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**Research Report**

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## Blue Overshadows Orange

The New President of Ukraine Will Put Domestic Policy First

*Volodymyr Kulyk and Susan Stewart*

The opposition leader Viktor Yanukovych obtained a clear if narrow victory (49 percent versus 45.5 percent for then Prime Minister Yulia Tymoshenko) and has been sworn in as Ukraine's president for the next five years. He first faces the challenge of acquiring a majority in parliament and forming a government, after which his policies are likely to be dominated by dealing with Ukraine's dire economic situation and by satisfying the interests of his heterogeneous financial supporters. This complex domestic context will shape the priorities of his foreign policy and his approaches to relations with Russia and the European Union.

Some media reports call the election of Yanukovych the ultimate defeat of the Orange Revolution, the large-scale protests by Ukrainian citizens against electoral fraud in late 2004 that prevented him from becoming president then. Others, in contrast, consider this relatively free and fair election a victory for the revolution, the main goal of which was to assert the people's right to choose their leaders without administrative manipulation. In fact, it is both a defeat and a victory.

### More defeat than victory

The victory dimension is more obvious but also more limited. The competitive nature of the election and the lack of large-scale abuse of administrative power confirmed Ukraine's reputation as a democracy, at least in a minimalist sense of the word. Not

only was no massive fraud registered by foreign or domestic observers during the two rounds of voting; the campaign was also virtually free from the kinds of clearly undemocratic methods that characterised the 2004 election, such as intimidation of the opposition, monopolisation of the media, and administrative pressure on public employees. No less important, the smooth transition of power from the third president to the fourth contributed both to the legitimacy of the new leader and to the general acceptance of democratic rules.

At the same time, the impressive comeback of one of the key figures of the Leonid Kuchma regime – against which the Orange Revolution rebelled – is by no means the only reason to speak of the revolution's defeat. The frustration with the Orange leadership's inability to pursue any coherent policy because of incessant infighting

in the parliament and confrontations between President Viktor Yushchenko and Prime Minister Yulia Tymoshenko relativised in public opinion Yanukovich's earlier sin of involvement in electoral fraud. Further, the Orange politicians proved as willing as their Blue opponents to resort to methods that run counter to the rule of law, thereby undermining the legitimacy of key institutions of the state. The use of the judiciary for immediate political purposes was particularly detrimental to the consolidation of a democratic order. No less important was the fact that corruption – far from being tamed – actually grew more rampant in the post-Orange years.

Another manifestation of the Orange defeat is the strong popular support for a candidate believed likely to promote closer relations with Russia at the expense of integration into European structures. Although the Orange leaders declared orientation towards Europe to be one of their fundamental goals, they scored nearly as badly in foreign policy as in democratic consolidation. To be sure, their failure to bring Ukraine into – or at least much closer to – the European Union and NATO was largely caused by these organisations' rejection of Ukraine's call for quick positive signals. In the case of NATO, this rejection was partially brought about by strong opposition on the part of Russia and anti-Orange forces in Ukraine itself. However, Western caution was motivated not only by the internal problems of these two organisations or by reluctance to jeopardise cooperation with Russia. Of equal importance was a lack of progress by Ukraine in the political, economic, and military dimensions.

Ironically, movement towards Europe was also undermined by a deterioration in relations with Russia, which came about in part because Yushchenko sought to downplay these relations in favour of cooperation with the West. This deterioration largely resulted from Moscow's rejection of all attempts on the part of post-Soviet states to establish a form of interaction based on the equality of the partners. At the same

time, Yushchenko's behaviour revealed not only a lack of political realism but also a disregard for the preferences of the majority of Ukrainian citizens, who did not support policies capable of antagonising Russia, especially integration into NATO.

Surprisingly enough, the obvious failures of the Orange regime did not lead to a widespread re-orientation of Yushchenko's former constituency towards Yanukovich. The Orange electorate remains overwhelmingly Orange, as evidenced by voter support for Tymoshenko, who was widely perceived not only as the stronger of the two key Orange figures, but also as less inclined than Yushchenko to ally with the anti-Orange forces. Moreover, the radical narrowing of the election results gap between the two main candidates (from 10 percent in the first round to 3.5 percent in the second) means that for most voters who originally preferred other candidates, Yanukovich remains an unacceptable figure – both as a person and as the embodiment of a political orientation that includes prioritising relations with Russia. At the same time, the anti-Orange electorate of 2004 remains overwhelmingly hostile to anybody associated with the Orange forces and their allegedly anti-Russian policies.

