

Ukraine between Elections: Out of the Blue?

FRIDE Democracy Backgrounders

Democracy Backgrounders provide factual information relevant to topical international challenges related to democratisation, and analyse policy implications for the international community.

About FRIDE

FRIDE is an independent think-tank based in Madrid, focused on issues related to democracy and human rights; peace and security; and humanitarian action and development. FRIDE attempts to influence policy-making and inform public opinion, through its research in these areas.

Four months after parliamentary elections Ukraine has seemingly slipped back into business as usual. The opposition is obstructing the work of the parliament, Russia has threatened Ukraine with rockets, and with cutting off its gas supply over alleged debts, and the extremely narrow Orange majority strains everyday thanks to battles between the Orange Government and the Orange Presidential Administration.

Nevertheless, the three constitutional leaders signed a letter in January asking NATO to provide a Membership Action Plan (MAP) for Ukraine at its Bucharest summit in April, initiating public debate on the issue of NATO membership for the first time. Ukraine was admitted to the WTO on February 5, thereby creating the best framework so far for the process of European integration while also improving the prospects for more foreign investment. Last, but not least the Tymoshenko government has moved to tackle corruption by targeting VAT refunds and customs operations, which lack transparency, and trying to remove RosUkrEnergO from gas dealings between Russia and Ukraine - although there are few indications of long-promised judicial and constitutional reform.

Conversely, the Yulia Tymoshenko Blok (BYuT) is placing its own sponsors in positions of power. Although divided on the issue of MAP, most Western diplomats lack genuinely positive intentions with regard to the Ukrainian request. The question remains unanswered of whether Tymoshenko has a serious plan to move Ukraine forward, or is merely implementing a series of populist measures intended to boost her rating before the upcoming presidential elections in 2009?

Getting used to braids and new ideas?

Ukrainians take their time to act. The new Ukrainian parliament first assembled on November 23, almost two months after the elections. The deal to hold new elections in September was negotiated by Viktor Baloha, Chief of Staff at the Presidential Secretariat and Ivan Pliushch, the then-Head of the National Security and Defence Council (NSDC) with their main negotiating partner in the Party of the Regions, Rinat Akhmetov, who is also Ukraine's richest man.¹ Many believed that the same group made a deal for a post-election grand coalition.

But then the elections came. BYuT's results gave the Orange forces yet another chance to lead Ukraine "out of the Blue". The new speaker, the "polite young technocrat"² Arseny Yatsenyuk was elected on December 4, while Prime Minister Tymoshenko was confirmed by an open vote on December 18 on the second attempt. However the everyday turmoil in the parliament has sent a strong signal that Prime Minister Tymoshenko has a majority of only two from the renewed "Orange Coalition", while even in the Cabinet not all ministers are following her guidance. The Presidential Secretariat, which has become a powerful institution under Viktor Baloga, returning to

Kuchma-style policy making, is providing a constant policy and administrative "alternative" to the Cabinet. The same kind of tug-of-war, which previously existed between the two Viktor and led to early elections, is now developing between the Orange President and the Orange Government. This time, however, Yuschenko has a more direct influence as his party, Our Ukraine-Peoples' Self Defense (NUNS), is in the ruling coalition. In addition, the President nominates the ministers of defence³ and foreign affairs⁴, while Yuriy Melnyk, the only member of the Yanukovich cabinet who continues to serve under Tymoshenko, has also been installed by the Presidential Secretariat. Seemingly Yuschenko has been building up a kind of "de facto grand coalition"⁵ with the Party of Regions outside the parliament. Raisa Bogatyrova, a prominent member of PRU was named as secretary of the National Security and Defense Council⁶. These cadres are effectively backed by the Prosecutor General Medvedko, who maintained his position after the government tried to call him back into parliament thanks to NUNS being divided on this issue.⁷

The strategy of the Presidential Secretariat seems intended to give time to the government, while also designing clear opposing tactics and strategies to slow down Tymoshenko's drive and determination. President

³ The defense portfolio went to Deputy Orange Prime Minister Yuri Yekhanurov, not for his management credentials, but rather for his loyalty for President Yuschenko.

⁴ The pro-Western diplomat known for his lack of personal ambitions or an individual agenda, Volodymyr Ohryzko, became foreign minister.

