its key satellites within the post-Soviet space, by creating yet another 'frozen' conflict serves as leverage for Russia over its neighbours.

Bearing in mind that states cannot have a free hand to act on the international arena, but instead, they must stick to the particular rules of the world order, it is safe to assume that the Kremlin's decision to annex the Crimea and occupy Donetsk and Luhansk regions had a strong rationale behind it and was viewed as a "lesser evil" for Russia. Thus, it means that the processes occurring in Ukraine at that time were perceived as a significant threat, challenge or danger which could undermine the Russian influence over it.

The Advisory Board at Minsk Contact Group — a Chance for Peace?

In the light of the speculations mentioned above, the establishment of the Advisory Board at Minsk Contact Group requires profound expertise, given the comprehensive

analysis of the political situation in Ukraine. Minsk talks group put up with the creation of an Advisory Board. It may consist of representatives of Ukraine and self-proclaimed Donbas "republics" (ten from each, with the right for decisive vote), Germany, France and the OSCE (one from each, with the right for conciliatory vote).

For the time being Ukraine is trapped in the utterly peculiar political situation. The leading party, "Servant of the People", finds it extremely important to demonstrate fast results to avoid negative shifts in public opinion. Consequently, the current administration tends to gravitate towards simple solutions to complex problems.

Furthermore, the gap between politicians and scientists (experts, specialists in the particular sphere) has always been exceedingly wide and deep. For policymakers, perhaps understandably, it simply takes longer to fully grasp the consequences induced by the decision to create the Advisory Board.

Nevertheless, the surge of disappointment and diffidence of the particular part of Ukrainian society is sure to be turned into a benefit for political units. White-and-black thinking is the cornerstone of Ukrainian politics. To illustrate, the parties with the same vision are eager to act in opposition to the current authority to earn more political points than the incumbent power. The same applies in the case of the Advisory Board at Minsk Group. Why? Below are the main points put forward by the primary opponents of this decision.

1. De facto recognition of the DPR (the Donetsk People's Republic) and the LPR (the Luhansk People's Republic)

According to the Vienna Convention on Consular Relations (1963), the negotiations are not the sufficient cause for de jure recognition. Indeed, the Advisory Board within Minsk Contact Group can be regarded as a concession to the Russian interests; however, this statement is true only to the extent of yet another scenario dynamically discussed in Moscow. Again, the fact of conducting negotiations cannot be considered a reasonable ground for labelling this act as treason or a betrayal of the Ukrainian national interests, because the essence of discussions does matter.

2. Sanctions

The international community has promoted strict conditions on which the process of sanctions lifting may be fostered. These conditions envisage the withdrawal of the military contingent. How can this aspect relating to creating the Advisory Board accelerate the withdrawal of Russian troops from Ukraine? The question is rhetorical. The international community cannot estimate the fact of conducting the negotiating process in another form (with the Advisory Board) as a satisfying justification to remit sanctions.

3. Treason

The wording used in relation to the representatives of DNR and LNR is practically the same as the one in the document signed in Minsk. We could talk about the "recognition of LPR and DPR" implying "treason" in 2015 when the previous authorities designated the commitments relating to the conduction of the municipal elections. Besides, it is worth mentioning that this Board should include not only representatives of the occupied regions but the representatives of the official Ukrainian authority. It means that the field for lobbying dilates.

Conclusions

To sum up, the idea of creating the Advisory Board at Minsk Contact Group should be regarded as the imitation game. It is not the solution and not even a step to the transformation of the conjuncture of the conflict mentioned earlier. Indeed, it is the testing of new tools and an attempt to find the field for manoeuvres. Furthermore, it has revealed the main drawback of the Ukrainian political environment – white-and-black thinking. It is high time to review our aspirations to be the first in criticizing without proposing the alternatives that can be more effective and relevant in the present situation. The Ukrainian political apex should take into account that putting the questions as "Do we need to change the status-quo so abruptly? Or should we maximize the benefits we can take from it? Do we genuinely want to move forward with resolving the conflict, or drumming up hype and feeding on it is of more use for the political survival?" is the normal practice. Considering that the answers lie in the plane of self-affirmation for particular individuals, especially politicians, there is an acute necessity to transfer the responsibility for the country's destiny in more trustworthy hands.

