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# PRESIDENTIAL ELECTION IN UKRAINE IMPLICATIONS FOR THE UKRAINIAN TRANSITION



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## **IMPLICATIONS FOR THE UKRAINIAN TRANSITION**

The following texts are preliminary versions. Necessary corrections and updates will be undertaken once the results of the election process are final. These preliminary versions are not for quotation or citation, and may only be used with the express written consent of the authors.

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## Preface

Long before Kiev's Independence Square became a sea of orange, it was clear to close observers that the presidential election in 2004 would not only be extremely close and hard fought, but also decisive for the country's future development. Discussions regarding the succession to President Leonid Kuchma were well underway in 2001 when constitutional changes were proposed that would have given more power to Parliament but also could extend Kuchma's term in office. While these changes did not pass, the proposal showed that Kuchma and the "party of power" would not easily leave the stage.

Moreover, unlike the Presidential election 1999, the opponent of Kuchma's selected heir, Prime Minister Viktor Yanukovich, was not a member of the Communist Party but opposition leader Viktor Yushchenko. He not only aspires to build closer EU-Ukraine relations but also has proclaimed the goal of fighting the country's widespread corruption and the influence of economic clans.

Although the first round of the presidential election, which was held on 31 October, received an OSCE evaluation considerably worse than the previous presidential election in 1999, its results were still more or less accepted. The second round turned out to be another matter. During the run-off between Yushchenko and Yanukovich, which was held on 21 November, Ukraine experienced a black day for propriety, fairness and transparency. All of the independent election observation groups reported evidence of serious fraud, violations intended to aid Yanukovich. These ranged from voter intimidation to abuse of mobile polling stations. Reported violations also included destruction of ballots, multiple voting and administrative pressure. In the opinion of the opposition, this fraud, along with media manipulation and other anti-democratic advantages during the campaign gave Yanukovich his reported winning margin of 3 percent of the votes.

This obvious deception exceeded the limits of the population's tolerance. Even the opposition was surprised at the number of ordinary citizens who found the courage to take to the streets, at the outpouring of support for democracy. For most citizens, marching against the fraud was the first step in this direction and required a lot of strength because it contradicted a heritage dominated by doubts and hesitation. This rebellion against the perceived unfairness of the authorities seemed to draw out new feelings of self-worth and self-confidence,

and to motivate at least some political actors to take the real wishes of the population into greater account.

As this preliminary version goes to print, the outcome is still uncertain, and the authors have been asked to reflect on a rapidly changing situation. What has not changed, of course, is the background of the years since the beginning of Ukrainian independence. The chapter by Olaf Hillenbrand provides the framework for the project, discussing not only Ukraine's transition but also how it compares with similar transitions around the world. Timm Beichelt and Rostyslav Pavlenko discuss the links between constitutional reform and the present election. Oleksandr Dergachov addresses democratic consensus and good governance. Oleksandr Sushko and Oles Lisnychuk examine political evolution in Ukraine, seen through the lens of the 2004 election. Finally, Iris Kempe, Iryna Solonenko investigate the international context of the election and foreign involvement in the campaign, voting and aftermath. Taken together, the essays in this volume provide an analysis of the transition in Ukraine, centered on the 2004 presidential election. They disclose the shortcomings in that transition, which, with internal effort and external support, can be alleviated.

The preliminary political recommendations will be reviewed after the new President of Ukraine is determined. Possible changes or additions will be included in the final version of this publication, which will be available in late December.

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# Presidential Election and Constitutional Reforms in Ukraine

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## 1. Introduction

Ukraine, like other European CIS states, exists in the “gray zone” between democracy and authoritarianism. Neither regime type is fully consolidated.<sup>1</sup> On the one hand, power abuse and corruption are wide-spread, the power system is centralized, checks and balances are often ineffective, human rights are infringed upon, the media are biased, and – as is obvious to by the recent presidential elections in 2004 – the will of the people in elections is not considered very important by those in power. On the other hand, the constitutional framework is based on the checks and balances principle, the political system is pluralistic, the opposition is quite active and shows considerable successes during elections, some media provide independent information and civil society is viable and actively developing (Haran/Pavlenko 2004). The approach used in this text is to characterize and analyze this system as a “defective democracy” (Merkel et. al. 2003).

The Ukrainian legal and political system bears the seeds of both democracy and authoritarianism. The presidential elections of 2004 can be seen as an important milestone, which marks the choice that Ukrainian establishment and society are to make between these alternatives. The constitutional and legal

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framework has been tested for the ability to provide important safeguards against power abuse and unfair play. Moreover, as the Ukrainian constitutional system concentrates considerable powers in the hands of a president, “the winner takes all” mood within all political camps led to the unprecedented tense campaign, which outgoing President Leonid Kuchma called “the dirtiest ever.”<sup>2</sup> Needless to say, the 10-day delay of result announcements after the first round of elections, as well as the failure to follow up on fraud accusations after the second, were also major indicators of a dirty election – although it is not completely clear if that was exactly the point Kuchma was referring to.

However, the system did not altogether degenerate into an outright autocracy. Although it was called unfair by the OSCE observers, the campaign still remained competitive, and the outcome of the elections resulted in power change. At the time this article was finished, it was still an open question as to whether this change will be accepted by all major players in the mid-term.<sup>3</sup> The citizens proved ready to protect their rights, with actions ranging from checking their names on voter lists to protesting electoral forgery. This demonstrates the potential demand for democracy in society, the existence of the basis on which democratic values can develop.

Given the unpopularity of the authorities within Ukrainian society, the incumbents had to wage an uphill battle. Thus, their task, unlike most other CIS governments, was not to further consolidate their powers but to safeguard against the risk of losing the whole of it. It is noteworthy that the way they sought to fulfill this task was through reform of the constitutional model, in order to deprive the president of his exceptional powers – especially his powers over the nomination and expulsion of the Cabinet and local administrators.

Thus, the liberalization of the system was used by the incumbents to ensure the status quo, which consists in their control over the political agenda. The instrumental character of this reform prevented its completion before the elections. However, all political forces, including those behind the newly elected president, declared their intention to fulfill the reform. The mode of its fulfillment – the appearance or absence of the broad consensus of main political forces, the free or forced support from the parliamentary factions, the timing and means of enactment of the amendments to Constitution – will be the next milestone showing whether Ukraine’s development is moving toward or away from full-fledged democracy.

The aim of the given text is not to establish a full scenario for the further democratic development in Ukraine. Rather, we want to show that the

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<sup>2</sup> Kuchma bude praciuvaty vid dzvinka do dzvinka, *Ukrainska pravda*, 22 September 2004: <<http://www2.pravda.com.ua/archive/2004/september/22/news/19.shtml>>

<sup>3</sup> The text was finished on November 24, when mass protests in Kiev and other Ukrainian cities against the alleged falsifications of the elections were still taking place.

implementation of constitutional reform would allow the Ukrainian political system to get rid of one of its strongest impediments to consolidation: the strong position of the president, a situation that turns every presidential election into a gamble for the whole of political power in Ukraine. On the basis of the defective democracy model, we want to show that constitutional reform should strengthen horizontal checks and balances in the system, thereby distributing power among several institutions instead of only one. Consequently, the next presidential elections would lose some of their significance for the political fate of Ukraine as a whole, and the incentives for various political actors to push the results in their direction could be considerably diminished.

## **2. Theoretical approach: Defective democracy**

In the early 1990s, Samuel Huntington saw two consecutive changes in a state's leadership as a sufficient criterion for the establishment of democracy (Huntington 1991). That mark proved to be all too simple. However, in general the transition scholars of the time were convinced that the effort to achieve democratization would be successful once elections and control of the government was accomplished.

The hypothesis had some value in the case of most of the Central European states, where formerly oppositional forces won the first elections after the breakdown of the *ancien régime* and where thorough restructuring had begun with the first post-socialist government in office. In Ukraine, Russia, and other CIS states, however, it soon became clear that even the best scenario would not lead to full-scale democracy. These states drifted into a “gray zone” between democracy and autocracy (Bendel/Croissant/Rüb 2001). Unlike in Central Europe, many countries in CIS faced crucial disadvantages in democracy building: a) the area does not know democracy from former historic periods (Offe 1998); b) the problems in the economic sphere were so big that they threatened the legitimacy of any elected leader; c) bureaucrats and members of the old elite were keen to enrich themselves rather than their countries (Hellman 1998); and d) the external pressure from the European Union or other international organizations was rather weak, because EU membership was not a short term prospect anyway. From that line of transition theory, it is hardly a surprise that most analyses do not see Ukraine as a clear democracy today (Karatnycky 2004).

But the theoretical debates did not only address the issue of the necessary preconditions for democracy. Another development was the conceptualization of democracy as something that went far beyond free and fair elections. Of course, scholars had long before argued that the limited model of reference did not meet the complexity of democracy. Democracy exists in a variety of models

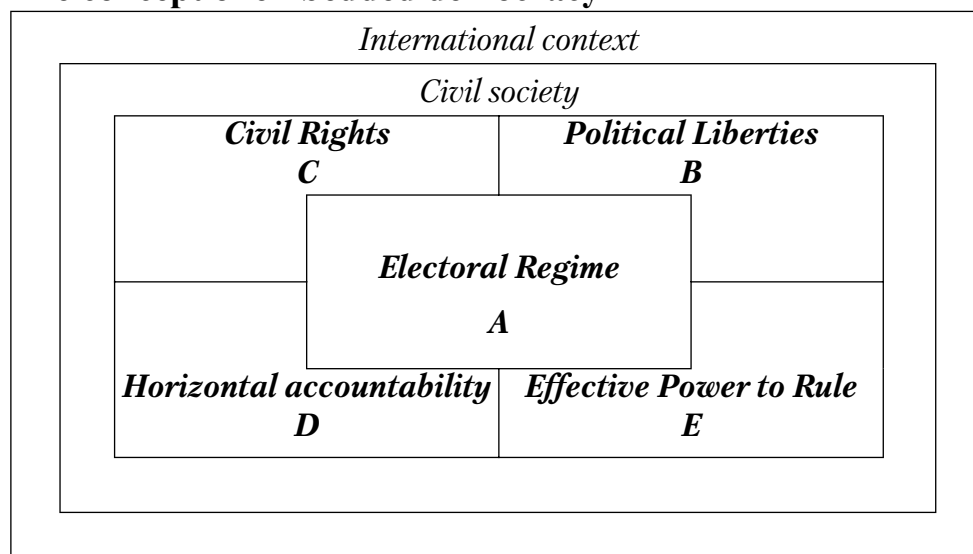
(Held 1996; Schmidt 2000), and elections are only a part of the equation. Still, it took some time before this knowledge was included into the mainstream of transition studies. One major breakthrough came from Juan Linz and Alfred Stepan, (Linz/Stepan 1996), who argued that, without a stable territorial surrounding and a democracy-sympathetic bureaucracy, any democracy is bound to face serious problems. In the German scientific community, it was Wolfgang Merkel who used an even denser formula when insisting on the “state of law” or the “constitutional state” (Rechtsstaat) as the major component of a truly functioning new democracy (Merkel 1999a; Merkel 1999b).

The main tool used by Merkel and some of his colleagues to identify the differences between full and minimal democracies is the concept of “embedded democracy.” This idea will be employed throughout this text. In a strategy similar to that of Robert Dahl (Dahl 1989) in relating ideas of democracy to its existing institutions, Merkel identified three dimensions of democracy:

- (1) the vertical dimension of power legitimization and power control;
- (2) the (horizontal) dimension of the liberal constitutional state;
- (3) and, the dimension of agenda control.

From there, he developed five partial regimes of democracy, all of which need to function in order to identify a liberal democracy (see Figure 1): (a) the electoral regime; (b) the public space belonging to the vertical dimension; (c) political rights; (d) horizontal checks and balances belong to the horizontal dimension; and (e) the actual transfer of power to those elected constitutes the dimension of agenda control. The concept is called embedded democracy because the five partial regimes are interlinked. In order for a democracy to function, all partial regimes need to function simultaneously. If one or several partial regimes do not function, Merkel talks of a “defective democracy.”

**Figure 1: The concept of embedded democracy**



Source: Merkel (2004: 29 with some modifications)

From looking at Figure 1, it is possible to see two additional spheres surrounding the political regime.<sup>4</sup> One consists of the international context, the other of civil society. The logic behind the introduction of these two spheres is as follows:

a) The five partial regimes refer specifically to the *political* regime, which means that the interaction of politics and society are not covered. However, the way a political regime functions depends to a large extent to the political culture of society. For example, it took about 20 years until the West German population developed a more-or-less democratic political culture, because, in the first years after the formal introduction of democracy, the commitment to democracy was not very intense (Conradt 1980). Therefore, the spheres of political liberty (partial regime B) and horizontal accountability (partial regime D) were arguably underdeveloped and defective in the first years of West German democracy. Only when the West Germans constituted a “civic culture” (Almond/Verba 1963), were the partial regimes able to function adequately. Therefore, the sphere of civil society surrounds the partial regimes; democracy is “embedded.”

b) Society and the political regime are only able to develop into a democracy if and when the preconditions of the existence of the state itself are clear. Taking over transitology slang, Merkel calls this precondition “stateness.” In the case of Ukraine, it may be clearer to talk of the international context instead (again, see Figure 1). In addition to the aspects of stateness, the very foundations of a state may be in danger if external powers undertake efforts to pull that state into one or the other direction. Therefore, the international context is a further sphere that needs to be taken into consideration when judging the functioning of democracy.

The task of the next sections is to use this model with the Ukrainian case, in order to discuss different aspects: a) the status of democracy in current Ukraine, with a special look at the presidential elections of the year 2004; b) the role of institutions, and of institution building in particular, in the democratization process of Ukraine; and c) the possible influence of external actors on the democratization process.

### **3. Elements of Defective Democracy in Ukraine**

#### **3.1 The background<sup>5</sup>**

When looking at the state of democracy in Ukraine, it is important to look back to the Soviet Union. Liberalization started with Mikhail Gorbachev’s perestroika and glasnost. The reasons for their conceptualization and implementation in the

<sup>4</sup> Since this paper is not the right place to start academic discussions, the theoretic implications are not discussed any further.

<sup>5</sup> Some parts of this subchapter go back to (Beichelt 2004).

late 1980s were manifold. Besides the economic crisis of the Soviet system, and the sclerotic symptoms of the political regime, the growing independency of subnational regions played an important role in accelerating the decline of the Soviet Union (Carrère d'Encausse 1978). Whereas the Soviet system had been able to manage interethnic conflict rather well, the political elites of the 15 Soviet republics pushed for independence from the center in Moscow soon after Gorbachev announced his plans for restructuring almost all layers of the USSR.

Consequently, initiatives for liberalization of the Soviet Union came, to a large extent, from the republics, where local party leaders tried to emancipate their republic's leaderships from Moscow's rule. A landmark in this process was the election to the Congress of People's Deputies, which took place in March 1989. In many republics, opposition forces not only ran against the autocratic elements of the USSR, they also ran against Russian hegemony within the state. In several republics, a considerable number of party officials were unexpectedly rejected on these grounds (White/Rose/McAllister 1997). The next steps were elections for parliaments on the level of the republics. The resounding defeat of the Communist Party in Lithuania, as well as the defeat of the party in the two other Baltic republics, was seen as the first step in the direction of democracy. In the other European USSR republics, as well as in the Caucasus, the high competition of these elections bore strong elements of liberalization. In contrast, there was much less competition in Central Asia – a situation that already encouraged well-founded assumptions about the differing paths of transition that republics would take within the USSR (Löhr/Kohler 1991).

During the 1990s, four different subregions evolved on the territory of the former Soviet Union:

- The Baltic States, which had regained independence after the August 1991 revolt, quickly took steps towards integration into Western European structures. The liberalization and democratization of their political regimes led to the process of consolidation.
- In Central Asia, the conditions for forming political identities as foundations for national states were poor from the very beginning of liberalization. The borders of the republics in the 1920s had only partly been drawn according to existing ethnic, linguistic, or cultural borders (Götz/Halbach 1996). Because of the absence of alternative legitimate institutions, traditional leaders from the formerly Communist clans were strongly favored in (re)gaining power.
- In the Caucasus, clannish structures succeeded as well. In contrast to Central Asia, nationalism became a major element of clan organization in the Caucasus in the post-Soviet period. The regimes of this subregion today combine nationalist and sultanist elements.

- The four European countries of the CIS – Belarus, Moldova, Russia and Ukraine – were seen for a long time as special cases of the Central and Eastern European transition to democracy and liberal market economies. Whereas Belarus needs to be classified as an autocracy, the other three countries, including Ukraine, belong to the “gray zone” mentioned above.

Within these regimes, elements of democracy and autocracy vary to a considerable extent. Azerbaijan, Belarus, Kazakhstan, the Kyrgyz Republic, Tajikistan, Turkmenistan and Uzbekistan can clearly be rated as autocratic regimes. Although both parliamentary and presidential elections exist in all of these countries, the “electoral regime,” with its elements of inclusiveness, fair competition and effectiveness of the vote does not function in democratic terms. This judgment is shared by Freedom House, which does not list any of these states as being among the world’s 121 electoral democracies in 2003 (see Table 1).<sup>6</sup>

**Table 1: Democracy and Autocracy in CIS States**

		Ø 1992-1996	Ø 1997-2002	Freedom House Rating	Regime Type
<i>Central Asia</i>	<i>Kazakhstan</i>	5.3	5.5	Not Free	Autocratic Regime
	<i>Kyrgyz Republic</i>	3.1	5.0	Not Free	Autocratic Regime
	<i>Tajikistan</i>	6.8	6.0	Not Free	Autocratic Regime
	<i>Turkmenistan</i>	6.6	7.0	Not Free	Autocratic Regime
	<i>Uzbekistan</i>	6.7	6.5	Not Free	Autocratic Regime
<i>Caucasus</i>	<i>Armenia</i>	3.8	4.1	Partly Free	Defective Democracy
	<i>Azerbaijan</i>	5.7	6.0	Not Free	Autocratic Regime
	<i>Georgia</i>	4.6	3.7	Partly Free	Defective Democracy
<i>European CIS</i>	<i>Belarus</i>	4.6	6.0	Not Free	Autocratic Regime
	<i>Moldova</i>	4.3	3.1	Partly Free	Defective Democracy
	<i>Russia</i>	3.5	4.4	Partly Free	Defective Democracy
	<i>Ukraine</i>	3.5	3.8	Partly Free	Defective Democracy

Source: Freedom House, <http://www.freedomhouse.org/research/freeworld/FHSCORES.xls> (November 20, 2003).

<sup>6</sup> See <<http://www.freedomhouse.org/research/freeworld/2003/democracies.pdf>>, November 20, 2003.

When relating these findings to the conceptual outline of “embedded democracy,” it becomes clear that, in the CIS in general, democracy is endangered at its very heart: the electoral regime. In the CIS, political participation, civil liberties, and effective government – all elements used to differentiate between various types of defective democracy – have to be analyzed with the caveat in mind that the competitive foundation of democracy may be seriously damaged. Such a viewpoint leads us to the conclusion that, in comparison to the neighboring CIS states, democratization is rather advanced in Ukraine. It has fallen behind, however, when compared to the neighboring countries to the west, where the conditions for democratization and democracy have been much higher.

### **3.2 The Ukrainian case**

Figure 1 presents a model of democracy embedded into a) the international context and b) civil society. With regard to the international context, Ukrainian stateness is endangered by the lack of a single national identity – Ukrainians in the east of the country by and large feel attached to Russian culture, whereas Ukrainians in the West have much stronger feelings of a separate Ukrainian identity (Kuzio/Wilson 1994, Ryabchuk 2003). These competing identities not only lead to a competition of final visions of Ukrainian foreign and security policy. Ukraine’s foreign policy is also influenced by two powers with competing visions of Ukraine’s position in Europe – Russia on the one side and Western institutions (NATO/EU) on the other side.

In the case of Russia, it is not always clear if Ukraine’s breakaway from the Soviet Union is completely accepted by the elite in Moscow. On the other side, the western organizations named want Ukraine to delegate some sovereignty, and such delegation would also lead to a weakening of the instable state. Therefore, in the Ukrainian case, the external dimension clearly matters (Dergachev 2002/03, also see the texts of Iris Kempe and Irina Solonenko in this volume). Regarding civil society, it is usually argued that the 70 years of communist rule and the lack of a pre-communist democratic experience contribute negatively to civil participation and other aspects of democratic life.

The dissolution of the Soviet Union was actively pushed forward from Ukraine. Together with Boris Yeltsin, Leonid Kravchuk, who had been responsible for ideology in the Central Committee of the Communist Party of Ukraine, was one of the most important people involved in the processes in late 1991. In the elections to the National Supreme Rada in March 1990, the Communist Party still won about three fourths of the mandates. However, among the persons elected on the Communist list, there were about 130 reformers. In addition to these reformers, the national movement in the form of

the Popular Movement for the Independence of Ukraine (Rukh), played a role. It was stronger than in Belarus or Russia, but at the same time, it did not have the same amount of power there as it did in Georgia or in the Baltic States.

The task of keeping the different groups together was achieved by Kravchuk and his program to preserve regime continuity despite the goal of independence from the USSR. He was elected president on the same day the Ukrainian population voted for independence, with an overwhelming majority of 90 percent, and he ruled within a semi-presidential system (Ott 1999: 15-18). In that system, the president was proclaimed the head of the government, but he could appoint and dismiss the prime minister only with the consent of the Parliament. Such permission was also required for appointing the most important ministers – of defense, of foreign affairs, of finances etc.

After Kuchma became president in 1995, he attempted to change the balance of power in his favor. The struggle between the president and Parliament in Ukraine in the first years of sovereignty gave birth to the system of mixed components. In 1995, the speaker of the Parliament (O. Moroz, Socialist party of Ukraine), under the threat of a referendum on the confidence in the Parliament, was bound to sign the Constitutional Accord. The Accord prescribed the establishment of the presidential republic (the president unilaterally appointed and dismissed the cabinet and local governors), and it was to be in force until the new Constitution was adopted.

The new constitution was agreed upon in 1996. The presidential administration successfully used the ideological discrepancies between the Rukh right-wing political opposition movement and the Communist Party of Ukraine to create a constitution that gave huge powers to the president. The constitution was adopted, like the Constitutional Accord, under the threat of a referendum to impeach the Parliament. Key elements of the constitution are as follows:

- The president appoints the prime minister after the endorsement of the Parliament, but the president can dismiss the prime minister at will. This provision makes the prime minister dependent on the president, and it means that all the premier's competencies – such as appointing and dismissing of ministers and forming the structure of the state executive power bodies – are de facto dictated by the president.
- Thus, de facto, it is the president who forms the government and defines its structure and personal membership. Ministers and heads of other departments, especially enforcement and inspection (such as tax administration), are subordinated, first of all, to the president.
- The government is dismissed with the election of a new president, not a new parliament.
- The president appoints heads of regional and district state administrations, which are local representatives of the executive and de facto sub-structures of the



presidential administration. These administrations supervise adherence to law on their territories and, in fact, assume functions of territorial self-government. They prepare and execute a budget of the territory.

- The president abolishes government acts by his own decision.
- At the same time the president can dismiss the Parliament only in an (almost unreal) situation when a plenary session cannot be started in 30 days. Before 2000, there existed a criterion to determine if a session starts: two thirds of the deputies had to register. After the leftist presidium of the Verkhovna Rada changed, and the first non-left majority was composed in February 2000, the deputies abolished this rule.
- The president also has the right to take legislative initiative and the power to stop legislation with a veto, which can be overcome by a two-thirds vote in Parliament.

Along with the new Constitution, the president in 1996 received extraordinary powers to conduct economic policy for three years. Altogether, the powers of the Ukrainian president were high in international perspective (Beichelt 2001: 123-176).

On the other hand, President Kuchma was not able to dominate the system with his policies. Like his predecessor, he was confronted with a fragmented Parliament, which was nonetheless united in its hostility towards the president. Factions in the Parliament have been classified by different categories. Western observers tend to label the existing groups based on party families known from Western Europe, and they name the following groupings: Communists and Socialists; Leftist Centrists and Social Democrats; Centrists; Rightist Centrists; and Nationalists (Lindner 1998b).

Domestic analysts, however, tend to classify the party system by power blocs. These analysts focus on the rifts between traditional leftists, centrist-pragmatists (usually found around incumbent presidents) and liberal reformists. The labels vary, but in general there is a tendency not to take over Western categories (see, e.g. Dergachev 2002). One possible scheme for drawing the current Parliament's rifts according to these lines is presented in Table 2. No matter how the factions are labeled, the volatility was extremely high during the first years of the system. Furthermore, the parliamentary elections of 1994 had shown that the legitimacy of the system was very weak. Electoral participation was so low that, even nine months after the elections, 45 seats remained vacant.

**Table 2: Factions of Ukrainian Parliament, October 2004**

<b>Faction/Group</b>	<b>Votes</b>	<b>Representation</b>
<b>“Force of the People” Coalition:</b> “Our Ukraine” Bloc Yu. Tymoshenko Bloc	100 19	Pro-Yushchenko center-right parties and deputies.
<b>Ideological Left:</b> Communists	59	Orthodox part of ex-Communist party of Ukrainian SSR.
<b>Social-Democratic Left:</b> Socialists	20	Party of pragmatic ex-Communists
<b>Pro-Kuchma factions:</b> “Regions of Ukraine”  Social Democratic Party (united)  “Labor Ukraine” “Union”  People’s Democratic Party+Party of Industrialists and Entrepreneurs “United Ukraine” “Democratic initiatives”	64  40 30 18 16 16 14	Donetsk businessmen and ex-officials (close to premier V. Yanukovich). Ex-officials and businessmen (close to Kuchma’s Administration head, oligarch V. Medvedchuk). Businessmen (close to Kuchma’s son-in-law, oligarch V. Pinchuk). Ex-officials and businessmen (close to oligarchs V. Khmelnytsky and V. Pinchuk). Ex-officials (close to ex-premier V. Pustovoitenko) + businessmen (former “red directors,” close to ex-premier A. Kinakh). Majoritarian deputies, close to oligarch B. Hubsy. Mostly Kharkiv deputies, close to Kuchma and oligarch O. Yaroslavsky. Pro-Kuchma’s majority coordinator S. Havrysh belongs to this group.
<b>Independent/Not aligned:</b> Independent “Center” People’s Agrarian Party	18 16 20	Businessmen or ex-officials from different regions.  Ex-officials, businessmen from rural regions (close to speaker V. Lytvyn).

Source: Site of the Ukrainian Parliament (<http://www.freedomhouse.org/research/freeworld/FHSCORES.xls> (November 20, 2003).

Obviously, one major reason for the immobility of the system is institutional. The regime is not well prepared for dealing with cohabitation of diverse groups. It is important to recognize that the key reason for this impasse lies in the political and ethnic separation of the country. Whereas the eastern side of the country and the Crimean peninsula are mostly inhabited by Russians or Russian-speaking Ukrainians, the western parts of the state are culturally Ukrainian. Both groups exhibit strong socio-cultural ruptures regarding the Communist past, the value of the nation and other questions of identity. Therefore, nation-building is one of the most crucial themes in Ukraine (Kuzio 1998; Wolchik/Zviglyanich 2000).

When analyzing the political development in accordance with the model of embedded democracy, defects have to be identified in every partial regime:

*Partial Regime A – Electoral Regime:* The electoral regime has been endangered, on the one hand, by President Kuchma's agenda of keeping Communists and related post-Soviet forces at bay, and, on the other, by different financial-economic clans from different regions of the country. The presidential elections of 1999 followed the 1996 Russian example and consequently drew negative commentary from election observers. Parliamentary elections have not been as seriously marred, but still were far from being recognized as "free and fair."<sup>7</sup> "The 2004 presidential elections did not meet (...) a considerable number of standards for democratic elections," according to the OSCE election observation.<sup>8</sup>

The defects of the electoral regime are rather clear, but the element of stability needs to be taken in mind as well. When potential turning points come near in the form of presidential elections, it is not only the person in power – the president – that has to fear a loss of influence. Given the strong vertical structure of the governmental system, it is the whole regime that is in danger. Expectations become uncertain, political and economic investments may prove to be misdirected. Where so much is at stake, democratic norms surrounding the electoral process are not internalized to the extent that incumbents are forced to adhere to the imperative of free and fair competition.

*Partial Regimes B and C – Political and Civil Rights:* The openness of the public sphere is rather limited by political and economic coercion directed against independent newspapers. Most major TV stations have been signed on to a pro-Kuchma line before the elections. Violent deaths of journalists are linked to their anti-establishment coverage. Therefore, the freedom of information is limited. Politicians from various opposition camps have fallen victim to fatal attacks as well. On the other side, the limitations of the public space are not complete. Channel 5 is a nationwide opposition channel, which positions itself as a "channel of honest news," yet is supported by P. Poroshenko, Viktor Yushchenko's ally. Outlets for opposition print press do exist (on freedom of the media in Ukraine, see Haran/Pavlenko 2004).

There have been no effective limits on freedom of access to Internet information sources. But there have been some attempts to limit this freedom. In 1998–1999, the government tried to elaborate a law that would limit the number of providers for Ukrainian Internet sites; the motion failed.<sup>9</sup> In October 2004, the clients of three government-based Internet providers were banned from opening a site hosting jokes about premier Yanukovych, but this ban

<sup>7</sup> See the according report on <http://www.osce.org>.

<sup>8</sup> See [http://www.osce.org/documents/odihr/2004/11/3811\\_en.pdf](http://www.osce.org/documents/odihr/2004/11/3811_en.pdf).

<sup>9</sup> Business, no. 18 (277), 11 May 1998.

could be overridden. One of the sites close to the opposition, obkom.net.ua, underwent an attack on its server, but it quickly reestablished itself at a different provider.<sup>10</sup> In conclusion, while the right of obtaining “enlightened information” (Dahl 1989) is not systematically disregarded, state actors have not been very active in enhancing these rights.

Furthermore, activists from civil society have been arrested when voicing their opposition on security matters. The constitutional state is limited due to corruption and lack of neutrality. In short, the regimes of political and civil rights bear elements of illiberalism, although probably to a lesser extent than in Russia. Altogether, it can be argued that political rights are not systematically violated. However, reports on inefficiency on the part of the state administration and the judiciary frequently lead to problematic situations. Former deputy Prime Minister Yuliya Tymoshenko was arrested on questionable grounds, and the prosecutor-general harassed one of the judges who later ordered her release.<sup>11</sup>

*Partial Regime D – Horizontal Accountability:* Horizontal checks and balances are weak as well. After the Constitution, the president not only nominates the government and subordinates to some of the most important ministries – e.g. defense and foreign affairs. In addition, he appoints the heads of the regional and local administrations. Still, during the first year of the existence of the new basic law, president Kuchma violated the Constitution no less than 200 times (Lindner 1998a: 21). This has to do with the paradoxical situation that the president on the one hand enjoys (too) much power when appointing figures, but on the other hand does not have the capacity to actually decree his decisions. Decisions need to be made by Parliament, and Ukraine so far has been characterized by parliaments which, because of political fragmentation and polarization, refrained from exerting their potential influence.

The weakness of the system of checks and balances is at least partly due to the strategy of president Kuchma to use formal and informal leverages for influencing the establishment. He managed to create a system of power that was suitable for his needs and did not only consist of the constitutional structure itself: Within the “party of power” different clans (political-economic, or rather, business-administrative groups) competed in the economic, political and public sphere. Kuchma used the divisions between those groups in a *divide et impera* game, in which the main players were kept close enough to power to

<sup>10</sup> See: Chyvokunia Viktor Site anekdotov pro Yanukovicha zablockovanyj. Avtor situ... vdyachnyj Yanukovychu za reklamu, Ukrainska Pravda, <<http://www.pravda.com.ua/archive/2004/october/12/5.shtml>>; Ot “Obkoma”: u nashego providera s minuty na minutu zaberut nash server, <<http://w1.obkom.net.ua/news/2004-10-29/1211.shtml>>.

<sup>11</sup> The information of this paragraph is from <<http://www.freedomhouse.org/research/freeworld/2003/countryratings/>>, 25 November 2003.

remain interested in the game – so they were not willing to quit, to change the rules or change the “arbiter” – and simultaneously far enough from power that none seriously outweighed other players, which might allow them to question the need for an arbiter.

After being reelected in 1999 in an election that was criticized as being unfair, Kuchma’s administration tried to change the Constitution, in order to broaden its influence on the Parliament. On the basis of an old (1991) and imperfect law, he held a referendum “on the peoples’ initiative.” (Ukrainian and foreign observers reported numerous violations in the process.) Kuchma’s administration claimed that, in the referendum, over 80 percent of the citizens “supported” the necessity of forming a “permanently acting majority” in Parliament, the right of the president to dismiss Parliament if it lacks a majority, the constriction of deputy immunity and the introduction of a bicameral parliament.

The idea of forming the “permanently acting majority” played on the traditional weaknesses of Ukrainian party system and the peculiarities of the electoral legislation. Under this legislation, 225 deputies are elected by the general all-national party list, with the 4 percent threshold, and another 225 are chosen in the majoritarian districts, where it is very easy to employ “administrative resources” or subordination.

These factors have so far prevented any political forces from getting a majority of votes on their own or in union with like-minded allies. Therefore, the idea of the referendum was to artificially create such a majority from outside, and to keep it under control with the threat of dismissal of Parliament if the majority crumbles.

However, the Constitutional Court prohibited introducing the changes into the Constitution directly by referendum. It obligated the authors of this action to follow the due parliamentary procedure of changing the Constitution. This involves getting a simple majority in Parliament to support the changes, then a ruling by the Constitutional Court that the changes do not limit human rights and that they were introduced without violations of the procedure and, finally, support for the changes in the next session by two thirds of the deputies.<sup>12</sup>

The proposed changes were supported only by the pro-presidential majority, and the implementation of the referendum results failed. The idea of changing the Constitution re-appeared two years later – and the political context demanded that the direction of those changes be in the opposite direction: the narrowing of the president’s competencies. The proposals of this initiative will be discussed below.

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<sup>12</sup> For more on this case, see a Freedom House report: <<http://www.freedomhouse.org/research/nitransit/2001/index.htm>>.

In more general terms, the case of Ukraine shows that the usefulness of horizontal checks and balances in young democracies can be interpreted in two ways. On the one hand, the absence of balancing elements in a system may well lead to the semi-autocratic behavior of the president. On the other hand, checks and balances in political terms may easily lead to impasse situations, which is hardly desirable during the transition process.

*Comprehensive summary:* On the basis of several interlinked problems, Ukrainian democracy bears defects in several of its partial regimes. The problems consist of a constitution that offers too many powers to the president. If the incumbent uses these powers, the almost automatic result is the development of a strong power vertical that cannot be controlled by any other institution. Ironically, however, the presidential system developed because of the weaknesses of the only institution to check the president before 1996: Parliament. The ideological and territorial rifts between different parliamentary groups were so strong that no stable parliamentary majority was attainable in the first decade after Ukrainian independence. For regional and economic forces, it was much more promising to organize themselves outside of Parliament and, therefore, to a certain extent, beneath the institutional system altogether.

This underlying situation explains the most decisive defects in the partial regimes, the electoral regime (A) and horizontal accountability (D). The electoral regime is endangered because the presidential elections are by far the most important turning point of the political system. So much is at stake that both incumbents and the opposition do not have the power to break with deeply imprinted Soviet electoral practices. The same mechanism endangers horizontal accountability. Presidents in Ukraine have so far needed to fight a hostile Parliament and at the same time faced a regionally and economically segmented pluralism not fully represented in the political institutions of the regime. Therefore the president and his entourage have had to rely almost exclusively on elections to exert power.

These weaknesses, of course, are partly rooted in the former Soviet regime. Up until now, the way accession to power is institutionalized in CIS countries resembles Soviet practices. As long as post-socialist or liberal opposition forces do not get close to acquiring majorities at the polls, elite recruitment is bureaucratic and protectionist. Actors with a regional or a sectional power basis become included on executive terms, be it into the presidential apparatus or into governments. Typically, Parliament is not the main arena where competing interests are dealt with. This has effects on elite formation, because actors are potentially able to run for high offices only when they have gone through the executive apparatus. Therefore, it is not parliamentary competition but loyalty to the president that determines whether potential rivals will be included or excluded in the political scene. At the same time, efforts to systematically cut down power resources for groups not belonging to the recruitment networks

of the executives have been a condition for safeguarding the vertical power structure.

Altogether, it is hardly surprising that only a small minority of 20 percent of the population of Ukraine is at least partially content with the state of democracy in their country (White 2000: 276). Moreover, about 56 percent of Ukrainian citizens think that Ukraine is developing in the wrong direction, and none of the official bodies – the president, parliament, government, parties etc. – receive more than 5 of 10 points of approval.<sup>13</sup> As social costs were inflicted during times that were supposed to be a period for “building democracy,” both the notion and idea of democracy have become associated in the public culture with a decline in living conditions and ineffective power struggles. Whenever the strictly vertical regime structure was loosened, the existing frictions in society were reflected in deadlocks in the political sphere, especially in Parliament. This makes it rather improbable that the defective democracy of Ukraine will return to more liberal and less delegative government practices in the short term. Arguably, even a more “democratic” President Yushchenko would have had to struggle with the structures of the system – as our analysis implies, a simple change of faces in the country’s most important political seat is only one of many things that have to change in order to put Ukraine on a straighter road to non-defective democracy.

#### **4. The Presidential elections of 2004: electoral conduct and results**

Both the electoral campaign and the determination of results of the 2004 presidential elections proved to be heavily defective. During and after the electoral campaign for the presidential elections of 2004, numerous violations of democratic norms have been reported. Mainly, these can be derived from the information of the election observation mission led by OSCE/ODIHR, which listed the following problems:

- bias by the state media towards the candidate Yanukovych,
- interference by the state administration in favor of Prime Minister Viktor Yanukovych,
- disruption or obstruction of opposition campaign events by the state authorities,
- inadequacies in the Central Election Commission’s handling of citizens’ complaints,

<sup>13</sup> See: Pavelnko, Rostyslav, *Pered vyboramy 2004: liudy i vlada vse shche po rizni boky*, <<http://www.pravda.com.ua/archive/2004/may/25/1.shtml>>.

- mass problems with voter lists (information about inaccuracies in the voter lists came from 40 percent of districts).<sup>14</sup> According to the Committee of Voters of Ukraine estimates, problems of the voter lists disallowed up to 10 percent of voters to exercise their right to vote.<sup>15</sup>

Bruce George, MP President of the OSCE Parliamentary Assembly and Special Co-ordinator for the short-term observers noted, that “with a heavy heart, we have to conclude that this election did not meet a considerable number of OSCE, Council of Europe, and other European standards for democratic elections (...) Consequently, this election process constitutes a step backward from the 2002 elections.”<sup>16</sup>

The observers did see as encouraging, however, the very high level of participation by the electorate and civil society in the election process. At the same time, the Head of the CIS Executive Committee, Executive Secretary of CIS Vladimir Rushailo, who headed the CIS observers mission, claimed that the elections were free and fair, marked only with “minor, technical drawbacks.”<sup>17</sup> Observers from the CIS gave very similar comments concerning the elections in Belarus, Kazakhstan, Azerbaijan and other countries, where OSCE condemned elections as non-free and unfair.<sup>18</sup> State Ukrainian television, and the TV channel *Inter*, close to Kuchma’s Administration head Viktor Medvedchuk, during the election day of 31.10.2004 extensively cited the CIS observers, who said that the elections are running smoothly, without violations – except for Western Ukraine, where there were “numerous” violations (voting instead of the relatives that left to work abroad, entering the voting booth by 2–3 people etc.). Also, an independent publicist site “Ukrainska pravda” published an allegedly intercepted *temnik* (media guidelines) from Medvedchuk, which prescribed exactly such behavior (in order to apply for nullification of elections in the Western portion of the country) – along with undermining the value of exit polls, whose results were expected to demonstrate Yushchenko’s victory.<sup>19</sup>

<sup>14</sup> See the reports for both rounds of the presidential elections at the OSCE site: <<http://www.osce.org/odihr/?page=elections>>. See also the Committee of Voters of Ukraine reports on: <<http://www.cvu.org.ua>>. Data on monitoring of Ukrainian media during the campaign can be found on the Civic Coalition “New Choice 2004” site: <<http://www.monitor.org.ua/?do=45&id=5755&ln=en>>.

<sup>15</sup> See Committee of Voters of Ukraine report: <[http://www.cvu.org.ua/?menu=fp&po=doc&lang=ukr&date\\_end=&date\\_beg=&id=677](http://www.cvu.org.ua/?menu=fp&po=doc&lang=ukr&date_end=&date_beg=&id=677)>.

<sup>16</sup> See the statements of observers from key international monitoring organizations at the Institute of Mass Information site: <<http://eng.imi.org.ua/?id=read&n=1373&yy=2004>>.

<sup>17</sup> Nabliudateli SNG: vybory na Ukraine proshli po zakonu: <<http://www.ukraine.ru/news/231493.html>>; Rushailo dal vysokuju ocenku usloviyam dla raboty nabliudatelej <<http://www.temnik.com.ua/news/4186795b69ed1/>>.

<sup>18</sup> Lukashenko meshajut prazdnovat „elegantnuju pobedu“, Polit.ru, 19 October 2004: <<http://www.polit.ru/event/2004/10/19/lukapraz.html>>; Nabliudateli SNG: vybory v Chechnie proshli bez narushenij, Nezavisimaya gazeta, 30 August 2004: <<http://news.ng.ru/2004/08/30/1093859047.html>>.

<sup>19</sup> See: Temnik Medvedchuka na vybory <<http://www.pravda.com.ua/archive/2004/october/31/3.shtml>>.



Also of note, the Central Election Commission (CEC) started announcing results of elections from prisons and Donbass constituencies, where Yanukovych had a clear advantage. Yet, as the number of processed ballots exceeded 60 percent, it became clear that Yushchenko had outrun Yanukovych. The CEC then (on the afternoon of November 1) ceased calculating the results, having processed 97.67 percent of the ballots and found virtually all votes supported Yanukovych. It did not calculate additional ballots until November 10. In the meantime, both Yanukovych and Yushchenko filed protests to the CEC and the courts, citing violations and demanding a recount of results in Western/Central and Eastern/Donbass constituencies respectively.<sup>20</sup>

Finally, after 10 days of counting the ballots and processing the candidates' appeals, the CEC announced that Yushchenko had won the first round, receiving 11.125.395 votes (39.87 percent of total votes cast); Yanukovych came second, receiving 10.969.579 votes (39.32 percent of total votes cast).<sup>21</sup> The candidates accused each other of violations and declared the intent to win in the run-off.

**Table 3. Results of the first round of presidential elections in Ukraine, 10.11.2004.**

Name	Percent	Votes received
Yushchenko V.	39.87%	11 125 395
Yanukovych V.	39.32%	10 969 579
Moroz O.	5.81%	1 621 154
Simonenko P.	4.97%	1 388 045

After the results were announced, the agitation campaign unfolded again. According to many observers, the final stage was even more “dirty” than the campaign before the first round: marked by power abuse, intimidation of the voters by the authorities, monopoly of the news on main channels by current authorities (and their defamation of Yushchenko, portraying him as a “radical” and even a “fascist”<sup>22</sup>), and shakeups involving social institutions (like the Moscow Patriarchy Orthodox Church) demonstrating in favor of the incumbent prime minister Yanukovych.<sup>23</sup>

The comments on election day were more onerous than on the first tour. As already mentioned, according to the OSCE special coordinator Bruce

<sup>20</sup> See respective official campaign sites: [www.razom.org.ua](http://www.razom.org.ua) (Yushchenko), [www.ya2004.com.ua](http://www.ya2004.com.ua) (Yanukovych).

<sup>21</sup> See the Central Election Commission site: <http://ic-www.cvk.gov.ua/wp0011>. Irregularities in the totals are present in the original.

<sup>22</sup> Vijnna proty Yushchenka. Plan rozmishchennya „chornukhy“, *Ukrainska Pravda*, 19 November, 2004: <http://www3.pravda.com.ua/archive/?41119-1-new>.

<sup>23</sup> Sobolev Yehor people that won't go AWAY, *Mirror Weekly*, 20-26 November, 2004: <http://www.mirror-weekly.com/ie/show/522/48443/>.

