



HELSINKI COMMISSION HEARING

UNITED STATES COMMISSION ON
SECURITY AND COOPERATION IN EUROPE

Testimony :: Yevhen Marchuk

Chairman - National Security and Defense Council-Ukraine

Ukraine during the years since independence has gained a firm hold of the choice of social and state development strategy. In the foreign policy arena – it is a choice in favor of European integration and active cooperation with international organizations and partner-countries. In the internal arena – it is a choice in favor of the consolidation of our democratic society, ensuring human rights and freedoms and market transformations.

1. Predictability and consistency of the foreign policy:

During the nine years of its independence, which is only a second in the XX century, Ukraine has proven to the world community its ability to implement undertaken commitments and shown a consistency in realizing its non-block foreign policy course. Let me mention some concrete facts, which are already proud parts of Ukraine's history.

Ukraine not only voluntarily gave up the third-largest nuclear arsenal in the world, but has also consistently, with the U.S. assistance, sought to eliminate its stockpile of strategic missiles. Ukraine fully implements the provisions of the main accords in the field of arms control and international non-proliferation regimes.

Ukraine has tried to play an active role in the international security system in the context of the ABM Treaty. We understand peculiarities of the U.S. approach to the problem of “soft adaptation“ of the Treaty and Ukraine seeks an opportunity for determining its place in this negotiating process.

Last December, Ukraine closed up the Chornobyl nuclear plant, thus fulfilling a considerable commitment to the safety of humankind. Due to this fact the world now is safer. This step Ukraine made consciously in spite of the significant economic hardships and problems in the energy sector the closure entails.

Ukraine was the first among the former Soviet Union republics who in 1995 signed the Partnership for Peace Program with NATO. Ukraine has actively developed a distinctive partnership with the Alliance in accordance with the Madrid Charter. Recently Ukraine presented in NATO Headquarters the second State Program of Cooperation with the North Atlantic Treaty Organization for the years 2001-2004 which was activated by the President's order in the end of January 2001.

The cooperation with NATO opens for Ukraine additional opportunities to strengthen its national security and to prevent the emergence of new threats to stability and security in Europe. Ukraine hopes for the assistance of the Alliance's member-states in reforming our own Armed Forces, moving them towards European standards, and helping to remove the non-military threats to security.

In 1992, Ukraine became a member of the OSCE and since that it consistently pursues a policy of reinforcing the role and effectiveness of the Helsinki process with regard to strengthening regional security in political, military, humanitarian and other dimensions. The increasing international authority of our state was vividly revealed as well during its Presidency in the UN Security Council (March 2001) when discussing the settlement of various international conflicts.

Ukraine understands that the existence of the conflicts in the OSCE and UN zone of responsibility remains one of the most serious challenges to international security. Because of that it is an active participant in the settlement of conflicts in Bosnia and Kosovo, a mediator in the negotiations in Transdnistria and Abhasia, and has undertaken peacekeeping efforts under the UN auspicious in other regions of the world.

Ukraine has established strategic partnerships with the U.S., the Russian Federation, Poland and a number of other countries. It is a full-fledged member a number of influential international organizations, including: the Council of Europe, the Central European Initiative, the Organization of Black Sea Economic Cooperation.

Ukraine has signed treaties on friendship and cooperation with all its neighboring states. Special attention has been paid to the Treaty with Russia, to the implementation of the Black Sea Fleet arrangements, to determining the status of the city of Sevastopol, and to continuing the process of delimitation the Ukrainian-Russian border. A further step in this direction is the initiative of Ukraine on adopting measures with regard to strengthening confidence and security in the military naval field in the Black Sea basin.

Ukraine takes an active part in creating new European security architecture, which foresees, in particular, the broadening of cooperation in the framework of other European organizations and in bilateral relations. Ukraine links its significant contribution to the process of creating of the sole security space on the continent with the reinforcing of the OSCE role.

Ukraine has consistently adhered to the unchanged course toward European integration and is looking forward to putting this process on a qualitatively new level. The President of Ukraine restated this when approving the resignation of the Government last week.

When Ukraine considers entering the EU it believes that this long-term objective will stimulate the development of the internal resources and internal potential, in particular in the direction of forming a strong civil society, democratic political system, and functioning market economy.