⁵ According to the constitution, the president puts forward a candidate for general prosecutor while parliament has the right to demand a performance report and to follow this with a vote of no confidence. See: Kuzio, Taras., "Tymoshenko and Yuschenko clash over battling corruption", January 21, 2008, Jamestown Foundation.

⁶ Stepan Havrysh, legal adviser to the 2004 Yanukovich election campaign, was appointed as deputy head. The NSDC is chaired by the president, whose word is decisive at its meetings, and who can fire the NSDC secretary at any moment. The Prime Minister and key ministers are members of the NSDC along with the secretary. The president issues orders at NSDC meetings, not the secretary, whose job is to organise NSDC operations and monitor how the president's instructions are carried out. See: Korduban, Pavel., "Yuschenko picks chief security adviser from opposition camp", January 8, 2008, http://www.jamestown.org/edm/article.php?article_id=2372697.

⁷ Medvedko became general prosecutor in November 2005 and has remained in that position, except for a brief period in April 2007 when he was replaced by Sviatoslav Piskun, another Yuschenko backed former Kuchma loyalist. By maintaining Piskun as Prosecutor General for the first ten months of his presidency Yuschenko assured the Kuchma-era elites of their immunity. See Kuzio, op. cit.

¹ See Wilson, Andrew., "Ukraine: Finally a new parliament, but no new government", ECFR, London, http://www.ecfr.eu/content/entry/commentary_wilson_ukrainian_elections/

² Korduban, Pavel., "New Yuschenko-Tymoshenko coalition passes first tests", http://www.jamestown.org/edm/article.php?article_id=2372644

Yushchenko came up with a package of bills aimed at diminishing the role of the Prime Minister and the government,⁸ and made Moscow his first visit after the elections .

Nevertheless, the agenda of the second Tymoshenko government looks similar to that of the first. Given that there were not too many achievements from previous reforms, perhaps there is no need for new ideas, but rather to implement the old ones. There is a debate over whether Tymoshenko has a real plan, as she is often seen carrying a green dossier which she frequently quotes with journalists or at Cabinet meetings. She certainly has determination, though. There are several economic, social and anti-corruption initiatives outlined by the new government such as the "Tymoshenko Transparency Initiative" (TTI), the "Contract with Investors", "Contraband, Stop", the new Council of Foreign and Domestic Advisors, and the rather controversial compensation programme. All these make great headlines but only time will tell whether these steps suffice to put Ukraine on the reform track, or whether they will be used simply to further boost Tymoshenko's popularity, especially in Eastern Ukraine.

Besides the "alternative" offered by the Presidential Secretariat, obstruction from the opposition and a less-than-overwhelming majority, inflation might be the most serious enemy of the Tymoshenko government. According to last year's official figures consumer prices rose by 16.6 percent. If its 2005 tenure is anything to go by, no price controls or export controls can be expected from the new government⁹, however, and the new compensation program, worth \$1.2

billion, may push inflation even higher this year. If pessimistic scenarios are confirmed this would be more likely to lead to the downfall of the government than any actions of the Presidential Secretariat or obstruction from the parliamentary opposition.

At least under the TTI the government has taken initial steps to tackle corruption, targeting customs as well as the previous government's practice of selling value-added tax refunds to exporters at a "commission" of 20–30 percent, and especially the gas trade with Russia. Removing the intermediary RosUkrEnergo, and its half-owned Ukrainian subsidiary, UkrGazEnergo, which is serving to siphon money to a number of prominent Russians and Ukrainians, is a popular goal, but there are others who claim Tymoshenko may want to let her own sponsors take a slice of this lucrative pie.¹⁰ Although the removal may not be opposed by the Kremlin, as this would mean higher gas prices, there has so far been no debate within the government over liberalising the domestic gas market.¹¹ Without such a move it will be hard to save the Ukrainian state oil and gas corporation, Naftogaz Ukrainy, which is on the verge of bankruptcy.