George, the second round did not live up to Ukraine's obligations for free elections before the OSCE, Council of Europe and "the European standards of democratic elections." Similar statements were issued by the EU and NATO preventatives, as well as by the US state department.<sup>24</sup> On the contrary, just like Russian observers after first round called elections "free and fair," and Russian president Vladimir Putin congratulated prime minister Yanukovich for his victory when the CEC, after having calculated 99 percent of the ballots, showed Yanukovich's victory by 3 percent.<sup>25</sup> However, in a day, Putin has withdrawn his congratulations, saying that he meant "the winner of the exit-polls," not the elections (interestingly, the two exit-polls both completed on election day, showed the victory of Yushchenko, not Yanukovich).<sup>26</sup>

According to international observers and the Committee of Voters of Ukraine (CVU), the elections were distorted by mass violations. The main types of violations include:

- Manipulations with the absentee voting (people voting several times);
- Manipulations with mobile boxes, which allowed votes to be cast outside the polling stations (for instance, in Mykolaiv Oblast 35 percent of the votes were cast outside the polling stations);
- Falsification of the participation in the vote (In Donetsk Oblast, for example, CEC reported that by the time the polling stations were closed, 78 percent of voters took part in the elections; yet, in four hours after the stations were closed, this figure was changed to 96 percent. As a result, in some constituencies in Donetsk and Luhansk, the alleged number of voters reached 102-105 percent.);
- Expulsion of opposition commission members and observers from the polling stations and infringement of journalists' rights to the stations;
- Attacks of criminals on the polling stations, attempts to ruin the ballot boxes and the ballots.<sup>27</sup>

As a result, according to CVU experts, falsifications distorted 2.8 million votes – especially in Donetsk, Luhansk, Zaporizhzhya and Mykolaiv Oblasts.<sup>28</sup> Yet, despite these facts, the Central Election Commission calculated the results – and, in the course of calculating, increased the participation rate in Donetsk and Luhansk Oblasts to impossible levels (see above). This forced the population

<sup>24</sup> Vybory ne vidpovidajut mizhnarodnym standartam – OBSE, Ukrainska Pravda, 22 November, 2004: <<http://www-all.pravda.com.ua/archive/2004/november/22/news/35.shtml>>.

<sup>25</sup> See the Central Election Commission site: <<http://www.cvk.gov.ua/wp001>>.

<sup>26</sup> Putin robyt krok nazad? Ukrainska pravda, 23 November, 2004: <<http://www3.pravda.com.ua/archive/2004/november/23/news/40.shtml>>.

<sup>27</sup> For details on these and other violations, see the Committee of Voters of Ukraine site: <[http://www.cvu.org.ua/?menu=fp&po=doc&lang=eng&date\\_end=&date\\_beg=&id=691](http://www.cvu.org.ua/?menu=fp&po=doc&lang=eng&date_end=&date_beg=&id=691)>.

<sup>28</sup> KVU vyklyche Medvedchuka i Yanukovycha na dopyt pro falsyfikacii u 2,8 miliony golosiv, Ukrainska pravda, 23 November, 2004: <<http://www3.pravda.com.ua/archive/2004/november/23/news/29.shtml>>.

to take action. In Kyiv and other major cities (first – Western, then Central and Eastern Ukraine) massive rallies with 50,000 – 150,000 people in support of Yushchenko gathered. They were opposed by 1,000 to 30,000 supporters rallying for Yanukovych. The supporters of Yanukovych quickly disbanded, whereas meetings in support of Yushchenko increased in manpower.<sup>29</sup> Meanwhile, local and regional councils in some areas of Ukraine started to recognize Yushchenko as president, condemning the “falsified” results of CEC counting.<sup>30</sup>

It must be concluded that the presidential elections in Ukraine surpassed the boundaries of the legal framework. Further, due to mass violations and electoral fraud, the final decision was reached through the administration, not through the voters.

Interestingly, in this context the political reform again came to public attention. Serhiy Tigipko, Yanukovych’s chief campaign manager, told the 1+1 TV channel that “if the reform had been passed, the elections were not to be as desperate as they were.”<sup>31</sup> However, other experts suggested that even the reform would not decrease the role and symbolic value of the presidency.<sup>32</sup>

Moreover, the source of the conflict lay not in the significance of the elections, but in mass law violations that have distorted the official results of the elections. Also of note, the parliament made an attempt to safeguard against the most obvious violations, having passed an amendment to the law on presidential elections, on 18 November 2004, prohibiting absentee voting and voting outside the polling stations.<sup>33</sup> Yet, President Kuchma refused to sign this bill.<sup>34</sup> Thus, the newly elected president inherited not only the problems of pre-election Ukraine, but also the conflicts of the after-election week including the need to ensure his legitimacy in the whole Ukraine, the need to find a way to not alienate the losing side, and the need to create a constitutional model that would prevent similar conflicts in the future.

## **5. Institutional reform: competing visions of the constitutional structure**

The analysis of section 3 implies that the reported violations in the presidential elections of 2004 should not simply be interpreted as resulting from bad will on the part of one or another actor in the political game. Certainly, some

<sup>29</sup> Regiony za Yushchenka, *Ukrainska pravda*, 23 November 2004: <<http://www3.pravda.com.ua/archive/2004/november/23/regiony.shtml>>.

<sup>30</sup> Interfax News Agency Newslines: <<http://www.interfax.Kyiv.ua/secure/go.cgi?1,0>>.

<sup>31</sup> 1+1 Channel Election Maraphon, 22 November 2004.

<sup>32</sup> Fesenko, Volodymyr, *Moldavskiy variant*, *Ukrainska pravda*, 1 September 2003: <<http://www3.pravda.com.ua/archive/?3091-1-new>>.

<sup>33</sup> See the Parliament of Ukraine site: <<http://gska2.rada.gov.ua:7777/pls/zweb/webproc34?id=&pf3511=19395&pf35401=59155>>.

<sup>34</sup> Kuchma „postavyv khrest“ na nadiyakh opozycii, *Ukrainska pravda*, 19 November 2004: <<http://www3.pravda.com.ua/archive/?41119-13-77>>.

of the violations resemble political practices which Viktor Yanukovych has used in his home region, Donbass, while serving as governor there. When the expert group of the Friedrich Ebert Foundation visited Donetsk in October 2004, the campaign seemed to be biased in favor of the then incumbent prime minister and the former head of the regional administration. By using so-called administrative resources, all opponents seemed to have been barred from open competition, and posters of Yanukovych were featured in almost every shop window on the city's main street. This kind of campaigning seems to originate in political practices that generally characterize the defective democracy of that region.<sup>35</sup> Seen from that end, it seems plausible to accuse Yanukovych of using practices that are not in line with the requirements of the OSCE. And, of course, a voter turnout of more than 96 percent in the Donetsk region, including more than 100 percent turnout in certain towns and villages, does not engender confidence in the accuracy of the tally.

On the other hand, we cannot be sure that any other incumbent high official would not have used the administrative resources of the system. In fact, the analysis of section 3 implies that the rigidity of the presidential system makes it necessary for any person or bloc in power to use the resources offered by the vertical system. As long as there does not exist either a parliamentary majority or a civil society that contributes stability to the system, all exercise of executive power depends on the presidential apparatus. Our hypothesis is that the extensive concentration of power is a major source of political instability, and that institutional reforms could overcome this weakness of the Ukrainian political system. In order to delineate the range of politically possible reforms, we will present the contents of the former debates around constitutional reform in the remainder of this chapter before making some recommendations in the concluding section.

### *The initiation of the constitutional reform*

For a long time, there have been debates on constitutional reform in Ukraine. Incumbent president Kuchma always argued against the broadening of parliament's authority. In the summer of 2002, he claimed that such an undertaking would be "premature" (Kordoun/ Pavlenko 2002). Yet, in August of 2002, he came out with the "political reform" initiative, which specifically

<sup>35</sup> On the peculiarities of Donbass politics, see the independent site Ostrov (Island): <<http://www.ostro.org/>>. Also, some reports can be found at the Telekritika monitoring site: <<http://www.telekritika.Kyiv.ua/comments/?id=18519>>.

Site Ukrainska pravda has published a series of materials on the peculiarities of Yanukovych's path to power and the Donbass attitude to power: Boiko, Volodymyr, Kurs kryminalnogo premiertoznavstva <[www2.pravda.com.ua/archive/2004/may/11/4.shtml](http://www2.pravda.com.ua/archive/2004/may/11/4.shtml)>.

prescribed an essential broadening of the competencies of the parliament and the government created by it – at the expense of the President’s authority. Thus, he actually copied the opposition’s proposals, adopting them as his own. The effective date stipulated allowed him to enjoy omnipotence as the executive, leaving only his successor to tolerate the limitations of the reform.

The majority of experts name Medvedchuk, the head of President’s administration and the leader of the Social-democratic party of Ukraine (united) – SDPU(u), – as the author of the proposed reform (see Gritsenko 2004). The reason for its development is the fact that both SDPU(u) and the so-called “Kuchma clan” (group from Dnipropetrovsk which is represented, in particular, by Kuchma’s son-in-law, businessman-oligarch Viktor Pinchuk) had no candidates of their own for the upcoming elections. The favorites – Yushchenko (the oppositional candidate) and Yanukovych (the representative of the Donetsk group ) were not suitable candidates for Kuchma’s closest entourage as Kuchma’s inner circle suspected both of scheming to favor himself in the “new division” of already privatized property.<sup>36</sup>

Yushchenko and his closest entourage were and are perceived by the incumbent elites as an alien threat. They are suspected of a contrivance to redistribute the property assets and power in their favor and at the expense of the current establishment.<sup>37</sup> Also, being the prime minister in 2000-2001, Yushchenko implemented a few reform steps in energy, agrarian sectors, and trade. Notably, he outlawed barter, which made economic policies more transparent and less prone to the influence of private interests.<sup>38</sup> In turn, Yanukovych is also suspected by his competitors to “seize for Donetsk elites” the most profitable branches of industry (metallurgy, energy, transport, pipelines etc.).<sup>39</sup> This explains why, when playing by the rules would not bring victory to Kuchma’s entourage, his entourage started playing with the rules (Gritsenko 2004).

A decree of the Constitutional Court of 30 December 2003, which permitted a third term for president Kuchma,<sup>40</sup> may be viewed as a demonstration of unity of state power branches and strength of state power within the country for the sake of the demoralization of political opposition and demonstrating that

<sup>36</sup> D.Vydrin: „Ya vystupav proty nynishnioji imidzhevoji strategii Yanukovicha“, Glavred.info, 11 October 2004: <<http://www.glavred.info/ukr/?art=120941522>>.

<sup>37</sup> Yushchenko i Yanukovych: Borotba za lavrovij vinok liberala, Temnik, 15 October 2004: <<http://www.temnik.com.ua/ukr/criticism/struggle/>>.

<sup>38</sup> See the Freedom House “Nations in Transit” report for 2000: <<http://www.freedomhouse.org/research/nitransit/2001/index.htm>>.

<sup>39</sup> Rosijslyj plener ukrainskogo vyborchogo reliefu, Glavred.info, 4 October 2004: <<http://www.glavred.info/ukr/?art=120356213>>.

<sup>40</sup> See the Constitutional Court of Ukraine site: <<http://www.ccu.gov.ua/pls/wccu/P000?lang=0>>.

the courts are on the incumbents' side. The characteristics of the first planned constitutional reform were:

- The president was to be elected in nationwide elections;
- Presidential, parliamentary, and local elections were to be held in the same year;
- Parliament was to develop a bicameral structure,
- Although a "permanent parliamentary majority" was to be created through a reformed electoral system, the President would still unilaterally appoint the "enforcement" ministers.

The observers thought that this project was a part of Kuchma's plan to prolong his tenure according to the "new" Constitution – at least for two years, and meanwhile to find a person controlled enough to be a "successor," and let his popularity rise. This project of the Constitution was submitted to the "nation wide discussion," held from March to May of 2003. The "discussion" was staged as an organized campaign of "mass support," artificially created and heralded. The official site of the President ([www.president.gov.ua](http://www.president.gov.ua)) contains a special section where each region reported how many citizens supported the reform bill.

Yet, the "discussion" did not concern many citizens. According to an opinion poll conducted by the Ukrainian Sociology Service, in the beginning of 2004, when political reform received maximum attention from the media, after the "nation wide discussion," only 6 percent of respondents marked it as significant problem; it appeared twentieth on the problem list of an average Ukrainian.<sup>41</sup> Thus, the reform was seen by the population as a totally intra-elite project. The people agreed about only one provision of the reform project: 89 percent sanctioned election of the president by all voters, and not solely the parliament.<sup>42</sup>

Meanwhile, the opposition prepared a counter-project: an alternative draft (the so-called "Moroz draft,")<sup>43</sup> and secured support for it from the specially created parliamentary commission. As a result, the president pulled out of the process by withdrawing his project from the Constitutional Court in August of 2003 because of his "dissatisfaction" with the fact that both projects – the President's reform and the Moroz draft – were signed by speaker Volodymyr

<sup>41</sup> Politychna reforma turbuje ukrainciv u ostanniu chergu: <<http://stb.ua/vikna/19-00/?1.9.2004>>.

<sup>42</sup> 89% ukrainciv vvazhajut, shcho Prezydent maje obyratysya vsenarodnym golosuvannyam – opytuvannya, UNIAN News Agency, 17 October 2003: <[www.unian.net/ukr/news/news-45635.html](http://www.unian.net/ukr/news/news-45635.html)>.

<sup>43</sup> It prescribed that the President offers to form the cabinet of ministers at first the party or block, that got the most votes at the elections, then – to the second by the number of the votes won, then – to a coalition which united the majority of the deputies; if even after that the cabinet of ministers was not formed, the Parliament was to be dismissed. The project also established the direct elections for the heads of the district and regional state administrations.

Lytvyn and dispatched to the Constitutional Court by the same procedure, instead of voting on the President's project and ignoring the alternative one.<sup>44</sup>

After that initiative failed, the president's administration changed its tactic. In August of 2003, its head, Medvedchuk, conducted separate negotiations with Oleksandr Moroz and the leader of the Communists, Petro Symonenko. As a result a draft appeared, registered at the Supreme Council (the Parliament) as bill #4105.<sup>45</sup> The project prescribed election of the President by the parliament starting in 2006, (that later got an extension of its tenure from 4 to 5 years), and limited Presidential authority beginning in 2004 (see below for details).

In September 2003, members of the pro-President majority introduced another bill, #4180,<sup>46</sup> identical to #4105 except that it called for the election of the President by the parliament in 2004. At the same time, some members of the parliament majority proclaimed Kuchma the only candidate for President. The analysts were seriously considering scenarios in which Kuchma would run for a third term (or try to occupy the post of Prime Minister) after the parliament endorsed the reform bill, or that Kuchma would remain President in spite of the bill because the parliament would be unable to gather enough votes to elect anyone else.<sup>47</sup>

### *A strange alliance: the Left backing the incumbents' proposal*

In this context, the position of the Left is very interesting.<sup>48</sup> The main forces in this sector of the Ukrainian body politic are found in two parties: the more Soviet-orthodox Communist party and the more liberal Socialist party, leaning to social democracy, and a member of the Socialist International. Disparate ideology somehow leaves them strangely united when it comes to solutions. They both use strong anti-incumbent rhetoric, yet they both vigorously supported the reform bills put forward at the incumbents' initiative.

The Communist Party of Ukraine (CPU) was, for a long time, a convenient sparring partner for the authorities: its rhetoric, theses from the Communist

<sup>44</sup> For more details of the process, see: Mostovaya, Yulia, Closed cycle of power generation, in: Mirror Weekly, no. 35 (460), 13-19 September 2003 year: <<http://www.mirror-weekly.com/nn/show/460/41914/>>, and Rakhmanin, Serhii, Legislative intrigue, in: Mirror Weekly, no. 32 (507), 14-20 August 2004: <<http://www.mirror-weekly.com/nn/show/507/47472/>>.

<sup>45</sup> Available on the official site of the Ukrainian Parliament: <[http://gska2.rada.gov.ua:7777/pls/zweb/webproc4\\_1?id=&pf3511=15751](http://gska2.rada.gov.ua:7777/pls/zweb/webproc4_1?id=&pf3511=15751)>.

<sup>46</sup> Available on the official site of the Ukrainian Parliament: <[http://gska2.rada.gov.ua:7777/pls/zweb/webproc4\\_1?id=&pf3511=15881](http://gska2.rada.gov.ua:7777/pls/zweb/webproc4_1?id=&pf3511=15881)>.

<sup>47</sup> Pogorelova, Iryna, Odno neostorozhnoe dvizhenie – i ty otets „Kuchmy-3“: <<http://www2.pravda.com.ua/ru/archive/2004/february/4/1.shtml>>.

<sup>48</sup> For information on the left parties in Ukraine and their development see: Ukrainski livi: mizh leninizmom i social-demokratijeju / Za red. O.Harania, O.Maiborody, Kyiv: KM Academia, 2000.

past, has only a narrow popularity among the people: enough to ensure that some Communist leadership is elected to the Parliament, yet not nearly enough to regard them as true political opponents. Instead, they help the incumbents marginalize other opposition parties, claiming that “the only real opposition – [is] the Communists; others are simply fighting for power.”<sup>49</sup>

This situation is also convenient for the Communists – they have access to mass media, they are not suffering from administrative pressure, their businesspeople (especially those who are in electoral lists of Communists) are not pressured by the controlling authorities. Yet, the electoral support for CPU is falling. In the 2002 elections, they failed in all majority districts (except five) and for the first time, did not make first place on the party list. Thus the CPU has 60 deputies in the present parliament as compared to 112 in the previous one.<sup>50</sup> Additionally, with less than five percent in favor, Communist leader Petro Symonenko ranked only fourth in the first round of the 2004 presidential elections, losing the traditional electorate to the Socialists of Moroz and the incumbent prime minister Yanukovych.

In an attempt to preserve its significance, the CPU relies on the implementation of the purely proportional electoral system and the transfer of the decision-making center to Parliament, where its votes are still an important force. The CPU wanted to reach these aims in cooperation with the incumbents: they considered the right opposition (“Our Ukraine” and the Block of Yulia Tymoshenko (BYT)) as opponents (CPU program calls for the “removal of nationalist and bourgeois forces from power”<sup>51</sup>). Moreover, “Our Ukraine” becomes the main rival for the Communists on the party list, because the “phenomenon of Yushchenko” (success of reforms) showed that it is not only Communists who could appeal to social issues. That is why the strategic course of the CPU lies in implementing the proportional system with a high threshold, increasing the role of the parliament in the political system and discrediting “Our Ukraine” and the BYT.

In contrast to CPU, the Socialist Party of Ukraine (SPU) positioned itself as a “real” opposition force. Moroz continuously professed adherence to the plan to transform Ukraine into a parliamentary republic. Moreover, SPU, like CPU, is interested in expanding the role of parliament in the political system; in this case, the role of the SPU faction is also increasing.<sup>52</sup> Thus, Moroz took a “strategic”

<sup>49</sup> See, for instance: Strakh i nadezhdy Ukrainy pered 16 sentyabrya <<http://pravda.ru/main/2002/09/05/46679.html>>; Oppozitsiya posle vyborov: legche ne budet <<http://www.ua-pravda.com/opozposvib.shtml>>.

<sup>50</sup> See the official site of Ukrainian Parliament: <[www.rada.gov.ua/dekor](http://www.rada.gov.ua/dekor)>.

<sup>51</sup> See [www.kpu.kyiv.ua](http://www.kpu.kyiv.ua).

<sup>52</sup> For Moroz’s own explanations of these issues, see: Sobolev, Yehor, Alexander Moroz: “I may be dreaming, but this is just what Ukraine needs,” in: Mirror Weekly, no. 32 (457), 23-29 August 2003: <<http://www.mirror-weekly.com/nn/show/457/41404/>>.



position. He was absent in Kyiv on 23-24 December 2003, when “Our Ukraine,” BYT and SPU were blocking the parliament tribune. They claimed to be doing this to ensure that the deputies have enough time to get acquainted with the new version of the Constitutional amendments, prepared by the special commission of the Parliament. The parliament majority, together with the CPU, then voted by raising hands (violating constitutional regulations about the way of changing the Constitution) for the adoption of the draft of bill #4105 and forwarding it to the Constitutional Court for its verdict on whether the draft violates human rights. In the new year, Moroz entered into negotiations with Medvedchuk and agreed about the support of the reform by Socialists – provided that the theses about the election of the President by the parliament and reelection of judges by the parliament, each for a term of 10 years (instead of life tenure), are withdrawn from the document. Medvedchuk agreed, and the deal was realized on 3 February 2004, when the parliamentary majority together with the CPU and the SPU gathered 304 votes (of 450) to amend the draft of bill #4105 (that already had been accepted for consideration by the Constitutional Court).<sup>53</sup>

At the same time it is possible that Moroz was using the support of the “political reform” as a way to pressure Yushchenko for a more favorable attitude and better bonuses both before and especially after the election (when Yushchenko, if elected, will have to count each vote in parliament in order to create a government and pursue his policies. an impossibility without adopting new laws passed by parliament).

After the first round of presidential elections, Moroz signed a political accord with Yushchenko, in which he agreed to support Yushchenko in the second round (and urged his voters to do so) – in exchange for (a) removal of Ukrainian forces from Iraq, (b) the extension of a moratorium on selling the arable land until 2007, and (c) supporting the amendments to Constitution added before January 1, 2005, in order to enact them in 2006.<sup>54</sup> These conditions were accepted by Yushchenko: all of these points were outlined in “draft decrees,” which he used as a campaign tool.<sup>55</sup> However, Moroz claimed that *his* faction can vote for the reform bill whenever they see a possibility to collect the necessary 300 votes – with or without “Our Ukraine.”<sup>56</sup>

After the first round of elections, all attention shifted from the reform projects to recognition or non-recognition of the election results. It took

<sup>53</sup> Pogorelova, Iryna, Odyn neoberezhnyj rukh – i ty bat’ko „Kuchmy-3“, *Ukrainska pravda*, 4 February 2004: <<http://www.pravda.com.ua/archive/?4024-1-new>>.

<sup>54</sup> See the text of the accord on the sites of both politicians: <[www.yushchenko.com.ua](http://www.yushchenko.com.ua)> and <[www.moroz.com.ua](http://www.moroz.com.ua)>.

<sup>55</sup> Yushchenko has signed a dozen of documents, marked as “his first decrees as President,” they touch upon main social, political, anti-corruption, constitutional issues and are to serve as a counterbalance of Yanukovych’s extensive social promises and actions (e.g., increase of pensions with special “donation,” rise of wages on the eve of the elections etc.): <[www.yushchenko.com.ua](http://www.yushchenko.com.ua)>.

<sup>56</sup> Interview of O. Moroz with the 5th channel, 9.11.2004: <[www.5tv.com.ua](http://www.5tv.com.ua)>.

considerable time and political effort to determine the winner. As argued below, the new President would face strong pressure to execute the constitutional reform and thus to share power with the political forces in the parliament.

### *The supporting legislation*

During the process of the implementation of the political reform there appeared a situation when many experts pointed to the *legal* conditions for the voting on the third of February be null and void (the Constitutional Court of 17 October 2002 prohibited amending the Constitution on extraordinary sessions;<sup>57</sup> that session was held with some procedure violations; after all, it is hardly possible to “amend an amendment,” already sent to the Constitutional Court). However, the Constitutional Court practically recognized these practices, having declared that the bill #4105 did not violate the Constitutional premises. However, in the *political* sense, the majority of the parliament, CPU and SPU, seemed to be ready to adopt the new changes – their joint manpower exceeded the 300 votes needed to actually amend the Constitution.

One of the key questions that might have splintered the “amendment” alliance was the law on proportional representation for parliamentary elections. CPU and SPU demanded from Kuchma the adoption of such a law as an initial condition for its further support of the reform. At the same time, deputies from the parliamentary majority were against this variant. They insisted on either the adoption of a lower passable limit (to 1 percent, which would allow smaller parties to attend Parliament), or to the majoritarian system (according to the so-called “Havrysh’s draft,” which prescribes that majoritary candidates are nominated in districts by political parties and compete by the rules of majoritary system).<sup>58</sup>

As a compromise, the parliament adopted the proportional representation law with a threshold of 3 percent. The new law will take effect in 2005 – to be used in 2006 elections. Also, the parliament adopted the law for use in local elections, which prescribes a proportional system to be used for election of the regional (*oblast*) and district (*rayon*) councils, and single member district system for village or town councils. These laws were not an easy choice for the “majoritarian” half of the Parliament, but they were forced into compliance by Kuchma’s administration. This, however, backfired on the final day of voting on the reform. The resentment of this part of parliament became one of the factors that ensured the reform’s failure.<sup>59</sup>

<sup>57</sup> See the site of the Constitutional Court of Ukraine: <<http://www.ccu.gov.ua/pls/wccu/P000?lang=0>>.

<sup>58</sup> See the official site of Ukrainian Parliament: <[http://gska2.rada.gov.ua:7777/pls/zweb/webproc4\\_1?id=&pf3511=12614](http://gska2.rada.gov.ua:7777/pls/zweb/webproc4_1?id=&pf3511=12614)>.

<sup>59</sup> Politreforma provalylasya [Political reform has failed], *Ukrainska pravda*, <<http://www.pravda.com.ua/archive/?4048-2-new>>.

Finally, the new presidential elections law was adopted (18 March 2004). It was drafted by members of “Our Ukraine,” yet during the debates it was amended by the majority members. As a result, the law (used in 2004 elections) provides for some improvements over the previous one (for instance, regulates agitation campaign tactics and the use of media more precisely; makes it impossible to remove a candidate from the campaign; specifies procedures for voting, calculating of the results, and observing).

Yet, the law also has serious drawbacks, for example: domestic civic organizations cannot register official observers; the procedure for complaints about the violation of electoral law is quite complicated; the law specifies the procedure to announce elections null only at a constituency level (if 10 percent of ballots are spoiled), not on the nationwide level. (Theoretically, this could lead to a situation when elections are announced null in the constituencies where the opposition is winning.)

The compromises have not yet saved the reform project. The goals of its authors were quite clear – to shift the center of decision-making from the president to the government. This initiative was meant to be in itself a more balanced system and to be implemented before the elections, while still under Kuchma – and, it was feared, that Kuchma would use his power over the present parliament to become a prime minister (or control this figure).<sup>60</sup>

### *The content of the amendments to the constitution*

An analysis of the reform proposal suggests that its purpose is to make the prime-minister a powerful figure. The changes outlined below were put forward in both bill #4105 and a “reserve” bill #4180 (see above). After the voting on 3 February 2004 (which was to put the reform proposal in accordance with the Constitutional Court recommendations and the Venice Commission comments: see also the text by Iris Kempe in this volume) the system of relations among president, parliament, and government would operate as follows:

- The government steps down before a new parliament, not a new president. During the month after opening the first session of parliament (or collapse of previous coalition) parliament has to create a majority coalition (from the factions that together have 226 or more votes, more than half of the total 450).
- The coalition proposes to the president the candidate or candidates for prime minister. The president submits this information to parliament for appointment within 15 days after he received it. This procedure leaves lots of open questions – for example, whether the president can disagree with the

<sup>60</sup> Gritsenko, Anatoliy, So, is it prolongation after all? In: Mirror Weekly, no.7 (481), 14-20 February 2004: <<http://www.mirror-weekly.com/nn/show/481/45585/>>.

proposition of the coalition; what to do if parliament does not support the choice of the coalition, etc.

- Ministers are proposed by the prime minister and appointed and dismissed by parliament.
- The president proposes to parliament candidates for defense and foreign affairs ministers, and the head of the Security Service.
- Parliament, but not the president, accepts the retirement of the cabinet of ministers.
- The tenure of parliament is prolonged from 4 to 5 years (after the present parliament is re-elected in 2006).
- A deputy can lose his mandate and be expelled from parliament if he leaves a faction or bloc, on whose list he was elected, or “according to the decision of the leadership” of the faction or bloc.
- The government, not the president, appoints heads of regional and district state administrations.
- The government also defines the structure of the central bodies of executive power after the proffering of prime minister; in the same way, it appoints and dismisses the chiefs of the executive power bodies that do not belong to the Cabinet of ministers (including the tax administrator).
- Members of the government can simultaneously retain membership in parliament.
- The president is elected by the people for a five-year term.

According to the reform, the main powers of the president would shift to the prime minister. The president would retain only the rights to initiate legislation and to summon the Council of National Security and Defense (it consists of the chief ministers), but all decisions would be signed by the prime minister before taking effect. Also, the president can stop the decrees of the cabinet of ministers, with the endorsement of the Constitutional Court. Consequently, with this model, Ukraine would develop into a parliamentary system with a comparatively strong prime minister.

However, this scenario failed a few steps from realization – due to a widespread discrepancy of interests in the pro-reform coalition. Uneasy relationships within the “reform coalition” prohibited the realization of the reform scenario. The final ballot in the parliament on 8 April won 294 votes (only 300 were needed). The attempts to stage an additional vote failed; by the Constitution, if a bill to change the Constitution is rejected, parliament can return to it only after a year. The reasons the reform failed include:

- Resentment of the MPs elected in single member districts, who were forced to support the purely proportional electoral system (in order to receive support from the Left). Some of them skipped the final vote, thus protesting against the pressure on their interests;
- Protest of the centrist factions against the methods used by the Kuchma

administration (which included pressure on businesses and blackmail for those that either intended not to vote or merely hesitated);

- Low interest of the “Regions of Ukraine” (Donetsk) faction, which was more interested in preservation of the presidential competences for their representative Yanukovych and thus did not ensure presence and voting discipline;

- Refusal of speaker Lytvyn to violate the rules of procedure in parliament and stage additional votes (eventually Lytvyn headed the People’s Agrarian Party and together with its faction left the pro-Kuchma majority; such a move is associated by the observers with personal conflict between Lytvyn and Presidential Administration head Medvedchuk).

However, the majority had at its disposal a “backdoor scenario.” There existed bill #4180, which was a verbatim copy of #4105 – except that it provided for electing the President by the parliament in 2004. This bill was amended (to resemble #4105 even more) and brought before parliament on 23 June 2004 in the first reading (276 votes). The plan then was to pass it by 300 votes in the autumn. In early September, however, the pro-Kuchma majority had collapsed. First, the faction of People’s Agrarian party (headed by speaker Lytvyn) announced leaving the majority. The next day a Kharkiv-based group called “Democratic Initiatives” also left the majority.<sup>61</sup> These events made gathering 300 votes in support of the reform before the presidential elections impossible.

## **6. The question after the elections is the same as before the elections: should there be a constitutional reform?**

After the presidential elections, a new window of opportunity for constitutional reform may open. One of the main concerns in the debates of the years 2003 and 2004 was the possibility of incumbent president Kuchma returning for a third term once the constitutional amendments passed. Of course, it is hard to say if this scenario was a real possibility or not. Considering the case of Lukashenka’s Belarus, Kuchma would not have been the first president in the CIS to do so.

After the elections, the same suspicion will rest on Kuchma’s successor, Viktor Yanukovych. However, since he will be able to run for a second term anyway, the potential of personal gains from a constitutional reform is much smaller. The main question remains: is the new president ready to support a reform which cuts back substantially parts of his powers? Kuchma said several

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<sup>61</sup> Protesting against the plans to transfer 43 percent of stocks of an oil company Ukratnafta to the state-owned company Ukrnafta. When Kuchma ordered to stop the deal, the faction returned to the majority – but the latter still does not have necessary 226 votes.

times, that no president will limit his own powers, and he is certainly not the only one with that expectation.<sup>62</sup>

Our argument is that installing a parliamentary system as developed by the either bill #4105 or #4180 offers a solution to various problems of Ukrainian politics. The most important problem so far has been that all power resources were concentrated in the hands of one person, who did not in turn depend on institutionalized support. The overview in chapter 2 has shown that in the CIS, the concentration of power in one hand bears the strong danger of developing or maintaining a defective democracy or sliding into authoritarianism. The need to deprive the Ukrainian presidency of its exceptional powers over the executive is acknowledged by most scholars and political forces (see Pavlenko 2002).

The debate circles around the actual mechanism of relationships between the President, the parliament and the Cabinet, the timing and the conditions of the reform implementation. These are the main elements of the model of embedded democracy outlined in section 2. Some scholars in Ukraine argue that bill #4105 satisfies the necessary requirements: it puts enough powers over the Cabinet into parliament's hands, yet remains "control competencies" in the hands of the President. Moreover, as the role of the President is traditionally strong in the CIS countries (he is psychologically viewed as the head of state, the "guarantor" of the Constitution, of status quo, staying "above" politics), it is possible to predict that he will remain a central figure in the balance of power even without exclusive control over the executive (Fesenko 2004). In any case, the regime of horizontal checks and balances would be considerably strengthened by changes made according to bill #4105.

Yet, we think that the installation of a parliamentary system needs several preconditions for successful functioning and retaining its democratic nature: free political parties and free mass media are essential. Given the political practices of recent years, independent courts to uphold the institutional order are necessary as well. These conditions may be created simultaneously with the establishment of the new constitutional model. In fact, a more competitive, "horizontally rich" model, which compels the main political forces to create a coalition (i.e., to reach a compromise), might be better soil for cultivating democratic procedures and traditions (as opposed to autocratic rule and power abuse in the presidential model).

In any case, a parliament organized around factions elected through party lists is to become more representative. In consequence, the main political groups would face strong incentives to be more inclusive regarding diverse

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<sup>62</sup> For instance, Kuchma made that statement during the "Forum in support of the reform", held on April 2, 2004: <<http://www.president.gov.ua/activity/zayavinterv/performance/242743278.html>>.

issues and regional groups. The requirement that candidates for local councils come from party lists is to push the main forces to create – or make alliances with the existing – networks of civil institutions, which would be influential at the local level and thus would provide support for the respective parties and blocs.

It needs to be stated that the model in itself does little to separate money and politics (as the main financial and industrial groups will continue to stand behind the main parties and blocs). Yet, it does help diversify the risks of lobbyist influence on policy-making and make the lobbying process itself more competitive and transparent. Under the present model, the obvious primary target for lobbying is exclusive: the president and his administration. Under a parliamentary system with a strong prime minister, lobbyist pressure on the government will compete not only with similar proposals from other groups, but also with party interests, parliamentary agenda and other matters, which will hold increased value for the decision-makers.

However, two important (and interlinked) preconditions should be met in order to ensure implementation of the reform. First, the reform, and the constitutional model that it will bring, must be accepted by all key political actors. Otherwise the legitimacy of the rules of the game will be undermined, further destabilizing the situation and endangering the fledgling democracy, bringing another conflict into the system. The Constitution of 1996, which appeared as a result of a compromise, enjoys high legitimacy. A constitution installed by force and opposed by parliament would not. Thus, to have the reform widely accepted, one should take into account the interests of all main political forces.

Second, it is better to implement a new system in “full complex,” rather than to change the rules for current players. The implementation in “full complex” means fulfilling the following model: people elect the parliament which forms the government which is responsible before the parliament which is responsible before the people. This means, first of all, electing the parliament by party lists – with the clear understanding among the parties that their prize is the creation of government, not a tiny faction whose role is more often lobbying than participating meaningfully in the government. This parliament would see the political forces making alliances more easily, hence the cabinet would be more stable. Last but not least, the new parliament will be less subject to pressure from the presidential administration, to which the factions of the present parliament are all too accustomed.

Without meeting these conditions, any constitutional reform is likely to extend the status quo in the sense of keeping the power in the hands of Kuchma’s entourage. During 2004-2006, the power clan around Yanukovych plus Medvedchuk and the “Dnipropetrovsk clan” will prepare for parliamentary elections. With the defects in the political liberties and civil rights regimes

that have been highlighted in the presidential elections, this power clans will have advantages in these elections again; opponents could be demobilized. It will easily be possible for Kuchma's entourage not only to lobby for notable positions in the executive (otherwise any coalition in parliament may fail to form a government), but also to undermine the newly elected president's legitimacy through accusing him of inefficient policy while concealing that he is almost deprived of powers. Even former president Kuchma stated that the competencies of the President after the reform will be "sufficient."<sup>63</sup>

The window of opportunity after the elections may open, as both main opponents, Yanukovych and Yushchenko, declared their intent to pass constitutional reforms – and, moreover, the forces behind them are likely to press for the reform (to downgrade the opponent's victory). However, they took different approaches to the reform. Yushchenko made some written obligations: in his program, he promises to complete a "transparent, honest" political reform and enact it until 2006 for the next parliamentary term (parliament then elected by party lists and supposedly with less influence from the presidential administration).<sup>64</sup> The promise to hold the reform also is stated in one of the "draft decrees" and in the political accord with Moroz (see above).

Yanukovych also publicly supported the necessity of the reform. The Donetsk-based "Regions of Ukraine" faction in parliament supported the reform bill during the 8 April voting. However, Yanukovych did not mention the reform in his program, nor has he made any legally binding obligations to complete it. Given this lack of certainty about the determination of the top candidates to decentralize the decision-making system, the pro-Kuchma factions attempted to complete the reform between the two rounds of the elections. Yet, due to the breakup of the majority in Parliament, difference of interests among the parliamentary factions, and general skepticism of the elites towards the reform project, these attempts failed.<sup>65</sup>

The new president enters his term in a new stage of development of the Ukrainian political system (see text by Oleksandr Sushko and Oles Lisnychuk in this volume). Since 1999, the main friction does not run between the old and the new regime (Communists against all the rest) anymore. Therefore, the new president does not need to fulfill Kuchma's function to unite the all-too-many different groups against a Communist backlash. Instead, the main conflict

<sup>63</sup> Meeting with Polish President Kwasniewski, April 2004.

<sup>64</sup> See [www.razom.org.ua](http://www.razom.org.ua).

<sup>65</sup> See, for instance: Leonid Kravchuk: "I Am Against Amending The Constitution Between The First And Second Rounds Of The Presidential Elections" in: *Mirror weekly*, no. 36 (511), 11-17 September 2002: <<http://www.mirror-weekly.com>>.



runs around the Kuchma status quo, which is one of bureaucracy, verticality, and sheltering of several financial and industrial groups in the country. This versus the change of the establishment and the introduction of the “pendulum” between the main centrist forces: those now united around Yushchenko and Yanukovych respectively.

Therefore, any constitutional reform – which still needs the support of at least 300 of the 450 parliamentarians – will need to change the status quo. The prospects for a constitutional reform therefore depend on the willingness of the new president to surrender certain parts of the system inherited from Kuchma. Whoever the new President is, he will be compelled to make concessions. The most powerful concession he could undertake would be to cut the presidency power, just as promised before the elections<sup>66</sup>.

### *Comprehensive summary*

The present constitutional setup of the Ukrainian state was created as a compromise between the President and Parliament, yet the Constitution leaves the mechanism of relationships within a “President-Parliament-Government” triangle vague. In the absence of adequate pressure from the opposition, the constitutional model was shaped by the internal struggle within the incumbent camp, and the decision-making system appeared as President-centered, secluded, non-transparent and unresponsive.

It provoked conflicts between the government and parliament, thus lowering the effectiveness of the system. The weak party system (aggravated by limited chances for parties to play the leading role in elections, under previous legislation), abused media (often used as propaganda machines), and underdeveloped civic institutions sector (with low possibilities to effectively advocate its interests to the authorities) made the authorities less prone to public scrutiny. Thus, the objective is to decentralize the decision-making and thus to strengthen horizontal accountability in order to make the government more dependent on parliament, not on the president. All major political forces have declared the intent to pursue such reforms. Yet, evidence of implementation of these declarations appeared only when over-centralization of power was seen by the main political players as threat to the status quo.

Realization of the scenarios concerning the reform depends on backstage agreements; the main factors are the immediate interests of the key players, rather than strategic thinking or conscious tailoring of the most effective system. However, this might be the way of “natural decentralization” of

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<sup>66</sup> Especially given the fact that the Donetsk group tries to establish bridges to other main groups. For instance, the ill-famous privatization of Krivoriizhstal steel mill was done as a joint action of oligarchs V.Pinchuk (Dnipropetrovsk, Kuchma’s son-in-law) and R.Akhmetov (Donetsk).

Ukrainian decision-making, which would come out of necessity and mutual mistrust of the main political forces, rather than from a benevolent act of the country's leadership. Thus, after the elections, the winners might be compelled to carry out the reform in order to reach a compromise with the other forces. A compromise might include taking into account the position of all parliamentary factions, passing the amendments to the Constitution as soon as possible, and enacting them starting in 2006.

In the vocabulary of the model of defective democracy, the proposed constitutional reform mainly aims at the partial regime of horizontal accountability. The other partial regimes of democracy, and in Ukraine particularly the electoral regime, are seen in the way they interlink with the system of power distribution. It has been argued that the defects of the electoral regime as well as the civil rights and political liberties regimes at least partially go back to the "rigidness" of the presidential system (Linz 1994). Therefore, constitutional reform will arguably stretch out into the other partial regimes. However, the defects in civil rights and political liberties depend on other factors as well. For example, a much stronger commitment from political leaders to guarantee civil rights and political liberties than was shown in the recent presidential elections seems crucial. Without constitutional reform, however, the prospects of a different style of government in Europe's second biggest state are even more dim. In order to overcome the defects of democracy, both the constitution and political leaders are in need of change.

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# **Consensus-Building and Good Governance – a Framework for Democratic Transition**

*Olaf Hillenbrand\**

## **1. Introduction: Ukraine at the Crossroads**

After ten years of transition, Ukraine is at the crossroads. The 2004 presidential elections may be seen as the key for the development of democracy. The key actors are not only two presidential candidates with quite different views about Ukraine's future, but also the former president including his administration, whose efforts to influence the elections have inherently damaged and endangered democratic development.

When Ukrainian transformation started in the early 1990s, the country had to face three challenges simultaneously: national consolidation, establishing democracy and building a market economy. Political actors saw themselves confronted with a difficult situation. They had to consolidate a fragmented and heterogeneous state. Independence was threatened by the Russian Federation as a dominant neighbor. A rather weak civil society and equally weak democratic traditions along with a very high degree of corruption hindered fast and sustainable political reforms. The special interests of economic groups were stronger than their interest in modernizing the country.<sup>1</sup>

Whereas the initial phase of Ukraine's transformation was marked by the task of maintaining national unity and independence, political actors failed to

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<sup>1</sup> See Country Report Ukraine, Bertelsmann Transformation Index 2003: [www.bertelsmann-transformation-index.de](http://www.bertelsmann-transformation-index.de)

create an effective and stable institutional framework. Various power struggles led to political and economic instability. As was somewhat typical for post-Soviet states, conflicts arose between the members of the administration, who styled themselves as backers of reform, and the Parliament, which was seen as an impediment to reform. (...) President Kuchma managed to put a stop to these negative trends during his second term of office. Together with Prime Ministers Yushchenko and Kinach, the president was able to establish a reform-oriented government. (...) Moderate growth and structural reform halted the economic downturn.”<sup>2</sup>

In a worldwide comparative perspective, Ukraine is among the more successful transformation states—compared with other European countries, however, it is among the less successful cases.<sup>3</sup> But even if the last five years have shown considerable progress on reform politics in Ukraine and the political system has increasingly stabilized, the country still has a long way to go on the road to consolidated liberal democracy.

### *Decisive Role of Elections*

Altogether it seems that a defective democracy is on its way to being solidified in Ukraine. Democratic procedures and institutions have been set up; however, words must be matched with deeds in the coming years in order to establish an appropriate political culture and accompanying democratic consolidation. In this respect, democratic elections—including the presidential election in 2004—play a decisive role at these crossroads of Ukrainian development:

- As a litmus test, the election process is a very strong indicator that can provide information about the status of any given democracy. Democracy in Ukraine has to assess whether and to what extent the ruling party and the related interest groups accept common rules for the division of political power. Other questions include: How free and fair are the elections? Are there equal opportunities for each candidate? Is there a free flow of public information? Are there attempts at manipulation? Is there already a sustainable political culture?

- In the transition from authoritarian rule to democracy, elections are categorized as an important step toward implementing the rules and procedures of a democratic system, and also as the mechanism for the democratic division of power. In the special situation of defective democracies, free and fair elections are the most probable opportunity to bring stagnating reform policy on track again. They force political actors to seek legitimacy, enable a broad discussion on reform

<sup>2</sup> See Country Report Ukraine, Bertelsmann Transformation Index 2003: [www.bertelsmann-transformation-index.de](http://www.bertelsmann-transformation-index.de)

<sup>3</sup> The Ukrainian Transformation Management is ranked as 39. of 116 countries in the BTI 2003 Ranking and categorized as “Successful Management with weaknesses”; See [www.bertelsmann-transformation-index.de](http://www.bertelsmann-transformation-index.de)

perspectives and allow people and civil society to articulate their demands. The deficits of the Ukrainian political system can be best overcome if voters demand change.

