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# *INSIDE UKRAINE*

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# Yanukovich Uncovered

## The pendulum swings

The official results of the run-off election announced by Ukraine's Central Election Commission made Viktor Yanukovich the new President of Ukraine. Mr. Yanukovich defeated Yulia Tymoshenko by a margin of 3.48%. Although Ms. Tymoshenko won in 16 of the country's 25 oblasts in the Center and West plus the capital, Mr. Yanukovich had greater support in the 8 more populous Eastern and Southern oblasts, Crimea and Sevastopol.

Yulia Tymoshenko has refused to accept the results, claiming that the vote was rigged by the Party of the Regions. Refraining from street demonstrations, Ms. Tymoshenko has turned to the High Administrative Court to demand a recount. This move seems aimed largely at her electorate in preparation for the next local elections and a possible snap election to the Verkhovna Rada.

The OSCE has stated that Ukraine's "electoral process met most OSCE and Council of Europe commitments." About 3,000 international observers were in Ukraine for the second round. Some 887,909 votes separated the two candidates and it will be virtually impossible to prove in court that violations of this scale took place. International consensus on fairness of the elections, a close match between all 6 exit polls and the CEC results leave little chance for the outcome of the 2010 Presidential election to be revised.

The era of the Orange Revolution team, which was mainly supported by the voters in Northern, Western and Central Ukraine, is now officially over. It is said that revolutions are like Saturn: they devour their own children. But in Ukraine, as someone remarked, it is the children that devoured the revolution by failing to use the powerful mandate given to them in 2005.

There are two main reasons for the changing of the guard in the Presidency. First, the Orange forces

managed to totally alienate voters who did not vote for them, at least in terms of rhetoric, if not by actual deeds. That provoked a reaction among those who felt that the election had been stolen from them in 2004. Second, the Orange camp had relatively few serious successes to claim: the high hopes roused by the Orange Revolution quickly led to disillusionment.

In the short history of modern Ukraine, power first changed hands along the East-South and West-Center axis in 1994, when Leonid Kuchma, a "Red" director, won over Leonid Kravchuk, a Party ideologist. Those were times of unprecedented economic collapse and Leonid Kuchma used his broad Presidential powers to stop hyperinflation and set the country on course to economic growth. In 2005, the pendulum swung again and Kuchma's heir-apparent was replaced by the more liberal Viktor Yushchenko, a professional banker.

Now, as in 1994, the country has a troubled economy and a Western-oriented President has been replaced by the candidate of the East. Yet the situation is also different in important ways: the Presidency is nowhere near as powerful as it was under Mr. Kuchma and political competition in the country is quite fierce.

Mr. Yanukovich won only 48.95% of the vote, while Ms. Tymoshenko had 45.47%. The margin between the candidates was only 3.48% and not the 10-15% predicted by the polls prior to the run-off. This means that a weakened President now has a weaker mandate as well.

This also means that the only one way for Viktor Yanukovich and the Party of Regions to hold on to power in Ukraine is to avoid the main mistake of the Orange team: alienating those who supported his rival. The small margin between the second-round

candidates and the substantial vote that went in the first round to Serhiy Tihipko and Arseniy Yatseniuk leave plenty of room for a counterattack against the PoR, should it get caught up in the euphoria of victory and forget the genuine pluralism of Ukrainian politics.

The next 12 months will show whether Ukraine is going to move towards consolidation of power and building national consensus or not. There is still a high risk of a chaotic change of power and its redistribution between Mr. Yanukovich and Ms. Tymoshenko. This could send Ukraine into an even deeper economic and political tailspin. It also remains to be seen whether the next President will attempt to consolidate power through consensus, or behave as though it is a zero-sum game and try to monopolize power.

## Who is Viktor Yanukovich?

### *The comeback kid*

Twice Premier — first under President Kuchma and then under President Yushchenko, Mr. Yanukovich lost the 2004 Presidential election in a repeat run-off after the Supreme Court declared electoral fraud. Five years later, he has come back as a winner.

Depicted as a villain during the Orange Revolution and a lame public speaker, Mr. Yanukovich is nevertheless popular among millions of Ukrainian voters. This popularity can be attributed as much to his even-tempered personality and his image as an experienced manager, as to a shared sentiment among those who felt cheated and humiliated by what they saw as an unfair and unlawful defeat in 2004. Viktor Yanukovich also needed to grab what could have been his last chance in major politics.

## Myths about Viktor Yanukovich: Reality check

### **Yanukovich is pro-Russia**

In the course of the Presidential race, Viktor Yanukovich was traditionally labeled as a pro-Russian candidate. His critics point to, among others, Party of Regions' ties with the Kremlin's United Russia and his perennial electoral promise to make Russian a second official language in Ukraine. Although he does employ the language that appeals to Russia and generously drops the Kremlin a curtsy every now and again, he has proved reluctant to go much further. One example is when Premier Yanukovich, like President Yushchenko, rejected the option of coordinating WTO accession processes with Russia in 2006. Nor is it likely that the industrial bosses of the regions where Mr. Yanukovich's support is highest are willing to be swallowed up by Russian Big Business.