The run-off results show that the dividing line between the predominantly "orange" and predominantly "blue" regions remains exactly where it lay five years ago. The most vivid illustration of Ukraine's territorial polarisation is the fact that in none of the 27 regions is the gap between the two candidates' levels of support less than 10 percent – in 9 regions it even exceeds 50 percent. The enduring division of the country can be considered yet another dimension of the defeat of the Orange Revolution, which called for a front uniting east and west against the undemocratic regime, but in reality paved the way for their striking democratic polarisation.

## **Building a new coalition**

The scale of change in Ukrainian politics under the new president will significantly depend on his ability to consolidate his power. The current Constitution gives the prime minister more powers than the president, except in the realm of foreign and security policy. Therefore, in order to be able to genuinely govern the country, Yanukovich needed to oust Tymoshenko, who by no means intended to leave her influential post voluntarily. Although he garnered enough support in the parliament for a vote of no confidence in the Tymoshenko government on 3 March, it is not clear whether he will manage to form a new coalition, which would then propose a candidate for prime minister. If no government is appointed within 60 days, the president has the right to dissolve the parliament and schedule an early election.

However, a coalition should only be formed by a group of factions comprising a majority of the parliament's deputies. Since an alliance with Tymoshenko's bloc is currently out of the question, the Party of Regions – the party of Yanukovich – has to ally with the only other large faction, Our Ukraine – People's Self-Defense (NUNS). This faction used to be mostly controlled by Yushchenko, but now is deeply divided. Many of its deputies may be ready to make an alliance with Yanukovich to avoid the likely prospect of being left out of the parliament in the case of an early election. But they would condition their participation in such an alliance on their partners' readiness both to grant them some influential posts and to compromise on certain issues that are critical for NUNS' political reputation. First and foremost, they would seek to prevent a clear re-orientation towards Russia in the foreign policy sphere and towards a pro-Russian identity in policy regarding culture and history (see below).

The problem is, however, that these issues – with opposite preferences on how to address them – are equally important to the core constituency of Yanukovich and his party. Although a transparent compro-

mise on these divisive issues between the parties representing the two halves of Ukraine would contribute to national unity and social stability in the long run, it is likely to jeopardise both parties' chances in the forthcoming elections. One can expect that the Party of Regions will succeed in winning over a majority of NUNS deputies, whose consent will make it possible to formally declare a coalition. Once declared, the coalition will be hard to dissolve, which means that the Party of Regions will then have much more room for manoeuvre.

If the effort to build such an alliance fails, the Party of Regions' leaders will have to agree to an early election in the hope of creating a working coalition in the new parliament. In any case, the destructive confrontation between the president and the prime minister seems unlikely to continue.

## **Politics of culture and history**

If Yanukovich manages to consolidate his power in the parliament and install a cooperative prime minister, this will give him an opportunity to implement his political agenda. His policies in specific domains will be determined both by the domestic factors described above and by the imperative of cooperation with key foreign powers, first of all Russia and the European Union. While external factors will be of some importance in economic and security policy, dealing with culture and history will be primarily dictated by domestic considerations.

The most sensitive issues in this domain are language and history. Since raising the language issue in the 2004 campaign, Yanukovich has always declared his preference for upgrading the status of Russian to that of a second state language, on a par with Ukrainian. However, even when his party dominated a parliamentary coalition in 2006–2007, it lacked the two-thirds of votes necessary for revising the language article of the Constitution. This deficit is likely to persist in the foreseeable future, which is why supporters of Russian will have to

promote its actual use rather than its formal status, as Yanukovich has already announced. It might be possible to get a majority of votes for a law that would provide for the use of Russian alongside Ukrainian in most social domains, but this move would antagonise many deputies whom Yanukovich and his party will need for a coalition, as well as many Orange voters whom he would like to win over. Therefore, they may choose to refrain from such action for now, and seek instead to ensure the uninhibited use of Russian via the selective implementation of current legislation. In addition, the new executive may revoke some administrative decisions of the Orange cabinets which imposed Ukrainian as the dominant language in certain domains, most notably education and the cinema.

