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Ukraine twenty years after independence

Assessments, perspectives, challenges

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Foreword

GIOVANNA ELISABETH BROGI

This book contains the papers presented at an international conference held in Rome (Italy) on June 18–20, 2012, organized by several Italian specialists in Ukrainian studies and Institutions connected to Ukraine or Ukrainian culture. The main promoter of the enterprise was the Italian Association of Ukrainian Studies, which found enthusiastic support from and fruitful cooperation with the University of “Roma Tre”, the University of Verona, the Ukrainian Catholic University. The aim of the conference was to offer an overview of various aspects of Ukrainian life in the past twenty years, this is to say in the period after the declaration of independence and the creation of a new state. The approach was intended to be interdisciplinary, based on solid scholarly methodologies, capable of exploring such different fields as social and cultural life, literature, politics, economics, international relationships, juridical aspects. The basic issues explored may be condensed into the following questions: Did the last two decades of Ukrainian life bring an advancement in the socio-political and cultural situation of the country, or are negative outcomes dominant? Are there indications in post-Soviet society that some real change occurred in mentality, intellectual skills, sense of civic responsibility? Is there any chance of regeneration of civil society definitively wrecked by the corruption spread in most branches of social, political and economic life? Has Ukraine really a possibility of continuing her eternal policy of lavishing between one pole and the other in search of a ‘third way’? What are the chances of the opposition to find some kind of cohesive discourse and a pragmatic way to bring the country out of the stormy waters between the ‘Russian Scylla’ and the ‘nativist Charybdis’? How may the general economic and civilizational improvements of the last two decades overcome the system inherited by Soviet time, based on blackmail, domination of stiff hierarchical bureaucracy in

key—institutions of intellectual and cultural life? How may civil society overcome the open attacks launched by the Yanukovych era onto the most vital organs of education, media, political life? Let us remember that persecution of any form of dissident public opinion, or simply honest journalism, increased dramatically between 2010 and 2013, and that jail was still the fate destined to opposition charismatic personalities until the end of February 2014.

The results of the conference, as it is easy to expect, are not able to give full answers to all of the mentioned questions, and other similar doubts that the Western reader necessarily harbors when thinking about Ukraine. The events of November 2013–May 2014 have profoundly changed the situation. Nonetheless we consider that these papers offer some insight in many urgent issues which still are at stake in the moment of the publication of this book, though the presidential elections of May 25 and the parliamentary elections of October 26, 2014 indicate the possibility of a new development for Ukraine's future. We are confident that the present publication will help a broad range of interested public to grasp some central points of Ukrainian society and culture of the last twenty five years.

Yury Sherbak offers a very critical, and rather pessimistic, representation of the ambiguous diplomatic play between Ukrainian politicians, and NATO and EU representatives, in the various phases of international policy of and around Ukraine after the disintegration of the USSR: "Someday historians of the future will say their word regarding this decision (to deny Ukraine joining the action plan for NATO membership) that resembled Munich events of 1938", the author writes. Still he does not abandon the hope that the situation of politics and human rights in to-day's Ukraine may be rejected by civil society in the future. After a short history of the development of human rights organizations in the last decade of the USSR, Yevhen Zakharov focuses on the difficulties similar associations have experienced in reorganizing in independent Ukraine. The failure of the Orange Revolution and the increasing authoritarian trends of the Yanukovych era made the work of human rights organizations considerably more difficult, but contributed to increase their number, their strength and effectiveness, thus giving an important contribution to the civic evolution of the country.

Directly connected with the level of freedom and civil rights is the

situation of media. As Marta Dyczok puts it, the Ukrainian situation is better understood when viewed in the context of larger power struggles, and a global, comparative perspective. The author analyzes the contradictions between the desire for democratic information, the lurking idea that privatization may be considered tantamount to freedom, and the reality of an information system based on marketing and “vulnerable to manipulation by political forces”. In her conclusions a sparkle of optimism is represented by satellite TV and internet, but the fact that the domination of media by a few powerful corporations or men is an international phenomenon does not offer many reasons for confidence about future democracy in information.

The destructive power of the crucial issue of gas exploitation and transportation is presented in vivid and clear terms by Mykhailo Honchar, as a factor of destabilization and major danger not only for Ukraine, but for its international political implications and connections with financial dirty affairs.

International political relations, negotiations and wavering attitudes between the wish to find forms of belonging to the EU system and the perennial fascination coming from the ‘Eastern brother’ are the object of the paper by Roman and Kataryna Wolczuk, which elucidates how difficulties come from both Ukraine’s inaptitude to encounter EU expectations and the latter’s difficulties to adopt a valid ‘project’ for the integration of Ukraine in her ambiguous and vacillating policy. Political negotiations are connected with juridical aspects of the life of any new independent state: papers by Caterina Filippini and Pietro Grilli da Cortona–Barbara Pisciotta offer interesting analysis of Ukraine’s constitutional system in the international context and a description of some of the main difficulties in the practical application of theoretical good principles.

The papers by Anna Veronica Wendland, Simone Bellezza and Renata Caruso investigate various aspects connected with the need to cope with the consequences of past tragedies (here more specifically Chornobyl), to elaborate the effects of collective traumas and to understand the significance of changing symbols and memories. Church history is no less important for the comprehension of the deep roots of the Ukrainian existential and social life, and of the differences still nurturing the country’s collective behaviour and mentality: past history and present problems are illustrated by Myroslav Marynovych

and f. Ivan Dacko, two highly qualified representatives of Ukrainian religious life and ecclesiastic system. The Ukrainian Churches are important actors in Ukrainian society and identity, as their participation in the events of November 2013–March 2014 has shown.

Between culture and literature stands the most interesting paper by Alois Woldan, who presents a rich overview of the booming literature which arose in the last two decades about the heroic myth of Mazepa, clearly in contrast with the former negative myth of Mazepa as Judas. Literature is probably not considered the most ‘thrilling’ object of the common reader’s interest in contemporary Ukraine. In my opinion this attitude should be overcome. The authors of the two papers devoted to literary subjects (Marko Pavlyshyn, Alessandro Achilli) offer important insights in the difficult way Ukrainian literary criticism experiences in order to match contemporary international standards from the point of view of methodology, of a competent and fruitful application of post-colonial approaches, of the de-construction of old repetitive schemes and the re-construction of a modern Ukrainian literary system. Most difficult appears the balance between the imperative of Ukrainian specialists to satisfy their own ‘national’ expectations and the need to present Ukrainian literature in aspects and values attractive for the non-Ukrainian reader.

Last but not least — two important papers are devoted to the issue of the spread and ‘defence’ of the Ukrainian language, and of the — often really treacherous — political means applied by the contemporary political establishment in favor of the Russian language. Michael Moser and Nadiya Trach offer some useful tools for understanding why the language question, which in a politically and socially ‘normal’ context might be considered a secondary issue, becomes a primal cause of harsh contrasts, passionate discussion and intellectual challenge. The symbolic significance of language is both a mirror and a cause of explosive social and political tensions.

The papers by Alexander Motyl, Volodymyr Horbach and Oleksandr Palyi are devoted to the political and social situation after the parliamentary elections of October 2012. The horizon of expectations of public opinion connected to the results of those elections was too high with respect to the actual outcome of the polls and recent events have certainly overshadowed those facts. However, these papers offer useful integrations to the content of the papers of the Conference.

November 2013 again changed radically the whole situation and the events of February–October 2014 demonstrate how difficult it is to grasp the continuity of the evolution of Ukrainian society, politics and culture, let alone to anticipate future events. After the Russian attack to Crimea, war is still going on in the Eastern regions of Donec’k and Luhans’k. Hopes for a political solution of the dramatic crises which concerns Ukraine and Russia are rather faint. The consequences on global scale are difficult to foresee. The events of the last months may indicate that Ukrainian civil society and political life have undergone many positive changes.

This book, however, is devoted to the events before Majdan and the subsequent dramatic war. The papers have been written before November 2013, hence they reflect the situation and the opinions of the authors before the evolution of the last year. The events of 2013–2014 indicate that in the twenty–three years of independence (1991–2013) deep changes occurred in mentality, intellectual skills, sense of civic responsibility in Ukrainian society. The fluidity of the situation not only in Ukraine, but in the whole of Europe and of the international context condemns any answer to remain tentative and to be contradicted by the facts of the next day. Nonetheless, the papers collected in this book offer a good panorama of Ukraine of the time from independence up to Yanukovych’s time and will certainly help any reader to better understand the events of the months and years to come.

Acknowledgments

I wish to express my deep gratitude to colleagues Giovanna Siedina of the University of Verona, who provided substantial financial support, and Francesco Guida of the University of “Roma Tre”, who hosted the conference in his Institute and offered tasty refreshments. Special gratitude is due to f. Ivan Dacko of the Ukrainian Catholic University, who hosted one day of the conference and the farewell lunch in the splendid context of the Greek Catholic Center of St. Sophia in Rome. The conference was made possible by the financial support of the Italian Association of Ukrainian Studies (A.I.S.U.), with a contribution of the Italian Association of Slavists (A.I.S.).

Finally, I want to thank my colleague and friend Oxana Pachlovska, of the University of Rome “La Sapienza”. Without her relentless intellectual engagement and passionate activity I would not have been able to organize the conference in its interdisciplinary aspects and multiplicity of points of view.

For the complex work of editing, a good part of the burden fell on the shoulders of Marta Dyczok, with the help of colleague Gianfranco Barbieri. Let me express my deep gratitude to both of them.

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University of Milan

PART I

SOCIETY, POLITICS, ECONOMY
LAW, RELIGION

The Geopolitical Role of Ukraine and its Foreign Politics During 20 years of independence

YURI SCHERBAK

The geopolitical role of Ukraine is determined by its uniquely important strategic location in Central and Eastern Europe and the Black Sea region, its powerful industrial and agricultural potential and human resources. Proximity to Russia, countries of the Caucasus, Turkey, Romania, Bulgaria, Hungary, Slovakia, Czech Republic, Poland, Baltic countries and Belorus determines Ukraine's key military-strategic and transit economic significance for European and Eurasian regions.

British historian Niall Ferguson insists that world's most dangerous location in 1904–1953 was the so-called “fatal triangle,” the zone between the Baltic Sea, Black Sea and the Balkans, where the main battles of the First and Second World Wars took place.

Throughout its history Ukraine has repeatedly been an object of aggression and occupation for Tatar–Mongol hordes, Poland, Russia, Turkey, Austria–Hungary, Romania, Hungary and, twice, Germany.

During the World War II, seven million Ukrainians served in the Red Army, 3,5 million of them died. Along with 5.5 million of Ukraine's civilian population. The total loss amounted to 10 million Ukrainians.

To put this in a comparative context, Germany lost 5.3 million soldiers and 1.4 million civilians in the war. Italy: 374,000 soldiers and 105,000 civilians.

The largest military operations on land during World War II unfolded on the territory of Ukraine (1941–1944). Over 60% of the German Wehrmacht troops were destroyed there. The price for these victories was destruction of housing, Ukraine's industrial and agricultural potential, and enormous human losses.

After the war Ukraine twice became a bridgehead for Soviet oc-

cupation, of Hungary (1956) and Czechoslovakia (1968). The world's third largest concentration of operational–tactical and intercontinental ballistic missiles with nuclear warheads and a large number of conventional weapons that threatened European countries, members of NATO and the USA, was based in Ukraine during the Soviet era.

Let me say, that the notion of geopolitics has changed. It is no longer limited to a geographic, spatial or territorial component. For example, in terms of territory, Ukraine is similar to such different states as France or Somalia, while by the size of its population it is comparable to Italy, South Korea or South Africa.

New geopolitical approaches take into consideration the availability of human, economic, informational, communication, intellectual, energy, military–technology and other types of resources. The type of political system, democratic or authoritarian, and involvement in processes of integration and creation of new alliances also play a very important role. For example, with a population of 50 million, in 1980–1990s Ukraine became the USSR's industrial giant that produced 17% of Soviet industrial output, 40% steel, 34% coal and 51% iron ore. This amounted to 10% of iron ore and 8% world's steel production.

The powerful Ukrainian military and industrial complex manufactured intercontinental ballistic missiles (ICBM), the Antonov transport aircraft, tanks, warships, aircraft engines, radar stations, and other weapons.

Ukraine, the famed breadbasket of Europe, is one of the world's largest producers of grain (5–6th place in the world), and can potentially feed 100 million people. Powerful scientific and educational complexes enable Ukraine's transformation into a prosperous European country in the XXI century.

It is also worthy to note the strategic importance of Ukrainian deposits of oil (4.5 thousand km) and natural gas (33 thousand km) pipelines and storage facilities that provide transportation of energy supplies from Russia to Europe.

But until 1991 Ukraine — this military and industrial giant — was a political Lilliputian, unable to conduct its own foreign policy. Ukraine, as an oppressed province of the Soviet empire, had no right to form its own geopolitical goals separate from the empire's interests. From 1917 to 1991 Ukraine's main geopoliticians were Lenin, Stalin, Khrushchev, Brezhnev, Gorbachev and not anyone from Ukraine. The situation

changed dramatically during a few days in 1991 when the newborn state was drawn into the maelstrom of world's geopolitic events against the background of the Soviet Union's collapse, the fall of the Berlin Wall, dissolution of the Warsaw Pact, and Yugoslavia's disintegration.

In the early 1990s the foreign policy of the newly independent state faced two important tasks:

- a) Accelerating the process of Ukraine's establishing itself as a state, gaining recognition as a separate independent country that is not a part of Russia, and possesses its own geopolitical interests, different from the Russian;
- b) Joining the security architecture of Europe, acquisition of future membership in NATO and the European Union.

This strategy could be called "escape from the empire", an attempt to lead Ukraine out of the centuries of Byzantine–Moscow oppression, underdevelopment, xenophobia, and hatred of Western liberal and democratic market values.

It was an attempt of dreamers, headed by the first president of Ukraine Leonid Kravchuk and the national–democratic team: to change the age–old tradition of enslaved Russified Ukraine's existence in Moscow imperial space.

The first stage of establishing Ukrainian independent foreign policy was completed in 1997. Due to Ukraine giving up nuclear weapons strategic partnership with the United States was established. "Charter on Distinctive Partnership Ukraine–NATO" was signed, as well a basic agreement between Ukraine and the Russian Federation which meant Russia recognizing the existence of Ukrainian independent state.

The geostrategic role of Ukraine has been reflected in numerous documents at the bilateral and multilateral levels (EU, NATO, OSCE, US — Ukraine, Poland — Ukraine, Germany — Ukraine, etc.). Ukraine signed a series of agreements with neighboring countries, settled border problems and became a predictable peaceful member in the family of European nations, having joined over 40 authoritative international organizations.

The main poles of Ukrainian independent foreign policy became the European Union, the USA and Russia. Yet events of 1998–2004

(the period of president Leonid Kuchma's second term) proved that Ukrainian foreign policy is becoming increasingly dependent on the political situation inside the country: going through capitalist transformations, Ukraine started to become a corrupt, oligarchic, criminalized post-communist state, shaken by political scandals, where opposition journalists and politicians were killed, a country where the rule of law did not exist.

This caused a negative reaction of the EU and the USA that demonstrated skepticism regarding the claims of the Ukrainian leaders about the desire to join NATO and the EU. This hypocritical process of pseudo-integration could be described as "running on the spot": Ukrainian authorities pretended to be interested in integration into Euro-Atlantic structures, and the EU and NATO pretended to support Ukraine's desire. In reality, both the EU and NATO were afraid of Russia's hostile reaction. Russia, especially after Putin's coming to power, toughened its policy towards Ukraine and its Euro-Atlantic intentions, started implementing a systematic, well-coordinated strategy of splitting Ukraine into Russian and Ukrainian-speaking regions. Ukrainian people and leaders, as well as leaders of Western European countries, were being threatened with potential negative consequences of Ukraine joining NATO.

The events of Orange Revolution in Kyiv in 2004–2005 evoked a special hatred from of Putin, the main Russian architect of the anti-Ukrainian policy. The great nuclear state used all its means of hostile pressure on Ukraine; information, energy and trade wars, intelligence operations, bribery and blackmail of politicians were and still are conducted. The culmination of this unprecedented Russian pressure was the decision of the NATO summit in Bucharest (2008) to deny Ukraine joining the action plan for NATO membership. Someday historians of the future will say their word regarding this decision that resembled Munich events of 1938. The so-called "russian world" is being created aiming to fight against the Ukrainian language, Ukrainian Orthodox church of Kyiv Patriarchate, Ukrainian interpretation of Stalin totalitarianism and the history of World War II. This unprecedented interference in Ukrainian affairs by a neighboring state is carried out under a motto of "strategic partnership" and in its cynicism resembles scenes from Orwell's novel "1984".

Meanwhile, the events of peaceful Orange Revolution (2004) and

Victor Yushchenko's victory in the 2005 presidential elections inspired a wave of hope for change in Ukrainian domestic and foreign policy, Ukraine joining NATO and intensification of integration processes between Ukraine and the EU. Unfortunately, Yushchenko proved to be an extremely inefficient and weak president unable to handle numerous domestic and foreign challenges. Ukrainian activity in the sphere of Euro-Atlantic integration practically failed and the efforts of the diplomatic service were focused on international public recognizing Ukraine's 1932–1933 Holodomor a genocide. Without denying the importance of international recognition of the Ukrainian national tragedy, I will note that in 2005–2009 Ukrainian foreign policy was not sufficiently effective, lost its characteristic dynamism and did not correspond to the demands and criteria of a large European country. At the same time, I would like to warn against a simplified “black-and-white” evaluation of Ukrainian foreign policy before 2010.

Despite the harsh campaign against Ukraine joining NATO initiated by Russia, this idea gained substantial support of political and military elite, well oriented in Ukrainian security situation and convinced in the need to join the defense alliance. The declared goal to become a member of the EU became practically Ukrainian national idea and received support of 85% Ukrainian population.

Ukrainian integration strategy in 2005–2006 was formalized in a number of official documents regarding relations Ukraine — NATO and Ukraine — the EU, as well as Ukrainian strategic documents on the country development.

President Victor Yanukovych's coming to power in 2010 dramatically changed the geopolitical situation in Ukraine and vectors of its foreign policy and confirmed the existence of a deep crisis in Ukrainian post-communist state.

Due to the weakness of state institutions, particularly Ukrainian parliament and corruption of the judicial system, Yanukovych managed to conduct a political blitzkrieg, change Constitution in an illegitimate way and introduce a regime of personal power in the country.

Yanukovych's powers, who personally manages Ukrainian foreign policy, by far exceed those of the US president and do not have a precedent in Europe with the exception of Lukashenko's and Putin's authoritarian powers.

The first actions of Yanukovych's regime in the sphere of foreign

policy in 2010 became Ukraine's official refusal to acquire membership in NATO, adoption of the law about Ukraine's neutral status and Sevastopol becoming a Russian Black Sea fleet base until 2042. These procedures were carried out with flagrant violations of Ukrainian legislation.

In the two years of Yanukovich's government whose regime brought "criminal political culture" from Donetsk (Andrew Wilson, 2012), Ukraine's relations with the USA, Canada, the European Union and even Russia deteriorated significantly. The reason for this was selective judicial persecution of the Ukrainian political opposition. Processes against Yulia Tymoshenko, Yury Lutsenko, and other members of the previous government, leaders of opposition parties, did not have anything to do with true justice and became acts of Yanukovich's personal revenge on his political opponents. These processes were accompanied with extensive personnel changes at the national and regional governmental levels, restrictions on mass media and freedom of speech, and gross law violations during municipal elections. Under conditions of growing international isolation of Yanukovich's regime pressure from Putin, who set a goal to at any cost make Ukraine join the Eurasian Union, the new illusive likeness of the Soviet Union. Possibility of Russia's armed provocations against Ukraine cannot be ruled out.

While conducting authoritarian politics within the country, ignoring European legal principles and values, violating the European Convention on Human Rights, Yanukovich's regime persistently declares the desire to see Ukraine in the EU. This must have been promoted by signing and ratification of the fundamental Agreement on association and free trade zone with the EU, initialed in 2011.

This unique Agreement brings Ukraine ultimately close to political and economic space of the EU, providing a chance for serious democratic transformations in Ukraine, creation of a fair trial system.

However today due to the mindless vindictive policy of persecuting political opponents, the Ukrainian regime and Ukrainian foreign policy fell hostage to president Yanukovich's false and irrational actions, and put Ukraine on the verge of international political isolation, its transformation into the gray area of European security.

In May–June 2012 more than 30 statements were made by heads of state and governments of the EU, the USA, and Canada concerning

the unacceptable human rights and political freedoms situation in Ukraine. Fourteen heads of Central and Eastern European states demonstratively refused to participate in Yalta summit. The idea of a political boycott of the UEFA Cup in Ukraine, as well as introduction of international sanctions against Ukraine were discussed.

The Ukrainian government, in a cynical and hypocritical manner of the Soviet times, accused the West of “debasing” Ukrainian people. In response to this, numerous representatives of civil society argued that Ukraine is debased not by the West, but by its own incompetent, corrupt government. Unfortunately, under these circumstances the Ministry of Foreign Affairs of Ukraine turns into the Ministry of Propaganda that attempts to justify illegal court sentences and leads polemics with numerous critics of the Yanukovich’s regime.

An expression of a great concern with the situation in Ukraine was the European Parliament resolution that condemns political persecution of the regime’s opponents and calls for respect for human rights and freedoms in Ukraine.

Dear colleagues!