Writing and analysis by *Anastasiia Vozovych*

Land Reform: a Blessing or a Curse?

The land reform is one of the most urgent and controversial for Ukrainians. 42 out of 60 million hectares throughout Ukraine are agricultural land. It is about 70% of the territory of Ukraine. 40 of the 42 million hectares are under a moratorium – when land can neither be bought, sold, pledged, nor invested in the authorized capital of the enterprise. This constitutes 66% of Ukraine`s territory.¹

On 31 March 2020, the Verkhovna Rada approved a bill opening the land market. To understand the prospects of lifting the moratorium, it is necessary to know what`s what with the provisions² land reform involves.

Substantive Provisions

1. From 1 July 2021, the moratorium on the sale of agricultural land shall be abolished.
2. From July 2021 to 1 January 2024, there will be restrictions on the land purchase – no more than 100 hectares in one hand. From 2024, the limit will be up to 10 thousand hectares in one hand.
3. 1 July 2021, to 1 January 2024, the right to buy land will be granted only to individuals. Legal entities are prohibited from buying agricultural land.
4. Concerning the granting of the right to foreigners to buy land – the issue will be decided upon by referendum.
5. Foreigners are forbidden to buy land in the area closer than 50 km (31 miles) to the state border of Ukraine, despite the results of the referendum.
6. Companies owned by Russian citizens will not be able to buy Ukrainian land after 2024.
7. Tenants who work on land and have the right to use it can buy land in instalments up to 10 years at the price of the regulatory monetary valuation of such land plots and without the need to hold land auctions.

¹ Data from The State Service of Ukraine for Geodesy, Cartography & Cadaster <https://land.gov.ua/>

² http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67059

8. Banks will be able to become landowners, provided that the land was given to them as collateral on loan. Financial institutions are obliged to sell such plots within two years upon obtaining ownership in land auctions.
9. The minimum price of land won't be less than a regulatory monetary valuation. By 2030.
10. The sale of state and municipal land is prohibited.

Positive Effects

Merely lifting the moratorium does not entail great economic benefits. Among the positive effects, there are two main ones. First, the law on the land market opening is an essential condition for Ukraine to get the IMF tranche³. If it does not receive the tranche, a default will be virtually inevitable, considering the possibility of significant economic crises.

The prime cause of this law is the moral realization that with the moratorium finally over, politicians will stop appealing to this topic and start working, at last, more productively.

Negative Effects

Although the law has been passed, the moratorium has been postponed until 1 July 2021. And even after the start of its functioning, the operation of the market will be rather limited. Besides, it will not have much effect on the agro-industrial sector. In fact, if Ukraine does follow the affirmed path — the effect will be next to none.

Owners of land plots (about 7 million people) who decide to sell them will not be offered a fair price for them, given that there will be no competition. The land will not be worth its fair value (due to the imposed restrictions and reduced demand), and thus, rural budgets will receive less tax revenue.

Farmers who are going to buy land will benefit from a lower price, though. But the losses from not introducing a full-fledged market will remain much more significant.

Non-admission of legal entities to the land market means that Ukraine will not launch the market for loans secured by agricultural land. Therefore, there will be no increase in vital investments in the agricultural sector and, accordingly, the agricultural sector will not shift towards a higher development trajectory.

Besides, there is a risk of a surge in the shadow market and corruption, since the new schemes for land purchasing by legal entities carried out through individuals will be

³ <https://www.epravda.com.ua/news/2020/03/11/657933/>

introduced inevitably, and this whole business will be flourishing. Transaction costs in the land market will be increased, too, and this is always bad for the economy.

How to Ensure a Positive Outcome from Opening a Land Market?