With regard to history, the main antagonising factor for residents of the east and south of Ukraine and the leadership of Russia was President Yushchenko's nationalist discourse and policies involving state awards and commemorative ceremonies. Yanukovich could easily take a different course even without resorting to formal steps that might alienate some parts of the population and parties seen as representing their interests. It would suffice for the new president to make public statements and participate in ceremonies with a different, Russia-friendly ideological meaning. Still, he may choose to invalidate some of Yushchenko's most controversial decrees, such as one granting the title of "Hero of Ukraine" to the leader of the World War II Ukrainian independence movement, Stepan Bandera, whom many people in Russia and even in Ukraine consider a Nazi collaborator.

### **Economic and energy issues**

Yanukovich will be guided strongly by domestic economic considerations. He is greatly indebted to his oligarch supporters, such as Rinat Akhmetov and Dmytro Firtash. Therefore, he is likely to pursue

policies that will further their business interests in the short term. However, the conflicting interests of his financial backers may result in poorly coordinated and even contradictory measures. In any case, one can expect a continuation of the focus on narrow corporate interests, which has characterised policy from the Ukrainian elite in past years, rather than a long-term approach to improving the economy. This focus will also privilege eastern over western and central Ukraine and thus threatens to deepen regional polarisation rather than help to unite Ukraine around a common economic programme from which the entire country could benefit.

However, these domestic considerations will be tempered by the need to cooperate with international financial institutions due to the dire economic situation in the country, where GDP fell by about 15% in 2009. Yanukovich has stated repeatedly that he aims to improve cooperation with the IMF – this cooperation suffered a severe setback in November 2009 after the Ukrainian parliament approved a rise in the minimum wage and higher pension payments. The IMF assessed these measures as irresponsible in Ukraine's current economic climate and refused to issue the next tranche of the \$16.4 billion loan to Ukraine, which had been approved in autumn 2008. The Party of Regions proposed these populist measures while in opposition. Now that the presidential elections are over, Yanukovich will no doubt seek to renew the relationship with the IMF and obtain the remaining approved funds, which are desperately needed to keep Ukraine's economy afloat.

Cooperation with the Fund in 2009 was accompanied by improvements in the areas of industrial production, inflation, and the current account balance. It is in both Ukraine's and the IMF's interests to re-activate cooperation. However, domestic factors, such as the possibility of early parliamentary elections and the particularistic economic interests of Yanukovich's supporters, will constrain his willingness to

pursue internationally recommended measures. Thus a renewal of cooperation is likely to be accompanied by difficulties similar to those that arose in 2009. In general, Ukrainian cooperation with international financial institutions will tend to be tactical in nature, rather than part of a larger economic strategy, and will continue to take a back seat to domestic political and economic considerations.

The primacy of internal factors will apply to the energy realm as well, even though here the role of Russia will also be critical. Many of Yanukovich's financial backers have significant interests in the energy sphere (coal and gas in particular). Thus, one of his primary goals will be to ensure that these interests are served in the short term. Another will be to avoid stirring up the populace against him with hikes in energy prices, which have long been demanded by the international financial community. As early elections are possible and Yanukovich's first priority will be to consolidate his power, no such price rises should be expected in the next few months. Nor is it likely that serious measures will be taken to improve energy efficiency – another key reform needed in Ukraine – as they would impose a heavy financial burden on the very industries from which Yanukovich draws his support.

The fate of the EU-Ukraine accord on modernisation of the gas transit network is unclear. Recent statements indicate that Yanukovich is in favour of the idea of a tripartite consortium in the gas sector that includes Russian participation. This fits in with his desire to improve the current relationship with Russia and to ensure that gas-flows from Russia via Ukraine to the European Union not only continue, but increase, thus guaranteeing an important role for Ukraine as a transit country, despite Russian plans for pipelines bypassing Ukrainian territory, such as the North Stream and South Stream projects. While the idea of a consortium has certain apparent advantages, such as providing sources of investment for urgently needed

modernisation efforts, in practice it is likely to encounter difficulties. Russian behaviour in the post-Soviet space demonstrates that a key Russian aim is to acquire significant parts of the energy-related infrastructure in neighbouring countries. However, in Ukraine this infrastructure is closely associated with the country's sovereignty, which led to the passage of a law forbidding its privatisation. Moreover, Ukrainian businesspeople in the energy sector are not interested in ceding control of their interests to Russian "partners". This clash of interests may lead to an inability to agree on the mode of implementation of the consortium and therefore to an indefinite postponement of the modernisation of Ukraine's gas transit network.