Over 20 years, I, Ukrainian writer, doctor, environmental movement activist and diplomat, dedicated to researching Ukrainian geopolitical role in the world, published three books on this topic: “The Strategic Role of Ukraine” (1998), “Ukraine — Challenge and Choice” (2003), “Ukraine in the Zone of Turbulence” (2010), as well as a series of analytical articles. As the first ambassador of Ukraine to Israel and Mexico, second ambassador to the USA and Canada, I stood at the origins of Ukrainian diplomatic service, took pride in the successes of Ukrainian foreign policy and worried about its failures.

I witnessed the creation and strengthening of the Ministry of Foreign Affairs that today has 83 embassies on all the continents, among them 36 embassies in Europe, and consists of highly qualified diplomats, capable of protecting Ukrainian national interests in the ever changing world, riddled with conflicts. Ukrainian diplomats actively participate in the creation of the Euro-Atlantic space of stability and safety, in settling the frozen conflicts. Numerous NGOs in Ukraine monitor Ukrainian foreign policy in the world and provide evaluation of its state and prospects.

Ukraine takes active part in the work of the Council of Europe, OSCE and the UN peacekeeping missions. Under the pressure of

Russia in the gas issue Ukraine recently had to seek markets for gas in Azerbaijan, Arab countries and Germany. Ukraine's cooperation with Turkey, China and South Korea is strengthening.

Despite the financial crisis in the European Union, the USA and NATO involvement in military operations in Afghanistan and growing tensions in the Middle East, Ukraine today as never before requires urgent attention of the European public to the actions of Yanukovych's regime, both in domestic policy and on the international arena. There is a growing danger of political, economic, informational, and military subordination of Ukraine to Russia that, according to the Brzezinski formula, will automatically turn Russia into a new empire that will become a source of threats to Europe. As representatives of Ukrainian democratic opposition, we must do everything to prevent this development.

Despite the dark period of authoritarian threats growing in Ukraine, I remain a moderate optimist: convinced that Yanukovych's regime will be rejected by Ukrainian people who chose the path of true European values and will not leave this way. Ukraine should remain an important geopolitical zone of European stability, and its foreign policy has to be directed at protecting national interests of all Ukrainian people.

Yuri Scherbak

Ambassador of Ukraine, Ukrainian writer

‘Soft is beautiful...!’

Ukraine’s Approach to Regional Integration¹

KATARYNA WOLCZUK, ROMAN WOLCZUK

1. Introduction

One of the increasingly salient themes in the study of Ukraine is the extent to which the country increasingly finds itself in overlapping and competing spheres of integration. Along with other post-Soviet states, which are located in Europe, Ukraine is drawn by the benefits that accrue from engagement with EU. However, historical legacies, geopolitics and economic realities compel them to engage, *volens nolens*, in the post-Soviet integration.

Up until recently, Ukraine has been able to exploit this dualism. The ‘soft’ forms of integration with the European Union (EU) and Russia allowed states such as Ukraine, to be selective in the ties they forge with external actors. Ukraine has long favoured a highly circumscribed and flexible forms of integration within the post-Soviet space in order to benefits from cooperation while keeping Russia at arms’ length. It is noteworthy that this was one of the few strategies which was supported by cross-party political consensus. Furthermore, owing to the decision announced in 1998 of Ukraine’s intention to integrate with the EU (as opposed to the markedly distinct reluctance to engage in hard-law integration within the CIS or related bodies) it might be supposed that Ukraine’s decidedly soft-style integration with the CIS implies a willingness to pursue hard-law forms of integration with the EU.

1. The title draws on the article by Dragneva, R. ‘Is “Soft” Beautiful? Another Perspective on Law, Institutions, and Integration in the CIS’, «Review of Central and East European Law», 29 2004, pp. 279–324 to emphasise that soft-law forms of integration are favoured by the Ukrainian political class.

The effectiveness of this approach has declined as the demands of the integration processes in both spheres have increased. Ukraine is now faced with a stark choice: it has to either enter into an Associate Agreement with the EU or join the Eurasian Customs Union with Russia, Belarus and Kazakhstan. Vacillation, the strategy of the last two decades, is no longer an option as both regimes are now insisting on real commitment — and as things stand, they are mutually incompatible. These external changes are causing internal ructions. The aforementioned political consensus on the dualistic approach has begun to break down as the integration regimes become ever more advanced and demanding resulting in disunity amongst key domestic actors.

This paper explores the implications of the hardening of these two integration regimes on Ukraine and the impact this is having on Ukraine's actual implementation of 'integration' commitments, something which Ukraine is notoriously lax at.

2. Soft– versus Hard–law regional integration regimes

There are two 'ideal' types of international agreements — soft and hard — which differ in three primary ways, according to Abbott and Snidal (2000). First, they differ in terms of obligation: hard-law obligations tend to be more precise, are legally-binding and have enforceable rules. Second, they can be distinguished in terms of their precision: soft rules tend to be expressed in general, declarative, political terms rather than specific obligations formulated in clear and determinate rules. Finally, hard integration rules result in the delegation of powers to supra-national common institutions for interpreting and implementing law. This explains why it is softer forms of legalisations that characterise the majority of international organisations: more often than not, the participating states do not want to be constrained by the commitments which are a corollary of hard-law membership. However, the EU is almost a text-book case of a hard-law integration regime, evidencing all three characteristics.

It is pertinent to ask why states might sign up to hard-law commitments. The primary reason is that hard legalisation serves as *ex-ante* sorting device: although hard law commitments impose greater costs

on violators, there is a reduced propensity to defect on the part of signatories. Furthermore, states enter into such binding agreements in order to constrain self-serving auto-interpretation, reduce transaction costs and increase enforceability, according to Abbott and Snidal (2000).

3. Ukraine’s integration ‘behaviour’

3.1. *Integration within the Post-Soviet Space*

From the very earliest days of the collapse of the Soviet Union, Ukraine resisted efforts at reintegration in the post-Soviet space, fearful as it was of becoming entangled once more in any multilateral structure dominated by Russia. Yet clearly some sort of body was necessary in order to bring stability to a region ridden with economic and political turmoil. So, while Ukraine agreed to the creation of the Commonwealth of Independent States (CIS) on 8 December 1991, it opposed any discussions which hinted at turning the CIS either into a state entity or a supranational institution. This intransigence was made explicit when 10 days later the Ukrainian parliament ratified the Minsk Agreement only after appending a vast range of conditions and exemptions which were specifically designed to impede integrative processes, which would invariably be dominated by Russia (Wolczuk, 2002). This was made explicit 5 years later by President Kuchma, who stated that:

I wish to underline the role of the CIS as a mechanism leading to a peaceful and democratic resolution of all the problems associated with the collapse of the USSR... and that it was on the initiative of Ukraine that the CIS was confirmed as neither a supranational nor state-like creation... Our country opposes any form of supranational activities on the part of the CIS. Furthermore, Ukraine is categorically against any efforts at reanimating in any shape or form the former Soviet Union *Uriadovy Kurier*, 8 June 1996.

This explicit preference for *soft-law modes* of integration (Dragneva 2004) was appealing to Ukraine as it offered provides opportunities for cooperation (such as access to markets) without the costs incurred

through lasting and binding commitments to Russia and other member states (Wolczuk 2007). It is noteworthy that Ukraine was hardly unique in this stance towards Russia and the CIS, something that has bedevilled the organisation from its very inception, and which has inhibited its capacity to function as a multilateral and integrative body, which could have delivered mutual benefits to its member states (Kobrinskaya 2007). That is not to say the CIS was without its flaws. The lack of coherence between its multiplicity of frameworks and detailing agreements, and its overlapping and often incongruent multilateral and bilateral agreements meant that it was unable to function as intended (Dragneva and De Kort, 2007).

Yet notwithstanding its wariness towards the CIS, Ukraine has been a surprisingly active participant in the CIS, albeit as far as economic cooperation based on soft law was concerned. Its selective, partial and flexible engagement has allowed it to cooperate intensively in trade development (including FTA issues), standardisation, agriculture and transportation. In each of these areas, key domestic actors (such as political elites, bureaucracy and large business) reflected their shared preferences for soft-law integration. Up until recently, this approach to integration regimes in the post-Soviet space reflected the *broad consensus* amongst the key domestic actors in Ukraine that post-Soviet integration needs to be highly circumscribed if they are to engage.

The formation of the Eurasian Customs Union of Belarus, Kazakhstan and Russia (ECU), however, represents a marked departure from the previous integration regimes in the post-Soviet space for a number of reasons.² Firstly, the initiative has a more coherent institutional design than its predecessors with a considerable degree of delegation to the supranational institutions, such as the Eurasian Economic Commission. Secondly, notwithstanding a number of transitional problems, the Union is becoming a reality, with signatories committing themselves to making the necessary economic adjustments as required by membership something which was not the case

2. Owing to its rapid formation and ambitious plans, the very name of this integration initiative is difficult to agree on. While the Eurasian Economic Union is to be created by 2015, what has actually been accomplished so far is the customs union the full name of which is: the Customs Union of the Eurasian Economic Community). For the sake of convenience, this paper adopts an abbreviated name of the Eurasian Customs Union (ECU).

with multilateral agreements within the CIS (Dragneva and Wolczuk 2013). Furthermore, and perhaps most tellingly, its regulation is consistent with the World Trade Organisation (WTO) regime and modern international norms. (At the same time, it is hard to deny that the ECU appears to be being used by Russia as a vehicle for reintegrating the post-Soviet space, including the countries that fall within the sphere of the EU's eastern neighbourhood, such as Ukraine.).

That the ECU framework is explicitly modelled on the EU, and is presented as an alternative for modernisation of the post-Soviet countries allows Russia to promote the benefits of the economic benefits of membership organisation and hardly refer to any political, historical and cultural affinities.

Significantly, the formation of the ECU represents a break with the soft-law integration regimes formerly promoted by Russia. In contrast to the previous initiatives, the ECU scores higher in the three dimensions identified by Abbott and Snidal (2000): precision (specific obligations expressed in clear and determinate rules rather than norms of a declarative, political nature); bindingness (i.e. predominance of legally-binding, enforceable rules, while reservations, opt-outs are ruled out or limited etc.); and delegation (powers are devolved to supra-national common institutions for interpreting and implementing law).

At the same time, while making economic integration 'harder' from a legal point of view, the ECU is characterised by strong asymmetry between the participating countries. Decision making institutions and practices reflect the hegemonic position of Russia within the Customs Union, notwithstanding a formally equal voting rights (1 vote per member state) thereby exacerbating long-standing concerns over Russia's continuous undermining of Ukraine's sovereignty.

4. Ukraine's European Integration

4.1. The Soft-Law framework

From the mid-1990s, Ukraine has prioritised its ties with European Union over those with other bodies. The Partnership and Co-operation Agreement (PCA), signed between the two in June 1994, (although

only ratified 1998), followed by the EU's Common Position on Ukraine soon after in 1999 set high hopes in Ukraine for future prospects.

However, Ukraine's relations with the EU took the form of soft law i.e. the commitments were lacking precision and were rather low on the part of both parties, as evidenced by the PCA. This was further confirmed by the fact that the obligations entailed within the relationship were in many instances not followed through by the political elite in Kyiv. Ukraine, mistakenly focussed on making foreign policy declarations which it believed befitted a major European power, rather than on domestic policy making and implementation, a more fitting indicator of integration ambitions in the view of the EU (Wolczuk 2004).

Initially, the European Neighbourhood Policy (ENP), launched in 2003–4, embraced the soft-law approach of the EU to its eastern neighbourhood. Through the ENP and subsequently, the Eastern Partnership launched in 2009, the EU has sought to promote stability and prosperity in its eastern neighbourhood. This has taken the form of 'technocratic' engagement to facilitate domestic reforms in the post-Soviet states. That the ENP and the Eastern Partnership envisages convergence with the standards of the Union as a whole (the *acquis*) is not surprising given that much of the *acquis* pertains to the functioning of the internal market, access to which is promoted as key incentive for enacting domestic reforms for neighbourhood states. The transposition of the *acquis*, in addition to other criteria put forward by the EU, is presented as a prerequisite for any non-member state if it is to benefit from closer economic relations with the EU. This is because the Union cannot open up its internal market to countries that are 'too different' without putting the achievement of its internal integration at risk. The economic crisis of the EU has only served to heighten such importance of preserving the integrity of the single market. In sum, integration with the EU requires extensive alignment with EU norms and standards by non-member states (Wolczuk 2010).

However, initially this 'export' was in terms of soft legal forms i.e. low on specificity and requiring low commitment on the part of either party, as evidenced by the EU–Ukraine Action Plan which was signed in February 2005 (Wolczuk 2010). And it is precisely the generally soft-law forms of integration, such as the PCA or the EU–Ukraine Action Plan, that has allowed Ukraine to be so lax and selective in

terms of what to enact and what to ignore (Wolczuk 2009). Indeed, where hard-law obligations vis-à-vis the EU existed — for example, Ukraine found itself in breach of the majority of the trade-related rules of the PCA within 2–3 years of signing — Ukraine was soon in full compliance in order to uphold its part of the agreement. Indeed, Ukraine's willingness to comply in areas where it was compelled to is one of the key success stories in the EU's relations with Ukraine. However, such instances were all too rare and the overwhelmingly soft-law obligations which characterised the above-mentioned agreements were easily ignored by those domestic actors for whom enactment was costly (Langbein and Wolczuk, 2012). At the same time, since the early 2000s, in search of symbolic recognition of its membership aspirations, Ukraine has been insisting on the EI upgrading the legal framework to an Association Agreement.

5. The Association Agreement and a shift to hard law

However, the Association Agreement including the Deep and Comprehensive Free Trade Agreement (DCFTA) which the EU and Ukraine negotiated over 2007–11 represents a watershed in Ukraine's relations with the EU. It is a deliberate shift from vague and low-binding reform guidance to a regime with very detailed obligations.

The DCFTA goes beyond a 'standard' FTA agreement by being deep and comprehensive in terms of the elimination of non-tariff trade barriers. The creation of a DCFTA entails a profound impact on the regulatory framework of the country associated with the EU in a wide range of areas. Furthermore, the regulations associated with it have to be implemented in their entirety — no selectivity is permitted. The EU has made the DCFTA an integral part of the Association Agreement it has signed with any East European states, and has refused to negotiate simple (i.e. more streamlined and less onerous) FTA agreements (as was demanded by Georgia, for example). This is to prevent selective implementation based on self-serving interpretations of the country entering an association with the EU (as was the case under the PCA). The EU requires the adoption of the trade-related *acquis* in third countries like Ukraine to ensure consistency of the internal market, reflecting the centrality of sector-specific, technical

international rules to the EU as an international organisation (Lavenex and Schimmelfennig 2009).

Therefore, the Association Agreement represents, as one analyst put it, 'a revolutionary change' (Gromadzki 2011). This is because the Association Agreement, especially one including the DCFTA, largely amounts to an acceptance of EU rules by the associated country, reflecting the essential asymmetry of the relationship. Through the Association Agreement, the EU supplies the law which Ukraine imports it into its own domestic system. The reform of the regulatory environment in Ukraine as a result of the harmonisation of domestic legislation with that of the EU is likely to result in better governance and a substantial improvement of the investment climate in Ukraine and result in an increase in the flow of capital into Ukraine. (Currently, Ukraine is not attractive to internal let alone external investors.)

If and when signed and ratified, the Association Agreement would impose unambiguous and detailed obligations on Ukraine. This means that Ukraine's integration behaviour (i.e. the tendency to make grand declarations, not subsequently followed up with concrete and comprehensive compliance) will need to become substantive (i.e. declarations followed by actions).

6. Ukraine at a (hard-law) crossroads

The hardening (in legal terms) of the integration regimes both with regard to the EU and Russia represents a watershed in Ukraine's foreign policy. Until now Ukraine's mode of economic integration has been largely selective and flexible both with regard to the EU and Russia. In particular with the CIS, Ukraine has engaged in very intensive cooperation in trade development (including FTA issues), standardisation, agriculture and transportation. But the soft-law model of integration (i.e. lacking precision, bindingness and delegation) enabled Ukraine to 'pick and choose' degrees of economic integration with Russia/CIS in different sectors. Recently, however, the Russia-driven Eurasian Customs Union has started to mirror that of the EU in terms of expectations of members to sign up to hard, rather than soft laws. As a result the Ukraine finds itself in a predicament: it now not only has to

make a choice, but it will be required to act on the basis of that choice (i.e. enact commitments resulting from regional economic integration in the domestic context).

However, integration with the EU, through the signing and ratification of the Association Agreement has become contingent on meeting the EU's democratic conditionality (for the first time in Ukraine's relations with the EU). However, making economic integration with the EU contingent on democratic standards introduces raises significant political costs for the Ukrainian authorities, in addition to the very high economic cost. Since the election of President Yanukovych in 2010, the ruling elites have sought to consolidate power to render ineffective any challenge to their rule, while simultaneously declaring a commitment to foster closer ties with the EU. Such a trade-off between relations with Europe and consolidating power means the pursuit of the Association Agreement carries direct political risks for President Viktor Yanukovych and the ruling Party of Regions.

However, as the deadline for the signing of the Agreement (planned for November 2013) loomed so the pressure from Russia on Ukraine to not sign the Agreement increased: sticks and carrots were deployed with abandon. Throughout the weeks leading up to the summit in Vilnius, as which the signing of the Agreement was to be the centre piece, Moscow exploited all of Ukraine's vulnerabilities — declining economy, rapidly depleting financial reserves and the likelihood of being unable to meet the looming debt repayment schedule — to the full, by offering loans, price reductions and other unknown inducements. Ukraine's subsequent failure to sign the agreement, much to the EU's public embarrassment and chagrin, highlighted the EU's flaw in its dealing with Ukraine: it failed to make the understand Ukraine's extraordinary economic dependence on Russian trade, and therefore to fully grasp the impact the loss of this trade would have meant that Ukraine.

At the same time, many in the Party of Regions believed that it is possible to continue country's participation in the overlapping spheres of economic integration. Some officials argue that, first, Ukraine could participate in all the economic unions beneficial to the country (e.g. cooperating with the ECU on certain trade positions, while being part of a free trade area with the EU on some other issues) or, second, Ukraine could join the ECU on a *temporary basis* i.e. until it is ready

to develop DCFTA.

It is on this point that the Ukrainian elites appear to be at odds with the Ukrainian public. Nobody, perhaps least of all President Yanukovich himself, expected the innumerable protesters to come out onto the streets of Kyiv at his failure to sign the agreement. While clearly not a pan-Ukrainian phenomenon, the wave of pro-EU sentiment took all observers by surprise and has clearly sent a marker as to the growing expectations of the Ukrainians across the country, something which was noted by the European political elites. The contrast with the extent of the Ukrainian elites' wavering between DCFTA and the ECU is noteworthy and undermines the country's commitment and credibility. The DCFTA is premised on Ukraine being a credible partner capable of respecting the integrity of a rule-based single market. If Ukraine simultaneously commits itself to economic integration with another bloc with its own set of substantive and procedural rules, this credibility would be fatally undermined. Even a *temporary* accession to the ECU would instantly freeze deep economic integration with the EU envisaged under the DCFTA.

If Ukraine joins the ECU *after* the ratification of the DCFTA, the ramifications would be even greater. It is likely that the concluding section of the AA will explicitly rule out Ukraine's simultaneous participation in a different regime aimed at an advanced level of economic integration. This is to prevent a conflict of laws and commitments vis-à-vis different integration regimes. If Ukraine opts for the ECU, the DCFTA will have lost its rationale and EU-Ukraine relations would be deprived of the legal framework offered by the Association Agreement, of which the DCFTA is an integral part.

In sum, in the context of the DCFTA and the ECU, Ukraine faces a stark choice. Flexible, soft-law forms of integration are no longer available to Ukraine *either* vis-à-vis the EU or Russia. The offer of the Association Agreement and the concomitant Russian pressure on Ukraine to join the ECU leaves Ukraine with the most limited room for manoeuvre vis-à-vis these two key actors that the country has had since independence. Yet the Ukrainian elites appear to be at a loss how to move forward. The old strategy has been made obsolete almost overnight and has yet to be replaced with a new way forward.

At the same time, sections of population are growing increasingly restless with its continually low standards of living, the endemic cor-

ruption and cronyism. It is clear that the Agreement has come to represent something very much more in the eyes of the Ukrainians on the street: if the independence of Ukraine was bequeathed to them rather than won by them in 1991, the signing of the Agreement and all that it represents is something that they are clearly prepared to fight for. It has come to represent their chance to obtain political and economic sovereignty from their domestic overlords and Russian suzerainty respectively. As the current political elites appear to have dramatically misjudged the mood which is festering on the streets of Ukraine, it is entirely conceivable that both spheres of integration are likely to play a very significant role in the internal dynamics of the country.

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Chornobyl in a New History of Modern Ukraine Subjects, Methods, and Limits

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Chornobyl in Ukrainian or “Chernobyl” in English and Russian is perhaps the best known place in Ukraine, as its name is even more familiar to outsiders than even Ukraine’s capital, Kyiv (or Kiev). The disaster at the nuclear power plant near the Ukrainian provincial town is a historical event and *lieu de mémoire* of global signification. Twenty five years after the catastrophe, Chornobyl has become canonized in the Ukrainian national, but also in transnational historical narratives. In Ukraine, it is a part of a national epos, integrated into the conventional national narrative. Outside of Ukraine, it is perceived as a key event in the history of the global environmental movement. In the Ukrainian historical narrative, Chornobyl primarily functions as a symbol for Ukraine’s 20th century *ruina* in line with other events of great sufferings, such as the Great Famine and the WWII. As such, it has been addressed and reproduced in different texts and visual representations. The technological disaster has gained further importance given the role that it allegedly played in the destruction of the Soviet system. As an event of great suffering and a catalyst of the Empire’s fall, Chornobyl fits well into the Ukrainian national narrative with its stress on victimhood and the role of Ukraine in bringing down the Soviet system. The public and political commemoration of Chornobyl became the norm in the post-Soviet Ukraine. Even though public interest to Chornobyl has been growing over years, Ukrainian historians showed little involvement in the event that proved to have such a groundbreaking effect for their country’s history. Commemorations of Chornobyl has become the norm, but most events focus on specific dates, places, and rituals, and neglect difficult subjects and areas such as for example the “alienation zone” in proximity to Kiev and the thousands of forgotten victims, dead and alive. A thorough historical

analysis of Chornobyl is yet to be written in Ukraine.

