

Ukrainian parliament adopts part of European laws

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In September, Ukraine's parliament passed part of the 'European laws' necessary to sign the Association Agreement with the EU at the Eastern Partnership summit in Vilnius (28–29 November). Pursuant to the decision taken by the Council of the EU in December 2012, the document will be signed on the condition that Kyiv has made changes primarily in the area of political, judiciary and election system reforms. From the acts passed so far, the only one which will have a major impact on Ukraine's political system is the one expanding the competences of the Accounting Chamber (the parliamentary body for auditing budget implementation). All the others are of secondary importance. Given the great efficiency with which the parliament passed the first European laws, it may be expected that further legal acts will be accepted by the beginning of November, including the key ones: on the public prosecution authorities, on the police and on amending electoral legislation. However, the Ukrainian government has not yet done anything with Yulia Tymoshenko's case.

The unprecedented tempo with which the regulations expected by the EU have been passed indicates that the Ukrainian government is determined to sign the Association Agreement during the Vilnius summit. At the same time, Kyiv hopes that a positive opinion from Brussels (including from Commissioner Stefan Füle) on the legislative changes made so far will allow it to achieve this at a relatively low political price, i.e. without Tymoshenko's case being resolved (it appears very unlikely that she will be released) and without the adoption of some legal acts which are essential for the present ruling elite in the context of political rivalry in Ukraine.

The European laws

Since the beginning of the autumn session (3 September), the Ukrainian parliament has been proceeding very effectively, and projects termed 'European' have been passed by overwhelming majorities. The legal acts adopted so far have been backed by all parliamentary clubs, including the Communists, who are staunch opponents of European integration. This is an effect of two causes. On the one hand, the leadership of the Party of Regions and the president himself have applied firm pressure on the Communists and independent MPs. On the other hand, there has been a change in the standpoint taken by opposition parties, which had been blocking parliamentary meetings in spring, demanding

the government fulfil some conditions (including scheduling elections in Kyiv). This change results from pressure from Brussels on the opposition, who have been convinced not to combine other political issues with support for pro-European governmental projects. The acts still need to be signed by President Viktor Yanukovich, but this is just a mere formality. The most important of the acts passed cover the following areas:

- **Electoral law**

The Ukrainian parliament scheduled elections in the five constituencies with a majority voting system where the Central Electoral Committee refrained from determining the result during the parliamentary elections in October 2012, thus breaking the law. The elections will be held on 15 December this year. The Party of Regions and the opposition agreed that it was necessary to schedule the elections there. However, the parliament has failed to meet the second 'electoral' requirement set by the EU: it has not scheduled elections for the mayor of Kyiv (vacant since July 2012) and to Kyiv city hall (the term in office passed in June 2013). There is a tacit agreement on this issue between the Party of Regions and the opposition (although the latter has been publicly demanding that these elections be held), since the elections would complicate both parties' preparations for the presidential election in early 2015.

In mid-October the Venice Commission is expected to express an opinion on the draft amendments to the electoral law. It cannot then be ruled out that this act will be passed before the Vilnius summit but after 21 October, i.e. after the meeting of the EU's ministers of foreign affairs. In turn, the draft electoral code, which had been approved by the Venice Commission, has not been put on the parliament's agenda and is unlikely to be, since the Party of Regions has been openly opposing the passing of this act since it would override voting regulations. If the code was passed, it would be more difficult to amend voting regulations before an upcoming election and this has been the usual practice in Ukraine to date. Furthermore, nothing seems to indicate that the Ukrainian parliament has amended the referendum act as the EU had expected (it was adopted upon the initiative from the Party of Regions in November 2012), which allows laws to be passed by holding a referendum (i.e. without parliament being involved), thus undermining the representative democracy principle. If necessary, this way of passing laws may become a convenient political tool for the Ukrainian government.

- **The justice system**

The parliament passed amendments which essentially improve the conditions of prison sentences (including those concerning medical care). A comprehensive reform of Ukraine's post-Soviet penitentiary system is, however, still in the preparatory stages, and will not be put on the agenda this year. The parliament has also set a procedure for implementing the sentences passed by the European Court of Human Rights and promised to pass laws which will thoroughly reform the prosecution authorities and the police in October. The draft act envisaging a reinforcement of the constitutional guarantees of the independence of judges, including introducing lifelong nominations as judges and parliament being deprived of the right to nominate judges (this will thus reduce the government's influence on the judiciary) was approved by the Constitutional Court within two weeks. This may mean that the act will be passed soon, although the constitution provides that this can be done in

February 2015 at the earliest. The same amendment of the constitution provides that the prosecutor general will no longer be nominated for a definite tenure, which will strengthen the independence of this position. The new act on the legal profession was passed back in 2012, but its implementation has run into great difficulties, such as the new code of penal procedure, which was passed in May 2013. Nevertheless, these two legal acts have essentially brought Ukrainian procedures closer to European standards.

- **Anti-corruption laws**

The Ukrainian parliament amended the constitution, vesting the Accounting Chamber with the right to audit the budget incomes and not only spending, thus bringing back one of the elements of the constitutional reform of 2004. Several anti-corruption laws were passed in spring this year. A draft law on the national anti-corruption policy was brought to parliament on 23 September. It establishes, for example, an independent investigative body for corruption cases. The new law is expected to be passed in October.

- **Other laws**

The parliament has passed several laws required for the Deep and Comprehensive Free Trade Area Agreement (DCFTA) to be signed, and has amended the customs tariffs. The law on public media has provoked serious controversies among the opposition and has been brought back to the commission for revision. In turn, nothing seems to indicate that the 'anti-discrimination' law will be passed (this is a condition for the simplification of EU visa procedures), since most groupings are opposed this project. Furthermore, a bill on preventing gay propaganda, which is modelled on the Russian act, has been brought to parliament.

Conclusions: the way to Vilnius is open?

The European acts passed so far by the Ukrainian parliament have contributed to meeting part of the criteria the EU has set Ukraine. The procedure employed in the process of passing these legal acts proves that the government wants the Association Agreement to be signed at the Vilnius summit. However, the parliament has not yet passed all the laws expected by Brussels that would have the greatest impact on the reform of the country's political system, including on the prosecution authorities, the police and amendments to electoral law. Although it may be expected that the parliament will accept more European laws within the next few weeks, it still does not have sufficient time to pass all the laws required by the EU. The government is also evidently reluctant to pass certain legal acts, including the election code and the amendment of the referendum act, since – from the government's point of view – this would weaken the position of the Party of Regions.

Furthermore, the Ukrainian government has not made any progress in the case of Yulia Tymoshenko, who has been sentenced to eight years in prison and is a suspect in a few other cases (including for a contract murder). Kyiv seems to believe that the acts already passed and those expected to be passed in October have been appreciated in the EU and are sufficient for the Association Agreement to be signed in Vilnius. Therefore, it should not

be expected that Tymoshenko will be released in the foreseeable future (even if she agrees to leave for treatment abroad), since she is still seen by the government as a dangerous political opponent.