Beside the compensation program the question of privatisation remains another grey area. Notably, the first Tymoshenko government's re-privatisation policy met with the harsh criticism from foreign experts in 2005. The new Ukrainian government published a list of 19 state-owned companies slated for privatisation this year, with a total value estimated at \$5 billion¹². Sensibly, the new government has abandoned its predecessor's tactic of selling very small posts, instead offering large majority posts in three major companies,

⁸ One of the bills is meant to amend the law on the Cabinet of Ministers that was passed in January 2007 and further diluted presidential powers. If parliament passes the amendments, the president will be authorised to disagree with the parliamentary majority's choice for prime minister; parliament will not be allowed to dismiss the ministers of foreign affairs and defense – the only two Cabinet ministers whom the president appoints; the Cabinet will have to obey decisions made by the National Security and Defense Council – a body chaired by the president; and regional governors – who are appointed by the president – will have the right to veto the Cabinet's appointments to the regional offices of Cabinet ministries. See, Karduban, Pavel., "Yushchenko strives to dominate Tymoshenko Government", January 22, 2008, http://www.jamestown.org/edm/article.php?article_id=2372737

⁹ Aslund, Anders., "Successful Start to Ukraine's New Government", *Moscow Times*, January 30, 2008.

¹⁰ Western diplomatic sources have been describing Igor Kolomoiskij, the owner of PrivatBank, as one of the richest oligarchs in Ukraine.

¹¹ According to Western diplomatic sources the (oral) agreement between Presidents Putin and Yushchenko, including removing RosUkrEnergo, a stabilising price favorable for Ukraine is meant for the first three months. After the Russian presidential elections new negotiations are expected to begin. The Kremlin has seemingly used a similar strategy toward Minsk – after negotiating favorable conditions for the gas price Alexander Lukashenka revealed that Belarus's price of \$119 will be doubled in 2008, while Gazprom confirmed that the \$119 is only for the first three months.

¹² Aslund, op. cit.

including Ukrtelecom, Ukraine's old fixed-line monopoly.¹³ The new government also intends to adopt the necessary legislation to facilitate land trade.¹⁴ Nevertheless, Yushchenko immediately asked Tymoshenko to drop her privatisation plan for 2008, arguing that a law to make privatisation more transparent should be passed first.¹⁵

Speed and determination made the new government's start impressive, although plans are still vague to reform the constitution and judiciary, the two single biggest issues prior to the elections. Without these the Orange agenda cannot be completed. This is especially true given that the Tymoshenko government could build such a reform initiative on the election platform, where both NUNS and the PRU campaigned extensively with reform promises in both areas.

The reform drive of the new government might be overshadowed by Tymoshenko's efforts to increase her popularity rating nationwide. Targeting Eastern Ukraine seems to be a long-term strategy, which has already borne some fruit in the 2007 parliamentary elections as BYuT was able to attract new voters in the East. The announcement of the compensation policy in Dnipropetrovsk and Yulia's campaign meetings conducted in Russian in the East signals this effort. This nationwide outreach is in stark contrast to the President's rather Kuchma-like policy-making or the PRU's obstructionist approach. Nevertheless, the Paul Manafort-led effort to polish the image of the PRU has had some positive impacts as it accepted the election results and has set up a shadow government to monitor governmental activities. Nevertheless, there are indications that the financier Rinat Akhmetov is moving closer to the president. That would mean that Doneck drops Viktor Yanukovich as unelectable in 2009 and moves to back Yushchenko against Tymoshenko.¹⁶

¹³ Aslund, *op. cit.*

¹⁴ Aslund, *op. cit.*

¹⁵ Karduban, *op. cit.*

¹⁶ Interview with Western diplomats. There seems to be much interest in working against the Tymoshenko government in these business circles thanks to the anti-corruption measures that are causing businesses to "lose" money. However, most analysts also believed that

The two coalition partners have divided the Cabinet posts, so that BYuT controls the economy while NUNS retains foreign policy, security, and culture. A certain structural balance of power between the President and the Prime Minister meanwhile seems to be emerging out of their persistent power struggle. In Dnipropetrovsk on January 14th Tymoshenko made it clear that she is happy to carry on as Prime Minister, but she may consider running for President "if the Cabinet is limited by certain restrictions, if they start putting forward certain conditions".¹⁷ Moreover, she hinted at the possibility of a coalition between BYuT and PRU. Thus, this new power clash between the President and the Prime Minister may continue longer than was expected after the elections. Tymoshenko is likely to decide later whether 2009 will see one or two Orange presidential candidates, in accordance with which position offers the stronger influence.