Given the vital function of Chornobyl in recent Ukrainian narratives, historical analysis of Chornobyl could and should incorporate a variety of methodological approaches that have gained in importance during the two last decades, such as transnational and global history, visual history, environmental history, and disaster studies. Each of these may cast a new light on Chornobyl as a global event and show that there is much more about it than a national tragedy.

A transnational approach to Chornobyl reveals the Soviet imperial genesis and micro-history of the disaster. It was not exclusively a “Ukrainian” catastrophe, though almost exclusively connected with Ukraine and Ukrainians after the disintegration of the Soviet Union. Chornobyl, Ukraine’s first nuclear power plant, symbolized the achievements of Soviet post-WW II industrial modernity. Nuclear was designed as a “clean” energizer and catalyst of big high tech development in the republics (and related trans-republican specialist migration), whereas Ukraine played a major role as *secunda inter pares* within the Soviet political and economic system. As an overarching cultural factor, the Russian language played a role as an integrating factor towards the creation of a new transnational society of technocrats and specialists. New forms of urbanity emerged in this setting, of which the *atomograd* Prypiat was one example. The disaster transformed Prypiat into a ghost town and Polissia region into a nuclear wasteland — and it set an end to a late Soviet urban and industrial utopia.

A *transnational* approach should also demonstrate that Chornobyl, whose radioactive fallout transcended state boundaries, was the first event to demonstrate that new technologies and related ecological hazards generate global, highly interdependent communities of “risk societies”. In the aftermath of the Ukrainian event, several West European governments decided to modify or even to close down their nuclear power programs. Additionally, Chornobyl gave a new spin to West-East transnational relations and knowledge transfers, thereby breaking boundaries between the East and the West to a greater degree than any other even before it, and contributing to the end of the Cold War. This can be shown on the examples of ecological grassroots movements, non-governmental social and medical assistance initiatives, or cooperation in nuclear technology and NPP safety management.

On a different level, *environmental history* and disaster studies, being rather immune to national paradigms and corporate interests, present catastrophes as results of complex interactions between environment, humans, and technical systems. Following this approach, Chornobyl's fatal Unit 4 can be described as a techno-social system embedded in certain spatial, political and economical frameworks. This approach sheds new light on contemporary understandings of Chornobyl both in the former Soviet Union and in the West. In the direct aftermath of the disaster, Western politicians and nuclear lobbyists tended to explain Chornobyl as a systematic failure of Soviet engineering, whereas Soviet accounts stressed the human factor and failures of individual operators. Environmental history approaches the problem in a more differentiated way: Though catalyzed by Soviet home-made developments in reactor technology, highly ambitious nuclear programs and massive centralist pressure on the managements of local nuclear facilities, Chornobyl was primarily a disaster typical for complex interdependent technical systems in advanced or developing industrial societies. In such contexts, operators are forced to demonstrate results and successes, whether due to the hunt for capitalist profit or political prestige, on the one hand, or the urgent need for development, on the other. In this respect, Chornobyl is comparable to other major nuclear and chemical disasters since the 1970ies, as Three Mile Island, Bhopal, or Fukushima.

Visual history provides a valuable insight into narration strategies, rituals, symbolic representations and forms of collective memory that people developed to come to terms with the almost unknown, invisible radioactive threat which was to change the lives of millions. People directly affected by the disaster — "liquidators", nuclear workers, soldiers, evacuees, but also intellectuals, media professionals, or simply concerned Soviet citizens — often referred to the symbolic practices of WW II memory to make their experiences and fears understandable, or to express individual and professional pride in spite of gradual oblivion and social discrimination. Today, children of the *likvidatory* generation embark on new pop-cultural projects of visualization: They approach the catastrophe in the history of Soviet Ukraine by producing post-postmodern spaces of communication on Chornobyl-related websites or in video, poster, graffiti, and computer games art.

However, in the countries most affected by Chornobyl, neither transnational communication nor traditional or innovative strategies of commemoration seem to have any impact on political decisionmaking, or political discourses. Attempts to see the disaster within new historical contexts, as this paper tries to show, at least could help to further discussions: disaster is not fate, but a result of complex social, economic, and ecological interactions. But so far, the impact factor of historical research and theorizing is surely limited. In Ukraine, as in Russia, discussions on environmental problems, or on alternatives to nuclear, are still regarded as a luxury problem. Even Chernobyl evacuées feel more concerned with problems as medical care, housing, and social security, than with living in a country which is highly dependent on nuclear power, or with energy infrastructure in the hands of oligarchs and semi-democratic state élites. For good reasons, as shows their everyday experience. At the meanwhile, turning eyes away from the ghost town Prypiat, dozens of Ukrainian and Russian nuclear cities continue their ways of life as Prypiat did, optimistically and proudly observing the prospects of their growing nuclear power industries in the age of climate change and globalized energy markets.

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Human Rights in Ukraine

1987–2012

YEVHEN ZAKHAROV

1. The Early Years

Before ‘perestroika’ nobody except dissidents spoke seriously about human rights in the USSR. Though the USSR had been a party to the UN pacts of 1966 and other international treaties in the field of human rights, and had signed the Helsinki Accords in 1975, it demonstrated no intention of fulfilling its obligations. Soviet lawyers right up to the beginning of the 1990s were still referring to human rights as “a bourgeois invention”. Up to the middle of the 1980s nobody had any idea about the Universal Declaration of Human Rights, not to mention other documents, even though such documents were confiscated when dissidents were subjected to searches for anti-Soviet activity. Human rights activists were severely punished for publicly expressing their views. Yet it was they who were the moral and intellectual mainstay of the intelligentsia.

Knowledge about Human Rights began to spread in the spring of 1987 when a huge number of prisoners of conscience were released.

The civic democratic movement which began in Kyiv and Lviv, had spread to almost every city in Ukraine by the end of 1989. In western regions it was a mass movement and had a marked national-democratic orientation. In the east, the civil movement which upheld general democratic values was limited to large cities and was much weaker. All political parties which appeared around the beginning of the 1990s were national-democratic, were headed by former political prisoners, and had programmes which expounded non-violent methods of opposition and observance of human rights. On the whole, the democratic movement at that time defended hu-

man rights spontaneously and unconsciously by promoting a move towards greater freedom for Ukrainian society.

The August 1991 coup and subsequent collapse of the Soviet Union led to a fundamental change in this situation. Ukraine became an independent state for all that Ukrainian society was not yet ready for this. The gaining of independence immediately highlighted the differences in approaches to resolving the main issues: civic activists, who had previously been united by a common aim — the democratisation of public life, and by the existence of a common enemy — the communist regime, manifested differences in the general world views. Internal conflicts split the previously united movement, disagreements and the increasing worsening of the socio-economic situation led to a thinning of their ranks and a loss of public support. The degree to which society was not prepared for change, the general disorientation, 'chaos in the minds' of a critical mass of the population were factors contributing to the lack of political and economic reforms and impossibility of making a rapid start towards democratic transformations in a now independent country. The main reason for this, in my opinion, was the weakness of Ukraine's democracy. Communism in Ukraine had not been defeated. Ukrainian society, ravaged by the mass political repressions of the 1930s–1980s, was split into 'easterners' and 'westerners': it was psychologically not ready for independence, and incapable of effecting a change in the political elite. The Soviet administrative and governance system, with all its inherent contradictions, was retained. Virtually the entire former political elite stayed in control at all levels of power.

In those years human rights were seldom mentioned. Only a tiny minority in this huge country was concerned about them. The vast majority of Ukrainian human rights activists were now involved in the building of the State. In the autumn of 1991, it suddenly became clear that there were no human rights organisations in the country. This meant that there were no civic groups, whose aim was not to obtain and use power, but rather to monitor activities, collect, collate and disseminate information about the situation of human rights, to help citizens in various ways to defend themselves from state imposed organised violence, to provide advice, legal, material, moral assistance, to analyze the activities of various branches of state power, to organize monitoring of these branches and to counter systematic violations of

human rights. Such structures needed to be created from scratch.

Having waited some time and looked around, the Ukrainian *nomenklatura* (the political elite) understood that nobody was seriously threatening to usurp their position and began to organise the state to suit their aims and interests, principally that of increasing their personal wealth. Meeting with practically no opposition from society, the *nomenklatura*, which was closely linked to business and state bodies, became more and more powerful, providing stark confirmation of the old rule: the State can do anything with people if the people let them do it. A young, initially quite passive state began to gradually stagnate into a form that was increasingly unacceptable for the general population: it became more and more concerned with serving those in power while increasingly indifferent to the fate of all others and aggressive to anybody who expressed dissatisfaction with the system of relations which was developing.

Yet from today's perspective, that period still seems quite favourable. It is no accident that those years were labelled "rosy democracy". Thanks to the inertia of perestroika progressive and to a large extent romantic laws were passed — on freedom of conscience and religious organizations, national minorities, the printed press; on state secrets; on citizens' appeals, and so on. The process of rehabilitation of victims of political repression was underway. The state-owned broadcaster, the First National TV channel was still watchable and the state-owned press was still readable. There were real efforts to discuss important issues. For example, a broad discussion was organized on the draft of Constitution in 1993 and, as a result, it was rejected as unsatisfactory. Independent publications still dared to carry out journalist investigations and attacks on journalists had not yet become common.

2. The Kuchma Years

With the election of Leonid Kuchma President, the process of personal aggrandizement of the nomenclature, the creation of financial-oligarchic clans and increasing poverty of wide layers of the population gained momentum and became more vicious. The hopes of many that a strong President-technocrat, as Kuchma «the bulldog» seemed to be, would carry out reform proved to be totally illusory.

Faith in strong executive (presidential) power did not prove justified, government structures were slow to reform and unable to keep up with rapidly developing events. Paternalism was supplemented by an information crisis, direct dictatorship of executive structures over society, financial and economic extortion by a bureaucracy which had not internally changed to become accountable to citizens. In the economic sphere, our country, unfortunately, had become bankrupt, and culturally it seemed provincial. The interests of the machine, of the bureaucracy in a whole range of political situations proved too strong, and civic activeness was, accordingly, undermined.

All of that was fully reflected in the Constitution which in Ukraine is considered to be one of the best in Europe. It is difficult to agree with this point of view. For example, social and economic rights cannot be fulfilled by the state and cannot be norms of direct force. It also fails to envisage submissions to the Constitutional Court from ordinary courts, not to mention from members of the public. Of the dozens of requests from members of the public to interpret norms of the Constitution, the Constitutional Court has only considered a few. In other words, the constitutional system for defending human rights virtually does not work.

According to Article 3 of the Constitution, «human rights and freedoms and their guarantees determine the essence and orientation of the activity of the state». Yet the Ukrainian state proved incapable of fulfilling this duty primarily because it was itself the perpetrator of human rights violations which became more and more widespread and large-scale. A number of interrelated trends which are highly dangerous as far as human rights are concerned became gradually more entrenched. They are described below:

- a) Administrative pressure from the state increased together with the will to strictly regulate life in all spheres (particularly the economy). People remained, as before, defenceless and dependent on the state machine, while those who, by engaging in business, sought to become economically independent found themselves in the clutches of fiscal authorities, whose administrative procedures and methods of punishment became more and more sophisticated. Consequences of this were fatal for the expansion of business. In the country, the tax system seemed de-

signed to render legal business impossible, and everybody was forced to break the law, and was therefore vulnerable. However the bodies which could impose punishment, worked selectively: they repressed those who supported the opposition financially or who broke the unwritten rules of behaviour in the system of inter-clan relations which had developed. The right to private ownership was consistently and flagrantly violated, with violations of the right to own land occurring on a mass scale. Those in power did everything to make sure that only business which was closely linked with them could succeed, and this allowed the state apparatus to get still further out of hand and increased corruption.

- b) Poverty and social inequality rose. The right to housing, an adequate standard of living, social security, employment, health-care, and education seemed a total mockery. Violation of these rights was most significant. The State never in fact defined «an adequate level of nourishment, clothing and housing», and could therefore with impunity fail to fulfil the obligations that it had taken upon itself with relation to the elderly, the disabled and families with many children.
- c) The political struggle gradually turned into the crushing of opponents using any means, including with the help of state bodies, including law enforcement agencies. This was demonstrated clearly in the election campaigns of 1998, 1999, 2002, 2004 and the referendum of 16 April 2000. Pressure was flagrantly and persistently exerted on voters so that they would make 'the correct choice', and there was practically no chance for any opposition candidate to have contact with the electorate through the broadcast media. No means were barred when it came to applying administrative pressure to ensure the desired result, and state executive bodies turned both the elections and the referendum into a show which elicited no other feelings than humiliation, shame and outrage.
- d) Criminal-legal policy became increasingly brutal. Torture and ill-treatment during the detective inquiry stage and pre-trial investigation in order to extract confessions became an everyday occurrence, most often remaining unpunished or, worse, being seen as normal. The number of acquittals never exceeded

0.35%. Ukraine is one of the record holders for the number of prisoners per head of population. The problem of overcrowding in detention units became increasingly serious with the conditions in them extremely bad.

Through the efforts of human rights organizations the problem of torture and inhumane treatment began to receive much more attention in the mass media. In December 2000 the death penalty was found to be in breach of the Constitution by the Constitutional Court, and replaced by life sentences. Torture was recognized as a separate crime in the new Criminal Code. There were less cases of hazing in the army.

- e) Disrespect for the judiciary, and indeed for the rule of law in general became ever more overt. This was demonstrated by the constant violation of the principles of the rule of law in favour of immediate political expediency, disregard for the principle of independence of the courts, pressure placed on the courts by the Presidential Administration or the state executive branch of power as a whole, the appalling state of financing for the court system and the efforts to inculcate in society the belief that the judiciary was one of the most corrupt institutions in the land.
- f) Surveillance by the enforcement bodies over the population became more and more total, this being seen most pronouncedly in the mass violations of the right to privacy of communications. Wire-tapping and tapping of mobile phones, interception of electronic mail and other means of communication took on frightening proportions.
- g) Freedom of speech was ever more widely infringed. Control over the mass media, especially forms of electronic media, became ever stricter and more flagrant. State executive bodies gradually developed a huge arsenal of means for forcing those in opposition to be silent: closure of media outlets; making rules for registration more complication, endless checks from various monitoring bodies — the Control & Audit Department, from the tax authorities, fire services, etc; freezing accounts in banks, printing companies refusing to print issues and even withdrawing printed issues, refusal to allow publications centralized distribution, intimidation and even assaults on journalists; defamation suits lodged by government officials

- with ludicrously large amounts sought in moral compensation; reports alleging slander or insults.
- h) The practice of classifying as secret and limiting access to official information became ever more widespread, with the justification given that this was safeguarding the information security of the state (with this concept not being defined by any law). Progressive laws, regulating access to information, were being effectively nullified by subordinate legislative acts and unlawful practice.

In 2004 all of the above mentioned trends became even more pronounced, and were fully demonstrated during the election campaign. This took place as a confrontation between the forces in power and the people, who had the strength and courage in the face of aggressive pressure to reject vote-rigging and assert their choice against those in power. Factors contributing to this victory were the appearance on the active public area of two generations who had not been crushed and crippled by an inferiority complex, and who had a modern world view, the growth of small and middle-scale business, the openness of the country, the numerous visits abroad of Ukrainian citizens, a developing public consciousness and readiness for changes, the growing strength of a civil society and, in particular, of the defence of rights. The youth movements of 2004 were unintentionally (and for a certain number of young people –intentionally) human rights activists. They were, if one could put it that way, human rights activists on the offensive, as can be seen even at a semantic level in their banner: «You can't stop freedom!»

The Orange Revolution yet again confirmed that freedom is the ultimate value for some Ukrainians, which is more important than life, and that the Ukrainian national idea is the idea of freedom. A major part of those who took part in the uprisings in the GULAG — the Vorkuta, Norilsk and Kenigir uprisings — were Ukrainians. “The virus of insubordination,” the yearning for freedom and wish to determine one's own fate proved so strong specifically among Ukrainians. It was they who got people to rise up, despite almost inevitable death. This same yearning I see in the *shistdesyatnyky* (the movement of the 1960s) who went to the labour camps for the right to call things by their name. It was freedom that was the driving force bringing people

to Maidan (Independence Square) on 21–22 November 2004. When they came out, they did not know what awaited them, and many prayed for their lives.

As Vaclav Havel said, the presidential elections in Ukraine were the funeral toll for the remnants of Ukrainian post-communism. A bell which rang on the capital's Independence Square — as though by itself. And once again the old truth was confirmed: a political regime, which violates human rights more and more flagrantly, sooner or later is doomed.

However, as later events were to show, the funeral proved purely symbolic.

3. The Yushchenko Years

From 2005–2009 the general atmosphere within Ukraine was more humane. The weakening of pressure by the state on the individual resulted in an improvement in the human rights situation, in the exercising of rights and freedoms where the state should not interfere — freedom of speech and information; freedom of association; the right to free elections; freedom of business enterprise, etc.

However it turned out that this process was to a large extent linked with a weakening in the regime itself which more took a conditional step back in its relations with its citizens than actually extended the scope of freedom. Where the State had a duty to do something to improve the situation (implementing positive duties, such as investigating cases of torture; creating new jobs, etc) there was no improvement since on the whole it remained inactive. The unsuccessful constitutional changes of 8 December 2004 had extremely negative consequences, including causing a struggle for powers between two centres for decision making within the executive — the government and the President. This resulted in serious threats to human rights.

The intensification of the political struggle in 2006–2007 turned into an acute political crisis and brought about a general reduction in the level of political freedom. The right to be elected turned into a chimera. This right could effectively only be enjoyed by members of political parties which make up only 4% of the voters. All political forces infringed the principles of rule of law, in particularly though

putting pressure on the courts. The crisis prevented the carrying out of necessary reforms — constitutional; judicial; criminal justice; administrative; and others.

On top of the political crisis, in the second half of 2008 the global economic crisis hit Ukraine and, needless to say, the government had difficulty coping with it given that it was unable to make or implement decisions swiftly. This hit the poorest layers of society hardest, as well as the middle class. Those on low incomes found it even harder to survive because of the rise in prices and inflation, the increase in tariffs on communal services and the lack of adequate social protection. They became even more dependent on their employers, the relations with whom are often feudal-like.

Unemployment, including hidden unemployment, rose considerably, and to a large extent also affected qualified workers and office workers. The fall in GNP was the worst in Europe, and the already great divide between the standards of living of rich and poor widened still further.

Constant, flagrant violations of property rights continued, including unlawful seizures of land or other property running counter to the law, as well as the wishes and decisions of the local territorial communities or owners.

In conclusion, we are forced to conclude that in 2005–2009 there was no systematic policy at all on improving observance of rights and freedoms in the country.

4. The Yanukovich Years

If between 2005 and 2009 we reported that government policy on human rights was ineffective, unsystematic and chaotic, today we are forced to state that during the last two years there has been no such government policy at all, and human rights are not a priority for the leaders of the country. We have seen virtually no positive action by the authorities and administration aimed at enabling citizens to exercise their rights, while there are more and more infringements of human rights and fundamental freedoms

Following the 2010 Presidential elections, we seem to have returned to the beginning of 2000. All the above-mentioned trends have begun

working again with full force. Political freedom is decreasing fast. One is seeing a major assault by the authorities on civil rights and political freedoms. We have flagrant violations of freedom of peaceful assembly, freedom of expression, the right to privacy and the right to a fair trial. The law enforcement bodies are being used as an instrument for harassment, selective justice is being fully used under the pretext of fighting misuses and corruption.

The situation with the government's safeguarding of social and economic rights is catastrophic. Assessments from trade unions, sociological research from the Ukrainian Social Research Centre; the International Sociology Institute; the Razumkov Centre; the Democratic Initiatives Centre and others research establishments indicate a rise in poverty. At present one quarter of Ukraine's population are considered poor.¹ 85% of Ukrainians, in order to survive, were forced to economize on food, holidays, recreation and clothing. The average pay around the country is 2.5 thousand UAH which indicates an increase in the divide between rich and poor and assault on small and middle-level business, and a weakening of the middle class which should form the base and dynamic force of economic development.

The issue of poverty also concerns the public sector. Those classified as poor include the educated, qualified and full-time employed groups in society (people working in public sector institutions and organizations, education, cultural, scientific, medical, social workers, civil servants, engineers, etc). Low salaries and pensions combined with rapidly increasing prices and tariffs make it impossible for them to provide the basic necessities for their families²

Yet even such a low, sometimes less than minimum wage is paid with delays, both to non-state workers and to people in the public sphere. For example, as of 1 October 2011 wage arrears came to 1,180 UAH.³ There is a steady trend towards increasing wage arrears.

