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Ukraine's (Russian) Defense Minister and Selective Justice



By Taras Kuzio

The appointment of Dmitri Salamatin as Ukraine's Defense Minister in February came as a surprise to both Party of Regions and opposition deputies because he has a track record of violent behavior against opposition deputies in parliament, has no competence in the field of military affairs and is a Russian citizen. Further details are now emerging of this scandalous appointment.

In February, Party of Regions deputies were shocked at his appointment because he is a citizen of a foreign country and has dual citizenship, which is illegal in Ukraine (<http://www.pravda.com.ua/news/2012/02/26/6959483/>). The leader of the Party of Regions parliamentary faction Oleksandr Efremov called on Salamatin to resign stating, "If somebody had accused me of undertaking something immoral and I understood that this damaged the reputation of my political force, I would immediately write a letter of resignation" (<http://www.pravda.com.ua/news/2012/04/14/6962756/>).

Further reports now prove that Salamatin became a Ukrainian citizen only in December 2005, which is at odds with disinformation by the Party of Regions that he had been a Ukrainian citizen since 1999.

Opposition deputy Taras Stetskiv said that Salamatin's appointment, only seven years after he became a Ukrainian citizen and after working in Russian business structures, "is a clear indication of the incompetence of President [Viktor] Yanukovich and more importantly his direct and conscious ignoring of [Ukraine's] national security and defense interests"

(<http://www.pravda.com.ua/news/2012/04/11/6962527/>). Stetskiv continued: "It is obvious whose interests such a Minister of Defense will defend." Salamatin is increasing cooperation in security affairs and arms exports between Ukraine and Russia and has promised Russia that Ukraine will never join NATO (<http://www.pravda.com.ua/news/2012/03/7/6960221/>).

More importantly, Salamatin was illegally elected within the Party of Regions to parliament in the 2006 parliamentary and 2007 pre-term elections. Ukrainian citizens can only be elected to office after five years of being a citizen (<http://www.pravda.com.ua/news/2012/04/12/6962584/>). Salamatin's attitude toward parliament was evident during the mass fracas on December 16, 2010 when he led a group of Party of Regions deputies who beat up five opposition deputies, putting them in the hospital (Salamatin is wearing a white shirt as he breaks through the door at the beginning of this video <http://www.youtube.com/watch?v=NrfcwPBcqG8>).

Salamatin's illegal rise to the pinnacle of government can be compared with the court sentence of five years imprisonment and three years ban from public office handed down last Thursday to Valery Ivashchenko, former acting Defense Minister in the 2007-2010 Yulia Tymoshenko government – directly illustrating the selective application of justice in the country. Catherine Ashton, the EU's High Representative of the Union for Foreign Affairs and Security Policy, immediately condemned the sentence as politically motivated and warned it would influence EU-Ukraine relations on the Association Agreement (<http://www.pravda.com.ua/news/2012/04/13/6962743/>). The US Embassy in Kyiv said in a statement last Friday that it is "deeply disappointed" by the verdict as the "latest example of selective justice" in Ukraine (<http://ukraine.usembassy.gov/>). Ivashchenko called the institution of Prosecutor-General a "criminal organization" and stated that judges and prosecutors would be held criminally accountable for illegal and unlawful actions (Interfax-Ukraine, April 13). Such thoughts are increasingly stated by opposition leaders, and their return to power would inevitably lead to widespread arrests of law enforcement officials who are behind the political repression.

The Danish Helsinki Committee for Human Rights (DHCHR) has issued four reports on political repression in Ukraine. It condemned the sentence of Ivashchenko under articles 364.2 and 365.3, the same Soviet 1962 articles in the criminal code used to sentence Tymoshenko (<http://www.helsinki-komiteen.dk>). The DHCHR believes, "the Ivashchenko case is not the result of a fair trial in a legal system respecting the rule of law and basic human rights principles."

The DHCHR pointed out the following six points:

- The actions and decisions for which Mr. Ivashchenko has been prosecuted would in other countries be considered normal political activities, which potentially would draw political but not criminal consequences. Due to the political environment in Ukraine and the rule of law situation there is strong suspicion that the prosecution is politically inspired and selective.

- The indictment against Mr. Ivashchenko concerns violations of Article 364 (“abuse of office”) and Article 365 (“excess of authority or official powers”) of the Criminal Code, both of which are vaguely worded and open to interpretation, having their origin in the old Soviet Penal Code where having an office and the authority of power had a completely different meaning from today (see Report II). They have been criticized by the Council of Europe Parliamentary Assembly in its Resolution 1862 of January 26, 2012 (see Report IV),

- The three judges are all very young. The chairman of the court (Serjii Vovk) has two criminal investigations pending against him (as described in Report IV). One judge (Oksana Tsarevych) is not even an appointed permanent judge and will have her permanent appointments confirmed later by the Verkhovna Rada (criticized in Resolution 1862, see Report IV). They have been under pressure to deliver a judgment that will not be controversial to their future careers. It is remarkable to see young judges in such a politicized high profile case and most unlikely that they have been selected by the prescribed random procedure for preventing biased judges. That has also been criticized in Resolution 1862 (see Report IV).

- In general the Ukrainian courts acquit only 0.2 percent of the persons indicted by the Prosecution, strongly indicating that there is a lack of presumption of innocence and that the Judiciary does not function properly as an impartial and independent check on executive power.

- Mr. Ivashchenko has been in detention for 19 months. No time limits have been set and no justification given by the Court for most of that period, which in similar cases by the European Court on Human Rights (ECHR) has been declared a violation of the European Convention on Human Rights.

- Mr. Ivashchenko has been placed in a cage in the court room, which, in a similar case, the ECHR been found to be a violation of the European human rights Convention.

The first conclusion is that President Yanukovich has subordinated Ukraine’s justice system completely under the executive office. A second conclusion is that selective justice is now a standard practice used to remove the political opposition from active politics and to cow Ukraine’s elites into falling into line. The difference in treatment accorded to Salamatin and Ivashchenko is a reflection of selective justice in operation in Ukraine.

Both these conclusions show how different Yanukovich is to authoritarian former President Leonid Kuchma, who did not completely subordinate the judicial system under the executive and permitted a wide degree of political pluralism within the elites.