Within a month or two, the Verkhovna Rada is expected to adopt a list of other bills of the land package. With their help, among other matters, the exchange of information between the register of rights and the land cadastre is to be automated, electronic auctions introduced, the procedure of land transfer simplified, the boundaries of territorial communities regulated, and the Credit Guarantee Fund created.

For the agrarian sector to start working better, to be more productive, to have more effect on the economy, and for legal entities to have access to the land market, it must operate in full capacity.

Only after the land market is launched, will it be possible to see how well the regulatory authorities are able to function, and whether lifting the land moratorium can bring substantial positive outcomes for the Ukrainian economy.

Writing and analysis by ***Maria Horodenko***

Ukrainian Banking Law: What Is All the Fuss About?

During the last few months, the so-called "anti-Kolomoisky" banking draft law has caused a real stir in Ukraine and its legal environment. And the main questions about its adoption and implementation into life and legislation still need to be figured out, as it is now one of the main issues for clearing the way for a new IMF \$5.5bn three-year programme for Ukraine. The said, the agenda of the Ukrainian government now can't exist without the update on the progress concerning the banking law.

What is the Ukrainian banking law about?

The draft law 2571-d, known as the “Anti-Kolomoisky Law”, establishes that courts cannot make decisions that will stop the process of removing an insolvent bank from the market or liquidation that it has begun. In other words, draft banking law 2571 guarantees the non-return of banks to their former owners if they have been nationalised. Additionally, it lays out the mechanism of compensation for them if a court decision declares the NBU's (National Bank of Ukraine) nationalisation decision was unlawful. It provides that the owners and ex-owners of the bank, whose interests were violated due to the withdrawal of the bank from the market, can receive compensation only in cash. The law states that the recognition of the decision to withdraw the bank from the market as illegal cannot be the basis for its cancellation.⁴

What were the main prerequisites for its adoption?

First of all, this law refers to PrivatBank, one of the biggest banking enterprises in Ukraine, one of the co-owners of which before the nationalisation was oligarch Igor Kolomoisky. The IMF was insisting on the law after the government showed signs of returning PrivatBank to oligarch Ihor Kolomoisky. The bank was nationalised at the

⁴ The Ministry of Finance of Ukraine, the report from 30 April 2020. – "The processes of the banking law in the Supreme Council".

end of 2016 after it was discovered that Kolomoisky and his partners had looted the bank, withdrawing 99% of its deposits using fake loans and other scams.

The state had to inject some \$5.5bn into the bank to rescue it. Kolomoisky has refused to return any of the money despite being threatened with legal action by the former National Bank of Ukraine (NBU) governor Valeriya Gontareva who was in charge of the NBU at that time. By the way, Gontareva has been the target of a string of attacks and harassment under a lot of suspicious circumstances ever since.⁵

Kolomoisky has brought hundreds of legal cases against the NBU and PrivatBank, which is owned by the state now, to have the bank returned to him, or at least to force the state to pay him \$2bn in compensation. The IMF has insisted that no money whatsoever should be paid to Kolomoisky and has called on the authorities to pursue Kolomoisky and force him to return some of the money stolen from the bank — rather vain efforts.

The new law was meant to clear the way for the long-awaited IMF deal that also opens up access to several other lines of finance – both institutional and private.

What is the importance of adopting the law for Ukraine?

The adoption of this law is one of the preconditions for the continuing of the cooperation between Ukraine and the IMF as well as receiving new IMF tranches. Frankly speaking, the “Anti-Kolomoisky Law” is the main prior action, laid down as a condition by the IMF to Ukraine, that has to be complied with to receive a loan from the IMF. If the draft law is adopted, Ukraine can count on the first tranche from the International Monetary Fund at the end of May. Moreover, the IMF \$5.5bn three-year programme for Ukraine, made possible according to the optative compliance with the conditions for the cooperation, can be even more beneficial. That is because, reportedly, these talks with the IMF are to increase the money available to the

