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END NOTE

UKRAINE STEPS UP THE STRUGGLE AGAINST ORGANIZED CRIME AND
CORRUPTION
-- OR DOES IT?

By Taras Kuzio

On 6 February, Ukrainian President Leonid Kuchma issued a presidential decree titled "On Urgent Measures to Strengthen the Fight Against Organized Crime and Corruption." The official reasoning for such a decree was threefold: Organized crime and corruption continued to do damage to "citizens"; it "undermined the international prestige of Ukraine"; and there are "serious shortcomings" in law enforcement.

Why now? A reading of the decree would suggest four reasons. First, Ukraine was placed on the Financial Action Task Force (FATF) blacklist last December for preparing anti-money-laundering legislation that was only adopted after international pressure and then deemed to be inadequate. Second, Ukraine's international image has taken a nosedive since the Kolchuga scandal broke out in September, when the United States accused Ukraine of supplying military equipment to Iraq.

Third, this newfound concern for the rights of "citizens" is part of the strategy of "glasnost" in the presidential administration, begun in August, to increase the transparency of the executive and deal with public concerns (e.g., social problems, crime, corruption, etc.).

Finally, there are the approaching presidential elections in October 2004. The ruling oligarchic class in Ukraine, allied to President Kuchma, who ends his second term next year, has been totally discredited domestically as a consequence of the so-called Kuchmagate crisis that began in November. Such decrees aimed at corruption and organized crime represent an attempt to improve the public image of the executive and its allies ahead of the 2004 elections.

The first point of the decree deems the work of the Directorates on Organized Crime and Corruption (UBOZ) within the Interior Ministry (MVS) and the Ukrainian Security Service (SBU) to be "inadequate and ineffective." This was because they had "failed to ensure the execution to the fullest extent of the tasks entrusted to it." Such a conclusion is perhaps unsurprising, as critics accuse the MVS and SBU of being more involved in actually promoting organized crime and corruption than in combating them.

Arms trafficking and the money laundering of large sums from energy deals have been commonplace in Ukraine. The new decree outlines "special attention" to counteract organized crime -- which controls businesses; the fuel, energy, and agro-industrial complexes; and the financial and banking spheres. It is difficult to see how the decree can be effective when Ihor Bakai, the former head of Naftohaz, Ukraine's main gas importer, said as far back as the fall of 1998 that "all rich people in Ukraine made their money on Russian gas." The oligarchic Social Democratic Party-united (SDPUo), headed by the chief of the presidential administration, Viktor Medvedchuk, controls

seven oblast electricity distributors where corruption is rife.

According to Anders Aslund, based at the Carnegie Endowment, the total "energy rents" (i.e., funds earned from insider energy trading due to links with the state) was in the range of \$4 billion, or 13 percent of Ukraine's gross domestic product. These funds were only returned to the budget in 2000-01 under reformist Prime Minister Viktor Yushchenko, who used these funds to pay off wage and pension arrears.

Such corruption in the fuel-energy sector was ignored by the Interior Ministry and the SBU, and Ukraine's myriad legislative acts have never been used against any oligarch involved in corrupt energy trade. The trade was only undermined by the Yushchenko government with the help of Deputy Prime Minister Yuliya Tymoshenko. Bakai was forced to resign, and his ally, Oleksandr Volkov, who held a monopoly on oil imports that enabled him to sell the product at twice the price because of tax exemptions, went out of business. Yushchenko's government was removed by a Verkhovna Rada vote of no confidence in April 2001 that was initiated by Kuchma through his oligarchic allies.

Since then, the problem of rent seeking (i.e., close ties of oligarchic businesses to state institutions) has not disappeared. The new decree requests an analysis of why there is a "protracted delay" in acting on information about "socially dangerous criminal groups" who have close links to the state.

The Interior Ministry's UBOZ were accused in August of having organized "death squads" that murdered and robbed. These "death squads" allegedly worked closely with organized crime, and a small number of members of these "deaths squads" have been arrested since August. The new decree calls for a thorough review of personnel within the Interior Ministry and the SBU directorates devoted to combating organized crime and corruption.

The UBOZ possess squads of 50 special forces attached to each oblast center that are called Sokil (Falcon). The "death squads" comprised Sokil members and are assumed to be the same as the Orly (Eagles) that former Interior Minister Yuriy Krawchenko boasted of to Kuchma. State Prosecutor Svyatoslav Piskun admitted in February that the Sokil-Orly theory is one of three lines he is investigating in the 2000 murder of opposition journalist Heorhiy Gongadze. A document leaked to grani.kiev.ua journalist Tatyana Korobova in February from Interior Ministry officers also implicates Sokil-Orly in the organization of "car accidents" of political opponents and officials who had fallen out of favor with the executive.

Will the new decree be implemented? That is a question that should be asked in Ukraine and in other Commonwealth of Independent States (CIS) countries because of the weakness of the rule of law. Legislative acts and presidential decrees are not always implemented -- or are done so in a selective manner. Elected deputies and officials appear to feel little responsibility to implement legislative acts. A large number of earlier anticorruption and organized crime legislation in Ukraine has therefore been ignored. Why should we expect this new decree to end up any different?

Another factor that should be taken into account when analyzing such legislative acts is the duplicity of CIS leaders. Often, legislative acts are undermined by the same people that are supposed to be implementing them. During the 1990s, the adoption of a large number of legislative acts and resolutions by meetings of the presidential committee on organized crime and corruption, and the National Security and Defense Council, took place at the very same time that the individuals who adopted the decrees and resolutions were themselves involved in the organized crime and corruption they were meant to be combating.

On 24 April 1998, presidential decree number 367 outlined a

"Conception for Combating Corruption in 1998-2005." In 1999-2000, presidential security guard Mykola Melnychenko taped hundreds of hours of conversations in Kuchma's office detailing abuses and widespread illegalities (including corruption and links to organized crime). One of the demands in the new February decree is a report on the state of the implementation of that 1998-2005 document.

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