

Ukraine after the 2010 Presidential Election

Implications for Democracy and Foreign Policy

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In the wake of Ukraine's February 2010 presidential election, there are three major questions that need to be addressed before a comprehensive picture of Ukraine's "post-Orange" future can be developed:

- What methods will Ukraine's new leadership use to improve statewide governance?
- Is there a real threat that democratic institutions and freedoms will erode?
- What regional and foreign policy implications can be expected?

On the eve of Ukraine's last several elections (2004 presidential, 2006 and 2007 parliamentary), observers typically described elections in breathtaking terms: "decisive," "crucial," "the final battle." However, this year's presidential election confirms the truism that if a democratic order is in place, nothing in politics is final: every decisive election is followed by another just as decisive as the one before. No politician in the foreseeable future will be able to overcome the natural heterogeneity of the Ukrainian nation. Ukrainian-speaking leaders may be replaced by native Russian-speaking ones; NATO enthusiasts may be defeated by those who advocate neutrality; people in power who feel themselves comfortable in Moscow may lose to those who feel at home in Brussels. In 2004, one might have thought that the "heroes of the *maidan* [square]" were going to be in power forever. Now, one might be forgiven for thinking they have been defeated for good. Realistically, nobody in Ukraine will permanently win or lose so long as democratic political competition exists.

Thus, the only distinction among Ukrainian political leaders that really matters concerns their level of commitment to democratic norms, practices, and values. Will

the new Ukrainian leadership pursue policies aimed at strengthening the rule of law and democratic institutions and practices, or will it attempt to institute a euphemistically-named Russian-style “sovereign democracy”?

While the most likely future scenario for Ukraine remains the continuation of a slow but clear movement toward integration with the West, poor governance and the fragility of Ukraine’s political institutions could erode democratic practices, threatening this trend. This danger will be further exacerbated if Ukraine’s newly elected leadership proves to be less committed to democratic norms than its predecessors.

At the same time, neither international nor domestic circumstances are currently favorable for ensuring the strengthening of Ukrainian democracy. First, there has been a regional trend away from democracy. The U.S.-based nongovernmental organization Freedom House has identified an erosion of democracy in Eastern Europe over the last three to four years. On this count, Russia stands out, but other states of the region, including Armenia, Georgia, Azerbaijan, Moldova, and Belarus, have also exhibited either no progress or further degradation of democratic institutions. Under Ukraine’s new leadership, there are no guarantees that the country will be able to retain its unique status in post-Soviet Eurasia (excluding the Baltics) as a “free” state.

Negative developments within Ukraine, namely institutional chaos and poor governance, have also led to growing skepticism among the population. Political forces which positioned themselves as “democratic” proved to be unable to ensure efficient governance. A portion of Ukrainian society has thus become disappointed not only with their politicians but with the principle of democratic governance they represent. Currently, a sizeable number of Ukrainians believe that strong leaders can do more for their country than can rules, laws, and debates. Combined, these circumstances generate a growing risk of democratic erosion in Ukraine.

Leadership and Governance

After the departure of Yulia Tymoshenko’s government in March, and the establishment of a new “Reforms and Stability” coalition that formed a government under Prime Minister Mykola Azarov, a fundamental ambiguity about Ukraine’s political processes persists.

On the one hand, an opportunity now exists for the president, the cabinet of ministers, and the newly-formed parliamentary majority to form a productive connection. Such a connection may ensure a more consolidated decisionmaking process, the adoption of necessary legislation, and, ultimately, an overcoming of the institutional disorder, chaos, and scandalous competition between top state officials that partially undermined the credibility of democratic choice for Ukrainians.

On the other hand, there is a risk that the new authorities will misuse their power. The new political leaders have already challenged constitutional norms by forming a coalition with the participation of individual defectors from the previous ruling factions. This step was made despite the fact that in 2008 the constitutional court already ruled on the illegality of such an option. *De facto* one-party rule may lead to a concentration of power in the hands of a narrow circle of political elites, which may try to fix its stay in power through undemocratic means. This conceivably could lead to a temporary revival of semi-authoritarianism.

It is thus not (weak) institutions, but Ukraine's political and social diversity that offers the greatest insurance against a monopolization of power. Due to Yanukovich's narrow margin of victory (3 percent), his failure to achieve a majority of votes (49 percent), and his loss in 17 out of 27 regions, he enjoys only limited legitimacy. He will not be able to stabilize his rule without making efforts to build a broad-based consensus. His first victory messages suggested at least a basic understanding of his limited social legitimacy and a readiness to appeal to those segments of society that did not vote for him. At the same time, the present composition of government fails to reflect a need to rule on the basis of broad consensus. The overall profile of the new authorities thus remains uncertain.

Another form of insurance against semi-authoritarianism would be a strong opposition which is able to consolidate the full spectrum of political forces that do not have a stake in the government (about 45 percent of parliament). Opposition parties will probably control most regional (*oblast*) councils.

Last but not least, the relative strength of civil society, which has evolved substantially over the last five years, might play an important role by setting limits to any attempts to reduce freedoms and build a kind of "sovereign democracy" in Ukraine. Although the impact of civil society on the policy process and implementation of reforms has so far been limited, an attempt to concentrate political power in the hands of the executive could well result in the consolidation and further strengthening of civil society, as happened in 2004.