Integration: glass half empty, half full

Immediate post-election expectations pointed towards the continuation of pro-European rhetoric, while rather symbolic and small steps towards integration were taken. Such an approach would be feasible save for the fact that the EU is not willing to give prospective membership to Ukraine. Moreover, such foreign policy "stagnation" will not be opposed by the majority of Ukrainians until the economy is stronger.

It was rather surprising, therefore, that on January 18 President Yushchenko, Prime Minister Tymoshenko and Speaker of Parliament Yatsenyuk made public a joint letter to NATO Secretary General Jaap de Hoop Scheffer declaring Ukraine's readiness to advance on a Membership Action Plan (MAP) with NATO and

Yushchenko has a chance against Tymoshenko, if she stays Prime Minister as long as possible. A fired Tymoshenko, seen as a victim, would certainly be able to mobilise successfully prior to the 2009 presidential elections.

¹⁷ Karduban, *op. cit.*

requesting a decision on the matter from the Alliance at its Bucharest summit in early April. As a rationale the Presidential Secretariat argued that the intensified dialogue of 2004-2007 had been fully utilised and had almost exhausted its potential.¹⁸ Many Western diplomats would disagree with this assessment, if only behind the scenes.

While there is a consensus between the new government and the Presidential Secretariat over NATO membership, the declared commitment has not been reflected in the deeds of the government or the President himself. A referendum on NATO has been the Achilles heel of the request, although the Presidential Secretariat communicated this could have a consultative nature only). In fact the latest opinion polls suggest a sharp increase from about 20 percent to 31 percent in favour.¹⁹ This increase probably owes something to the absence of an anti-NATO campaign, which was a remarkable achievement of the 2007 parliamentary elections among all political parties. Moreover, the article in *Profile* magazine by Taras Chornovil, one of the prominent members of the PRU, signalled that any future government would accept the MAP for the sake of continuity in foreign and defence policy.²⁰ The reaction of Russia's President Putin in his annual press conference, warning that Russia would target NATO military bases in Ukraine with its rockets, is perceived to be only the beginning in the run-up to presidential elections in March. It may prove useful for Ukrainian pro-NATO campaigners, as it is likely that the more Russia beats its chest, the more Ukrainian support towards NATO will increase.

More serious problems include the Annual Target Plan for 2008, which is yet to be approved, the less-than-impressive track record of the "Intensified Dialogue", and the President's nomination of Yuri Yekhanurov, instead of Anatoly Hritsenko, as defence minister. These provide evidence of a lack of proper management, and

the necessary actions towards NATO on the part of the Ukrainian political elite. Western countries are divided on the issue because of these factors and concerns over regional stability (read: Russia). The social democrat-led Federal Ministry of Foreign Affairs of Germany, in particular, is trying to convince the Ukrainian elite as well its Western partners that it is too early for MAP.

With so many divisions both within Ukraine and in the West, this remains a classic case of the glass being half empty or half full. With the aforementioned letter Ukraine at least managed to raise the issue within NATO and likely succeeded in opening a door to NATO accession in the long term. The West must, however, be aware of the sensitivity of the Ukrainian elite and the delicate details of the NATO question within Ukraine and thereby make a decision about the MAP in order to keep Ukraine firmly on the Euro-Atlantic integration track.

The situation with other integration processes is different from the overly-politicised NATO issue. Admission to the World Trade Organisation, at the meeting of the WTO General Council,²¹ which has been the biggest integration success story of the post-Orange Revolution period, went almost unnoticed in Ukraine. One reason for this is that Ukrainians waited twelve years for this integration process to complete itself, as the country began the application process in 1993. This symbolical last touch²², according to Hrihory Nemyria, the Deputy Prime Minister for European and International Integration, reflects the Tymoshenko government's efforts to reach out to foreign investors. The first foreign trip of Prime Minister Tymoshenko was to Brussels, where she confirmed that her main priority in terms of integration would be foreign investment, and offered cooperation with the EU on European energy security in order to ensure alternative energy supplies from Russia.²³ The focus on foreign investment was confirmed in a big

¹⁸ Socor, Vlad.