- Viktor Yushchenko and Viktor Yanukovych are two candidates who can be counted within the democratic camp. It has to be emphasized that these elections are thus a kind of victory for democracy, because there is—in contrast to other CIS countries—a real democratic alternative. Citizens of Ukraine thus have democratic choices available and must carefully consider the direction of further reforms.

In earlier presidential and parliamentary elections in Ukraine, the character and results of the process indicated and reflected the political system's state of affairs. The same is true for the run-up to the 2004 campaign, which is as dramatic as a good thriller: President Kuchma tried in 2000 to extend his powers and was stopped by the Verkhovna Rada (Parliament). In 2003 he tried to extend the second presidential term to 2006 but due to growing criticism he withdrew his proposal. In 2004, Kuchma proposed a new election law and later came up with a constitutional reform that would have led towards parliamentary democracy. Both were responses to the demands of the opposition and both were also cancelled by the Rada. Foreign observers assumed in advance that Ukraine would undergo the “hardest and dirtiest elections in her short history as an independent country.”<sup>4</sup> As a matter of fact, these expectations were fulfilled during the campaign and after the first ballot.<sup>5</sup>

This state of affairs clearly indicates some shortcomings in Ukrainian democracy. On one hand, it can be seen as a farce and demonstrates clearly that many important political agents are “playing with the rules instead of playing by the rules.” In a comparative perspective, however, we can view this development in a more positive light. Clearly, the president's power was not sufficient to implement his reform ideas against the will of his opponents. As in other young democracies, it seems that the current president is fighting with his back against the wall, playing for time and eventually trying to withdraw as much as possible without suffering negative personal consequences.

Ukraine's future constitution remains an open question, just as one cannot predict either the results of elections or general willingness for further reforms. Therefore, as Ukrainian transition progresses, it will be of particular importance to analyze how intensely the former president tried to secure the victory of a

<sup>4</sup> See: Ralf Wachsmuth and Sebastian Fiebrig: Die Ukraine sechs Monate vor den Präsidentschaftswahlen. Die Reform der ukrainischen Verfassung: eine endlose Geschichte, Kiew, Mai 2004, p. 12.

<sup>5</sup> See: Thomas Urban: Wettkampf mit unfairen Mitteln; Peter Hilkes: Die Opposition lebt gefährlich, both in: Süddeutsche Zeitung, 30.10.2004, p. 2; See: Massive Behinderungen bei der Ukraine-Wahl, in: [www.spiegel-online.de](http://www.spiegel-online.de), download 1.11.2004.

chosen successor, one who would also guarantee Kuchma immunity. At any rate, the political alternatives for Ukraine at this crossroad seem clear: On one hand it is possible that a defective, illiberal democracy similar to Russia's could be consolidated in Ukraine. On the other hand, Ukraine still has the opportunity to advance step-by-step toward a western-style, liberal democracy.

### *Structure of This Paper*

Like any transition country, Ukraine has special problems and unique power constellations. However, in a comparative perspective we can see that countries in transition share many characteristics as they proceed from authoritarian to democratic structures. Beyond this background, section two empirically analyzes important factors and key elements along the path to a liberal democracy. In section three, the framework for good governance will be sketched out. In 1997, this concept was introduced by the World Bank and plays a crucial role in the transformation debate. Good governance entails using political authority to achieve the best possible progress in relation to the resources available.

In our context, it is important to evaluate actors, structures and processes in order to classify where Ukraine stands today in terms of its potential for democracy. This paper discusses some theoretical and empirical findings in the field of transformation management, which might be relevant for further development in Ukraine. As a conclusion, suggested steps towards a participatory society will be offered. It will be argued that, in addition to economic growth the strengthening of the democratic consensus in all parts of society is a decisive factor supporting democratic consolidation in Ukraine.

## **2. Transformation to Democracy in a Comparative Perspective**

The transformation of a political and economic system is one of the most challenging and difficult processes a society can undertake. Inevitably, older, customary structures are changed, resulting in winners and losers compared to the status *ex ante*. Less fortunate players may struggle against these changes. The resulting dynamics of transformation processes have undermined the control of these processes in many countries, causing complete failure in some. Two decades ago it was still debated as to whether these processes could be controlled at all: "The picture of a successful system transformation contradicts everything that sociology and political science have presented as basic, axiomatic truths regarding possibilities for extensive societal reform."<sup>6</sup>

Many successful transformation processes worldwide have contradicted this skepticism. Nevertheless the negative expectations reflect some truths

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<sup>6</sup> Helmut Wiesenthal, (ed.): *Gelegenheit und Entscheidung. Policies und politics erfolgreicher Transformationssteuerung*, p. 21.



that must be acknowledged even today. A multitude of actions comprises the process of transformation. Many of these actions bear considerable social costs. This can jeopardize the acceptance of the general objectives of democracy and a market economy, resulting in a blockade against the effective political measures that are essential to achieving these goals. Inadequate resources also aggravate these problems. Political elites in transformation countries also often lack the strategic capabilities necessary to pursue reforms, questioning or even contradicting the prevalent political culture. The following chapter discusses some important aspects that are relevant for any transformation strategy.

## **2.1 Functions of Legitimacy and Democracy**

The crucial issue behind the success of reforms is not the difference between a democratic and an authoritarian state, but between a weak and a strong state. The most important feature of a strong state is its legitimacy. Generally, a legitimate government needs fewer devices to secure power than a government without legitimization.

There are various sources for legitimacy: (1) economic success, especially the impression that the government is able to continuously improve the wealth of a society and its individuals; (2) justice and individual rights, meaning dependable and accepted norms and laws; and (3) a high degree of consensus on important societal orientation and decisions. Depending on social development, it is therefore wise to take into account the wishes of the people, i.e. the articulate elite, whereby the process of developing an informed opinion puts limitations on a government during the course of the development process. Given a high degree of democratic consensus, elections are an ideal instrument to legitimize political decision-makers.

Particularly in the later stages of transformation, “social engineering” from above against the will of the people becomes more and more problematic. Economists and supporting institutions therefore increasingly are moving away from the idea that well-meaning authoritarian planners can implement economic reforms without opposition. Though democratic states must take articulated interests into greater consideration, normally they have greater control problems in the implementation of reforms than do authoritarian states. The old theory of the superiority of autocratic regimes cannot, however, generally be confirmed empirically.

Democracy is the political principle of law and order that unites individual free will and society in the most productive way. All in all, the 117 democratic states today<sup>7</sup> show a very broad variety of institutions, practices, orientation and success. Of course, some of the most authoritarian countries refer to

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<sup>7</sup> See Freedom House, *Freedom in the World* 2003, Washington 2004.

themselves as a “democracy” (i.e. North Korea). However, there are three minimal requirements that any “real” democracy must fulfil:

1. a basic level of freedom of assembly, freedom of opinion, freedom of the press, as well as universal suffrage and the right to campaign for public office;
2. selection of rulers through free and competitive elections (competition for political mandates), in practice as well as in theory;
3. political power subordinate to law, protection against misuse of power and protection of human rights.

Democratic elections alone are not sufficient for a functioning democracy. While the governmental system can vary and should express the local social arrangements and traditions, each democracy needs a set of checks and balances that actually express both the will of the people and the competition of ideas adequately. These include a government capable of implementing policy that can be controlled by the opposition; stable institutions and an independent judiciary that watches over adherence to the procedures and the rights of all citizens; parties and interest groups that are able to participate in the political process; and consistency of the constitution and the constitutional order.

What makes liberal democracies in the long run superior to other political systems is their high degree of legitimacy. Because by nature they depend on the will of the majority, checks and balances, and the rule of law, functioning democracies are able to provide the people with democratic alternatives. To keep their power, democratic governments are forced to create decisions that are not too far from the will of the society. In addition, democracies are more flexible in terms of adapting to new challenges. However, if the democratic system fails to produce a degree of stability and wealth, its legitimacy will inevitably decrease.

## **2.2 Prerequisites for Successful Democracies**

After the collapse of the Iron Curtain and the end of the communist regimes, the ground seemed to be prepared for democracy and market-based economic systems. Francis Fukuyama even declared “the end of history.” Time has proven this verdict to be too optimistic. Many democracies, especially in developing countries, have failed after their formal implementation. Worldwide, the phenomenon of illiberal democracy is visible. Bosnia is the classic case of democracy as prelude to ethnic slaughter. In Latin America, it is a common joke that democratic elections are “a magnificent invention that allows the people to choose the persons who will steal, plunder and lie for the next four years—and in fact with full immunity.”<sup>8</sup> For a democracy to function, obviously a basic

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<sup>8</sup> Nicolas Richter: Griff nach der harten Hand, in: Süddeutsche Zeitung v. 18.8.2004, p. 2.

inventory of political, economic and social minimum prerequisites must be met. Even if there are no absolutely certain guidelines, some factors may be deduced from previous transformations:

- Independent of the type of regime, there can be no significant progress at any stage of a transformation without *functioning decision structures*. For this reason, the guarantee of leadership capability is the logical starting point for every further consideration and a central factor in all stages of systemic change. Hence, if the state fails to be stable, then internal and external enemies serve the purpose of power preservation. Consequently, every system needs effective structures guaranteeing the capacity to act and the monopoly of legitimate force.

- *Economic success*: Even in the initial phase, the transformation depends highly on confidence and success. In Africa, many transitions failed because they could not deliver the most basic services: security and nutrition. Any government will fail if it is not able to meet these needs. However, authoritarian regimes often are pressured to liberalize when they have achieved economic success to some extent. Correlation analyses show that democracies with an average annual per capita income less than \$1,000 are very precarious. An average annual per capita income between \$1,000 and \$3,000 raises the chances for democratization. Defective democracies have an average annual per capita income of \$3,392.<sup>9</sup> If a democracy exists in a country with an average annual per capita income of more than \$6,000 the democratic system has become “impregnable” and can be expected to last.<sup>10</sup> In a nutshell, the strong connection between economic prosperity and the success of democracy is clear.

- Without a *democratic culture*, elections could allow the winners to use state resources to exclude the losers from participation in power and rights. In such situations, election results can be the starting point for unrest or civil war. Benjamin Barber wrote that there can be no democracy without a democratic culture. “Today, we often seem to forget this simple lesson of the priority of culture to politics. We think a multiparty system or an independent judiciary will endow traditionally despotic societies with all the fruits of liberty. We FedEx Albania the Bill of Rights or we e-mail Afghanistan Australian ballots and assume democratization is underway. But culture counts.”<sup>11</sup>

Different factors can be subsumed in this context: From an empirical perspective, the strength of democratic traditions is very relevant. Societies

<sup>9</sup> See Wolfgang Merkel/Hans-Jürgen Puhle: Von der Diktatur zur Demokratie. Transformationen, Erfolgsbedingungen, Entwicklungspfade, Opladen 1999, p. 26.

<sup>10</sup> See Przeworski et al., 1996, S. 43. Also the BTI underlines a clear relation between economic development and the level of democracy, see. Bertelsmann Transformation Index, a.a.O., Chapter 2.

<sup>11</sup> Adapting to the Culture of Democracy, in: Sondra Myers (ed.): The Democracy Reader, New York 2002, p. 191.

like those in Russia or Ukraine with a long authoritarian history have more difficulties adapting to democracy than do societies with shorter authoritarian episodes. Another important element is the elite consensus: Democracy must be “the only game in town” (Przeworski) for all relevant actors. This means not only to allow and hold elections, but that elites have to implement democratic rule with determination instead of manipulating democratic instruments. Especially during the time of transition, powerful veto actors and authoritarian enclaves such as the military pose a great risk to democracy. The prevalence of democratic orientations and the strength of civil society play a decisive role. “It is generally accepted: The stronger and more autonomous a civil society is, the less likely it is to accept a non-democratic regime. The strengthening of civil society’s energies from the bottom up, within a non-democratic regime, usually accelerates its decline and raises the chances for long-term liberalization and democratization.”<sup>12</sup>

- Also, the effect of the international environment should not be underestimated. It is not only that almost no country in the globalized world succeeds in reaching sustainable and substantial transformation successes without external support. Comparative studies prove that a democratic environment offers decisive incentives for domestic processes of democratization, because it allows direct comparisons among different systems and provides a successful model for the implementation of reforms. Good examples for this are the transformation processes in Europe. Here, the European Union has—thanks to its successful democratic and economic practice—on the one hand served as reference point for the “return to Europe,” and has on the other crucially supported such processes through integration and cooperation offers. As a matter of fact, geographical and cultural proximity to the democratic Europe was a very important aspect for the success of national democratization processes.

The ideal constellation for democracy can be summed up with the following key words: modern and efficient market economy, multi-layered society with a strong democratic culture, autonomous civil society with viable cultural, societal, economic and political elites as well as minimal social, ethnic and religious divergences. Furthermore, the state should be powerful and independent and be settled in a democratic environment.<sup>13</sup> Of course, these factors only are beneficial, rather than exerting a mechanical influence. In Mali, for example, democracy has survived, despite extreme poverty, for more than ten years.

<sup>12</sup> Merkel and Puhle 1999, p. 84.

<sup>13</sup> *ibid*, p. 101.

## 2.3 Defective and Illiberal Democracies

Failing democracies, however, are not the only possible outcome of transformation processes in countries lacking these prerequisites. “Across the globe, democratically elected regimes, often ones that have been re-elected or reaffirmed through referenda, are routinely ignoring constitutional limits on their power and depriving their citizens of basic rights. This disturbing phenomenon – visible from Peru to Palestinian territories, from Ghana to Venezuela – could be called ‘illiberal democracy.’”<sup>14</sup> Illiberal and defective democracies seem to have overcome authoritarian systems irrevocably, but are poised in an unfinished status that is consolidated and shows some stability.

Russia is a perfect example. A coup d'état followed extensive reforms that lacked sufficient support. Boris Yeltsin successfully fended off this revolt. However, “what Yeltsin actually did on top of that tank was read decrees, unilateral presidential edicts that would become a hallmark of his eight-year reign. (...) The Russian path has, wittingly or not, violated the two key lessons that one can glean from the historical experience of democratization: emphasize genuine economic development and build effective political institutions.”<sup>15</sup>

Fifty-two of 116 states analyzed by the Bertelsmann Transformation Index are identified as defective democracies.<sup>16</sup> In the long run, they pose great risks for governance and economic development. It is common in these states that they cannot safeguard political freedom and equality adequately. Instead, these basic rights are impaired in order to allow advantages for powerful groups within the state or society. The strength of these countries is evident considering the progress of political participation, especially free and fair elections. Nonetheless, there are important weaknesses that frequently appear together:

- Deficiencies concerning the rule of law prevent sufficient checks and balances, and public control over officeholders in some cases. Usually this is accompanied by abuses of authority and corruption. Presidential systems seem to be especially prone to this problem.
- In other cases, low levels of civil rights or even unconcealed human-rights abuses can be traced to insufficient rule of law. Usually this is combined with governance deficiencies.
- A third typical pattern of defective democracies is the existence of powerful groups that possess rights beyond democratic norms. In many countries

<sup>14</sup> Fareed Zakaria: *The Future of Freedom. Illiberal Democracy at home and abroad*, New York 2003, p. 17.

<sup>15</sup> Zakaria 2003, p. 90., p. 92.

<sup>16</sup> See here and above: Peter Thiery, *Globale Trends, Entwicklung und Transformation in der Analyse*, in: Bertelsmann Stiftung (ed.): *Bertelsmann Transformation Index 2003*, Gütersloh 2004.

the military is one of these groups and claims a special political status. But there are other groups—owners of large estates, the clergy, the mafia—that demand special rights. This can lead to a situation in which elected officeholders have no effective governmental power.

Clearly, further democratizing a defective democracy is a difficult task and certainly not a process that continues on its own. The chances for these democracies are based on advancing political participation, leading to stronger civil societies that can push for reforms, thus ousting these deficits.

## **2.4 Feasible Paths of Transformation**

If democracy is not feasible for or not working in every country at every stage of a transition process, then the importance of adequate transformation strategies grows. Looking retrospectively at advanced development stages, it becomes clear that there are fundamentally different ways of achieving success in development and transformation processes, with cultural and historical factors having the greatest influence on the path taken. For instance, in South Korea and Taiwan, the ongoing economic development provided modernizing pressures that were actually able to spread to society and politics. In contrast, in the Central and Eastern European transformation states there are indications that the social desire for a speedy introduction of political freedom would probably not have facilitated a comparable path without violence. Viewed overall, it becomes clear that very different courses of development can be deemed effective for different societies and levels of development.

This also applies when one looks into the details. Numerous sequential models and recommendations, such as the oft-cited “Washington Consensus,” suffer from the fact that they are relatively rigid. For instance, the capability of young democracies for reform has been questioned. Statistical analyses, however, show that over the last 50 years, democracies have the same probability of achieving development progress as autocracies. Furthermore, in Eastern Europe in the early 1990s it was heavily debated as to which would have better results: a gradual economic transformation or shock therapy. However, the success of the transformation in states in Central and Eastern Europe cannot be understood empirically through the strategy carried out in each case, but rather primarily through the conditions in each state at the outset: Whoever had better conditions then is farther along today.

There is, however, an open secret to success: good governance. That is, the pace of transformation is dependent on not only the economic framework, but very much upon the capacity of the actors themselves to unite on strategies, take binding decisions and follow through on them. This becomes possible if the society has—or can be encouraged to have—a high level of acceptance of reform. Which brings us back again to the starting conditions: Experiences

with democracy and democratic traditions play a decisive role in the transformation.<sup>17</sup>

The upshot of this is that the development of strategies cannot simply entail finding a middle-of-the-road solution that does justice to every state. As a rule, the tasks to be mastered are too immense and the resources too limited to allow schematic rather than individual action. Prudent transformation policy must be linked to the specific fortes of states, must correct serious mistakes and achieve the highest possible level of consensus and support. The best development and transformation strategy is the one that, while most effectively implementing and stretching the available resources under consideration of the respective prevailing conditions, also achieves sustainable development targets in balance with various requirements.

## **2.5 Elections as a Litmus Test for Democracy**

The crucial role of elections in democracies has been mentioned above. Within democracies, elections not only secure a smooth transfer of power, moreover they are a significant indicator of the state of the respective democratic order. In transforming societies, elections have yet another function. They are the most important tools forming the process of transformation itself and adapting it to social preferences.

In order to fulfil this function, it is on one hand important that elections actually enable such decisions. This not only points out the necessity of free and fair elections with equal starting positions for all candidates, but also to a choice in programmatic alternatives. Young democracies—and especially presidential democracies—however very often have underdeveloped party structures and therefore only alternative personnel can be elected. In the worst case the candidates represent the existing economic, religious, ethnic or regional cleavages in a society. Elections then might reinforce the existing power balances or conflicts.

Relevant research papers repeatedly have pointed to the specific role of founding elections. Their level of inclusiveness, fairness and competitiveness reflects whether the transition functions smoothly or is disruptive. They also show how necessary it is to allow representatives of the old regime into the election campaign,<sup>18</sup> because young democracies need to show that the outcome of elections is representative and therefore acceptable even by the losers. Finally the election process itself expresses the extent to which the requirement has been met that democratic institutions and processes gain sufficient respect from all agents.<sup>19</sup>

<sup>17</sup> See Wiesenthal 2001.

<sup>18</sup> See Merkel and Puhle 1999, p. 118.

<sup>19</sup> *ibid.* p. 111.

Democratic elections aim not only to determine a government but also to represent appropriately all democratic powers. Election laws and electoral systems can be measured by the extent to which they secure this representation. Political parties play a special role here as they represent social trends. The more distinct and stable the parties are, the more programmatic their distinctiveness, the better they can take on their task of serving public interests as part of the transformation process.

Presidential elections play a special role within presidential or presidential parliamentary systems. Presidential elections are elections for an individual, who then as president enjoys a comparatively high level of power and in most cases has relatively weak ties to the existing party structures. The special “winner-takes-all” position of presidential elections presents both opportunities and risks. On one hand, an elected reformer with a high degree of power and charisma can substantially advance the course of transformation. On the other hand, examples from many countries and regions show that there is no guarantee that candidates who have come to power as reformers fulfil the expectations placed on them.

Blocked decision-making or authoritarian relapses can severely impair the transformation process, especially when the institutional system is poorly constructed and does not allow for sufficient checks and balances, as is often the case in systems where presidential features mix with parliamentary aspects. It is therefore desirable that presidential candidates demonstrate a strong bond to their parties and a clear programmatic profile.

## **2.6 Conclusion: Consensus-building as a Decisive Factor**

The various aspects of transformation into democracy converge in a fairly simple observation: Functioning democracies depend upon a basic democratic consensus. In countries where passivity or outright rejection of the democratic order are widespread, the consolidation of a liberal democracy is no more than an idealistic illusion. Dysfunctional democracies can in fact be the better alternative to the restoration of authoritarianism, chaos and civil war. They can be a temporary stop on the route toward democracy, which offers stability and leaves room for the gradual reorientation of society. But because dysfunctional democracies are in danger of relapsing into chronic authoritarianism, they are measured by the results they bring forth in the medium and long-term.

How can societies with poorly developed democratic values create a workable democratic culture and a high degree of legitimacy? The answer is simple and yet complicated: by reaching a consensus about the essential aspects of political order. Charismatic leaders and concrete visions, such as the goal of joining the European Union for Eastern European countries, can contribute to this goal, but building consensus requires much more than that. The key to all



processes of democratization has been to increase general prosperity and build efficient political institutions. The goals therefore must be:

- strengthening of an elite consensus based on the fundamental requirements, democratic values and rules;
- development of organizations mediating between society and government;
- vitalization of the civil society; and
- consolidation of fair, i.e., socially acceptable, market-economy structures.

Once these goals are achieved, the political system is gradually able to offer the material goods and chances that the citizens expect. Such a system then automatically receives legitimacy from various sources and with different motivations.<sup>20</sup> The combination of responsible agents and efficient structures forms the essential element of good governance, which will be analyzed more thoroughly in the following section.

### **3. The Urge for Good Governance and Goal-oriented Transformation Management**

The term “governance” deals with strategic aspects of management by collective actors. “Governance is not only about *where to go*, but also about who should be involved in deciding, and in what capacity.”<sup>21</sup> Good governance is a key factor of every functioning democracy. Democratic systems can only perform successfully and strengthen their legitimacy if they are able to fulfil the expectations addressed to them. What is decisive for politically established democracies can be a question of survival for young democracies. “The Secretary General of the United Nations, Kofi Annan, reflects a growing consensus when he states that ‘good governance is perhaps the single most important factor in eradicating poverty and promoting development.’”<sup>22</sup> On the other hand, “bad governance is being increasingly regarded as one of the root causes of all evil within our societies.”<sup>23</sup>

Simply speaking, the challenge during the transformation to democracy and a market economy is that weak political reform actors with a significant lack of resources have to cope with extraordinary reform challenges. If they do not succeed, not only is their power base questioned, but also in many cases the

<sup>20</sup> See Merkel and Puhle 1999, p. 248/249.

<sup>21</sup> John Graham/Bruce Amos/Tim Plumptre: Principles for Good Governance in the 21<sup>st</sup> Century, Institute on Governance, Policy Brief No. 15 – Ottawa, August 2003, p. 2.

<sup>22</sup> *ibid.*, p. 1.

<sup>23</sup> What is good governance? UNESCO-Homepage, [www.unescap.org](http://www.unescap.org), download 20.8.2004.

whole transformation process is endangered. The following chapter discusses key elements of good governance and then briefly analyzes consequences for policy structures and actors with a view to the situation in Ukraine.

### 3.1 Elements of Good Governance

Since good governance is the process of making and implementing (or not implementing) decisions, an analysis of governance focuses on the formal and informal actors involved in making and implementing policy choices, as well as the formal and informal structures set in place to reach and implement such decisions.<sup>24</sup> Eight related characteristics are relevant to good governance:

- *Participation*: The principles of participation and ownership are crucial to good governance. They require legitimate intermediate institutions or representatives. Freedom of association and expression, as well as an organized civil society are indispensable. Both men and women should be included in participatory processes. Even the most well-intentioned government is unlikely to meet collective needs efficiently if it does not know what many of those needs are.

- *Rule of Law*: As the opposite of arbitrary decrees, the rule of law guarantees both the equality of citizens and predictability of legal decisions. Good governance requires fair legal frameworks enforced impartially; full protection of human rights, particularly those of minorities; an independent judiciary that can serve as a control mechanism; and an incorruptible police force.

- *Transparency*: Decisions are taken and enforced in a manner that follows specified rules and regulations. Ideally, information is freely available and directly accessible to those affected by such decisions and their enforcement.

- *Responsiveness*: Institutions and processes should serve all stakeholders within a reasonable time frame.

- *Consensus orientation*: Decisions shall be consensus-oriented. There is a need for mediation among the different interests in society to reach a broad consensus on what is in the best interest of the whole community and how this can be achieved. It also requires a long-term perspective on what is needed for sustainable human development.

- *Equity and inclusiveness*: It should be ensured that all members of society feel that they have a stake in the society and do not feel excluded from the mainstream. This requires all groups to have opportunities to maintain or improve their well being.

- *Effectiveness and efficiency*: Processes and institutions should produce results that meet the needs of society while making the best use of resources at their disposal. This characteristic also includes sustainable use of natural resources and protection of the environment.

<sup>24</sup> See here and above: *ibid.*, p. 2.

- *Accountability*: Governmental institutions as well as the private sector and civil society organizations must be accountable to the public and to their institutional stakeholders. In general, organizations and institutions are accountable to those who will be affected by decisions or actions.

These characteristics should ensure that corruption is minimized, that the views of minorities are taken into account, and that the voices of the most vulnerable in society are heard in decision-making. However, this is an ideal that is difficult to achieve in its totality, even in consolidated democracies. Principles often may conflict, and “the devil is in the details.”

At this point it becomes especially clear that there is not only a need for well-organized institutions, but also for committed agents who pursue the goal of self-reliant and sustainable development through which social justice will be realized. On a more practical level, concrete political demands can be deduced from these principles, some of which have already been mentioned above. They all are context-oriented and must relate to particular possibilities and goals of transformation:

- *Broadening the elite consensus and support for intermediary institutions*: Democracies are doomed to fail in societies with no principal elite consensus for democratic development. Part of this elite consensus is the ability to formulate long term-visions for policy goals and to forge democratic coalitions. Since the elite consensus is but a starting point for a workable democracy and is not, in the short term, sufficient for democratic consolidation, accompanying support from a democratic civilian population is necessary. Programmatically oriented political parties that can express social demands play a particularly important role here.

- *Verification of an institutional balance among democratic institutions*: Functioning institutions are necessary to implement political programs. These institutions should define responsibilities, offer incentives to build coalitions, appear relatively invulnerable to obstacles and offer sufficient control over power. However, no political system comes into being in a vacuum. It gains stability when it takes up and develops traditional and cultural orientations and experiences. Measures for establishing legitimacy can vary considerably from culture to culture.

- *State capability*: In its development report of 1997, the World Bank concluded that the tasks of the state must first be brought into line with its abilities.<sup>25</sup> States become bogged down when they assume too many areas of responsibility. They should therefore take on fewer tasks and complete these effectively. Countries with less state productivity must concentrate initially on basic tasks that the market cannot offer: making available purely public commodities such as property rights, macroeconomic stability, control of infectious diseases, clean water, roads, and the protection of those in need.

<sup>25</sup> See Worldbank: The State in a Changing World, Washington 1997.

- *Establishment of the rule of law and a consistent fight against corruption:* Many countries do have acceptable democratic constitutions that assert the rule of law, but flouting or arbitrary interpretation of the law restricts the rights of citizens and businesses. This problem is especially significant whenever corruption flourishes. Corruption impedes the equality before the law guaranteed for all. Not only do corrupt governments and administrations impede democracies, they also restrict the opportunities for generating economic growth through direct investment. In this regard an independent justice system as well as trustworthy and applied anti-corruption-laws are important indicators of the state of democratic development.

- *Promotion of sustainable economic reforms:* The economy is one of the decisive factors in the development of states. The ability to structure policy depends on the capacity for economic achievement and development. Whereas growing prosperity may compensate for deficits in other areas, systems with inadequate economic success cannot generally be transformed over the long term. Progress achieved is endangered by incessant economic crises. Alongside economic success a bare minimum of justice in allocation is necessary.

- *Broadening participation and decentralization:* With regard to the legitimacy of systems it is important, especially in societies going through transformation, to extend the possibilities of participation to all levels. Decisions must be made with the greatest possible input from the grass-roots level. Decentralization not only increases the representative nature of governmental decisions, but also improves the transparency and responsibility of political processes.

- *The central role of education:* At all stages in the development of states, the educational standard of both elites and the general population represents an important parameter in a state's capacity for change. Education is closely aligned to population growth, is essential for the establishment of civilized societies, and facilitates the establishment of competitiveness. Human capital is not only the most valuable raw material, but also the only one that can be increased almost without limit.

- *Using external support:* Without external support, most development and transformation processes would have fewer prospects for success. The success of such support, however, greatly depends on the extent to which the engagement of external supporters rests on a foundation of trust, and whether the support is fully embraced and implemented. External support requires the consent—and if possible the participation—of those affected. Otherwise the supporters waste money and political capital.<sup>26</sup> States are well advised to make use of opportunities for cooperation with foreign partners and international organizations in every stage of the development and transformation process.

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<sup>26</sup> See Olaf Hillenbrand: Sieben Thesen zur Außenunterstützung von Transformationsprozessen, C•A•P-working paper, Munich 2000.

## 3.2 The Infrastructure of Good Governance in Ukraine

The intention here is to examine the existing pre-conditions and shortcomings in the run-up to presidential elections in Ukraine in 2004. It will also delve into what current conditions imply for the further development of democracy and good governance in Ukraine. This overview is divided into two parts: it examines the most crucial structural systems in place, then the roles of the most important figures in politics.

### 3.2.1 Structures

*Constitution and constitutional reality:* The Ukrainian constitution completely complies with democratic norms, and it can serve as a basis for an effective organization of power. The eight years of application of the constitution have shown its vulnerabilities that demand legislative regulation. First of all, it needs a more distinct separation of jurisdiction among the three branches of government. It also needs a clearer delineation of the distribution of powers and responsibilities between the state (central) government and local authorities at the level of *oblast* and *rayon*.

Another set of problems is linked to the weak nature of constitutional arrangements in terms of both political responsibility, and the interaction between the legislative and executive branches. These problems could be resolved through constitutional reforms, namely, through a transition from a presidential-parliamentary form of government to a parliamentary-presidential form. However, the contents of numerous drafts of this reform, and the nature of attempts to implement it have shown that so far this process has been driven by the aspiration of certain forces to retain their dominant position at the helm of power rather than to improve the system of government.

A more serious problem has been caused by major inconsistencies between a political reality and the norms enshrined in the constitution. In real life, the president is empowered with a broader political authority and the parliament exercises less power than is spelled out in the country's basic law. The role of local government has been deeply curtailed. Citizens cannot fully enjoy the rights and political freedoms guaranteed by the constitution. This has become particularly self-evident during the presidential election campaign.

*Decision-making process:* According to the constitution (Article 85), the formulation of fundamentals of foreign and domestic policy is a prerogative of the Verkhovna Rada. In practical terms, this function is only nominally fulfilled. The president makes most strategic decisions, often in intransparent processes. Though not a constitutionally envisaged body, the Presidential Administration enjoys artificially inflated authority in running state affairs. The activity of the highest bodies of power has been devoid of clearly structured mechanisms of oversight and has no culture of complying

with officially established priorities, programs and political promises. The same can also be said about the election campaign agendas. The situation has deteriorated even more because of frequent cabinet reshuffles, changes of chief civil servants in ministries and government departments, and through instability of the parliamentary majority, deputies' factions and deputies' groups in the national parliament.

In practice, key roles in elaborating state policy are played by shadow actors and backroom schemes. Vested interests in financial and industrial sectors, as well as high officials and the president's personal entourage exert an enormous influence on official government bodies. All this has stripped the decision-making process of openness and transparency. The process of lobbying has not been regulated by laws and has often been pursued in a very uncivilized fashion.

*Rule of law:* The Ukrainian constitution provides for an independent judicial branch. In practice, however, the independence of the dispensation of justice is impaired. Significant control and pressure over the court system serves the interests of the Presidential Administration. As a consequence, primacy of the rule of law is called into question when legal procedures or courts are used to protect government interests. Within Ukrainian political practice, the rule of law has not yet been fully established. This lack can be accounted for by specific elements of Ukraine's political culture, as well as by miscalculations made in the course of building the state and in the conduct of reforms. The equality of citizens before the law is in doubt. Neither awareness of human rights nor a culture of standing up for their protection have been promoted among the nation's citizens. The involvement of large masses of the population in the shadow economy, their involuntary need to adjust themselves to living under conditions of imperfect laws and high fiscal pressure do not contribute to fostering a law-abiding culture of citizenship, or their willingness to live in compliance with the laws. Within government bodies and the bureaucracy at large, the direct orders of bosses play a greater role than effective laws, norms or official authority. A free interpretation and selective application of laws as well as the use of "direct control" have become widely spread practices.

The weakness of the judiciary and its lack of independence have created another serious problem. The interference of the president's instruments of power in the courts' activities has become a systemic phenomenon. In fact, the courts are not capable of performing their state and social functions in a proper manner. Moreover, the courts and the whole system of law enforcement and oversight bodies have been widely used for partisan purposes, primarily for exerting pressure on the opposition and independent mass media. The infringement of laws and contempt for the rule of law have become a particularly widespread practice during the election campaign. As a consequence, "the weak

record of respect for the rule of law erodes Ukraine's ability to uphold civil and political rights as well as freedom of the press."<sup>27</sup>

*Corruption and transparency:* According to the Corruption Perception Index, Ukraine has been among the most corrupt countries of the world for several years in a row. This is a reflection of the state business. In particular, it is a manifestation of the fusion of business with government, in exercising an illegal administrative impact on businesses, in an enormous size of the shadow economy and in criminalization of the economy as such. Closely linked to this perception of corruption is the problem of money laundering, which has led to international sanctions on Ukraine in the past. A key factor has been the corrupt nature of government bodies. The scale of this phenomenon is so huge that all the efforts to combat it have proven absolutely futile so far. Regulations covering business activities in Ukraine are excessive, ambiguous, and sometimes contradictory, leaving entrepreneurs, business owners and managers at the mercy of government officials and their inconsistent interpretations of these rules. The problem, however, is even deeper than that. Corruption has practically been turned into a norm of life and has become a daily routine. The most corrupt institutions include not only the militia, tax authorities and the customs service, but also the whole systems of higher education and health care. In a sense, corruption has acquired features of a social phenomenon that permeates the whole system of social fabric. The use of mere administrative measures in an effort to eradicate corruption is likely to fall short of its effect.

*Civil liberties:* The state of civil liberties in Ukraine does not comply with democratic norms, and trends show deterioration. This has particularly come to the surface in the course of the election campaign. In particular, the freedom of expression and freedom of assembly are endangered. Over the past few years, the country has already been the focus of international public attention in the context of persecution and killings of journalists. The authorities have failed to react to such crimes properly. Instead, they have demonstrated an explicit lack of interest in promoting independent media. Moreover, the authorities have exerted every effort to exercise more stringent control over the media and to suppress the pluralism of views. In 2001, the "Committee to Protect Journalists" nominated Leonid Kuchma as one of the world's top ten enemies of the press. In addition, "an elaborate system of censorship, including instructions emanating from the offices of the presidential administration, distorts news and skews coverage of political affairs. Mass broadcast media exhibit a high degree of uniformity and bias in their coverage."<sup>28</sup>

<sup>27</sup> Freedom House, Country Report Ukraine, p. 438.

<sup>28</sup> Freedom House: Under Assault. Ukraine's New Media and the 2004 Presidential Elections, July 2004, p. 1.

The bodies of state power have exercised systemic pressure on the representatives of the opposition and on NGOs that are dedicated to the promotion of democracy. Open debate of important issues by society at large has been hindered at both the national level and in specific regions of the country. All elections over the past years have been conducted with significant deviations from universally accepted democratic norms. The current election campaign has been characterized by mass violations of the right to assembly and by massive persecutions for political convictions. The authorities have ignored the violations of civil rights and liberties and, in fact, they have pretended that such violations are non-existent.

### **3.2.2 Actors**

*Government and administration:* The current president has attempted to influence voting rights and the constitution to his own benefit, as discussed above. The organization of political power in Ukraine is characterized by an abnormally high autonomy of the authorities, their independence from society and by domination of the executive over the other branches. Also, judging by the scope of its powers and the established practice, the Ukrainian state has the signs of a strong political entity. Notwithstanding these characteristics, it is far from being efficient enough. The system of power has been overlaid with shadow structures, which go hand in hand with official bodies and exert a direct influence over the content of the state policy. Thus, state structures are aggressively used in pursuance of hidden agendas from the bureaucracy and vested interests of various clans and oligarchs. This system has given birth to phenomena such as the abuse of administrative resources. It is only natural that the bodies of power enjoy a very low level of trust from the citizens, which in itself reduces the leverage for an effective system of government.

There are inherent deficiencies in both central and local government. The principle of elected representation is only partially observed, and it has serious flaws. In practice, frequent changes of heads of government and members of the cabinet, as well as changes of provincial governors has little to do with their performance in office. Instead, changes are determined by shadow schemes and arrangements among the bosses of major groupings that are close to the president of the country and are in a position to influence his actions. Due to violations of democratic norms, elections so far have not had a clear and direct impact on the formation of the bodies of power. Thus, the presidential elections of 1999 were characterized by massive interference by the executive authorities in support of the incumbent president.<sup>29</sup> Similar violations were committed

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<sup>29</sup> OSCE: Office for Democratic Institutions and Human Rights. Ukraine. Presidential elections 31 October and 14 November 1999. Final report. Warsaw, 7 March 2000, p. 33.



during the elections to the national parliament in 2002.<sup>30</sup> The results of these elections have been largely reviewed by exerting pressure on the opposition and independent deputies. The artificial formation of the parliamentary majority and its manipulation by the president impede the establishment of a constructive interaction between the legislature and executive branches. The effective procedure guiding the formation of the Cabinet of Ministers makes the government fully dependent on the President of the country, since, according to the Constitution, the latter is not the head of the executive, and the law does not envisage the responsibility of the president for the outcome of his government's performance.

In fact, control and monitoring over the executive is non-existent. The rights of the opposition are not ensured by laws and in practice are not respected. The judiciary cannot properly regulate the relationships in political and civil areas. Endemic corruption of government bodies makes it necessary to take radical measures.<sup>31</sup> However, state safeguards are, to a large degree, intended to protect power as such and some particular individuals at the helm of power, rather than to protect performance in pursuance of the people's interests.

*Presidential candidates:* Both of the presidential candidates, Viktor Yushchenko and Viktor Yanukovych, have been given clearly defined roles during the political debates. The former is presented as pro-Western, a reformer and a representative of the opposition, while the latter is considered Kuchma's preferred candidate. Yushchenko had, indeed, proved himself a reforming force during his term as prime minister. When he speaks, he makes progressive comments and vehemently criticizes the shortcomings in Ukrainian democracy. He has stated that a truly parliamentary democracy is needed; he criticizes censorship of the media; and he has supported the idea of a round table as a forum for open dialogue among various sectors of society and the government.<sup>32</sup> One must add, however, that due to his lack of power he has to present himself as a candidate for reform to make any headway against rampant public dissatisfaction.

There are also economic powers on Yushchenko's side. They expect to reap the benefits of this support if he wins the election.<sup>33</sup> The acting prime minister, Yanukovych, is known as a representative of the powerful Donetsk

<sup>30</sup> OSCE: Office for Democratic Institutions and Human Rights. Ukraine. Parliamentary elections 31 March 2002. Final report. Warsaw, 27 May 2002, p. 1-3.

<sup>31</sup> See: Joint report on the fulfilment of the Partnership and Cooperation Agreement between Ukraine and the EU. Cooperation between the EU and Ukraine. Analytical quarterly. Delegation of the European Commission to Ukraine. Issue 3, 2003, p. 51-60.

<sup>32</sup> See Wiktor Juschtschenko: Politische Reformen in der Ukraine mit Blick auf die Integration in europäische Strukturen, [www.fesukraine.kiev.ua](http://www.fesukraine.kiev.ua), download 5.8.2004.

<sup>33</sup> Wachsmuth and Fiebrig 2004, p. 6.

clan, which is synonymous with being more “pro-Eastern” and therefore poses less of a threat to the current regime. While his stance on constitutional reform is similar to that of the current regime, it would be unfair to merely dismiss him as Kuchma’s candidate. A positive aspect of this campaign is, without a doubt, that both candidates have, while attempting to entice voters, expressed clearly distinguishable, democratic alternatives.

*Political parties:* A multi-party system has emerged in Ukraine over the recent years. However, in reality it does not ensure the effective representation of genuine interests of the bulk of the entrenched electorate. All in all, only about 15 parties are, in fact, involved in election campaigns. The growth and development of the party system have been hindered by such factors as lack of articulate expression of the citizen’s interests. Most people simply have neither political skills nor awareness of the need for political engagement. Deep social stratification and public passivity often go hand in hand in Ukraine. At the same time, all sorts of differing social values have become quite widespread and have been brought to the surface, while diversification of ideas and political views has firmly taken root. Nevertheless, this diversity has little to do with true ideological and political pluralism, which is typically inherent in a democratic society. Such diversification impedes both the emergence of strong nation-wide parties and the formation of consensus across a wide spectrum of parties.

A significant part of the political space has been filled in with artificially created parties whose aim is to protect the interests of various clans and groups of oligarchs, as well as some individual political leaders. For the most part, new parties have been created from the top, the process of choosing their ideologies has become an utterly fake business, and their organizational structures and membership are provided by the authorities using government resources and public officials. The introduction of the proportional representation election system may contribute to creating the profile of competitive and self-sufficient parties and promote their consolidation. This could be more deliverable if the constitutional reform is carried out and the transition to the parliamentary-presidential form of government takes place.

*Interest groups:* A characteristic feature of social and political development of Ukraine over the recent years has been the formation and strengthening of powerful informal groupings. For most part, they have emerged as a result of self-organization of the remaining elite from the ranks of the former Soviet officialdom and industrialists. The latter have managed to take control over the process of building the state and conducting privatization. Closely-knit structures incorporating government authorities and vested interests, interlocking with each other, have become quite visible both in the top echelons of power and in the local tiers of the state hierarchy. Such a system of government operates beyond any law, and it has created shadow schemes and

arrangements that work to make use of public funds and resources for private profit and to misuse power.

These groups exercise control over the media and aggressively use them for the purposes of manipulating social and political processes. It is only natural that among those social groups, which play a considerable role in Ukrainian society, the citizens cite, first of all, the following: mafia and the underworld – 40.2%, businesses and entrepreneurial entities – 27.0%, leaders of political parties – 25.9%, government officials – 23.6%.<sup>34</sup> Unofficial interest groups are attempting to control bodies of power and, in fact, are impeding modernization and transformation of society in Ukraine. One can see the signs of privatization of state power.

*Civil society:* Civil society in Ukraine is developing slowly for a number of objective and subjective reasons. Horizontal social links have been significantly weakened. A political nation as such and civil self-identification of the people have not been completely formed yet. Only one-fourth of all citizens believes that they have enough skills to live under new conditions. The readiness of the citizens to show social activity and stand up for their rights remains low.<sup>35</sup> Until recently the country has only seen some single islands or centers of independent civil activity. They do not represent an all-embracing social force or critical mass, which would be capable of determining social sentiments.

A new quality, European-style model for the formation and functioning of NGOs is slowly beginning to take shape, overcoming the impediments created by the authorities. The survey data collected through public opinion polls regarding the reasons for the slow development of democracy and civil society have produced the following break-down of views: corruption of power and tight control over the media – 33%, inertness of Ukrainian society – 24%, lack of genuine economic reforms – 23%, imperfect legislation – 8%, state paternalism – 6%, linguistic and cultural heterogeneity of the population – 5%.<sup>36</sup>

A considerable number of entities formally pertaining to “third sector” in reality operates with direct support and in the interests of particular government bodies, clans and groups of oligarchs. These entities widely resort to falsification of civil initiatives, surrogate substitutions, hijacking the functions

<sup>34</sup> See Ukrainian society in 1994-2004: sociological monitoring. The Institute of Sociology under the National Academy of Sciences of Ukraine, “Socis” Gallup poll unit – Centre for social and political studies, “Democratic Initiatives” Foundation. Kyiv 2004, p. 13.

<sup>35</sup> See Ukrainian society in 1994-2004: sociological monitoring. The Institute of Sociology under the National Academy of Sciences of Ukraine, “Socis” Gallup poll unit – Centre for social and political studies, “Democratic Initiatives” Foundation. Kyiv 2004, p. 26, 18.