### **Russia is pro-Yanukovich**

Unlike 2004, when Russia's then-President Vladimir Putin prematurely congratulated Mr. Yanukovich on his victory, in 2010 President Medvedev carefully sent his congratulations well after US and EU leaders. According to a Russian Public Opinion Foundation poll, 47% of Russians believe that relations with Ukraine will improve if Viktor Yanukovich is elected in 2010. Moscow's official position was that it was prepared to work with either of the two front-runners. In some ways, Yulia Tymoshenko could be an even better partner for Russia, if Mr. Yanukovich is supported by Ukrainian Big Business that fears competition from its Russian counterparts.

### **Yanukovich isn't clearly left, right or center**

Mr. Yanukovich's 2010 election platform significantly expanded the list of social commitments, verging on serious populism. However, the policy choices of Yanukovich Governments in the past showed him to be center-right, due to the strong representation of Big Business in PoR. In short, Mr. Yanukovich's position can be best described as a set of platform planks rather than a distinct ideology.

### **Yanukovich is an effective leader**

In contrast to Viktor Yushchenko, Viktor Yanukovich's supporters sat their candidate is "an effective leader who can unite the country" and get his team to overcome the crisis. While his leadership style is indeed "tougher" than Viktor Yushchenko's, that does not guarantee greater effectiveness in presiding over Ukraine's inefficient bureaucratic machine.

### *Trials by power*

In Ukraine, electoral platforms are rarely written to be fulfilled, so it's better to evaluate the previous acts of candidates to have an idea of their further steps.

Viktor Yanukovich has already been Premier twice: in 2002-2004 and in 2006-2007. His first period in power was prior to the 2004 Presidential election and was clearly populist—typical of any politician, preparing for a major election. A quick glance at the second time he was Premier tells us more about what's to come.

The 18 months of the second Yanukovich Government, prior to the snap VR election in September 2007, were marked by several trends. In politics, Mr. Yanukovich went into opposition to then-President Viktor Yushchenko and tried to monopolize power. Many questioned how democratic the establishment of the "anti-crisis" coalition that supported Viktor Yanukovich really was.

After overshooting GDP growth almost twofold and leading to inflationary pressures under the first Tymoshenko Government, this Government's social policy caused the growth of disposable income to slow down. That trend changed as soon as the snap parliamentary election was called, when bones had to be tossed to voters.

Under the Yanukovich Government, privatization was not especially transparent. Most prominent was the case of Luhanskteplovoz, a railcar manufacturing, sold for the starting price in an auction at which competition had been severely restricted through biased strict requirements. Rinat Akhmetov's DTEK also bought with no competition additional issue of shares of Dniproenergo, a state-owned thermo-electric power plant operator. This deal was never formally reviewed, but was often used by Yulia Tymoshenko as an example of favoritism.

VAT arrears grew and, as did regional discrepancies in budget transfers. In 2006, the Government introduced export quotas on barley, maize and wheat to

control the price of bread on the domestic market. This led to losses among grain traders and accusations of ignorance of market principles.

In foreign policy, the Yanukovich Government approved of cooperation with NATO. However, in Brussels Mr. Yanukovich declared that he was opposed to Ukraine's accession to the NATO Membership Action Plan in 2006.

### *All the King's men*

Viktor Yanukovich has always been linked to Big Business, although Party of the Regions is far from monolithic. There are at least two powerful groups that will compete for influence over Mr. Yanukovich—and for portfolios.

One group is technically a lobby of professional bureaucrats and party activists. This group is represented by figures such as Mykola Azarov, Serhiy Liovochkin and Hanna Herman. These are mostly politicians and bureaucrats who were in power during the Kuchma era. While there are professional skills in this group, it mostly embodies the less democratic and more "discretionary" approach to public governance. Moreover, this group has not lost its hunger for power and displayed its ambitions even during the years of Orange dominion.

The second lobby is Big Business led by Rinat Akhmetov, who controls Ukraine's biggest private corporation, System Capital Management or SCM, and Borys Kolesnikov, his close ally. Although they had problems at the beginning of the Orange rule, this group has generally fared well and learnt some lessons from its experience. This lobby is likely to push for a market-oriented approach to economic policy. During the years PoR was in opposition, this group set up several high-quality think-tanks to develop its policy muscle: the Foundation for Effective Governance and the Bureau for Economic and Social Technologies (BEST).

At the moment, neither of these two groups has a well-prepared agenda. They seem to want power for its own sake and not to achieve specific goals.

