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## Ukrainian Authorities Declare War on the Oligarchs

**The Verkhovna Rada of Ukraine adopted the presidential draft of the law “On the Prevention of Threats to National Security Associated with Excessive Influence of Persons Having Significant Economic and Political Weight in Public Life (Oligarchs)” at a second reading on September 23, 2021. The essence of this law is to give the National Security and Defence Council of Ukraine, headed by the president, the power to recognize individuals as oligarchs and to control contacts of government officials with these persons and their representatives. The document provides for the creation of the Register of Oligarchs, specifies the mechanism of populating this list, and describes the consequences of being on this list. It obligates public officials to submit declarations about their contacts with persons included in the Register. The de-oligarchization law will become effective six months after it was signed by President Volodymyr Zelensky on November 5 and will remain in force for the next ten years.**

**A new wave of de-oligarchization.** The term “oligarchy” is usually used to describe a group of people combining great wealth with significant influence on power. An oligarch in Ukrainian reality is someone who has a large, often monopolistic business, who has influence over the parliament and other bodies of state power, and who owns media or has a strong influence on the media. For over twenty years, big business has exerted a decisive or even dominant influence on a number of economic sectors, especially energy, oil and gas, mining, metallurgy, and some sectors of mechanical engineering, trade, and the food industry.

During all this time, there have been discussions in Ukrainian society about the need for de-oligarchization, but none of the attempts to destroy the oligarchic system and its influence on the government in the country have been successful. The latest wave of de-oligarchization was initiated during Volodymyr Zelensky’s presidency, and the most probable reasons for this are as follows:

- the aspiration of the president and his team to reform Ukraine in order to accelerate the socio-economic, political, and democratic development of the country;
- the desire to strengthen state power and to ensure national security in the economic, political, and information spheres;
- Volodymyr Zelensky’s desire to maintain and increase his own popularity and the popularity of the pro-presidential party Servant of the People. The de-oligarchization law can be used as an instrument in the political struggle to have Zelensky re-elected for a second term. As a result, the law will likely be used selectively and, above all, it will inevitably concern the people who are disloyal to the administration. As such, a good reformist idea of limiting the influence of the oligarchs in the triangle “power – oligarchs – society” will be reduced to the fact that the oligarchs are qualified as either friends or foes of the current administration.

The president submitted the draft law on de-oligarchization to the Verkhovna Rada in early June 2021, and it was approved by the parliament in the first reading on July 1. Between the first and second readings, deputies submitted over 12 hundred amendments and suggestions to the bill. In addition, the Verkhovna Rada Commissioner for Human Rights, Lyudmyla Denysova, sent an official letter to the Chairman of the Parliament, Dmytro Razumkov, noting the inconsistency of the bill with the Constitution. This appeal was supported by four opposition factions. On September 10, Razumkov sent the document to the Venice Commission for expert analysis.

However, the parliament would not wait for the opinion of the Commission. After considering the amendments in an accelerated procedure on September 23, 2021, it took the Verkhovna Rada just one hour to approve the law on de-oligarchization. It was supported by 279 MPs, including 229 representatives of the Servant of the People party, 18 – For the Future group, 15 – Trust group, 11 – Voice party, and 6 non-faction deputies. The parliamentary factions of the European Solidarity and the Opposition Platform – For Life voted against the adoption of the law. At a meeting on October 19, the Verkhovna Rada rejected all 12 draft resolutions registered by opposition factions on the repeal of the parliament’s decision on the adoption of the draft law on de-oligarchization. This opened the way for the document to be signed by the chairman of the Verkhovna Rada and then submitted to the president. Volodymyr Zelensky signed the legislation into law on November 5.

