

Ex-PM Tymoshenko detained

International condemnation hits unprecedented levels

Event: Judge upholds arrest of opposition head amid trial

Yesterday Pechersk District Court Judge Rodion Kireyev upheld his order from last Friday to detain ex-Prime Minister and opposition leader Yulia Tymoshenko for contempt of court and berating witnesses, following an incident in the courtroom with rival and current Prime Minister Mykola Azarov. Tymoshenko's trial is widely derided as politically motivated – she is charged with striking an agreement with Russia in 2009, which halted a 13-day cut off in the flow of gas to Southeastern Europe.

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Implications: Russia relations turn icy; DCFTA delays

The scale of the criticism following Tymoshenko's arrest both domestically and internationally has been quick and reached levels unprecedented in Ukraine's history: from rival opposition figures, the US and European governments, international rights organizations; even Russia's Foreign Ministry issued a statement disapproving of the arrest.

The backlash threatens to strain Ukraine's relations with its key trading partners:

- **Russian relations:** Kyiv's requests this year to review the 2009 gas agreement in question and reluctance to join a Customs Union with Belarus and Kazakhstan have resulted in icy relations with Moscow. After a flurry of bilateral visits on the presidential level last year, (six, according to President Viktor Yanukovich's website), there has only been one so far in 2011. *Watch:* The tone of the next meeting, confirmed yesterday, on Thursday, August 11, between Presidents Yanukovich and Dmitry Medvedev.
- **European relations:** The EU & Ukraine had planned to sign a Deep & Comprehensive Free Trade Agreement in December. Though technical conclusion of the DCFTA this winter is still possible, we view a lengthy-adoption scenario by EU members over Ukraine's democratic record as likely - with true DCFTA benefits for Ukraine delayed for the mid-term.

In addition, the arrest of Tymoshenko has worrying implications for the overall business and investment climate in Ukraine. The authorities have recently shown they are willing to go after political and business opponents alike. On July 12, Security Service of Ukraine (SBU) agents stopped work at the production facility of Rosava, part of Finance & Credit Group, which is controlled by Ukrainian businessman Konstantin Zhevago, a member of the Yulia Tymoshenko Bloc in parliament. Kommersant reported SBU agents have also visited other F&C Group businesses including Finance & Credit Bank, Arterium Corporation and Stakhaniv Wagon. The official SBU investigation is ongoing.

Reaction monitor

Opposition figures unite around Tymoshenko?

Ukraine's opposition parties are well known for their disunity, which derailed cooperation when they were in power in 2005-2010 and has rendered their combined efforts back in opposition ineffectual. For the first time in recent memory though, domestic opposition parties are standing together. Nine political parties, including Arseniy Yatseniuk's Front of Change, Tymoshenko's own Batkivshchyna and Nasha Ukraina, signed a joint statement yesterday against the current government and political repression.

Outside the courthouse yesterday, we estimated several hundred protestors; Tymoshenko's party has called for larger protests on Ukraine's Independence Day on August 24. Yanukovich's presidency has prompted numerous short-lived protests over the last year: the Black Sea fleet for gas deal, education minister appointment, tax reform, pension reform, etc... but none have grown legs. Most Ukrainians remain disenchanted with politics and now are more focused on the financial and economic woes than political and legal ones. We see a low probability of widespread protests as a result of Friday's arrest so far, and continue to monitor developments.

Russia rapprochement stalls over Kyiv's gas machinations

Russian leaders have rebuffed attempts by Kyiv this year to secure a sweeter gas deal, beyond what President Viktor Yanukovich got when he agreed to extend Russia's basing of the Black Sea Fleet in Crimea for 25 years in exchange for a 30% 10-year price discount in April 2010. Russia has said it would respect the 2009 agreement, signed by Tymoshenko and Russian Prime Minister Vladimir Putin, and does not agree with Kyiv's rationale for new talks.