¹⁹ Polls are from December 2007. Results provided by the Democratic Intuitive Foundation.

²⁰ Chornovil, Taras., *Chemedan bez ruchki* ("Suitcase without a pen"), *Profile*, No 2 (21), January 2008.

²¹ Ukraine will become a fully-fledged member of the WTO after its parliament ratifies the admission.

²² The last obstacle was the European Union's complaint about the country's export tariffs, primarily on scrap steel. See Aslund, op. cit.

²³ Kuzio, Taras., "Timoshenko reaches out to foreign investors", February 7, 2008, Jamestown Foundation.

meeting with investors in Kyiv. Proving that the new government has a plan and backing, several studies were published including one by the Washington-based Rand Corporation's International Security and Defense Policy Center²⁴ which was co-authored by the Nemirya-headed Kyiv-based Center for European and International Studies (CEIS).

Tymoshenko's Brussels trip signaled greater cooperation with the EU, as this represents yet another point of competition with the President, bringing more openness, more contacts and more exchanges. Meanwhile despite Ukraine officially disliking it, the European Neighbourhood Policy Instrument has been an effective mechanism for imposing conditionality and opening many new socialisation channels. The visa facilitation agreement, along with the proposal of opening community programmes, energy integration and increasing people-to-people contacts, are placing Ukraine ahead of other ENP countries and making it a testing ground for this policy.²⁵ However, the EU must increase its incentives as a challenge to the entire elite, utilising the current positives and this new, competitive integration environment in Ukraine. In contrast to the highly politicised NATO issue, Ukrainian bureaucrats actually run the EU process, while politicians have to catch up with the technical process. Negotiations on a new enhanced agreement are being held and the talks on "deep free trade" will be launched by the visit of Commissioner Mandelson in February 2008. As one high-level EU diplomat put it, Ukraine is aware that the EU cannot provide membership status at this moment, but it acts as if it were unaware; while the EU is aware that Ukraine does not like the ENP, but acts as if it were oblivious to the fact. Indeed, as there is not much talk about either the membership perspective or the Neighborhood Policy, the technical process of integration might be moving faster than ever.

²⁴ Crane, Keith., Larrabee, Stephen., "Encouraging Trade and Foreign Direct Investment in Ukraine", See: http://www.rand.org/pubs/monographs/2007/RAND_MG673.pdf

²⁵ See Solonenko/Jarabik.

Conclusions: Cherchez la femme

Although Ukraine's politics remains driven by the same three strong personalities, Prime Minister Tymoshenko is so far keeping the public policy process firmly in hand through a series of new initiatives. Her government has made an impressive start. With so many much-publicised campaigns against corruption, and the WTO negotiations completed, creating room for foreign investment within just a few weeks, the implication is that an initial plan, at the very least, did exist. However, with efforts to boost her popularity nationwide also firing on all pistons, the ultimate question is when will these two dynamics, one for reforms and the other for popularity, come into conflict.

Nevertheless, the second Tymoshenko government seems much more modern than the reactive policy-making of President Yuschenko or the obstructionist opposition led by Viktor Yanukovich. So far Ukraine, between the 2007 parliamentary and 2009 presidential elections, is about the *cherchez la femme*... High inflation, which some predictions put at 19 percent for this year, may kill all these plans. Although the new framework of the Orange President and the Orange Prime Minister seem to act as balancing counterweights for each other's power, the impressive reform drive might be scuppered by the thus far absent plans for reform of the judiciary and the constitution.

Nevertheless, the Tymoshenko government seems to be pushing the international integration process forward more than any other previous government. The hotly debated issue of NATO membership makes the glass seem half empty or half full, depending on who you ask, and the West must remember that policy making and the taking of any serious decisions takes time in Ukraine. Without the most serious incentive, the promise of EU membership, the most strategically important country in Eastern Europe will continue to

hover between East and West. However, the increasing aggressiveness of Russia, along with slowly but surely implemented technical integration processes to the WTO (completed) and to the EU (underway), will further convince the majority of Ukrainians that

dropping anchor in a Western harbor is still better than acting as a buffer state. The Ukrainian elite must understand that it is time to back up pro-European rhetoric with concrete actions and also make the case for Europeanisation at home as well as in the West.

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