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The Ukrainian coalition agreement

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On 21 November, following nearly four weeks of negotiations, the leaders of five political parties (People's Front, Petro Poroshenko Bloc, Self Reliance, Radical Party of Oleh Lyashko and Batkivshchyna) initialled a draft coalition agreement that will set the agenda for the future government. It will be possible to officially sign this document after the newly elected Verkhovna Rada (Ukraine's parliament) has been sworn in; and this is likely to take place on 27 or 28 November. The agreement is quite a voluminous document and sets an ambitious reform agenda covering almost all areas of state governance, ranging from a thorough amendment of electoral law to far-reaching economic reform, and it would see Ukraine relinquish its status as a country remaining outside any international blocs and to resume efforts linked to joining NATO. Most of these changes are planned to be introduced in 2015. The implementation of these tasks will require an enormous effort from parliament and the government. Political stability will also be necessary and this may be very difficult to achieve.

Main areas of the envisaged reforms

The coalition agreement, which covers seventy pages, consists of a preamble, the list of planned reforms – some of them are briefly outlined and some are simply listed, and a brief set of rules regulating the coalition's operation. The agreement includes numerous references to European standards. It is also clear that the trend of the intended reforms is pro-liberal and not pro-social, and that in general terms this document meets the requirements of the Association Agreement signed with the European Union. However, since the details of most of the solutions have not been disclosed, it is impossible to conclude whether or not they do in fact comply with the solutions that are predominant in the EU.

The most important of these intentions are discussed below:

- *National security and defence*

In this area, the agreement first of all provides for the term "potential enemy" to be introduced into the defence doctrine, annulling the declaration that Ukraine remains outside any international blocs, resuming efforts towards accession to NATO and recognising that "reinstating Ukraine's sovereignty in the Autonomous Republic of Crimea" is a strategic goal of domestic and foreign policy. Some units will be moved to the east of the country as part of a reorganisation of the armed forces, NATO standards are to be adopted in the armed forces by 2019, and the National Guard (which still reports to the Ministry of Internal Affairs)

is to be strengthened and included in the general state defence system. Armament development programmes are to be resumed, including replacing imports with domestic production. Furthermore, there are plans to form a national military and patriotic (paramilitary) organisation called the Ukrainian Military Organisation and this will be the basis of the territorial defence system.

The numerous proposals concerning the status of the "temporarily occupied and temporarily uncontrolled territories" signify that the Ukrainian state has no clear concept as regards Crimea and Donbas while also reflecting an implicit conviction that it has lost control of them for at least a long time.

- *The constitutional reform*

There are plans to establish an Interim Special Commission of the Verkhovna Rada for the preparation of the amendment of the constitution (but not for developing a new version of it). The coalition agreement does not set a deadline by which the commission has to present the draft amendment. Some elements of the future amendment will ensue from the relevant dispersed provisions of the coalition agreement, while others are still unknown. It is worth noting that stripping deputies of their immunity, which was promised during the discussion concerning the coalition agreement, is mentioned in the preamble to the coalition agreement but is not on the list of planned actions, and the agreement does not envisage passing an act that would set the procedure for impeachment of the president and cancelling the immunity of judges and public prosecutors. This is significant because these changes have been promised on numerous occasions and have huge backing among the Ukrainian public.

- *Law and order and the administration of justice*

The issue of reorganising law enforcement agencies and the administration of justice has been given a great deal of attention in the coalition agreement. The National Police is to replace the *militsiya*, the "road inspection" (i.e. traffic police) and other law enforcement agencies which have thus far been in place. Its members will be carefully vetted (for example to check for corruption) and receive badges with numbers. The border guard service and the services for emergency situations will be included in the structures of the Ministry of Internal Affairs (which indirectly implies that the Ministry for Emergency Situations will be liquidated). It will also be possible to form municipal police structures. Unlike in many other areas, no deadlines were set for most of the projects. According to other data, police badges are already being prepared; this may signify that the *militsiya* will be transformed into the police over a relatively short time period. The agreement does not provide for the procedure for the nomination of judges to be changed (this is set in the constitution), although it is envisaged that judges will be selected by means of a contest. It also provides for the obligation to be introduced for both judges and "the members of their families and people related to them in the broadest possible meaning of the term" to declare their income and expenses. This could potentially hack away at the independence of judges. The principle of the independence of courts (the judiciary) is still not an issue; only the principle that individual judges should be independent when delivering verdicts is envisaged. There are plans to introduce grand juries (only for criminal cases).

- *Electoral law*

The purely proportional method will apply in parliamentary and local elections, where votes will be cast for individual candidates and not political parties (this may mean that constituency lists will have to be introduced and constituencies will have to be redrawn). The majority system will only be maintained in the case of elections to village and city district councils. Mayors of big cities (their list has not been determined) will be elected by a majority, and thus by way of a runoff.

- *Local governments*

The coalition agreement provides for major changes in the competences of local government authorities, however without changing the administrative division of the country. This way it will be possible to make the intended changes, above all strengthening the financing of local governments and forming executive authorities within local councils, without the need to amend the constitution (the division into oblasts is recorded in the constitution). When these changes are adopted and the electoral law is amended, snap local elections will be held in spring 2015.

