PISM POLSKI INSTYTUT SPRAW MIĘDZYNARODOWYCH
THE POLISH INSTITUTE OF INTERNATIONAL AFFAIRS

BULLETIN

No. 27 (877), 8 April 2016 © PISM

Editors: Sławomir Dębski (PISM Director) ● Katarzyna Staniewska (Managing Editor)
Jarosław Ćwiek-Karpowicz ● Anna Maria Dyner ● Patryk Kugiel
Zuzanna Nowak ● Sebastian Płóciennik ● Patrycja Sasnal ● Marcin Terlikowski

The Netherlands Referendum on the EU–Ukraine Association Agreement: What Is the Effect of the "No" Vote?

Daniel Szeligowski

In a referendum in the Kingdom of the Netherlands on 6 April, 61% of voters were against ratification of the EU-Ukraine Association Agreement. Their decision may delay Ukraine's integration with the EU and will strengthen those political forces in Ukraine that oppose the country's modernisation and cooperation with international financial institutions. Russia will use the results of the referendum to discredit the Eastern European countries' rapprochement to the EU.

Internal Context. The Kingdom of the Netherlands is the only country not to have ratified the EU-Ukraine Association Agreement (AA) in full. Although its parliament already ratified the agreement in July 2015, the government has not yet deposited the ratification document with the General Secretariat of the Council of the European Union. The "consultative" referendum, a non-binding public vote process approved in 2014, came about after the satirical website GeenPeil gathered over 400,000 signatures. The EU-Ukraine AA was the first time this referendum process had been triggered.

The organisers of the referendum used the agreement as a pretext for an intra-state discussion on the future of European integration. The objection to its ratification should therefore be understood as an expression of dissatisfaction with the direction in which the EU is currently heading. Although the results of the referendum do not oblige the Dutch parliament to change its decision, the ruling coalition will face a major decision in further procedures. Parliament may uphold its previous decision in a re-vote, but it is not a forgone conclusion. The ruling coalition may fear losing public support in the face of the 2017 parliamentary elections and, thus, could decide to reject the agreement.

Consequences for Ukraine. The potential that the Netherlands would reject the AA will undermine it. However, most of its provisions have been and will be provisionally applied, in particular, EU exclusive competences such as commercial policy. Therefore, no matter the government's decision, Ukraine will retain access to the EU market according to the provisions of the AA's economic part, that is the Deep and Comprehensive Free Trade Area (DCFTA). However, the results of the referendum will strengthen the political forces in Ukraine that oppose the country's modernisation and are sceptical of integration with the EU. They will try to raise doubt about the purposefulness of implementing the AA provisions, as well as keeping to the track of the reform programme agreed with the International Monetary Fund. The referendum may also deteriorate trust in pro-European political forces in Ukraine, which could be seen by some citizens as being ineffective. It is possible that public support for integration with the EU will also decrease. On the other hand, the number of "non-bloc" supporters may increase. According to a survey by the Gorshenin Institute, the percentage of people who oppose both integration with the EU and the Russia-led Eurasian Economic Union increased in 2016 to 23%, in comparison with 14% in 2015. In the same period, the percentage of people who support integration with the EU decreased from 62% to 55%.

The possible change in public opinion will further reduce the determination of Ukraine's government to conduct much-needed economic modernisation. Also, it could mean that populism and Euroscepticism in Ukraine will grow.

Oligarchs will support populist demands that run counter to the AA reforms since these changes harm their business interests.

Opportunity for Russia. Without doubt, the rejection of the EU-Ukraine AA by the Netherlands will be used in Russian propaganda. Its aim will be to convince Ukrainians that there is no reason to bear the costs of the implementation of the EU's norms and standards, and that the accession of Ukraine to the EU is not possible. In this respect, Russia has already used the statement by Dutch Prime Minister Mark Rutte, who, a week ahead of the referendum declared that Ukraine should never become an EU member as it plays the role of a buffer state to Russia.

The Russians will also use the arguments of Dutch opponents of ratification, who pointed out that adoption of the agreement would be tantamount to supporting Ukraine in its conflict with Russia as well as granting the country financial and military support. The opponents of ratification also emphasised that the agreement would open the door to a new wave of immigrants coming to the EU. During the referendum campaign, even the shooting down of Malaysian Airlines MH17 with 193 Dutch citizens on board over eastern Ukraine in July 2014, was put into doubt. Moreover, the Russians will point to an alleged lack of democratic legitimisation of EU decisions, accusing politicians from EU Member States of disregarding the public's opinion; and hence, Russia, in using the results of the referendum, will try to fan the flame of fear amongst EU citizens with respect to the negative consequences of cooperation with Ukraine and discredit those EU Member States that support it. Also, Russia will aim to use it to block the decision to prolong the EU sanctions against it.

The EU Position. Until now, the EU has shown a relatively coherent position when it comes to the necessity of granting political and financial support to Ukraine (e.g., the EU has allocated €2.2 billion in macro-financial assistance). However, the Dutch referendum's results may affect that policy. Some EU Member States have tried to maintain close relations with Russia despite the sanctions and are against deeper EU cooperation with more of the Union's eastern neighbours. The results of the referendum may provide them a pretext for a change of EU position towards Ukraine.

A more assertive stance amongst supporters of normalisation with Russia may create division between EU Member States, which may eventually lead to more rigid EU policy towards Ukraine, e.g., increased pressure on the government to fully implement the Minsk deal without waiting for Russia to deliver on its part of the obligation.

The process of visa liberalisation will be one of the first tests of the EU policy towards Ukraine. In March, the European Commission signalled unofficially that the recommendation to grant Ukrainians visa-free travel to the EU would be presented to the Member States soon after the referendum was held. The EC was attempting to prevent the EU-Ukraine AA from being used in the referendum in connection with the current immigration crisis, and therefore to minimise its impact on the results of the voting. It seems unlikely that the EC would suspend visa liberalisation with Ukraine just because of the referendum's result; however, the potential that the Netherlands' government would reject the agreement may be of some consequence to the voting in the EU Council. In the face of the immigration crisis, the referendum may provide a pretext for some EU Member States to delay visa liberalisation with Ukraine.

Scenarios. This was the first time the public in the Netherlands has rejected an international agreement that was approved by parliament. Prime Minister Rutte has announced that he is going to accept the results of the voting and with EU help will aim to work out an alternative scenario that would be acceptable to all of the parties concerned. The most likely scenario is therefore to seek an opt-out. If granted, some of the AA's provisions would not be applicable to or in the Netherlands, for example, the movement of "economic migrants" across its borders, which is controlled by the individual Member States. Thus, the opt-out would be limited. The agreement would need to be again ratified by 27 EU Member States and Ukraine. This solution, however, would allow for the ratification procedure within the EU Council to be concluded. Though it will be difficult to foresee the agreement's date of entry into force, until that moment, the provisional application of the DCFTA will apply.

The Information Strategy of the EU. The results of the referendum may significantly weaken the process of European integration in Ukraine. That is why the future policy of the EU towards Ukraine is a key. There is a need to come up with a coherent message with regards to the further relations between the EU and Ukraine. Tangible benefits for both sides should be emphasised (e.g. increase in trade, people-to-people contacts) and the short-term perspective should be of particular importance. To introduce a visa-free travel with Ukraine as soon as possible is a priority. It should be accompanied by the information campaign, which will promote the positive consequences of such decision.