

To: Clients and Friends of the Firm

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Re: Yushchenko Uses Security Service Against Former Orange Allies

The Ukrainian Security Service (SBU) is targeting the president's former Orange ally, the Yulia Tymoshenko bloc (BYuT), as part of a strategy to undermine Tymoshenko's popularity ahead of the January 2010 presidential elections. The campaign uses methods similar to those used by former President Leonid Kuchma.

The concerted campaign aims at smearing the BYuT, Tymoshenko, and pro-Tymoshenko defectors from the erstwhile supporters of the president Our Ukraine-Peoples Self Defense (OU-PSD) with accusations of "corruption" and other abuses of office. The biased nature of the campaign is similar to those in the Kuchma era insofar as the campaign ignores loyal political forces (pro-regime centrist parties and oligarchs under Kuchma and the pro-Yushchenko wing of OU-PSD) and potential coalition allies (the Communist Party under Kuchma, Party of Regions under Yushchenko).

There are four facets to the campaign. Firstly, the presidential secretariat compiled a 350-page dossier of accusations of "treason" against Tymoshenko and presented it to the prosecutor's office in August. The SBU spent from July to September investigating the accusations. Two days after the secretariat presented its "evidence", the prosecutor's office announced that it had found no "concrete criminal infringements of the law" by the government and that the dossier included nothing that could be used to launch criminal charges against Tymoshenko (Ukrayinska Pravda, November 6).



Secondly, they are besmirching the prime minister's reputation by linking Tymoshenko's position as CEO of United Energy Systems in the mid-1990s to then-Prime Minister Pavlo Lazarenko. Yushchenko and Kuchma are trying to have Lazarenko extradited from the United States where he is serving a jail term on money laundering charges, after seeking political asylum there in 1999.

Thirdly, the secretariat is challenging the citizenship of naturalized Ukrainians, such as Davyd Zhvania, a businessman who provided funding for the Pora (Its Time) youth NGO and Orange Revolution protests in 2004 and the Peoples Self Defense Party in 2007. Zhvania is a deputy in the PSD wing of OU-PSD, which has de facto aligned itself with the BYuT in the inter-orange quarrels. Zhvania became a Ukrainian citizen in 1999 after renouncing his Georgian citizenship. The prosecutor's office and courts rebuffed the presidential secretariat's challenge that the citizenship had been received "illegally" and that he had kept his Georgian citizenship, although Ukraine does not recognize dual citizenship.

Pro-Yushchenko oligarch Igor Kolomoysky, CEO of the Pryvat group, openly admitted in an interview that he had Israeli and Ukrainian citizenship but has not been investigated (www.pravda.com.ua, March 28 and 31). Party of Regions deputy Yukhym Zvyahilsky, who fled to Israel in November 1994 but returned to Ukraine in March 1997, also has dual Israeli-Ukrainian citizenship.

Finally, BYuT and PSD deputies have been accused of "corruption." The president has claimed that the deputies were involved in contraband in collusion with "organized crime." Significantly, the SBU's investigation is only targeting deputies from BYuT and the pro-Tymoshenko wing of OU-PSD.

One of the accused is deputy head of the PSD Gennadiy Moskal, who is deputy head of the parliamentary committee to combat organized crime and corruption. It is unlikely a coincidence that Moskal submitted a request on October 21 to the prosecutor's office to investigate how the biggest castle in Central-Eastern Europe in Mukachevo, an important symbol in Hungarian history, was transferred until 2056 to Vysokyi Zamok, a small private company owned by family members of the presidential secretary Viktor Baloha (Zerkalo Nedeli/Tyzhnia, October 18).

A BYuT statement rejected accusations made by the SBU as merely part of a campaign to “blacken whomever Yushchenko sees as his main enemy the government, its head and team” (www.byut.com.ua, November 6). The BYuT warned that acting SBU chairman Valentyn Nalyvaichenko would face consequences for “the privatization of the SBU on behalf of certain private persons, the degradation and discrediting of the Security Service, and its transformation into a directorate of the presidential secretariat for black PR” (www.byut.com.ua, November 6).

As Ukraine approaches the fourth anniversary of the Orange Revolution on November 21 and the pros and cons of what has changed for the better are being analyzed, one area that remains negative is civil-military relations (see EDM October 21). One important element of this is the continued practice, inherited from the Kuchma era, of the politicizing of the SBU.

The decline and growth of the SBU's politicization are related to how the president is faring in the opinion polls. It always increases and becomes most acute when the president feels under threat from his domestic opponents.



In the Kuchma era the SBU became politicized during his second term following the November 2000 “Kuchmagate” scandal and climaxed during the 2004 elections. Under Yushchenko the SBU’s re-politicization, after a short respite following the Orange Revolution, increased quickly starting in the middle of his first term.

The SBU’s re-politicization has taken place for three reasons. First was the appointment of Deputy SBU chairman Valentyn Nalyvaichenko as acting chairman after parliament refused to support his candidacy which was proposed, as per the constitution, by the president. Nalyvaichenko has seemingly agreed to act as the head of a politicized SBU, unlike SBU chairman Ihor Smeshko who acquitted himself in a positive manner during the Orange Revolution.

Rumors that Nalyvaichenko was to be replaced because of his unpopularity in parliament were leaked by an SBU officer to the newspaper 24 (November 6). The position was offered to a Party of Regions deputy who turned it down. Nalyvaichenko is reportedly to be transferred to the presidential secretariat or National Security and Defense Council.

Secondly, the president’s approval ratings collapsed in 2006 from a very high point in his first year in office. They recovered briefly in 2007 and then collapsed again in 2008 to below 5 percent. A recent poll showed that the lack of confidence in the president among Ukrainians has gone up from an already high 56 percent in January to a staggering 82 percent in October (www.pravda.com.ua, October 27).

Thirdly, it is not coincidental that the SBU’s re-politicization has taken place during the last two years under acting chairman Nalyvaichenko, while



the presidential secretariat is headed by Viktor Baloha. Baloha's aggressive "in your face" defense of the president has drawn on the SBU to battle the president's opponents.

The SBU's re-politicization has brought no real benefits to Yushchenko in terms of improved public support or greater security. If anything, the opposite has occurred as can be seen by the willingness of the BYuT to vote with the Party of Regions on September 2 to change the law on the SBU to make it accountable to parliament as well as to the president.