However, neither group is likely to ultimately win the power contest. The first group, the politicians, will get most of the portfolios but will likely remain receptive to the influence and the interests of the second.

Other Ukrainian businessmen not directly related to PoR, but seen on election night at Mr. Yanukovich's campaign headquarters, such as Viktor Pinchuk and Dmytro Firtash, will favor his presidency and seek his support, provided that Mr. Yanukovich's Presidency really is the lesser evil. Russian businessmen, such as Konstantin Grigorishin, Viktor Vekselberg and Vadim Novinsky, have also greeted Mr. Yanukovich for similar reasons.

## Post-election battle blues

For Mr. Yanukovich, winning a Presidency means the beginning of the next power struggle in Ukraine. Ms. Tymoshenko remains Premier and the Verkhovna Rada has a legitimate Orange coalition. Local administrations still have to declare their allegiance to the new President, given that local elections are also coming up. State companies, holdings and banks are still controlled by top-managers loyal to Ms. Tymoshenko.

One of the hopes of the business and international community was that this Presidential election would finally bring consensus to the executive branch and put an end to the ongoing confrontation between the President and Premier. That hope may still be alive, but during the current transition period, Yanukovich-Tymoshenko wars could make the Yushchenko-Tymoshenko stand-off look like a family squabble.

The latest decision of the Verkhovna Rada to postpone local elections originally scheduled for May could be the first harbinger of the battles to come. In short, the transition period has already started as "playing with the rules" rather than "playing by the rules." Postponing local elections is a questionable move in terms of both rule of law and democracy.

## Coalition-building woes

Without the support of the legislature, the President's powers are limited to veto and to his right to make some appointments and nominations. A new pro-Presidential VR majority and the ensuing coalition are a must in making these election results a clear win, and not mere window-dressing. A pro-Presidential coalition will make it possible to appoint a new Cabinet of Ministers and reach a consensus of power in Ukraine. Hopefully, the mistake of the past will not be repeated and the Presidential winner will seek consensus rather than monopoly.

A situational majority in Verkhovna Rada supporting Party of the Regions is already functioning as businessmen in Orange factions look for ways to win favors from the new President. However, a situational majority will not be enough to appoint a new Cabinet of Ministers, nor will it be good enough to adopt a legitimate 2010 Budget. Moreover, a situational majority would not be sustainable in the long term because it cannot guarantee the satisfaction of the varied interests of its supporters.

Before the election, Mr. Yanukovich promised that his election to as President will be followed by a snap election to the Rada. However, there are no legal grounds calling a snap election. What's more, a new election may not be in the best interests of PoR. First, judging by her support during the elections, Yulia Tymoshenko will still return with a sizeable faction. Second, reshuffling the VR will likely bring new players such as Tihipko and Yatseniuk into play, while diminishing if not eliminating NU-NS, Lytvyn's bloc and the Communist Party. It might prove even harder to build a pro-Presidential coalition in the new legislature than in the current one.

If a coalition cannot be cobbled out of the PoR and NU-NS factions in the next few months, a snap election will become probable, extending the transition of power from several months to a full year—at the very least.

### *Local elections, local appointments*

While elections to Verkhovna Rada seemed only probable, elections to local councils were scheduled for May. Having taken 17 regions out of 27, Yulia Tymoshenko was well placed to go into them. However, the Verkhovna Rada managed to postpone them on the basis of 250 votes and has not yet rescheduled.

One of the prizes of the Presidency is the right to appoint heads of county and oblast state administrations (governors). It would only be logical for the President to try and change pro-Tymoshenko and pro-Yushchenko appointees at the local level prior to any elections. However, the candidates for these positions are supposed to be submitted by the Premier, who is unlikely to support Mr. Yanukovych in this. His inability to make new appointments quickly is one of the reasons for postponing elections.

It is possible for the new President to fire those heads of administration who are openly disloyal and appoint one of their deputies in an acting capacity. This approach was already tested during the Tymoshenko-Yushchenko stand-off.

However, sweeping changes of local administrators, especially in Western Ukraine, should obviously be avoided—at least prior to these elections. Such a move is likely to scare voters as the ousted officials play the “Donbas invasion” card.

### *Controlling state monopolies and firms*

Once the battle over the Cabinet of Ministers is won, there will be a need—if not a burning desire—to change the top management of the state enterprises, holdings and banks. Control over a number of such organizations is vital to the new President.

- NAK Naftogaz (natural gas monopoly)
- NAEK Energoatom (atomic energy generation)
- Ukrzaliznytsia (railway monopoly)
- Ukrspetsexport (arms exporter)
- Oschadny Bank (former soviet savings bank and the country's second largest bank)

Their bosses are all appointed by the Premier and are usually chosen for a high degree of personal loyalty.