⁵ <https://www.intellinews.com/kyiv-blog-zelenskiy-s-honeymoon-with-foreign-investors-is-over-as-nbu-ex-governor-gontareva-s-dacha-burns-168035/?source=blogs>.

government to \$9.5bn by adding extra \$4bn from a recently created Rapid Coronavirus Financing (RFI) facility to help low-income countries. However, money from the fund can only be allocated to Ukraine if it first puts the EFF (Extended Fund Facility) into place. Talking about the impact of the coronavirus on the adoption of this law, the IMF deal has become imperative for Ukraine as it faces a sharp “stop shock” due to the coronavirus.⁶

What are the current updates?

Just on the 30 April 2020, Verkhovna Rada of Ukraine aka Supreme Council of Ukraine, which is the only legislative body in Ukraine, a unicameral parliament, empowered to determine the principles of domestic and foreign policy, introduce amendments to the Constitution of Ukraine, adopt laws and so on and so forth, has launched a special simplifying procedure to consider the draft law No. 2571-d "On the prohibition of the return of insolvent banks to former owners" (also known as "the draft law “On banks”). Two hundred fifty-five deputies voted in favour of the corresponding decision, with a minimum benchmark of necessary 226 deputies (while the general number of deputies in the Rada is 450 and the number of deputies necessary for the Rada to be authorised to make decisions – 300). This procedure was first used and became available after the adoption of amendments to Parliament's regulations on 16 April.

Due to the changes, the draft law “On the non-return of banks to their former owners” will be considered under an accelerated procedure, due to which each deputy faction or group within two days must determine no more than five amendments on which it insists. Non-factional deputies may submit only one comment to the document. And the profile committee summarises the proposals, amendments and prepares an updated comparative table for consideration of the draft law in the second reading. In general, deputies plan to take up the vote on 8 May.

⁶ <https://pro.intellinews.com/ukraine-needs-to-do-an-imf-deal-right-now-178529/?source=bne-credit>

Why was this question raised?

The question of the simplified procedure was raised after The Verkhovna Rada Finance Committee has completed consideration of all 16 thousand amendments to the draft law “On banks” No. 2571-d and recommended it for a second reading.

The final version of draft law No. 2571-d at the end of March was agreed with the IMF. On 30 March, the Rada adopted the draft law at first reading. After that, the deputies filed 16 335 amendments to it. According to some deputies, over 13 thousand amendments were made by deputies of the "Sluga Narodu (Servants of the people)" party in order to delay the consideration of the draft law in favour of the former owners of the insolvent banks. President of Ukraine Zelensky in this connection, approved the simplification of the procedure of considering a large number of amendments to the draft law. In particular, Zelensky signed the Law "On Amendments to the Regulation of the Verkhovna Rada on Combating the Abuse of the Rights of Deputies during the Legislative Procedure" adopted by the Parliament at the extraordinary meeting on 16 April. (read more about that)⁷ After that the launch of the special simplifying procedure to consider the draft law No. 2571-d "On the prohibition of the return of insolvent banks to former owners" (also known as "the draft law "On banks") was made possible and, accordingly, was done on the 30 April 2020.

So, now what? Conclusions for Now

As David Arahamia, the chairman of the “Sluga Narodu (Servants of the people)” faction, previously reported, the IMF will provide Ukraine with the first tranche of the loan within three weeks after Verkhovna Rada supports the “Anti-Kolomoisky Draft Law” in the second reading. The updated forecast of the NBU involves the reception of the first tranche of financing of about \$2 billion. At the same time, the lack of inner agreement on the programme in the main governmental institutions remains the main risk for the implementation of this forecast and, relatively, for the further beneficial cooperation with the IMF. Hopefully, this risk may be overcome due to the up-to-date

⁷ <https://ukranews.com/news/698557-pravki-k-zakonoproektam-deputaty-smogut-rassmatrivat-bystree>

modifications provided by the already existing and forthcoming legal procedures in the Ukrainian legislation.

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Edited by ***Anna Harmash***



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