A very important aspect of Ukraine's European integration is the seeking of its own place in the European economy, especially under the conditions of the development of common

functioning of energy systems. Ukraine has considerable transit capacity and powerful gas and oil pipelines systems, which enables it to become a full-fledged participant in any energy dialog between Brussels and Moscow.

Ukraine considers as a priority and consistently stands for the thorough realization of the OSCE summit's decisions in Istanbul, Turkey regarding the backing of integration in the world economy of the OSCE member-states in transition. The effectiveness of the joint actions on this direction influences the intensity of the integration process in the OSCE region as well as the efficiency of adherence the countries of the region to European values.

The balance of approaches and predictability of initiatives characterize the current state of Ukrainian-Russian relations. The main issues of today's dialogue with Russia have an economic dimension. Other issues have a more residual influence (the legal status of Russian Black Sea Fleet stationed in Crimea, non-settlement of the sea section of interstate border) or, on the contrary, become topical questions (humanitarian field or geopolitical choice).

We forecast those economic relations between Moscow and Kyiv in the medium-term perspective will be the determining factor in Ukrainian-Russian relations. In this regard, the main issue remains the effective solving of the debt problems for Russian energy resources, which continue to mount. The fact that the April (2001) heads of state meeting between Ukraine and Russia was dedicated in large part to discussing the issue of supplies of Ukrainian pipes confirms this conclusion.

Ukraine does not support the concept of institutionalizing multilateral-regional-interstate cooperation aimed at creating supranational structures of federal or confederate nature on the post-Soviet Union space. Ukraine does not participate in the activity within the Treaty on Collective Security of the CIS-member states and did not adhere to the Union State of Belarus-Russia.

At the same time we take into consideration that the Russian Federation continues systematically to develop a new foreign policy toward the post-Soviet Union and European region. This policy demands careful analysis and shaping a position on this matter on the part of both Ukraine and the United States of America.

2. Priorities and Perspectives of the Ukrainian-American Relations:

Ukraine's foreign policy course aimed at European integration will be efficient only if it is in harmony with a predictable policy of good relations with all Euro-Atlantic partners.

We consider our relations with the United States of America an important priority of Ukraine's international relations. It means that Ukrainian-American relations are based on solid foundations and are not dependent upon those in power in our respective countries. According to the Budapest agreements of 1994, the United States is the guarantor of security of Ukraine.

The path the two countries have covered to attain the present level of strategic partnership relations declared in October 1996 was far from being easy and unhindered. We had to

overcome a complex series of problems in 1991-1992, when the U.S. was skeptical about very idea of an independent Ukraine, arguing that it would not fully correspond to the national security interests of the United States.

Luckily after a very brief period of mutual misunderstanding, the sides reached the realization that such an approach would only lead to a dead-end and would hinder “democratic partnership”. Signing of the Charter of Partnership, Friendship and Cooperation between Ukraine and the United States in 1994 became a turning point for the U.S. policy towards Ukraine. Since then, our relations have embarked upon the road of strategic partnership.

At a new stage of our cooperation, with the arrival to power of the new Republican Administration, along with the 107th Congress, Ukraine looks with optimism at the future of the Ukrainian-American relations. We believe that the U.S. policy towards our nation will continue to be based upon the mutual understanding that strengthening democracy, economic reforms and independence of Ukraine is both of paramount importance for the national interest of the United States, as well as for the perspectives of European and transatlantic security and stability.

Our relations require new dynamism in light of the election of President George W. Bush. New perspectives, which are promising a fresh look at the strategic partnership, appear for the deepening of relations between Ukraine and the U.S.

We hope that the policy of the President Bush’s Administration towards Ukraine will indeed be strategic and will not become a hostage of the secondary issues and unfriendly acts aimed at each other. The Ukrainian side shares a pragmatic approach in the field of foreign policy of the new Cabinet. The United States has also significantly supported and assisted Ukraine’s course of European integration.