If these businesses do not come under control of pro-Presidential forces, the President could find himself even further restricted as to powers. Recently Mr. Dubyna, currently the boss of NAK Naftogaz, refused to share contracts for Russian gas supplies to Ukraine with President Yushchenko. This is definitely a situation the new President wants to avoid if he is to get a grip on what's going on in the country.

### *Appointees-in-waiting*

Obviously, the President will try to build a coalition so that he can appoint his own Cabinet of Ministers. Currently, several candidates are being mentioned for the premiership: Mykola Azarov, Borys Koleniskov and Yuriy Boyko. There is also talk of the premiership going to Yuriy Yekhanurov, Serhiy Tihipko or Arseniy Yatseniuk.

Whoever the new Premier is, a very difficult period faces that person, when extremely unpopular measures will have to be taken to restore the economy.

It is in the strategic interests of Party of the Regions to appoint a technical Premier, like Yuriy Yekhanurov or Yuriy Boyko, someone who, on one hand, is a professional and, on the other, will be able to tolerate damage done to his or her image due to unpopular decisions. At the moment, only Serhiy Tihipko has declared his readiness to take on unpopular reforms.

But a new Premier requires a coalition in order to be appointed. As a PoR-BYT coalition is unlikely, Mr. Yekhanurov, Mr. Tihipko or Mr. Yatseniuk will be put forward by NU-NS if a PoR-NU-NS coalition is formed.

Still, ambitions could take over and a more engaged candidate from within PoR appointed. In that case, favors and privileges will likely start to be distributed left and right almost immediately. That will raise the hackles of the opposition and cause support for the new President to dwindle rapidly.

Serhiy Liovochkin, advisor to President Leonid Kuchma in 2002-2004 as well as Premier Yanu-



kovich's Chief-of-Staff in 2006-2007, has a good chance of becoming Chief-of-Staff in the Presidential Secretariat. Needless to say, this position will be the key to the success of the Yanukovich Administration. The Presidential Secretariat should become a filter for the high tension that Mr. Yanukovich will face from the new coalition and PoR lobbies.

Petro Poroshenko could hold on to his position as Minister of Foreign Affairs. However, other candidates are being discussed, such as Ambassador to Russia Kostiantyn Hryshchenko, Ukraine's representative to International organizations in Vienna Volodymyr Yelchenko, Ambassador to Austria Yevhen Chornobryvko, and Ambassador to China Yuriy Kostenko. It is likely that the head of the Foreign Ministry will be primarily a good manager, as the President will want foreign policy to work smoothly and not raise problems. The caliber of the potential candidates discussed reflects the low-key foreign policy that is likely to be pursued.

## Policies coming our way

Predicting the future policies of Ukraine's politicians on the basis of their campaign promises is no better than reading tea leaves, as no policy document exists that offers a realistic agenda for the new President. In Ukraine, as in too many countries, campaign platforms and promises do not usually correlate either with what the country objectively needs for its development, nor with what the newly elected official's deeds will look like.

There are two possible directions in which the future President will go. First, he could repeat the strategy of Viktor Yushchenko: be an observer and a commentator on the Government's actions without offering many alternatives. Second, he could become the initiator of change in the country.

In his first speech right after the run-off round of the election, Viktor Yanukovich mentioned<sup>1</sup> six specific steps that he would devote the most attention to:

- Meeting the leaders of Russia, EU and the US,
- Putting together a the new ruling coalition in the Verkhovna Rada,
- Reorganizing the Cabinet of Ministers,
- Adopting the 2010 Budget,
- Renewing international financial aid to Ukraine, and
- Fighting corruption.

Again, the powers of the President of Ukraine are quite limited and even the priorities voiced by Mr. Yanukovich are mostly outside of his direct power.

Furthermore, an analysis of how these priorities might get implemented into the reality shows that things are not so simple as a six-step program.

## Foreign Policy

As Viktor Yanukovich, the anti-hero of the Orange Revolution, takes office, there is a sense of foreboding in the air that the country's course on the international stage is about to change. Since Mr. Yanukovich's position does much deviate from the one advocated by his predecessor, speculation about radical change may be getting blown out of all proportion.

However humble the achievements of the last five years may have been, Mr. Yanukovich's foreign policy will build on the legislative and institutional legacy of President Yushchenko's foreign policy. Besides, foreign policy is seen as a way to shape the nation's identity and a model for state-building. Enjoying the support of less than half of the country's active voters and barely one third of all eligible voters, Mr. Yanukovich is bound to pursue a low-key foreign policy that will keep his voters satisfied and his opponents reassured.

Because of the direct link between domestic politics and foreign policy in Ukraine, the new President will have to act carefully in an unstable and largely dysfunctional institutional system within which his power is held in check by multiple actors. Ukraine's Foreign Minister currently has overlapping powers with the President and the Cabinet of Ministers.

