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DISSIDENT OLIGARCHS UNDER ATTACK IN U.S. AND UKRAINE

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Former Ukrainian Prime Minister Pavlo Lazarenko was charged with laundering US\$114 million on June 4, after a five-year investigation. Lazarenko was only the second foreign leader to be put on trial in the U.S., following Panamanian President Manuel Noriega in 1990. Lazarenko was prime minister in 1996-1997, during which time he amassed a fortune through trading in energy. After being removed from office, he created his own political party, Hromada, which won 4.67 percent of the vote in the 1998 parliamentary elections.

Hromada became Ukraine's first dissident oligarchic party, based primarily in Ukrainian President Leonid Kuchma's home base of Dnipropetrovsk. President Kuchma feared that Lazarenko's ambitions would also lead to his running in the October 1999 presidential elections. Between 1998-1999 Kuchma launched a campaign to indict Lazarenko on corruption charges. Lazarenko fled to the U.S. in February 1999 seeking political asylum after being stripped of his parliamentary immunity. Ukrainian authorities have repeatedly demanded that Lazarenko be repatriated to stand trial in Ukraine. But the absence of an extradition treaty between Ukraine and the U.S. has prevented his repatriation.

Another issue was Ukraine's real disinterest in having Lazarenko go on trial in Ukraine. In one of the illicit recordings made in Kuchma's office by presidential guard Mykola Melnychenko, Kuchma and then-Prosecutor Mykhailo Potebenko discussed the Lazarenko situation. In the recording, Kuchma directed the prosecutor to lobby the U.S. for Lazarenko's return to stand trial in Ukraine. The prosecutor indicated that this would not be counterproductive as a Ukrainian trial would reveal the involvement of other high ranking officials in corruption. Kuchma refused to testify for Lazarenko when his defense team visited Ukraine last year. When Mykola Azarov, head of the State Tax Administration in the 1990s, was asked by the same defense team to testify he, "bolted out of the room like a small frightened mouse" (Ukrayinska Pravda, February 25, 2004).

Corruption charges were only lodged against Lazarenko after he became a dissident oligarch, turning against Kuchma. This willingness by Kuchma to ignore corruption in return for political loyalty has led to Ukraine's being dubbed as a "blackmail state." No charges against Kuchma's loyal oligarchs have ever been launched inside Ukraine. Trials of corrupt Ukrainian oligarchs have only taken place in the west. Besides Lazarenko, former Ukrainian presidential adviser Oleksandr Volkov is wanted by authorities in Belgium. On June 7, Viktor Zherdytskyi and Ihor Didenko were sentenced in Germany for the theft of U.S. \$252 million of German funds provided through Ukraine's Grado Bank, which Zherdytskyi headed in the 1990s. The funds had been earmarked as compensation for World War II Ukrainian slave laborers.

Earlier, on May 7, a San Francisco court ruled that Lazarenko was not guilty of 23 of 53 counts against him. These charges mainly involved Yulia Tymoshenko, who headed Unified Energy Systems (YES) when Lazarenko was prime minister. Unlike Lazarenko, Tymoshenko stayed in Ukraine. Her opposition Fatherland Party is an offshoot of Lazarenko's Hromada.

As deputy prime minister with responsibility for energy in the Viktor Yushchenko government from December 1999 to April 2001, Tymoshenko helped return over US\$2 billion to the Ukrainian budget through her campaign against corruption in the energy sector. However, this accomplishment infuriated Kuchma's oligarchic allies. She was first arrested in February 2001 although charges were dismissed. The office of the prosecutor has not given up attempts to indict her. On June 10, the prosecutor asked Parliament to strip Tymoshenko of immunity on new charges. An earlier attempt to indict Tymoshenko in June 2002 failed. Why is Tymoshenko seen as such a threat in an election year? Tymoshenko's bloc is a right-populist ally of Yushchenko that won 7.26 percent in the 2002 elections. With 200, 000 members, Tymoshenko's Fatherland Party, which represents the cornerstone of her support, is the strongest of all political parties in Yushchenko's Our Ukraine bloc (Zerkalo Nedeli, July 5, 2003). A well-organized leader, Tymoshenko will be crucial to Yushchenko's 2004 election bid. Therefore, as in 1998-1999 with Lazarenko, Ukrainian authorities are seeking to remove Tymoshenko from the election campaign. A joint statement by Yushchenko and Tymoshenko accused authorities of using law enforcement agencies to crush any opposition and

establish a "fascist regime" in Ukraine (Ukrayinska Pravda, May 26).

After the U.S. court threw out charges on May 7 relating to Tymoshenko's links to Lazarenko, Ukrainian authorities were forced to change tactics in attempting to indict Tymoshenko. Only 11 days after the U.S. court dismissed charges against Tymoshenko, new charges were filed in what the pro-Kuchma media has dubbed as "Tymoshenkogate". The anti-opposition website www.temnik.com.ua, linked to Viktor Medvedchuk's Social Democratic United Party, has covered "Tymoshenkogate" daily since May 24. Russian support for this anti-Tymoshenko campaign is demonstrated by the appearance of Russian web site www.timoshenkogate.narod.ru, which is dedicated exclusively to the scandal.

In August 2003, Colonel-General Georgii Oleinik was convicted by a Moscow court of receiving a bribe from Tymoshenko. The new charges relate to a claim by former Tymoshenko financial aide Volodymyr Borovko that he had been given US\$125,000 to bribe judges to influence court cases involving Tymoshenko's former YES business partners. Borovko also claimed that he had been instructed to participate in a kompromat scheme involving Kuchma, his allies and even Yushchenko, as well as to organize a fake assassination attempt on Tymoshenko. The website www.timoshenkogate.narod.ru has run fragments of film footage allegedly showing Tymoshenko instructing Borovko in this regard.

The U.S. court decision in the Lazarenko matter does not bode well for Kuchma and his oligarchic allies. The court decision finding Tymoshenko innocent of corruption charges linking her to Lazarenko forces them to find other charges on which to indict her. In addition, to convict Lazarenko the U.S. court had to prove that the funds he brought into the U.S. were generated illicitly in Ukraine. If Lazarenko is guilty then so were other Ukrainian oligarchs who made their money in the same manner in the 1990s. Therefore, the U.S. indictment is a threat to Kuchma and his oligarchic allies in the post-Kuchma era - if Yushchenko wins the 2004 elections.