

The Next President of Ukraine Predicting the Unpredictable

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Arkady Moshes

Finnish Institute for International Affairs

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It is obvious that the epoch of Leonid Kuchma in Ukraine is coming to its end. When and how this epoch will end and what, let alone who, will follow Kuchma is still extremely uncertain. Kuchma's approval rating is in single digits and his reputation is damaged by scandals ranging from arms trade deals with Iraq to the murder of journalist Georgii Honhadze to anti-Semitic statements. Even with the possible intervention of the Constitutional Court to allow Kuchma to stand for a third term in office, Kuchma realizes that he will not be reelected. In the current situation, leaving office voluntarily would be a much better way for Kuchma to guarantee a more secure future for himself than by attempting to stay in power.

It is less clear, however, if Kuchma's abysmal approval rating will prompt him to leave office early. The opposition, both left and national-democratic, despite receiving about 60 percent of the vote cast in the parliamentary election in spring 2002 and which is now becoming more radical in its actions, will not be able to ouster Kuchma. As long as the opposition lacks sufficient legal instruments and fails to mobilize "the street" to their own support, they will be powerless to depose Kuchma before his term expires. Unless strong external pressure is applied – for instance, indictment of Leonid Kuchma on the charge of violations of UN sanctions in selling weapons to Iraq (which is, of course, not likely)– the Ukrainian president will stay in power until the next elections, which are scheduled for November 2004.

It is least clear who will replace Leonid Kuchma. Some analysts juggle with a long list of names of potential successors, only to come a conclusion that none of the candidates mentioned are electable due to low popularity. Others concentrate on the figure of liberal-minded former Prime Minister Viktor Yushchenko, who is thought to be a likely winner due to his leadership in ratings. This view, however, fails to grasp the fact that Ukrainian politics is so poli-centric and nuanced that in reality one deals not with a Yushchenko-Kuchma stand off, but with a very complex system of balances and compromises.

But before tackling the question of who will follow Kuchma in 2004, given the uncertain nature of Ukrainian politics, it is more appropriate to still question if this speculation is premature; that is, it is in no way certain that there *will* be a change in the nature of the regime in Ukraine in 2004. This memo concludes that, regardless of who will come to power, Ukraine will not undergo a regime change.

Why Is the Regime Likely to Continue?

Kuchma's unpopularity and the activity of the opposition notwithstanding, popular discontent and protests is not enough to make the regime nervous. According to the results of polls conducted in the middle of September 2002, when the opposition started its public campaign "Ukraine without Kuchma!", only 9 percent of respondents answered they had taken part in the actions or were going to, while 82 percent did not have this intention. The number of people who actually took part in meetings and demonstrations was certainly below the mentioned percentage of the population. The potential for a growth of radicalism in the society is also not strong, as only 13 percent of the same sample thought there was considerable social tension in their region, 4 percent were afraid of serious conflicts, whereas 72 percent believed the situation was either fully calm or tensions were insignificant. After two and a half years of economic growth in the country, these attitudes do not come as a surprise.

The structure of the Ukrainian political mechanism also provides the president with many mechanisms to control all branches of power. The Parliament can be manipulated by means of Ukraine's electoral law, according to which half of the 450 deputies are elected on party lists while the other half come directly from single-mandate districts. Deputies are also free to change parties or factions, even if they are elected on a party list. This gives the executive, among others, the ability to pressure individual deputies to try to create defections and thus weaken opposition parties in the parliament. For example, two political forces that received only 19 percent of the vote had by October 2002 formed a parliamentary majority and voted in the speaker. Although this majority is unstable and is occasionally defeated, it seems able to keep parliament in check against any anti-presidential moves (such as impeachment, for which a qualified majority vote is required)

Ukraine is not a federal state; therefore regional governors are not elected but are appointed by the president. The ability of the governors to act "anti-presidentially" and independently is thus limited. Until recently, there were two partial exceptions from this rule. One was the autonomous republic of Crimea, where Communist dominance in the local parliament affected the behavior of successive cabinets. The other exception was the City Administration in Kiev, where the mayor was elected due to the special legal status of this administrative territory. After the Communist defeat in local elections in Crimea in March 2002, and after Kiev Mayor Olexander Omelchenko, sympathetic to Yushchenko, yielded to open pressure from the Kuchma administration, these exceptions no longer represent a special case.