<sup>1</sup> Speech after CEC announced first preliminary results <http://www.partyofregions.org.ua/pr-east-west/4b729d6e11124/>.



On one hand, Ukraine's President is a key figure in foreign policy-making. According to the Constitution, the President represents the state in international relations, manages the foreign policy activity of the state, conducts international negotiations, and concludes international treaties for Ukraine. The President also makes decisions on the recognition of foreign states, and appoints and dismisses heads of Ukrainian diplomatic missions to other states and international organizations.

On the other hand, other players have a stake in this area. Thus, the Verkhovna Rada determines the principles of foreign policy, consents to the binding nature of international treaties or rejects them, while the Cabinet of Ministers is responsible for implementing foreign policy.

In short, unless Mr. Yanukovich is backed by a coalition in the legislature, his foreign policy activities will be severely restrained.

### *EU – Russia – US Triangle: Striking a Balance*

As Premier, Viktor Yanukovich stated repeatedly that Ukraine's course towards European integration was irreversible and that Ukraine had to put a lot of effort into meeting the criteria for the country to be able to claim EU membership.

Although EU membership is a strategic goal for Mr. Yanukovich, he will not ask for an immediate prospect of joining the EU. He will, nevertheless, support negotiations and the conclusion of an Association Agreement and a Deep Free Trade Agreement (FTA) with the EU.

It will also be his priority to introduce a visa-free regime between the EU and Ukraine. This includes the highly politicized issue of border demarcation and the introduction of biometric passports.

In the meantime, Mr. Yanukovich strongly supports the development of economic and cultural cooperation with Russia as Ukraine's "special" partner. He wants the border regime between the two countries to be properly regulated and facilitated.

There are voices in PoR that would like to resume negotiations with Russia on Ukraine's joining an FSU-based Customs Union—in direct contradiction to the FTA process. However, this lobby is unlikely to win because PoR's industrial supporters clearly understand that their markets are in EU while Russia represents their competitors.

And given Ukraine's dependence on Russian natural gas, the new President is likely to seek a closer and more pragmatic relationship with Moscow in the near future. Gas consortium talks with Russia are likely to be resumed.

Mr. Yanukovich is also likely to try and restore Ukraine's standing in Washington. Yet he also pledged to withdraw the Ukrainian contingent from Iraq in 2004 and is unlikely to support sending Ukrainian troops in support of either US military initiatives abroad or NATO-led operations that have not been sanctioned by the UN.

After inauguration, President Yushchenko made his first official visit to Moscow—which was followed by an unprecedented decline in Ukrainian-Russian relations. It is neither clear nor important where President Yanukovich will go first. What is clear, at this point, is that Mr. Yanukovich will pursue a low-profile, balanced, multi-vector foreign policy reminiscent of the Kuchma years.

### *Security: Eastward neutrality*

As a point of departure in security policy, Mr. Yanukovich's Party of the Regions assumes that Ukraine faces no immediate military threats.

Mr. Yanukovich has been a vocal opponent of Ukraine's NATO membership since 2004. Back in 2006, Premier Yanukovich announced his decision to suspend negotiations on granting Ukraine a NATO Membership Action Plan in Brussels. Nor did he show enthusiasm about joining Russia's proposed Collective Security Treaty Organization (CSTO). His position is that Ukraine should maintain neutral status, as a bridge between the EU and Russia.

Despite his firm stance on neutrality, Mr. Yanukovich expressed his willingness to consider revising the existing state of security in Europe. In this respect, he has aligned himself with an initiative by Russian President Dmitri Medvedev to create a new European security architecture.

### *Ukraine as a regional actor*

In the aftermath of the Orange Revolution, Ukraine made several attempts to assert itself as a regional leader. Yet even its key initiative, GUAM Organization for Democracy and Economic Development, did not prove an effective enterprise. This was even less

so under Premier Yanukovich, who showed hardly any interest in it over 2006-2007. However, Ukraine has been one of the key mediators in the Transdnistria conflict and Mr. Yanukovich is likely to uphold the country's role and presence there.

It also seems quite certain that President Yanukovich will not give much weight either to coming up with new initiatives in the region or to reviving Ukraine's interest in CIS. The future of Ukraine's participation in the EU's Eastern Partnership will depend on the evolution of that undertaking.

## The EU has not lost Ukraine

*Sabine Fischer,*

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An assessment of the development of EU-Ukrainian relations in the past few years presents a rather mixed picture. On the one hand, Ukraine has become a frontrunner in the process of *rapprochement* between the EU and the countries in its eastern neighbourhood. EU-Ukraine relations even served as a model for bilateral relations between the EU and its eastern neighbours in the framework of the Eastern Partnership.

