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Ukraine: the law enforcement bodies take controversial actions targeting business

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On 18 January, the State Bureau of Investigation (SBI) detained Ihor Mazepa, the founder and CEO of Concorde Capital, one of the biggest investment funds in Ukraine. He was charged with illegally acquiring plots of land located in the vicinity of the Kyiv Hydroelectric Power Plant back in 2013. The SBI argues that, alongside other members of a criminal group, he allegedly took advantage of organised corruption in certain state administration bodies to seize this land. This cost the state losses to the tune of 7 mn hryvnias (around $190,000). On 19 January, the court issued a decision to arrest Mazepa and set a bail of 349 mn hryvnias (around $9.3 mn), although the prosecution demanded a twice bigger bail. On 23 January, the appellate court reduced this bail to 21 mn hryvnias (around $560,000). A day later, Mazepa was released after paying that sum, which had been collected by representatives of the business sector.

Initially, the government refrained from commenting on the detention. However, due to the strong reaction from business groups, on 22 January a closed meeting was held between business owners, deputy prime ministers Yulia Svyrydenko and Mykhailo Fedorov, and the speaker of Ukraine's parliament Ruslan Stefanchuk. During the meeting, the businessmen expressed their outrage at the actions carried out by the law enforcement bodies. On 23 January, the National Security and Defence Council of Ukraine issued a decree in which it recommended that legal amendments be introduced to increase the protection of business owners' interests during criminal proceedings. In addition, a wartime Business Support Council is to be established under the supervision of President Volodymyr Zelensky's office.

Commentary

- Mazepa's detention received a great deal of publicity in Ukraine's business circles. In recent months he has repeatedly publicly criticised the actions carried out by the law enforcement bodies targeting business owners. He also initiated 'Manifest 42'; in November 2023 this group of companies requested the president to curb the rising number of criminal investigations being launched against businessmen, claiming that these cases are ultimately not brought to court, but are just a form of pressure to force them to pay bribes. Although several closed meetings between the leadership of the President's Office and representatives of business have been held in previous months, they failed to improve the situation; on the contrary, they aggravated it.

- The majority of business owners and experts argue that Mazepa's ostentatious arrest, the fact that he was accused of a crime committed 11 years ago (which resulted in insignificant losses for the state), and the huge bail set for him are all intended to intimidate critics of the law enforcement bodies to refrain from publicising the instances of abuse in their ranks. President Zelensky and his aides have also come under criticism, as the bodies which deal with economic crime (aside from the SBI, this also concerns the Economic Security Bureau of Ukraine – BEB) are allegedly unofficially supervised by Oleh Tatarov, the deputy head of the President's Office, similarly to the Security Service of Ukraine.

- The moves the government has proposed are of symbolic significance. Although the Business Development Council has operated since 2020, there is no proof that it has carried out any concrete activities. Similarly, no specific timeframe has been defined in which any legal amendments to increase protection guarantees offered to business owners are to be enacted. Due to the recent publicity, it can be expected that the law enforcement bodies will reduce their activity targeting business owners for some time. However, without systemic solutions – namely profound changes to the staffing policy at all echelons of the SBI and BEB (which is one of the requirements formulated by the International Monetary Fund) and hiring new employees in transparent recruitment procedures – no improvement should be expected in the long term.