<sup>36</sup> See Grassroots. Civil Society in Ukraine: status and prospects for development. “Europe – XXI” Foundation. Kyiv 2003, p. 17.

of independent social institutions, simulating allegedly wide-ranging support for unpopular authorities. Such actions have become particularly widespread during the elections.

Nevertheless, parliamentary elections in 2002 and, especially, the current presidential elections have demonstrated a significant growth of social and political activity of the citizens. A non-conformist attitude is gaining ground; the disobedient electorate is taking on more specific guidelines in terms of values and ideological and political reference points. This is broadening the basis for public support for democratic forces. Overall, society is becoming noticeably more able to withstand manipulations, pressure and dirty political technologies, which involve misleading information and propaganda. A new momentum is being achieved through self-organization of citizens, development of youth and student movement, and associations of journalists standing for freedom of expression and independent media. On the whole, the elections have given a boost to the social and political development of the country, and they may become a major factor for post-communist transformations.

#### **4. Conclusion: Towards a Participatory Society**

BTI and Freedom House country reports draw a rather pessimistic picture regarding good governance and further prospects for transformation. “Events of 2003 suggest that Ukraine is on a trajectory away from genuine democracy. While this trajectory is not yet irreversible, the country is close to consolidating a political system that serves the narrow interests of a small, oligarchic group that shares authoritarian political ideas and common economic interests. In each of four areas vital to democratic governance—respect for civil liberties, rule of law, anticorruption and transparency, and accountability and public voice—Ukraine’s commitments and *de jure* obligations have not been matched by practice.”<sup>37</sup> Moreover, “Ukraine is on the verge of losing even the most rudimentary characteristics of democracy and is in danger of becoming an authoritarian political system serving the interests of a small, privileged class.”

On the other hand, Ukraine has succeeded in stopping the economic downturn of the 1990s. It was possible to bring about changes in economic efficiency and the effectiveness of the state. Key areas of the economy were reformed. “Greater success was achieved in improving the conditions for small and medium-sized enterprises, which already has had a positive effect on their economic activities. Foreign debts were converted and repaid on time. The adoption of some significant reform legislation shows the political elite’s

<sup>37</sup> Freedom House: Ukraine country report, p. 437.

constructive attitude. In some sectors, NGOs are also making an important contribution to transformation management. However, further management success is being hampered by the power of interest groups.”<sup>38</sup>

A positive sign is that many of the shortcomings discussed here are directly related to the way the current regime functions, while the constitution offers a good foundation for further development. In political terms, structural reforms and good governance will be crucial for democratic transformation. A much more difficult task is integrating the interest groups and clans into the formal structures of governance. To improve its resistance to the power of interest groups, the political system must become more transparent and align itself more strongly with democratic and formal processes and the rule of law. Fighting corruption and improving the investment climate are vital for further economic progress. The degree to which Ukraine seeks to bring its norms and standards in line with those of its democratic neighbors, and thus strengthening its association with the European Union, will play a very important role. Similarly, any prospects the EU offers Ukraine to tighten the bonds with the Union, to enhance possibilities for reform policy and to stabilize the transformation process, are very important.

With this in mind, it is impossible to overstate the significance of the presidential elections in 2004. At times, it has seemed that the current flawed democracy would become permanent. Yet this election presents the concrete potential for change through a *competitive electoral process*. The future president, with his significant power, will play a key role. Should he view this as a chance to consolidate power for certain groups and hinder the development of opposing forces, then the current, nearly authoritarian structures will remain in place. Should he, on the contrary, decide to pursue a consistent transformation process and strengthen democratic consensus, substantial success could become a reality.

From an institutional perspective, the idea of constitutional reform appears to be crucial. Instead of the current, mixed system, it would be possible to introduce either a purely presidential system with clear institutional guidelines for how power is exercised, or the previously discussed transition to a purely parliamentary system that would increase acceptance of political decisions. Presidential systems, like those in the United States, require fewer distinctions between political parties, and they often lead to abrupt changes in government and interruptions in the transformation process. Parliamentary systems, on the other hand, stimulate consensus.

Regardless of the direction this debate takes in Ukraine, changes to the constitution could, if conducted fairly, prove to be the appropriate means of

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<sup>38</sup> Bertelsmann Transformation Index, Country report, chapter 6.

strengthening the consensus of the elite regarding the essence of democracy. This ought to be appealing to the general population as well. Should the result, in the end, be functional and efficient democratic institutions, this would also strengthen the development of a democratic culture.

### *Parameters for Further Democratic Development*

This section can only attempt to evaluate the situation in Ukraine in the broadest of terms. It has become clear that, in the future, the issue of whether a liberal or an illiberal democracy will develop is uncertain. Good governance and furthering a democratic consensus could prove to be the decisive factors, determining whether these attempts will succeed or not. This has implications beyond the country's borders: past support from large institutions such as the IMF and the World Bank focused their efforts on the establishment of good governance and, indeed, make this a pre-condition for future support. Furthermore, the European Union strives to support efforts to unify a democratic Europe; these prospects for integration could, in the long term, be crucial to Ukraine. Against this background, it is possible to formulate key parameters as questions. The answers to these questions in the subsequent chapters of this study will evaluate the potential for reform in Ukraine:

- On a constitutional level and in terms of governmental systems, it is important to consider which figures in Ukrainian politics are interested in changing the legal framework for democratic procedures. What are their related reasons and interests? Are proposals viewed differently if they emerge through public debate or are suggested by political leaders? How can the public be mobilized to take an interest in implementing democratic standards?

- The campaign for president clearly represents, in itself, the different tendencies and movements that are significant in the process of transforming Ukraine. From this perspective, it is fair to inquire who and what influenced the candidates? What were the main divisive issues within the campaign, and who was setting the related agendas? How and to what extent did the relevant financial and industrial groups influence the election process? Did former President Kuchma and his supporters secure a successor of their own choosing? Are political parties setting election agendas, or are they first and foremost an instrument of other interests? What interests do the media reflect? By whom and how is the media influenced?

- In terms of content, the key lies in how far and with which instruments the candidates offered options for shaping good governance. What were the candidates' statements concerning the future transition process? What experiences and qualifications did they offer towards the goal of achieving good governance? Did they have sustainable concepts about how to strengthen the rule of law, how to provide a framework for independent media, and how to fight against corruption?

- On an international level, the various possible election results also reflected a decision between the “Russian way of doing things” or “a return to the European fold.” How far was the question of Eastern or Western orientation used by the candidates? Was there an option for a close Russian versus a European external orientation? Did the candidates reflect European or Russian approaches to shaping the domestic transition process? What influences did Russia and the European Union have in terms of setting norms from the outside and the effectiveness of implementation? Did Moscow, Washington or the European capitals favor a particular candidate? And what related interests emerged through the Ukrainian election itself? Did Russian actors and influence groups have non-institutional impacts? What were the Russian and Western interests and opportunities to shape the Ukrainian transition process?

- Also relevant are additional analyses into how the political options could be strengthened. Is the society “only” interested in democratic procedures, or is there also a declared interest in active participation, the Solidarnosc approach versus a kind of Belarusian lethargy? What were the dominant divisive issues of the election campaign? Did society support particular values or orientations regarding the future of the transition? Did the candidates reflect the democratic consensus, and what position did they support regarding the most important conflicts?

Ukraine has, since independence, made much progress on the difficult road towards becoming more democratic. Both ordinary citizens and members of the political class, for their own benefit, ought to realize their own strengths and continue bravely in this vein: “Stable and sustainable democracies are not given to people by great powers. They are created by people who have the skills and the will to assume responsibility for their own destinies.”<sup>39</sup>

<sup>39</sup> Sondra Myers: *The Democracy Reader*, New York 2002, p. 23.

# **Formation of Democratic Consensus and Good Governance**

*Oleksandr Dergachov\**

Effective social and political consensus is a product of developed democracies based on the rule of law, established “rules of the game,” and political culture and traditions. The countries of Central and Eastern Europe have recently demonstrated wide, stable consensus based on democratic and market reforms that was followed by full-scale acceptance into the European community. This development model provides both a constructive general trend and a wide variety of means to address the specific problems facing a country.

In regard to the current situation in Ukraine, the only realistic approach combines a situational arrangement and compromise between the main political forces. Achieving a stable social consensus depends on perspectives toward democratization, revival of the political elite, significant attitude changes at the grassroots level, and a stronger civil society. Lately, however, the standoff between authoritarian and democratic tendencies has been persistently aggravated. The presidential election and subsequent developments will show whether the situation remains the same, or whether the country will open itself to changes following the example of the new European democracies.

The starting conditions for democratic transition, specific internal and geopolitical impediments, and preconditions for implementation make the

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Ukrainian case extremely complicated and interesting both within the framework of the post-Soviet region and the new Western independent states. At this point, significant elements of the qualitatively new experience of social and political transformation are emerging; how this experience is perceived could widen and enhance the conceptual foundations for post-communist transition.<sup>1</sup> The specific roadblocks on Ukraine's road to democracy are a much tougher form of authoritarianism than in any other CEE country, more profound consequences of assimilation [into the USSR] and weaker traditions of state identity. These problems to a great extent determine the nature of the political process, the relationship between separating and consolidating forces, and whether it will be possible to achieve a nationwide consensus, self-organization and good governance.

This presidential election became a powerful vehicle for political change long before actual voting began, as it seemed evident that governing by the old rules and retaining existing power structures would be impossible. However, the depth and quality of these changes is a question waiting for an answer. Should the democratic potential accumulated within Ukrainian society be released, the elite will revive dramatically and the issues of correcting development of the national paradigm and deep democratic change will be brought to the agenda.

## **1. Society and authority on the eve of the presidential election**

Ukraine's thirteen-year period of independent development highlights the acute necessity for democratization. Without democracy, the main goals of independence and particularly, national perspective will be lost. The country has yet to free itself from a host of problems inherited from "real socialism." Further, the consequences of assimilation: a lack of inner freedom, servility, a parasitic attitude, mental narrowness and other elements of the "Soviet sub-culture" have not been fully eliminated. In addition, deeply rooted internal crisis-producing elements have emerged, permeating the political, economic, social and humanitarian spheres. Their common origin lies in the convergence of a defective development model, inadequate governance, and a discrepancy between the quality of leadership and the nature of the tasks facing the country. Rebounding production and economic revival have not significantly impacted the situation, and indeed highlight other signs of crisis. Moreover, a fundamental truth has become apparent in Ukraine's development: improving

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<sup>1</sup> See Carl T.L., Schmitter F., "Democratization: Concepts, Postulates, and Hypotheses. Reflections on the Applicability of the Transitological Paradigm When Studying the Post-Communist Transformations," *Polis. Political Studies* #4 (2004): 6-27.

the social and economic situation is impossible without drastic changes to the structure of power.

The governing authorities have not been compelled into fundamental change during the period of independence and act beyond the constraints of political responsibility. The new president in 1994 did not—and could not—have a deep effect on the state and society, as there was no alternative. Likewise, the presidential election in 1999 and parliamentary elections in 1998 and 2002 did not encourage a transfer of power by the will of the voters because the government deliberately interfered in the organization and conduct of elections to achieve its desired result.

The very nature of government presupposed the development of favoritism, red tape and corruption. Power is not simply concentrated in the executive branch, the presidential branch has removed itself from the scope of political responsibility. A presidential administration transformed into a second government has become a basic fact of public administration. Another includes a many-branched shadow authority with key oversight of financial and industrial groupings.

The government has been privatized and has acquired a non-state character; office holders have redirected administrative resources to serve personal and special interests to the detriment of society as a whole. It is clear that the government executed its national functions inefficiently and that its members used both material resources and organizational potential to serve their own needs. The interests of those not allied to the authorities were ignored and as a result, the initiative of millions of citizens and the constructive potential of the new elite—which needs special support during a transition period—was not utilized.

This system of government works to obscure transparency and encumber democratic procedures with onerous technicality, which over time preserves power for those who already have it. The country gained neither good governance nor the chance to apply the mechanisms of competition; the authorities have not only obstructed political reform, but have opposed democratic transformation.

The 2004 presidential election is the most eagerly anticipated election since Ukrainian independence. The public understands that the president is responsible for social and economic problems and the absolute power of the clans, as well as corruption and the systematic violation of citizens' rights. President Kuchma's work in office scored very low with the public; in 2002–2004 he rated just 3 to 3.2 points on a ten-point scale.<sup>2</sup> Moreover, a pessimistic view of the quality of and possibilities for the elite and political forces is widespread across society.

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<sup>2</sup> Ukrainian Society in 1994-2004: Sociological Monitoring (Kiev: Institute of Sociology of the Academy of Sciences of Ukraine, "Socis" Centre for Social and Political Studies, "Democratic Initiatives" Foundation, 2004), 14.

**Table 1. Are there any political leaders in Ukraine capable of governing efficiently? (percent)<sup>3</sup>**

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
No	24.7	26.8	30.3	35.1	30.7	32.2	29.8	34.7	33.0	39.9	35.4
Difficult to answer	55.7	61.0	58.4	54.6	53.5	47.3	49.4	46.2	36.1	36.3	36.1
Yes	18.5	11.5	11.3	10.0	15.4	20.1	20.6	18.8	30.5	23.6	28.5
Did not respond	1.1	0.7	0.0	0.3	0.4	0.3	0.2	0.3	0.4	0.2	0.0

**Table 2. Are there any political parties and movements in Ukraine that could be trusted with power? (percent)<sup>4</sup>**

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
No	28.0	30.3	30.2	34.0	26.6	30.4	31.2	33.1	27.5	35.9	31.0
Difficult to answer	56.9	60.6	57.6	54.7	49.5	50.1	51.8	49.3	39.8	40.9	43.4
Yes	13.9	8.7	12.2	11.3	23.4	19.3	16.7	17.4	32.4	23.0	25.6
Did not respond	1.2	0.4	0.0	0.0	0.5	0.1	0.3	0.3	0.3	0.2	0.0

Pessimism is prevalent in Ukrainian society in general, and indifference and disappointment are directly associated with involvement in political life. Ukraine still lacks good electoral practices, and enforcement of political responsibility has not been established. The extension of authoritarian tendencies and an anti-democratic governing style highlight the government's lack of concern for reaching consensus with the governed. The rudimentary state of civil society and the low level of social self-organization to a great extent obstruct the crystallization of mass support for those groups interested in and capable of reaching consensus.

Society expresses its criticism of politicians but is unable to clearly formulate its expectations; disappointment with government and to some extent the opposition dominates the public mood. This pessimism is apparent in popular skepticism of the possibility of either fair elections or improvement in Ukraine's situation politically, socially or economically. These attitudes will shape the obligations of the winner, as restoration of public trust in state and political institutions will be one of his most important tasks. However, the election campaign has already revealed the essential character of both candidates in this respect. According to a sociological survey conducted by the Center of Razumkov, 23 percent favored the opposition candidate, 7.1 percent the candidate in power, and 6.9 percent preferred independent candidates;

<sup>3</sup> Ukrainian Society in 1994-2004: Sociological Monitoring (Kiev: Institute of Sociology of the Academy of Sciences of Ukraine, "Socis" Centre for Social and Political Studies, "Democratic Initiatives" Foundation, 2004), 13.

<sup>4</sup> *ibid.* – 14.

49.6 percent of respondents said the candidate's party affiliation was not important.<sup>5</sup>

On August 23, 2004 in a speech on the anniversary of independence, Leonid Kuchma said, "I see a big problem in the current situation because a powerful, moderate, unifying political force has not emerged strong enough to play the role of peace-maker in both politics and society." He continued, "Such a force could have been a focus for attraction and would have determined ways to further develop the state. Three main 'pillars': human dignity, national unity and civil patriotism should form the core of this focus and formation of this kind of political force, able to create the nation, is one of the tasks for the future."

However, the President has formally estranged himself from the election campaign. The presidential administration, the government and the entire executive branch have been working widely and openly in favor of Viktor Yanukovich, and have blatantly restricted the actions of his opponents. The acute political struggle combined with the widespread use of undemocratic methods is likely to move the political elite and society even further away from mutual understanding and consolidation. These elections were intended to demonstrate the readiness of citizens to assert their right to elect the government and the ability of the opposition—for the first time in Ukraine's history—to prove its transparency and integrity.

In addition, the substance of the election campaign has lacked quality. The campaign failed to create an environment for serious discussion of the real problems facing national development. The majority of politicians, experts and journalists tailored their efforts to a campaign transformed into a battle between individuals, not their ideas and strategies.

## **2. The official goals of presidential candidates; their real roles and opportunities**

Both elections and public politics in Ukraine are remarkable for the fact that the declared position of the majority of leaders does not have much to do with their real priorities and intentions. These discrepancies appear to be the norm and have "appropriate" justifications. The desire to be comprehensible to a large audience assumes a simplification in reasoning, whereas public debate traditionally supposes a specific placement of emphasis. In the case of Ukraine, there is often a discrepancy between public declarations and real actions. This fact reduces the value of candidate platforms and hinders objective assessment.

<sup>5</sup> National Security and Defense #6, 2004, 44.

A light-hearted attitude to public promises, political and government programs, and even laws and the constitution is the result of a lack of political responsibility. Leonid Kuchma has governed the country without a clear exposition of priorities. At a certain point this vacuum of ideas characterized his policy and style in power: middle-of-the-road decisions; uncertainty; inconsistency; and continuous “adjusting of reforms” negatively impact any evaluation of his achievements and have widened the gap between promises and results.

The following remarks regard the analysis of intentions and opportunities of the presidential candidates and the political forces behind them, and concerns the tactical peculiarities of political positioning. Comparison of the candidates’ platforms and speeches shows considerable overlap in their goals and priorities in many cases, and do not reveal any obvious contradictions in practical terms. The rationale of the struggle for votes leads to a peculiar universality of proposed programs and slogans as well as a non-ideological posturing that allows candidates to improvise on popular topics and speak to prevailing expectations.

The majority of platforms claim to reflect the interests of the maximum number of citizens or “all Ukrainian people.” Thus, social and economic programs encompass a range of goals and ideas—from liberal to socialist—that will theoretically meet the needs of people who differ politically. But in general, these programs are intended to sway voters rather than as real policies to be implemented by the victor. The only informative aspect of the candidates’ programs and political positioning is their attitude toward the current government.

Of the numerous candidates participating in the first round of elections, the majority were formal participants lacking real public support. However, it is worth mentioning four main candidates: Viktor Yushchenko, Viktor Yanukovych, Olexander Moroz and Petro Simonenko; and one minor one: Anatoliy Kinakh.

In terms of the search for social and political consensus, it would be appropriate to take into account the position of Anatoliy Kinakh. This candidate received few votes but has a distinct political image and showed a new trend in Ukrainian politics—the aspiration to form a “third” force that could distance itself from the deadlock between those in power and the opposition, and which could promote an original and constructive program. Kinakh has been testing the system of political benchmarks and tactics that will be used by politicians who are not directly involved in the presidential election but are actively preparing for the next parliamentary election. In any case, his message will take an honorary place in the political life of the country during the next stage of its development.

Anatoliy Kinakh, head of the Union for Industrialists and Entrepreneurs, noted in his election program “[the] stratification of society according to property indicators; the polarization of society and the accumulation of a critical conflict mass. The main instrument of social development—state power—is in deep systemic crisis.” He believes Ukraine’s political arena is dominated

by radical forces on both right and left, representatives of different groups, and the authority of bureaucrats. Further, political and corporate ambitions overshadow national priorities and the social demands of the people. Kinakh has formulated the following message: “The goal of social and economic reform is establishment of a socially oriented economy, formation of the economy of credibility, and optimism on the basis of social consolidation.”<sup>6</sup>

Specific proposals include suspension of the “state racket,” elimination of the conditions feeding the shadow economy and corruption, and countermeasures to shadow privatization. In regard to good governance, he supports the idea of implementing political reform with the view to establishing accountability of elected officials to their constituents, as well as development and enhancement of the material and financial footing of local governments. These proposals are not original and their author did not pretend to win. But as a neutral candidate, who distanced himself from the power players during the election, Kinakh has set an example for the evolution of centrist parties that do not have distinct political and ideological priorities.

A concrete and substantial contribution to the formation of a national consensus can be expected from Socialist Party leader Olexander Moroz. The Socialist Party of Ukraine (SPU) has the potential for a gradual transformation into a modern left-center party, perhaps as an element of a 2-3 party system. The ideological manifesto of the SPU as well as Moroz’s election program includes two very important points: regime change and achieving democratic transformation. Moroz’s message is: “[Order] in the state, equal law for everyone, integral and efficient government accountable to all citizens, democratic socialism, and choosing Europe for Ukraine.”<sup>7</sup> This candidate has a stable electorate and high moral reputation.

Viktor Yushchenko’s team is able to make the most substantial contribution toward the recovery of the political situation. He is not only the product of the “serious” subject matter of his platform but his solid reputation and concrete experience in public administration. Further, he enjoys wide public support and good human resource potential. Yushchenko’s program covers important areas such as practical democratic reform and changing the current paradigm of power relations. Key elements of his platform include transforming the political elite and dismantling the existing political regime. His program has a separate chapter entitled: “Make authority work for the people and firmly fight corruption.”<sup>8</sup>

<sup>6</sup> Право вибору: Президент України 2004. Інформаційно-довідкове видання. Інститут політики, Представництво Фонду Конрада Аденауера в Україні. Київ, “Геопринт”, 2004. – С. 90.

<sup>7</sup> Ibid., 128-129.

<sup>8</sup> Ibid., 189-190.

Viktor Yushchenko is the candidate to promote the future consolidation of Ukraine and provide effective opposition to the forces seeking social division in the aggravated political environment surrounding the election. This results from the government's attempts to encourage people to vote for their candidate (Viktor Yanukovych) and discredit his main opponent by any and all means. Those in power have attempted to turn the contentious issues that form the subject matter of consensus into unproductive deadlock. In recent months, the mass media, which is controlled by the government, have tried to portray Yushchenko as a leader who only represents the interests of the Galicia region, a narrow archaic nationalist, and a puppet of the West. But this activity has not hit the target, since popular support for the government is less than for Yushchenko.

A few weeks before the election, the government-supported candidate Viktor Yanukovych amended his program to introduce three new points: granting the Russian language status as a state language, introducing dual citizenship, and refusing to join NATO.<sup>9</sup> Yanukovych's initiatives have broken the taboo against challenging the status quo on sensitive issues recognized so far by the main political forces, including president Kuchma. The murky but stable status of the language question and the related issues of education and culture require a cautious approach. The idea of dual citizenship was in fact dragged out of the archives as it was discussed and rejected at the inception of Ukrainian statehood. It is obvious that in this case, the essence of national independence, identity and perspectives for shaping the nation and civilized society would have been stirred. Regarding NATO membership, the issue was not on the agenda; and Leonid Kuchma set it aside indefinitely in the summer of 2004. Yanukovych raised the issue in his hunt for votes not because of its topicality.

Thus, Yanukovych changed his tactics mid-campaign, with a significant impact on public opinion. At the early stage of his campaign, Yanukovych promoted a plan for nationwide consolidation to achieve economic success, and political and humanitarian changes were considered secondary and untimely. The crisis of the Kuchma regime leaves a limited set of possibilities for his successors. But economic revival and the emergence of additional resources for redistribution do provide a measure of opportunity. Within the context of the Yanukovych campaign, raising wages and pensions became one of his primary means to attract voters, while his positioning as a guarantor of stability and order became the second element. These arguments have been very attractive for a large segment of the population whose interests have been poorly articulated beyond basic survival.

<sup>9</sup> <[www.kandydat.com.ua](http://www.kandydat.com.ua)>

Yanukovych's lack of attention to the issue of democratic reform shows his non-interest, confirmed by the actions of his campaign team. Hopeful signs from the government (which in their mind is almost impossible to change) of strengthening social policy for a significant part of the population was a positive signal. The increase of government endorsed candidates (given the unpopularity of the government) is mainly connected to Yanukovych's exploitation of paternalism. When it became clear that these tactics were not enough, he aggressively initiated plots to divide Ukrainian society.

Yushchenko's advantage lies in the fact that he personifies a democratic perspective toward Ukraine's development, thus articulating a real alternative to the current regime. The forces in power are attempting to retain power, are using the election to escape the dilemma of previous periods (between democracy and authoritarianism), and are artificially creating a new dilemma. Numerous "technical" presidential candidates working for the government and the media have tried to compare Yushchenko and Yanukovych in a virtual format. Yushchenko was charged with wanting to impose Ukrainianization, reduce cooperation with Russia, and give the country to Western control. He was said to represent the interests of oligarchs and be responsible for social and economic problems. Another example of an attack on Yushchenko was intimidation of the population with warnings of instability, civil unrest and revolution. Yanukovych, was depicted as the polar opposite: closer to Russia, defending national interests against Western intrusion, particular support for the Russian-speaking and pro-Russian population, and maintenance of stability and civil peace.

The cynical distortion of the real picture, the distraction of voters from core issues, and exploitation of the naive and primitive beliefs of some citizens became a distinctive feature of government action in the course of the campaign. The government is not ready to openly discuss the problems facing Ukraine; and therefore some problems are ignored while others are addressed under the current government rubric. The government candidate has a two-part electorate: the minority with a privileged position in the existing economic and political system; and, a significant portion of the electorate satisfied with the minimum guarantees from the government, and who do not truly expect reform—just as they did not under socialism.

It is also worth mentioning a special category, the "Donetsk electorate." Specific social and political conditions developed in Ukraine's eastern Donetsk region. There, the nationalist and democratic movements were initially weak, and the democratic movement was underdeveloped. Workers depend heavily on management, and at the same time there is a close bond between business and government, which has led to the entrenchment of special interests. Developments within civil society and manifestations of free civic life have been repressed. The domination of one oligarchic conglomerate in business and



policy restricts the development of pluralism and competition, and possibilities for free choice. Conditions are such that the Donetsk region could become a pillar of Ukrainian clan and bureaucratic authoritarianism. The most aware, active and non-conformist segment of the population has actually been pushed into a civil underground. It is likely that the process of democratization in the region and its integration into nationwide processes will require special means and effort.

Petro Simonenko, another candidate with relatively high poll numbers, is the leader of the Ukrainian Communist Party and promotes the establishment of “real people’s power, a socially oriented state and a fair society.” Despite some losses, he still represents a significant bloc of voters whose position should be taken into account. The self-imposed isolation of the Communists from other opposition movements, its inability to defend democratic values, its orthodox ideology, and the lack of a real program seriously limits its participation in the consolidation process. It should also be noted that Simonenko’s program does not stake out any real constructive position; and that the party leadership does not show any readiness to be involved in the process of democratic consolidation.

### **3. Problems impeding the formation of socio-political consensus**

Ukrainian society has a low level of consolidation, and serious internal contradictions and inconsistencies that hamper the development of a unified approach to solving a number of key problems blocking national development. To a large degree, this is an inherited problem; but while independence created opportunities to solve some problems, it has seen the emergence of new challenges too. At present, there is an almost universal awareness of the need to establish an environment for the genuine consolidation of a Ukrainian society oriented to pursue national interests and the development of a political nation. At the same time, there are still serious differences in perception over basic principles and the degree of readiness to take practical actions.

The major factors underlying the divisions within Ukrainian society include excessive and, for the most part, artificially created social and economic stratification. The crisis, which has lasted for many years, has brought about massive impoverishment and the marginalization and social degradation of a significant portion of the population. Non-transparent privatisation and large-scale speculative operations have created a small class of *nouveaux riche* who have no awareness of social responsibility. Differences between income levels in Ukraine exceed by far the same differences in European countries. Tension in the relationships between people with disparate income levels has been exacerbated by the fact that the situation has arisen both as a result of the imbalances inherent in the capitalist system but also through government sanctioned fraud.

Social and economic disintegration has become very visible in the vague, narrow space between the rich and poor. The lack of a civilised environment for business and promoting small-scale entrepreneurship, the weakness of the middle class, and artificial impediments to tapping the potential of a significant number of people would not lead us to expect consensus in this area of social relations. This can be proven by very divergent views on the development of private entrepreneurship and private property (particularly, concerning land ownership and the ownership of major industrial enterprises). There is no single prevailing view on the proper role of either the market and state regulation, or which socio-economic development model should be embraced. It is also telling that there appears to be no discernable trend in the distribution of preferences. Thus, according to data collected by the Institute of Sociology under the Academy of Sciences of Ukraine, throughout the period of significant economic growth beginning in 2000, the level of support for socialist development was 22.5 to 27.5 percent, while capitalism garnered only 10.6 to 17.1 percent. It is also worth noting that 16.3 to 23.4 percent of those polled were prepared to support either method “as long as there is peace,” 20.4 to 24.2 percent supported neither of the two models and about 18 percent found it difficult to give a definite answer.<sup>10</sup> Throughout this period the state machinery worked to consolidate these differing attitudes rather than moving beyond the status quo.

Ukrainian society remains divided along linguistic, cultural and religious lines many of that delineate the character of individual regions. Relations between the Orthodox and Catholic communities are strained with little prospect for improvement as are those between orthodox denominations which give allegiance to patriarchs in either Kiev or Moscow. The religious schism has its own political and even geopolitical agenda. The status of the Russian language and its role in social life, education and even the organs of state and local government remains undecided.

Ukraine has a complicated, ethnically mixed population. In addition, since independence, the region has seen changes in the power and social status of ethnic groups such as Russians. A new and uncontrollable momentum in inter-ethnic relations has become apparent. The impetus behind it has been a perceived need for national revival and consolidation of the indigenous nation that has had an impact on the general attitude towards ethnic minorities and state policies on this issue.

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<sup>10</sup> Ukrainian Society in 1994-2004: Sociological Monitoring (Kiev: Institute of Sociology of the Academy of Sciences of Ukraine, “Socis” Centre for Social and Political Studies, “Democratic Initiatives” Foundation, 2004), 12.

Underlying this problem is the leadership's inability to find a paradigm to both overcome excessive Russification and promote organic assimilation of ethnic Russians into the culture of an independent Ukraine. At present, however, the ethnic factor has not had an impact on structural political profiling. Political organizations based within ethnic groups or capitalizing on nationalist sentiments have not so far been successful in elections, even at the local level.

Another watershed dividing Ukrainian society stems from outside influences; Ukraine is deeply immersed in the very challenging dynamic of post-Communist political transformation. These processes, directly linked to establishing national identity, strike a deep cord in the perceptions and values of a majority of people. The country has not yet formed an unequivocal narrative of the collapse of the USSR and Ukrainian independence. There is still a discernable impetus toward re-integration, which is also visible in some segments of political elite.

There are grounds to speak about internal Ukrainian ambivalence in relation to its neighbors, with people ready to support both Ukraine's integration into the European Union and joining the Union of Russia and Belarus. Between 2000 and 2004 integration of Ukraine into the EU was supported by between 45 and 56 percent with 8 to 15 percent against, while re-integration with Russia and Belarus was supported by 41 to 63 percent with 20 to 37 percent against. At the same time a comparatively small segment of the population prefers not to see these differing aspirations in opposition to each other. Nevertheless, the anti-Russian sentiments of one major group vis-à-vis the anti-Western attitudes of the other have been a prominent feature of public life in Ukraine.

Developing a modern national identity has been slowed by persistent myths of a special "Slavic spirit" which contain elements of anti-Western attitudes and isolationist tendencies. The socio-political landscape has also been impacted by the residual Soviet-era 'sub-culture'; it is important to remember that while it is a retreating culture, it is an artificially renewable reality. Nonetheless, it has had a serious influence on the delineation of political forces and the course of the campaign.

There is also considerable diversity in, or rather, fragmentation of ideological and political preferences within the electorate. The most popular political movement is the Communist Party, supported by about 15 percent, Socialists and Social Democrats poll between 10 and 11 percent, and National Democrats received 8 percent. A very large segment (over 45 percent) have no discernable ideological or political views.<sup>11</sup> The democratically oriented movement clearly has a weak following. Liberal and conservative values,

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<sup>11</sup> Ukrainian Society in 1994-2004: Sociological Monitoring (Kiev: Institute of Sociology of the Academy of Sciences of Ukraine, "Socis" Centre for Social and Political Studies, "Democratic Initiatives" Foundation, 2004), 12.

which are very important to the formation of modern political culture and the development of civil society, have not yet been adequately embraced. On the whole, the ideological and political preferences of voters have not created a strong impetus for joint and united action.

The overall level of national consolidation remains low and popular awareness of common interests and opportunities is insufficient. The authorities, in their turn, frequently capitalize on religious and socio-cultural differences with a view to discredit the opposition and erect hurdles to their actions. A lot of effort has been expended to create an image of the opposition as non-constructive nationalists when they are in fact genuine democrats and patriots challenging the authorities. A lack of legal provisions to protect civil liberties, and attempts to manipulate the public psyche coupled with the poor performance of state structures, have led to a high level of tension in the relationships between the government and the governed. The election has brought latent problems to the surface and exacerbated them further.

#### **4. Presidential elections and prospects for democracy**

The overall development of the political situation and the character of the election campaign point to a serious aggravation of the struggle between authoritarian and democratic trends. Until now it has been taken for granted that one of the prizes of the struggle is the right to be considered the champion of democracy in the eyes of the electorate. The government has been relentless in its efforts to limit the influence of the democratic opposition and discredit it. They have established their own monopoly on the formulation of national interests and how they should be protected, and have imposed their own vision of patriotism to match. Attempts have been made to embed a Russian-style social consensus in Ukraine, which is absolutely unacceptable because it is founded on the principle of systematic marginalization of the opposition.<sup>12</sup> In the government's view, the election was intended to be a starting point for the consolidation of authoritarianism and the liquidation of Ukrainian "specificity," thus bringing it back to the fold of stable post-Soviet fake democracies.

The ruling elite could not have imagined that the free will of the people might be recognized and there might be a civilised way to cede power. At this stage of the country's development, a deep rift between the vested interests of a small group of individuals who own the majority of national wealth and hold key positions in the power structure, and the interests of the rest of society cannot be bridged in a civilized manner. The most powerful financial and industrial

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<sup>12</sup> Helman V.Ya. Political opposition in Russia: extinct species? Political Studies. 2004, No.4. - p. 56 - 66.

groups, having created themselves through non-transparent privatisation and speculative operations, will not voluntarily submit to the rule of law and pursuing shared policies. They are dependent on state power to preserve their acquisitions, complete the re-distribution of state property and give a new lease of life to non-economic methods of making super-profits. For many, retaining and exercising power is the only sure way to escape judicial scrutiny of the laws they have broken. Dirty business and politics as usual do not create new reasons to relinquish power; thus, free and fair elections have always been out of the question, even in theory.

In fact, Ukraine has been ruled by a regime, which by its very nature cannot be a law-abiding actor in the process of democratic transfer of power. It has turned the values of democracy, moral norms and the rule of law into profanities. It has defaced the political process to the point that the universally accepted electoral procedures are nothing short of science fiction. There is no environment for a civilized, adversarial debate of principles or competition between political actors; it will have to be created from scratch. The current regime exerts such a strong and concerted pressure on the election process that a genuine exercise of the free will of the people is impossible. Under these conditions the opposition forces and society at large have been gaining momentum for a counterattack. A vigorous demonstration of rejection of the government's actions, and a massive response to counter them are probably the main arguments supporting the claim that Ukrainian elections are no longer a lip-service formality.

The election has given a great boost to the development of Ukrainian society and the formation of a modern civic culture. In response to the brutal pressure applied by the authorities, society has been gaining and strengthening its democratic potential. People have been quick to devise ways to neutralize the administrative resources of the government, deliberate misinformation campaigns, and attempts of bribery. The country has taken a large stride toward formation of a political nation, and the standoff between society and the authorities has given Ukraine a new lease on life. A consolidation of democratic forces has taken root, the opposition on the right has joined the Socialist Party of Ukraine and a number of centrist forces represented in Parliament. This is more than a mere agreement among leaders: massive protests against electoral tampering—which were followed by local government bodies in the majority of regions joining them—have become a turning point in the emergence of a new situation. Opposition forces have been enjoying popular support. In their turn, the people themselves set the terms of reference for the actions of the opposition, which has largely enhanced the responsibility of the opposition to implement its agenda. This process is laying the foundation for re-establishing trust in genuinely patriotic politicians and for constructive interaction between society and the government.

The conflict-laden election process largely determines further development of the political situation, and the new president will need a strong affirmation of legitimacy. Moreover, he will be keen to expand outreach to grassroots support. He will need that support not just for a few weeks or months but for a long-term strategic perspective. Thus, reaching some kind of consensus will be a critical political goal in and of itself, though it will be impossible to achieve through giving a strengthening social policy alone.

Economic policy based on paternalism and replacement of political transformation with a form of stability and order which takes "Ukraine's specificity of historical development" into account may, in theory, become the path to partial modernization of the political system and a temporary alternative to European-style reforms. But it would only be window dressing. Partial consolidation implies the passive, half-voluntary consent of a significant number of people and curtailment of rebellious sentiments. Such a project could only serve as a propaganda tool rather than a base for common understanding over a wide spectrum of political forces.

At the same time, Ukraine has the conditions to tackle the problem of reaching a practical consensus. This results, first, from the growing unity within the democratic opposition, which is truly capable of replacing the incumbents and governing the state. Its potential is directly linked to the development of non-conformist attitudes among people who have become experienced enough to spot populism, demagoguery, bribery and pressure. Ukrainian society has proven itself able to rebuff propaganda and brainwashing techniques and make up for the lack of information resulting from restrictions on freedom of expression and the weakness of the independent media.

Massive irregularities during the election campaign and particularly during the second round of voting have further aggravated relations between the rival parties and narrowed the possibility to reach compromise between them. Nevertheless, this very fact creates an opportunity for the early cleansing of the Ukrainian political elite and rehabilitation of society. Democracy will then become a conscious requirement for ordinary Ukrainian citizens.

The prerequisites for reaching democratic consensus will be ensured by a Yushchenko victory. Based on previous experience, one can suggest that "Our Ukraine" is not likely to aim for an overwhelming dominance. It has become even more evident that in order to exercise an effective government it is necessary to engage the potential of center and left-center forces. The search for a shared understanding of the overriding goals of the nation and norms of political activity could be pursued on the platform of a joint rejection of authoritarianism.

A wider program of consensus should be linked to the possible evolution and changing role of some portion of the forces which have supported President Kuchma in recent years. The inherent crisis of the current regime and its reduced

viability inadvertently make preparation difficult for survival in an environment of transparency, responsibility and rule of law. It is obvious that a major part of the Ukrainian business community, which has no choice at present but to adjust to the realities of a shadow economy and back stage politics, are very interested in embracing civilized business norms. Breaking the alliance of the government with the business community, and relieving the pressure which is currently exerted on civil society structures, will dramatically increase the share of forces in the country in favour of democracy, though the model would not accommodate radical and artificially created political entities which have no significant popular support.

The fierce resistance to democratic transformation by the oligarch factions, and the inconsistent policies of the Communist Party are a serious impediment to formation of a stable parliamentary majority and the effective performance of the Parliament, and it may put the issue of early election for the Verkhovna Rada on the agenda. However, if it can form a government that would win the confidence of the people and would embrace different political forces, it may be sufficient as the first stage of reaching consensus. Better opportunities for civilized interaction can only be established after a thorough overhaul of the deputies' chamber so it reflects the new political situation.

In order to perform effectively, the governing leadership needs to enjoy the trust of the people. It should not only be in a position to legitimately exercise power but also pursue policies with the benefit of the direct and active support at the grassroots rather than a shaky compromise reached within the elite. One of the tasks of the democratization process must be ensuring equity in an environment of freedom and a market economy and eliminating destructive inequalities.

The aspiration to reach a national democratic consensus has nothing to do with a "one-size-fits-all" approach, which hamstrings political and cultural pluralism. On the contrary, a cohesive consensus can only be reached through the harmonious interaction of various forces and trends, and by striking a golden balance between all of them. It can only be delivered on the basis of what unites them; foundation of a common national platform for state and individual entities that reflects the specific interests of different groups. So far such a challenging socio-political construction has yet to materialize.

The new experience of fostering relationships between different forces in Ukraine, which are capable of gradually forming a European-style political spectrum, is of special value. The release of a number of political organisations from the control of the vertical hierarchy of presidential power, and their advance towards self-sufficiency as opposed to their earlier mobilization into an artificially concocted majority, has already contributed to a more natural development of political processes at the election stage. The main chance for further rehabilitation of the socio-political situation in Ukraine lies in making the free will of the people the foundation for the exercise of state power.

# The 2004 Presidential Campaign as a Sign of Political Evolution in Ukraine

*Oleksandr Sushko, Oles Lisnychuk\**

## Key points:

- *The 2004 presidential campaign in Ukraine became a means to explore a “window of opportunity” in the country’s political development. The alternatives posed by the political leaders demonstrate the deep and complex relations between the political system’s level of structural development on the one hand and, on the other hand, the variety of proposals thrown into the ring over the course of the campaign.*
- *The conventional models offered to Ukrainian society by the main presidential contenders are described in the framework of this paper as a “mild policy of reforms” and “guarding radicalism.” Victory by either candidate will mean the implementation of the short- or medium-term scenario, and either of these two can be realized, as it is conditioned by the inherent peculiarities of social and political relations in Ukraine.*
- *Among the factors determining systematic influence on the candidates, the leading one is the “close circle,” represented by the candidates’ personal clientele. The very personal relations, personal influence and interdependence hold together the architecture of the different political “commands.”*
- *The positions of the contenders as subjects of Ukrainian politics are directly influenced by the resources of political competition: electoral, political, administrative, regional, organizational, programmatic, technological, informational and personal.*

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The structural characteristics of the Ukrainian political space are the main determiners of Ukrainian political competition, which developed in recent years and which reached its culmination during the election campaign in 2004.

These structural characteristics include the following:

1. High degree of merging government and business. Political struggle means first and foremost non-public competition for the access to the strategic resources of the country and society.

2. Domination of political and economical groups (PEG) as the main subjects of the political process. PEGs are fundamental elements of the process, whereas the majority of parties, blocs, parliamentary factions and other participants in public political activity in Ukraine derive from and depend on them.

3. Weakness and/or corruption of the institutions that should provide the supremacy of law: court system, the prosecutor's office, the Interior Ministry. These institutions are highly dependent on the PEG that controls executive power.

4. Excessive power of the central government, absence of instruments for regional and local self-governance. The "vertical of executive power" exercises a dominant role over all other centers of political influence.

5. Weak development of social "opposition" to the government, independent mass media and non-governmental organizations (NGOs). The mass media available to society are led by interested PEGs, which using the media to present a distorted picture of political reality. NGOs are not strong enough to establish effective communication between the government and society, or to influence the government.

At the same time, the consolidation of the political system has not yet been completed, and the existing window of opportunity still allows for definite alternatives, between "pure" authoritarian post-Soviet power and a hybrid model tending toward democracy and European society.

In recent years, political competition was clearly radicalized and transformed into virtual political war. The rivalry for the power is often treated by the subjects of the process as a zero-sum game, aimed at eliminating the competitor from the political stage. This factor causes radical methods of struggle, ubiquitous use of illegal methods of competition, including violence.

The political pathologies that emerged during the campaign and became the subject of interest and concern for international community are conspicuous features of the specific social and political system formed in Ukraine.

The main features that distinguish the political system in pre-election Ukraine 2004 from existing systems in Russia and most other CIS countries are first, the existence of a strong and popular opposition force that is able to fight for power, and second, the increase of society's critical attitude towards its government. Despite the growth of the shadow government, public competition in Ukraine has not disappeared, and through the present it has not become a contribution to the off-stage processes.

Two main presidential contenders – Viktor Yushchenko and Viktor Yanukovych – are treated in some cases as bearers of totally opposite paradigms for Ukraine's development. In other cases, however, they are shown as bearers of one and the same project with minor differences. The latter was the view of the opponents of both. We subscribe to the first evaluation; therefore, we treat the objects of our analysis as representatives of two alternatives that came into existence in the framework of Ukrainian windows of opportunity, in a country whose place in Europe and in the world is still uncertain.

One of the main factors influencing the leaders of the 2004 election campaign was the evolution of the model of public political competition implemented during the second term of Leonid Kuchma.

### **Evolution of the model of public political competition (1999–2004)**

The scenario of political competition realized in the election of 2004 is the result of considerable differentiation of the social electoral map of Ukraine over the past five years.

From 1999 until this year, politics were driven by the following scheme: communists against different types of non-communist organizations. The latter included ideological “national democrats” as well as “centrists-pragmatists,” represented by PEGs, and devoid of definite political programs. The right-centrist coalition that appeared thus included practically all non-communist politicians. Its main social carrier was the eager support of Europe-oriented citizens who did not wish to embrace “communist past” again.