In these conditions the government has adopted a harsh policy on suspending or reducing social payments for former Chornobyl clean-up workers, Afghanistan War veterans, children and others,

1. The poverty line in Ukraine is 1025 UAH <http://health.unian.net>.

2. The Committee on Social Policy and Employment has found the work of the Cabinet of Ministers in ensuring implementation of the President's Decree "On urgent measures to overcome poverty" unsatisfactory, <http://portal.rada.gov.ua>

3. Wage arrears increase by 2.2% <http://news.dt.ua/>

and in response to protests has effectively resorted to political persecution. Despite the Constitutional Court ruling in 2007 (in the case of citizens' social guarantees⁴) which stated that rights cannot be suspended as opposed to privileges, the government demonstratively suspended implementation of social guarantees in the 2011 budget law. Furthermore Item 4 of the Final Provisions of 2011 Law on the State Budget gives the Cabinet of Ministers the right to establish the procedure and amounts of social payments based on available financial possibilities. The Cabinet of Ministers immediately arranged that pensions should be calculated without taking into account court rulings. This elicited mass protests from former Chornobyl clean-up workers, Afghanistan War veterans, "children of the War" and other groups in society throughout the country, and is creating the threat of an intensification of confrontation between the protesting groups and the law enforcement agencies.

The government says that there is no money in the budget to cover social payments at such a level, and an analogous norm for management of social payments by the Cabinet of Ministers has been added to the 2012 budget. Yet such actions by the government look particularly indecent given the incredible amounts spent on maintaining the President, parliament, Cabinet of Ministers, as well as other parts of the State apparatus which overall exceeds the budget allocations for social payments in 2011 by 3 billion UAH. Procurement of expensive cars, pearl baths, gold toilets, travel around the country on chartered flights, etc — all of this strengthens public opinion that those in power are corrupt, that there is money in the public coffers, only it will not be given, but will be channelled to meet the needs of high-ranking officials, not citizens. We would note that there are almost no attempts to curb professionally-linked concessions with these in the main remaining.

2010–2011 saw intensified political harassment of members of civic movements and organizations within civil society. Based on our observations around 60 civic activists, journalists and human rights activists, as well as 11 civic organizations suffered harassment, with such cases seen in 17 regions of the country. Criminal investigations were initiated against 30 people, 3 cases involving administrative proceedings and 2

4. <http://www.ccu.gov.ua>.

civil cases were launched. A decision to undertake forced measures of a medical nature was taken against one person. Around 25 people had their liberty restricted through detention, remand in custody in a temporary holding facility or SIZO (pre-trial remand unit) for varying lengths of time. 16 activists were subjected to physical violence. Two people emigrated. All of them encountered violations of legislation or disproportionate interference from the state.

In 2010–2012 disregard intensified for judicial independence and rule of law as a whole. Selective criminal prosecutions were more and more dominant, with the courts coming more and more under the control of the Prosecutor's office, executive and bodies of local self-government. In cases of a political nature, in anti-corruption cases and many other types of cases the principle of adversarial proceedings can be forgotten about — the courts totally lost their independence and were turned into obedient implementers of others' wishes. The court trials of former government officials are a parody of justice. For example, the restraint measure against Yulia Tymoshenko and Yury Lutsenko was changed from a signed undertaking not to abscond to remand in custody without any lawful grounds. The holding of a court hearing to determine restraint measures against Yulia Tymoshenko over the United Energy Systems of Ukraine prosecution in the medical unit of the SIZO (remand unit) was a mockery of judicial procedure, and of the accused who is confined to her bed. In general everything in the criminal prosecution of the former Prime Minister is in keeping not with the law but with the wishes of those in high places who interfere, ignoring all rules and established practice, unceasingly trying to humiliate the imprisoned and ill woman.

In order that judges cannot show resistance to such pressure, a Damocles sword has been suspended over them in the form of threat of dismissal for infringement of their oath. This threat can be carried out at any moment through a submission to the High Council of Justice.

This period was characterized by an increase in public protests by various groups in society. Who did not protest against the actions of the authorities! There were protests by workers, teachers, students, environmental activists, members of various political parties, people on benefits, farmers, vets, and others. According to MIA statistics,

during 2011 there were 160 thousand protests⁵. How effective were they? Examination of the authorities' reaction gives grounds for concluding that they may at best make partial concessions only to later push what they want. One saw no willingness to engage in honest dialogue with the public. One can therefore expect protests against the policy of those in power to increase. According to a public opinion survey by the Razumkov Centre⁶, in December 2011 the number of those who believe that where there is a significant deterioration in living conditions, you need to go out into the street and protest (52%) was significantly higher than the number who believe that it's better to endure financial difficulties so as to retain order in the country (23.3%).

Human rights organizations have gradually become stronger. There are now, I would estimate, around 200 of them. However the results of the activities of even such a small number of human rights groups are impressive. They can boast of tens of thousands of cases where they have defended rights, thousands of cases won in domestic courts, around 100 in the European Court; preparation of independent reports on Ukraine's implementation of its international obligations; preparation of a number of draft laws; publication and circulation of literature on civic education and human rights; increase in the number of courses on human rights in schools and institutes; educational seminars for various professional and social groups and many other successful actions. However these positive examples of successful human rights activity are lost among the mountains of human rights violations.

Violations of political and civil rights in 2010–2012 were the most serious of all the years since independence. Some of the above-mentioned violations, specifically political persecution, combined with violence and/or criminal prosecutions, the use of the law enforcement bodies for political ends; violent disappearances; the poverty of people in employment have been the subject of particular attention from human rights organizations. Such violations are serious and dangerous, indicating an assault by the authorities on the people's freedom and carry the threat of a restoration of totalitarianism. Elimination of these

5. <http://tvi.ua/ua/watch/author/?prog=698>

6. <http://www.razumkov.org.ua>

violations must become the priority of the state.

Yevhen Zakharov

Religious Freedom vs Traditions of State Favoritism: an Unsteady Balance

MYROSLAV MARYNOVYCH

1. Religious freedom

Immediately after gaining independence in 1991, Ukraine started the dismantling of the Soviet model of repressive control over the activity of religious organizations. The new, post-Soviet, “Liberty of Conscience and Religious Organizations Law of Ukraine” was adopted. The Law was considered the model for the whole post-communist region and established most-welcomed religious freedom in the country.

After the protests of the hierarchy of the main churches (sometimes even Protestant leaders!), and mass media and the general population, influenced by the incursion of foreign religious missionaries, the Law was amended (1993). According to Howard L. Biddulph, this Amendment “... effectively prevents the access of Ukrainians to any totally new faith.” (Biddulph, 339).

However, the general situation was unprecedentedly good compared with Soviet times, and Ukraine had almost disappeared from the list of countries which violate religious freedom. Here I mean, first of all, the materials provided by the Keston Institute and Forum-18 site. The US State Department Reports on religious freedom in Ukraine recognized an impressive improvement of the situation in the country, while mentioning some occasional negative incidents which violated religious human rights. By 2010, the regime of recognized religious freedom had been established in Ukraine.

What did religious freedom bring to Ukraine? At first, religious freedom brought certain turbulence in the post-communist religious

pattern:

- a) Religious communities sought religious freedom for themselves, but not for so-called heretics. It took time to soften that approach.
- b) Religious freedom has shaken the essence of Ukrainian religious identity (I mean ethnic Ukrainians here). Is Ukraine an Orthodox country? Is Western Ukraine Greek Catholic? All stereotypes were undermined.
- c) Religious freedom has shaken the whole corpus of church–state relations, especially the typical Orthodox “symphony” which arranges that “a state put safety walls around the established church, and the latter supports the state.”
- d) The Moscow Patriarchate has lost its monopoly in Ukraine and, as I will show later, hasn’t resigned itself to this fate.
- e) It took a certain amount of time before the Ukrainian Greek Catholic Church accommodated itself to the reality that its influence in Galicia (Western Ukraine) is not as absolute as it was before World War II.
- f) It was difficult for pro-Ukrainian Orthodox to understand that their Kyivan Patriarchate has not received the full support from the Ukrainian state as was expected. No Orthodox Church was happy with the need to distance itself from the state or even to criticize the state for the alienation.

In the new millennium, however, many religious groups managed to effectively rebalance their spheres of influence, and a relative feeling of safety appeared. Religious freedom created the space for different religions to flourish and proliferate and, what is very important, to serve in a competitive environment.

According to Jose Casanova, a sort of American denominationalism has been developed in Ukraine (Casanova, 9). The parity of influence of at least three branches of Christian religions, plus the influence of the Jewish and Muslim religions, created sort of a self-tuning system where the parity was a result of religious freedom and, at the same time, its main guarantee.

Finally, by 2010, the leaders of different religious denominations represented in the All-Ukrainian Council of Churches and Religious

Organizations had developed certain mutual momentum in their relations with the state. Sharp competition seemed to be gradually substituted with on-growing partnership in defending their common agenda.

This conclusion may be illustrated with the idea of the united “Kyivan Church.” It was in 2003 that the then-head of the Ukrainian Greek Catholic Church, Cardinal Huzar, publicized his Statement “One Divine Nation in a Land on the Kyiv Hills.”¹ *In this document, he specified the criteria of the unification of four branches of the ancient Kyivan Church now existing in Ukraine. The text had been widely discussed in Christian circles in Ukraine and, in spite of certain differences in approach, was accepted positively. At least, none of the Ukrainian Orthodox Church rejected the idea per se.*

In 2009, two Orthodox Churches of both Moscow and Kyivan Patriarchates had launched the process of negotiations about the possibility of unification of all the Orthodox branches into one *pomisna* (local) Orthodox Church.² What was especially important was that there were no preconditions for entering into dialogue: no humiliating repentance, no proclamations of guilt, etc (as the Moscow Patriarchate had insisted). Ukrainian Churches developed their own agenda for the immediate future, and Moscow had little control of this at that time.

2. State Favoritism

You have probably caught already that, in 2010, dramatic changes happened to take place in Ukraine. They were initiated by two figures: firstly, by Kiril, the new Patriarch of Moscow; secondly, by the new President of Ukraine, Victor Yanukovich.

As mentioned previously, because of religious freedom, the Moscow Patriarchate had lost its monopoly in Ukraine. Moreover, it became clear in 2008–2009 that the representative of the Moscow Patriarchate in the country, that is the Ukrainian Orthodox Church, was more and more playing independent roles. In addition, it started to bifur-

1. http://risu.org.ua/ua/index/resources/church_doc/ugcc_doc/34078/

2. <http://tsn.ua/ukrayina/upts-mp-rozpochne-peregovori-pro-voz-yednannya-z-kiyivskim-patriarhatom.html>.

cate into two sub-groups. One of them has become more and more “Ukrainianized” in the sense of being ready to take into consideration the Ukrainian religious paradigm. The other one continues to grieve for the former monopoly within the previous Soviet/Russian religious paradigm and is trying to break down the newly-developed inter-religious balance in favor of state favoritism toward the Ukrainian Orthodox Church of the Moscow Patriarchate.

The first group was, and still is, being led by the head of the Church, Metropolitan of Kyiv Volodymyr Sabodan. The best known leader of the pro-Russian group is Agathangel, Metropolitan of Odesa and Ismail. Speaking at the World Russian People’s Council in Moscow in 2006, the other representative of the pro-Russian group, Augustin, Archbishop of Lviv, appealed to the audience: “We expect certain steps from Russia as a party waiting for the command to engage in the battle. I as representative of the Ukrainian Orthodox Church am convinced that uncertainty can swallow us up. The time has come for resolute action and for calling things by their proper names.”³

The archbishop’s voice seemed to be heard in Moscow, and the new Patriarch of Moscow, Kiril, elected in 2009, dramatically changed the policy toward Ukraine. He developed the concept of the “Russian world” to be reinforced on the Eastern Slavonic lands.⁴ Kyiv as an ancient Christian capital and the Ukrainian Orthodox Church itself were considered to be the core of the “Russian world” in Ukraine.

It is clear, of course, that the Patriarch’s concept and actions were coordinated with the Russian political leadership. But what is even more important, the new Ukrainian president, Victor Yanukovych, decided to back up the whole project. He took the Putin model of power, including Russian state favoritism toward one Church, as a model for himself.

This became absolutely clear from the very first day of his presidency. Two previous presidents of Ukraine developed the tradition that, during the inauguration, a new president receives blessing from representatives of *all* major religions and Churches. It was a powerful message for the society that the President of this multi-cultural and

3. <http://www.interfax-religion.com/?act=news&div=1246>

4. The idea was conceptualized in the speech of the Patriarch at the IV Russian World Assembly in 2010: <http://www.patriarchia.ru/db/text/1312258.html>

multi-religious country is a president *for all its citizens* no matter what their religious affiliations are. It was President Yanukovych who broke with that tradition thus sending a radically different message to the Ukrainian society. Before going to the Parliament for inauguration, he met only with the Patriarch of Moscow (who came to Kyiv especially for that reason) and Yanukovych received his exclusive blessing.

This moment was the first in a long list of follow-up actions which have been taken with astonishing steadfastness. For the first year of his presidency Viktor Yanukovych had regular meetings with the head of the Ukrainian Orthodox Church of the Moscow Patriarchate and he refused to meet any other religious leaders even when they requested it. It took 14 months for the first meeting with the All-Ukrainian Council for Churches and Religious Organizations to be held.

President Yanukovych also broke down the tradition of previous Presidents to visit on the Jewish feast of Hanukah.

In general, the dramatic change of the political situation (in the sense of curtailing democracy in Ukraine) is reflected dramatically in this change of the state's policy in the religious sphere. It was immediately noticed by the US State Department. In its 2010 Report, the US State Department stated that "there were reports of societal abuse and discrimination based on religious affiliation, belief, or practice." It was noticed also that "local officials at times took sides in disputes between religious organizations, and property restitution problems remained."⁵

This conclusion was backed in the 2011 Report "Human Rights in Ukraine" made by Ukrainian human rights monitors who stated that, throughout the country, local authorities "put obstacles in the development of less extended confessions in favor of one dominant Church."⁶

Allow me to illustrate the situation with several examples. As reported by the Ukrainian Orthodox Church of the Kyivan Patriarchate, attempts were made by the clergy of the Moscow Patriarchate, supported by local authorities and businessmen in several parishes of the Kyivan Patriarchate, to force local parishioners to

5. <http://www.state.gov/j/drl/rls/irf/2010/148993.htm>

6. http://www.irs.in.ua/index.php?option=com_content&view=article&id=1023:1&catid=34:ua&Itemid=61&lang=uk

change their affiliation to the Moscow Patriarchate.⁷ In the first two years of Yanukovych's rule, this happened in the villages of Kamianka, Rozdolne, and Telmanove in the Doneck region.

On 23 January 2011, the group of opposition politicians appealed to the President with the demand to stop the discrimination of Ukrainian Churches, "We, people's deputies of Ukraine, are deeply concerned by your support . . . provided exclusively for one religious organization, that is the Ukrainian Orthodox Church in unity with the Moscow Patriarchate." According to the same politicians, all other religious organizations "are undergoing sharp humiliation and discrimination from the side of authorities."⁸

Local authorities in Odesa lent their ear to the Statement issued by the Ukrainian Orthodox Church of Moscow Patriarchate in 2010 against the construction of a parochial church of the Greek Catholic Church in the city.⁹ In the follow-up Statement by the Ukrainian Greek Catholic Church, Bishops protested against the discrimination.¹⁰ The then-head of this Church, Cardinal Huzar, informed the media that the Ukrainian authorities "obstruct the work of Greek Catholic chaplains in prisons and prevent the access of the military to the place of pilgrimage, Zarvanytsia."¹¹

The same injustice was committed in 2012 to the Ukrainian Orthodox Church of the Kyivan Patriarchate by the local authorities in Simferopol, Crimea, declining the request to allocate the land for the building of the cathedral of this Church.¹²

The Moscow Patriarchate appealed to the local authorities in Kyiv in 2010 to issue permits for funerals in the Orthodox tradition exclusively for the Ukrainian Orthodox Church of the Moscow Patriarchate, claiming that their rivals in the Kyivan Patriarchate are schismatic and cannot represent the Orthodox tradition correctly.¹³ The document

7. http://risu.org.ua/ua/index/all_news/community/land_and_property_problems/40916/

8. http://risu.org.ua/ua/index/monitoring/society_digest/40341/

9. http://www.pravoslav.odessa.net/index.php?id=623&pages=79&group=0&num_page=0

10. http://risu.org.ua/en/index/all_news/confessional/interchurch_relations/37899

11. http://risu.org.ua/ua/index/monitoring/society_digest/39746/

12. http://risu.org.ua/ua/index/all_news/state/church_state_relations/48121/

13. http://risu.org.ua/ua/index/monitoring/society_digest/39746/

was approved by the chief of the appropriate committee with the following resolution, "To take into consideration."

Speaking in Warsaw at the OSCE conference in 2010, the representative of the US State Department stated that "for the several last months Ukraine ceased to follow the OSCE standards as to freedom of associations and freedom of movement."¹⁴ This rather resolute statement was made because the Ukrainian road inspection put obstacles in the way of pilgrims of the Ukrainian Orthodox Church of the Kyivan Patriarchate to Kyiv for the celebration of the Day of Baptism of Kyivan Rus' on 28 July 2010.

In 2012, the All-Ukrainian Union of Associations of Evangelical Baptists reported that, in the city of Sumy, a priest of the Moscow Patriarchate and a group of local Orthodox parishioners paralyzed the Baptist feast for children "The Joyful Playground" as an "unlawful action" and a "covert mean of proselytism."¹⁵ Unbelievably, this was supported by a representative of the city commission for promoting the execution of the legislation on freedom of conscience and religious organizations!

The situation may be generalized with two citations. Firstly, Liudmila Shangina, a director of social programs of the Razumkov Center warns society that the "continuation of the practice of distinguishing one Church in counterbalance with others is a covert threat of sharpening the inter-confessional and, consequently, inter-regional confrontation."¹⁶ And secondly, Vasyl Boyechko, the Bishop of the Church of Evangelical Faith, stated that the "unpleasant smell of dictatorship is penetrating all the spheres of life"¹⁷ in Ukraine.

I strongly believe that the revanchist plan of restoration of a quasi-soviet system in Ukraine is temporary and will inevitably fail. However, it would be more correct to conclude this academic paper with a more neutral phrase, "The future will show to what extent the Putin model of state-church relations is applicable for Ukraine."

14. http://risu.org.ua/ua/index/all_news/community/freedom_of_conscience/38274/

15. <http://risu.org.ua/ua/index/exclusive/reportage/48270/>

16. http://risu.org.ua/ua/index/all_news/state/church_state_relations/43536/

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Myroslav Marynovych

‘Traditional’ Churches In Independent Ukraine

In Search of Common Identity

F. IWAN DACKO, F. OLEH TURII

It is general knowledge that the year 1989 marked a significant change in the public life of Eastern European countries. Ukraine was no exception. After the celebrations of the millennium of Baptism of Kyivan Rus’ (1988) one can even speak of a resurrection (Keleher 1993; 1997, Gudziak 1997, p. 49–72) of political, and particularly religious life in Ukraine, which ultimately lead to the proclamation of its independence on 24 August 1991 and disintegration of Soviet Union.

When we compare statistics they speak for themselves. In 1985 there were 16 religious confessions registered in the Ukrainian SSR, whereas in 2011 the number had risen to 120. In 1985, on the other hand, 6.2 thousand religious communities were officially recorded in Ukraine, whereas in 2011 they were 34.5 thousand, tendency increasing (*Tserkva i suspil'stvo* 2000–2001, p. 207)¹. Objectively one has to admit that with such increase, there were tensions and conflict situations within these communities. This fact has been widely noted, especially among the Western mass media, frequently exaggerated and overestimated on all sides. Furthermore, there were and are tendencies to overemphasize these facts and politicize them.

Today, however, after more than twenty years, we dare to express the opinion that basically it was, and still is the search towards self identification, or rather identity, of each religious community. This issue is particularly present within the so called ‘traditional’ Churches of Ukraine of different jurisdictions, basically the Ukrainian Orthodox Church, Moscow Patriarchate (UOC–MP), Ukrainian Orthodox Church, Kyiv Patriarchate (UOC –KP), Ukrainian Autocephalous Or-

1. The newest statistics which I here present are given according to the data published by the US State Department of national and religious affairs as of 1 January 2012.

thodox Church (UAOC), Ukrainian Greek–Catholic Church (UGCC).

There are sufficient reasons for such a state of affairs in the search of these Churches towards their self identity. Ukraine's tumultuous and difficult history connected with foreign occupation, persecutions and hardships, lack of an independent state, the absence of religious freedom and respect for basic human rights, the tragedies of the 20th century, such as the *Holodomor* and the two world wars, centralisation of the economic and political life, the *de facto* non–existence of communication and information on such major events as the Second Vatican Council, ecumenical movement, the creation of the Common Market and later European Union, created a new difficult and challenging situation.

The entire Soviet Union lived in a isolated world where only Soviet values, understanding, *Weltanschauung* were allowed and known. Furthermore, religion and its values were considered outdated, relics of the past, incongruous in what was perceived as a progressive, democratic, ideal Soviet society.

Such lack of self identity was particularly present within the Orthodox communities of Ukraine during which time each of the three denominations tried to search and find their roots in the quest towards their place in the new realities of independent Ukraine. Historical continuation was an important concern.

1. Ukrainian Orthodox Church–Moscow Patriarchate (UOC–MP)

For the sake of accuracy and correctness one should say that this Church does not like it when the adjunctive *Moscow Patriarchate* is supplied to its main title. It would prefer to be called just *Ukrainian Orthodox Church*. Nevertheless I feel compelled to add the *Moscow Patriarchate* description for the simple fact that today there are at least three orthodox Churches active in today's Ukraine: the one which depends on the Moscow Patriarchate, the Kyivan Patriarchate, created in 1992 and still not recognized by world orthodoxy, and the autocephalous Church, which has about 600,000 faithful.

This being the state of affairs, we cannot assign the exclusivity of an Orthodox Church of Ukraine to any one of them. Therefore one is compelled to add the adjective *Moscow Patriarchate* to the Church

we are now presenting.