Beyond these longer-term issues, the security of gas transit to the European Union will remain hostage to the overall Ukraine-Russia relationship, but does not seem to be at immediate risk. Yanukovich stated both during and after the election campaign that he would attempt to alter the contract signed by the Russian and Ukrainian gas companies in January 2009. While Prime Minister Vladimir Putin and Tymoshenko tinkered with some aspects of this contract at their meeting in Yalta in November 2009 – in particular reducing the amount of gas Ukraine is required to import – they did not challenge the substance of the agreements. Gas-related issues will probably remain a bone of contention, but Yanukovich's election rhetoric is likely to give way to an acceptance of existing agreements, at least for the foreseeable future. First, because they have introduced a greater element of legality and predictability into the energy relationship with Russia, which is in the political interest of Yanukovich and the economic interests of his supporters. And second, because he will be unwilling to jeopardise the foreseeable positive trend in relations with Russia in general. Finally, neither the Ukrainians nor the Russians have an interest in further endangering their respective reputations as a reliable transit country and gas supplier.

## Security policy

Ukraine's geopolitical position is insecure, in particular since Russia has demonstrated its willingness to use military force in its neighbourhood and parts of the Russian elite have challenged the Ukrainian status of the Crimea. Yushchenko attempted to deal with this situation by accelerating Ukraine's path towards NATO membership. However, this approach served to heighten Ukraine's insecurity in the short term, due to Russia's refusal to accept this trajectory and its threat of retaliation should Ukraine actually join NATO. On this point Yanukovich has shown himself to be willing to accommodate Russia by supporting the idea of a neutral status for Ukraine. This, combined with the significant mistrust of NATO in the Ukrainian population, will ensure that the topic of NATO membership will not be raised in the foreseeable future. However, it is nonetheless likely that Ukrainian cooperation with NATO will continue on the basis of the current Annual National Programme. This will fit in with the overall attempt to balance the foreign policy orientation between Russia and the West. In addition, neutrality can serve as a justification for refusing to join the Collective Security Treaty Organization – a Russia-dominated grouping including Belarus, Armenia, and several Central Asian states – and therefore for avoiding direct military cooperation with Russia.

Yanukovich has repeatedly expressed his willingness to discuss the Russian proposal on European security. This is both a sign of support for Russia and a way of bringing Ukraine into the discussions in order to have its security interests more strongly represented. However, in view of the fact that the United States have now expressed a definite preference for working within the context of existing institutions and suggested utilising the NATO-Russia Council more extensively, it is unlikely that the Russian proposal will be taken forward in its current form. Nonetheless, Yanukovich's statements point to potential Ukrainian support for Russian positions in the inter-

national arena, although Ukrainian recognition of Abkhazia and South Ossetia as independent states appears unlikely at present.

## Relations with Russia

Both Yanukovich and the Russian leadership would like to get the relationship started on a new footing to symbolise the end of the Yushchenko era in Ukraine-Russia relations. Russia refrained from explicit support for Yanukovich during the election campaign, although some cooperation between his Party of Regions and the Russian "party of power", United Russia, was initiated. The main thrust of recent Russian policy towards Ukraine has been its anti-Yushchenko tone, underlined by President Dmitry Medvedev's refusal to send a new Russian ambassador to Ukraine until the first round of the Ukrainian election had clarified that Yushchenko was out of the running. Now Russia will want to make it clear that it will embrace Yanukovich under certain conditions. The new Ukrainian president is likely to oblige Russia in several ways. In addition to his support for Ukrainian neutrality, he is willing to discuss allowing the Russian Black Sea Fleet (BSF) to remain in Sevastopol beyond 2017, which is of crucial interest to the Russian side. The steps discussed earlier in the realms of language and history will also be welcomed by the Russian elite, although they are less essential for Russia than retaining the BSF at its current location and obtaining greater influence over Ukraine's gas sector.

Thus one can expect an initial period of more cordial relations with Russia. However, this cordiality is likely to reach its limits relatively soon, since the Russian goals for the relationship diverge fundamentally from the Ukrainian ones. While Russia hopes to gain more control over the economic as well as the political sphere in Ukraine, the Ukrainian elite supporting Yanukovich wish to pursue a closer relationship with Russia, but one which com-

promises neither Ukrainian sovereignty nor their own economic interests. As Yanukovich also intends to pursue the European direction of Ukrainian foreign policy (see below) – and many members of the Russian elite are inclined to view the European Union as a competitor in the post-Soviet space in general and Ukraine in particular – the relationship between Ukraine and Russia promises to remain problematic.