That is why we look forward to support from the new Administration. At the same time we realize, that any support from the United States will depend on our ability to settle present internal problems and advance along the road of democratic reforms. It’s natural that present internal problems in our society continue to influence America’s attitude towards Ukraine. However, one has to take into account one simple thing: scandals have to be taken into consideration according to their real scale and meaning not to undermine long term prospects of cooperation.

The U.S. as a prominent leader in the field of information society could significantly assist Ukraine in developing its mass media, establishing system of spreading around the world trustworthy information about Ukraine.

The existence of active and close relations with Ukraine corresponds to the interests of the United States. Ukraine is located at a strategic crossroad of Europe and Asia. Developments in Ukraine directly influence both neighboring nations, as well as overall European stability.

Ukraine and the United States have undertaken commitments on some fundamental issues. Both nations wish to see the European continent stable and peaceful. Ukrainian-Russian

cooperation will undoubtedly make Europe more secure and our progressive development in this direction corresponds to goals of our partners in Europe and the U.S. Ukraine and the U.S. have to work together to make control over the weapons of mass distraction more secure.

The UN Security Council, which Ukraine recently successfully chaired, is the very international body where two countries closely cooperate. We share general positions on such problems as the fight against international terrorism. We are ready to promote to the fullest extend possible the ability of the Security Council to take adequate and timely actions with regard to conflicts around the world, fight drug trafficking, etc.

Strategic partnership welcomed by Ukraine and the United States requires a sound economic and trade base. Commitment to create such base was confirmed by Ukraine's leadership and previous U.S. Administrations. We have innumerable evidence that this confirmation was sincere and businesslike. We are fully aware that the democratic and market transformations in Ukraine are in the interest of the United States. This leaves little doubt about continuing the above mentioned policy line.

During the 9 years of its independence, Ukraine has received almost \$ 2 billion worth of American assistance. We are grateful for this vitally important assistance, which has contributed to our survival under difficult conditions since the establishment of independence. We understand that businesslike partnership must become a key element of our relations with the United States and the rest of the world.

We hope that Ukraine's future membership in the WTO will give us the possibility to join a world community that is being guided by civilized and generally recognized rules. We are grateful to the U.S. government's assistance to Ukraine in joining the WTO. We also count on continued U.S. experts' assistance in general, though specifically in the fields of products standardization and certification and intellectual property rights protection.

We are serious in making Ukraine attractive for foreign investors. We are indeed concerned with a number of things which make Western investors look with precaution at the possibility of investing in Ukraine. We understand that Ukraine ought to learn how to encourage foreign investors to compete for a place at our market.

The "Sea Launch" project has become a wonderful example of the potential of our high tech sector. By providing the most essential components – missiles, Ukraine together with the United States, Russia, Norway takes part in launching commercial satellites. "Sea Launch" is seen in Ukraine as an extraordinarily important business that confirms, in spite of all economic difficulties, that Ukraine was and remains capable of preserving and developing its scientific and technological potential.

Cooperation in the field of space exploration is one of the priorities of bilateral relations. Ukraine is interested in participation in the work of the international space station, joint space science projects, communications networks and in developing new carriers.

Regretfully our trade and economic relations are not without problems. First of all, Ukraine puts its hope on constructive role of the U.S. government in supporting our nation in receiving permanent normal trade relations status and recognizing Ukraine as a market economy state.

Abandoning Jackson-Vanik is long awaited. All necessary preconditions have been fulfilled by Ukraine. It's not only Ukraine who will gain from such decision of the U.S., but also American exporters.

U.S. markets remain closed for some Ukrainian products because of the import limitations and undue anti-dumping sanctions. There are some contradictions in this policy. How can one speak about advantages of open markets while at the same time pursue a policy that closes markets for Ukraine? It is in the interest of business relations between our nations that these problems must be solved. It will indeed help Ukraine, and will help American businessmen gain greater access to Ukraine's market.

Recently a group of American Congressmen visited Ukraine. This meeting left no doubts that Ukraine has genuine friends among American legislators and that potential for our cooperation is extraordinarily high. It gives grounds to hope that Ukraine and the United States will continue to make the right choice in the future – whenever Ukraine finds itself at a crossroads it will find here genuine friends.

We believe that the U.S. policy towards our nation will continue to be based on mutual understanding and that strengthening of democracy, economic reforms and independence of Ukraine is both of paramount importance for the national interest of the United States, as well as for the perspectives of European and transatlantic security and stability.