It is precisely this adjunctive which characterizes this Church, namely its dependence on Moscow. It is the Church which until 1990 was the Ukrainian Exarchate of the Russian Orthodox Church (ROC) headed by Metropolitan Filaret Denysenko, who after 1992 was denigrated and stripped by Moscow of all his titles and dignities. This Church was the heir of the ROC which co-liquidated the Greek-Catholic Church in 1946–1948 in Western and Carpatho-Ukraine together with Stalin's regime. This Church, in the eyes of the faithful, cooperated hand in hand with the former Soviet regime, the KGB, and happily took over all the Greek-Catholic churches of those regions with the full approval of the atheist communist regime of the Ukrainian SSR.

Today the Moscow Patriarchate, when confronted with this fact, claims that in the Stalinist years, they at least saved Christianity in those areas, and thus maintained the Christian faith amongst the faithful. Such a statement is a distortion of historical facts. History proves that the ROC was happy that finally the Catholic Church was prohibited in those areas and that the ROC took over whatever she could. It was only after Stalin's death in 1953, and under Khrushchev, that the ROC was curtailed in her intentions, and a high number of her church buildings were destroyed.

Suffice to read the *Acts of the Synod of L'viv (Diannia Soboru 1946)* or watch the documentary film on this pseudo-synod of 8–11 March 1946 to see with what exaltation did the ROC "accept the Greek-Catholic faithful in the womb of the ROC." I frequently mention this to my Russian orthodox colleagues when we discuss this matter, and when they repeat their accusations of the Catholic Church proselytizing in present Ukraine and in the former USSR. After reading these *Acts*, and especially watching the documentary film, of this pseudo-synod, one sees that the behavior of the representatives of the ROC on that occasion was proselytism *par excellence*.

The majority of bishops and clergy of the ROC did not enjoy moral authority among the people. They were looked upon as on those who collaborated "with the enemies of God."

History is *magistra vitae*, a teacher of life, and people of today, whose grandparents or parents were persecuted from 1946 until 1989, do not easily forget the injustices of the past. The ROC in the years

1946–1989 simply did not want to believe that the UGCC existed in the underground. In fact today's historians state that the 43 years of the catacomb and illegal life of the UGCC in the USSR was the longest period of underground existence of the Church since the early ages of Christianity.

The changes that came with the Gorbachev era with its *glasnost* and *perestroika* was seen by these faithful that “justice won over injustice, and truth finally reigns again.” Suddenly, in 1989, it was a shame to be a member of the Russian Orthodox Church in Western. And after Gorbachev's first historic audience with Pope John–Paul II on 1 December 1989, when it became a known fact that communities and faithful could register and get legalised as Greek–Catholics, the return to the “Church of their fathers” became a massive phenomenon throughout the following three years.

Beyond doubt, this was a shock both for the KGB and the ROC. Furthermore, Rev. Volodymyr Yarema gave revival to the UAOC in August 1989, thus dividing the unity of orthodoxy in Ukraine. Even today Greek–Catholics consider this rebirth as a provocation thought out by the KGB in order to break the monolith of the UGCC in Western Ukraine. Some priests of the ROC turned to the newly reborn UAOC, but the absolute majority of faithful and priests returned to the UGCC.

Events were proceeding with rapid speed. Archbishop Volodymyr Sterniuk, as the *locum tenens* of the UGCC, took over his residence in St. George's Palace in L'viv. The cathedral itself was given back to the Greek–Catholics. Furthermore, Sterniuk and the civil authorities of L'viv officially invited the Head of the UGCC, Patriarch Myroslav–Ivan Cardinal Lubachivsky, to his See in L'viv, something that happened on 30 March 1991. And the faithful of the UAOC, although having their own bishop in the former hierarchy of the ROC, Ivan Bodnarchuk, were witnessing the gradual home–coming of Mstyslav Skrypnyk from the USA, proclaimed patriarch in Kyiv in June 1990.

All this came as a massive surprise, I would say, shock to the ROC. Even today this Church cannot cope with these facts. What was the State Church a few months ago, suddenly became the Church of a tiny minority in Western Ukraine. Moreover, even those who stayed orthodox broke their allegiance to Moscow and wanted full autocephaly and independence, i.e. to have nothing to do with Moscow.

Further, even the Head of the UOC–MP now broke his loyalty to his former masters and demanded autocephaly to his entire flock and gave birth to the UOC–KP.

Yes, there were abuses or violent acts in those days, but not to the dramatic extent as it was presented, and even today is still repeated, to the completely uninformed, and sometimes desinterested, Western mass media.

Despite everything, the UGCC began to restore normal life, re-construct its infrastructures, found its seminaries and the L'viv Theological Academy, which later was renamed as the Ukrainian Catholic University.

The UOC–MP had to react in an unprecedented manner, and it sacked and defamed Metropolitan Filaret, appointed a new protohierarch in the person of Metropolitan Volodymyr Sabodan, and officially assumed a firm anti-catholic position.

The UOC–MP was caught by surprise. It was looked upon by many Ukrainians as a Church of former occupants, collaborators, a Church of foreigners, even if they were orthodox.

Obviously the situation was different in Eastern Ukraine, and it was there that this Church gathered its forces primarily within the large Russian minority or the completely russified areas of that part of Ukraine.

It was a time of long healing until everything calmed down. Today this Church is still the largest Christian denomination of Ukraine, but precisely in the last few years a clear split, although permanently denied, is present amongst its pro-Ukrainian and pro-Russian party. Whereas the latter group see their future as a fully integral part of the ROC, rejecting changes whatsoever, the former group is considering always more independence by stressing the fact that, after all, it is an *Ukrainian*, and not a *Russian* Church. This younger generation of the hierarchy and clergy of the UOC–MP is trying to follow this principle in a peaceful manner. The Russian party, on the other hand, especially in the most recent past, since Victor Yanukovich became president of Ukraine and clearly supports only the UOC–MP, is becoming always more aggressive to the extent of trying to overthrow the Metropolitan of Kyiv and all Ukraine, Volodymyr Sabodan.

The newly appointed Patriarch of Moscow Kiril Gundaiev is showing particular interest in Ukraine. He visits the country several times

a year. He preaches the *Russkij mir* — *the Russian world*, the fact that Ukraine is an integral part of the canonical territory of the ROC, and emphasizes the unity of the three Rus' — Russia, Belarus' and Ukraine. Documentaries are shown on TV on how Patriarch Kyril advises or coordinates his activities concerning Ukraine with presidents Medvediev or Putin.

We are living in interesting and challenging times when the Church, which wanted to present itself as the victim of Catholic and foreign aggression, is now once again becoming a new aggressor, claiming its rights which were hers until 1989.

2. Ukrainian Autocephalous Orthodox Church (UAOC)

On 19th August 1989 the UAOC was reborn in L'viv thanks to Reverend Volodymyr Yarema (former Greek-Catholic, later priest of the ROC and later Patriarch Dymytriy of the UAOC). Mind you, we emphasize, that it all happened in L'viv, a traditionally non-orthodox location. Further, this reborn Church initially spreads exclusively in Western Ukraine, which before 1945 was predominantly, if not exclusively, Greek-Catholic.

This Church suddenly became strongly anti-Muscovite, but inevitably collided with the also reborn UGCC, which was leaving the underground after 43 years of illegality and persecutions and whose growth acquired much larger dimensions. Moreover, the Greek-Catholics, not without foundation, saw in this rebirth of this Church a provocation of the KGB in order to break the religious monolith of Western Ukraine. The KGB, in this case and time, was not even afraid of a division within Ukrainian orthodoxy and UAOC's anti-Russian stand. In Western Ukraine of 1989/91 it became trendy to be anti-Moscow and very Ukrainian. All the hierarchs of the ROC, which now became UOC-MP, were looked upon as former collaborators of the dying communist regime, the KGB and the entire Soviet infrastructures. This Church willingly preached its complete independence of all the main centers, be it Rome, Constantinople or Moscow. The magic expressions were "The Cosack Church", "independent Church in an independent Ukraine". What independence meant for a State, autocephaly was for an Eastern orthodox Church. Quite a populist

approach was easily applied when stating that the UOC–MP is directed from Moscow, Greek–Catholics are dependent on Rome, and the Roman Catholics are basically of Polish background and culture. Consequently, according to such logic, a true Ukrainian believer can only be of the Ukrainian Autocephalous Orthodox Church. Henceforth, very soon the prefix *anti* had to be attached. Therefore this Church of true and fully fledged Ukrainians had to be *anti-polish*, *anti-russian*, *anti-roman*, *anti-muscovite* etc. Constantinople in those days seemed far remote which would only accept such a view. . .

In order to have a historical background, continued references to the UAOC of 1918–33 were made, as to its second phase of legal existence in 1941–1944.

The newly elected Patriarch, Mstyslav Skrypnyk, coming back to Ukraine after almost half a century, clearly stood behind this Church. Thanks to his background, authority and age he was accepted with due respect also by the leading political figures of Ukraine in the 1990s. A certain *modus vivendi* was starting to be established between this Church and the president and government of the newly proclaimed Ukrainian state.

After the death of Patriarch Mstyslav Skrypnyk in 1993, Father Volodymyr Yarema was elected his successor, and became Patriarch Dymytriy. After his demise in 2000 no further patriarch was appointed or elected. Nevertheless, this Church is active in the Western regions of Ukraine with some presence in Kyiv, Kharkiv and other areas of Eastern Ukraine.

The lack of leading figures, particularly bishops and well formed priests, various divisions and internal strifes, the absence of the elderly patriarch from Ukraine and his death, weakened the influence of UAOC to the present day. Patriarch Dymytriy's last years in Kyiv were a sad epilogue of his tumultuous life. Nevertheless, the UAOC exists and has some valuable followers amongst its faithful.

This Church has, regretfully, never been recognized by world orthodoxy, and thus is still considered non-canonical.

3. Ukrainian Orthodox Church — Kyivan Patriarchate (UOC–KP)

After the proclamation of Ukraine's independence Metropolitan Filaret Denysenko, then protohierarch of UOC–MP, failing to become Patriarch of Moscow in 1990, adopted the orthodox ecclesiology of a free Church in a free State. With the support of the President of Ukraine, Leonid Kravchuk, already in November 1991, with the bishops of UOC–MP, he formally requested from the Moscow Patriarchate full recognition of its autocephaly. He should have made such a request primarily to Constantinople, not only because of canonical reasons, but because Moscow treated such a demand as the beginning of a schism. The following months were full of various vicissitudes that finished with the Kharkiv Sobor of May 1992, during which Metropolitan Filaret was succeeded by Metropolitan Volodymyr Sabodan as Metropolitan of Kyiv and all Ukraine. The majority of Filaret's Synod of Bishops did not support him, and the minority that did gave birth to the UOC–KP and recognized Mstyslav Skrypnyk as their Patriarch. After Skrypnyk's death in 1993, Metropolitan Volodymyr Romaniuk (+1995) was elected next patriarch, although the policy maker remained Filaret. In 1995, despite great opposition from Moscow, Filaret was made patriarch and heads this Church to this day.

UOC–KP has acquired an important place within Ukraine. It is predominantly present in the Western and Central part of the country, although its presence in the Eastern regions is not to be underestimated, considering the fact that it is permanently harassed by the UOC–MP. Patriarch Filaret claims that it even has more followers than the latter.

One fact is beyond doubt. Even today, when President Victor Yanukovych clearly supports and exclusively holds up to the UOC–MP, this Church plays an important role in today's society of Ukraine. It should not be forgotten that it enjoyed the support of the previous presidents and governments, and therefore cannot be discarded by today's authorities simply as that. It clearly declares complete independence of the Church from any ecclesial center (Rome, Constantinople, Moscow), it acts as a fully fledged autocephalous Church, it emphasizes that it is *the* orthodox Church of Ukraine. Recently this Church has added to the ranks of its hierarchy personalities of some importance.

UOC–KP, however, still has significant challenges, which it cannot disregard. Besides its uncanonical status within world orthodoxy, there is a constant preoccupation as to who will head this Church once Patriarch Filaret dies. Does this Church have another charismatic personality who could succeed Filaret and continue his legacy with dignity? Or, is there a group of people within this Church that would take upon themselves such a task under the leadership of a less stronger man? What does *(once particular [pomisna] orthodox Church in Ukraine)*, so frequently pronounced by Filaret and many politicians, really mean? What are, or will be, the ecumenical endeavors of this Church? Is it considering a future communion of Churches of the Kyivan Church under the leadership of one Patriarch of Kyiv–Halych and entire Rus’–Ukraine with other *Pomisni* Eastern Churches and particularly with the Bishop and Church of Rome?

One must say that Filaret in the recent years has been moving in this direction, but how high is his credibility, especially in view of the fact that many faithful of the previous generation cannot forget his, and a number of his senior hierarchs’, tight collaboration with the Soviet State and the Patriarchate of Moscow?

Is this Church a truly Kyivan Church, or rather a copy of the ROC which only prays in Ukrainian? We say this, because not just the external presentation, but even all the ritual ceremonies of this Church are identical to the Russian, synodal, rite with the only difference that it uses the modern Ukrainian language. Why has not this Church tried in the last twenty years to find at least some elements of the pristine Kyivan liturgical and canonical traditions of the metropolia of Kyiv prior to the 15th century?

Whereas the non–canonical status is still its main obstacle towards full recognition. The above mentioned queries should be challenged in the nearest future, which, according to our view, is quite feasible, if a clear vision and plan is set.

Two common tasks, however, should certainly be fulfilled by both, UAOC and UOC–KP, in order to acquire high moral authority in Ukraine. They should found centers (universities, academies, seminaries etc.) of higher spiritual and theological formation for priests and laity. This is a serious handicap of these Churches today. They cannot afford mediocre and incompetent people in their ranks of their clergy and leadership.

Further, both Churches — UAOC and UOC — hardly have monastic vocations or any monasteries, male or female, whatsoever. This is unthinkable in an orthodox Church. Precisely monks and nuns are the true catalysts of spiritual life in the East. Monks are predominantly the spiritual fathers and leaders of the faithful and people. Monasteries are the oasis and refuge of developing and growing spirituality and holiness. Higher education in the past was primarily fostered in the monasteries and their schools. Future bishops are elected, in some cases exclusively, from the ranks of monks. To a certain extent one may state that any authentic Church (Eastern or Western), is unimaginable without monks, nuns, monasteries and convents. Ukrainians were and are very fond of their monastics, and frequently one hears that when a Church has saintly monks, then it is not only strong, but indeed holy.

The absence of religious-monastic life and people is a very serious handicap within these Churches. The leaders of UAOC and UOC-KP must give highest priority in challenging this question if these two institutions are to exist, moreover, grow and develop, in Ukraine.

Once high education will become their priority and centers of higher spiritual and theological formations, including monasteries which practice daily monastic and ascetical life, with sound vocations, will be established, within a decade the society of Ukraine will see the difference and follow them wholeheartedly.

4. The Role of the Ecumenical Patriarchate

Beyond doubt the UAOC and UOC-KP relied and still rely greatly on the authority of the Ecumenical Patriarchate. This is logical, because all orthodox Churches accept the fact that the See of Constantinople is the first, and its Patriarch is the *primus inter pares* among other patriarchs. Whereas there still are discussions within orthodox theologians (especially of the ROC) what a *protos* — *the first one* really means in orthodox ecclesiology, the fact that Constantinople is the *prima sedes* remains beyond doubt.

The challenge, which has been growing since the fall of Constantinople in 1453 and once Moscow became a patriarchal see in 1589, is that the number of faithful and external influence of Constantinople

has gone through a considerable decline, whereas the See of Moscow, notwithstanding the vacancy of its patriarchate in the years 1721–1918 and initial communist persecution after 1918, has grown in quality and quantity.

How many times do we hear from Russian orthodox representatives: We are the largest Church, we have the far greatest number of faithful among all orthodox Churches, therefore without the Russian consent no major issues can be endorsed by world orthodoxy.

My experience as member of the Joint International Commission for Theological Dialogue between the Catholic Church and the Orthodox Church is that the Russian representatives are masters, if not champions, of power politics, or play. They simply state: It's either our position and understanding, or the matter cannot be further discussed. Obviously, such ultimative declarations can hardly contribute towards a fruitful theological or ecumenical dialogue. . . In Belgrade, Ravenna, Paphos and even Vienna, where the orthodox and catholic members did everything they could to appease and please the orthodox, such remarks were loudly pronounced by our Moscow colleagues. Indeed it is a deep frustration when in a theological dialogue between catholics and orthodox one has to witness that more time is spent on finding a way out (which is a compromise or political, and in no way a theological, solution) among the quarrels and queries between the orthodox, than trying to find the proper and right theological and ecclesiological answers to the issues that have separated us in the last millennium. . .

Having said that, we emphasize that *de facto* the ROC denies that Constantinople is the *prima sedes* and that the Ecumenical Patriarch is the *protos* and *first among equals* within the orthodox patriarchs. Furthermore, the ROC, especially after the desintegration of the Soviet Union, continuously stresses its understanding of the canonical territory of the ROC, which coincides not just within the realm of the late czarist empire, but with the boundaries of the former USSR. Theologically this is nonsense, and the catholic side will never and cannot accept this principle, because it is ecclesiologically incorrect. By the way, the catholic side has made this quite clear to the orthodox partners in different ways and occasions. For the sake of continuing the dialogue, however, the Catholic members refrain from declarations that could threaten or disrupt the dialogue, something the ROC

clearly and frequently practices.

Anyhow, the UAOC and UOC–KP strongly relied on Constantinople, but the result has been of continuous frustration because of the ambivalence, and we dare to state, because of lack of fortitude from Constantinople's side. Without entering into too many details, Constantinople is playing into and caving in front of the power play of Moscow. Constantinople does not have the will and strength or prefers to avoid a strong stance towards Moscow, something that would only strengthen its position within world orthodoxy once at least twenty million Ukrainian orthodox faithful would be granted canonical status.

Other orthodox Churches prefer to stay neutral, and Rome tolerates the *status quo* for the sake of peace and continuation of dialogue. According to my observations, I dare to state that, despite public declarations, the three greater centers, Rome, Constantinople and Moscow — do not cherish too much love among themselves, but once the balance of power between the three centers starts shaking, they prefer to find a silent understanding among themselves without changing anything. An approach that can hardly be regarded as evangelical or even theological.

Precisely such politisation of the ecumenical and theological dialogue paralyses the authentic re–approchement, reconciliation and the bringing back together of the orthodox and catholic Churches. Instead of trying to find solutions to the difficult questions, that still separate us, in the spirit of fulfilling Christ's will “That all may be one” (Jn 17,21), the big centers play politics and thus kill the dialogue of love in its roots.

The Ecumenical Patriarch, in my view, should use its right as *protos*. It would be worthwhile reminding the ancient principle *utere jure tuo* (use your own right) and continue to insist that, as stated in orthodox Canon Law, only and exclusively Constantinople can grant autocephaly in accordance with other autocephalous Churches, and simply recognize autocephaly to Ukrainian orthodoxy.

Moscow, on the other hand, should bear in mind the fact that a very large number of Ukrainian orthodox faithful do not identify themselves with Russian orthodoxy and do not want to have anything to do with the Russian Orthodox Church and the Moscow Patriarchate. As of today they want to be seen in a canonical, fully autocephalous,

orthodox Church with a patriarch of Kyiv as its head. Once autocephaly would be granted to the Ukrainian Orthodox Church, I am of the opinion that, in due time, the present poignant status of three Ukrainian orthodox Churches would gradually disappear, and there would truly be a strong united orthodox Church of Ukraine.

This, however, for Moscow, both politically and ecclesiastically, is completely unthinkable and intolerable, and Constantinople by its idleness, and Rome for reasons of opportunism, simply just comply with today's *status quo* and, by doing so, once again delay the issue *ad kalendas graecas*. . . Indeed, history is the teacher of life. . .

5. Ukrainian Greek–Catholic Church (UGCC)

Much has already been said about this Church, and it is not the intention of this paper to enter into its recent persecutions and history.

I dare to clame that within the last twenty years this Church, despite its many problems, has established itself as one of the highest moral authorities in present day Ukraine.

Patriarch Myroslav–Ivan Cardinal Lubachivs'ky (†2000) who returned to his See in 1991 was a man of profound prayer and humility, who accepted the leadership of a Church that was headed before him by two great personalities of the 20th century, such as Metropolitan Andrej Sheptyts'ky (†1944) and Patriarch Josyf Cardinal Slipyj (†1984). Yet, while the former two beared the witness in seeking the Ukrainian Christian identity, the Providence reserved to Lubachivsky such unique events as the celebration of the millennium of Christianity in Ukraine, the rebirth of the UGCC in 1989–91 and the proclamation of Ukraine's independence in 1991.

He had to begin from scratch. Rebirth of spiritual life among the faithful, re–evangelisation, renewal of all the infrastrutres, levelling the differences between the clergy that came from the ROC, the former underground priests, and those that came from the diaspora.

Right from the beginning he set two main priorities in the external life of the UGCC, namely: Formation and Ecumenism.

Seminaries were reopen or founded, catechization became imperative. He put an extreme effort towards the return of the Ukrainian Catholic University (UCU) to L'viv in 1993, first in the form of the

known L'viv Theological Academy (LTA) and finally as a fully fledged Ukrainian Catholic University (UCU).

The almost twenty years since UCU's return to Ukraine this only catholic university within the entire huge territory of the former Soviet Union is playing a role of paramount importance in the entire society of today's Ukraine. Despite its relatively small size and number of students (around 1300), this university is truly making a difference with its Christian foundations, integrity, complete suppression of corruption, so rampant in all other institutions of higher learning in Ukraine, and its broadmindedness.