On the other hand, Ukraine's post-revolutionary aspirations towards European integration met with a lukewarm response from the EU, while at the same time the Ukrainian leadership did not live up to the EU's expectations regarding the pace and sustainability of domestic reforms. High hopes coupled with a lack of commitment on both sides let the EU and Ukraine slip into a vicious circle of mutual estrangement and fatigue. This has prevented much of the promising potential of the Orange Revolution from being fulfilled.

Some observers may see the outcome of the presidential elections in Ukraine as the culmination of that process. However, such an interpretation does not seem to be appropriate. For the third time since 2004 Ukraine has held internationally recognised democratic national elections. This should be seen as an achievement per se. Political and economic relations between the EU and Ukraine haven broadened and deepened, and this trend will continue. The idea of *Evro-integratsia* has gained greater prominence in Ukrainian political thinking and, above all, cuts across different political camps in the country. Viktor Yanukovich may have been less pro-European a candidate than Viktor Yushenko, but his constituency, mostly associated with the eastern Ukrainian business elites, has developed an increasingly strong interest in closer relations with the EU.

To prevent further estrangement, the EU should now clearly recognise Yanukovich's victory and encourage those who lost to accept their defeat and to come to terms with their new role in the opposition. A smooth transition of power and the build-up of a critical but constructive opposition would be important steps towards democratic consolidation in Ukraine.

Secondly, the EU needs to demonstrate its commitment to continue on the path of *rapprochement* with its eastern neighbour. EU High Representative Catherine Ashton should meet the new Ukrainian President as soon as possible. The opening of negotiations on a visa-free regime would send out a particularly strong and positive signal to the Ukrainian population.

Thirdly, the EU, together with other international players such as the IMF and the US, should strongly encourage the new Ukrainian leadership to genuinely pursue the reform processes that are necessary to lead the country out of its precarious political and economic situation. Signals are already emanating from Yanukovich's circle indicating an awareness of the urgency of reform. The EU and its partners must seize this opportunity and offer all the support that they are able to provide. Clearly, the endurance of such support depends on the commitment and performance of the Ukrainian partners. Future developments in the energy sector will be a good indicator – the perpetuation of opaque and corrupt energy trading structures will not only violate EU interests, but also the agreement reached after the Russian-Ukrainian gas crisis in early 2009.

The EU has not lost Ukraine, but it needs to carefully calibrate its policy so as to keep *rapprochement* going.

## How US should continue cooperation with Ukraine

Samuel Charap  
Fellow, Center for American Progress

US policy toward Ukraine under the Obama Administration is grounded on a solid foundation and the strategic course should not change with the election of Viktor Yanukovich. The cornerstones of the relationship are the Charter on Strategic Partnership, the U.S.-Ukraine Strategic Partnership Commission, and Bilateral Energy Security Working Group under the aegis of the Commission. During his visit to Kyiv in July 2009, Vice President Joe Biden underscored the Administration's commitment to support Ukraine's independence and democratic development and facilitate the country's becoming an "integral part of Europe."

In terms of concrete policy priorities, I am confident the election of Mr. Yanukovich should not affect US support for Ukraine's Euroatlantic integration; its encouragement of economic, democratic, energy-sector and legal reforms; the open door for Ukraine's accession to NATO; or cooperation with the IMF and other international financial institutions on Ukraine's economic recovery—including pushing Kyiv to comply with the conditions of the IMF loan.

While its strategy should remain unchanged, the Administration should adjust its diplomatic approach in light of Mr. Yanukovich's victory: the period immediately following his inauguration should be seen as an opportunity to shape the new President's posture towards the outside world. Mr. Yanukovich and his team know that many in the West—in my opinion, wrongly—consider him a Kremlin stooge and they will be looking for ways to demonstrate early in his term that this is not the case.

An invitation to Washington, or a high-level visit to Kyiv would be a powerful gesture to President Yanukovich that the West accepts him as a legitimately elected President and wants to continue to strengthen relations with Ukraine under his Presidency. If it shuns Mr. Yanukovich or spends the early months scolding him for Ukraine's failures to live up to its commitments, then the Obama Administration could alienate Ukraine's new leader and make it more likely that he will tune out Washington in the future.

However, symbolic outreach can only last so long. Ukraine fatigue is indeed very deep-seated—and for good reason. The cure for it will be found in Kyiv, not Washington or Brussels. The US must get the message across that if President Yanukovich wants his country to be taken more seriously in the West, in the long term, he needs to produce "deliverables," in particular energy reform and adherence to IMF conditions. Only concrete results will cure Ukraine fatigue. Washington has no more patience for promises, speeches or grand plans.

## Domestic policies

### *Back on track with IFIs*

Premier Tymoshenko proved skillful in making promises not only to the voters of Ukraine, but also to the IFIs. However, dealing with these promises in terms of increasing consumer and commercial gas rates, adopting a Budget, building consensus in power, stabilizing the banking system, and starting the reform and modernization of the gas transit system will be up to the new President and the Cabinet of Ministers.