### **Viktor Yushchenko and the right opposition – “mild policy of reform”**

It was the right-centrists alliance of 1999–2001 that gave the first role to Viktor Yushchenko. He was a new leader, the former head of the National Bank of Ukraine who had not dealt with public policy until this time. In December 1999, Kuchma nominated Yushchenko for the post of Prime Minister. On 22 December 1999 the candidacy of Yushchenko was supported by the Supreme Rada, Ukraine's Parliament: 296 MPs voted for, more than the 226<sup>1</sup> votes required for a majority.

In a short while, his combination of personal charisma and effective governing made Yushchenko the most popular politician in the country, which he has remained.

However, at the certain stage the coalition cracked because Yushchenko's reform policy did not coincide with the interests of particular PEGs. In

<sup>1</sup> The site of the Supreme Council of Ukraine [http://www.rada.gov.ua/zakon/sk13/BUL144/58\\_1.htm](http://www.rada.gov.ua/zakon/sk13/BUL144/58_1.htm)

summer 2000 the Rada adopted a new law, proposed by Yushchenko's cabinet, regulating the activities of energy supply enterprises. (It included a ban on barter and promissory note transactions in the Ukrainian energy supply system and deprived the owners of regional energy enterprises of excessive profits). In July 2000, the enterprises distributing energy supplies in the country yielded six times more revenues to the budget than in April. This allowed the government to pay all its arrears to pensioners, students and workers in state-owned enterprises. To sum up, Ukrainian economic growth in 2000 reached 6 percent<sup>2</sup>. As a result Yushchenko became even more popular, provoking the president's jealousy.

Reforms that were carried out by Yushchenko's government drew harsh criticism from the part of large business involved in speculations on the energy market. Reform particularly concerned the group SDPU(u), headed by Viktor Medvedchuk, the vice-speaker of the Supreme Council at that time, as well as the group headed by Igor Bakai.

In 2001, MPs initiated the procedure for impeaching the government headed by Yushchenko. Formally, the initiators were the communists, although the inspirers of the process appeared to be SDPU(u). According to the political expert N. Tomenko, this was the first time that Ukraine faced a sharp conflict between oligarch and non-oligarch politicians.<sup>3</sup>

The crucial moment for Yushchenko's government was when President Kuchma and his associates were inclined to believe that the "tapes scandal" – which was connected to the murder of the journalist Georgij Gongadze and records made in the president's office and which was reaching its culmination at that time – was organized by the Americans to bring Yushchenko to power.

In July 2001 Yushchenko created Our Ukraine (Nasha Ukraina) bloc, joined by two Rukhs, PRP, KUN, the party "Solidarnist," P. Poroshenko and series of other parties.<sup>4</sup>

Yushchenko's bloc won 23.57 percent of the votes in the Parliamentary elections 2002, the largest share, but not enough to form a majority in Parliament. As a result of administrative pressure, some Our Ukraine MPs joined the pro-government side after the elections. Now the Our Ukraine faction of 100 MPs (originally 117), out of 450, remains the largest in Parliament.<sup>5</sup>

The experience of Our Ukraine marked the end of the political competition paradigm, as well as appearance of the opposition for the first time in 10 years of independence, consisting of the right wing.

<sup>2</sup> The site of National Statistics Committee <http://www.ukrstat.gov.ua>

<sup>3</sup> Nezavisimaja Gazeta, April, 25 2001 [http://ww.ng.ru/cis/2001-04-25/5\\_state.html](http://ww.ng.ru/cis/2001-04-25/5_state.html)

<sup>4</sup> The site of the bloc "Nasha Ukraina" [www.razom.org.ua](http://www.razom.org.ua)

<sup>5</sup> The Site of the Supreme Rada of Ukraine [http://gska2.rada.gov.ua:7777/pls/radac\\_gs09/fr\\_sklad?kod=2](http://gska2.rada.gov.ua:7777/pls/radac_gs09/fr_sklad?kod=2)

The social base of the new opposition came from groups in the population who had recently been Kuchma supporters. A series of scandals testifying to the low moral and professional level of the president and his associates contributed to declines in the president's legitimacy in the eyes of a public focused on European values.

Over the period of 1999–2004 the executive branch, headed by the president lost the majority of its social base whose mobilization accounted for Kuchma's victory in 1999.

*By autumn 2004 an absolute majority of social segments that backed Kuchma five years before were on the side of the opposition.*

The reformers became a self-sufficient political force, with not only political structures but also widespread social support at their disposal; moreover, Victor Yushchenko's personal reputation and authority served as its basis.

The Ukrainian reformers headed by Yushchenko should not be treated as a revolutionary force, able to change social and political relations in Ukraine in the short term. The alliance around Yushchenko is not an opposition outside the system; therefore, its appearance is conditioned by the needs of the system, or more precisely, by the illness of this system, by its decay. Yushchenko's reformers are aiming at removing the worst drawbacks of the system, allowing prospects for its further transformation and heading for the model of European development.

Especially vivid in this case is the factor of considerable social mobilization to support Yushchenko during the past campaign. The number of citizens participating in the campaign, attending rallies led by Yushchenko was incredibly high, setting records of attendance. In Sumy, he drew not less than 60,000, in Poltava no less than 50,000, and in Cherkassy no less than 40,000. In addition, a considerable number of people were engaged in the "network" activities in particular places, working as agitators or observers. The mass character of Yushchenko's campaign proves not so much organizational possibilities of the command as the appeal of Yushchenko's personality to great social expectations, the expectations of the most creative and vitally active part of society.

In some sense, Yushchenko represents the answer of the political elite to the needs of society: the need for a European-type leader who integrates both traditional and contemporary values in his personality. In this sense, he carries not only the transformational charge into society, but he is also the product of the transformational impulse coming from society.

## **Viktor Yanukovych and "guarding radicalism"**

The loss of its social base among the bearers of European and patriotic values forced the government to reach for the support of those who, in 1999, constituted the social base in the attempt of the left to return.

The failure of the government bloc, United Ukraine (Za jedyinu Ukrainu), which took only 11.5 percent of the votes in 2002 proved that the position of the government between the pro-European reformers and the left opposition in the so-called “centrist” space was not tenable because of the absence of non-ideological “pragmatists.”

Since summer 2002, with the advent of Viktor Medvedchuk in the presidential administration it became evident that the government had lost the support of the reform-oriented segments of the society once and for all.

The sudden loss of government legitimacy led to the implementation of radical means, concentrating the forces that are maintaining the status quo. This is the way that “guarding radicalism” appeared, represented by a non-democratic government that has lost the support of the population. This paradigm is based on keeping the government distant from society, and supporting the structures and institutions that are not controlled by society. These are first of all the “vertical of the executive power,” which is hypertrophied and independent of the voters’ will. These chains of government power are the elements of “administrative recourse” that provide illegal supremacy of the state over its society.

The instruments of “guarding radicalism” in Ukraine are not only administrative resources, but also the exploitation of ideological and value matrixes in the Soviet style.

On 21 November 2002, 234 MPs voted to appoint Viktor Yanukovych the Prime Minister of Ukraine, more than the 226 votes necessary for a majority.<sup>6</sup> The vote signified the beginning of a new government project aiming at maintaining the status quo by pushing communists and socialists out of the sphere of political competition.

The leftist electorate was considered to be the possible social base, the way of returning legitimacy to the government. To reach this aim it was necessary to create the type of government that would meet the expectations of voters who were nostalgic for the USSR. Furthermore, this type corresponded to the values of the very government that experienced discomfort at European democratic standards “imposed from abroad.”

During 2003–2004 nearly all individuals with whom European prospects for Ukraine were associated were excluded from executive power. These included: Minister of Foreign Affairs Zlenko, Minister of Energy Supply Yermilov, Minister for Economics and European Integration Horoshkovsky, Deputy Prime Minister Haiduk, the President of Ukrtransoil Todijchuk, and Minister of Defense Marchuk.

The ruling circle became more and more homogeneous and Euro-enthusiasm gave way to Euro-skepticism, followed by an openly anti-Western program.

<sup>6</sup> The Site of the Supreme Council of Ukraine <http://www.rada.gov.ua/press/skl4/ses1/21-11-2002.htm>

State propaganda implemented the almost forgotten Soviet cliché that declared the West to be the enemy, whereas Russia was considered a “fraternal nation.” The phobias of “nationalism” and “extremism” started to be exploited. Public opinion was influenced by the ideas of civil war, violence between criminal clans, and an “American threat.” The official presidential candidate publicly denied integration into NATO as a goal and declared the main external political priorities to be Russia together with three other CIS countries.<sup>7</sup>

This line of attack could not but influence the communists’ electorate, and it started to diminish. In the elections in 2002, the Ukrainian Communist Party took around 20 percent of votes; however, a month before the elections in 2004 only 3 to 5 percent of the people were ready to vote for the communist party’s candidate, Symonenko.<sup>8</sup> The larger part of this disoriented electorate started to support the government, signifying the start of social legitimacy, with a different social base.

Viktor Yanukovych, nominated as candidate for the president of Ukraine, fully met the system’s requirements. As the representative of the administrative elite in Donbass, which arose in 1990s Ukraine, he is typical of a region where the consolidation of a non-competitive and non-democratic regime, based on the merge of big business and with state power took place earlier than in other regions.

During the parliamentary elections in 2002, the Donetsk region is where the major violations of the electing rights were observed.<sup>9</sup> Donetsk region at that time was the only region where the bloc United Ukraine took the largest share of votes, with 36 percent, and the representatives of this government bloc won also all direct mandat of this region.

Immediately after the elections in 2002, in an article titled “The East Is Coming,” Roman Borysenko wrote “When the authorities in the capital in fact lost the struggle, a strong group of Donetsk regional authorities and business won it with a triumph, proving who is really stronger. Judging from the first after-election announcements from the Donetsk people, it may be stated that such effective schemes could be transferred to other neighboring regions.”<sup>10</sup>

In the Donbass region from 1998 to 2000, under the guidance of Yanukovych, there was a closed circle industrial system created with an independent energy supply and its own external links, rules and unofficial laws. The independent press practically disappeared from the local media market. Since 2000, special

<sup>7</sup> Euroatlantic Ukraine [http://www.ea-ua.info/main.php?parts\\_id=6&news\\_id=78&news\\_show\\_type=1&](http://www.ea-ua.info/main.php?parts_id=6&news_id=78&news_show_type=1&)

<sup>8</sup> For instance the last questionnaire of the Fund “democratic Initiatives” in October 2004 stated the popularity of the latter being 3,2%. <http://www.dif.org.ua/doc.php?action=doc&i=107&id=151004020226>

<sup>9</sup> Ukrains’ky Regionalny Visnyk <http://www.urr.org.ua/data/articlesview/?id=f2b19992d232fa84224f5ef3b4ac1210&pubdate=2002-04-01>

<sup>10</sup> Страна.ru <http://www.strana.ru/stories/02/03/22/2624/128262.html>

tax concessions made the Donetsk region the leading one in growth of GNP, having increased its surplus by a factor of one and a half within one a year. The same trend was observed during the years that followed.<sup>11</sup>

Appointing Yanukovych the Prime Minister and nominating him for President as a candidate from the government clearly illustrates the peculiarities of Ukrainian staff selection. It includes the following criteria: personal loyalty to the superior leader, ability to rig the results by any means possible, and having a troubled past, which puts the individual “on the hook” of the system.

*Yanukovych as a political figure possesses a series of traits adequate to the aims and tasks of “guarding radicalism,” required by the system, which was entering a crisis of legitimacy.*

First, Yanukovych’s past is troubled enough, beginning with two prison sentences in his youth and ending with highly suspicious capital accumulation in the Donetsk region, - a process that took place during his term as governor.

Second, Yanukovych is interested (even more than Kuchma) in maintaining the existing relationship between the government, business and society. He knows only those methods of governing that he applied in Donetsk region and has little knowledge of or communication with elites in Ukraine and abroad.

Third, Yanukovych is an easily manipulated figure, as seen from the election campaign. During its course, he was trusted with so many government messages and such behavioral tactics that he has already embarrassed himself, and, in case of his victory, will have inevitable problems in terms of legitimacy.

Fourth, under certain circumstances, Yanukovych can outdo Kuchma in violation of democratic and legal standards if the situation requires.

*Yanukovych is the contender of that part of elite who created the present-day situation in Ukraine, and any kind of change is treated as threat to its vital interests.*

At the same time, even this part of elite is aware of having limited room for maneuver: status quo policy for most of them is just a way of gaining time and not allowing competitors to take power. The main engine of the “guarding radicalism” is fear of losing property; however, this fear may also ruin the present paradigm, as there is no personal guarantee that would be able to replace institutional guarantees provided, for instance, by an independent court system.

The temptation to maintain the status quo by force or any other illegal means will reduce with the increase of structures and institutions that protect property rights.

The difference in the possibilities symbolized by the leaders of the 2004 presidential campaign testifies to the presence of two possible paths for the

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<sup>11</sup> Secret materials of Russia <http://www.informacia.ru/facts/yanukovich5.htm>

development of Ukraine: *mild policy of reforms* and *guarding radicalism*.

In the first case Ukraine will move slowly but surely to a social market economy and democracy. Meanwhile the PEGs will continue their existence, and there will be a shortage of civil institutions that will protect democratic choices.

In other case, the status quo will be preserved. That will mean consolidation of an authoritarian regime. The time frame for such a regime will depend on its own creativity, as well as on the strength of the present-day democratic trend and the ability of the reformers' forces to face the defeat while maintaining their social base and optimizing their organizational structure.

A possible way out of the situation may involve creating a new political reform that will become the subject of consensus, and which would be wider than the one that took place in 2003 between the presidential and left-wing forces.

## **Candidates' close circle as a source of influence**

It is considered traditional that the main priority of any Ukrainian political leader, including the presidential contenders, is the presence of the so-called command, i.e., certain surroundings oriented toward support and interaction in order to reach political and other aims. The "command" is treated as a key pillar for the leader in the struggle for power, and in case of electoral success, it gains power.

In general, we may speak about the quite high mythological character of the "command," which is shown on the level of people's consciousness and thoughts, and also on the level of electoral needs. The need for a "command" in fact reveals the inadequacy of the formal political structure to address the real processes in Ukrainian politics. Through "commands" the problem with organized leadership support is solved, as there are not that many political organizations in Ukraine. In fact, the candidate's "command" is treated as the support of his acquaintances from the elite and realizes his ambitions through power.

Close attention to the "commands" may be explained by the excessive value of corporate group interests in the system of political representatives, in decision-making and in political processes in general. These groups represent the alliances formed by elites with common economic interests that are being addressed through their presence in the political process and access to administrative power. These groups are referred to as political and economic groups and are defined by Ukrainian political experts as alliances of business structures that:

- overcame the obstacle of fundamental capital accumulation and formed the mechanisms for their development strategically;



- make investments in politics on a regular basis, insuring their representatives in political structures and the mass media, as well as in the legislative, executive and judicial branches; and
- try to make their own production part of the base of the country's economic strategy and lobby for its support at the national level.<sup>12</sup>

The key characteristics of this type of group are their tendency to monopoly and their expansion into different spheres of public interest. The development of these political and economic formations follows a scenario that is different from the formation of pluralism in society and politics. With the approach of the presidential elections and the struggle for power, these PEGs started more and more clearly demonstrating their vertical integration. Political expert D. Vydrin states with a touch of irony the key elements of these groups. "The corporation in its full set includes an 'economic body' represented by its earning, producing or middleman complex; mass media, formally working for the country but in reality spreading corporate ideology, verbalizing corporate thinking and emitting corporate mentality; and the political 'roof,' different instruments of political mediation and political protection of personal interests. These include parties, factions and people delegated to politics. Finally, the group includes a popular football club and other sports entities that perform the role of creators of corporate pride and appreciation."<sup>13</sup>

Immediately after the parliamentary campaign in 2002 the main political and economic groups appeared on the political stage. In Kyiv this was SDPU(u), in Dnipropetrovs'k "Labor Ukraine" (Trudova Ukraina), and in Donetsk "Party of the Regions" (Partiya Rehioniv). Later, the Kharkiv group joined the list; however, these groups gradually started dividing into smaller units.

The command ideology is built with the help of the domination of technocratic foundations. This perpetuates the widespread cliché of "a command of professionals," i.e., the "know-how men," administrative officials, financiers, lawyers, etc. They are at first sight not clearly supporters of political reality. These are the individuals who in case of the candidate's victory will be appointed to the leading government posts. For the opposition candidate, who wants to take power, the "command" is analogous to a shadow government.

Taking this in consideration, the candidate's "command" and the leaders of the forces supporting him do not necessarily coincide. However, taking into account its real characteristics, this "command" more corresponds to the notion of a "close circle" than to that of a political coalition. Such formations consist of a candidate's personal clientele. It includes personal links, personal relations and interdependence that are the binding material of different "commands."

<sup>12</sup> Polical and economical evaluation of Ukrainian economy [www.niurr.gov.ua/ru/ukr\\_rus/bulletin\\_3/polit\\_econom\\_izmerenie.htm](http://www.niurr.gov.ua/ru/ukr_rus/bulletin_3/polit_econom_izmerenie.htm)

<sup>13</sup> Vydrin. D "Changes, my friend, the changes" [www.zerkalo-nedeli.com/nn/show/486/45954](http://www.zerkalo-nedeli.com/nn/show/486/45954)

Non-technical presidential contenders include not only to the communist leader Symonenko. Such politicians as N. Vitrenko, M. Brotsky, D. Korchynsky are also the last in the row of clienteles. Others, such as O. Moroz, A. Kinakh, A. Omelchenko, together with the leaders V. Yushchenko and V. Yanukovych rely first of all on their “close circle.” This circle influences the candidates’ main decisions, strategies and solutions to tactical problems. The close circle is the means of influence from outside, and it is also the first instrumental force.

The close circle is both the means of influence from outside and the primary instrument of action on it. It is also the reservoir of the different influences from the outside on the candidate’s sphere of support of the candidate. In this respect the most valuable capital for the representatives of a team is access to the leader.

Being important members of candidate’s network, representatives of the “close circle” of the candidate are very often the patrons of lower-level formations. Thus around leaders and candidates are built the client-patron systems that tend to be profound structures that go down to micro-political level.

The clientele of the presidential contender Yanukovych substantially supports his image as the “single” government-supported candidate. Moreover, consideration of this phenomenon leads to a conclusion about dependence and, maybe, subordination of the “close circle” of the prime minister to other influential actors in Ukrainian politics. A government-supported candidate clearly enters schemes of client-patron dependence in a status that more correspond to a client. This is a vision of the noticeably asymmetric partnership between Yanukovych and Kuchma, and also between Yanukovych and Ahmetov.

Notwithstanding the end of his presidential term, Kuchma left for himself opportunities to affect the behavior and career of Yanukovych, relying on a number of the political and economical formations focused on him. Yanukovych owes Kuchma for being Prime Minister, for nomination as the single pro-authorities candidate, and for reservation on pre-election distance. After Parliament accepted the second government program from Yanukovych, only Kuchma had the power to dissolve the Cabinet of Ministers. There are reasons to think that the correlation between Kuchma and Yanukovych is built not only on political expediency or bureaucratic logic and traditions. Yanukovych as a high-level political figure became a creature of Kuchma and remains so.

If the patron-client connections with the president characterize the final period of the political Yanukovych’s political career, then connections with the representative of large capital Ahmetov, go back to the period of Yanukovych’s emergence as the official candidate from the Donbass elite. Over a period of seven years, personal connections between the oligarchs and Ahmetov determined the political growth of the first and the economic growth of the

second. This allowed the president of Shahter football club at the moment of the 2004 election to be the “host” of the Donbass, the richest Ukrainian and the main oligarch of the country. Influence on the regional authority that was personified by current Prime Minister and presidential candidate Yanukovych became one of the main bases for the large-scale accumulation of the property and finances that was accomplished by the political and economical formation now called “SKM.”

During the period of his work in Kyiv (autumn 2002–autumn 2004), Yanukovych could not modernize his own group of support. In general, the Prime Minister’s close environment consists of the people who were working with him in Donetsk region: I. Skubyshev, N. Demyanko, E. Prutnik, A. Gurbych, A. Kluyev, V. Rybak, V. Lyevochkin and some others. These are representatives of the Donetsk region with whom Yanukovych has been actively working.

A new phenomenon that entered the sphere of support and interest of Yanukovych while he was Prime Minister is the staff of a newly created political organization, the Party of Regions and the parliamentary faction established based on it.

These are the main elements of the Yanukovych team, on which he may and will, first of all, rely on. There is a wider group of elites that are oriented around the Prime Minister to take into consideration, if Yanukovych wins the election and raises his politico-administrative status, thus expanding the potential of his team. A similar scenario happened at the time of President Kuchma’s election.

The frame of the Yushchenko team was formed also during his period as head of government. Three years in state opposition seriously changed its composition, structure and the role of the patron. In 2002, Yushchenko’s personal clientele could be identified on the assumption of its “nominal” quota while composing the electoral list of the Our Ukraine bloc. At the same time, this part of a list consequently appeared to have the least connection to the parliamentary fate of Yushchenko’s bloc.

It should be acknowledged that at the moment of election, notwithstanding the existence of personal interdependency, candidate Yushchenko had a more highly politically formalized approach. Yushchenko’s coalition of political support includes both public solidarity of official party structures and political leaders, and their high personal correlation with the Our Ukraine leader.

The launch of the campaign allowed Yushchenko to extend his team by engaging significant political figures. The union “Syla Narodu” between Our Ukraine and Bloc of Yuliya Tymoshenko can be fully interpreted as, first of all, union of the leaders of both political forces. Tymoshenko and her clientele joined the Yushchenko team, where she was a conspicuous member during the period when the main opposition candidate occupied the Prime Minister’s office. Of course, A. Zinchenko, who recently was a member of the group most opposed to the leader of the Our Ukraine force – SDPU (o), also took a prominent place in the Yushchenko team.

The presidential prospects of Yushchenko are more significant for the prospects of the representatives of his team than those of the members of the teams of other candidates, including Yanukovych. In other words, the level of risk at stake in the success of their patron is much higher than for their competitors. In the period of the campaign, Yushchenko's companions have borne significant economic, financial and political burdens that are viewed as an investment in the situation that will arise if their leader wins. Expenses and losses that occur during this struggle for authority can be seen in this model of behavior as markers for compensation rights after achieving the final result. This model considers political, administrative and economical dividends that can be achieved due to proximity to a new authority. This particular aspect seriously worries economic and politico-administrative elements that support the pro-governmental candidate as a guarantor of the status quo in the main sectors of political and economic life.

At the same time, it should be recognized that this type of connection with leader, as well as wide a palette of groups competing to influence him, allow observers to make an assumption that pre-election investment may not have lead to post-electoral reimbursement. On coming to power, Yushchenko will not necessarily satisfy the interests of his clientele, but has a chance to fundamentally essentially change the staff, form and functions of his team.

## **Candidates' main resources**

A group of factors can be identified as resources of electoral and political competition. These factors may have a direct impact on the positions of candidates as actors in Ukrainian politics.

Resources that are at the candidates' disposal are characterized by sufficiently high heterogeneity. Among the main types of resources that are utilized by the main participants in the presidential election to provide the expected results are the following:

- *Electoral* (social, regional, age, linguistic, socio-cultural, professional groups that support the candidate or on whose support he is oriented);
- *Political* (political forces – parties, movements, non-formal groups that support their candidate, their place and meaning in the political process and in the society);
- *Politico-administrative* (presence and characteristics of the candidates' positions in the administrative machine);
- *Regional* (candidate relations with the regional administrative, humanitarian and economic elite)
- *Organizational and human resources* (structures that are responsible for the campaign, human resources potential of the election headquarters);
- *Program* (main program postulates, their mobilization potential, candidate participation in pre-election discussions and political discourse);

- *Technological* (intellectual supply of competitive pre-election struggle, characteristics of participation by political consultants in the formation of candidates' election strategies);
- *Informational* (mass media that support candidates, on which they are oriented during their election campaign; possibilities for candidates to present their electoral programs and positions in the information environment and to take part in pre-election discussions); and
- *Personal* (qualities of leadership and political behavior of candidates; main politico-psychological characteristics of candidates).

Each candidate has a different proportion of, correlation with and interdependence on the resources listed above. It cannot be said that only candidates with all of the resources listed above may realize their potential and win elections. Moreover there is no candidate, even among obvious leaders, who does not have tangible "blank spots" in his campaign's list.

Impetuous "democratization" of the resources, necessary for a real competitive political struggle became an important achievement of the election campaign in 2004. It appeared that for the candidates and, first of all, for the opposition candidate to succeed, democratization was important not only for financial, organizational and other, mainly elite level, resources. The campaign returned the resource of active social support to high-level Ukrainian politics. In particular, this resource became the main support for candidate Yushchenko, which allowed him to save the opportunity to actually win the elections after the rough campaign, when all the possible methods were used against him. Especially this resource gave him the possibility to dispute the fraud during the campaign and organize a revolutionary wave of public protest after the second round of the election on 21 November was misused by the authorities.

It is typical that Yanukovych's perception of the importance of the resource of public support made him actively appeal to similar support after the aggravation of the struggle in the period after the elections. He brought groups of supporters from the eastern regions to Kyiv. In this case, however, social support is more like decoration on the main group of resources of the pro-governmental candidate.

Let us examine the resource potential of the main candidates, whose electoral prospects allow them and their political backers to enter into the future Parliament. To these candidates belong the leaders of electoral races – Yushchenko and Yanukovych – and the leaders of the leftist parliamentary parties – P. Symonenko and O. Moroz. Here also can be included N. Vitrenko and A. Kinakh, for whom the 2004 election is a chance to get back to the major league of Ukrainian politics.

#### *Yushchenko's resources*

The main opposition candidate claims to represent the interests of, and is supported by, the country's protest electorate. Elections could have demonstrated

the real level of support. Fraud will only allow consideration of the results of exit polls that were conducted with special methods as the most reliable means. According to the results of the most reliable exit poll, Yushchenko was supported by more than half of Ukrainian voters. He became an election winner in 16 regions of Ukraine (out of 24 plus the Autonomous Republic of Crimea) and in the capital, Kyiv.

Yushchenko and his allies appeal not only to protesting spirits but also try to receive the support of wide groups of the electorate, reminding them about the achievements of the government under Yushchenko during the years 2000–2001. Among them the main are the beginning of the mass clearing of the country's liabilities to citizens and the beginning of economic growth.

The structure of Yushchenko's electorate, as well as of the other major candidates, can hardly be clearly verified according to the index of professional affiliation, and is the most clearly represented in regional projections. In general, there is the noticeable promiscuity of people who are going to vote for the Our Ukraine leader. Abstracting from the regional identities, the following image of a Yushchenko voter can be modeled. First of all, this is a person with higher education, who relates to the traditional Ukrainian culture, and who speaks both Ukrainian and Russian. The voter is someone who criticizes current authority and the results of mass privatization, and who considers the independence of Ukraine one of the top political values. Typically, a Yushchenko voter lives in the capital, in the regional centers of the central and western Ukraine, or in the small towns and villages of these regions.

The unique characteristic of Yushchenko's electorate is stable support of its candidate by its core over a couple of years.

Political support of the candidacy of the former Prime Minister is provided by two opposition coalitions that gained significant success during the parliamentary elections in 2002. These are two "nominal" blocs of political parties, the bloc of Yushchenko and the bloc of Yuliya Tymoshenko. Formally, electoral union of these two blocs is spelled out in an election coalition, "The Power of the People." Except for parties that belong to these unions, Yushchenko's candidacy will be supported by the "Yabloko" party (leader, presidential candidate M. Brodskiy) and the Christian Liberal Union (leader, presidential candidate L. Chernovetskiy). They support him notwithstanding the presence of their leaders in the election.

The group of independents or deputies elected in majority constituencies, instituted in the form of the Razom parliamentary group, is not a party, but claims leading roles.

At the same time, Yushchenko was not officially nominated for election by any of the mentioned political forces, but nominated himself as a candidate of the people, in contrast to the pro-government candidate. Utilization of this image sets a demarcation between the nation and the authorities, and the leader of Our Ukraine focuses attention on the fundamental conflict between them.

At the moment of the presidential campaign, antagonisms increased among certain collective members of the bloc. The main reason for intensification of antagonisms at this critical moment was consolidation inside the bloc, connected with the perspectives of forming a united party on the basis of existing coalition. Somehow, in the organization of the campaign a clear party principle is present. Key party formations of the coalition “The Power of the People” were responsible for the control and campaign supplying support for Yushchenko in the regions of the country. People’s Movement of Ukraine (Narodnyi Rukh Ukrainy), Ukrainian People’s Party (Ukrains’ka Narodna Party), Reforms and Order Party (Reformy i Poryadok), Solidarity (Solidarnist) from the Our Ukraine bloc and Homeland Party (Batkivshchyna) and Sobor from the bloc of Yuliya Tymoshenko were appointed to certain regional districts.

Serious changes occurred in the organizational supply of the Yushchenko campaign right after the election process took off. This included a new institution, campaign headquarters, headed by Vice-Speaker of Parliament, former member of pro-presidential party SDPU(o), O. Zinchenko.

Serious problems from the point of view of support of more competitiveness for Yushchenko as the main rival consisted in financial support. The problem had two dimensions: quantitative and technical. The first concerns the ability to accumulate as much as possible in the campaign’s electoral fund. The second concerns legislative restrictions on financing the campaigns of presidential candidates, and also maximum rational and efficient utilization. At the same time, taking into account realities of the campaign and the high probability of rivals’ utilization of shady schemes of massive financial support, it becomes very important to have the possibility to use adequate technologies.

Having done an expert evaluation of the economic potential of Yushchenko’s campaign, a Ukrainian business digest “Business” came to the conclusion that \$250-350 million can be mobilized to support the candidate. This sum is not considered to be commensurate with the financial abilities of the main rival.

The representatives of Our Ukraine’s business wing are considered to be the main financial donors of Yushchenko’s campaign. D. Zhvaniya, who represents one of the largest business formations among Our Ukraine, the Brinkford group, is an official treasurer of campaign. This group possesses property and conducts business in the fields of energy, ship-building, insurance and finance.

The second important economic frame for the Yushchenko campaign is the Ukrprominvest group, which is connected to P. Poroshenko, a member of the Our Ukraine parliamentary faction and leader of the Solidarnist party. During the last few years this group was one of the most powerful domestic financial industrial groups, though the participation of its founder in the opposition essentially affected its positions. This group is a leader in the confectionery market of the country, consisting of a number of Ukrainian and even Russian

confectionery enterprises and sugar refineries. The group also possesses stable positions in mechanical engineering, ship-building and banking.

Also among his financial support is the economic potential of the structures close to some deputies. First of all, this means some members of the Reforms and Order Party, UPP, and the Orlan concern that has relations to MP E. Chervonenko.

The media resources of the Yushchenko campaign are incommensurably less than those of the Yanukovych campaign. Such newspapers as *Ukraina Moloda*, *Vechirniy Kyiv*, *Bez cenzury* and *Postup* are aimed promoting a “public candidate.” TV and Radio media biases are more obvious. Niko FM Radio, the regional channel *Ishtar*, and interregional channel 5 are loyal to Yushchenko, becoming a megaphone of the opposition especially during the open phase of the campaign, presenting unbiased broadcasting free from centralized control.

Except for the mass media listed, Yushchenko’s position is usually supported by popular media such as the newspaper *Zerkalo nedeli*, and Internet sources such as *Ukrainian Truth*, *Glavred*, *Obozrevatel* and *Public Radio*.

#### *Yanukovych’s resources*

Since the moment forces loyal to President Kuchma suggested the active Prime Minister as a presidential candidate, his electoral rating started to rise strongly. One month prior to the beginning of the campaign Yanukovych gained a firm second position that allowed his last name to be kept among potential winners during the second round of voting scheduled for 21 November 2004. Overall 40 percent of the electorate, and majorities of voters in the nine highly populated regions in the country’s east and south as well as the city of Sevastopol, supported Prime Minister Yanukovych during the first round of voting. This helped him to compete with the opposition leader in the second round. Similar figures are attributed to candidate Yanukovych from the second vote. In the second round, sociologists point out that the opposition leader has preserved and even increased a gap between him and the candidate promoted by the authorities. Irrespective of this fact, these figures give Yanukovych enough grounds to stay in the fight to the end.

The electoral image of Yanukovych was not very creative. This image was created in compliance with the initial reason: why Yanukovych was involved in the fight for the presidency as it exists for the active president and the most influential political and business group associated with the president. Yanukovych was presented to the voters as “anti-Yushchenko.” Or not as “anti-Yushchenko,” but rather “not worse than Yushchenko and even better,” not a nationalist, not an extreme, US- and Western-capital-supported politician; on the contrary, as a pragmatic leader who sets specific goals, and achieves specific results.

His results were the summary of considerable efforts applied by a wide segment of the ruling elite. The Prime Minister was nominated as a candidate



from the power coalition and publicly backed as a successor to the current president. While this decision was somehow furnished externally – at the moment his candidature was being approved by pro-presidential forces the personal rating of the government leader was much higher compared with other potential nominees – reinforcement of Yanukovych as a candidate from elites interested in prolonging the status quo caused controversial reactions in this environment. It took a lot of intensive negotiations before practically all potential candidates associated with the existing power agreed to abandon their ambitions and get involved one way or the other with Yanukovych's campaign. There was one exception: A. Kinakh, leader of Ukraine's Party of Businessmen and Entrepreneurs (PPPU), and leader of the Ukrainian Businessmen and Entrepreneurs Union. Kuchma started his victorious presidential race from this position 10 years ago.

Notwithstanding the fact that candidate Yanukovych was positioned as a single candidate from the authorities, the political environment for his support is extremely heterogeneous and unevenly interested in a victory for their nominee.

The most important circumstance that influences the presidential election and the Prime Minister's campaign in particular is the fact that actors with the most influential and creative capabilities – President Kuchma and the head of the presidential administration – are left outside. In essence for these two persons and the forces they represent, a potential presidency of Yanukovych or Yushchenko is not the best scenario. Hope for the political reform as a mechanism to prolong the regime in power has not been justified. They were forced to approve the nomination of Yanukovych as a successor.

Considerable uncertainty about the scenario and outcome of the campaign forced some elite groups that formally support the former Donetsk governor to demonstrate a certain degree of reservation. Yanukovych can definitely rely only on representatives of Donetsk politics and businesses.

Nonetheless, the figure cited above contemplates that the enormous amount, for Ukraine, of \$1 billion or more may be involved in the Yanukovych campaign. It is understood that the quoted sum many times exceeds surmounts the official ceiling of the pre-election fund. But groups that support the authorities' candidate have enough room for maneuver including gaining the objectives mentioned above. Indirect schemes for financing of candidate Yanukovych, like an increase of the minimum living standard and pension payments are the kinds of "tricks" involved.

In general, under endorsement from the current president, Yanukovych can mobilize all necessary funds for his campaign.

A set of possibilities created by Yanukovych occupying the highest government position and the fact that he represents the authorities are the second substantial pillar of Yanukovych's campaign. In the post-Soviet

political discussion this set of possibilities is called “administrative resources.” The main mobilizing events and programs to support Yanukovych campaign are implemented with administrative resources. Use of administrative resources is considered to increase the total result of voting by 3 to 5 percent.

A massive media campaign to support the candidate became, as expected, one more pillar of support for the authorities’ candidate. All national TV channels and a majority of non-government radio and TV channels were actively involved in Yanukovych election advertising, depicting his activity as leader of the government. All this happens against a background of total obstruction for opposition politics, and Yushchenko, the main competitor in the fight for power, attempting to access the mass media.

## Conclusions

One of the major factors influencing the main candidates for the presidency in Ukraine’s 2004 election is their attitude towards executive power structures.

- A key instrument of the campaign by Yanukovych, the authorities’ candidate, usage of possibilities associated with the “executive vertical,” that is administrations at all levels, internal ministry agencies, tax inspection, transport and communications ministry, prosecutor offices and other government agencies, as well as government controlled mass media. This instrument prevailed among other methods and instruments used by the team of this candidate.

- The set of instruments attributed to the Yushchenko campaign reflects his position as a candidate from the opposition. This position was discriminated against, denied access to media and needed to counteract the open government policy of support for Yanukovych. Similar reasons explain considerable deviation of the presidential election quality in Ukraine from the democratic standards of the OSCE and the Council of Europe, and from the law of Ukraine. Taking into account deep and systemic violations, it is necessary to acknowledge that the elections demonstrated regress in the democratic transformation in Ukraine. This was admitted in the report of the mission by the OSCE, Council of Europe, European Parliament and NATO Parliamentary Assembly issued on 1 November 2004.<sup>1</sup>

- The second round of elections revealed even more deep discrepancies between the election process and minimal democratic standards. Today, after the results were announced by Central Election Committee on 24 November, this may lead to *loss of legitimate power by Ukrainian executive body*.

- A considerable part of Ukrainian society today is not ready to accept the announced results as legitimate. This part is demonstrating its disagreement in the form of the most massive political manifestations in the history of Ukraine that are still taking place in Kyiv and other cities as this article went to press. Refusal to acknowledge legitimacy of the declared elections winner (Yanukovych) has led

to the recognition of Yushchenko as the president by regional councils in several regions of Ukraine (Lviv, Lutsk, Ivano-Frankivsk, Chernivtsi), and city councils of Kyiv, Vinnitsa and a majority of cities in western Ukraine.

## **Policy recommendations**

1. The 2004 presidential election in Ukraine that started as a contest of two elite groups representing alternative visions of Ukraine's development has ended up in a massive counter opposition. This opposition revealed considerable progressive development of public institutions. It also revealed increased strength of society and its readiness to protect its choice. The conflict of the elite has transformed into a conflict between the active part of society and the administrative and bureaucratic apparatus. Further strengthening of civil society, together with enhancement of democratic base and social market economy may lead to formation of a modern political culture in Ukraine, and it deserves support and pointed action from the EU.

2. Gradual reduction of the influence exercised by clans and shadow mechanisms on main political leaders is possible through making the whole political process transparent. For this purpose, it is necessary to ensure a legitimate transition to the formation of the government by the Parliament, provided means are taken to decrease the weaving of power into big business.

3. Authoritarian tendencies are associated with a possibility of bringing a non-legitimate president into power. Autocratic trends and the possibility for a non-legitimate candidate to gain power threaten the progress of democratic and public transformation in Ukraine. If the non-legitimate power (Yanukovych) is strengthened, the EU, while taking into account a negative experience in Belarus, should take a number of steps to provide effective assistance to the democratic opposition, aiming at preventing the strengthening and consolidation of an authoritarian regime (e.g., consolidated actions against Milosevic regime).

# **International Orientation and Foreign Support of the Presidential Elections**

*Iris Kempe, Iryna Solonenko\**

Ukraine's elections will not only influence the future internal development and transition of the country but also affect its international position. The new European Union member states, first and foremost Poland and Slovakia, perceive Ukraine as a key actor in Europe. A democratic and reform-oriented Ukraine would contribute to security at the EU's new eastern border. The European Union and the US are interested in a democratic Ukraine as an anchor of stability inside the former Soviet sphere. For Russia, Ukraine is decisive for the establishment of Russia's political dominance, as well as its economic and social interests in the former Soviet territory. Thus, external actors are carefully scrutinizing the question of how the election was carried out and who is the new president of Ukraine.

From both perspectives—internal development and external orientation—the election places Ukraine at a crossroads. Previous presidential elections in many former Soviet republics have been dominated either by a single candidate, with no alternative, or a competition between a democratically oriented candidate and a communist one. Leonid Kuchma, the second president of Ukraine, stayed in office for two terms spanning 10 years. The 2004 presidential election offered voters a real choice between the two top candidates, Viktor Yushchenko and Viktor Yanukovich.

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Yushchenko, a former leading figure in reform, is perceived as western-oriented. Several characteristics show this orientation. He uses Ukrainian as his first language. During his time as acting prime minister, Yushchenko took a western-style reform approach. Last but not least, he aims to integrate Ukraine into western structures, including first and foremost the European Union. By contrast, Viktor Yanukovych, the rival candidate, should not be considered merely a representative of the ruling state administration or even Kuchma's crown prince. His career is strongly tied to the actors and influence groups of the Donetsk region.<sup>1</sup> In this sense, he can be considered a representative of Ukraine's eastern orientation.

Nevertheless, it would be narrow-minded to limit Yanukovych and Yushchenko to an east-west focus. To analyze the impact of international factors on the Ukrainian elections one has to refer to the state of democratic transition in Ukraine. In this regard this paper must consider that external orientation and international politics are part of the struggle between key actors and interest groups.

International factors carry a higher importance within a defective democracy (see Beichelt/Pavlenko in this volume) than in a consolidated democracy because of their impact on the domestic agenda. A shared language, a high degree of economic dependence and shared media space might create a strong overlapping between Ukrainian and Russian interests. At the same time one might also assume that Ukrainian decision makers in favor of national independence and a democratic transition might promote Western values as a cleavage within the election campaign. Further, one has to ask how, and by whom, external factors are utilized within the power struggle between different players and interests groups.

This paper analyzes the role of international factors in presidential elections from two perspectives – international (Iris Kempe) and domestic (Iryna Solonenko). From each perspective the role is analyzed in terms of interests, goals and methods of international actors. The perspectives of both western and Russian actors, as well as domestic actors, are included.

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<sup>1</sup> Serhij Teleschun: Finanz- und Industriegruppen in der Ukraine, Ihre Tätigkeit und ihr Einfluss auf das politische System, in: Die Ukraine: Ein steiniger Weg zur Demokratie. Kiew, ed.: Friedrich-Ebert-Stiftung, Büro Kiew, Hrsg. für die Friedrich-Ebert-Stiftung von Helmut Kurth und Vasyl Andriyko, 2002. p. 85 – 101.

## **International Factors in Ukraine's 2004 Presidential Elections: Domestic Perspective** (*Iryna Solonenko*)

The 2004 Presidential elections in Ukraine have been marked by a high degree of international interference. The campaigns of many candidates became platforms for discussing Ukraine's external orientation and the role of international issues in within the domestic agenda. Different actors in the election process involved external actors and processes to influence the elections at home. The importance of the international dimension in the election process is surprising given that Ukrainian voters traditionally have not been aware of international factors and tended to care more about domestic issues.

The first key question is what impact did international agendas/issues have on the election process?

The second key question is how this impact matters for Ukraine's transition? This second question needs to be elaborated. First, what types of external agendas have influenced Ukrainian society and which of the candidates represents these? Analysis of the nature and content of these agendas will help to understand Ukraine's possible foreign policy in its relation to domestic policy after the election. Second, what conclusions can we make about the state of Ukrainian transition by looking at how international issues were used by domestic actors in the election process? This will explain the level of maturity of Ukraine's foreign policy and national consciousness, which are important indicators of the state of transition.

### **1. Key actors**

We assume that Ukrainian society is very heterogeneous and consists of various actors who have different attitudes and interests with respect to international factors. Different domestic actors also interact differently with the outside world depending on the resources they have to do so.

The following Ukrainian domestic actors can be defined based on a theoretic framework and with respect to their roles in the elections and from the perspective of their interaction with external factors. Those include: voters (the public at large), candidates, political parties, interest groups, public authorities, media and civil society (NGOs).

Given a high level of consolidation among different actors in the run up to elections and the very high concentration of interests, we will consider the following actors:

- voters;
- candidates, parliamentary caucuses and groups (political parties that do not have representation in the parliament are marginalized and we do not consider those) and interest groups (in terms of influence those are limited to business

interests and political-financial groups – “oligarchs”). Given that business and politics are not well divided, Ukrainian parliamentary factions often represent certain business interests. Due to the fact that parliamentary groups are structured around the presidential candidates, we bring those into one group;

- public authorities;
- media and civil society (NGOs) – opinion makers.

## **Voters**

Due to the internationalization of domestic life within a globalizing world, new channels of international communication have opened up at different levels in Ukrainian society. Voters are more exposed to direct influence from international factors and, therefore, cannot be neglected in our study.

Nevertheless, the level of direct access of Ukrainian voters to international actors and processes is limited. For instance, only about 8 per cent of Ukrainians use the Internet,<sup>2</sup> which unlike other mass media (TV, radio and press) in Ukraine provides access to more or less balanced information and offers direct access to international communication. Also, only a limited number of Ukrainian citizens have ever traveled abroad (beside CIS countries where Ukrainian citizens do not need passports). Only a limited number of Ukrainian citizens hold a passport.<sup>3</sup> Mostly, those are young people, top-level professionals, people working with NGOs, journalists, etc.