It should not be for me to talk about this university, because I could be accused of being *pars in causa*, therefore lacking objectivity. Therefore I will not enter into UCU's merits. I will, however, say that should, God forbid, this university be ever closed by some major brutal force, the entire, not only Christian, society of Ukraine would feel its absence for a great number of years.

In fact this university is educating and forming not just UGCC's future clergy, but an entirely young generation of academics, business people, politicians, social workers etc. of tomorrow's Ukraine. I dare to anticipate that if ever Ukraine will have an elite university, such as Oxford, Cambridge, Harvard, Princeton, Heidelberg, Sorbonne, Göttingen, Munich, it will be the UCU, if it will continue, despite all difficulties and obstacles, on its present path.

Indeed the late Patriarch Josyf Slipyj was a true prophet when he founded this university, and his successor, Patriarch Myroslav–Ivan Cardinal Lubachivsky, immediately sensed the necessity of its rebirth in Ukraine.

In fact, already the two successors that came after Lubachivsky, Patriarch Lubomyr Cardinal Husar, and the newly elected Patriarch Sviatoslav Shevchuk, were professors of UCU.

With highly educated clergy and laity one can approach the second top priority of the UGCC, ecumenism.

In fact, Ukraine stands geopolitically as a people, nation and Church between East and West, between Byzantine and Roman culture and civilisation. It was the Ukrainians who bore throughout history all the pains of the division of Churches. Ukraine's Church is on the crossroad between Orthodoxy and Catholicism, and starting with Metropolitan Sheptytsky, who was head of this Church in the first four decades of

the 20th century, ecumenism, or work for the unity and full communion of Churches, is the main task assigned to the UGCC by history. Sheptyts'ky's successors, Lubachivsky, Husar and Shevchuk, have practically no other choice than to continue in these endeavors. It is precisely through them that the renewal of Kyivan Christianity, as it was in the time of its baptism in 988, that this issue has become the main object of the ecumenical activity of the UGCC, in order to obtain full unity and communion of the Churches in Ukraine. For this reason the *Kyivan Study Group* was established in 1992 and started a most fruitful dialogue with the Church of Constantinople. Precisely fully fledged Kyivan Christianity, when the Church was one and undivided, "orthodox in faith and catholic in love," as Pope John-Paul II stated,² is according to my view, the common identity of all the sons and daughters of St. Volodymyr's baptism, be it today's orthodox or catholic faithful of Ukraine.

6. Common Identity of the Church of Kyiv

Having made it quite clear that in my view the search of common identity belongs to four denominations in Ukraine, UOC-MP, UAOC, UOC-KP and UGCC, I hereby state that, in my opinion, the foundation of this identity is the Church of Kyiv in the time of his baptism by St. Volodymyr in 988, when it was fully fledged orthodox and catholic, and the universal Church was one and undivided.

This search of identity has already been taking place among Ukrainians, be it catholic or orthodox, at least for one century, and I am convinced that this is the most important question and will remain such for many years to come. In the Greek-Catholic Church is became predominant with Andrej Sheptyts'ky, Josyf Slipyj, Myroslav-Ivan Lubachiv'sky, Lubomyr Husar, and now Sviatoslav Shevchuk. For the Orthodox, personalities such as Vasyl Lypkivs'kyj, Mstyslav Skryp-

2. "È utile sottolineare, miei cari Fratelli Ucraini, che il Cristianesimo fu accolto e si consolidò nella Rus' di Kiev, quando tutta la Chiesa di Cristo viveva ancora in piena unione ecclesiale. Era un cristianesimo ortodosso nella fede e, nello stesso tempo cattolico nella carità, poiché era in piena comunione con la Sede Apostolica di Pietro, e con tutta la Chiesa" — Omelia di Papa Giovanni Paolo II alla comunità ucraina in Buenos Aires (13 aprile 1987), quoted in: *Litterae Nuntiae Suae* (1986–1987), p. 128.

nyk, Ilarion Ohienko and now Filaret Denysenko, to some extent, go hand in hand with the Greek–Catholics of Ukraine.

Before going to Belgrade in September 2006 for the plenary session of the Joint International Commission for Theological Dialogue between the Catholic Church and the Orthodox Church, I handed over to the highest representatives of the Pontifical Council for the Promotion of Christian Unity, Cardinal Walter Kasper, Bishop Brian Farrell and the late Mons. Eleuterio Fortino my *Pro–Memoria* with the title *The Place of the astern Churches in the Catholic Communion and their Role in the Ecumenical Efforts of the Church*, dated 19 September 2006.³

The main thoughts of this *Pro–Memoria* are herewith presented.

It is a fact that Eastern Churches consider themselves as a *Pomisna Tserkva*, and the adjective *pomisnyj* has no full correspondent in Western languages. The terms *local*, *particular* Church, or even *Teilkirche* in German, does not fully translate the term *pomisnyj* — *pomisnist'*.

Johannes M. Hoeck, OSB, in his commentary to Vatican II's decree *Orientalium Ecclesiarum* states that "... The most simple and correct way would be to speak of autonomous Churches,"⁴ but in 1964 (the decree's publication date) even the Eastern Fathers of the council were did not have the courage to use the term *autonomous*.

Upon publication of the *Codex Canonum Ecclesiarum Orientalium* (CCEO) in 1992 the catholic Church uses the term *Ecclesia sui iuris*, a Church of its own right, which literally in Greek is read as *autonomous* Church.

In another work of mine (Dacko 2012) I try to make it understood that what we catholics define as *pomisna Tserkva* is identical to *autokefal'na Tserkva* (autocephalous Church) for the orthodox. The problem being that catholic ecclesiology is afraid of this expression.

There are three characteristics of a *pomisna* Church, which can also be called *autocephalous* Church.

3. I personally presented this paper to Cardinal Walter Kasper, Bishop Brian Farrell and Msgr. Eleuterio Fortino — President, Secretary and Under-Secretary of the Pontifical Council for the Promotion of Christian Unity on 19 September 2006.

4. "... Am einfachsten — und richtigsten! — wäre es gewesen, von autonomen Kirchen zu sprechen." — Cfr. Hoeck (1966), p. 367.

- a) It should have the wisdom, maturity and courage *to be itself*, faithful to its own traditions (liturgical, dogmatic, theological, canonical and spiritual) which were always present in a given Church.
- b) Such a Church has to be open and feel the need to share its gifts with other Churches, as also to be prepared to accept gifts from others. This is precisely what *Communio* — *Koinonia* with other Churches means: the mutual exchange of gifts among Sister-Churches.
- c) It should acknowledge and accept other Churches as they are. This means, to fully accept the traditions, laws and customs of other Sister-Churches.

The UGCC, according to my view, is less concerned in what is its place in the catholic Church, but mostly wishes to see the Orthodox Churches in *communion* with the Church of Rome. Concretely this Sister-Churches should be and stay autocephalous Churches in the catholic *communion* (*koinonia*).

This is not just my personal opinion. Such was the relationship between *Pomisl* Churches in the first millennium based on the principles of conciliarity and synodality. Such ecclesiology coincides with the teaching of Prof. Joseph Ratzinger (presently Pope Benedict XVI), who stated that the Churches in their ecumenical endeavors should strive to return to the ecclesiology as it was in the first millennium, when the Churches was one and undivided.⁵ Further, we meet such thoughts and reflections in various documents of the UGCC, particularly since the times of Vatican II.

Suffice to mention the *Spiritual Testament* of Patriarch Josyf Slipyj (1984), *The Concept for the Ecumenical Position of the Ukrainian Greek Catholic Church* (14 October 2000) which was approved and accepted by the entire Bishops' Synod of the UGCC. This new ecclesiology of *Koinonia*–*Communio* of Sister-Churches and the Kyivan model of the desired unity is becoming always more the main goal of the ecumenical endeavors of the UGCC, and is being gradually, although slowly endorsed, by the three other orthodox Churches of Ukraine.

5. "... Rom muß vom Osten nicht mehr an Primatslehre fordern, als auch im ersten Jahrtausend formuliert und gelebt wurde". Cfr. Ratzinger J. (1982), p. 206.

Under N° 22 B of the *Concept* we read:

Enjoying the spiritual riches of unity with the Apostolic See, the UGCC is sorry to have lost eucharistic communion with the Church in Constantinople, the Mother–Church of the historical Kyivan Church. For the UGCC, the restoration of this unity, along with the preservation of unity with the Apostolic See in Rome, remains the desired prospect. This will renew the ancient tradition of the Kyivan Church, which was united both with Rome and Constantinople (*The Concept* 2000, p. 6).

In his message *One people of God in the land on the hills of Kyiv*, written by Patriarch Lubomyr Cardinal Husar on 13 April 2004 on the occasion of the Return of the Greek–Catholic See from L’viv to Kyiv read:

Therefore, to think about the unity of the Kyivan Church does not mean to renounce the treasure of communion with various Christian centers, but on the contrary — it means that the shared spiritual patrimony of the Kyivan Church can be enriched by the gains of that communion. Not only would be the denominational branches of the Kyivan Church be enriched by this, but her sisters, the particular churches of the East and West, would benefit as well. In addition, this would make possible the elimination of divisions, so detrimental to the Church, and allow for the embodiment of the contemporary ecclesial principle of “unity in diversity.”⁶

Similar thoughts Patriarch Husar also expresses in his letter to Metropolitan Volodymyr Sabodan of April 26, 2008.⁷

It is worthwhile to draw our attention to the fact that as far back as 1967 Ivan Hrynioch wrote:

... Our Church in its governance was fully autonomous and independent and only as member of the Universal Church of Christ it maintained its unity in prayer be it with Ecumenical Patriarch of Constantinople, as with the Roman Apostolic See (Hrynioch 1967, p. 81).

... All the families of the Universal Family of Christ live their own self–fulfilling life. They receive their life from universality, and they themselves also give life to this universality (Hrynioch 1967, pp. 37–38).

6. Letter of His Beatitude Lubomyr Husar *One people of God in the land of the hills of Kyiv*. Cfr. *Blahovisnyk* (2004) N° 4. L’viv, p. 164.

7. Letter of His Beatitude Lubomyr to the Protohierarch of the Ukrainian Orthodox Church, His Beatitude Metropolitan Volodymyr. Cfr. *Blahovisnyk* (2008) N° 8. L’viv, pp. 116–119.

... The Ukrainian Church in the form of the Metropolia of Kyiv–Halych enjoyed all the rights of an autocephalous Church (including full rights of a *Pomisna* Church) in the Universal Church of Christ. Precisely it is from this historical fact that one understands — and not only understands that, according to Canon Law, the Sobor of Brest in 1596 was legitimate (Hrynioch 1967, pp. 39–40).

... The courageous concepts — be it on behalf of the orthodox or catholics of the one Kyivan metropolia, regardless whether they came from Metropolitan Mohyla or Metropolitan Ruts'kyj, — they derived precisely from the fact of the *pomisnist'* of the Ukrainian Church and its full status as a subject in relationship to other *pomisni* Churches. On this ground the thought was born in the 17th century, in accordance with the Apostolic See, to reinforce the factual and historic status of *pomisnist'* of the Ukrainian Church with the formal recognition of the canonical status of a patriarchal Church in favor of the Metropolia of Kyiv–Halych, the cradle of Christianity and Mother–Church of the European East (Hrynioch 1967, p. 40).

It was a most promising sign to see three high representatives of the three orthodox Churches of Ukraine at Patriarch Sviatoslav Shevchuk's installation on 27 March 2011 in Kyiv. Furthermore, one can only encourage the encounters and visits made by Patriarch Sviatoslav to Metropolitan Volodymyr Sabodan and Patriarch Filaret during the last few months. The faithful of the four Churches of Kyivan tradition are following with hope and expectations further steps towards re-approachment and reconciliation between the catholic bishops, clergy and faithful between and Orthodox Churches in Ukraine.

And with this in mind one can only greet the initiative recently manifested by Patriarch Sviatoslav Shevchuk to recall into life the *Kyivan Study Group*, so active and fruitful in the years 1992–1996, in order to help and assist the 'traditional' Churches to find a common identity and future as one *pomisna* orthodox–catholic Church of Kyiv, with one patriarch of Kyiv–Halych, in tomorrow's Ukraine.

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Energy Pendulum as an Illustration of Ukraine's Twenty-Year Way

Between the Vested Interests of Oligarchonomics
and the Energy Independence of the State

MYKHAILO GONCHAR

Ukraine inherited an energy-intensive economy from the USSR, with a disproportionately high share of gas, approximately 40%,— in the energy balance. This effectively made Ukraine energy dependent on Russia, allowing the latter to keep Ukraine under its own economic and political spheres of influence. Moscow has since systematically neutralized all Kyiv's efforts both to change the direction in which the country would like to develop and to free itself of such energy dependence. Today, just like 20 years ago, the gas intensity of Ukraine's GDP is at a record high compared to the Visegrad Group and to some West European countries (Italy and France) and even CIS (Belarus and Russia). The table below clearly suggests that such a gas wasteful economy underpins Ukraine's energy dependence on Russia.

Countries	GDP 2010 \$ bln.	Total Annual Gas Consumption, bcm/a	Specific Gas Consumption, thousands cubic me- ters/1 million USD of GDP (tcm/\$1 mln)
Czech Republic	266,278	8,979	33,7
Slovakia	129,843	5,700	43,9
Hungary	203,251	12,438	61,2
Poland	754,097	14,491	19,2
France	2194,118	49,775	22,7
Italy	1908,569	82,981	43,5
Ukraine	305,408	55,923	183,1
Belarus	134,561	21,803	162,0
Russia	2812,383	458,100	162,9

Table 1. Comparison of gas intensity of GDP of Ukraine, Visegrad Group, France, Italy, Belarus and Russia

Sources:

GDP: Gross domestic product 2010, PPP, World Development Indicators database, World Bank, 1 July 2011.

Czech Gas Consumption: <http://energostat.cz/plynarenstvi-cr.html>.

Slovak Gas Consumption: Správa o výsledku monitorovania bezpečnosti dodávok plynu. Ministerstvo hospodárstva Slovenskej republiky. <http://www.economy.gov.sk>

Hungarian Gas Consumption: Hungarian Energy Office: www.eh.gov.hu

Polish Gas Consumption: "Sprawozdanie z wyników monitorowania bezpieczeństwa dostaw paliw gazowych za okres od dnia 1 stycznia 2010 do dnia 31 grudnia 2010 r.", Warszawa 2011 r.

Italian Gas Consumption: <http://www.energydelta.org>.

French Gas Consumption: <http://www.energydelta.org>.

Ukrainian Gas Consumption: <http://www.ukrstat.gov.ua>

Belorussian Gas Consumption: <http://www.cdu.ru>.

Russian Gas Consumption: <http://www.budgetrf.ru>

The early 1990s saw the collapse of oil production in Russia and a serious oil deficit for Ukrainian refineries. In 1992 plans were drawn up to build a marine terminal to receive oil near Odessa and later to develop the Odessa — Brody oil pipeline to transfer Middle Eastern and Caspian crude oil across Ukraine.

Simultaneously, in 1992 Ukraine became a member of the North Atlantic Cooperation Council and the NATO Parliamentary Assembly. In February 1994, Ukraine was the first CIS country to join the NATO Partnership for Peace programme. At the same time, Ukraine asked Russia to complete the division of the former Soviet Black Sea Fleet, to withdraw its Russian part from Crimea and to recognize the borders between the two countries. In Russia, Ukraine's steps toward energy independence, the Black Sea Fleet withdrawal, and cooperation with NATO were perceived as anti-Russian policy. In order to deter Ukraine from pursuing the aforementioned issues, Russia started to practice delivery of public loans under state guarantees for purchases of energy resources. The accumulation of debts to the tune of over \$3 billion up to 1997 was due to the appeal of Russian credits for Ukraine's successive governments. Gas and oil were purchased by various private Ukrainian companies which had not paid on time or had

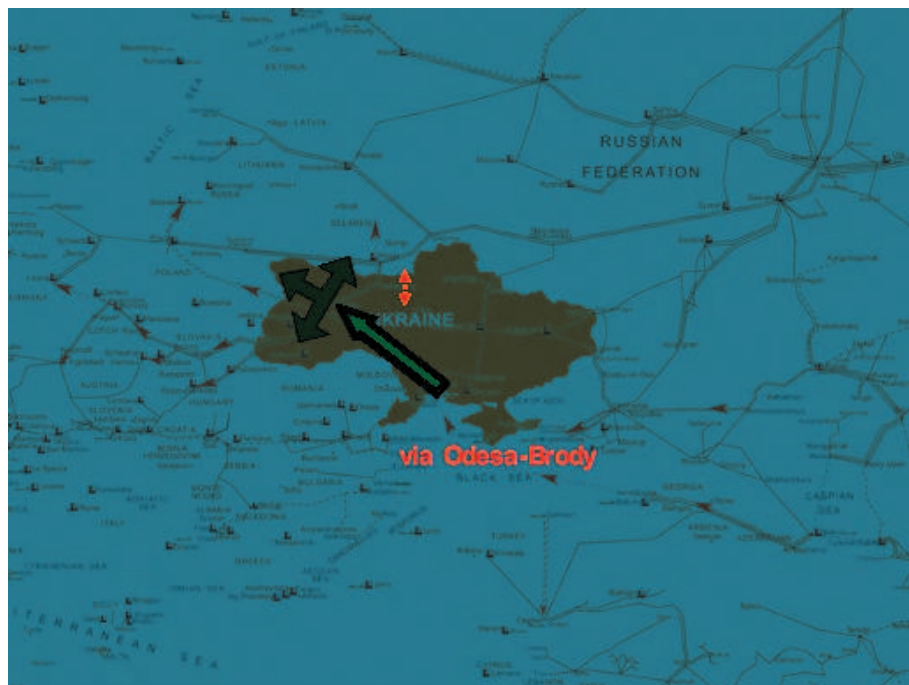


Figure 1. Oil supply routes from the Caspian Region via the Ukrainian marine terminal Yuzhnyi and the Odessa — Brody pipeline

failed to pay the whole amount due. In fact, this was when oligarchic economics came into play in Ukraine, with the oligarchs starting to operate according to the “profits for oneself, debts for the state” formula. Under political pressure from Russia and from Ukraine’s debt burden, on 28 May 1997, in Kyiv, Ukrainian and Russian heads of state signed a package of agreements which settled the debt issue for Ukraine at the expense of Ukraine itself. The former Soviet Union’s Black Sea Fleet was not only carved up in Russia’s favour, but it was agreed that the Russian part would stay on Ukrainian territory up until 2017. Plans to diversify energy supplies were also stalled, because they irritated Moscow. The only thing that Ukraine achieved was the recognition of existing land borders between the two countries. Thus, in the late 1990s, Russia forced the Ukrainian pendulum to swing in its own favour as far as stationing the Russian Black Sea Fleet in Crimea and debts for energy resources were concerned.

Despite Ukraine still being dependent on Russia, however, Kyiv

continued to drift towards Euro–Atlantic and European structures, NATO and the EU, and refused to give Moscow control over the gas transportation system. On 9 July 1997 the Charter for a Distinctive Partnership between Ukraine and NATO was signed in Madrid. On 11 June 1998 a Presidential Decree approved the Strategy of Ukraine's integration into the European Union. In 1999 Leonid Kuchma was re-elected as the President of Ukraine. In autumn 2000 in Ukraine the well-known Kuchmagate scandal exploded. According to V. Vasilenko, a reputable international lawyer, diplomat and researcher, this occurred when "Ukraine was actually getting closer to the point when its shift towards NATO membership would become irreversible".¹

In spite of the resonance of the Gongadze case and the gradual isolation of Kuchma, on 23 May 2002 the National Security and Defence Council of Ukraine decided to join NATO. In the same period the Odessa — Brody oil pipeline and the Yuzhnyi marine oil terminal came into operation. As a consequence Ukraine was supposed to diversify oil supplies and to reduce its dependence on Russia. In August 2002 the first tanker of oil purchased by the American company Chevron, was offloaded at the new terminal. In May 2003 the Odessa — Brody oil pipeline was considered a priority for the EU, in view of a possible enlargement of the European Union. In June 2002, in St. Petersburg, a Tripartite Joint Statement was signed by the President of Ukraine, the Federal Chancellor of Germany and the President of Russia for a three-party consortium to manage and develop Ukraine's gas transportation system. The perception of an end to Ukraine's monopolistic dependence on Russia was clearly felt in Russia. In autumn 2002, the Kuchmagate scandal was supplemented by the Chain armour scandal, a transaction through which Ukraine allegedly delivered new batches of passive electronic intelligence Kolchuga for the Saddam Hussein regime in Iraq. This led to a sharp worsening of relations between Kyiv and Washington. Under the Kuchma regime's increasing international isolation due to both Kuchmagate and Kolchugagate, Russia increased pressure on Turkmenistan to block the possibility of extending the Ukrainian–Turkmen agreement on direct gas supplies to Ukraine. The Russian side won a 25-year contract for the whole export volume of Turkmen gas by

1. Vasilenko (2000), p. 158.

signing the famous Moscow agreement between Putin and Niyazov on 10 April 2003. This meant hard times again for Ukraine, just as had happened in 1997.

The moment of truth came on 26 July 2004, when a meeting took place in Yalta between the presidents of Ukraine and Russia, which ended with an agreement to a joint scheme of Turkmen gas supplies to Ukraine for 25 years. An analysis of the July 26 events in Yalta, followed by the signing of a gas agreement package in Gazprom's office in Moscow on July 29 indicated not only that shady trading with Turkmen gas was made legal, taking into account the business interests of political figures, but also that strategic Ukrainian priorities were simultaneously corrected. These July 2004 events were commented in the media as follows: "The Guidelines on entry into NATO and the European Union as final goals of Euro-Atlantic and European integration policies were removed from the military doctrine of Ukraine. This was announced in a Decree of the Ukrainian President Leonid Kuchma, signed as far back as July 15. It was not published until July 26 — the day before the presidents of Russia and Ukraine met in Yalta"².