Undeterred by Russia's unwillingness to renegotiate, Ukrainian officials countered by saying they might seek to annul the 2009 agreement in court. Russia has reportedly not been happy with Kyiv's gas machinations nor its reluctance to join a Customs Union with Belarus and Kazakhstan. After a flurry of bilateral visits on the presidential level last year, (six, according to President Viktor Yanukovich's website), there has only been one so far in 2011. Only yesterday did Yanukovich's website confirm plans to meet his Russian counterpart Dmitry Medvedev in Sochi on Thursday, August 11. No progress on new gas agreements or customs union is expected.

EU concerns likely to lead to lengthy DCFTA delays

EU and Ukrainian politicians had announced plans to tie up a landmark Deep and Comprehensive Free Trade Agreement (DCFTA) at their annual summit in December in Kyiv. In our view, negotiations should continue, but the political headwind in Europe is going to only get harsher. Tymoshenko's arrest adds kindle to an already blazing fire of criticism in Europe over how much longer it can tolerate democratic backsliding following last October's flawed local elections, crackdowns on the opposition and the media, and issues with the rule of law and judicial reform.

Center for European Studies fellow Michael Emerson noted in a July 27 article that on the EU side, the DCFTA must be ratified by both the European parliament and all 27 national parliaments. Emerson said all such agreements now include a human rights clause, which could trigger delays over Ukraine's record. The EU took four years to adopt Ukraine's last major EU agreement, the Partnership Agreement of 1998. Though Yanukovich could get a political victory in the form of signatures on the DCFTA this winter, we view a lengthy-

adoption scenario as likely - with true DCFTA benefits for Ukraine delayed for the mid-term.

Moreover, Europe hailed the 2009 contract, when it was announced, which setup rules to govern gas supplies and transit between Russia & Ukraine for 10-years, as a breakthrough. Further attempts to unilaterally review the deal by Ukraine would tarnish Ukraine's international reputation as a trade partner.

Reference box: Naftogaz, Gazprom sign 10-year contract in 2009

Ukraine's Naftogaz and Russia's Gazprom signed a 10-year contract in what Prime Ministers Yulia Tymoshenko and Vladimir Putin, who brokered the deal, hailed as an end to their annual gas conflict. The contract assumed that starting Jan. 1, 2009 the price of gas for Ukraine would be calculated according to a formula accounting for the European market price and a discount, 20% in 2009 and 10% in 2010. Ukrainian Prime Minister Yulia Tymoshenko confirmed on January 20 that Gazprom had resumed pumping natural gas through Ukraine. The row interrupted the gas flow to Europe for 13 days.

Contacts

CONCORDE CAPITAL

2 Mechnikova Street, 16th Floor
 Parus Business Centre
 Kyiv 01601, Ukraine
 Tel.: +380 44 391 5577
 Fax: +380 44 391 5571
 www.concorde.ua
 Bloomberg: TYPE CONR <GO>

CEO

Igor Mazepa

im@concorde.com.ua

RESEARCH

Director of Research

Andriy Gerus

ga@concorde.com.ua

SALES

International Sales & Trading

Anastasiya Nazarenko

an@concorde.com.ua

Marina Martirosyan

mm@concorde.com.ua

Rostyslav Shmanenko

rs@concorde.com.ua

Dasha Vasilieva

vd@concorde.com.ua

Utilities, Agriculture, Consumer

Yegor Samusenko

syg@concorde.com.ua

Basic materials

Andriy Gerus

ga@concorde.com.ua

Energy, Chemicals

Antonina Davydenko

ada@concorde.com.ua

Industrial Machinery

Vitaly Gorovoy

vg@concorde.com.ua

Economics, Financials

Svetlana Rekrut

sr@concorde.com.ua

Fixed income

Andriy Gerus

ga@concorde.com.ua

Svetlana Rekrut

sr@concorde.com.ua

Politics

Brad Wells

bw@concorde.com.ua

Editor

Brad Wells

bw@concorde.com.ua

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