It is worth mentioning that the Russian informational space is an exception. A majority of Ukrainians speaks and understands Russian and has the ability to watch Russian TV channels and read Russian newspapers. Due to the language factor many more Ukrainians are able to communicate with Russian citizens than with citizens of EU member states, the US, Canada, etc. In eastern Ukraine many people have relatives who live in Russia and are therefore frequent travelers to Russia. This is also true to a limited extent about Ukraine and Poland. Many voters from western Ukraine speak Polish and have access to Polish TV and radio.

Most Ukrainian voters receive information about international actors and processes through intermediaries, meaning this information is often distorted. This makes a majority of Ukrainian voters vulnerable to misinformation and various forms of manipulation. As we will see later this vulnerability has been skillfully exploited during the elections.

<sup>2</sup> Information of the State Committee of Communication and Information for 2003. <http://www.reklamaster.com/news/showfull.php?id=3766>

<sup>3</sup> According to unofficial data approximately 20 percent of Ukrainian citizens are holders of travel passports.

An important group of voters to consider in this paper are Ukrainians residing abroad. According to different sources 3-7 million Ukrainians live abroad.<sup>4</sup> Their votes will play a potentially important role in the outcome of the elections. However, given the number of polling stations abroad (123), slightly more than 200,000 voters<sup>5</sup> will have been able to vote. Also, Ukrainians abroad are not very active voters. According to data from the 1999 presidential election, only 10-15 percent of voters registered by Ukrainian consulates that year voted.<sup>6</sup> During the first round of the 2004 presidential election, 62,373 voters cast ballots abroad, and 90,168 during the second round.<sup>7</sup>

It is important to mention that unlike in previous presidential elections, Ukrainians who stay abroad illegally (with expired visas) have the right to vote this year. Article 2 of the Law “On Elections of the President of Ukraine” allows all Ukrainian citizens “who crossed the state border of Ukraine legally” to vote. According to the most modest estimates, 2.5 million illegal Ukrainian migrants live abroad.<sup>8</sup> However, many Ukrainians who stay abroad illegally are not aware of their rights. In addition, in order to be included on the lists of voters these people must complete a difficult procedure of being struck from the list in Ukraine and included on a list in the country of residence. The low turnover of voters abroad might also be the result of this difficult procedure.

### **Candidates and supporting groups**

Candidates and interest groups are actors who during the elections offer to voters their vision of the needs the country faces and ways to meet those. International dimension is naturally present in elections campaigns carried out by candidates.

Given that leading candidates are each backed by certain interest groups, we do not distinguish among these actors, as was pointed out earlier.

Of 24 candidates registered by the Central Election Committee before the first round (2 candidates of a previously registered 26 withdrew) only

<sup>4</sup> Borys Tarasiuk, Director of the Institute for Euro-Atlantic Cooperation mentioned the figure speaking at the roundtable “Problems of voting of Ukrainian voters abroad”, which took place in Kyiv on 29 September 2004

<sup>5</sup> Valentyna Liulia, Yarema Goroduk “Bez Prava Vyboru”// Lvivska Gazeta, 27 August 2004 and “Zarobitchany Hochut Golosuvaty”// Lvivska Gazeta, 30 September 2004. <http://www.gazeta.lviv.ua>

<sup>6</sup> Open letter of the Public Committee on 2004 Elections in Canada to Head of the Central Election Commission of Ukraine. 24 August 2004. <http://www.geocities.com/prosectorx/MAHU/ZvernProVidkrDodDiln.doc>

<sup>7</sup> Data of the Central Election Commission. Official web-page - <http://ic-www.cvk.gov.ua/wp0011>

<sup>8</sup> Interview by author with Iryna Prybytkova, expert on illegal migration.



2 candidates – Viktor Yushchenko and Viktor Yanukovych – enjoyed broad public support and therefore had a chance to win. Indeed, Yushchenko and Yanukovych made it through the first round – according to official results Yushchenko received 39.87 percent of votes and Yanukovych 39.32 percent.<sup>9</sup> Yushchenko won in 16 regions and in the capital, Kiev (western, northern and central Ukraine), while Yanukovych won in 9 regions and in the city of Sevastopol (eastern and southern Ukraine).

Both Yushchenko and Yanukovych are backed by certain groups – political factions/groups and business interests<sup>10</sup> – whose interests we will consider in the next section. After the first round of elections, Yushchenko's resources have increased. Other front-runners from the first round with their groups joined efforts to support Yushchenko. These include Oleksandr Moroz, leader of the Socialist party (5.81 percent of votes in the first round), and Anatoliy Kinakh, leader of the Entrepreneurs party (less than 1 percent of votes). It is also important that the Communists, whose leader gained 4.97 percent in the first round, did not support either of the two front-runners.

Both candidates and, more important, the interest groups that support them have certain foreign policy interests they are going to promote at the international level depending on the outcome of elections. Both candidates have foreign policy sections in their programs; their electoral campaign was marked by a high intensity of issues having to do with foreign policy and international topics. As concerns relations with external actors, both candidates and members of their teams have developed direct international contacts on different levels, and during the election period both candidates had intensive communication with international actors independent of each other.

The candidates and their teams have used international contacts in three important ways:

- Using direct communication with external actors and audiences (in person, press conferences, international media) to explain their agenda and ultimately receive certain support from those actors;
- Making widely reported international contacts increase voter support;
- Using international issues as part of their election programs to increase voter support, and manipulating international issues in order to discredit the rival candidate.

<sup>9</sup> Official information of the Central Election Commission. <http://www.cvk.gov.ua>

<sup>10</sup> For detailed description of those please see Sushko and Lisnychuk. We will touch upon interests of candidates and groups in the next section of the paper.

## Public authorities

Although the role of public authorities in elections should be that of providing equal opportunities and resources to all candidates and combating violations, this has not been the case in Ukraine. Independent NGOs as well as international observers and politicians have pointed out numerous violations on the part of public authorities before and during the elections, including unequal access of candidates to media and the use of administrative resources to influence voters and vote counting. In addition, opposition members and independent organizations provided evidence of law enforcement and security agencies interfering in the election process beyond the legal. With regard to foreign policy, Ukraine's traditionally inconsistent foreign policies have become even more so before the elections with an obvious shift towards Russia. In short, evidence of public authorities' biased standing in the elections process has been available and will be provided below. The most important actors here include:

- President Leonid Kuchma and his administration, run by SDPU(u) leader Viktor Medvedchuk. Kuchma's 10-year period in office has expired and political forces supporting him and controlling public authorities are interested in a victory for the candidate who would more or less preserve the existing status quo: Viktor Yanukovich. All other authorities, such as the Central Election Commission (CEC), law enforcement agencies and executive authorities (both central and regional/local) are controlled by the presidential administration. The process of elections and vote counting proved this. Even foreign policy (Ministry of Foreign Affairs) has become controlled by the administration of the president, significant evidence of which will be provided below.

- Parliament. Due to the presence of different political forces in it, the parliament serves rather as a counterbalance to executive authority. It keeps the record of the election process, its violations, etc. Moreover, it is an important platform for debate between the two groups of political forces that have united around the top two candidates in the first round. In fact, it can be argued the legislative function of parliament has been frozen during the election period as MPs are involved in electoral campaigns. Volodymyr Lytvyn, the head of the parliament, has become an important political figure during the elections. His behavior, which often ran contrary to the interests of the president, and support of some democratic steps show he is guarding the image of parliament and is probably trying to secure his future in case the opposition leader wins.

- The judiciary. Although the judiciary is not yet independent in Ukraine, certain court decisions taken during the elections, including before the Supreme Court, prove the judiciary has made efforts to be independent and fair.

It is important to note that one of the leading candidates, Viktor Yanukovich, is the acting prime minister. Many of his decisions and action in this capacity are considered guided by his electoral interests. It is therefore

sometimes difficult to distinguish his activities as the prime minister from those of presidential candidate.

### **Mass media and journalists**

Mass media plays an important role in the process of transition, particularly during the elections as a strong opinion maker. It is therefore not surprising that even a superficial analysis of media coverage shows that the majority of mass media are being used by public authorities and interest groups as tools to influence voters in favor of certain candidates. TV is the most popular medium in Ukraine, and therefore nationwide channels play an important role in opinion making. Those are the state-run national channel and several private channels (Era, 1+1, Inter, STB, Novy Channel, ICTV, Ukraina, and the Channel 5). In addition, there are one or two regional TV channels in each region, which also enjoy the broad audience in their particular region. Newspapers and radio are less popular on a nation-wide scale, but still serve as a source of information and opinion for many people.

Journalists, independent from TV channels they represent, also became important actors during the elections. The pre-election period witnessed a several journalists join in protests against pressure to use mass media as a means of manipulation. This resulted in more balanced news coverage right before the first round and between the two rounds of elections.

Russian media as a strong factor in Ukrainian elections should not be underestimated. Given that Russian informational space is strong in Ukraine due to the language factor and the Soviet legacy of Moscow-centered information control, Russian media can potentially serve as a tool to influence Ukrainian elections.

### **Civil society organizations**

NGOs have so far played a marginal role in Ukraine's transition, not the least due to the fact that they have had little connection with voters and lacked sustainability.

Nevertheless the 2004 presidential elections witnessed increased activities by NGOs involving large groups of people. Such NGOs as PORA, which organized largest demonstrations in Ukraine since independence, during and after the elections prove they are able to mobilize voters. In addition, it has been due to Ukrainian human rights organizations that many violations have been brought to the attention of international organizations. There are also Ukrainian NGOs that have played a key role in carrying out exit polls and monitoring mass media coverage.

In the context of international factors in the election, we consider NGOs to be important actors due to their dependence on foreign funding, which on one

hand allows them to be non-partisan agents but on the other hand serves as a source of speculation over foreign influence.

## **2. Interests and resources of different actors with respect to international factors**

This chapter will attempt to define the interests of different actors with respect to Ukraine's transition and Ukraine's international standing. What kind of Ukraine do those actors seek to create in terms of its international standing? What are the attitudes and opinions of domestic actors towards international actors and processes? These are the basic questions we will attempt to answer. There is a widely accepted perception that the two major presidential candidates represent two opposite perspective as to Ukraine's transition – a pro-European one (Viktor Yushchenko) and a pro-Russian one (Viktor Yanukovich). We will, however, attempt to take a deeper look at the interests of these and other candidates as well as other actors in Ukrainian society, including voters and public authorities.

### **Voters**

The interests of Ukrainian voters vis-à-vis Ukraine's international standing and attitudes towards international factors vary depending on different factors (level of education, age, regions of residence, etc.). There are three important features about Ukrainian voters that are important to consider in this paper. First, foreign policy issues do not rank high among priorities for Ukrainian voters. Social issues, which belong to the domain of domestic politics, are of higher importance to a majority of voters. Therefore, those foreign policy priorities are likely to be favored by Ukrainian voters that are considered to bring about economic prosperity and high social protection. Given that the linkage between those is not evident, Ukrainian voters' opinion as to foreign policy and international factors is subject to influence by opinion makers.

Second, a large number of voters simultaneously support different foreign policy objectives even if those are not consistent with each other from expert perspective.

Third, while Ukraine has become more homogeneous over recent years, the difference in attitudes towards international factors still depends on the region of residence. The historical legacy of the east-west division, as well as the geography of cross-border contacts, still plays a role in voters' attitudes towards international factors. For instance, many voters from eastern and southern Ukraine still feel nostalgic for the Soviet Union and have a deep psychological connection to Russia. Economic interests – many Ukrainians are seeking employment in Russia – and personal contacts play a role, as

well. At the same time, the population of western Ukraine confidently favors enhanced European integration. They are historically linked to Europe and have both economic and personal connections with people from EU member states.

However, it is important to note that the difference in voters' attitudes related to geography of residence does not divide the people of Ukraine. The voting behavior of people during the 2004 elections and mass activities all over Ukraine caused by falsifications prove this. Evidence suggests that voters from all over Ukraine have similar attitudes towards basic national values, one of those being the unity of the country.

All three claims can be supported by evidence provided by results of public opinion polls. The primacy of domestic politics over foreign policy is proved by the results of a poll conducted by the Razumkov Centre on July 2. According to the poll, social issues such as the increase of salaries and pensions and the return of savings rank highest – more than 95 percent. Strengthening the independence of Ukraine and the development of democracy ranked high – 77.0 percent and 75.4 percent, respectively. Issues related to foreign policy all rank below 70 percent.<sup>11</sup> Table 1 shows the scale of attitudes of Ukrainian voters towards different policy components.

**Table 1. Would you like that activities of the next president be directed towards...? (percent of those polled)<sup>12</sup>**

	Yes, I'd like that	No, I wouldn't like that	Difficult to answer
Increase of pensions and salaries	96.9	0.9	2.2
Return of savings	96.2	1.0	2.8
Fighting criminality and corruption	95.7	1.4	2.9
Lower municipal services tariffs	95.3	1.2	3.5
Lower prices for goods of mass consumption	95.1	1.5	3.4
Fighting oligarchs	80.3	5.2	14.5
Strengthening independence of Ukraine	77.0	8.6	14.4
Development of democracy in Ukraine	75.4	6.9	17.7
Creation of the Single Economic Space with Russia, Belarus and Kazakhstan	66.7	12.1	21.2
Carrying out market reforms	65.1	10.4	24.5
Closer relationship with the European Union	60.4	12.6	27.0
Accession to the European Union	48.9	19.3	31.8
Accession to NATO	22.3	45.9	31.8

<sup>11</sup> See Table 1 for details.

<sup>12</sup> Poll conducted by the Razumkov Centre among 2005 respondents over 18 years old all over Ukraine during 22-30 April 2004// Web-resource "Ukrainian Choice. Presidential elections 2004", 2 July 2004. <http://uv.ukranews.com/p4/rating/article.html?id=2642>

The same opinion poll (Table 1) as well as other polls mentioned below, demonstrate that a majority of voters support different directions of foreign policy simultaneously. While 66 percent favor creation of the Single Economic Space with Russia, Belarus and Kazakhstan, 60 percent favor a closer relationship with the EU and 48 percent support accession to the EU. According to another poll carried out by the Batory Foundation, 55 percent of Ukrainians support accession to the EU and 68 percent support accession to the would-be union of Russia and Belarus. According to a closer analysis within the project around 36 percent of those polled think membership in both unions is possible and entails no contradiction.<sup>13</sup> On the one hand this thinking is caused by objective factors, which is the position of Ukraine between the two integration spaces – the EU and post-Soviet integration projects both having strong influence on Ukraine. Another objective factor is the different historical memory of people residing in western regions compared to those from eastern and southern Ukraine. However, the major domestic reason for such a state is the scant attention Ukrainian authorities have paid to building Ukrainian national identity and developing consistent and open foreign policies. The elections have shown authorities can be even cynical in their manipulation of foreign policy and people's consciousness.<sup>14</sup>

*The difference in external orientation of voters according to geographical characteristic* is still the case in Ukraine. Polls show that people from western Ukraine support EU orientation and have a stronger national ideology (support for the Ukrainian language as the single official language). People from eastern Ukraine are rather pro-Russia and CIS-oriented or support a multi-vector foreign policy. They also tend to support a bi-lingual Ukraine. According to the above-mentioned poll carried out by the Batory Foundation, 39 percent of voters from western Ukraine support pro-Western foreign policy, while almost 40 percent of voters from central and eastern Ukraine support pro-Eastern foreign policy.<sup>15</sup> In addition to these different external orientations, people from eastern/central and western Ukraine always voted differently than communist Russian-speaking candidates and political forces enjoying greater support in Eastern Ukraine and right forces enjoying more support in Western Ukraine.

The 2004 elections have shown, however, that the line between the different attitudes have moved further east. While Viktor Yushchenko won in 16 regions of western, central and northern Ukraine and in Kiev, Viktor Yanukovich won in only 10 regions of eastern and southern Ukraine (including the city of Sevastopol). Following the mass falsifications of election results, many cities

<sup>13</sup> Joanna Konieczna, *Between the East and the West*, Stefan Batory Foundation 2003, p.5

<sup>14</sup> Examples will be provided in the next part.

<sup>15</sup> Joanna Konieczna, *Between the East and the West*, Stefan Batory Foundation 2003, p.8

and regional councils in regions where Yushchenko won recognized him as the president. At the same time the Donetsk city council suggested eastern and southern regions of Ukraine should establish autonomy within Ukraine;<sup>16</sup> members of the Kharkiv city council even suggested the capital of Ukraine to be moved from Kiev to Kharkiv, where Yanukovich will be recognized as a legitimate president.<sup>17</sup>

At the same time signs of consolidation of Ukrainians, despite regional differences, have appeared. Mass demonstrations protesting against falsifications took place all over Ukraine. Tens of thousands of people demonstrated in Donetsk, Kharkiv, Odessa, not to mention the regions where Yushchenko won. During the course of elections, a number of groups of voters “with would-be eastern orientation” expressed their support to Yushchenko. A group of miners from the Donetsk region did so,<sup>18</sup> as well as a group of Russian-speaking cultural elite.<sup>19</sup> This shows that Ukrainian national identity is getting stronger and more united around common values.

### **Candidates and supporting groups**

We can identify candidates’ interests and interests of their support groups (we limit these to parliamentary factions/groups and business interests as the most influential forces behind candidates) with regard to international factors by 1) looking at their rhetoric, pre-election programs and campaigns, 2) analyzing their and their support groups’ reaction to and role in important foreign policy decisions, 3) international economic interests of business groups and 4) international contacts of candidates. This will allow us to understand the potential foreign policy behavior of leading candidates and groups supporting them following the election.

Foreign policy is far from being a central issue as candidates present their agendas. Analysis of election programs of candidates shows that foreign policy is not important. Foreign policy issues are often limited to one sentence and are not elaborated. Much more emphasis is put on domestic issues, especially those with social dimensions.

Based on analysis of the programs of the two leading candidates we have compiled Table 2 below. It presents all issues that could be found in programs of these candidates that have to do with foreign policy and international orientation in general.

<sup>16</sup> [www.pravda.com.ua](http://www.pravda.com.ua), 24.11.2004, 12:46

<sup>17</sup> <http://tribuna.com.ua/>

<sup>18</sup> UNIAN informational agency. [www.unian.net](http://www.unian.net)

<sup>19</sup> Official site of Yushchenko Election Office. [www.razom.org.ua](http://www.razom.org.ua)

**Table 2. International factors in election programs of leading candidates**

Internationals factors	Viktor Yushchenko	Viktor Yanukovich
EU	Ukraine – European state	Enhanced European integration
NATO		
US		
Russia	Mutually beneficial, friendly and stable relations; consistent and transparent	Enhanced relationship with Russia
CIS cooperation		
Single Economic Space		
Ukrainian troops in Iraq		
Foreign investment	Increased investment + Ukrainian goods abroad	Increasing investment resources of Ukraine
Principles of foreign policy	Transparent, consistent and fair foreign policy; Real actions instead of declarations	Foreign policy subordinated to national interests
National minorities and foreign languages in Ukraine	Ukrainian as a state language. Free development of other languages, first of all Russian language <sup>20</sup>	Free development of Russian language as well as languages of other ethnic groups and cultures; freedom of religion

This table provides an interesting observation. The programs of Viktor Yanukovich and Viktor Yushchenko, who are considered to be so different in their foreign policy orientations, are very similar. Both candidates mention the European Union (or the notion of Ukraine being an EU country) and Russia as important partners, while their programs include no mention of NATO, the CIS or SES. Also, both candidates place emphasis on the free development and use of the Russian language – a sensitive issue for many Ukrainians who speak Russian as their first language. All in all, the programs of both candidates (those aspects which have to do with international factors) are very neutral.

Somewhat different results were obtained by analyzing pre-election rhetoric of candidates on different occasions as well as voting behavior of political forces supporting the candidates. While Yushchenko and his supporters have proved to be more consistent in terms of promoting Ukraine's European integration, Yanukovich and his supporters favored a number of steps that according to experts ran contrary to Ukraine's declared strategic "European choice" and allegedly were not in compliance with Ukraine's national interests. In addition, Yushchenko

<sup>20</sup> Interview of Oleksandr Zinchenko to Ekho Moskvu Radio, Russia, 06.08.2004)



and his supporters were consistent in their rhetoric and did not mentioned issues that went beyond or contrary to the program (the only exception was the issue of Ukrainian troops in Iraq). By contrast, Yanukovych made a number of statements that were not part of his electoral program, often contradicting each other.

We have summarized three types of information in the Table 3 below:

- the positions of the two top candidates towards events important to Ukraine's foreign policy that occurred in 2003-2004, as well as their role in those events;
- voting behavior of political forces that support the two candidates;
- candidate statements made during the election campaign or included on campaign posters.

**Table 3. Reaction/role of candidates and related interest groups to/in events/decisions related to foreign policy or international standing of Ukraine and attitudes expressed towards international factors<sup>21</sup>**

	<b>Yushchenko</b> and supporting parliamentary factions	<b>Yanukovych</b> and supporting parliamentary factions
Agreement on Single Economic Space	The “Our Ukraine” faction together with Yulia Tymoshenko block voted against.	Supporting factions voted in favor. Yanukovych in his capacity as prime minister promoted development and implementation of SES.
Energy policy: Odessa-Brody pipeline decision and gas supply to Ukraine	Gas balance should consist of not only Russian sources but also domestic and third party. Monopoly in supply by one party is a threat to stability of national interests of Ukraine.	The government of Yanukovych allowed “reverse” use of the pipeline. Backed agreement according to which Russia would supply Turkmen gas to Ukraine during 2005 – 2028 (now Turkmenistan supplies 45 percent of Ukraine's gas imports). The agreement puts Ukraine into total dependence of gas coming from Russia.
Ukraine's military doctrine. Prospects of NATO membership	Deepening of its integration with NATO. <sup>22</sup>	Ukraine is not ready to join NATO. <sup>23</sup> Ukraine will join NATO in “natural way”. Cooperation with NATO will be strengthened in the nearest future. <sup>24</sup> As prime minister was aware of and behind this decision. In addition Yanukovych stated accession to NATO would hamper military industry in Ukraine. Ukraine can participate in the European security system only together with Russia. <sup>25</sup>

<sup>21</sup> Information has been taken from news stories posted by different informational agencies, mostly UNIAN.

<sup>22</sup> Yushchenko said this while meeting Henry Kissinger on October 22 in Kyiv. Ukrainian News Agency, Kiev, Ukraine, October 22, 2004.

<sup>23</sup> Talking to military officers on 27 July, 2004. <http://www.korrespondent.net/main/98893>

<sup>24</sup> Talking to journalists on August 1, 2004. <http://www.korrespondent.net/main/99212>

<sup>25</sup> Statement of Viktor Yanukovych at the meeting with Russian mass media on 27 September 2004.

Ukrainian troops in Iraq	Ukrainian troops should come back to Ukraine. On 2 September Yushchenko proposed that parliament launch public hearings on Ukrainian soldiers in Iraq.	Ukrainian troops should return home as soon as the democratic elections take place in Iraq in the beginning of 2005.
European Union/ European integration	Ukraine's relations with the EU should be based on well-thought and step-by-step integration with consideration of readiness on both sides. New Neighborhood Policy is a temporary instrument leading from partnership to association with membership prospective. EU-Ukraine relations are a two-way street, although more steps must be made by Ukraine <sup>26</sup> . European integration is the means for domestic transformation. Ukraine should work towards being admitted to the World Trade Organization. <sup>27</sup>	Ukraine would best benefit from relations with EU based on short-term agreements. Equal partnership relations. WTO accession might undermine Ukraine's economy. <sup>28</sup>
Status of Russian language and relations with Russia	There should be a state program aimed at development of Russian and other languages in Ukraine. <sup>29</sup> Agreement on mutual travel regime between Ukraine and Russia according to external travel passport is to be abolished. Citizens are to travel with domestic passports. <sup>30</sup> Ukraine-Russia relations should be based on national, not family interests (private channels). <sup>31</sup> Yushchenko will not revise Ukrainian-Russian agreement allowing the Russian navy to stay in Ukraine until 2017. <sup>32</sup>	Russian language should become second state language in Ukraine. According to Yanukovych dual Russian-Ukrainian citizenship will be introduced if he becomes president. <sup>33</sup> At the same time the Government of Yanukovych signed an agreement with Russia according to which Ukrainians can travel to Russia with external travel passports only.

<sup>26</sup> Interview to *Süddeutsche Zeitung*, 1 October 2004.

<sup>27</sup> Yushchenko says this while meeting Henry Kissinger on October 22 in Kyiv. Ukrainian News Agency, Kiev, Ukraine, October 22, 2004.

<sup>28</sup> Statement made during the national TV debate on 15 November 2004.

<sup>29</sup> Interview to journalists on 12 November. Source – press center of Viktor Yushchenko, <http://www.yuschenko.com.ua>

<sup>30</sup> The agreement was signed.

<sup>31</sup> Interview to Russian newspaper “*Novaya Gazeta*”, 29 October 2004 and interview to *Moskovskiye Novosti*, 29 October 2004.

<sup>32</sup> Yushchenko said this while meeting journalists. Press Service of Viktor Yushchenko, 18 August 2004.

<sup>33</sup> Statement of Viktor Yanukovych at the meeting with Russian mass media on 27 September 2004. It is important to note that introduction of dual citizenship and Russian as a second language demand introducing changes to Ukrainian Constitution – a decision the Parliament, not the President can take.

This information shows that Viktor Yushchenko's behavior and that of his supporters is consistent with his electoral program and consistent in general, while Viktor Yanukovich speaks differently depending on the occasion. For instance, while speaking to Russian audiences he speaks about coordination on security issues between the two countries, but when addressing western audiences he speaks of Ukraine's strategic interests in the EU, although based on a short-term approach. Several times during the election campaign Yanukovich expressed different (if not contradictory) attitudes towards NATO and expressed skepticism over the WTO, although his government never took this issue out of Ukraine's agenda.

Viktor Yushchenko often speaks about democratic principles, European norms and values, freedom of speech and fair and transparent elections. Viktor Yanukovich positions himself as a pragmatic politician driven by economic interests, and his style of speaking is rather primitive.

This leads to the conclusion that the difference between the two candidates is not so much different foreign policy interests, but rather the principles of foreign policy: a consistent and open foreign policy aimed at promoting national interests, versus manipulative foreign policy. The facts also reveal the different value systems of the candidates. While Yushchenko places significant emphasis on democratic norms, Yanukovich mostly talks about living standards and economic growth.

The behavior of parliamentary factions close to the two candidates demonstrates considerable difference between the two camps. Pro-presidential factions (those who voted in favor of Yanukovich's candidacy for president) all supported ratification of the Agreement on the Single Economic Space and the reverse use of the Odessa-Brody pipeline. Factions close to Yushchenko voted against these. The decisions the pro-presidential factions took are considered by most independent experts to run contrary to Ukraine's national interests by increasing Ukraine's dependency on Russia. Results of public opinion polls also indicate that voters perceive Yushchenko to be more European oriented than Viktor Yanukovich. According to a poll by the Razumkov Centre, 29.6 percent believe Yushchenko can bring Ukraine closer to the EU, while 18.4 percent believe that Yanukovich can. It also showed 14.6 percent believe that neither of the candidates can bring Ukraine closer to EU accession, while 30.3 percent could not answer the question.<sup>34</sup>

An important observation was that issues having to do with relations with Russia and interests of the Russian-speaking population were frequently mentioned during the campaign. We argue, however, that to a large extent this

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<sup>34</sup> The poll was carried out by the Razumkov Centre between 22 and 28 July in all regions of Ukraine. 2014 people over 18 years old were polled. UNIAN News Agency, 06.08.2004.

has to do with public relations techniques applied during the campaign rather than with real issues affecting Ukrainian society. In the case of Yanukovych, these issues were used to gain votes among Communist party supporters and he succeeded in doing so (in 1999 presidential election Communist leader Symonenko in the second round gained 37.8 percent of votes and won in five southern and eastern regions<sup>35</sup> that Yanukovych won in 2004; in 2004 Symonenko received only 4.7 percent of votes). For Yushchenko these issues have been the means to counterbalance propaganda that shaped the image of Yushchenko as an anti-Russian and pro-western candidate.

While the issues of the Russian speaking population and relations with Russia are important for Ukrainian voters from eastern/southern Ukraine, those have never been the subject of restrictions. It is important for the Russian-speaking population from eastern and southern Ukraine that they be allowed to travel freely to Russia to maintain relations with their Russian relatives/friends and increase employment possibilities. It is also important for this part of Ukrainian society to use the Russian language freely. However, this have not been a problem in Ukraine. Travel limitations to and employment in Russia have been the subject of bilateral regulations or Russian legislation. The use of the Russian language is not restricted in Ukraine (apart from official documentation, universities and public authorities). The issue of double citizenship (Ukrainian-Russian) has not been the subject of public discussion in Ukraine for many years and surprised many people when it emerged. Thus, the importance of Russia/Russian language-related issues have been to a large extent exaggerated during the election period.

In order to define foreign interests of candidates, we also must consider business interests that back them. This information is not easily accessible as real owners of many businesses are hidden. Still, the information, which is available from open sources, allows us to conclude that business interests of groups that back Yanukovych or Yushchenko have strong interests in both Russian and the EU markets. The table below lists the major business-political groups in Ukraine and their foreign interests.

<sup>35</sup> Data of the Central Election Commission. Official web-page - <http://ic-www.cvk.gov.ua>

**Table 4. Foreign business interests of Ukrainian business groups<sup>36</sup>**

<b>Business-political group</b>	<b>Business interests abroad</b>
Industrial Union of Donbass (IUD) (Vitaliy Haiduk and Sergei Taruta)	Metallurgical industrial complex DAM Steel (Hungary) Metallurgical industrial complex Huta Czesochova (Poland) Pipe plant Walcownia Rur Jednosc (Poland) Metallurgical industrial complex Vitkovice Steel (Czech Republic) <sup>37</sup> Dunaferr Steelworks (Hungary) Ruzneftegazstroi (Uzbekistan)
Privat (Ihor Kolomoisky, Gennadiy Bogoliubov and Alexander Dubilet)	A ferroalloy plant in Poland <sup>38</sup> A II-II in Romania <sup>39</sup> AZOT Chemical plant (Perm region, Russia) Privatinvest Bank (Russia) Moskomprivatbank (Russia) Commercial Bank Privatbank, International Banking Unit (Cyprus)
System Capital Management (Rinat Akhmetov <sup>40</sup> )	Owner of 15 Metallurgical industrial complexes Network of hotels Rixos (Turkey)
Interpipe (Viktor Pinchuk <sup>41</sup> )	Much of the property in pipe production, agrarian sector, metallurgy and machine building belong to Ukrainian-US company “BIPE Co Ltd”
TAS (Serhiy Tyhipko)	Insurance Company “Rutas” (Russia)
SDPU (u) (Vikotr Medvedchuk <sup>42</sup> and Grygoriy Surkis)	_____
Energo (Gennadiy Vasiliev <sup>43</sup> )	Mine “Zrechnaya” (Russia) Mine “Kostromskaya” (Russia)
UkrpPromInvest (Petro Poroshenko <sup>44</sup> )	Lipetsk confectionary factory (Russia)
UrkSibBank (Alexander Yaroslavsky <sup>45</sup> )	Multibanka (Latvia) <sup>46</sup>
Alfa-Group (Mikhail Freedman and Viktor Wekselberg)	_____

<sup>36</sup> For classification of business groups, as well as information about their property and owners please see ProUA.com

<sup>37</sup> The two Polish Plants and the Czech one are those the IUD is planning to purchase. Please see magazine “Korrespondent” #43, 13 November 2004, p. 29

<sup>38</sup> No name available. Please see magazine “Korrespondent” #43, 13 November 2004, p. 29

<sup>39</sup> Ibid

<sup>40</sup> Rinat Akhmetov is considered to be the Donetsk king and leader of Donetsk financial clan.

<sup>41</sup> Viktor Pinchuk is son-in-law of the President Leonid Kuchma (1994 – 2004)

<sup>42</sup> Vikotr Medvedchuk is Head of the Administration of the President of Ukraine

<sup>43</sup> Gennadiy Vasiliev is Prosecutor General of Ukraine

<sup>44</sup> Petro Poroshenko is MP from Our Ukraine faction and very close to Viktor Yushchenko

<sup>45</sup> MP, Parliamentary group “Democratic Initiatives of Peoples Power”

<sup>46</sup> Please see magazine “Korrespondent” #43, 13 November 2004, p. 29.

All the groups listed above (aside from the UkrPromInvest controlled by Petro Poroshenko) are closely linked to pro-presidential factions in the parliament. The information in the table shows that many of them have clear interest in EU markets (not only in Russia). Also, many of the groups are involved in metallurgical, machinery, chemical and pipeline businesses. These items are export-oriented to both Russian and EU markets. For instance, in Ukraine's exports to Russia, machinery and equipment comprise 36 percent, metals 19 percent and chemicals 13 percent. In Ukraine's export to the EU, metals comprise 32 percent, fuel and energy 22 percent, machinery and equipment 10 percent and chemicals 10 percent.<sup>47</sup> The UkrPromInvest group close to Yushchenko is the largest candy exporter from Ukraine to Russia. In addition the group owns a candy factory in Russia. Therefore, economic cooperation with Russia is also very important for this group.

Based on this information, all large business interests in Ukrainian are equally interested in Russian and European markets. Therefore, at least from the perspective of economic interests, we cannot say that the group close to Yushchenko is strictly pro-European and the groups close to Yanukovych are strictly pro-Russian. Following that logic, groups that support Yanukovych would not be interested in the isolation of Ukraine from the EU following a falsified election.

International contacts of two leading candidates are also important to consider. The table below summarizes international meetings Yushchenko and Yanukovych had during September-October 2004.

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<sup>47</sup> Data of the National Bank of Ukraine. Provided by the Institute for Economic Research and Policy Consulting in Ukraine.

**Table 5. International contacts of Yanukovych and Yushchenko during the election campaign (August – November 2004)**

<b>Yushchenko</b>	<b>Yanukovych</b>
22 November – Yushchenko met ambassadors of foreign embassies in Ukraine and asked them to give their opinion on falsifications that took place during the second round of elections	20 November – Yanukovych met with Robert Menar, director-general of Reporters without Borders
November 20 – Sen. Richard Lugar (special representative of the US president to Ukraine for the second round of elections), Jacek Kliuchovsky, representative of the Polish government, Hert Arens, OSCE ambassador to Ukraine	19 November – Borys Gryzlov, speaker of Russian Duma and official representative of the Russian president for Ukraine's elections
12 November – Włodzimierz Cimoszewicz, Polish minister of foreign affairs	19 November – meeting with Senator Lugar, special representative of the US President to Ukraine for the second round of elections
11 November – Wilfred Martins, president of the European People's Party.	12 November – President <b>Putin</b> , Russian president in Crimea (together with Kuchma and Medvedchuk)
10 November – meeting with Viktor Orban, former Hungarian prime minister and vice president of the European People's Party	10 November – Hert Arens, OSCE ambassador to Ukraine
30 October (the day before elections) – Hert Arens, OSCE ambassador to Ukraine	30 October – Ihor Ivanov, Russian foreign minister
22 October – Henry Kissinger, former US secretary of state, in Kiev	28 October – <b>Putin</b> , during military parade in Kiev
21 October – Representatives of 30 foreign embassies in Ukraine, including those from the US, France, Germany, Canada, Israel and Great Britain	27 October – lunch with <b>Putin</b> in Kiev
6 October – OSCE delegation and its secretary general, Jan Kubish, in Vienna where Yushchenko undergoes treatment	22 October – Henry Kissinger in Kiev
2 October – telephone conversation with Javier Solana, CFSP high representative on Solana's initiative.	9 October – <b>Putin</b> , Dmitrii Medvedev, head of the administration of the Russian president and Mikhail Fradkov, Russian prime minister, together with Kuchma
28 September – PACE Delegation in Kiev	9 October – Alleksey II, Orthodox Patriarch of Moscow
27 September – Delegation from Israel	8 October – Medvedev in Moscow
23 September – Nino Burdzhnadz, speaker of the Georgian parliament	6 October – telephone conversation with Javier Solana
20 August – Delegation of Republican US senators	27 September - PACE Delegation in Kiev
	27 September- Russian media in Kiev
	2 September – trip to Iraq
	18 August – <b>Putin</b> and Fradkov together with Kuchma in Sochi
	13 - 17 August – during Olympic Games in Greece, Alexander Kwasniewski, Polish president, Konstantinos Karamanlis, Greek prime minister, Greek businessmen and journalists

The important observation is that while Yanukovych met Putin and other Russian officials four times during four months, Yushchenko did not have any meetings of the kind. Given that Yanukovych had all the meetings with Putin

together with Kuchma, we assume that Kuchma has been trying to persuade Putin to support Yanukovych's candidacy. In addition, none of the meeting with Putin was linked to any interstate working relations. These were, rather, personal meetings. This does not mean, however, that Yushchenko avoided contacts with Russian representatives, but rather they did not initiate any meeting of the kind. On the other hand, Yushchenko was more active in meeting foreign diplomats in Kiev, particularly just a few days before each round of voting and right after the second round.

It is important to briefly touch upon interests of Oleksandr Moroz and Anatoliy Kinakh, who both ran for president and supported Yushchenko after the first round. Analysis of their election programs proves they do not differ much from Yushchenko's program in terms of international issues and foreign policy. The only issue that caused discussion was the neutrality status of Ukraine – an important issue for Moroz.<sup>48</sup> Following the discussion, however, this issue was excluded from the agreement Yushchenko and Moroz signed after the first round.

To summarize, one can define two types of interests as to Ukraine's transition and international standing that prevail in Ukrainian politics and are backed by the two leading candidates.

The first approach can be summarised as European-oriented and reform-minded. It presupposes balanced foreign policy in accordance with national interests of Ukraine. The approach can be summarized as: "We must not lose the Russian market, but it will be a great mistake if we miss the train to Europe." This approach presupposes the policy of integration with the European Union as the major foreign policy and domestic transformation objective. Therefore, and more important, this approach is reform-oriented, focusing not only on market reforms, but also on meeting political criteria as set out by European organizations. An open and transparent foreign policy is another key point of this approach. Interest groups that support Viktor Yushchenko in the 2004 presidential elections support this model of transformation according to the analysis provided above.

The second approach can be summarized as rather pro-Russian (this does not mean isolation from the European Union) and conservative in terms of carrying out reforms. It claims Ukraine should finally grasp that the EU will not recognize Ukraine as potential member state in the visible future. Therefore, Ukraine should remove the goal of EU membership from its agenda. Ukraine should carry out reforms needed to reach the living standards of the EU and develop such relations with the EU as did Norway and Iceland – close

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<sup>48</sup> It is evident from Moroz's election program. The election programs of all candidates can be found at the web-site Ukrainian Choice. Presidential Elections 2004. <http://uv.ukranews.com>



integration without membership. This model presupposes close relations with Russia to the extent that it does not contradict the interests (mostly business interests) of ruling elites. This model is convenient in terms of justifying continued balancing between the EU and Russia. It is in the interest of those groups who wish to preserve the status quo in relations with the EU and Russia (decorative EU integration in order to avoid isolation without EU-oriented reforms, and close personal networking-based relations with Russia). Business environment/interest groups supporting Viktor Yanukovych's candidacy seem to be promoters of this model.

The post-election process of Ukraine's transition and its international standing will depend on which model and interest groups win the elections.

### **Public Authorities**

It is difficult to distinguish between the behavior of Viktor Yanukovych as prime minister and that as candidate. In addition, there is sufficient evidence that many actions he has undertaken as prime minister are aimed at increasing his winning chances as the candidate (pension reform, socially oriented budget for 2005, etc.). Given that a new government will be appointed after presidential elections, the interests of Yanukovych as candidate and potential president thus override his interests related to short-term work in the government.

It is more important to consider the interests of the presidential administration run by Viktor Medvedchuk and President Kuchma, whose 10-year period in office is over.

Already during his first term in office, Kuchma behaved as a consistently pro-European politician. In June 1998 he adopted the National Strategy of Ukraine's integration into the EU, which stipulated full membership in the EU as Ukraine's long-term strategic goal. Since then a number of other important legislative and institutional steps were made to reinforce Ukraine's European integration. Those were, to a large extent, declarative steps. Nevertheless the idea of Ukraine's future membership in the EU has become a dominant one among public authorities and in the society at large.

The situation has somewhat changed since the appointment of Viktor Medvedchuk as head of presidential administration in June 2002, and especially since 2003. In September 2003 President Kuchma signed an agreement on creation of the Single Economic Space with Russia, Belarus and Kazakhstan. This step was made without any preliminary consultation with parliament or even the cabinet of ministers. Further steps on foreign policy taken by the administration ran contrary to the constitution. According to a decree issued in December 2003, "On Measures to Increase the Efficiency of Foreign Policy of the State," the foreign ministry has become practically subordinated to the administration of the president. A number of people with clear pro-European aspirations were dismissed

or decided to leave top positions in the government (Haiduk, Khoroshkovsky and others in January). In August 2004 President Kuchma met President Putin nine times and many of the meetings took place behind closed doors. Closer to the date of elections a number of even more radical steps were made, showing an obvious shift in Ukraine's foreign policy towards Russia.

All these facts prove that public authorities in Ukraine, which are controlled by interest groups close to President Kuchma, are interested in the policy of balancing between the EU and Russia.

The position of parliament serves as a counterbalance to the administration of the president and to the government. Parliament made an important step on 19 October, appealing to the people of Ukraine to participate in the election. The appeal also addressed public authorities, demanding them to provide for fair elections in compliance with the law. The appeal also states that the presence of a large number of international observers for the election means Ukraine belongs to the world community. The motion also expressed a wish that international observers be non-biased and objective. Of 289 MPs present, 249 MPs voted in favor of the motion. MPs from the SDPU (u), Labour Ukraine, the United Ukraine factions and Democratic initiatives and the Union groups (all belonging to former pro-presidential majority and supporting Prime Minister Yanukovich) did not take part in the voting.<sup>49</sup>

Also important, on the eve of the second round of elections parliament adopted legislation prohibiting voting by "*otkrepnye talony*," or mobile voting, and the changing of members of local election commissions later than two days before the voting. Of 388 MPs present on 18 November, 236 supported the bill.<sup>50</sup> President Kuchma, however, did not sign the bill, which allowed numerous falsifications in the second round, as expected.

Volodymyr Lytvyn, the speaker of parliament, is also an interesting case. His behavior after Yanukovich was nominated by a parliamentary majority demonstrated his support for democratic changes in Ukraine. He was personally active internationally, and he took practical steps to work with NGOs. For instance, in April 2004 he created the NGO Council funded by the local Soros foundation in Ukraine and consisting of leading think-tank representatives. The council gathered on a regular basis and proved a valuable advising body to Lytvyn.<sup>51</sup> Several days before the second round of elections he said all responsibility for possible falsifications lies with the authorities,<sup>52</sup> which also demonstrated his democratic orientation.

<sup>49</sup> UNIAN News Agency, 19 October 2004. [www.unian.net](http://www.unian.net)

<sup>50</sup> [www.pravda.com.ua](http://www.pravda.com.ua)

<sup>51</sup> Bulletin of the European Programme, Issue 1, July 2004. International Renaissance Foundation. [www.irf.kiev.ua](http://www.irf.kiev.ua)

<sup>52</sup> UNIAN News Agency, 19 November 2004. [www.unian.net](http://www.unian.net)

## Media

The role the media played in Ukraine's election process is two-fold. On one hand, the media served as a tool for manipulation. On the other hand, protests by journalists, which escalated before and during the elections, served as an important signal to voters.

During the election the media was actively used as a tool to manipulate voter opinion. TV channels, especially during primetime, presented the pro-government candidate in a very positive light, whereas the opposition candidate was shown in a very negative light. Numerous independent monitoring organizations reported biased coverage of the election campaign, including BBC Monitoring Service, the Academy of Ukrainian Press and Media Monitoring in Bratislava. According to the latter, Viktor Yanukovich received more than 60 percent of campaign coverage on UT-1, Inter, 1+1, ICTV, and TRC "Ukraine" TV channels. STB and Novy channel provided between 40 and 50 percent of campaign coverage to Yanukovich. All these channels provided only between 13 and 30 percent of air time to Yushchenko. The only channel, which provided balanced information was the Channel 5. Also, all the channels (apart from 5) provided mostly negative coverage of Yushchenko and only neutral or positive coverage to Yanukovich.<sup>53</sup>

In addition TV media also broadcast reports in which Yushchenko, the opposition candidate, was presented as nationalist and radical, a person that perceives Ukrainians from non-western Ukraine to be second- and third-class citizens and who would divide the country.