Ukraine's foreign policy activity is transparent and consistent. It makes us a predictable partner for the international community. We speak the same language with Moscow, Brussels, and Washington. That's the language of our national interests.

3. Domestic political situation in Ukraine

Far-sightedness, consistency, and confidence in implementation of the international obligations assumed by Ukraine would be impossible without consecutive domestic policy, aimed at establishing the principles of democratic society, ensuring human rights and freedoms, and economic market reforms.

The international community has been carefully following political developments in Ukraine surrounding the disappearance of journalist Georgiy Gongadze, along with the so-called "tapes scandal" and the recent dismissal of the Government.

Before the latest events unfolding in the country Ukraine was regarded as an island of stability in the post-Soviet sphere. Ukraine has managed to avoid bloodshed, serious inter-ethnic, inter-faith and social conflicts. High-ranking American officials and respected analysts have repeatedly stated that the situation in Ukraine regarding ensuring human rights and civil liberties is considerably better compared to other post-Soviet republics.

So, what caused the aggravation of the current situation in Ukraine?

The current political situation is predicated on an all too common difficulty of establishing a modern, democratic state, and fighting between different corporate-economic groupings for the sphere of influence.

Different factors have contributed to this conflict's development, including an under-developed and non-structured civil society and the lack of updated regulations to harmonize the interests of various political and economic groups.

Absence of the democratic mechanism of functioning of the old (communist) and the so-called new opposition that emerged only half-a-year before has considerably added to the escalation of the political situation in Ukraine. Opposition forces united all the variety of the of representatives from different, sometimes even opposite contrary political views, including not only right- and left-wing groups, but also supporters of the revival of the USSR and those who call for Ukraine's entry to NATO.

The processes of grand privatization also contributed to the aggravation of the political situation. They were followed by the clash of not only private interests, but also state, interstate and even geopolitical interests.

Appearance of the destructive potential of the domestic and geostrategic factors finally determined the peculiarities of the current political crisis development.

Confrontation between the Government and the Parliament, an unprecedented interest of the world community to the conflict settlement process are the signs of this crisis. It is very difficult to reach consensus between the power and the new opposition. Such situation indicates difficult and contradictory processes of self-determination of the Ukrainian new opposition which still declares impossibility of dialog with power. At the same time, more new political groups are emerging in the Ukrainian political environment. A new generation of politicians has come into sight. They are not burdened with the totalitarian past, and declare their adherence to democracy and European choice.

It appears to be anachronistic when certain political forces make attempts to lay the blame for all the troubles in the country on the representatives of big business, often referred to as "oligarchs". The citizens of Ukraine and the international community are pushed to believe in the "bloom of communism and oligarchism in Ukraine", a myth based only on the situational coincidence of interests of a wide spectrum of political forces on the Government policy. But that myth revealed its false nature as soon as the inter-factional discussions over the formation of new government began in the Parliament.

I also want to remind Ukraine's most severe critics of the fact that the Parliamentary majority formed last year came about due to their initiative and the most active participation of the Parliamentary factions. Only because of the ardent support offered by the same "oligarchs" V. Ushchenko was elected as Prime Minister and the Government Program was approved.

Due to that majority the work of the Parliament was organized in a constructive way and the Parliament passed many important legislation acts such as criminal and tax codes, and a new law on political parties. The above-mentioned factions provided strong and constant support to the legislative initiatives of the Government.

The problem that remains is determining a way out of the current political crisis. I believe it is counterproductive to assign blame. The critical step now is to understand in Ukraine and abroad the possible long-term consequences of the current crisis so that we can work for their prevention.

The instigators of the “tape scandal” have indeed demonstrated revolutionary methods of acting out. As a result of that, political forces were involved that are in a severe confrontation with the incumbent President of Ukraine.

Confrontational actions have been intensified by political extremists and quasi-fascist groups who joined the opposition. Thus, violent clashes on March 9, 2001 in Kyiv between protesters and law-enforcement officers unfortunately became the logical continuation of opposition policy. All the events occurred on a sacred day for Ukrainians - the anniversary of Taras Shevchenko’s birthday.