Thus, Ukraine's energy and political pendulum swung back in Russia's favour, under the influence of shady dealings and corruption. The official registration of the resulting company RosUkrEnergo (RUE) in the Zug canton of Switzerland put its business activities beyond the control of any competent authorities in Ukraine, Russia or the EU. Following the decision of the governing body of this company and by means of corrupt mechanisms, money can be transferred to the accounts of various individuals and entities to address certain problems, including political issues.

Understanding the RUE affair is key if the European community of experts is to realize precisely what happened (and continues to happen) in Ukraine. The existence of a RUE factor is no less important for understanding the strategy and tactics of the Russian gas monopoly, through which Russia has effectively been implementing its political and economic projects. Russia's aim is to renew its sphere of dominance in Central-Eastern Europe, as well as to increase its influence

2. Myseliuk, A. http://news.bbc.co.uk/hi/russian/news/newsid_3927000/3927721.stm Kyiv, 26 July 2004.

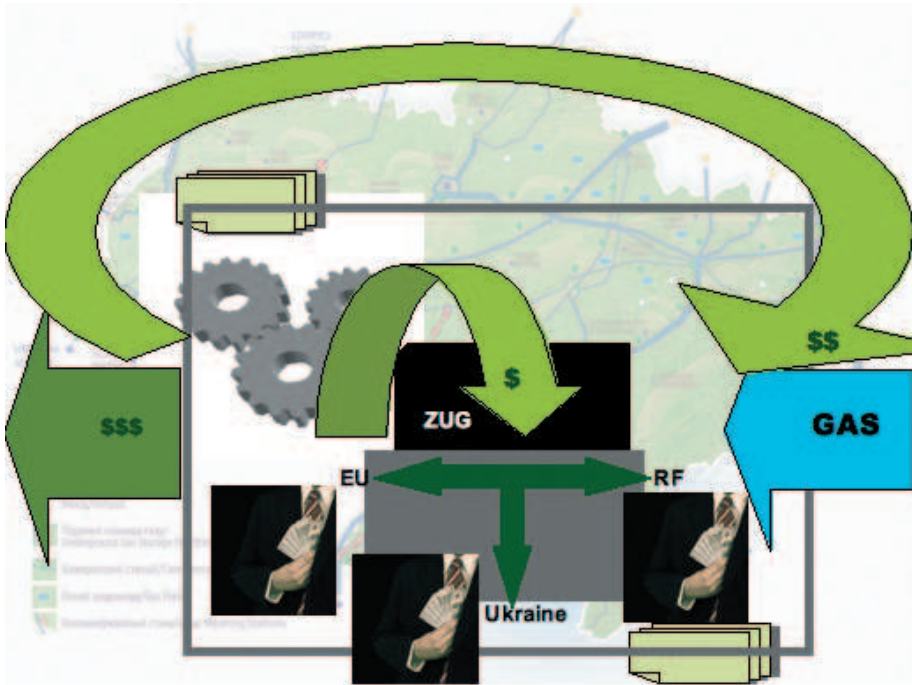


Figure 2. “Black box” of gas and cash flows via Swiss canton Zug

on the EU via countries of the Old Europe³.

This is why it is worth taking a closer look at Gazprom’s RUE tool: it gave Russia great leverage not only in keeping Ukraine within its own orbit, but also in managing the change of government. It may be interesting to note that Russians are not the original inventors of such regime changes: they are simply applying the same tactics adopted by the U.S. United Fruit Company to switch regimes in the ‘banana republics’ of Latin America. The main technological difference in today’s methods is that they refrain from the use of force.

The financial potential of such a non-transparent gas business scheme, with its extensive network of lobbyists and corruption, allows Russia to exert influence over the structures of power in Ukraine and to manipulate them. However, this is not the only explanation for the effectiveness of schemes such as RUE. Its transnational nature is

3. RUE and some schemes of the Russian gas business in Europe are described in Gonchar, Duleba, and Malynovskyi (2011).

another key factor for the success of this gas/political affair. A glance at the membership of the governing bodies of companies created under the RUE scheme, reveals not only Slavic (Ukrainian and Russian) but also non-Slavic names as well. This strategy applies to all three components of the gas chain: Production — Transmission — Sales. Such a transnational 'gas octopus' is comparable to, and no less ambitious than the drug trafficking phenomenon. In the above context special resonance should be given to a report published in 2010 by the National Intelligence Council (Global Trends 2025: A Transformed World): "Crime could be the gravest threat inside Europe as Eurasian transnational organizations — which are drawing their strength from energy and mineral sectors — become more powerful and broaden their scope of activities. One or more governments in Eastern or Central Europe could fall under their domination." It seems that this prognosis has been at least partly realized in the case of Eastern Europe, if one looks at Ukraine. It is now the turn of Central Europe. The authors of the report foresee a disappointing scenario: "Europe could pay a price for its heavy dependence; especially if Russian firms are unable to fulfil contract commitments because of underinvestment in their natural gas fields or if growing corruption and organized criminal involvement in the Eurasian energy sector spill over to infect Western business interests".

Events unfolding within the Eurasian energy area during 2006–2010 included gas crises, political disputes, international litigation, where the active players were dubious companies of non-transparent origin, demonstrated that the epidemic had already started to spread and threaten with unforeseeable consequences. The following forecast by George Friedman of STRATFOR applies not only to the post-Soviet space: "There will be three stages in the development of Russia. In the first stage Russia will focus on restoring power and effective control within the former Soviet Union as well as on recreating the Soviet system of buffers. At the second stage Russia will try to build a second series of buffer zones already outside the former Soviet Union".

Obviously, the countries bordering the former Soviet Union, in particular, such as Slovakia and Hungary, as well as Poland and Romania, are falling into a zone of special attention on the proviso that Russia achieves its objectives in Ukraine and Belarus. In this context, it is worth remembering that the basis for this prognosis is the fact

that particular non-transparent gas business schemes have emerged not only in Ukraine. For example, the predecessor of RUE, the Eural Trans Gas, appeared, as is known, in Hungary. The formal original founders of the RUE Centragas and Arosgas companies originated from Austria.

To summarise, it can be argued that certain dubious and non-transparent energy trading schemes in Eastern Europe would be unlikely to achieve success without the offshore section. A number of EU countries and Switzerland are the focus of activities of certain ambitious business groupings that have gained powerful capital through shady transnational trading schemes in hydrocarbons. These are based on corruption under the protectionism of Eurasian authoritarian and kleptocratic regimes, some of whose leaders have already become favourites with their counterparts in the “Old Europe”.

The same strategies are developed by Gazprom in the EU⁴. The offices of companies developing Russian gas flow projects operate in the Swiss canton of Zug. Unlike RUE, where Gazprom was formally a 50–50 shareholder on a par, in the cases of Nord Stream, South Stream, and Shtokman Development, the companies in question have 51%, in other words, the controlling share of stocks. The Swiss offices started to distribute financial flows as soon as work on these projects had been launched. The acceptance of these economically dubious projects by some Western European countries sends out alarming signals and raises the question of whether the level of corruption in Berlin, Rome and Paris has not already exceeded a critical level.

In accordance with Swiss commercial law, which was changed on 1 January 2008 (it should be noted that it did not provide for more transparency), the registration of corporate shareholders is solely the prerogative of corporations. This means that whereas previously a register of shareholders was kept at a cantonal level, after 2008 this

4. Below is list of leading companies established by Gazprom to trade by gas, and realize biggest pipeline projects with participation of European partners. All companies are registered in the canton Zug of Switzerland:– Gazprom Schweiz AG, 14.05.2003, Pelikanplatz 15, 8001 Zurich– Rosukrenergo AG, 22.07.2004, Bahnhofstrasse 7, 6300 Zug– Nord Stream AG, 02.12.2005, Grafenauweg 2, 2304 Zug– South Stream AG, 18.01.2008, Industriestrasse 13C, 6304 Zug– Shtokman Development AG, 21.02.2008 Baarerstrasse 8, 6301 Zug– Gazprom Marketing & Trading Switzerland AG, 07.12.2011 Industriestrasse 13C, 6304 Zug.

has been done at a corporate level. A company can create a register of shareholders by itself and is not obliged to report it to anybody. Swiss legislation clearly stipulates that companies have a limited duty to disclose their business information.

For instance, annual reports, balance sheets and auditors' reports are only accessible to shareholders. Just how comprehensive publicly and officially available information about RUE is may be verified by anyone wishing to look through the commercial register of the canton of Zug. Under Swiss law, the company is considered to be established when it is recorded in the Commercial Register. The Register contains information on its location (corporate address), authorized capital stock, members of the governing body and statutory representatives. Information about its shareholders, however, is only accessible to third parties with the approval of the shareholders themselves. This is one of the key factors to be taken into account if you wish to understand statements by some business people and/or politicians on whether they are related to certain businesses registered in Switzerland and how they correspond to the facts.

The second (and most important) feature of companies such as RUE is the existence of two types of shares: nominal and bearer. In actual fact, at the shareholders' decision, nominal shares can be transformed into bearer shares (essentially, anonymous), and vice versa.

A shareholder certificate does not contain any data about the owner. The holder of such a certificate is automatically considered the owner. She/he is not registered in the company's register. Neither the company nor the shareholders, nor any of the statutory representatives are obliged to verify how she/or he has acquired such a certificate. When these shares are sold, there is no need to add any information on the transfer to the certificate or to include any accompanying document. The holder of shares may deny his/her ownership or any relationship with the respective shares since his/her name is not registered; however, he/she can request and receive dividends. That provides companies with ample opportunities of doing business for the profit of its real owners.

As far as Swiss law is concerned, a company like RUE can reject any request for information about its shareholders, including the period within which they own shares. This allows any person in the

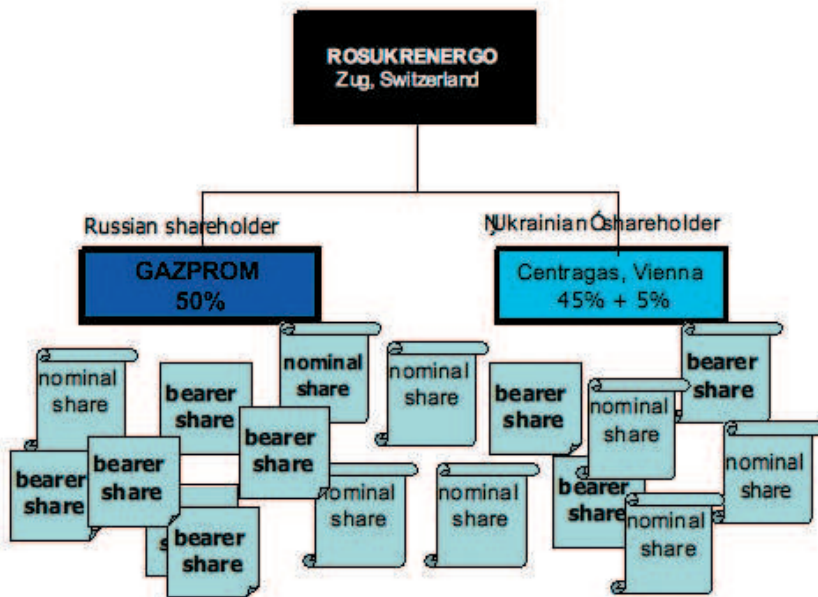


Figure 3. Approximate structure of a “black box” (the RUE example)

public service of a particular country to combine her/his activities with the company’s businesses, and simultaneously to declare no relationship with that company ‘in good conscience.’ Herein lies the “elegance” of such business schemes. It provides the real owners with almost unlimited possibilities for corruption, while at the same time protecting them from being held responsible for corruption in their home countries. It cannot be excluded that the list of shareholders may include not only governmental officials, but also prime ministers and presidents who can act through confident proxies. It is no coincidence that presidents and prime ministers come and go, gas is never cheap but the scheme survives intact.

The Orange Revolution made [200B?][200B?] significant but not radical adjustments to Ukraine’s development. It should be emphasised that the RUE scheme survived, despite the Orange authorities declaring their determination to fight corruption and to introduce principles of transparency that would put an end to RUE practices or at least

transform it. The RUE scheme not only continued, but even increased its activity and spread during Yushchenko's presidency. The story of RUE's survival and the Orange Revolution's collapse proves one thing: any financial resources circulating beyond state and public control are potentially highly dangerous and corrupting. Money from the RUE scheme that ended up in private pockets played a decisive role in future political events in Ukraine. Prime Minister Yulia Tymoshenko's efforts to eliminate shady gas trade schemes automatically led to the mobilization of resources (administrative, lobbying, and financial) to counter her government's intentions.

The 25-year RF-Turkmen contract did not last long. After the first wave of the global financial crisis in 2008, in view of falling markets and of Turkmenistan's reluctance to sell its gas cheap to transnational mafia groups, the oligarchic-political RUE group actually decided to change the regime in Ukraine. And that is exactly what happened. Tymoshenko's strategic error was that while trying to eliminate RosUkrEnergo, she was not guided by basic considerations on how to reform the gas sector. She just did everything possible to get monopoly access to the pipeline. In this sense she differed neither from Yushchenko nor from Kuchma. The Russians skilfully exploited contradictions between the Ukrainian leaders, offering to sign asymmetric and discriminatory (for Ukraine) contracts between Gazprom and Naftogaz during the gas crisis of January 2009. These contracts placed a time bomb under the Ukrainian economy, implementing the formula linking gas prices to oil prices and driving Ukraine to pay a higher price than Germany, a country considerably further away from the RF than Ukraine.

When he was elected President of Ukraine, Viktor Yanukovich followed the way indicated by Russia. The new team believed that making concessions to Russia in advance, such as refusing NATO membership and non-aligned status, would automatically lead to a reduction in gas prices for Ukraine. Just like in Yalta in 2004, the meeting of the presidents of Ukraine and Russia in Kharkiv on 21 April 2010 had its hidden agenda. Shortly before the Kharkiv meeting, through his 2 April 2010 decree Yanukovich abolished the National Center for Euro-Atlantic integration of Ukraine and the Interdepartmental Commission on preparing Ukraine for NATO membership. In practical terms, this act was similar to President Leonid Kuchma's decision,

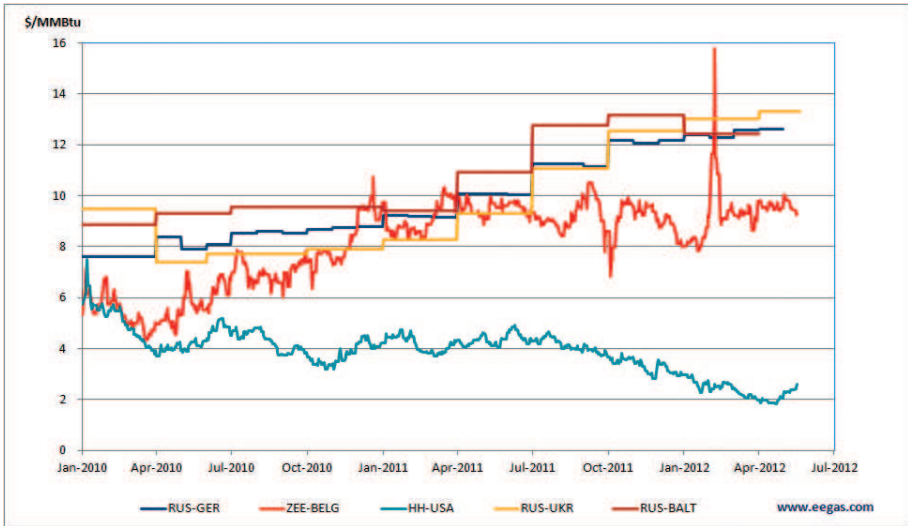


Figure 4. Comparison of gas price levels for different European markets and the US market, http://www.eegas.com/price_chart.htm

mentioned above, to remove provisions for Ukraine's membership of NATO from military doctrine.

The Kharkiv agreement of 2010 was similar to the Yalta agreement of 2004, but the scale was different. The so-called 'reduction' in the price of gas was in actual fact not a discount at all, because Gazprom's gas price had remained unchanged. The only change in the export regime was the refusal of export duties. In exchange, Ukraine 'received' a guarantee that Russian military presence would be maintained until 2042, instead of 2017.

In 2011 Ukraine was subjected to unprecedented pressure from Moscow to transfer its control of the gas transportation system to Russia. Apparently, this triggered the self-preservation instincts of both the authorities and the leading oligarchic groups in Ukraine. Ukraine gained full membership of the European Energy Community (negotiations were initiated by the EU in 2005). A number of measures aimed at reducing Ukraine's energy dependence began to be implemented, including:

- the acquisition of two drilling platforms to increase gas production on the Black Sea shelf by state owned company Chornomor-

NaftoGaz;

- the initiation of tenders to develop onshore unconventional gas deposits and conventional gas on the Black Sea shelf;
- the preparation of a feasibility study for the construction of an LNG terminal.

Considering the features of oligarchic systems of the Soskin–Tsyganov type, the Ukrainian oligarchy can be referred to as carnival–parasitic. The basic source of nourishment and development for Ukrainian oligarchs is parasitism in the economic organism of the country. It follows that, as a state, Ukraine does not develop. The financial expansion of a number of oligarchic business conglomerates (primarily in gas, chemicals and metallurgy) was due to positive trends in foreign markets. Cheap raw materials and energy on their entrance into the production chain + low wages and costs on energy efficiency + artificially–exponential unprofitability of enterprises + offshore + corruption = maximum profit for itself + minimum taxes to the State + bribes to officials and MPs + cheap beer with TV shows, “soap operas” and football for little Ukrainians. This is the oligarchonomic formula implemented in Ukraine.

Thus, since the late 1990s, Kuchma's second presidency, Ukraine has developed a neo–patrimonial system, which is based on a parasitic plutocracy feeding on the economic organism of the country. Business is not separated from state power, hence: state power and oligarchy are closely intertwined through kleptomania and corruption. Under such circumstances corruption serves as a kind of ‘cement’ for the system. Business feeds bureaucracy through corrupt channels to get positive decisions in questions regarding its own preservation and expansion.

Energy markets, including coal, gas, oil and petroleum products, electricity, renewable energy, and others, are divided between the main actors on the basis of vertically integrated informal private monopolies in the respective branches and segments of the energy sector.

Competition is practically non–existent. The external competitiveness of various businesses can conceal certain permanent cartel agreements. Financial–industrial Groups (FIG) compete for specific assets, because business growth is only possible by expansion through acquisitions. Such acquisitions are driven and only “permitted” by the



Figure 5. Ukrainian Energy Sector: divide et impera

government for particular FIG, according to the level of “kickback” or reassigned business shares. However, probably during the current president’s tenure of office, the most influential business corporation in Ukraine will become a family syndicate under the code name “Father & sons”. According to unofficial information, this syndicate has received substantial business shares and assets from all major oligarchic groups.

It is obvious that the unwise, unprofessional, politically motivated actions of the ruling regime in Kyiv have deprived the country of any strategic perspective regarding the possibility of strengthening relations with the EU. Relations with the EU have in fact been transferred into a sluggish process with no prospects of membership even in the remote future. We can debate the adequacy of Brussels’ policies toward Kyiv, but it is indisputable that the EU and NATO have closed the awkward Ukrainian question for a long time, while Ukraine has wasted every possible chance of exploiting the window of opportunity

provided by the turn of the century to steer itself towards a different type of civilization.

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The Ukrainian Political System from Independence to Democratic Involution^I

PIETRO GRILLI DI CORTONA, BARBARA PISCIOTTA

1. Introduction

There is no single road to democracy but political scientists agree on the existence of some favourable conditions to build and consolidate a democratic regime. These conditions, or prerequisites, involve an independent civil society, rule of law, separation of powers, elites agreement, economic development, stable state border, and deep relationship between state, nation, citizenship and political regime (Lipset 1959; Huntington 1991; Karl and Schmitter 1991; Pridham 1991; Linz and Stepan 1996; Morlino 1998; Hite and Morlino 2003; Diamond 1999; Zielonka and Pravda 2001; Bakke and Sitter 2005).

More recently Valerie Bunce (2008) suggested that a healthy civil society is a strong antidote to illiberal nationalism because it alters the structure of political competition from a horizontal process, in which elites fight each other to defend their position or rents, to a vertical one, where the leadership is accountable to a well-informed electorate. Moreover, democratization necessarily begins when elections became genuinely competitive, including the existence of extensive civil liberties and political rights guaranteed by law. Francis Fukuyama (2011) emphasizes three institutional elements to guarantee an effective and democratic government: an autonomous and impartial bureaucracy, a set of legal norms equally applied to all citizens, and a system of institutions that keep political authority accountable vertically (political parties, civil society, media) and horizontally (courts, parliament, government).

I. Pietro Grilli di Cortona is author of pars. 2–3–5–8; Barbara Pisciotta is author of pars. 1–4–6–7.

Finally, there is a consolidated literature arguing that a stable democracy cannot be established until defining state borders and citizenship, including civil liberties and political rights for each minority or ethnic group. Fixed and stable boundaries are essential for preventing the development of a highly-militarized and centralized state and for investing in a peaceful political neighbourhood (Kozhemiakin 1998; Bunce 2008).

This article analyzes the evolution of Ukraine's political system after its independence in connection with the presence of opportunities or limits derived from the democratic conditions stated above. More specifically, we will try to show that today Ukrainian democracy is seriously at risk for the lack of public trust in democratic institutions, the pervasive patrimonial connotation of elite behaviour, the troubles of electoral process, the enforcement of presidential power at the expense of the democratic development and the absence of a common national identity.