On the other hand, the position of journalists who during the election campaign protested against biased reporting was very important. They brought attention to the weakness of freedom of speech in Ukraine. Protests by journalists started when the bank account of Channel 5 was blocked by pro-presidential MP Sivkovych and cut off the air in many regions of Ukraine. As a result, the leadership and journalists at the channel announced a hunger strike on October 23, which lasted several days until the account was unblocked. Soon afterwards a group of 39 journalists from 5 major national channels announced they would report objectively,<sup>54</sup> and a group of 7 journalists from 1+1 channel (one of the most biased) abandoned the channel. Between the first and second rounds more and more journalists protested. As a result, after the second round most of national state-controlled TV channels had to stop showing news programs.

So, while the media played a very negative role in the run up to the election by depriving people of objective information, the wave of protests from journalists resulted in more or less fair media coverage close to and after the second round.

<sup>53</sup> EOM Media Monitoring. <http://www.memo98.sk/en>

<sup>54</sup> Press-release of Kyiv independent media professional union, 28 October, 2004.

### 3. Activities during the election

This chapter analyses how domestic actors organize and utilize foreign factors to achieve their own goals during the elections. The chapter will look at tools domestic actors use to either limit the impact of international actors on the elections, the opinions of voters and the overall transition process, or to enhance that influence or transform it into a different kind of influence.

#### *Ukrainian international obligations with respect to holding fair and transparent elections and the attitude towards those during the elections*

While Ukrainian legislation is considered quite democratic and in compliance with basic international norms and principles, this has not provided for democratic practices in Ukraine. In other words, it is the enforcement of law and not the absence of appropriate legislation that has been Ukraine's problem. Therefore, even though from a formal perspective Ukraine has adhered to international democratic principles by having become a party to international organizations and treaties, this does not mean Ukraine keeps to those in its domestic politics. Moreover, in recent months Ukrainian authorities have attempted to interpret these obligations as interference into domestic politics and even tried to revise those. On the other hand, Ukraine's international obligations serve as a legal basis for international donor organizations to fund Ukrainian NGOs working towards enhancing democracy and developing civil society. This has brought some results. No matter how brutal and violent the election campaign in Ukraine was, all violations were widely reported and brought to the attention of the international community.

Given that there is a substantial body of literature on Ukraine's international obligations with respect to the rule of law, human rights, freedoms, and free and transparent elections,<sup>55</sup> we will not go into details. It is important to mention that Ukraine's obligations with respect to providing for free and transparent elections stem from Ukraine's membership in the UN, OSCE, Council of Europe, European Bank for reconstruction and Development, CIS and Inter-parliamentary Union. Ukraine is also a party to bilateral agreements with the EU (PCA) and NATO, which oblige it to adhere to democratic principles and values, including free and transparent elections.

While these obligations allow international organizations to exercise moral pressure on Ukraine, Ukraine's domestic politics show that international pressure has never had significant impact on the behavior of authorities. This ignoring

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<sup>55</sup> For comprehensive summary and analyses on Ukraine's international obligations with respect to elections please see National Security and Defense, #5, 2004. Ukrainian Centre for Economic and Political Studies named after Razumkov.

of international obligations by Ukraine has become exaggerated before and during the elections. Media monitoring revealed biased coverage of candidates on a majority of pro-presidential channels. Election monitoring organizations reported on numerous instances of interference by public authorities into the election process and on the days of voting. This was especially evident during the second round when the national exit poll organized by the Democratic Initiatives NGO, carried out by the Razumkov Centre and the Kiev International Institute of Sociology in cooperation with experts from Poland and Russia and funded by international donors, reported Yushchenko received 54 percent of votes, while Yanukovich received 43 percent of votes.<sup>56</sup> According to sociologists, a mistake in the data could equal no more than 2 percent. As a result of numerous falsifications that were recognized by international organizations, Yanukovich won, according to official results. Obviously, warnings from western institutions and governments did not influence authorities.

Ukraine went a step further by accusing international organizations of interfering in Ukraine's domestic politics and of trying to revise the basic principles of these organizations. In May 2004 a Communist MP, Mishura, expressed a strong anti-western position in the context of forthcoming presidential elections. In a report presented in parliament by MP Mishura, he criticized the involvement of western states and donors through the support of NGOs, which favor certain political forces (meaning the Our Ukraine bloc). This report presented incorrect figures and failed to provide evidence to back many of its claims. Nevertheless it showed a negative attitude of Communists towards western influence on presidential elections in Ukraine.

In addition, Viktor Yanukovich and other public authorities criticized the idea of carrying out exit polls, arguing such polls will be used to manipulate voters and accuse authorities of fraud. Ultimately they did not recognize the results of the exit poll mentioned above. The large-scale exit polls were carried out in the first and second round in Ukraine due to financial support of several western embassies and donor organizations in Ukraine.

Probably the most vivid examples of Ukraine's abandonment of its obligations include joining the anti-OSCE declaration issued by CIS countries on July 9, 2004. Russia, together with other CIS countries including Ukraine, accused the OSCE of failing to respect their sovereignty. A written statement said the OSCE does not respect fundamental principles such as non-interference in internal affairs and respect of national sovereignty.<sup>57</sup>

Another example is the summoning of the Canadian ambassador, Andrew Robinson, to the foreign ministry over his September 21 press statement on

<sup>56</sup> <http://uv.ukranews.com>

<sup>57</sup> <http://www.rferl.org/featuresarticle/2004/07/7335a25f-6b7c-41aa-bc8f-94d973103166.html>

the presidential election campaign.<sup>58</sup> Also, soon after the second round of elections that were reported as falsified by the OSCE and other international organizations, President Kuchma while talking to the prime minister of the Netherlands by phone blamed the EU for statements criticizing the elections, saying those “might lead to an escalation of the situation in Ukraine.”<sup>59</sup>

On the other hand, international obligations of Ukraine have created the ground for numerous human rights and other NGOs in Ukraine to report on violations and help Ukrainian citizens appeal to international organizations and domestic courts. For instance, on August 10 the International Helsinki Federation on Human Rights (Vienna) reported it received numerous claims from Ukrainian citizens that were pressed to support the current prime minister’s candidacy and were threatened for supporting the opposition candidate.<sup>60</sup> Those claims were formulated and reached Vienna due to the assistance of Ukrainian human rights organizations. In addition, the Ukrainian Helsinki Human Rights Association in October submitted an appeal on violent detentions to UN WG, UN committee against tortures, European committee against tortures and brutal treatment and other international human rights organizations reporting about numerous human rights abuses before the elections.<sup>61</sup>

### *Restriction of international influence over presidential elections by the means of Ukrainian legislation*

The basis for restrictions on foreign influence during the elections is laid down in Ukrainian legislation, in particular on the Law “On Elections of the President,” which was amended on 18 March 2004. In short, it provides for activities of international observers, but restricts any activities that can be considered interference in Ukraine’s domestic matters. Such activities include agitation in favor of certain candidates and financial support of electoral campaigns.

For instance, Article 37 of the law stipulates only two sources for financing electoral campaigns of candidates – the state budget and election funds of candidates – thus restricting possible financial support from non-domestic sources.

In addition, Article 47 defines the election funds of a candidate as being formed out of his/her own resources, resources of parties (or parties that belong to an election bloc) that nominated his/her candidacy, as well as optional contributions from individuals. Foreign citizens and individuals without

<sup>58</sup> The Action Ukraine Report, Year 04, Number 171.

<sup>59</sup> [www.pravda.com.ua](http://www.pravda.com.ua), 23.11.2004, 16:46

<sup>60</sup> *Ukainska Pravda*. 10 August 2004, [www.pravda.com.ua](http://www.pravda.com.ua)

<sup>61</sup> Information provided to author by Yevhen Zakharov, Head of the Ukrainian Helsinki Human Rights Association.

citizenship are prohibited from making donations. Anonymous donations are prohibited as well.

Furthermore, Article 64 prohibits pre-election campaigns from being carried out in foreign mass media, which work on the territory of Ukraine. Following this Article 70 states that official observers from foreign states and international organizations have no right to use their status to act beyond the elections process or to interfere with the work of electoral committees.

### *Ukrainian authorities use Russian factor as the means of manipulation*

Russia is an important factor during the elections for two reasons. First, 25,000 Ukrainian citizens are officially registered as residing in Russia.<sup>62</sup> According to the Ukrainian foreign ministry, 200,000 Ukrainians who have the right to vote live in Russia.<sup>63</sup>

According to unofficial data 1.5-7 million Ukrainians live in Russia.<sup>64</sup> How those Ukrainians vote will have certain implications for the outcome of elections. Second, the Russian factor is being used to influence voter opinion concerning the candidates. Many Ukrainians, especially those from eastern and southern Ukraine, still feel nostalgic about Ukraine and Russia forming a big country. It is also the country whose language they speak. Many have relatives in Russia. In addition, to many Ukrainians Russia is a strong and highly respected country in international politics. Thus, a close relationship with it leads to strength and a good image for Ukraine abroad. Therefore, Ukrainian-Russian relations and related issues (for instance, status of the Russian language in Ukraine) can easily become a means of manipulating voter opinion.

The issue of Ukrainian citizens who reside and work in Russia has become widely discussed in the campaign. It is particularly emphasized by public authorities and by Viktor Yanukovich. In addition, numerous examples of pressure applied to Ukrainians in Russia to vote in favor of Yanukovich can be provided.

The first aspect that became the subject of debate was the number of polling stations in Russia. This issue was first raised in March when the Ukrainian embassy in Russia submitted a letter to the Russian foreign ministry asking to allow 650 additional polling stations for the presidential elections. The initial number of polling stations in Russia was four.<sup>65</sup> On 24 October, the Central Electoral Committee allowed an additional 420 polling stations in Russia and, under the

<sup>62</sup> Olekzandr Zinchenko, Head of Yushchenko Election Office, Interview to 5<sup>th</sup> Channel, 21.35, 25 October 2004.

<sup>63</sup> Vysokyy Zamok web site, Lviv, 16 Sep 04

<sup>64</sup> Vybor Gastarbaiterov, Korrespondent, 23 October 2004, pp. 24 – 25.

<sup>65</sup> Olha Dmitricheva “President of Ukraine in Russia – Viktor Yanukovich?”, Zerkalo Nedeli, #42 (517), 16-22 October 2004

pressure of MPs from the Our Ukraine bloc, decided to open a further 41 polling stations.<sup>66</sup> This high attention towards Ukrainian voters in Russia on the part of Ukrainian authorities looks surprising in contrast to the neglecting of Ukrainian voters in the EU, US, Canada and other countries. In those countries, polling stations are attached to embassies and consulates, whereas proposed polling stations in Russia would work beyond Ukrainian diplomatic offices. It is difficult to find lawful grounds for such behavior on the part of Ukrainian authorities. There are no compact settlements of Ukrainian voters in Russia aside from Moscow and western Siberia. Therefore, many polling stations would be useless.<sup>67</sup> Given this, many believe the high number of polling stations in Russia could lead to fraud. For instance, according to Valeriy Semenko, the deputy head of the Union of Ukrainians in Russia, an additional 400 polling stations would allow officials to falsify around 1 million votes.<sup>68</sup> Finally, on October 29 the Supreme Court of Ukraine satisfied the appeal of Viktor Yushchenko and cancelled the decision taken by the Central Electoral Committee to open an additional 41 polling stations in Russia.<sup>69</sup>

Another aspect related to Ukrainian voters in Russia is the explicit pro-Yanukovych propaganda in Russia. Several Internet publications, Channel 5 and Korrespondent magazine reported on Russian billboards with the picture of Yanukovych saying “Ukrainians of Russia choose President Viktor Yanukovych October 31.”<sup>70</sup>

Similarly, Russia has become a tool for manipulation to influence voters in Ukraine. Probably the most explicit example is the visit of Russian President Putin to Ukraine to commemorate the 60th anniversary of freeing Ukraine from German occupation during the World War II. Two days before the military parade where Putin participated, three national channels in Ukraine (Inter, 1+1 and national channel 1) organized a live one-hour broadcast with Putin. While Putin behaved diplomatically, Ukrainian journalists asked him questions that presupposed answers showing sympathy with Yanukovych and praising his achievements as prime minister.<sup>71</sup>

Yanukovych’s campaign has also organized open-air concerts with popular Russian singers. One such concert took place in Donetsk on 29 August. Iosif Kobzon and Russian rock-band “Refleks” took part.<sup>72</sup> On 16 September a

<sup>66</sup> UNIAN News Agency. [www.unian.net](http://www.unian.net)

<sup>67</sup> Falcification of votes with the help of Russia may account to 1 000000. [www.pravda.com.ua](http://www.pravda.com.ua), 20.10.2004, 17:55

<sup>68</sup> Ibid

<sup>69</sup> Unian News Agency, [www.unian.net](http://www.unian.net), 28.10, 18.20.

<sup>70</sup> The picture of the billboard can be found in “Vybor Gastarbaiterov,” Korrespondent, 23 October 2004, pp. 24 – 25.

<sup>71</sup> The transcript of the conversation, as well as video files can be found at the official site of the President of Russia. [http://www.president.kremlin.ru/appears/2004/10/27/0000\\_type63379type63381\\_78550.shtml](http://www.president.kremlin.ru/appears/2004/10/27/0000_type63379type63381_78550.shtml)

<sup>72</sup> <http://www.korrespondent.net/main/101005>



representative of the Yanukovych team submitted an appeal to the city council asking for a permit to hold a concert in Rivne with Russian singers in support of Yanukovych.<sup>73</sup> On 12 October another concert took place in Pavlovgrad.<sup>74</sup>

Another example of using Russia to put pressure on the opposition was announcement by Russia's prosecutor's office that Yuliya Tymoshenko would be the subject of an international criminal investigation. No indignation was expressed or attempt to protect Tymoshenko was made by Ukrainian authorities, suggesting they were involved or even planned this move. Ukrainian mass media widely reported that Tymoshenko supports Yushchenko's candidacy. Right after the second round of elections, the People's Power Coalition said a source in the interior ministry said the minister, Mykola Bilokon, ordered Tymoshenko's arrest by Ukrainian police and sent to Russia.<sup>75</sup>

Still another example is the fact that Viktor Yanukovych managed to collect 562,000 signatures of Ukrainian nationals living in Russia in his support. This took place despite the fact that according to the Ukrainian foreign ministry, only 200,000 Ukrainians who have the right to vote live in Russia.<sup>76</sup>

These examples show how skillfully Ukrainian authorities, in cooperation with Russia, managed to engage Ukrainian citizens living in Russia in the election campaign in support of Yanukovych and also use Russian actors in the campaign. While these steps cannot be considered unlawful, they demonstrate the close hidden personal contacts between Ukrainian and Russian authorities. These seem to be the major source for building relations between the two countries. The alarming news about the presence of Russian troops in Kiev after the second round of elections shows how deeply rooted this policy-making is. It shows that the interests of the elite that have run the country for 10 years and would continue doing so if Yanukovych becomes president are above the national interests of Ukraine.

### *Speculation over alleged east-west division of Ukraine and creation of a negative image of the West*

A closer look at the electoral campaign reveals intensified efforts to exaggerate the alleged east-west division of Ukraine and create a rather negative image of the European Union, US and western international organizations in the minds of Ukrainian voters. Simultaneously, efforts are applied to create the image of Viktor Yushchenko as a pro-western and anti-Russian candidate. It

<sup>73</sup> UNIAN, 23 September, 17.19

<sup>74</sup> <http://5tv.com.ua/newsline/119/0/1719/>

<sup>75</sup> [www.pravda.com.ua](http://www.pravda.com.ua), 24.11.2004, 13:21

<sup>76</sup> Vysokyy Zamok web site, Lviv, 16 Sep 04

can be assumed that such methods are aimed at discrediting Yushchenko and diminishing his chances to win.

Monitoring of mass media coverage of Ukraine's international relations reveals little attention to EU-related matters. Based on the monitoring of news programs on major TV channels during June 2004, 6.2 percent of all news dealt with EU-Ukraine relations (this relatively high interest can be explained by the fact that on 8 July a EU-Ukraine annual summit took place), 1 percent with Ukraine-Russia relations and about the same amount with news of Ukraine's relations with international financial organizations. In July the situation was somewhat different. This was the first month when pre-election campaigning was allowed. In July 4.8 per cent of news dealt with Ukraine-Russia relations, 2.3 percent with Ukraine-EU relations, 2 percent with Ukraine-NATO, 1.8 percent with the Single Economic Space and 1.2 percent with Ukraine-US relations. Interestingly, all Ukrainian channels monitored present political international news with relation to Ukraine from one perspective only – over 80 percent of news stories (the only exception is the Channel 5, which provides one perspective for 60 percent of news stories).<sup>77</sup> Monitoring results from later months was very similar.

In addition, the state-controlled mass media and other pro-presidential media in Ukraine did not aim to create an attractive image of the EU in the eyes of Ukrainian citizens during the elections. It focused extensively on legal violations, corruption and other imperfections in the EU. It also reported widely on negative impacts of accession on new member states in the EU and on Euro-skepticism across the EU. As a result Ukrainians received rather negative information about the EU.<sup>78</sup> An opposition MP, Mykola Tomenko, has claimed several times he is aware of anti-EU “*temnyky*” (sort of guidelines for journalists), which originated with the administration of the president and were distributed among journalists. The administration of the president and foreign ministry denied this.

Analysis of election TV reels of some candidates shows they widely exploit the thesis that Yushchenko represents the interests of the US and the West, in general. They claim that Yushchenko as president would turn voters from eastern Ukraine into second-class citizens. For instance, Oleksandr Bazyliuk, the leader and presidential candidate of the Slavonic Party, in his pre-election TV reel says Yushchenko's American wife should become a Ukrainian national. Earlier in September he called on the Verhhovna Rada to prohibit those aspiring

<sup>77</sup> Monitoring of Political News. Major Results// Academy of Ukrainian Press and Institute of Sociology, NAS of Ukraine, June-July 2004.

<sup>78</sup> Those are personal observations of the author. Reading through several regional newspapers distributed in Eastern Ukraine proved this.

for the presidency to be nominated for this post if members of their family are foreign citizens. Other TV reels broadcast on Inter TV showed fascist symbols combined with Yushchenko's election campaign colors obviously aimed at discrediting Yushchenko.

Beyond media involvement, authorities applied even more brutal techniques. Evidence is available that also suggest an active anti-American campaign being employed by Yanukovych's government. For instance, Vasyl Kremen, the minister of education, ordered teachers at schools to make their pupils write letters to the US President complaining of "US interference."<sup>79</sup> Another example: 150 tons of anti-American posters were found in Kiev at the same warehouse where Yanukovych campaign posters were stored. Those posters showed the upper part of Bush's face combined with the lower part of Yushchenko's face on the background of a US flag<sup>80</sup>.

As with the above, these facts lead to the conclusion that the interests of the ruling camp are more important than those of the people of Ukraine. Obvious involvement of the government at all levels in the election campaign of Yanukovych and in making reckless propaganda show how deeply rooted is the cynicism of the authorities.

### *Shift of Ukraine's foreign policy in the direction of Russia*

The pre-election period in Ukraine has been marked by consistent steps away from European integration and in the direction of closer links with Russia and the post-communist space, in general. Political analysts suggest these steps are being made to provide for Russia's support to Viktor Yanukovych, who is supposed to preserve the existing status-quo in policy-making in Ukraine. We can assume that such status quo is in the interest of Russia, whose actors are used to informal and non-transparent methods of communication and business. Similarly, such status quo is in the interest of the political elite surrounding Kuchma. The fact that Ukraine has made a number of substantial concessions towards Russia that hampered its international image, leads to the question of whether Russia was not quite sure it was going to support Yanukovych. Whether Ukraine's concessions help receive Russia's support is still an open question. The chronology of Ukrainian concessions is as follows:

- 14 May. Oleksandr Chalyi, first deputy minister of foreign affairs on European integration, was dismissed by the decree of President Kuchma. Many politicians from the EU as well as ambassadors of EU member states to Ukraine reacted negatively to this step.

<sup>79</sup> www.Pravda.com.ua, October 20.

<sup>80</sup> Magazine „Korrespondent“ #41 (130), 29 October 2004 showed the picture.

- Beginning of July 2004. The Cabinet of Ministers amended previously adopted resolution that prohibited the use of the Odessa-Brody pipeline other than for transporting Caspian oil to the EU. According to the amended resolution, Ukraine could use the pipeline for other purposes. A few days later, on 8 July, the Ukrainian company Ukrtransnafta signed a contract with Russian-British company “TNK – BP” obliging Ukraine to use the Odessa-Brody pipeline in the opposite direction for the transport of Russian oil for three years. This decision was taken despite the previous declaration Ukraine adopted together with the EU and Poland supporting transportation of Caspian oil via the Odessa-Brody pipeline to Poland and further into the EU. The EU, US and Poland all reacted negatively to this decision and expressed serious concerns.

- 15 July. President Leonid Kuchma issued a decree amending the 16th article of Ukraine’s defense doctrine. The sentence “Ukraine is preparing itself for full membership in the EU and NATO” was deleted from the article. Another phrase indicating Ukraine’s willingness to join NATO was taken out, as well. In late July when the changes were made public, Poland, the EU, NATO and the US expressed concerns over these changes, while Russia said it supports the new version.

- 23 September. Yevhen Marchuk, Ukrainian defense minister, was dismissed by decree by the president. During the Istanbul NATO summit in late July, Marchuk said Ukraine-NATO relations would improve after presidential elections. According to him, Ukraine would work hard towards implementation of the NATO-Ukraine target plan and this would allow both sides to work within the format of the Membership Action Plan.

These decisions were taken against the background of pro-Russian rhetoric by President Kuchma. While in Novokramatorsk in eastern Ukraine on 27 September 2004, he said Ukraine’s economic future lies with Russia and its partners. According to Kuchma, the country needed to continue cooperating in the common economic space of Russia, Ukraine, Belarus and Kazakhstan.<sup>81</sup>

All the examples presented in the chapter undermine the credibility of Ukraine’s active European integration policy during Kuchma’s second term in office. In order to provide for the victory of the candidate convenient for oligarchs surrounding Kuchma, the advancement of Ukraine’s European integration, no matter how weak, were swept away in a few months. The conclusion is that Ukrainian authorities have never taken seriously the policy of European integration. This policy seems to be used in order to legitimize Ukrainian authorities in the eyes of the EU and the international community. The 2004 presidential election has opened a Pandora’s box and revealed the deeply rooted conflict between the interests of the ruling oligarchy and the national interests of Ukraine.

<sup>81</sup> Interfax News Agency, 27 September 2004.

## Conclusions

The 2004 presidential election in Ukraine has been marked by a high degree of interference of international factors in the election process. This does not mean the direct interference of international actors and processes, but domestic discourse that has been marked by active involvement of issues having to do with international factors and international orientation. On one hand, international issues have been used in electoral campaigns and by the media in order to attract voter support. The Russian card was particularly played out. While the governmental candidate, Viktor Yanukovich, promised state status for the Russian language and double citizenship, Viktor Yushchenko had no choice but to attempt to prove constantly that he was not anti-Russian – the image of him created by government propaganda. On the other hand, there was evidence that public authorities and candidates involved international actors into the election process. Again, Viktor Yanukovich was more active and used exclusively Russian actors. Viktor Yushchenko was rather modest in this respect. Moreover, Ukrainian authorities used foreign policy as a tool in the election campaign. This concentration of international dimension in the election process is surprising given that voters in Ukraine traditionally have not been aware of international processes and tended to care rather about domestic issues than issues of an international nature.

The election campaign was revealing in two respects. First, it has shown two types of interests that have developed in Ukraine. The first approach is pro-EU and reform-oriented. More important, foreign policy should be transparent and balanced in order to promote Ukraine's national interests. Viktor Yushchenko, the opposition leader, represents this approach.

The second approach presupposes strengthening cooperation with Russia based on personal networking and continuing to simulate European integration. Improving living standards is the key goal without carrying out political reform. Lack of transparency and consistency of policy-making form the essence of this approach. Viktor Yanukovich, the prime minister, represents this approach.

Second, the election has revealed a deeply rooted conflict between the interests of the oligarchy that have run the country under Kuchma and the national interests of Ukraine. During several months of election campaigning, authorities managed to discredit Ukraine's policy of European integration they had seemed to promote and install into the public consciousness the threat of an east-west division in Ukraine should the opposition candidate win. They have also created a negative image of the EU and US. Ukraine's foreign policy and still weak national identity has been sacrificed for the interest of victory of the governmental candidate, who was expected to continue serving the interests of oligarchs. The election has shown that victory for the government's candidate was the sole purpose of transforming external issues into a domestic agenda.

All in all, the election has shown that domestic actors are not very sensitive toward external influence. The interests of domestic actors are fairly well defined. International factors are utilized to meet those interests and provide for the victory of the government candidate by all means.

## **International Orientation and Foreign Support of the Presidential Elections**

### **The International Perspective (*Iris Kempe*)**

#### **1. Key actors**

Key actors interested in procedures and results of the election can be evaluated by basic assumptions of the transition literature. First, the level of international influence is related to the country's level of foreign diplomatic and economic dependency.<sup>82</sup> Second, neighboring countries are particularly important due to their geographic interdependence and the spillover effects from the neighboring country's political, economic and social system. According to Ernst-Otto Czempiel, the close link between European countries obliges democratic states to strengthen democracy inside neighboring countries. Thus national security and stability strongly depend on the level of adherence to democratic values inside a neighboring country.<sup>83</sup> Finally, the EU's enlargement to the East has set an example for external standard setting.<sup>84</sup> More generally, membership in international organizations can also have an impact on a country's national agenda. As far as the elections are concerned, this influence is related to the number of democratic members within a particular international organization.

Dominated by Ukraine's geographic position, external interest in the election can be divided between East and West. Considering their geographic closeness, strong historic and cultural ties and economic dependency, Russia is the most important actor from the Eastern perspective. Until a little more than a decade ago, Ukraine was governed from Moscow's Kremlin, and Ukrainian independence has been always predicated on Russian willingness not to interfere. From the Western perspective, Ukraine has both a "good guy" and a "bad guy" position. Washington and European capitals have welcomed the withdrawal of Soviet warheads, the complete shutdown of the Chernobyl

<sup>82</sup> Jon C. Pevenhouse: "Democracy from Outside-In? International Organizations and Democratization," in: *International Organizations and Democratization* 56, 3, Summer 2002, pp. 515-549.

<sup>83</sup> Ernst-Otto Czempiel: *Intervention in den Zeiten der Interdependenz*, HSFK Report 02/2000.

<sup>84</sup> Wolfgang Merkel, Hans-Jürgen Puhle: *Von der Diktatur zur Demokratie: Transformationen, Erfolgsbedingungen, Entwicklungspfade*, Opladen 1999, pp. 81 – 82.

nuclear reactor and Kiev's participation in the military intervention in Iraq. But problem areas remain, including violations of press freedom, President Leonid Kuchma's involvement in the murder of the journalist Georgy Gongadze, weapon deals that were struck with "axis of evil" countries (such as selling the Kolchuga radar system to Iraq and the related "Kuchma-gate" affair), as well as illegal migration and corruption on a large scale that provoked financier George Soros to say that "Ukraine gives corruption a bad name."<sup>85</sup> Particularly after EU enlargement, Ukraine is a direct neighbor to the West, and one might assume that the EU is one of the most important international actors. Obviously Washington's position is guided more by geostrategic interests related to preventing and fighting terrorism, as well as stabilizing Afghanistan and Iraq. In this regard, Ukraine could serve a two-fold function as both a refuge for international terrorism but also as a reliable partner in a sensitive region.

As a young nation-state and democracy under transition, Ukraine's membership in international organizations also has an impact on the election. From the Western perspective, with its membership in the Council of Europe and the OSCE, Ukraine is obligated to take on Western values and norms. At the same time Ukraine is also a member in the CIS and the Single Economic Space between Kazakhstan, Belarus, Ukraine and Russia, institutions driven by Eastern, mainly Russian, interests. There is no direct relation between being part of the Single Economic Space and the election, but fulfillment of the provisions envisaged by the Agreement on the Single Economic Space (which entails establishing a free trade zone and then harmonization of legislation, the creation of a customs union and supranational institutions) would move Ukraine closer into Russia's orbit and gradually deprive it of the opportunity to make decisions independently from Russia. Economic cooperation with the West, on the other hand, could offer options to orient economic decisions around international standards and to advance Ukraine's transformation. If Ukraine takes its interest in becoming an EU member country seriously, fulfilling the Copenhagen criteria has to be the guide to transition. Among others, the criteria include the existence of a functioning market economy as well as the ability to cope with competitive pressure and market forces within the EU. Again one has to assume that Western-oriented economic reforms would hardly be strengthened by additional cooperation with Russia, which has only a limited amount of interest in applying Western economic standards. That would not mean cutting economic links with Russia altogether but establishing relations based on interdependence and mutual interests.

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<sup>85</sup> George Soros (The New Republic, 15 April 2002), in: <http://www.rferl.org/corruptionwatch/2002/04/15-190402.asp>

## 2. Interests and resources of external actors

Western interests are guided by common values and geographic proximity, which would be reflected in a stable and democratic Ukraine. Considering the state of transition, the West still assesses Ukraine as having “deficiencies in terms of market-based democracy;” at the same time, the transformation is only being managed “with moderate success.”<sup>86</sup> Western criticism of the shortcomings of Ukrainian democracy, rule of law and freedom of the press reflects the country’s continued democratic shortcomings. In the fall of 2000, when top-level officials were allegedly involved in the Gongadze murder, the Council of Europe’s Parliamentary Assembly nearly voted to suspend Ukraine’s membership. The critical assessment by European organizations devoted to democratic rules and freedom has been an ongoing issue of concern. Again on 29 January 2004, the Parliamentary Assembly of the Council voted 46-13 to adopt a resolution to suspend Ukraine’s membership in the Council of Europe, if Ukrainian authorities continued to push through the current political reform by unconstitutional means, or failed to guarantee a free and fair presidential ballot in October. Furthermore, the Council expressed its concerns about the internal situation in Ukraine based on an information mission to Kiev, conducted on March 16–19, 2004.<sup>87</sup> The mission’s main recommendations pointed out major concerns about restrictions on a pluralist democracy, the lack of an independent judiciary, widespread corruption and violations of media freedom.

Western actors and institutions perceive the 2004 presidential elections as an important test case of its political transformation.<sup>88</sup> If Ukraine can carry out the elections in a timely and reasonable fashion, democracy may be secure. Furthermore, the election process and outcome also have an impact on the countries belonging to the former Soviet Union. Ukraine is one of the few successor states of the former Soviet Union with an election shaped by a close race between the candidate of the ruling elite, who also receives inexplicit support from Russian President Vladimir Putin, and an opponent from the democratic opposition.<sup>89</sup> Therefore Ukraine’s domestic agenda might be perceived as a test case for separation of powers based on democratic principles and demonstrating national independence from Russia. Providing a real democratic choice between two candidates is the positive difference between

<sup>86</sup> Bertelsmann Transformation Index 2003. Political Management in International Comparison, Gütersloh 2004.

<sup>87</sup> Compliance with commitments and obligations: the situation in Ukraine, Council of Europe Information Documents, SG/Inf(2004) 12.

<sup>88</sup> Anders Aslund: Left Behind: Ukraine’s Uncertain transition, in: The National Interest, Fall 2003,

<sup>89</sup> Ukraine votes for new leader under nervous eye of Russia, West, in: EU business, 25. October 2005.



Ukraine and other CIS states, where the population either does not have a real political choice, and power is concentrated in one single person, or the choice is between a democratic candidate and a communist one. In spite of some positive conditions of Ukrainian democracy, the entire system—because of shortcomings such as high corruption, state-controlled media and the overlapping interests of political and economic power—is closer to bad governance than to good, and therefore often the focus of Western criticism.<sup>90</sup>

To improve its resistance to the power of interest groups, the political system has to become more transparent and align itself more strongly with democratic and formal processes. To implement its interests in Ukraine, the West is first and foremost concerned about democratic standards in the election campaign and beyond. From the perspective of Brussels, Berlin or Washington, it is more important that the elections are well conducted by international democratic standards, than which candidate will be the next President of Ukraine, assuming that each candidate will be committed to democracy, a market economy and a continuation of the Ukrainian transition process. The elections are not only perceived as a test case for democratic reform, but also as an important step toward guaranteeing stability and security.

In contrast to Western actors, the Russian elite has little interest in the democratic character of the Ukrainian election. Assuming that bilateral relations are influenced by national symmetries and asymmetries, it is quite natural that the Kremlin, more and more centralized under the personal power of President Putin, does not care about issues such as freedom of the press, strong civic institutions, a differentiated party system, and a limit on the influence of key actors and interest groups.<sup>91</sup> Particularly after losing direct influence over the Baltic States and with its now-limited influence over Georgia, the ruling elite in Russia is sensitive about its geopolitical interests in Ukraine. Strengthening relations with the countries of the Commonwealth of Independent States, including Ukraine, is a Russian foreign policy priority.<sup>92</sup> The importance of Russia's western neighbor is linked to the large number of Russian-speaking people in eastern and southern Ukraine, as well as to their economic relations, military cooperation, and the connections among key actors and interest groups.<sup>93</sup>

<sup>90</sup> Nations in Transit 2004: Ukraine. Europäische Nachbarschaftspolitik Länderbericht "Ukraine", ed.: Kommission der Europäischen Gemeinschaften, Brüssel, den 12.5.2004, SEK(2004) 566.

<sup>91</sup> Actors, Goals and Mechanism of External Influence, in: National Security and Defense, Ed. Razumkov Centre, No. 5, 2004.

<sup>92</sup> Vladimir Putin: Address to the Federal Assembly of the Russian Federation, May 26, 2004, Moscow, the Kremlin. in: [http://president.kremlin.ru/eng/speeches/2004/05/26/1309\\_type70029\\_71650.shtml](http://president.kremlin.ru/eng/speeches/2004/05/26/1309_type70029_71650.shtml), download 23.9.2004

<sup>93</sup> Sergei Markov: A Moscow Perspective on Ukraine's election, in: Moscow Times, 27.10.2004,

Considering its interests and resources, Russia's current position can be described as maintaining the status quo. Regardless of whether Viktor Yanukovich or Viktor Yushchenko becomes the next president of Ukraine, Russia's main consideration is to have access to decision-making in the country. At first glance, one might assume that Viktor Yanukovich, acting prime minister and the candidate supported by the state apparatus, would be the best option for Russia. Yet Yanukovich owes his political career first and foremost to the "Donetsk" clan and their personal interests,<sup>94</sup> shedding some doubt on whether he would protect Russian interests rather than his own agenda.<sup>95</sup> On the other hand, opposition candidate Viktor Yushchenko is widely perceived as the pro-Western candidate, even if he emphasizes that Ukraine's foreign policy must be balanced between East and West.<sup>96</sup> Gleb Pavlovskiy, a highly-influential Russian image maker, argues that a Yushchenko victory will be only a victory for Western Ukraine, and could even threaten to divide the Ukrainian nation, while Yanukovich would contribute to national stability.<sup>97</sup> Beyond questions of who will win the election and which candidate is closer to the East or West, it should be noted that an outward-looking orientation does not really influence voters' decisions. The election campaign is dominated by domestic issues, such as the fight against poverty and preserving social benefits.

To sum up, the overall interest of the Russian elite is to keep Ukraine as a reliable neighbor and partner. Not surprisingly, the country lacks democratic standards and has very restricted civic institutions. Consequently, cooperation is not shaped by rising democratic standards but by dependency and influence. Regardless of which candidate wins the race, Russia is interested in having access and being taken seriously.

### **3. Activity during the election**

#### **3.1 The Western approach to promoting democracy**

The West is interested in a stable and democratic Ukraine, and the election might be a way to strengthen Western standards.<sup>98</sup> More than a year before the election, Western researchers emphasized the importance of the 2004 presidential election. Assuming that democracy is one of the most important cornerstones of

<sup>94</sup> Taraz Kuzio: Why Russia gains from a Yushchenko Victory, Moscow Times, 30.6.2004.

<sup>95</sup> Tatyana Ivzhenko: Moskva gotovit dlya Kiveva stsenariy „silnoy ruki“, in: Nezavisimaya gazeta, 1.7.2004, No. 133, p. 5.

<sup>96</sup> Tatyana Ivzhenko: „Poroscheniy ne budet“, in: Nezavisimaya gazeta, 30.7. 2004, No. 159, p. 1+11.

<sup>97</sup> Viktor Panfilov: Pavlovskiy: „Ya uzhe desyat let tak.“, in: Nezavisimaya gazeta, 2.7.2004 No. 133, p. 4.

<sup>98</sup> Anders Aslund: Left Behind. Ukraine's Uncertain Transformation, in: The National Interest, Fall 2003.

reform, carrying out the election in a timely and reasonable fashion is perceived as an important milestone, showing further progress on the domestic front and determining the future for international relations with Ukraine. Western actors have a very clear perception of what procedures, if not what outcome, the election should follow. For example, former US Secretary of State Madeleine Albright made a bold statement highlighting the country's interest in a democratic outcome and its consequences. "If, however, the elections are fraudulent, Ukraine's leaders should know that their entry into Western institutions will slow, and their own bank accounts and visa privileges will be jeopardized," Albright said.<sup>99</sup>

Other top-level decision-makers are emphasizing the same point. Richard Holbrooke, Jan Kalchiki and Mark Brzezinski have stressed the international relevance of the Ukrainian elections by highlighting the importance of a free and fair election process. Considering that the Ukrainians will decide at the ballot box whether to support those who favor integration into NATO and the European Union, or those who favor realignment with Russia and Belarus, the statements go far beyond the usual comments on free and fair elections. Nevertheless, the three commentators did not state which of the candidates represents a more pro-Western or pro-Russian choice.<sup>100</sup> Non-governmental actors can make such statements without any serious consequences. But Canada's ambassador to Kiev, Andrew Robinson, recently earned strong Ukrainian criticism when he pointed out that he is "seriously concerned that the forthcoming Ukrainian election will fail to meet democratic standards," citing the state-controlled media and other administrative resources.

Reacting to the first election round, US and EU leaders regretted that the presidential elections in Ukraine did not meet a number of requirements to be considered democratic, noting that during the pre-election period, there was a lack of fair conditions for all candidates.<sup>101</sup> US Deputy State Department spokesman Adam Ereli said on 1 November that the second round of the election on 21 November presents "an opportunity for Ukraine to affirm its commitments to democratic principles, and we urge the Ukrainian authorities to allow the people of Ukraine to choose freely and ... the government to adhere scrupulously to internationally-accepted standards for tabulating and registering results."<sup>102</sup> The democratic shortcomings and lack of international standards for free and fair elections increased the West's attention ahead

<sup>99</sup> "How to help Ukraine vote," Madleine K. Albright, in: The New York Times, 8 March 2004.

<sup>100</sup> Holbrooke, Jan Kalchiki and Mark Brzezinski: Comment: Ukraine-U.S. relations hinge on fall elections, in: Detroit Free Press, 27.9.2004.

<sup>101</sup> Declaration by the Presidency of the European Union on the presidential elections of 31 October 2004 in Ukraine, in: [http://www.eu2004.nl/default.asp?CMS\\_ITEM=987B8A310E8C4173BC1BC45E72D9A412X1X66772X44](http://www.eu2004.nl/default.asp?CMS_ITEM=987B8A310E8C4173BC1BC45E72D9A412X1X66772X44), download, 17.11.2004.

<sup>102</sup> U.S. Agrees with OSCE that Ukraine Vote Was „Step Backward“ Says chance remains for fully democratic second round in Ukraine November 21, in: <http://usinfo.state.gov/eur/Archive/2004/Nov/01-993156.html>, download 17.11.2004.

of the second election round. When evidence suggested that Yanukovich had violated democratic standards to win the closely-contested election, the International Election Observation Mission (IEOM)<sup>103</sup> issued a statement heavily criticizing Ukraine for not meeting international standards for democratic elections. According to the preliminary statement, state authorities and the Central Election Commission (CEC) displayed a lack of will to conduct a genuinely democratic election.<sup>104</sup> This statement drew both countless official reactions from Washington, Brussels, Berlin, Warsaw and other European capitals as well as attracting headlines worldwide. Many parties expressed serious doubt that the official results of the election reflected the will of the Ukrainian people.<sup>105</sup> In contrast to President Putin, Western actors doubted if the election took place in free and fair conditions, demanding a recall of the election outcome and thus far rejecting Yanukovich as the legitimate president of Ukraine.<sup>106</sup>

Generally speaking the West does not seek to directly interfere in domestic Ukrainian politics, as it would violate international law and also cause a serious confrontation with Russia. The most important Western goal is to strengthen democracy, rather than to support particular candidates verbally or financially. During more than a decade of Ukraine's national independence, and its membership in the OSCE and in the Council of Europe, Ukrainian elections have suffered from a lack of democratic standards. Western organizations and national democratic actors have criticized the high level of administrative pressure, as well as the limited freedom of the media.

Since appeals to international democratic standards have not had much impact, in September some American politicians decided to go one step further. On September 15, U.S. Congressman Dana Rohrabacher submitted a document entitled "Ukraine Democracy and the Election Act of 2004." The bill calls on President Kuchma and Prime Minister Yanukovich to "stop overt, flagrant and

<sup>103</sup> Election Observation Mission (IEOM): Jointly organized by OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the European Parliament (EP) and the NATO Parliamentary Assembly.

<sup>104</sup> International election observation mission: Presidential election (Second Round), Ukraine 21 November 2004, Statement of Preliminary Findings and Conclusions, Kyiv, 22 November 2004.

<sup>105</sup> Declaration by the Presidency of the European Union on Ukraine, 22-11-2004, Press releases (CFSP) | General Affairs and External Relations.

<sup>106</sup> Among many other statements see for instance:

U.S. Senate Foreign Relations Committee Chairman Richard Lugar told the Voice of America that he was "very concerned" about the upcoming presidential elections in Ukraine, in: Press Release - Washington, D.C., Oct. 29, 2004.

Bundesaußenminister Fischer besorgt über gravierende Mängel bei zweiter Runde der Präsidentschaftswahlen in der Ukraine: Pressemitteilungen - 23.11.2004.

Powell Rejects Ukraine Election, Threatens Action, in: Reuters, 24 11, 2004, <http://www.reuters.com/newsArticle.jhtml?type=worldNews&storyID=6910773>, download, 24.11.2004.

inadmissible violations of Ukraine's human rights commitments to the OSCE, and guarantee respect for fundamental democratic liberties." If violations of standards listed in the bill continue, it proposes sanctions. These include barring top officials of the Ukrainian government and their family members from entering U.S. territory. Other threatened restrictions against Ukrainian officials include the confiscation of their property in the US, blocking of their bank accounts, seizing of funds in these accounts and banning of loans to Ukrainian officials.<sup>107</sup>

The German Bundestag also called on its government to urge Ukraine to hold a free and fair presidential election. The Bundestag resolution also mentioned the importance of the election for the future of Ukraine and its relations to Russia and the European Union.<sup>108</sup> In contrast to the American proposal, however, the German petition did not include any kind of conditionality or sanctions as an instrument to implement the democratic standards advocated by the parliamentarians. This points up the limited potential impact of forces outside Ukraine to influence the elections.

### **3.1.1 Interference of international organizations by setting democratic guidelines**

Despite the increasing gap between Ukrainian reality and Western standards, the West nevertheless perceives the upcoming election as another test of the country's strengthening democratic standards. For instance, representatives from the Council of Europe have been identifying the biggest obstacles to democratic-oriented separation of power within the country. The Council's tools for strengthening democratic procedures as part of the transition process consist largely of two strategies: excluding Ukraine from the Parliamentary Assembly and observing the election.<sup>109</sup> Both approaches have an important symbolic impact, but they do not strengthen sustainable democratic reforms.

Generally speaking, observing an election is one of the most powerful instruments of Western interference. In terms of the number of observers and input, the OSCE mission to Ukraine is one of the biggest missions to date.

<sup>107</sup> America's Final Warning, in: Zerkalo Nedeli, No. 37 (5112), 18-24 September 2004.

<sup>108</sup> Ukraine zu freien und fairen Wahlen unter internationaler Beobachtung drängen, Auswärtiges/Antrag, Deutscher Bundestag, 21.10.2004, in: [http://www.bundestag.de/bic/hib/2004/2004\\_252/03.html](http://www.bundestag.de/bic/hib/2004/2004_252/03.html), download 16.11.2004.

<sup>109</sup> Compliance with commitments and obligations: the situation in Ukraine, Council of Europe Information Documents, SG/Inf(2004) 12.