Although representatives of the National Bank of Ukraine declare that Ukraine could do without the renewal of the IMF and World Bank financing it is clear that this is a risky affair that may cost image and power to the Party of the Regions.

Thus, the new President should honestly try to restore relations with the IFIs. For that, however, he will have to attain the required benchmarks rather than simply promise to do so.

### *Getting Budget 2010 up and running*

Obviously, adopting the 2010 Budget will require a viable coalition in the Rada, one that supports the Cabinet of Ministers, and a draft 2010 Budget. It will be an arduous task to achieve all three of these conditions.

Trying to rework the current draft Budget that is before the Rada and getting it passed by a situational majority would not do because it could easily be challenged by members of the formal current coalition in the Constitutional Court, undermining the legitimacy of the Bill. However, a new version of the Budget has not been drafted yet and will require time.

Adopting a new Budget in order to renew co-operation with the IMF and the World Bank will also require some unpopular decisions to get the deficit under control. It will mean putting a stop to increases in social spending and revising the Budget to cut as many expenditures as possible, while making it realistic. PoR will also have to find a way to not implement the Law on increased social standards that was adopted on its initiative prior to the election. Adopting a realistic Budget will also mean dodging many electoral promises made in the heat of the campaign.

### *Energy politics*

The top goals in the energy sector will be getting gas rates to cover costs and reliably paying Russia's gas bill. The former will be highly unpopular, though unavoidable, as many in PoR understand.

Mr. Yanukovich has offered to return to the idea of a gas consortium, with Russian, the EU and Ukrainian partners owning equal parts of the Ukrainian transit business. Such a move is definitely aimed at getting a better deal on gas prices for Ukraine and slowing the rise of domestic gas rates. Setting up a gas consortium is likely to be a lengthy business, as it requires amending sensitive points in Ukrainian laws on the ownership of pipelines and reforming NAK Naftogaz Ukrainy.

Ukraine will move ahead with the Energy Community Treaty, as it is in the interests of the business groups

linked to PoR to increase energy cooperation with the EU. The promises made by the Tymoshenko Government to foreign partners regarding energy reform are likely to be supported by the new President.

### *Taxes, aid and privatization: Fair or not?*

Policy in these areas is unclear and is highly dependent on which lobby within PoR will prevail. If the bureaucratic lobby does, then there is a high risk that tax rules will be highly discretionary, benefits will start to be given to this or that industry, and the privatization will go into full swing, but based on unfair competition. If the business wing of PoR gets control over economic policy, there is lower probability of all of the above, because business realizes that whatever is applied against their competitors today could be turned against them tomorrow.

As for a possible redistribution of property, re-privatization is unlikely to happen. More likely, greater attention will be paid by PoR-related businesses to state assets that are waiting to be privatized or that are under the shaky control of this or that business group. Unfortunately, transparency and fairness of prices at such auctions is not likely to be high.

In 2009, the Government of Ukraine introduced subsidies to the steel and chemical industries in the form of lower gas, electricity and railway rates. There is a high risk that lobbying for state subsidies of this kind could grow.

### **Tongue-twisting trouble**

The Constitution of Ukraine guarantees "the free development, use and protection of Russian and other languages of ethnic minorities of Ukraine." Unlike 2004, Viktor Yanukovich clearly stated in his 2010 election platform that he favored "granting Russian the status of Ukraine's second state language." He also supports "a civilized solution to the issue" and refers to "the universally recognized norms of international law" and the European Charter on Regional or Minority Languages.

The idea of making Russian a second official language in Ukraine dates back to the early 1990s and was one of the most effective slogans of Leonid Kuchma in his campaign for the Presidency against Leonid Kravchuk in 1994.

To fulfill this promise, however, a draft law introducing this amendment must be adopted by no less than a Constitutional majority or two-thirds of the Verkhovna Rada and approved by a referendum designated by the President of Ukraine.

Although this is an unlikely scenario, members of the Party of the Regions have claimed that they would simply draft a number of laws to regulate the use of language in education and the media. These attempts could serve as a tactical maneuver to distract public attention from substantial economic issues. But they could also come at a high price to Mr. Yanukovich, who will be seen as dividing the country instead of seeking consensus.

## Seven tests for Victor Yanukovich

To understand the direction in which Viktor Yanukovich is taking the country, it might be useful to consider a number of yardstick issues against which to measure Mr. Yanukovich's potential and wisdom as a statesman.

