

Ukraine: DCFTA negotiations completed; prospects for signing the Association Agreement

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On 20 October, the Deputy Prime Minister of Ukraine Andriy Kluyev and the EU Trade Commissioner Karel de Gucht announced that the parties have concluded their negotiations on a Deep and Comprehensive Free Trade Area (DCFTA). The Commissioner said that this would permit the technical completion before the end of the year of negotiations on the Association Agreement, which includes the DCFTA. The conclusion of the DCFTA negotiations were in doubt until the last minute because of the sentencing of former Prime Minister Yulia Tymoshenko to seven years' imprisonment. On 26 October, the 20th round of negotiations on the political points of the association agreement was held in Kyiv; one point of contention therein is Kyiv's request for a note on Ukraine's prospects for EU membership.

Commentary

- The completion of negotiations is a success for the EU and Ukraine, and means that the crisis in bilateral relations which has been growing in recent weeks has not been worsened. Agreeing the points of the DCFTA had been proceeding since 2008, and had been the most difficult part of the Association Agreement negotiations.
- It is still possible that the Association Agreement will be initialled at the EU-Ukraine summit in December, but it is becoming increasingly less likely. The question of Ukraine's prospects for EU membership remains a contentious issue; without such prospects, according to President Viktor Yanukovich, the agreement would be "empty", even though the EU currently rules this out. It is possible that such statements are a negotiating tactic, designed to win favourable concessions for Ukraine in other areas. Ukraine is counting on establishing conditions for visa-free travel, and on signing the agreement for a 10-year period, while the EU wants an open-ended agreement. However we cannot exclude the possibility that Kyiv will use the prospect of membership as a pretext to block negotiations. This would rule out any chance of initialling the document before the end of this year.
- Even if the Association Agreement is initialled in December, its signature and ratification will depend on how the Tymoshenko case develops as it is considered by the court of appeal in Kyiv. Everything seems to indicate that if the former prime minister stays in

prison, the EU will postpone signing and ratifying the agreement for an undetermined period. Kyiv's tough rhetoric on Tymoshenko, together with the initiation on 24 October the fifth investigation into the former prime minister, testify to the fact that the Ukrainian authorities do not intend to make concessions in internal politics at the cost of signing the Association Agreement.

- In the event of a prolonged impasse in the negotiations, Kyiv will most likely seek to exclude the DCFTA from the Association Agreement and sign the trade agreement alone. However, the EU is less likely to agree to such a variant now, as Brussels has repeatedly ruled out this possibility in the past.
- Ukraine has decided to complete the negotiations on the DCFTA, as their failure would significantly reduce its room for manoeuvre in foreign policy and weaken its negotiating position towards Russia. The consequence would be an increase in Russian pressure, especially in terms of Ukraine's accession to the customs union of Russia, Belarus and Kazakhstan. At the same time, Ukraine signing an agreement on a free trade area within the CIS would not block the conclusion of an Association Agreement with the EU.