## Elections and Observers in Comparison

Election	Internat. Observers	Registered voters	Polling stations	Registered voters per observer	Polling stations per observer
<b>Serbia/Montenegro:</b> Federal and Municipal Election, 24 September 2000	na <sup>1</sup>	7,861,327 <sup>2</sup>	Na	Na	na
<b>Serbia/Montenegro:</b> Parliamentary Election, 23 December 2000	344 <sup>3</sup>	na	8,981 <sup>4</sup>	22,852 <sup>5</sup>	26
<b>Georgia:</b> Parliamentary Election, 2 November 2003	423 <sup>6</sup>	1,800,000 <sup>7</sup>	2,893 <sup>6</sup>	4255	7
<b>Georgia:</b> Extraordinary Presidential Election, 4 January 2004	488 <sup>8</sup>	2,231,986 <sup>9</sup>	2,850 <sup>8</sup>	4574	6
<b>Russia:</b> Election to the State Duma, 7 December 2003	480 <sup>10</sup>	108,906,244 <sup>11</sup>	95,000 <sup>12</sup>	226,888	198
<b>Russia:</b> Presidential Election, 14 March 2004	370 <sup>13</sup>	108,064,281 <sup>14</sup>	95,000 <sup>15</sup>	292,065	257
<b>Ukraine:</b> Parliamentary Election, 31 March 2002	428 <sup>16</sup>	36,000,000 <sup>17</sup>	33,113 <sup>16</sup>	84,112	77
<b>Ukraine:</b> Presidential Election, 31 October 2004	650 <sup>18</sup>	37,613,022 <sup>19</sup>	33,104 <sup>19</sup>	57,866	51

<sup>1</sup> The OSCE/ODIHR criticizes “the absence of any effective election observation, both domestic and international”. OSCE/ODHIR: Preliminary Findings and Conclusions. Federal Republic of Yugoslavia – Federal and Municipal Elections, 24 September 2000, p. 7; [http://www.osce.org/documents/odihr/2000/09/1321\\_en.pdf](http://www.osce.org/documents/odihr/2000/09/1321_en.pdf) Download: 26 October 2004

<sup>2</sup> Ibid., p. 6

<sup>3</sup> 24 long-term observers, 320 short-term observers. OSCE/ODIHR: Final Report. Republic of Serbia, Federal Republic of Yugoslavia – Parliamentary Elections, 23 December 2000, p. 2; [http://www.osce.org/documents/odihr/2001/02/1330\\_en.pdf](http://www.osce.org/documents/odihr/2001/02/1330_en.pdf) Download: 26 October 2004

<sup>4</sup> 8,722 polling stations in Serbia, 259 polling stations in three Kosovo districts. Ibid., p. 7

<sup>5</sup> No data on registered voters available. Calculation based on the registered voters of the federal and municipal elections on 24 September 2000.

<sup>6</sup> 34 long-term observers, 389 short-term observers. OSCE/ODIHR: Election Observation Mission Report, Part 1. Georgia – Parliamentary Elections, 2 November 2003, p. 3; [http://www.osce.org/documents/odihr/2004/01/1992\\_en.pdf](http://www.osce.org/documents/odihr/2004/01/1992_en.pdf) Download: 26 October 2004

<sup>7</sup> Approximation of registered voters. Data based on a collection by the Ministry of Internal Affairs. Ibid., p. 10

<sup>8</sup> 38 long-term observers, 450 short-term observers. OSCE/ODIHR: Election Observation Mission Report. Georgia – Extraordinary Presidential Elections, 4 January 2004, p. 3; [http://www.osce.org/documents/odihr/2004/02/2183\\_en.pdf](http://www.osce.org/documents/odihr/2004/02/2183_en.pdf) Download: 26 October 2004

<sup>9</sup> Ibid., p. 11

OSCE/ODIHR: Election Observation Mission Report: Russian Federation – Elections to the State Duma, 7 December 2003, p. 3; [http://www.osce.org/documents/odihr/2004/01/1947\\_en.pdf](http://www.osce.org/documents/odihr/2004/01/1947_en.pdf) Download: 26 October 2004

<sup>11</sup> Ibid., p. 10

<sup>12</sup> Ibid., p. 20

<sup>13</sup> 34 long-term observers, 336 short-term observers. OSCE/ODIHR: Election Observation Mission Report: Russian Federation – Presidential Elections, 14 March 2004, p. 3; [http://www.osce.org/documents/odihr/2004/06/3033\\_en.pdf](http://www.osce.org/documents/odihr/2004/06/3033_en.pdf) Download: 26 October 2004

<sup>14</sup> Ibid., p. 7

<sup>15</sup> Ibid., p. 5

<sup>16</sup> 38 long-term observers, 390 short-term observers. OSCE/ODIHR: Final Report: Ukraine – Parliamentary Election, 31 March 2002; [http://www.osce.org/documents/odihr/2002/05/1293\\_en.pdf](http://www.osce.org/documents/odihr/2002/05/1293_en.pdf) Download: 26 October 2004

<sup>17</sup> Estimated voters. The OSCE/ODIHR criticizes that no centralized and regularly updated database for voters exists. Ibid., p. 11

<sup>18</sup> 50 long-term observers, 600 short-term observers. OSCE/ODIHR: Needs Assessment Mission Report: Ukraine – Presidential Elections, 31 October 2004, p. 2; [http://www.osce.org/documents/odihr/2004/06/3248\\_en.pdf](http://www.osce.org/documents/odihr/2004/06/3248_en.pdf) Download: 26 October

<sup>19</sup> Estimated number of voters and election precincts. Central Election Commission of Ukraine: Territorial Election Districts. <http://www.cvk.gov.ua/elect/wp030ept001f01=500rej=1> Download: 26 October 2004

Still, it is not yet clear whether a high level of Western assessment will lead to a high level of democratic influence. Past OSCE election observation missions have frequently assessed elections in the successor states of the former Soviet Union as only partly free and fair. The main criticisms leveled are administrative pressure, limits on press coverage and a generally undemocratic environment. The same can be said of the current OSCE election observation mission, which conducts long-term as well as short-term election monitoring. Generally speaking, one has to consider the link between election monitoring and the scope of violations of freedom and democracy. National and international election observation are increasingly effective tools in situations where democracy is under pressure, as in Belarus or Serbia under President Slobodan Milosevic. In the case of Ukraine, observation may help point out the unfair character of the elections, but will not force regime change. The OSCE is conducting long-term and short-term monitoring of the Ukrainian elections. Measured by the number of participants (703 for the first round<sup>110</sup>), the mission is one of the biggest election observation missions to date. For instance, 511 OSCE observers were deployed to the 2004 presidential elections in Georgia, and 258 experts observed the Serbian presidential elections in 2002. In addition to the observers deployed by international organizations, a huge number of observers were also sent to Ukraine by other national governments as well as non-governmental organizations (NGOs).

The Western approach towards the presidential election, and Ukraine in general, is to demand the country adhere to democratic standards. But the practical impact is restricted to monitoring Ukrainian developments or threatening Kiev with exclusion from Western organizations. Beyond criticizing Ukraine's domestic situation, it should be in the West's interest to

<sup>110</sup> Official web page of the Central Election Commission of Ukraine. <http://ic-www.cvk.gov.ua/wp0011>

integrate Ukraine into Euro-Atlantic structures—not only to offer the country a goal for further transition but also for the self-interest of a stable and secure Europe. Again, however, Western decision-makers are much more focused on the political realities in Ukraine, the country's ongoing internal instability as well as the potential security risks engendered by a weak, and sometimes almost failing, state. This makes Western leaders careful about formulating a clear long-term position for Ukraine.

In the year of the Ukrainian presidential election, the most significant change in the international environment is the enlargement of the European Union. The Western part of the Ukrainian elite largely favors the country becoming an EU member. This goal should be seen first and foremost as a guideline for Ukraine's foreign policy and less as a milestone in a successful internal transition. Nevertheless, it is also an important step toward guaranteeing Ukraine's independence and keeping further opportunities for reform open. For reasons of internal stability and integration, the European Union has not yet offered accession or membership to Ukraine. EU President Romano Prodi has even stressed that Ukraine and Belarus have no place in the Union.<sup>111</sup> The EU's alternative concept of a "Wider European Neighborhood"<sup>112</sup> would seek to prevent a new dividing line from emerging by offering Ukraine, as well as other eastern and southern neighboring countries, the EU's four internal freedoms: free movement of goods, persons, services and capital. The EU proposal would require far-reaching integration but not require institutional membership. Even if the EU offers substantial concessions, the alternative concept still needs revising. From the perspective of neighboring Eastern countries, it does not offer a true alternative to membership, and from the point of view of the EU, it does nothing to avoid a new dividing line between EU member countries.

The EU's current policy towards enlargement and its neighborhood policy have evoked frustration from Ukrainian actors looking towards democratic transition and Western integration. Coming alongside the election, excluding Ukraine from European integration has strengthened the anti-European and/or pro-Russian forces in the country. As long as Ukraine's European choice is solely foreign-policy focused, and the country does not domestically fulfill European standards of transition, there is a limited prospect that Europe may influence the election and set standards for future reforms.

Indeed, at the EU-Ukraine summit, held in The Hague on 8 July 2004, President Kuchma said the EU's neighborhood policy did not suit Ukraine's

<sup>111</sup> RFE/RL Newline Vol. 8, No. 84, Part II., 5 May 2004.

<sup>112</sup> Commission of the European Communities: Communication from the Commission to the Council and the European Parliament: Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours, Brussels, COM(2003) 104 final.



interests. He refused to sign the prepared action plan for Ukraine within the policy's framework, arguing that he would not sign a document that brings no added value to EU-Ukraine relations. Instead he proposed taking time to rework the plan. Neither did European actors make any promises about when the EU may grant Ukraine market-economy status, which is a key step for Kiev on its path to membership in the World Trade Organization. At the NATO summit in Istanbul on 29 June, the organization's member states said that further integration with NATO requires that they protect and observe the values on which the alliance was built. Ukraine's political leaders saw the West's reaction as a signal that they were being excluded from further cooperation.<sup>113</sup>

So far, Euro-Atlantic actors have not succeeded in developing an effective strategy to integrate Ukraine. One negative side effect of the EU enlargement that occurred in May 2004 was that the border between Poland, Hungary and Slovakia on one side, and Ukraine on the other, threatens to become a new East-West dividing line. The West also indirectly intervened in the Ukrainian election campaign. Coming closer to Western standards and joining Western organizations was a priority of the liberal Ukrainian elite, including one of the two front-runners, Viktor Yushchenko, and originally President Kuchma. At the end of July 2004 Kuchma took a page from the book of the opposition party, saying that Ukraine wanted to join Euro-Atlantic structures. Such a presidential decree is more personally related to the president than to the foreign policy process of Ukraine in general, however. At the same time the missing signals from the Western side and the ongoing criticism that Ukraine falls short of Western standards makes it almost impossible for the election campaign to promote Euro-Atlantic integration and further focus on Western values.

### **3.1.2 Supporting civic society**

Besides official involvement, Western support of Ukraine's civic institutions may offer an strong opportunity to strengthen democratic values there without interfering in the country's internal affairs. Indeed almost all technical assistance programs of the international donor community include support for civic society organizations. The European Commission's National Indicative Programme 2004 – 2006 sets aside some 10 million euros from a total amount of 212 million euros to support civic society, the media and democracy.<sup>114</sup> Furthermore the European Commission has allocated 1 million euros to support the Central Election Committee of Ukraine and Ukraine's civic life

<sup>113</sup> NATO Secretary-General Jaap de Hoop Scheffer, in: UKRAINE PRESSED TO SHARE NATO VALUES, RFE/RL NEWSLINE Vol. 8, No. 123, Part II, 30 June 2004.

<sup>114</sup> National Indicative Programme Ukraine, adopted by the European Commission on 4 August 2003.

in conducting a free and fair election through a variety of technical assistance projects.<sup>115</sup> USAID also plans to give \$1.475 million to election-related activities.<sup>116</sup> According to the Nations in Transit 2004 annual report, 60 percent of NGOs work actively with Western donors, trying to differentiate between the Kuchma regime and civic society.<sup>117</sup> The International Renaissance Foundation (national Soros foundation) has also been very active in elections. Since autumn 2003 the Foundation provided almost \$1.3 million to Ukrainian NGOs to carry out election-related projects.<sup>118</sup> Whether civic institutions are weak or strong, international donors focused their activities on the election process and often find NGOs to implement their ideas. Activities include supporting independent public opinion polls, carrying out independent exit polls, producing television spots encouraging people to vote to protect their right to choose, publishing and distributing literature explaining to people their rights, and supporting human rights organizations to monitor violations and to prosecute those who violate them.

Nevertheless it is important not to overestimate the democratic impact of a country's emerging civic institutions. Its real impact in transition countries depends on factors such as organizational capacity, financial viability, service provision, infrastructure, public image and last but not least sustainable support from Western donors. The huge number of Ukrainian non-governmental organizations (35,000) as assessed by the Nations in Transit report is far from sustainable and independent.<sup>119</sup> The European Commission, for instance estimates that there are as few as 5000-8000 professional NGOs in Ukraine with permanent and well-trained staff.<sup>120</sup> From a realistic perspective implanting Western standards from a bottom-up approach is restricted by the undemocratic environment. Only about 5 percent of Ukrainians engage actively in NGOs. The organizations are spread unevenly throughout the country, with a high concentration in the capital and regional centers. That leads to a classic chicken-egg situation: it is not clear which comes first, a democratic environment supporting free and fair elections or democratic elections providing the necessary framework for a strong civic society?

<sup>115</sup> European Union funded projects in support of the presidential elections in Ukraine: The European Commission's Delegation to Ukraine, Moldova and Belarus, in: <http://www.delukr.cec.eu.int/site/page31321.html>, download, 22.11.2004

<sup>116</sup> USAID Mission to Ukraine Data sheet, FY 2004 Program.

<sup>117</sup> Nations in Transit 2004. Democratization in East and Central Europe and Eurasia, Country Report Ukraine, ed. Freedom House New York Washington, p 7.

<sup>118</sup> Promotion of the Fair and Open Election of 2004. IRF, October 2004.

<sup>119</sup> Nations in Transit Ukraine page 7.

<sup>120</sup> National indicative programme, p. 14.

### 3.1.3 The particular interest and function of the neighboring states

According to the theoretical framework, neighboring countries are particularly important not only because of geographic dependency but also due to potential spillover effects on the neighboring political, economic and social system. Both aspects are aggravated because of Russia's hegemonic impact on Ukraine and the Ukraine's lag in the transition.

Since Ukraine and its Western neighbors—Poland, Slovakia and Hungary—gained full national independence from former Soviet structures (the CPSU and the Warsaw Pact), both sides have succeeded in developing successful neighborly relations by overcoming legacies of the past, reducing minority problems and developing strategies of mutual cooperation.<sup>121</sup> By doing so the accession states, first and foremost Poland and later Slovakia, have been putting the Ukrainian issue on the European agenda.<sup>122</sup> The overall aim is to combine EU and NATO membership with good neighbor relations. By not excluding future prospects for Ukrainian accession to the EU, Warsaw and Bratislava have taken an important strategic step beyond the European Union approach of “sharing everything but institutions.”<sup>123</sup> Differing from the neighborhood policy of the European Union, Poland and Slovakia have been emphasizing the importance of an independent and democratic Ukraine, which should have prospects for a future inside the EU.<sup>124</sup> The position of the Western neighbors of Ukraine and new EU member states is last but not least related to the geopolitical balance between Russia and the West. From the point of view of Bratislava, Warsaw and Hungary everything that favors an independent Ukraine is perceived as acting as a counterbalance to Moscow.

Neighboring states have made a number of political declarations that make clear their interests in the Ukrainian election. For instance when the Sejm, Poland's parliament, adopted a resolution calling for a free and transparent election in Ukraine, 330 MPs voted in favor, with only 12 against and 22 not voting.<sup>125</sup> In contrast to declarations of the American Congress, the German Bundestag, the Council of Europe or the European Commission, the Polish statement was much more positive. Instead of criticizing the lack of media

<sup>121</sup> The EU Accession States and Their Eastern Neighbours, Iris Kempe, ed., Gütersloh 1999.

<sup>122</sup> Ministry of Foreign Affairs of the Republic of Poland, non-paper, Warsaw 2003.

<sup>123</sup> Romano Prodi: “Peace, Security And Stability International Dialogue and the Role of the EU” Sixth ECSA-World Conference. Jean Monnet Project, Brussels, 5-6 December 2002, SPEECH/02/619.

<sup>124</sup> Ministry of Foreign Affairs of the Republic of Poland, non-paper, Warsaw 2003.

<sup>125</sup> Seym Polshche zaklinayv ukrainsky vldy provesti tchesni vibori, in: Pro Europe, 22.10.2004, <http://www.proeuropa.info/news/?id=843&PHPSESSID=4e1dcd730b379cc1d0b1e58cd2e31eeb>, download 25.10.2004.

freedom or fair election campaign, Poland's statement opted to support Ukraine's future in the EU and NATO. This declaration is of the same tenor as comments made by President Kwasniewski in an article appearing in the 2 September International Herald Tribune. "The EU has fallen short of offering any incentives to the opposition in Ukraine," Kwasniewski was quoted as saying.<sup>126</sup> From his point of view, the EU should not stop enlargement with Turkey, which means offering Ukraine an opportunity for accession. During a state visit to Kiev on 12 November, between the first and the second round of the election, Polish Foreign Minister Włodzimierz Cimoszewicz and new chairman-in-office of the Council of Europe called for a free and fair vote. His clear position underlining a democratic perspective for neighboring Ukraine also had an influence on a scheduled state visit. Instead of the originally planned meeting with Prime Minister and front running candidate Yanukovych and President Kuchma, the Polish Minister met only with the speaker of parliament, the head of the Ukrainian Central Election Commission, and opposition presidential candidate Yushchenko.<sup>127</sup> Slovak Prime Minister Mikulas Dzurinda emphasized on several occasions that "Slovakia wants to act as Ukraine's voice at the European table."<sup>128</sup> Not surprisingly, the Slovak Minister of Foreign Affairs declared Ukraine a foreign policy priority for Slovakia. As far as the election is concerned, the Slovenian government has not missed a chance to declare that the elections should be conducted in a free and fair manner.<sup>129</sup> Of course neighboring states were also part of the international election observation missions. In addition to observers deployed by international organizations, the Slovak government sent 60 observers and Poland sent 24 observers for the first round.<sup>130</sup>

In addition to such statements, new EU member states have also been using membership in the EU to push the Ukrainian issue. To a large extent driven by new member states Poland, Slovakia, Hungary, the Czech Republic and the three Baltic states, the eleven EU countries have now called for stronger relations with Ukraine.<sup>131</sup> To sum up, Ukraine's neighboring countries have

<sup>126</sup> Judy Dempsey: Poland's vision of the EU, in International Herald Tribune, 2.9.2004.

<sup>127</sup> Poland urges Ukraine to hold fair presidential vote, in: RFE/RL Newline Vol. 8, No. 215, Part II, 15 November 2004.

<sup>128</sup> Dzurinda said during a joint press conference with his Ukrainian counterpart Viktor Yanukovich, on Monday 21. Juni 2004 in Kiev, in: EU business, <http://www.eubusiness.com/afp/040621174553.lg4nkpec>, download 26.10.2004.

<sup>129</sup> Daniel Forgacs: Slovensko Vyváža demokraciu na Ukrajin, 20.10.2004, in: Narodna obroda daily, 20 October 2004, p. 2. Prezidentské voľby na Ukrajine bude monitorovať 108 slovenských pozorovateľov Dátum: 19.10.2004, in: Press Agency of the Slovak Republic, 19 October 2004.

<sup>130</sup> Official web page of the Central Election Commission of Ukraine. <http://ic-www.cvk.gov.ua/wp0011>

<sup>131</sup> 11 EU states urge stronger ties with Ukraine, in: EU business, 11 October 2004.

taken the approach of combining EU membership with good neighborhood relations with Ukraine by not only emphasizing the importance of free and fair elections, but also simultaneously opting for a strategy to integrate Ukraine into the West. In addition to such initiatives, the German and Polish governments have underlined in a joint statement the importance of Ukraine's function as a neighboring country as well as the importance of conducting an election according to free and fair standards.<sup>132</sup> This declaration is an example of how the new member states might become a driving force to put Ukraine on the European agenda.

As a part of their strategy to integrate Ukraine into the West, neighboring countries have also strengthened technology transfer and NGO cooperation with Ukraine. The idea is for Poland and Slovakia to share with Ukraine their knowledge and experience on issues of transition and fulfilling Western standards. Slovakia has appropriated a special fund of SK 10,000,000 (ca. \$300,000) in its 2004 budget for democratization projects in Belarus and Ukraine. The Slovaks can also share with Ukraine their experience in overcoming the authoritarian regime driven by Vladimir Meciar.<sup>133</sup> The same goal is supported by the Polish Batory Foundation, which is conducting multi-year programs supporting democracy and fostering civic engagement in Belarus and Ukraine, and at the same time opting for European prospects for Ukraine with particular attention to NGOs.<sup>134</sup> About 30 Polish organizations have thus merged into the Grupa Zagranica (GZ), an officially registered platform of Polish NGOs working abroad. On June 23, 2004 the group addressed a letter to Polish President Aleksander Kwasniewski, the Prime Minister, Minister of Foreign Affairs, Speakers of the Sejm and Senat regarding the presidential election in Ukraine and the role of Poland in creating a European Neighborhood Policy. The letter from Grupa Zagranica to the top government officials in Poland urged the Polish government to become politically active at the European level with regard to the role of Ukraine after EU enlargement. The Polish NGOs suggest that Poland, together with countries of the Visegrad Group, should begin drawing up an EU declaration on the situation in Ukraine.

Ukraine's neighboring countries are fulfilling the assumption that they are of particular importance to Ukraine. Differing from other Western actors, the neighboring countries put a higher priority on democratizing Ukraine, offering

<sup>132</sup> <http://www.deutsche-botschaft.kiev.ua/de/aussenpolitik/aussenpolinfo16.html>, 21.11.2004.

<sup>133</sup> Slovakia Promotes Democratization in Belarus, Ukraine, in: Slovakia Aid, 23.7.2004, <http://www.slovakaid.mfa.sk/en/index.php/article/articleview/62/1/1/>, download 27.10.2004.

<sup>134</sup> Citizens in Action Program funded by Ford Foundation, <http://www.batory.org.pl/english/byukr/index.htm>. Download 27.10.2004.

the country prospects for European membership and reducing Russian influence. As part of the Western actors, the neighboring countries may go beyond opting for a free and fair election and make particular contributions towards building a strategy for Ukraine's future.

### *Conclusions*

The Ukrainian election has attracted strong interest and attention from the West. In accordance with the West's reluctance to offer the Ukraine the prospect of integration into Euro-Atlantic structures, while demanding a transition towards a market economy and democracy, their focus has been on supporting a free and fair election. From the Western perspective it was more important to assess the election process rather than deciding who the future president of Ukraine should be. Consequently Western decision-makers did not support one specific candidate. Beyond their agenda to strengthen democracy in Ukraine, their strategic approach was weak. With the negative effects of the exclusion of Ukraine from integrating into Euro-Atlantic structures, EU Eastern enlargement, which took place in May 2004 until the borders of Ukraine, was not only perceived as a sign of neglect of Kiev, but as a withdrawal of support by Western and reform oriented actors in Ukraine. Going beyond possible big bang approaches coming from Brussels, Washington and the Western capitals bottom up initiatives basing on NGO cooperation and contributions from the new EU member states, Poland and Slovakia have given important signals for Western support of the Ukrainian election. In contrast to statements coming from other countries, Warsaw and Bratislava already during the election campaign spoke out in favor of linking democratic progress in Ukraine with offering the country a Western position.

After the first round, the West became increasingly critical of the lack of democratic standards in Ukraine. Following the second election round, the country was overwhelmed with Western criticism of the free and fair character of the election and a rejection of Viktor Yanukovych as the elected president of Ukraine.

### **3.2 Russian approach of supporting national interests**

Russia's interest in the Ukrainian elections differs considerably from Western expectations. Given Moscow's democratic shortcomings and actor-oriented decision making, supporting democracy in neighboring Ukraine is not a high priority. It is not surprising to note a large discrepancy between how the OSCE assesses the election compared to the CIS missions. For instance, when the Ukraine's parliamentary election took place in March 2002, the OSCE said that "while Ukraine met in full or in part a number of commitments such as universality, transparency, freedom and accountability, it failed to guarantee

a level playing field, an indispensable requirement in ensuring the fairness of the process.”<sup>135</sup> The same elections were characterized differently by the CIS: “We, international observers from the Commonwealth of Independent States, consider that the elections for the people’s deputies of Ukraine on March 31, 2002 were held by the election commission in accordance with the national election legislation, and we recognize those elections as free, transparent and legitimate.”

The joint election observation mission of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the European Parliament and the NATO Parliamentary Assembly assessed the first election round as follows: “The October 31 presidential election in Ukraine did not meet a considerable number of OSCE, Council of Europe and other European standards for democratic elections. During the pre-election period, the governmental, electoral and other authorities did not create conditions that ensured the free expression of the opinion of electors in their choice of representatives. Consequently, this election process constitutes a step backward from the 2002 elections. Nevertheless, despite these shortcomings, the very high participation of the electorate and civic society in this election process shows encouraging signs for the evolution of Ukrainian democracy.”<sup>136</sup> The election observation conducted by the CIS made the statement that the presidential election conformed to the electoral law of Ukraine. They were evaluated as legitimate, free and fair.<sup>137</sup> The disparities in these statements illustrate that the CIS, and Russia as the leading member of the CIS, is relying on a different set of standards for democracy. While Western actors after the second round were questioning the democratic character of the election and the legitimacy of Viktor Yanukovich as a elected president of all Ukrainian voters, Russian President Putin congratulated Yanukovich for his victory and criticized the OSCE statement as reflecting a double standard. During the Ukrainian election campaign Russian officials made no statements as to the democratic character of the elections or possible violations of democratic standards.

<sup>135</sup> Office for Democratic Institutions and Human Rights: Final Report on Parliamentary Elections in Ukraine, 31 March 2002 (27 May 2002).

<sup>136</sup> Preliminary Conclusions: The International Election Observation Mission (IEOM) for the 31 October Ukrainian presidential election is a joint undertaking of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the European Parliament (EP) and the NATO Parliamentary Assembly, Kyiv, 1 November 2004.

<sup>137</sup> Sayavlenye Mezhdunarodnykh Nablyudateley ot Sodruzhestva Nezavisimykh Gosudarstv po rezultatam nablyudeateley za podgobkoi provedeniem vyborov Prezidenta Ukrainy, sostoyavshikhsya 31 Oktyabrya 2004 goda.

Russia's approach is to maintain its national interests by supporting a specific candidate. In early summer 2004 it was not quite clear which candidate would be Moscow's choice. Besides moderate relations with Yushchenko, the Kremlin also had to consider a number of cultural, political and economic factors that made Yushchenko a Western candidate. At the same time, the Russian-speaking Yanukovych was first and foremost perceived as a representative of the Donetsk clan, opting for his own interests. To solve the situation, Moscow initially tried to support attempts to change the Ukrainian constitution to allow Leonid Kuchma to maintain his influence.<sup>138</sup> When the amendment failed, Moscow nevertheless had to decide between the two candidates. Under these circumstances, it was decided that Russian interests were best served by the candidate of the ruling elite and Yanukovych was assessed as favoring the Russian-speaking population, as well as Russian social, economic and national interests.<sup>139</sup> Besides sharing common interests, Moscow's ruling elite perceived Yushchenko as similar to Georgia's President Saakashvili, opting for regime change supported by the West.<sup>140</sup> Ultimately the Kremlin elite decided that supporting Yanukovych was Russia's top priority, in spite of the initial skepticism of whether he would favor his personal interests and those of the Donetsk clan, or would prove a reliable anchor to protect Russian national interests. In the end, Putin had more trust in the ruling elite, and after meeting both Kuchma and Yanukovych in Sochi in August 2004, Putin no longer hesitated to support Yanukovych with all the administrative and personal resources available.

Starting with the decision to support Viktor Yanukovych as the future president of Ukraine, Russian officials had to find approaches to implement their interests. To do so, Moscow exerted influence through personal networks and economic dependency. Furthermore, Russia used cultural ties, such as belonging to the same media space, to influence the Ukrainian elections. The social and culture linkage and dependency between Russia and Ukraine became one of the factors allowing Russia to extend its influence into the domestic Ukrainian agenda. This included issues such as easing travel restrictions, introducing dual citizenship and Russian as a second state language. Under Putin's influence, on 10 November 10th the Russian state Duma adopted a protocol for an agreement between Ukraine and Russia on visa-free travel between the two countries. Under the protocol, citizens of the two countries will not have to register with the authorities if they plan to stay less than 90

<sup>138</sup> Tatyana Ivzhenko: Moskva gotovit dlya Kiyeva stsenariy "silnoi ruki", in: Nezavisimaya gazeta, No. 133, 1.7.2004, p. 5.

<sup>139</sup> Vicktor Panfilova: Pavlovskij: Ja usche desyat let tak...." in: Nezavisimaya gazeta, No. 134, 2.7.2004, p. 5.

<sup>140</sup> Eduard Lozanskiy: Amerikanskiye illyozii Saakashvili, in: Izvestiya: 20.8.2004.



days in the other country (originally Ukrainian citizens required registration to stay for more than 3 days). This action can be perceived as a Russian move to support Yanukovych by addressing issues that affect the everyday lives of the Ukrainian population. Moscow also tried to mobilize every human resource possible. Ukraine's campaign election efforts also took place in Moscow, with both statements by the political elite and posters addressing Ukrainians living in Russia. This sort of influence is not transparent and is strongly dominated by personal factors and the cultural ties between the two states.

### 3.2.1 Personal networks

As post-Soviet politics in general, Russian-Ukrainian relations are in particular driven by personal networks and interest groups. Therefore the question of who, with whom, when and on which occasion are of much bigger importance than in Western societies that are shaped by institutions. During the election campaign, several different occasions played an important role in advancing Russian interests within Ukraine's domestic agenda. The meeting between Russian President Putin, Russian Premier Fradkov, Ukrainian President Kuchma and Ukrainian Prime-Minister Yanukovych on 18 August in Sochi was not only used to demonstrate Russian-Ukrainian brotherhood, but also to offer significant economic support by announcing that soon after the presidential election Moscow would cancel the value-added tax on oil and gas exports to Ukraine and introduce simplified regulations for crossing the Ukrainian-Russian border. Regarding the latter, it is not clear what Fradkov and Yanukovych had in mind, because border management at the Ukrainian-Russian frontier is already quite *laissez faire*. In any case Russian support for the ruling elite in Kiev has been quite obvious, and the meeting was an attempt to directly and indirectly intervene in the Ukrainian domestic agenda.

The next top-level event on the Russian-Ukrainian agenda was Yanukovych's trip to Moscow on 8 October, where he attended a forum of Russia's diaspora in Moscow. The following day he and Kuchma met with President Putin for a well-publicized celebration of Putin's birthday. Both meetings were intended to demonstrate to both Russian and Ukrainian television viewers that the Kremlin's sympathy in the presidential election is with Viktor Yanukovych. Again demonstrating their personal ties, Putin also visited Kiev three days before the first round, under the pretence of celebrating the 60th anniversary of Kiev's liberation from the Nazis in World War II.<sup>141</sup> The Russian President again used his personal influence as well as a massive media presence to indirectly influence the Ukraine election. To be on the safe side Putin left no stone unturned in his efforts to support Yanukovych. On 12 November, ten days

<sup>141</sup> Putin to visit Ukraine 3 days before vote, in: The Moscow Times, 22.10.2004, p. 3.

ahead of the second round the Russian President visited Ukraine again and was shown on Ukrainian television embracing Yanukovych and wishing him luck in the runoff. Putin and his Ukrainian counterpart Leonid Kuchma attended the signing in Kerch, Crimea, of a bilateral accord to establish a ferry line between Russia and Crimea.

In addition to meetings on the highest level and signals that primarily focus on potential economic support, other means were used to demonstrate Russia's interest in Ukraine and Moscow's preference for Yanukovych as Ukraine's future president. One example was the opening of a "Rossijskij klub" within the Premier Palace hotel, Kiev's most exclusive luxury hotel. The idea was to support mutual dialogue on the political, economic and social levels. Yanukovych not only supports the institution but also used the opening to demonstrate his closeness to Russian issues.<sup>142</sup> Furthermore the Kremlin also used Russian consultants, among them "spin-doctor" Gleb Pavlovskiy, as an instrument to push Russian national interests. In fact, Yanukovych's campaign was partly built up by Russian PR strategies. A letter signed by Valentyna Khrystenko, Deputy Chairman of the Board of the Council of Ukrainian Associations in Russia, was widely distributed in Ukraine. The letter made explicit anti-Yushchenko statements, claiming Yushchenko would operate under US influence and create tensions in Ukraine-Russian relations. The letter called for voters to support Yanukovych as the guarantor of economic growth and improved relations with Russia. Another way of manipulating Russian influence was the involvement of Ukrainian civic organizations in Russia as well as via the Russian Orthodox Church in Russia and Ukraine to campaign in favour of Viktor Yanukovych. On October 8th, a large congress of Ukrainian NGOs in Russia was held, using the slogan "Ukrainians of Russia support Yanukovych".<sup>143</sup>

Certainly the Russian opposition, mostly represented by members of the Union of Right Forces (SPS) or Yabloko, is interested in a democratic and independent Ukraine and using personal networks to promote the democratic opposition.<sup>144</sup> But as long as the democratic opposition in Russia remains weak, contacts and cooperation with Russian representatives beyond the ruling elite are not focused on by the media and have little influence on a majority of the Ukrainian electorate. Russia has also tried to intimidate the opposition. In October 2004 Yuliya Tymoshenko a chief ally of Yushchenko, was charged by Russian military prosecutors with giving bribes to defence officials to raise

<sup>142</sup> V Kyjeve otkryli Rossiyskiy Klub, in: Izvestiya, 2.3.2004.

<sup>143</sup> Olha Dmitricheva "President of Ukraine in Russia – Viktor Yanukovych?", Zerkalo Nedeli, #42 (517), 16-22 October 2004

<sup>144</sup> Tatyana Ivzhenko: Khakamada: Yushthchenko proveli den vdvoyem, in: Nezavisimaya gazeta, No. 152, 23.7.2004, p. 5.

prices. Tymoshenko refused to come to Russia for the inquiry, threatening to put up armed resistance. The military prosecutor's office put Tymoshenko on the international wanted list, which could discredit her as a corrupt official interested chiefly in his own enrichment.<sup>145</sup>

In contrast to Ukraine's relations with Western organizations such as NATO and the EU, Russian-Ukrainian relations are an important theme for both the Russian and the Ukrainian media. High-level meetings between the Russian and the Ukrainian elite are automatically covered by print media and television. In spite of a ROMIR Monitoring survey of 1500 Russian citizens that found that only 12 percent could identify at least one candidate running in Ukraine's presidential election, Russian interests are much more dominant than Western ones.<sup>146</sup> Media coverage has to be perceived as a catalyst for implementing foreign, in this case Russian, interests.

### **3.2.2 Economic influence**

In the fall of 2003, Russian President Putin initiated the Single Economic Space, bringing Kazakhstan, Belarus, Ukraine and Russia economically closer together. Ukraine's Verchovna Rada ratified the agreement in April 2004. So far, the character of the new form of integration can not be described clearly, but it appears that the cooperation has more of a top-down character guided by Moscow than a bottom-up character driven by Ukraine, Kazakhstan and Belarus. According to an analysis conducted by the Razumkov Centre, the Single Economic Space could bring the following disadvantages for Ukraine: cancellation of export duties on strategically important goods of Russian exports to Ukraine, cancellation of the value added tax on Russian oil and gas exports to Ukraine, cancellation of special protectionist measures against Ukrainian exports to the Russian market. These measures could cause an overall loss of about \$1 billion per year.<sup>147</sup> In addition they could bring potential economic losses and increasing dependency on Russia. One also has to consider the overall time frame. It may not be an accident that Moscow started this initiative on the eve of the EU's Eastern enlargement, when Kiev had to push its own European vocation. Furthermore, Russia also provoked a border dispute with Ukraine in the Sea of Azov and the Kerch strait. After some serious escalation, the conflict was formally solved on 20 April 2004 by a new Russian-Ukrainian border

<sup>145</sup> Senior Russian Defense Officials Suspected in Ukraine's Tymoshenko Bribery Case in: Created: MosNews, 08.10.2004.

<sup>146</sup> Russian indifferent to Ukrainian presidential elections, in: RFE/RL NEWSLINE Vol. 8, No. 182, Part I, 23 September 2004.

<sup>147</sup> 2. Actors, goals and mechanism of external influence, in: National Security & Defence, No. 5, 2004, P

treaty. Nevertheless, the conflict must also be perceived as a signal of Russian dominance. All in all, Russia sent some important signals concerning Ukraine's independence just before the election campaign started. Thus, Russian influence remains a serious matter of interest and concern in the Ukrainian elections, and it should be considered from the point of view of international influence.

In addition to flexing its muscles, Moscow has also used economic ties to exert direct influence on the elections. At the beginning of the election campaign on 18 July, during the high-level meeting between Putin and Prime Minister Fradkov from the Russian side, and Kuchma and Yanukovych representing Ukraine, acting Prime Minister and front-running candidate Yanukovych signed an agreement with Russia on oil and gas supply through the Odessa-Brody pipeline to Europe.<sup>148</sup> The two sides agreed on transit fees related to 23 billion cubic meters of gas (1000 cubic meters are charged at \$50).<sup>149</sup> Not surprisingly the daily Russia paper *Izvestija* called the agreement "the biggest pre-election present ever," donated from Moscow to Yanukovych.<sup>150</sup> Yanukovych can use this deal not only to help boost the Ukrainian economy but also to promote his position in the election as a leader whom Moscow trusts and who is able to win advantages for Ukraine. Based on the cases of Russian direct and indirect interference that are evident to the public, one can see that Russian-Ukrainian economic ties are of considerable importance in the Ukrainian elections. One cannot exclude the possibility that the Kremlin is using other financial sources to sway the election in Russia's interest; in this case, to support Yanukovych as the candidate of the Kremlin. As far as the transition is concerned, a Russian presence in Ukraine's economy is also a signal that Ukraine may develop less towards a market economy and more based on the interests of its Big Brother in the East.

### *Conclusion*

In the wake of its weakening influence over the Baltics and Georgia, Russia's ruling elite sees the Ukrainian election as an important means of maintaining its influence in the former Soviet space. Swaying Ukraine's presidential election in favor of Russia's national and economic interests has become a top priority of the Kremlin. Caused by the lack of democratic standards and an attractive approach for post-Soviet integration Moscow pushes its interests through the ruling Ukrainian elite, the acting Prime Minister and front-running candidate Viktor Yanukovych.

<sup>148</sup> Dmitry Koptev: Russian Crude for the Ukraine Economy, in: *The Moscow News*, No. 38, 2004.

<sup>149</sup> Tatyana Ivzhenko: Moskva i Kiyev dogovarilis o skorom ekonomicheskom proryve, in: *Nezavisimaya gazeta*, No. 136, 5.7.2004, p. 5.

<sup>150</sup> Petr Netreba: Tarif Presidenskiy, in: *Izvestiya*, 20.8.2004, p. 2.

Due to their economic, social and political interdependence, as well as the close ties between the two countries, Russia has been able to use its access to influence Ukraine's domestic agenda. That includes a range of administrative measures including influencing the media, for example using president Putin's birthday as a sign of solidarity, in attempt to directly and indirectly influence the election result in favor of Yanukovych. Not surprisingly, Putin was among the view foreign actors who on 22 November congratulated Yanukovych on his victory as the newly elected president of Ukraine, (Alexander Lukaschnko, the authoritarian president of Belarus, also congratulated him). This was happening at the same time that 100,000 people were demonstrating in the streets against the officially-declared election result and the heads of most democratic states were sharply criticizing Ukraine's violation of democratic principles.

### **Final conclusions on the international orientation and foreign support of the presidential election**

There is a clear link between the Ukraine election, the country's international focus and the future of reform. Both sides—Russia and the West—have identified the upcoming election as a crossroads for future reforms, but neither Russia nor the West has put in place a clear strategy. Russia's interest might be seen as keeping a certain kind of hegemony, along with maintaining strong economic and personal networks on the highest level. There is almost no Russian concept of supporting the transition process in Ukraine. The Western priority in regard to Ukraine is pushing forward democratic reforms, and the election is perceived as a litmus test for the state of the transition.

Russia finds itself in a more favorable position in terms of influencing Ukraine's elections than other actors. The presence of Russian media in Ukraine and the large amount of the Russian-speaking population, a number who have strong ties to a "common motherland," put Russia into a privileged position in terms of influencing the Ukrainian election. Although officially, Russia did not express explicit support for any of the candidates, Russia did not resist the temptation to allow pro-Yanukovych propaganda in the Russian media and to meet Yanukovych in his capacity as Prime Minister several times before the election and in an open manner. At the same time Western institutions have limited mechanisms for setting guidelines from outside. One of the most important players and direct neighbors, the European Union, is neither able nor interested in offering Ukraine an attractive perspective and furthermore Ukraine's attempt to become an EU member country was refused by the EU. Thus, beyond criticism of democratic shortcomings from organizations such as the Council of Europe or the OSCE, there are not very many possibilities for shaping the transition process. All in all, the impact of international influence on the Ukrainian election is difficult to measure, but theory and evidence of

Ukraine's election suggest it is limited to the extent that domestic actors allow them to interfere.

The domestic discourse of elections has become a real battlefield of international issues despite the fact that those are of low importance for voters. The election campaign has to a large extent been dominated by the East (Russia) – West, Soviet-type antagonism and a division of Ukraine artificially exaggerated by the state-controlled media and leaflets that were widely distributed. Evidence shows this was a technical approach aimed at evoking old stereotypes, threatening voters and discrediting the opposition candidate. The relatively low success of these techniques – the majority of voters voted in favour of Viktor Yushchenko (according to exit polls and parallel vote counting) – shows people opted first and foremost for democratic changes. At the same time, there was active manipulation by foreign policy and international actors, demonstrating the low commitment of public authorities to safeguarding the country's national interests. Indeed, short-term tactics aimed at winning the election by certain group of political elites overwhelmed long-term strategic interests of the country.

A close analysis of Ukraine's foreign policy agenda, which has been articulated during the election period, demonstrated two approaches. The first model is preserving the status quo in balancing influences from the East and West, making half-hearted moves towards democracy and implementing limited market reforms. The second approach is for Ukraine to take the path its Central European neighbours entered upon, that is, consistent integration within the European Union with full adoption of necessary requirements and pragmatic transparent relations with Russia. The two approaches are in fact less about foreign policy, and more about the principles of domestic and foreign policy-making and different value systems. An analysis of Viktor Yanukovych's interests and activities suggests that he represents the first model. Dominance of this model would gradually lead Ukraine to isolation from the democratic world and towards the growing influence of Russia. Evidence suggests that Viktor Yushchenko is a more transparent and consistent candidate who will focus on safeguarding Ukrainian interests in both Russian and Western directions. As Yushchenko has said: "We must not lose the Russian market, but it will be a great mistake if we miss the train to Europe."

The presidential election has become a focus of international attention. On one hand we see Russia's attempt to maintain the influence of the former Soviet empire via personal support and non-democratic methods on the Ukraine. On the other side, we see the West's approach; devoted to democracy but lacking concrete measures to integrate Ukraine into Euro-Atlantic structures. While Putin congratulated Viktor Yanukovych's on his election as President of Ukraine, Secretary of State Colin Powell said on 24 November that the US, followed by other heads of Western states, does not accept the results of the disputed election in Ukraine.

## **Policy Recommendations**

Basing on the analysis of the international orientation and foreign support of the presidential election, we can assume that the following aspects are important in strengthening Ukraine's national independence and democratic character:

1. To make Ukraine's foreign policy resistant to international manipulation there should be a mechanism that prevents the President of Ukraine from making important foreign policy decisions overnight. The country's national security strategy and foreign policy must be made in agreement with the Parliament;
2. The Parliament should adopt the Basics of the Foreign Policy of Ukraine based on a broad social consensus;
3. The Ukrainian government should develop a policy towards Russia making the country less dependent on Moscow and changing the character of policy from a reactive to a pro-active approach;
4. Ukraine should respect its international obligations especially during the elections;
5. The West should develop a strategy to integrate Ukraine. The approach should be realistic for the West and attractive for Ukraine;
6. Ukraine should strengthen its transition to increase its economic and political independence. Its foreign policy should be consistent with domestic politics.