

Poroshenko refuses selection of anti-corruption judges by foreigners

Ukraine

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Analyst: "we treat Poroshenko's continued resistance to 'foreign donors,' as he referred to them (as opposed to 'Western partners'), as a very disturbing signal that threatens the chances on getting the IMF loan tranche this year."

KYIV, Mar 7, 2018 - Ukrainian President Petro Poroshenko made clear that he opposes the proposal that foreign donors can play a decisive role in selecting the judges of the independent anti-corruption court that they are requiring for the next IMF loan tranche, Concorde Capital informed clients today in an online advisory. The statement by Poroshenko was part of his March 1 interview published by the Financial Times on March 6. "If anybody can imagine that foreign donors will form Ukrainian courts, this is against the constitution, because only the Ukrainian people can have a decisive role in creating 'Ukrainian court system,' he said. The bill to create the High Anti-Corruption Court, which Poroshenko administration team drafted and submitted, is currently in the parliament, where he said there is an opportunity to discuss its conditions. "And I am absolutely happy if all our partners can exchange arguments and find a definite compromise," he said. He also warned that the final draft should be consistent with the constitution, otherwise "anyone can go to the Constitutional Court and suspend or stop this law," which would be "a catastrophe." Answering a question on what he thinks about international donors' demand that judges be independent, he said that he is "absolutely for the independent status of judges," stressing that they should be independent from the foreign donors as well. Recall, the IMF and the World Bank criticized Poroshenko's bill on creating the anti-corruption court, which allows a local commission of judges to nominate even those candidates who are rejected by a council of international experts. Approval of the law in compliance with Council of Europe recommendations is crucial for the IMF to provide its fifth loan tranche to Ukraine under the current EFF program. Concorde analyst Alexander Paraschiy added: "The selection of judges for a future anti-corruption court is crucial for its independence. Therefore, it's not in the interest of Ukraine's elites to allow international experts to be able to reject or veto the nomination of certain candidates to the court. International institutions, and the World Bank in particular, cited the negative experience with judges selected to Ukraine's Supreme Court, in which a Judges Qualifications Commission overrode decisions made by a Public Integrity Council - respected by Western institutions - to reject numerous candidates. Of the appointed Supreme Court judges, 22% had a negative assessment from the Public Integrity Council and over 50% drew significant criticism. For that reason, we do not believe there is room for compromise in the selection of judges to the anti-corruption court, as Poroshenko is hoping for. Therefore, we treat Poroshenko's continued resistance to "foreign donors," as he referred to them (as opposed to "Western partners"), as a very disturbing signal that threatens the chances on getting the IMF loan tranche this year. One of the likely scenarios, which Poroshenko hinted at in the interview, is that parliament approves the law in line with IMF demands (and Ukraine receives the next loan tranche), but then Ukraine's Constitutional Court will declare the law unconstitutional and repeal it altogether.

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