**The main provisions of the law.** The document provides for the creation of the “Register of Oligarchs” which will be developed by the National Security and Defence Council of Ukraine (NSDC). Influential businessmen will be included on the list on the basis of an application submitted by the Cabinet of Ministers, the National Bank, the Security Service of Ukraine, the Antimonopoly Committee, or the member of the NSDC. The law, however, does not specify what the application should be or within what period it should be accepted or declined. According to the document, an oligarch is a person who meets at least three of the following four criteria:

- participates in the political life of the country, holds a high state position, or finances a political party;
- has a significant influence on the media, including online media;
- controls or owns a monopoly;
- has assets exceeding 1 million of official subsistence minimums. This figure is currently about UAH 2.38 bln (approximately USD 87.4 mln).

If a businessperson is included in the Register of Oligarchs, he or she will be prohibited from participating in the purchase of large privatization objects, making contributions to support political parties and candidates’ election funds (other than their own election fund), or financing any political campaign, rallies, or demonstrations with political demands and slogans. At the same time, the authors of the bill did not disclose the meaning of the term “political demands and slogans”.

In addition, individuals appearing in this Register will be required to submit declarations of assets, incomes, and expenses to the National Agency for the Prevention of Corruption on equal terms with officials. In turn, officials will be obliged to report each contact with oligarchs or their representatives. The president, the chairman of the Verkhovna Rada, members of the parliament, members of the government, and other public officials should prepare such mandatory reports. Failure to submit a report may result in political or disciplinary responsibility.

**Negative sides of the law.** The law on de-oligarchization gained wide publicity in both political and expert circles. The main concern was that it was adopted in a hurry, in a shortened procedure, without the support of the opposition, contrary to the position of the Parliament’s Speaker, Dmytro Razumkov, and in his absence (he was on sick leave), and before the Venice Commission had issued an opinion. This haste resulted in the law containing contradictory norms. For example, according to one of them, the decision recognising a person as an oligarch is made by the NSDC, while according to another – it is the responsibility of the National Agency for the Prevention of Corruption (the so-called Dmytro Razumkov amendment).

There are four main reasons for the criticism of the new law:

1. The NSDC attained excessive powers in compiling the Register of Oligarchs. Because of the vague criteria of being an oligarch, there is a risk that the representatives of big business who do not participate in political life will be included in this Register.
2. The complexity of the practical implementation of the restrictions imposed on oligarchs and potential subjectivity in their application. This will lead to the emergence of a group of “new” oligarchs.
3. Any government official could be a subject for dismissal because of their undeclared encounters with oligarch’s representatives who did not disclose their connections.
4. The insufficiency of real economic mechanisms to combat the abuse of the monopolistic position by the oligarchs and their significant influence on the economy.

Some provisions of the law contradict a number of current legislative acts of Ukraine, which guarantee equal constitutional rights and freedoms, equality before the law, freedom of political activity, and the right of the owner to dispose of their property. All this may contribute to the emergence of corruption threats and become a basis for submitting complaints to the Constitutional Court of Ukraine and lawsuits to the European Court of Human Rights.

**Conclusions.** The law on de-oligarchization is of fundamental importance to President Volodymyr Zelensky, who wants to strengthen his political power in the country, accelerate the implementation of reforms, especially in the judiciary and agricultural sector, and reduce threats to Ukraine’s sovereignty. The adopted document will exacerbate the confrontation between the Ukrainian financial and political groups, which regard the president’s initiative as an attempt to impose “new rules of the game” on them. Disputes within the Servant of the People party, constant criticism from the opposition, the public confrontation between the speaker of the parliament and his first deputy, the application to the Venice Commission, and the use of the shortened voting procedure, all serve as indirect signals of the sensitivity of the law for these groups.

The opposition to the bill stems from the fact that it is only the first of several in the de-oligarchization legislative package. Based on it, the Servant of the People intends to approve antitrust laws as well as laws on lobbying and other laws aimed at reforming the economic and social relations in the country. It is not beyond possibility, however, that the implementation of the law could have unexpected negative consequences such as restrictions on certain human rights and freedoms, together with a subjective interpretation of the norms of the law, since the decision to include oligarchs in the Register will not be adopted by the court, but by the NSDC, headed by the president. The effectiveness of the implementation of the law will depend primarily on demonstrating the necessary political will, the effectiveness of further steps by the authorities, and their subsequent legislative decisions.