Such tendencies pose a serious threat to the further democratic development of Ukrainian society. The “revolutionary movement” against the President may transform into a “revolutionary movement ” against Ukrainian statehood. That would imply the destruction of the Constitutional structure, the hampering the process of political consolidation, the erasure of effective power functioning in Ukraine, and further political elite marginalization.

Parliamentary hearings held in April 2001 devoted to the Statement on former Prime Minister Ushchenko’s Government activity, as envisaged by the Constitution of Ukraine, became yet another test to the democratic essence of Ukraine’s power structure. Political infighting sparked by that procedure by newly-elected opposition representatives led to the further polarization of political forces. They even created an anti-American and anti-Russian atmosphere in and outside of Parliament. A further exacerbation of the conflict, based upon the upcoming parliamentary election campaign in Ukraine may have dangerous consequences for both the internal and foreign policies of Ukraine.

The Ukrainian political system is by no means perfect. It is not authoritarian any longer, but it is not fully democratic. We have to acknowledge that we are behind in our reforms. It is one of the most urgent tasks of the current Administration. That is why on the instruction of the President a group of highly qualified specialists is elaborating a new conception of reforming political system.

Executive power focuses its work on searching for an effective mechanism for fighting abuses of power. A package of measures has already been worked out. It is aimed at fighting the shadow economy, corruption, other illegal actions in social and economic spheres, ensuring the proper expenditure of the state funds. The anti-corruption committee chaired by the

President of Ukraine will provide organizational framework for implementation of these measures.

On condition of the further development of political conflict, Ukraine faces the necessity of protecting its strong democratic gains. Is it possible to implement the ideas of “sustained democracy” in Ukrainian society or is Ukraine doomed to oscillate between absolute non-freedom and complete chaos? There are no perfect answers to those questions. The essence of the present dialogue between the present Administration and political forces in Ukraine, including new opposition, lies in the search for those answers.

4. Further Protection Of Human Rights And Freedom Of Speech

The current political situation in Ukraine has drawn increased attention to the protection of human rights and freedoms, in particular the freedom of speech and media.

Under such rather difficult conditions, the reformist forces in Ukraine have taken measures to ensure international standards in the field of human rights and freedoms in the country. In particular, a relevant legal basis has been developed. In 1996, the Constitution of Ukraine was adopted, which implemented the basic provisions of international legal instruments on human rights.

In 1997, Ukraine ratified the European Convention on Human Rights and the European Convention against Torture.

The Constitutional Court of Ukraine and the Supreme Council of Justice perform their functions intensely. An Ombudsman institution has been established at the Supreme Rada of Ukraine. In 1999, Ukraine adopted the Guidelines of the State Policy in the Sphere of Human Rights and Freedoms, which is a framework document on human rights protection.

In 2001, the Supreme Rada repealed the use of capital punishment. The penitentiary system is being reorganized and the penitentiary bodies have ceased to be subordinate to the Interior Ministry.

The 1996 Constitution of Ukraine envisages the development of a new judicial system to be in full compliance with European standards and Ukraine’s international commitments and providing conditions for real protection of human rights. The Courts of Appeal have to become a new institution for Ukraine, playing a critical role in the national human rights protection system. Courts are playing a greater role in protection of human rights in criminal matters, as well.

Strong tolerance of ethnic minorities is Ukraine’s undeniable asset. In 1997, Ukraine adopted the Law On Ratification of the Council of Europe Framework Convention on Protection of National Minorities. The draft law On Rehabilitation of Persons Originating from National Minorities Who Were Subject to Repressions and Deported from the Ukrainian Territory and Ensuring their Rights has been developed. It aims, inter alia, at remedying the injustice done to the Crimean Tatar people under the Communist regime.

As of today, Ukraine is a party to 300 multilateral agreements (including conventions). However, because of internal political difficulties, Ukraine up to now ratified only 30 out of 173 European multilateral agreements. This was the main reason behind the strong criticism of Ukraine by the Council of Europe Parliamentary Assembly.

