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Ukraine's Anti-Protest Laws: A Step Backward in Time

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Violent clashes between police and demonstrators erupted in Kyiv, Ukraine, last weekend in the wake of new legislation effectively banning public protest. If the two sides do not take a step back from the brink, the confrontation may lead to chaos, when neither the government nor the opposition have control.

The legislation, passed on January 16 by President Victor Yanukovich's Party of Regions deputies in the face of opposition boycott, appears invalid. Deputies did not count the votes and have not used electronic voting cards—a clear violation of the law. The ruling party aimed the draconian legislation at the demonstrators in the city's Independence Square, who have been protesting Yanukovich's decision not to sign an Association Agreement with the European Union (EU) last November.

The law bluntly violates the basic human rights of the Ukrainian citizens, such as freedom of speech and freedom of association, turning Ukraine into one of the most authoritarian regimes in the post-Soviet space, in league with Belarus. It is inconceivable that the United States and countries of Europe, who repeatedly warned President Yanukovich to avoid this path, would stand idly by.

Russia has used its massive political and economic influence over Ukraine to prevent the Association Agreement with the EU, while both the U.S. and the EU did little besides watching Ukraine fall into Moscow's geopolitical orbit. The legislation is a total reversal of the democratic gains of the 2004 Orange Revolution. Ukraine's future looks increasingly within the Russia sphere of influence, especially if Yanukovich joins Russia's Customs Union and Eurasian Union—as President Vladimir Putin desires.

The New Legislation. The new anti-democratic measures go further than similar law in Russia to quell civic resistance. The Rada passed 11 laws—some of which carry prison sentences of up to 10 years—without a debate or adhering to proper voting procedures. Deputies hastily passed a legislative package with a show of hands, not through the electronic vote as required.

According to the new law, a person can be arrested for up to 15 days for participating in rallies or meetings or for wearing a mask or a hat that makes identification difficult. Blocking access to public buildings, as was done in Kyiv, is punishable by imprisonment of up to six years. Setting up unauthorized tents or stages would lead to an arrest for 15 days.¹

Following Russia's example, the new legislation classifies nonprofit organizations receiving financial support from abroad as “foreign agents.” They now would have to submit monthly financial reports and pay taxes.²

Moreover, one of the laws makes it easier to strip opposition lawmakers of their immunity, allowing the ruling party to get rid of prominent opposition leaders, such as Vitaly Klichko, ahead of next year's presidential elections.³

This paper, in its entirety, can be found at
<http://report.heritage.org/ib4133>

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Using Economics as a Geopolitical Tool. With the new rules, the government seems to squelch demonstrations and crush the opposition. Violent clashes have spread over Kyiv. If Yanukovich gets the upper hand, his next move is likely to join the Customs Union headed by Russia, which has already asserted considerable power over Ukraine.

As Putin is trying to expand Russia's reach, Ukraine is at the top of his list, as it is one of the richest and most strategically important countries in the post-Soviet space. Moscow has used its leverage to pressure Yanukovich not to sign the Association Agreement with the EU. Last August, Russia banned almost all of Ukraine's imports for a week, resulting in a loss of billions of dollars for Ukraine.⁴ Furthermore, in November, Putin offered Kyiv \$15 billion in loans, credits, and natural gas discounts to bail out Ukraine's economy. Russia also promised Ukraine its borrowing rights in the International Monetary Fund (IMF), despite the fact that it is highly unlikely to secure a giant loan for Ukraine. There were no comparable counterproposals from Europe or the U.S.

As the U.S. is pulling out of Afghanistan and Western influence in the post-Soviet space is weakening, Russia is gaining confidence as a geopolitical power. With Russia's growing economic and diplomatic influence in the region, human rights and democratic standards will deteriorate, just as they have in Ukraine.

The Importance of Ukraine. There are over 2 million people in North America tracing their ancestry to Ukraine. The country, with the largest territory in Europe, has a population of around 45 million and is of strategic importance to the West. Ukraine has an extensive Black Sea shoreline with major seaports and borders with four member-states of the EU. It has a developed heavy industry capable of building

giant cargo aircraft and ballistic missiles and has a vast agricultural sector. The U.S. and Europe have been heavily involved in helping Ukraine to become a democracy and a market economy. U.S. assistance to Ukraine has amounted to over \$5 billion since its independence in 1991.⁵

What the U.S. Should Do. The U.S. should work with international and Ukrainian nongovernmental organizations to document human rights violations committed by Ukrainian leadership and law enforcement authorities and denounce any such violations through the Organization for Security and Cooperation in Europe.

The U.S. should clarify to Ukraine that until it rescinds the anti-democratic legislation and resumes a dialogue with the opposition leading to transparency and political opportunity in the 2015 presidential elections, Washington will not support further economic aid to Kyiv in any form, including through the IMF.

Congress should hold hearings and consider the enactment of sanctions legislation similar to the Sergei Magnitsky Rule of Law Accountability Act to restrict travel to the U.S. of Ukrainian officials involved in passing and implementing the new anti-democratic legislation.⁶ The U.S. should coordinate any retaliatory measures with European allies.

U.S., EU Missed the Boat. The U.S. has supported Ukraine in building an independent democratic state since the fall of the Soviet Union, and it is not in America's interest to let Ukrainian democracy be replaced by an authoritarian, avaricious, and corrupt regime.

However, the U.S. and EU appear to have missed the boat on Ukraine. As Ukraine is also a European problem, diplomatic consultations are necessary with the major stakeholders in Europe, such as Ger-

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1. UNIAN Information Agency, "Verkhovna Rada Turns Ukraine into Police Dictatorship: Dangerous Provisions Adopted on January 16," January 16, 2014, <http://www.unian.info/news/617617-verkhovna-rada-turns-ukraine-into-police-dictatorship-dangerous-provisions-adopted-on-january-16.html> (accessed January 16, 2014).
 2. George Weigel, "Gutting Democracy in Ukraine," *National Review Online*, January 16, 2014, <http://www.nationalreview.com/article/368669/gutting-democracy-ukraine-george-weigel> (accessed January 17, 2014).
 3. Radio Free Europe/Radio Liberty, "Ukraine Simplifies Procedures for Stripping Lawmakers of Immunity," January 16, 2014, <http://www.rferl.org/content/ukraine-parliament-simplifies-stripping-immunity/25232226.html> (accessed January 18, 2014).
 4. Nicu Popescu, "The Russia-Ukraine Trade Spat," European Union Institute for Security Studies, August 2013, http://www.iss.europa.eu/uploads/media/Alert_Ukraine_trade.pdf (accessed January 18, 2014).
 5. Thomas O. Melia, "The Situation in Ukraine," testimony before the Committee on Foreign Relations, U.S. Senate, January 15, 2014, <http://www.state.gov/j/drl/rls/rm/2014/219827.htm> (accessed January 17, 2014).
 6. Sergei Magnitsky Rule of Law Accountability Act, <https://www.govtrack.us/congress/bills/112/s1039/text> (accessed January 20, 2014).

many, Poland, and Sweden—the initiators of the European Eastern Partnership policy, which has disintegrated.

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