- *Economic reform*

The long list of economic reforms is focused on restricting the regulatory function of the state and on introducing solutions resulting from the Association Agreement with the European Union in various areas of the economy. One example of what the coalition agreement envisages are the numerous deregulatory and anti-corruption measures and a tax amnesty in 2016. It has been announced that the number of companies which are excluded from privatisation will be reduced, with the reservation that the natural gas transport system will remain 100%state-owned.

Coal mines and related companies will be fully privatised in 2015–2016. Unsold mines will be liquidated. The state will withdraw support for the modernisation of existing mines and the construction of new ones and, starting from 2021, any support for the coal industry. If this programme is implemented, coal mining may not survive in Ukraine, especially given the devastation in the areas affected by military action, which will be extremely difficult, if not impossible, to eliminate without state support.

Ukraine will continue developing its nuclear energy sector and will make efforts to diversify its sources of energy (including the import of nuclear fuel); the ultimate goal is that imports of natural gas, coal, oil and petroleum products from any one country do not exceed 30% annually.

As expected, the agreement does not provide for the possibility of free trade in agricultural land. Instead the structure of large-scale farms which lease small plots of land owned by former kolkhoz members (so-called *pais*), will be maintained. The idea of free trade in land is clearly disapproved of by the Ukrainian public; most of the coalition parties are opposed to this concept, as well. The position of owners of *pais* is to be strengthened since a minimum lease term will be set and a ban on paying the rent in natural products instead of money (currently a common practice) has been introduced.

- *The cultural and social policy*

The general tendency in cultural and social policy, healthcare and labour law (no details have been revealed regarding the latter) is to strengthen national identity rather than to improve the social situation. The state will have greater powers to intervene in the media. For example, offshore companies will no longer be allowed to operate in the media sector, medicine, cigarette and alcohol advertisements have been banned, support for "Ukrainian cultural production" is envisaged, etc. It is worth noting that while there are plans to improve care for the elderly in order to improve the average life expectancy in Ukraine, no steps intended at improving the birth rate are envisaged (pro-family policy is not part of this programme).

The operation of the future coalition

The coalition agreement does not state any names. It has been separately agreed that Arseniy Yatsenyuk will remain the prime minister and that Volodymyr Groysman will be nominated parliamentary speaker. Groysman is one of the president's closest aides and has served as deputy prime minister.

The new coalition, in all likelihood, will consist of slightly more than 300 of the 450 deputies, and thus will be able to amend the constitution. However, it is still uncertain whether the coalition will be durable for two reasons: the political manifestos of all these parties differ to a great extent, and all these parties (with the exception of Batkivshchyna) are still being formed and are thus unstable. It is also unclear to what degree these parties are influenced by Ukrainian oligarchs, beyond the fact that this influence is certainly significant.

The draft coalition agreement was prepared by the Petro Poroshenko Bloc already before the election with the general assumption that this party would be the unquestionable winner. The electoral success of the People's Front and the need to include the Radical Party and Batkivshchyna in the coalition forced the leaders of the Bloc to conduct serious negotiations and make major concessions, above all in the part setting the rules. Following long private discussions, it was agreed that a Coalition Council would be formed which will consist of three representatives of each of the parties, regardless of the size of the faction, and its decisions will have to be unanimous.

Some of the coalition operation rules are dubious from the point of view of democratic standards. The Coalition Council, which will meet before each plenary session, has in fact been entrusted with organising the work of parliament, including deciding on its agenda. This will make this work less transparent, at the very least. In turn, the provision that the General Assembly of the Coalition has "the exclusive right to put forward the candidate for prime minister to the president" is unconstitutional, since this right is vested in the Verkhovna Rada.

The chances of success for the reform programme

The state reform agenda envisaged in the coalition agreement is extremely ambitious, especially given the fact that a vast majority of the planned projects are to be implemented in 2015. In turn, the brevity of numerous provisions suggests that the relevant bills have not yet been prepared. It may be doubted whether such a tight schedule of legislative work is

possible to follow to the full extent, even if the Verkhovna Rada and the government's legislative base operated much more effectively. Furthermore, adopting the suggested acts is just the first step; almost all of them will require numerous executive acts to be passed by the government or individual ministers. It is rather unlikely that ministries undergoing deep reorganisation and staff reshuffles will be able to prepare them within the required time. There is also concern that acts that are developed and discussed in parliament too hastily will turn out to be poorly prepared, and will contain legislative errors and solutions which are dysfunctional or which have been adopted as a consequence of lobbying.

Differences in the political manifestos of individual coalition members will resurface in the course of parliamentary work. The Radical Party and Batkivshchyna will defend pro-social solutions, especially ahead of the local elections. The interests of individual sectors (especially the defence and the agricultural sectors) and the interests of big oligarchs will also be demonstrated more clearly; and these interests will not necessarily be in line with the planned reforms. On the other hand, the public is likely to apply constant pressure on the government to carry out quick and radical reforms (at times more radical than intended by the government). Finally, it is unclear how the war in the east of the country will develop further.