Worrying tendencies in governance are accompanied by negative signs in the judiciary and media sphere. Problems in Ukraine's judicial system include a low level of public trust, violations of the right to adequate defense, corruption in the courts, lengthy duration of judicial proceedings, ineffective procedures of judicial examination, poor implementation of court rulings, lack of professionalism and responsibility among judges, and non-transparency in judicial selection and appointments. Underfunding of the judiciary also continues to be a major problem. The current situation in Ukrainian courts makes them incapable of defending basic democratic norms, values, and human rights.

Freedom of the media is one of the few real achievements of the Orange Revolution. Despite clear progress, however, recent trends illustrate the threat of a possible deterioration of media freedom. According to Freedom House's 2009 Freedom in the World report, Ukrainian media has "grown increasingly pluralistic and a far broader range of opinions is available to the public. However...local governments often control the local media, and journalists who investigate wrongdoing at the local level still face physical intimidation; local police and prosecutors do not energetically pursue such cases." Such worrying trends have been confirmed by independent watchdogs like the Institute of Mass Information (IMI), which in 2009 cited a number of cases of economic, political, and other forms of pressure against journalists.

Ukraine's National Commission on Freedom of Speech and Development of the Information Sector has expressed its concern about the current situation: "Means of political struggle include party-sponsored materials, contractual relationships between corrupt politicians and the media, obstructions to journalists' work, arbitrary dismissal of journalists, editorial censorship and the introduction of new forms of secret instructions in the editorial offices, prohibition of criticism, economic

dependence, and other new constraints of journalistic rights.”

In a pre-election speech, Yanukovich promised to defend media freedoms. However, his habits lean far from Western-style openness and respect for media freedom. He avoids open and direct communication with journalists. All his press conferences, to which well-known Ukrainian journalists are not invited, are strictly controlled by his press team, which prepares all questions in advance.

Foreign Policy Implications

Ukraine’s new leadership has arrived to power in a regional security vacuum, marked by uncertainty and the lack of a stable international order. Ukraine’s geographic location has placed it in the field of a powerful geostrategic competition that has in part focused on the country’s development model and its values. Any consistent political course thus becomes a highly conflicted one, dimming the opportunity for Ukraine to develop a sustainable foreign policy.

The new leadership of Ukraine will be committed to continuing and concluding current talks on an association agreement with the EU, including a deal on free trade. Such an agreement would set regulatory and institutional limits on Ukraine’s economic integration with Russia. According to past statements by Yanukovich, Ukrainian-Russian economic integration is possible, but on the basis of World Trade Organization principles. Taking into account the uncertainty surrounding Russian membership in the WTO, Ukraine is likely to use this approach to mask its lack of political will to pursue any kind of economic integration with Russia other than free trade.

At the 2008 NATO Bucharest summit, Ukraine obtained a promise of future membership. Two years later, the prospect for Ukraine’s Euro-Atlantic integration remains uncertain due to a lack of consistency in the country’s own policy and the evident hesitation (and even opposition) of some NATO members unwilling to exacerbate tensions with Russia. Ukraine’s new leadership is likely to “freeze” any movement in this direction, at least temporarily, and instead pursue a partnership agenda with NATO on the basis of existing arrangements (including the Partnership for Peace and amended NATO-Ukraine Charter of Distinguished Partnership).

Under its new leadership, Ukraine is not expected to gain a better security environment or greater space to maneuver in international affairs. The United States’ foreign policy agenda is likely to focus on its own strategic priorities (Afghanistan, Iran, nonproliferation, the Russian “reset”), while U.S.-Ukraine relations will be built around these major priorities. The Obama administration is choosing to deal with Eastern Europe in terms of what it can do with, not for, the states of the region. For its part, Ukraine’s new leadership does not have any constructive Ukraine-U.S. agenda, except for the traditional rhetorical notion of a “mutually beneficial partnership.”

The United States has a chance to lead the bilateral agenda, promoting initiatives in areas it considers important: the strengthening of democratic institutions, anti-corruption, security cooperation (including technical-military cooperation), technology exchange, energy, and stronger people-to-people contacts. It can also cooperate with the EU to promote a coordinated and consensus-based integrative transatlantic approach toward Ukraine, which will be welcomed by any leadership in Kyiv.

The Party of Regions' most noticeable foreign policy message after elections was that of its deputy chairman Borys Kolesnikov: "Ukraine with Yanukovych will not ally itself with Russia against the West, and will not ally itself with the West against Russia. Ukraine will be an open country for the whole world." This wording reflects a specific "soft isolationist" thinking, reminiscent of the Ukrainian saying "*moia hata skraju* (my house is on the edge)."

Given Ukraine's current political landscape, we can expect to see a certain temporary revival in government discourse of the concept of Ukraine as a "bridge" between the West and Russia. This concept can provide, above all, a comfortable niche for Ukrainian elites trying to minimize the need to make firm choices on the country's most contentious foreign policy issues. It might also be used as an excuse to avoid painful reforms in various spheres, including energy and the judiciary.

In the longer run, the foreign and security policy of Ukraine will mainly depend on domestic developments: either an erosion of democracy and freedom and, unavoidably, a move toward Russia, or the stabilization and further development of democratic institutions and rule of law, leading to gradual integration with the West.

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