1. *European Choice.* With a change of Presidents after five years of knocking on the EU's door, Ukraine finds itself back at a crossroads. It remains to see how the new President will manage to combine the strategies of furthering European integration and restoring good neighborly relations with Russia. As promised, Viktor Yanukovich will not be nagging the EU to swing its door wide open for Ukraine, but Ukrainians will not give up their cherished dream of joining the European family. Whether the new President chooses to work towards integration with the EU and build friendlier relations with Russia remains to be seen.
2. *Democracy.* As an overarching concept, democracy—perceived by many as the key accomplishment of the Orange Revolution—stands out as an indisputable value on Mr. Yanukovich's political platform. It is safe to assume that, with a strong opposition in the Verkhovna Rada and constant vigilance on the part of the civil society, Ukrainians will not be deprived of their right to vote in free and fair elections, freedom of speech or other liberties. The more Mr. Yanukovich "talks the talk" about democracy, the harder it will be for him to disentangle himself from this discourse in the long run. As a word of caution, however, it must be stressed that any attempts to curb democratic achievements by Mr. Yanukovich's government, fears and hopes aside, have to be immediately detected and contained.
3. *Fighting corruption.* Corruption permeates virtually every sphere of life in Ukraine today and was declared a threat to national security by the National Security Council in 2009. No reforms in any area will be possible nor will a Yanukovich Presidency be effective unless the President adopts a proactive approach to implementing anti-corruption legislation.
4. *Civil service reform.* The new President inherits a sluggish state machine aggravated by corruption and little sustainability. To ensure the success of his undertakings, he has little choice but to streamline Ukraine's Civil Service. Yet this issue is not high on the agenda and Party of the Regions seems blind to the importance of civil service performance for delivering on their promises. Taking into account the traditional resistance of any state bureaucracy to change, Viktor Yanukovich's best efforts could be undermined unless serious attention is devoted to the ability of state machine to perform.
5. *Judicial reform.* The combination of a weak judiciary, no mechanisms for enforcing court decisions, and pervasive corruption has resulted in widespread discontent with and mistrust of the courts of law in Ukraine. In 2006, Premier Yanukovich declared his intention to intensify the judicial reform. But with financial restrictions and political turmoil looming large, most plans, if any, are likely to be suspended. Still, incremental change is possible as Ukraine introduces European standards into its legal system. In this context, much will depend on technical and financial assistance from foreign partners.
6. *Constitutional reform.* After a compromise reached at the height of the Orange Revolution, Ukraine received a hastily kludged parliamentary-Presidential system. As a result, the 2004 changes left the country in deep political chaos because of a poor division of executive power that led to overlapping responsibilities between the President and Premier.

No doubt Mr. Yanukovich's camp recognizes the importance of the needed changes as could be seen in Summer 2009, when he teamed up with Ms. Tymoshenko to push for a new draft Constitution. Yet in the upcoming period of political reconfiguration, any attempts by the new President to seriously amend the Constitution will most certainly be vehemently opposed and treated as usurpation of power, unless broader consensus between the government and the opposition is reached.

7. *Administrative-territorial reform.* While it is the priority of Mr. Yanukovich's Party of the Regions to grant more independence to territorial communities through decentralization, the unsuccessful 2005 project demonstrates that little progress can be expected unless the idea of the administrative-territorial reform is phased in after months of public discussion, is supported by regional leaders and, most importantly, remains as neutral and non-partisan as possible. Furthermore, the reform is doomed to fail without matching reforms to tax and budget regimes.

## The year ahead: Consensus or chaos?

The power struggle in Ukraine is likely to last until May 2010 or, in the worst case scenario, until the beginning of 2011—depending on whether a coalition is formed in the current Rada or the legislature goes for re-election. It is too soon, now, to make a solid prediction as to what course Ukrainian politics will take as it is built mainly around personalities and interests rather than ideologies and principles.

BYT will probably become the new opposition to the President, shedding some deputies from the business wing of the faction who will most likely look for favors from the newly-elected President. Should Mr. Yanukovich's first steps be to increase confrontation in Ukrainian society, thus deepening economic hardship, there is a great chance that the opposition will come back to power well before the next Presidential election. Either during pre-term VR elections or during the regular elections in 2012, Mr. Yanukovich could be faced with a Rada set against him and lose

his grip on the Cabinet of Ministers. It is also possible that his Constitutional powers could be reduced even further on. Such an outcome will hopefully serve as strong incentive to look for consensus now.

Ukraine's newly-elected President does not have a strong mandate from voters, nor does he have strong Constitutional powers. It will be up to the political acumen of Viktor Yanukovich and his Party of the Regions to consolidate power in Ukraine and overcome the current economic turbulence that has been exacerbated by electoral battles.

Hopefully, Mr. Yanukovich will reject the standard Ukrainian practice of blaming his predecessors for all existing problems and undertaking sweeping change of civil servants. Under the impact of a world crisis, Ukraine's problems are mostly external and many remedies that Ukraine has to take have no substitutes.