This criticism is not too pleasant for us. But it has only strengthened the determination of Ukraine's political elite to implement the European standards into Ukraine's legislation more actively. Moreover, to-day a number of NGOs are working to this end becoming more visible at Ukraine's political and social landscape.

Under Ukrainian law, public life in the country is based on the principles of political, economic and ideological diversity; censorship is forbidden; everyone has a guaranteed right to freedom of thought and speech, free expression of one's views and convictions, to freely choose, collect, retain, use and disseminate information through various means at one's discretion. These standards have been developed and specified in more than 110 regulative and legal documents, such as Laws, Orders of the President of Ukraine and Decrees of the Cabinet of Ministers.

One cannot but acknowledge the fundamental changes that took place during the years of Ukraine's independence in the functioning of the system of mass media towards their democratization and removal from ideological dictates. The number of periodicals, TV and radio broadcasting companies has increased dramatically. The Internet has also become more accessible.

However, relations in the triangle of "society-media-state" continue to develop, sometimes with difficulties and conflicts. The main problems in this area arise from the underdeveloped informational environment in the country, especially as the purchasing power of the population remains low. Here is a typical example of that – Ukraine has only one news agency office abroad – in Brussels, and only one Western newspaper, The Financial Times, has been fully accredited in Kyiv. The United States, as an acknowledged leader of the information society, could extend essential assistance to Ukraine concerning mass media development and establishing a system of dissemination of reliable information about Ukraine throughout the world.

Today, Ukraine critically requires developing conceptual principles and a strategy for a national information policy. The latter should envisage ways of addressing the issues concerning the strict observance of the adopted standards by subjects of informational relations, first of all, state-run public authorities of all levels. It is in this sphere that violations occur, giving rise to justified criticism of journalists and representatives of the public, as well as warnings on the part of international and European organizations. The state sees its major function in the media-related policy in establishing equal conditions for economic activities that would encourage competition and protect the sector from monopolization, while taking into account national interests and the needs of the domestic market. To this end, a planned review of the taxation policy, customs and other regulations is foreseen. We also seek to improve the investment climate in the field of information. The authorities have renounced the

practice of selective and biased approach to mass media on the part of the fiscal and other controlling executive agencies. The recently established Council for informational policy at the President of Ukraine monitors these activities.

Ukrainian authorities are seriously concerned with the reported cases of death or disappearance of mass media representatives, most of such cases with motivation unclear. Therefore, any attempts on the lives of journalists have since been subject to highly scrutinized investigation to find out if there was any connection with performance of their professional duties.

The President of Ukraine has signed the Order On Additional Measures to Prevent Disappearance of People and Improve Interaction between Executive Law Enforcement Agencies in Searching for them. In pursuance of the Order special permanent investigative operational groups have been established at the Interior Ministry agencies to immediately respond to crimes and offenses, including those involving mass media activities and journalists.

There is an understanding in Ukraine that informational openness of the government structures, public awareness of actions and intentions of the authorities is a sine qua non for successful democratic transformations. However, one should not conceal the negative factors that have been strikingly outlined under the present-day conditions. First of all, this refers to the fact of serious distortions of the situation in certain media publications both in Ukraine and in the West, the attempts to dramatize the current political conflict and to introduce the element of cynicism and catastrophe into mass consciousness. As a result, both the Ukrainian and Western public have been frequently misinformed as to the reality of events in Ukraine.

The authorities are ready to do what they should in order to civilize the relationship with the mass media. Still, much depends on the media themselves, as well as on their founders and owners. Media should only act in compliance with standards defined by law and democratic principles of the ethics of journalism. The relations of mass media with both the authorities and readers, viewers and listeners, as well as the level of public trust to media will depend on that.

On the whole, under unbiased approach, one cannot but acknowledge cardinal changes towards democratization and freeing the media from the ideological dictates. Ukraine is steadily moving towards that end.

Ukraine still has a lot to do to advance towards democracy, ensure rights and freedoms of its citizens, and boost market transformations. The authorities realize this and will spare no efforts to make Ukraine a modern prosperous and democratic country in the 21st century.

The authorities are certain that in Ukraine we will successfully surmount all obstacles on our way to further European integration, while the United States will always have Ukraine as its real and reliable partner. I hope that the Congressmen will share this conviction of mine.