The presidential administration enjoys significant institutional powers in Ukraine but performs according to capabilities of its *chief*. Since June 2002, the presidential administration has been headed by an active and ruthless politician, one of the country's leading oligarchs, and leader of the United Social-Democratic party Viktor Medvedchuk. He demonstrated his skills in September 2002, when police removed a protesters camp from Kiev's center on the very first night of its existence. It is noteworthy that police acted to enforce the decision of the court. Medvedchuk's immediate and – regarding his goals - effective reaction was in sharp contrast with the hesitant behavior of the administration during the so-called "tape scandal" of spring 2001, when protests continued for several months.

Oligarchic groupings, who do not necessarily like the present regime, know how to deal with it and back it up on the basis of corporate solidarity. They thus fear losing their position and losing their ability to profit if the regime changes. There are three big business-political clans in

Ukraine – the Donetsk clan, the United Social-Democrats, and the group centered on Kuchma’s son-in-law Viktor Pinchuk and the president’s old acquaintances from Dniepropetrovsk. Clans have their business disputes, but recognize the role of Kuchma as a referee, and accept the need to influence the president, rather than openly confront him. These oligarchic groupings co-exist with a large number of smaller business-political groups and do not necessarily seek to eliminate them. For example, the united pro-presidential bloc, which ran in the elections, split into eight parliamentary factions. The advantage for the smaller groupings is that this allows them, very much in the role of junior partners to state their interests more precisely. The mechanism is relatively favorable to small groups that get their share in the distributed pie, and are interested in the continuation of the present system. Noteworthy, it allows attracting and accepting business people from the opposition, when there is a need for them (such as to draw on their financial resources or to use their deputy mandate. Also of note, the oligarchs control most of electronic media in Ukraine, which is an important safeguard for the central government.

The anti-presidential opposition of 2002, which includes the Communists, the Socialist Party, the Yulia Tymoshenko Bloc, and, with some reservations, Yushchenko’s “Our Ukraine”, is far from cohesive. This phenomenal alliance, having on its flanks both pro-Russian Communists and extreme nationalists, is an anti-Kuchma force, but not a pro-reform coalition; its protest is personalized. It is unable to nominate a single candidate and come up with a single electoral message. In 1999 Ukraine had a “group of four” that ended up having all four candidates running. But even if politicians could agree on a common candidate or platform, the Communist electorate would not vote for Yushchenko, and vice versa. In addition, none of the four constituent forces is internally homogenous and united. The Communist leadership faces strong criticism from a more orthodox wing for which union with ideological adversaries is unacceptable. Similar processes brew within “Our Ukraine”. All, except the Socialists, have been losing members of their parliamentary factions since June 2002.

Yushchenko proved to be an ineffective political manager. He wasted the electoral victory of “Our Ukraine”. Despite having the largest parliamentary faction, about one quarter of the seats, he only managed to secure for his people several parliamentary committees, albeit important ones. He could not bloc pro-Kuchma forces from electing a speaker, forming a majority and keeping the Prime Minister. Yushchenko failed to change his image from that of a west Ukrainian politician to that of a Ukrainian politician. In August 2002, the number of people ready to vote for him in the western Ukraine was 53.1 percent, while in the more populated eastern and southern regions of the country this figure did not exceed 10 percent. One of Yushchenko’s major electoral weaknesses is that he can be portrayed in the eastern part of the country as a West Ukrainian nationalist. His most significant weakness is his refusal, and inability, to really lead the opposition. Yushchenko is performing a difficult balancing act, participating in the actions of the opposition on the one hand, and trying to secure unproblematic relations with Kuchma on the other in order to protect the sources of his financial base, and, most of all, to preserve his chances to again become Prime Minister and thus to get the best possible springboard for the presidential campaign. As a result, his message of an alternative to Kuchma gets blurred. 33 percent of respondents in August 2002 saw “Our Ukraine” as an opposition party and 33.6 percent did not. In June-August of 2002 Yushchenko’s approval rating dropped by 5 percent, from 30 to 25.