### **Relations with the European Union**

Yanukovich will be interested in continuing to cooperate with the European Union for a variety of reasons. First, because many of his financial backers have an interest in deepening economic cooperation with the European Union and furthering integration into EU markets. Therefore, ongoing negotiations on the Association Agreement in general and the deep free trade area in particular will continue, as was indicated during Yanukovich's visit to Brussels on 1 March. Second, Yanukovich will be interested in having another foreign policy orientation to counteract the Russian agenda vis-à-vis Ukraine as described above. Third, he will want to demonstrate that he is not simply the president of eastern Ukraine and representative of its interests – which have more to do with Russia – but rather of the entire country. By developing the relationship with the European Union, he will indicate to those in western Ukraine, where support for the European Union is strongest, that he is also pursuing their agenda.

That said, the European Union (and the United States) will be less central to his policies than they were during Yushchenko's presidency – not only in the sense that pursuing a friendly relationship with Russia will be more prominent in Ukrainian foreign policy, but also in the sense that internal political and economic concerns are likely to dominate over foreign policy ones. Yanukovich has no one on his team of advisers and backers who is a staunch supporter of EU integration and intimately familiar with the workings of the European

Union. Therefore, a learning process will be necessary before this direction can acquire much additional substance or go beyond the existing framework. However, specific projects within the context of the Eastern Partnership (EaP) constitute one opportunity for the two sides to try out new cooperation formats on a relatively small scale.

### **Engaging Yanukovich**

The first important step Germany and other EU member states should take is to make it clear that they are willing to cooperate with the new leader of Ukraine without preconceptions. Extending invitations to him early on, both for bilateral visits and for participation in international forums, will demonstrate that he is an accepted interlocutor and serve as an opportunity to discover more about his priorities and to convey those of the European Union. These should include reinforcing the message sent to him and his team in Brussels to work with the European Union to conclude negotiations on the Association Agreement as quickly as possible.

Beyond this, it is advisable to establish several foci for cooperation in order to allow for some small but visible successes in EU-Ukraine relations. One area of great importance to the Ukrainian side is visa policy. Abolishing visa fees and/or easing the visa requirements for certain categories of citizens (such as those with an unblemished visa history) would be clearly perceived as a positive signal in Ukraine. Although visa facilitation is partly in place already, implementation has been spotty, and few benefits have been felt by the average Ukrainian traveller to the European Union. The energy sphere is another obvious area for cooperation. Opening a dialogue on the possible form of a tripartite consortium to address problems in Ukraine's gas sector could have positive spillover benefits for the EU-Russia relationship and allow the European Union to participate in seeking a compromise regarding the gas infrastructure. Finally, the initia-



tion of projects within the Eastern Partnership, for example in the fields of public administration or the judiciary, could help transfer knowledge, technology, and norms. On the EaP's multilateral track, Ukraine could be encouraged to share its experience in conducting democratic elections with other EaP partner countries. Successes on some or all of these fronts will reinforce the conviction on the Ukrainian side that working with the European Union can bring tangible benefits.

Simultaneously, efforts should be made to strengthen Ukrainian civil society, which has been a key factor in ensuring the continuing free and fair nature of elections. This can be achieved in part by expanding existing exchange formats and sister city programmes, as well as by providing additional EU funding for projects carried out by Ukrainian non-governmental organisations. Equally important, however, is to emphasise at all levels of government the benefits of involving civil society in the policy process. Successful examples of Ukrainian civil society participation (in drafting a state programme on awareness-raising with regard to European integration and a national concept of administrative-territorial reform) can be drawn upon by EU officials and civil society representatives to demonstrate that such a process can function effectively in the Ukrainian context.

The above agenda offers the triple advantage of engaging the new Ukrainian president, providing potential for some positive developments in the short term to reinforce the EU focus in Ukrainian foreign policy, and conveying a clear message of support to Ukrainian civil society.

#### Further Reading

*Volodymyr Kulyk*

**The End of "Euro-romanticism" in Ukraine. The Origins of Anti-Western Sentiments in the Presidential Campaign**

SWP Comments 28/2009, December 2009

*Susan Stewart*

**Das schwierige Verhältnis zwischen Russland und der Ukraine. Verschlechterung mit Lichtblicken**

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