Russia has unambiguously chosen to deal with the regime. Although this choice entails a risk of strategic loss if the opposition comes to power, it gives Russia tactical gains both in the

economic and political spheres. On the eve of Russian president Vladimir Putin's visit to Ukraine in October 2002, the "opposition four" asked for a meeting with him. This was a symbolic recognition of the unique arbiter role that Russia and its president currently – perhaps temporarily – play in Ukrainian politics. It is impossible to imagine former leaders of the national democrats in Ukraine, like the late Viacheslav Chornovil, asking for an appointment with a Russian leader, and it is equally impossible to imagine the present Communist leaders in Ukraine stating their interest in refereeing by the United States.

Finally, half-hearted western policy is misleading Ukrainians. Whereas the United States freezes some assistance programs, many others continue and top western officials continue to arrive in Kiev. Most symbolically, Kuchma's invitation to attend the NATO summit in Prague in November, 2002 has not been withdrawn. All efforts of the opposition to speak about the international isolation of the regime have thus proved futile.

Possible Scenarios

This constellation of factors opens a series of post-Kuchma scenarios. One possibility is that pro-Kuchma clans will unite to ensure the continuity of the regime. If the Donetsk and Dnipropetrovsk clans successfully delimit their spheres of influence, which is likely, and pay off Medvedchuk, which seems feasible after he accepted the role of Kuchma's political manager, this group will be able to agree on the name of a successor. Under certain circumstances they can deal with Yushchenko, but only if the latter accepts the role of a junior partner. When the nominee is selected, there will be time for political. Neither Yeltsin in 1996, nor Kuchma in 1999 had a good rating in the beginning of the campaign, yet both finished victoriously. An obvious means to build up political support once a candidate has been agreed upon, is to appoint the anointed successor as prime minister, much as Yeltsin did in Russia, and thereby start building a political base – and name among the electorate.

A second scenario is a kind of "collective successor," where power is redistributed in favor of the parliament. This scenario, proposed by Kuchma in August of this year, will diminish the role of the presidency in Ukraine and will thus neutralize the threat of an "unfriendly" president. In the process of negotiations, parliament could pass a law requiring a three quarters majority to institute any criminal action against the former president or other sorts of legal guarantees. As a by-product, Kuchma could get his term prolonged for two years, until the end of the term of current parliament, in order to elect both branches of power when the legislative process is over.

A third, "Napoleonic" scenario, which is less probable, would imply Medvedchuk, using his new position, accumulating financial and administrative resources, gaining influence over some oligarchs, and, based on his good connections with the presidential administration in Kremlin, demanding that Kuchma appoint him successor. Securing the election of Medvedchuk would be very difficult since there is significant antagonism between him and other forces around Kuchma, but if this turns out to be the only way to guarantee the continuity, others may agree.

Yushchenko has very little chance to become president. He will have to spend a lot of energy to cement his coalition, to raise funds (as "his" businessmen are vulnerable to the pressures of the law enforcement system as the origin of their money is as opaque as anybody else's), to respond to the criticism of the national democrats, and, finally, to come up with a clear electoral message. His hope will be to get to the second round, but even there he is not safe. Communists

do become presidents in post-Soviet states, as the case of Moldova demonstrated, and in Ukraine, running against the acting Prime Minister inflicts an enormous handicap.

Given this perspective, policy towards Ukraine should be aimed at changing the conditions that give rise to situations like the present one, not at changing personalities. Policy toward Ukraine should concentrate on changing the conditions that lead to Ukraine's current political situation, focusing efforts on strengthening civil society and promoting a new business and legal culture. The climate for this is much better in Ukraine than in many other post-Soviet states, including Russia. The Ukrainians themselves need to realize that homework needs to be done; no one will do it for them. This is the approach that drives the Ukrainian policy of the European Union. Another path to change lies with the United States, who should not build its Ukrainian policy on the primacy of geopolitics over democracy. Caring too much about the former and insufficiently about the latter and feeling satisfied with declarations rather than deeds, Washington has helped to establish a regime upon which it can neither rely nor respect either in terms of democracy nor in terms of geopolitics, as Kiev is being drawn closer to Moscow and is even suspected of selling weapons to Iraq.

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