2. The evolution of Ukrainian political system

When Ukraine became a sovereign nation in 1991, it was one of the most promising states to emerge from the ashes of the Soviet Union. The new leadership was really inclined to create a centralized authority claiming the monopoly on the legitimate use of the force as a prerequisite of effective government in a modern state. During the fall of 1991 the Ukrainian parliament adopted the new country's citizenship law and the law on state border. The first provided citizenship rights for everyone officially living on Ukraine's territory irrespective of their ethnicity, the second set the post-1954 boundaries of Ukrainian Soviet republic, receiving a large international recognition. The parliament also created a Ministry of Defence and put all of the armed forces on Ukrainian territory under its command.

Despite the hard Soviet legacy, Ukraine demonstrated many conditions favouring democracy: an educated workforce, a strong industry and agriculture, and a proximity to Europe. Overnight, it became the largest nation by area within Europe, excluding Russia and Turkey, and had the sixth largest population. Furthermore, the Orange Revolution represented a high point for Ukraine's democratic development

and respect for human rights, and a marked change from the Kuchma era.

In 2012 the situation was very different. The imperative of institution-building to create a new modern and democratic state was subordinated to the personal interests of accumulation and perpetuation of political power and financial wealth (Kudelia 2012). In 2011, an assessment team, under the auspices of Freedom House, went to Ukraine and found a Ukrainian elite disillusioned with their democratic choices. In brief, the shortcomings of Ukraine's democratic experience to date are putting its future democratic development at risk.

As stated by Kramer, Nurick and Wilson (2011), the transformation experienced by Ukraine's political system during 2010 demonstrated that the country's democratic institutions are both dynamic and fragile. Although President Yanukovich was elected democratically, Freedom House downgraded Ukraine from Free to Partly Free in January 2011. This is not to say that Ukrainian democracy under Yushchenko was perfect. But the environment that emerged following the Orange Revolution was more democratic, with journalists benefiting from the removal of government pressure and civil society enjoying the fruits of public activism. In fact, Yanukovich's defeat of the incumbent president in 2010 was the fourth in a series of free and fair national elections in Ukraine, following the two parliamentary votes in 2006 and 2007 and the presidential rerun in December 2004.

On one hand, after years of paralysis stemming from deficiencies in the constitutional model and turbulent interpersonal conflicts among top leaders, Ukraine entered a period of political clarity and consistency. On the other hand, the newly established "order" was based not on the rule of law, democratic legitimacy, or effective checks and balances, but rather on the monopolization of power by one faction through the repeated circumvention of constitutional procedures.

The presence of some crucial problems of the Ukrainian political system showed a degeneration of the democratic institutions. In particular, we suggest the existence of five political factors that provided a deep influence on the characters of Ukrainian system: 1) the quality of institutional design; 2) the elite and mass attitude to respect democratic values and procedures; 3) the physiognomy of party system and the electoral process; 4) the "stateness" question; 5) the dependence

of foreign policy from Russia.

3. Institutional design

The new regimes necessarily require decision about the state's design and the feature of "balance of power" between the main political institutions (Baylis 1996; 2007; Elster, Offe and Preuss 1999). In Ukraine, the manipulation of constitutional process from Kuchma (1994–2004) to Yushchenko (2005–2010) to Yanukovych (2010–) moved from supporting presidential system to parliamentary system and back again to presidential system. Political repression was moderate under Kuchma but exponential since 2010 under Yanukovych (Way 2008; D'Anieri 2007; Kuzio 2012). The strong presidential model created in 1996 was revived. In September 2008, the Constitutional Court ruled that under the constitution, party groupings alone were authorized to create a majority coalition in the parliament. However, when the matter was submitted to the court in early 2010, the judges reversed themselves and found on April 6 that individual MPs could form a coalition (Kramer, Nurick and Wilson 2011).

In June 2010, a group of MP's referred another case to the Constitutional Court, using alleged procedural violations to challenge the entire constitutional reform of 2004, which had shifted a number of crucial presidential powers to parliament. On September 30, the court decided to annul the 2004 reform, automatically reviving the strong presidential model created in 1996. The judges ignored the constitutional rule that only the parliament could alter the charter. The decision was preceded by the politically biased replacement of the chairperson and several members of the court. After the September ruling, the president regained direct authority over the cabinet as well as the Security Service of Ukraine (SBU) and the Prosecutor General's Office, and was at the same time almost completely independent of parliamentary support. Whereas the 2004 constitution assigned specific powers and rights to the official parliamentary majority and the formal parliamentary opposition, the restored 1996 charter allows the president to unilaterally appoint cabinet ministers and rely on ad hoc majorities to approve his chosen prime minister and adopt legislation. The 1996 constitution does not assign an institutional role

to the parliamentary opposition. The new government also sought to extend presidential powers even beyond those that existed before 2004.

For example, a new version of the law governing the cabinet, adopted on October 7, limited parliamentary oversight of the Security Service of Ukraine (SBU), among other provisions. The year's raft of institutional changes had the effect of strengthening and consolidating the central government with little regard for crucial checks and balances. The new system brought more certainty and formal order, as well as more operational capacity for the government, but it also meant less accountability and public oversight. The situation also worsened with regard to the media system: while the government did not engage in direct censorship, attempts were made to withdraw the licenses of television channels—namely TVi and 5 Kanal—that produced critical assessments of the regime (Dyczok 2006; Kramer, Nurick and Wilson 2011).

Moreover, the reinforcement of presidential prerogatives is related to the question of politicization of neutral powers. In political science we call “neutral powers” those institutions not involved in the political arena and in the political fight: they work for everybody and not for only one political party or leader. Examples of neutral powers are the bureaucracy and civil service, the military, the judiciary, the security services.

One of the most serious accusations against the administration is that it is using the justice system—and specifically the prosecutor general's office and the SBU, to punish political opponents. Arguably no other issue has generated as much attention and criticism from inside Ukraine and from the international community than this perception of selective prosecutions, especially against former prime minister Tymoshenko and her associates. Tymoshenko's is the most prominent case, but charges have been brought against nearly a dozen other top officials from her government. Toward the end of the 2010, a number of criminal cases were launched against leading representatives of the former government. Former interior minister Yuriy Lutsenko and former deputy justice minister Yevhen Korniyshuk were arrested, a criminal charge against Tymoshenko restricted her political activity, and former economy minister Bohdan Danylyshyn obtained political asylum in the Czech Republic after a Ukrainian court ordered his

arrest.

Ukraine's justice system lost a great deal of its remaining independence during 2010, in large part through the July enactment of a judicial reform that effectively subordinated the court system to the executive branch. These changes were facilitated both by the unity and active pressure of the new political leadership and by the lack of safeguards and institutional integrity within the judiciary itself. The Constitutional Court sided with the government in crucial rulings on the formation of a parliamentary majority and the reversal of 2004 constitutional amendments, with the latter coming just weeks after a major, pro-government shuffle of the court's membership.

As a result of the year's setbacks, Ukraine's rating on judicial framework and independence declines from 5.00 to 5.50.

The Constitutional Court's September 2010 decision to invalidate the 2004 constitutional amendments associated with the Orange Revolution raised both substantive and procedural red flags (Kramer, Nurick and Wilson 2011). Substantively, the ruling shifted power from the parliament back to the presidency, granting Yanukovych the same level of authority wielded by former president Kuchma. Moreover, in the run-up to the decision, four judges who opposed the nullification of the amendments resigned and were replaced with judges who backed it. It is evident that the Constitutional Court, after the replacement of several members, became a political actor, a protagonist in the political arena of Ukraine (D'Anieri 2007; Riabchuk 2008; Kudelia 2012). According to assessments by human rights watchdogs and European Union politicians, many cases demonstrated that the judiciary was being used selectively based on political motivations. The situation also worsened with regard to the transparency and accountability of the military, police, and security services. The Ministry of Interior dissolved its departments dealing with human rights protection, while the Security Service initiated a number of non transparent investigations against public activists. Dozens of individuals were questioned by Security Service officers about their participation in different political and civic activities.

4. Elite and mass attitudes to democratic values

Democratization involves a sharp electoral break with the authoritarian past. It means that the former political practices have been replaced by the new democratic behaviours. Nevertheless, one of the main obstacles to the Ukrainian institutional development is the persistent pressure for “repatrimonialization” of the state, a phenomenon that Francis Fukuyama defined as a “natural human propensity to favour family and friends constantly reasserts itself in the absence of strong countervailing incentives” (Fukuyama 2011, p. 423). Pressure to return to personalized relations often comes from non-state groups within the society, like family, clans or business companies. When the states are weak or dysfunctional, non-state actors tend to form political patronage networks predating on state resources and maximizing personal profits. Serhiy Kudelia argues that in the early independent Ukraine “patrimonialism was not an aberration seeking to regain ground, but a principal mode of elite relations inherited from the Soviet state” (Kudelia 2012, p. 418).

The prevalence of these informal networks and the patrimonial nature of the Ukrainian state are supported by a party control over state resources and bureaucratic appointments and a massive corruption at all levels of government (Grzymala–Busse 2007). National and international sources confirm that today the high degree of political corruption is the biggest threat to the Ukrainian democracy. According to Transparency International’s Corruption Perceptions Index, Ukraine was ranked 118 out of 180 countries in 2007 and 134 out of 178 in 2010 (Freedom House).

Following the 2002 and 2006 elections, Kuchma and Yanukovich attempted to bribe opposition deputies to defect to ruling coalition from the opposition. Prime Minister Yanukovich’s coalition increased its size to a constitutional majority of 300 by encouraging defections which led President Yushchenko to dissolve parliament. In 2011 over sixty opposition deputies had been ‘encouraged’ to defect by considerable bribes estimated from \$10 to \$20 million a month. Taras Kuzio compares Italy’s and Ukraine’s shadow economy emphasizing that “Ukraine resembles a ‘Post-Soviet Italy’ where citizens are alienated from, and indifferent to the state which provides them with few services, a state that is widely disrespected and to which you should try

your best not to deal with and to pay few taxes” (Kuzio 2012, p. 430).

The high degree of elite corruption is also related with the low degree of mass participation. In 2001 the data available measured Ukrainian participation with an index at 0.60 per person, which was far behind the average level of the other post-communist countries (0.91) and let alone with Western democracies (2.39)². Despite the Revolution’s promises of democratization, the Orange masses swelled in the street across the country dismissed the political capital needed to institutional and economic reforms (Tucker 2010). Today the civil society is still showing vague and volatile electoral behaviours, characterized by an uncertain identity, split between two different images of regime, the Eastern pro-Russian versus the Western pro-European. The gap between two different cultures and political projects, as we will see thereafter, is hard to bridge without a genuine democratic leadership and an effective state (Riabchuk 2008).

5. Party system and electoral process

As we pointed above, democracy becomes effective when elections are free, frequent competitive and genuine. Literature generally suggests two main indicators to test the democratic quality of the electoral process: 1) the presence of an effective party competition between government and opposition forces; 2) the absence of irregularities, restrictions or contestations during the ballots.

On the one hand, Ukraine’s political parties are funded by business interests, far from the European style and characterized by weak ideological programs and structures (Grzymala-Busse 2006). Despite more than a hundred political parties registered by the Ministry of Justice in 1990, the party system at whole remained embryonic. This weakness reflects the corruption of politicians and the deep impact of the East/West cleavage. First, the parties receive little loyalty from their deputies because they often change their position during the election campaign seeking their personal interests or participating in corrupt schemes. Second, the Ukrainian party system is largely inherited from the former Communist Party. On the eastern side,

2. Howard 2002.

the main political organizations are the Communist Party of Ukraine (KPU) and the Party of Regions, a governmental force dominated by oligarchs and provided with many resources at its disposal. On the western side, the civic coalition headed by Yulia Tymoshenko and the Our Ukraine People's Self Defence bloc are the main political opposition groups.

On the other hand, the systematic violations of the electoral process further confirm the lack of democratic performance of the post-communist Ukraine. The 2010 presidential election was held in two rounds on January 17 and February 4. Yanukovych, leader of the Party of Regions, defeated Prime Minister Tymoshenko in the runoff by a small margin, 48.95 percent to 45.47 percent. According to the Organization for Security and Cooperation in Europe (OSCE) and other independent observers, the voting met most international standards for democratic elections and consolidated progress that had been achieved since 2004 (Kramer, Nurick e Wilson 2011).

However, that progress was substantially challenged during local elections held on October 31: in fact, these elections were widely criticized for failing to meet international standards. The government's decision to postpone the 2010 local elections from May to October, and then to change the electoral rules not long before the balloting, raised fears that administrative resources were being used in support of the Party of Regions. The government's decision to delay the polls, change the electoral rules shortly before the new date, and manipulate the process on election day represented a major democratic failure early in Yanukovych's tenure. The irregularities in the local elections were significant. For example, there is strong evidence that returns were manipulated to change the outcome of the vote in Kharkiv. The Tymoshenko Bloc's disqualification from competing in Lviv also raised red flags. In a district where it likely would have won an overwhelming majority, the Tymoshenko Bloc now has no representation, and the Lviv city council is dominated by the nationalist Freedom party. Electoral legislation (a mixed proportional-majority system), adopted in July and amended in August, allowed political manipulation of the formation of electoral commissions and allowed government supporters to dominate the majority of local electoral commissions ahead of the October voting. Registration of opposition candidates was constrained, and in some *oblast* (regions), so-called

clone parties were registered under the same names as existing factions in an apparent effort to confuse voters. The Party of Regions ultimately won in the majority of oblast, leaving the opposition concentrated in Western Ukraine. The politicized abuse of administrative resources was reported on a scale unseen in Ukraine since 2004.

Various contingents of foreign observers found many problems and irregularities. For example, the Delegation from the Congress of Local and Regional Authorities of the Council of Europe stated that: 1) an “unbalanced composition of commissions,” 2) “unequal opportunities for pro-presidential and opposition parties,” 3) the fact that some of the candidates were arrested during the electoral campaign,” 4) “the voting was not of a standard we would wish to see, namely, for fair, transparent and professionally organized elections” (Kramer, Nurick and Wilson 2011).

Finally, there is also considerable concern about the latest parliamentary elections. Many candidates and analysts predicted that bribery to secure votes would be rampant. Following the elections, the opposition parties appealed to the Central Election Commission of Ukraine (CEC) with allegations of fraud in 13 simple-majority constituencies. On 1 November 2012 the Commission had still not received results from 14 electoral districts. The Organization for Security and Cooperation in Europe (OSCE), who had monitored the election with 600 observers, stated in a preliminary report that “certain aspects of the pre-election period constituted a step backwards compared with recent national elections” and that the election was marred by “the abuse of power and the excessive role of money.” It noted the abuse of administrative resources, lack of transparency of campaign and party financing, and lack of balanced media coverage. This contrasted sharply with the international observers’ conclusions on the last Ukraine’s presidential elections, as we have seen, judged then to have been transparent, unbiased and democratic. At this time Ukraine’s rating for electoral process remains unchanged at 3.50 because of the combination of positive and negative assessments of the 2010 presidential election and the latest parliamentary elections during the coverage period.

6. The stateness question

The stateness question involves the consolidation of state borders, national identity and right of citizenship (Linz and Stepan 1996). Sometimes nationalism can favour a kind of demobilization on public opinion because it allows the leadership to shift the focus on political and economic reforms (Bunce 2008). For this reason the Ukrainian case is very emblematic.

Formally, the Ukrainian constitution defines the country as a unitary state, with a special status for the Autonomous Republic of Crimea (ARC), the only region where the ethnic Russians make up the majority. In reality, the Ukrainian state consists of different regions subordinated by the centralized administrative system inherited from the Soviet Union. This ambiguity confirms the presence of a deep center/periphery cleavage and also explains the permanent tensions between the ARC and the government, as well as between the Russians and Tatars within the ARC. Indeed, while the central government has actively interceded to protect the rights of all ethnic and religious minorities, the Crimean Tatar community was systematically discriminated by local authorities for land ownership, access to employment and educational opportunities (Freedom House).

It seems that Ukrainian experience states the hypothesis that the presence of unresolved ethnic or religious conflicts provides fertile ground to obstacle democratization. There has been some democratic progress in states which have contested borders, such as Serbia and Georgia. However the ethnic threat, together with a polarized and divided culture, can hardly compromise the country's stability on the way to democracy. In this situation, the devolution of power should represent a necessary condition to improve the democratization process. Yet, the major political forces, both western democrats and eastern authoritarians, are still vague about devolution. The democrats fear secessionist threats could undermine national integrity; the authoritarians are reluctant because of devolution may facilitate further democratization and deprives them of financial and administrative resources.

The main issue, however, is that today Ukraine is more divided than even before. As Mykola Riabchuk pointed out, after the Orange Revolution "the controversy is primarily about values and about the

national identity as a value-based attitude toward the past and the future and toward 'us' and 'them'. It looks barely possible to find any compromise between democratic and authoritarian anti-Soviet and Soviet." As we know, these different political cultures are the historical legacy of different civilization and foreign domination. The Ukrainian east and south regions had never been exposed directly to any other political and cultural influences than the Russian Empire or the Soviet Union. Today, they are still exposed to Moscow rather than to Kyiv's influences via mass media, cultural flow and the predominance of Russian language (Riabchuk 2008, pp. 54–57). By contrast, the western regions were influenced by the more advanced European Powers and showed a higher level of modernization in terms of civic culture, urbanization and industrialization.

The division between the two images of regime is so rooted in the social and political behaviours that only a strongly legitimated and genuinely democratic leadership should be able to shape in a common national identity. It will be possible only implementing an inclusive institutional and administrative reform based on a stable rule of law. Samuel Huntington, for example, predicted the division of the Ukrainian territory in two "nation-states", respectively built on the different civilization and foreign relations matured in the long run (Huntington 1996).

7. Foreign policy

The independence of foreign policy is a most significant factor to test the achievement of national sovereignty over the country's territory. Ukraine's foreign policy environment has created an apparent choice between the West and Russia. If Russia has continuously influenced the Ukrainian domestic and foreign choices, Western countries have denied the Ukrainian international access and legitimacy. The last events, however, show the inability of the national government to disengage its international goals from the Russian economic and security interests. Summarizing, there are two important issues strictly joined on the ground. The first is the Ukrainian access to NATO. The second is the Ukraine's foreign policy immobility.

During most of the 1990s, Russia strongly opposed NATO en-

largement, alarmed that the access of its old allies into a Western organization was a potential military threat (Deudney and Ikenberry 1992). Yet in the aftermath of September 11 and the newest expansion of membership, Russian opposition softened; especially once NATO worked closely with Russia to convince that its expansion was not an offensive threat and institutionalized dialogue with Russia on key issues that pertain its own security. At present Russia still has military bases in many post-communist countries, including Ukraine and Georgia. For many states formerly dominated by the Soviet Union, accession to NATO reflected their resentment over that domination and their willing to claim national sovereignty.

Since 1994, Ukraine signed a series of agreement with NATO in which the country committed to a range of military reforms, including expanding civilian control of the military. Deeper reforms, such as improving transparency in procurement, developing a non-commissioned officer corps and moving toward a professional military, stalled. Despite a pro-NATO platform, Yushchenko and Kuchma did not move the country decisively toward the West. Yanukovich removed NATO membership from the agenda. The Russian military intervention against Georgia in 2008 confirmed that Russia did not tolerate a U.S. satellite and full NATO member on its southern border (Tsygankov 2011). It means that, today, Russia is a potential threat to Ukrainian sovereignty and territorial integrity. So, Ukraine's desire to join NATO is still subordinated to bilateral relations with Moscow.

Moreover, Ukraine's dependence on Russian sources of energy has been the major problem for its domestic economy and for its foreign policy. To minimize its vulnerability, Ukraine would need to introduce significant market reforms in the energy sector. If the Ukrainian leadership has strong incentives to maintain energy relations with Russia, undermining Ukraine's autonomy, it will have weak incentives to improve its integration with Western institutions, maintaining the status quo.

Paul D'Anieri asserts that one of most crucial factor to explain the Ukraine's foreign policy passivity is the weakness of the Ukrainian state. This weakness results from national identity differences, which have precluded the consolidation of a national government with a strong domestic mandate of any sort. The elite's oscillation between the West or Russia has been unable to implement decisive strategies

to pursue domestic and foreign objectives (D'Anieri 2012). Another effect of this "virtual policy" has been the American and European reluctance to engage with the Ukraine's government before it fulfils its obligations (Pishchikova 2011; Kuzio 2012).

In conclusion, despite that few inside or outside the country are satisfied with the status quo, Ukraine's foreign policy shows a great deal of continuity and inertia.

8. Conclusions

Twenty years after its independence, Ukraine is still not a consolidated democratic regime. We can remark the following aspects. *First*. The power shift from parliament to President has showed the existence of a narrow ruling group under Yanukovich intent on restoring political order and implementing policy using a more intrusive and visible Security Service presence as well as an increasingly malleable judicial system. Ukraine under President Yanukovich has become less democratic and, if current trends are left unchecked, may head down a path toward autocracy: it is a real possibility in the next years, as the latest contested parliamentary elections seem to reaffirm. *Second*. The presence of an elite equally interested in dividing spoils and protecting its own through egregious corrupt behaviour, also associated with prior governments, underlines the patrimonial nature of the Ukrainian state and its weak institutionalization. *Third*. The lack of transparency of the electoral process undermined a real political break with the authoritarian past. Moreover, a lingering resentment over the failure of the Orange Revolution leaders, in power from 2005 through 2009, has favoured the continued fragmentation of the political opposition. *Fourth*. Enervated civil society groups and independent media are increasingly under pressure from government authorities, including the security services, with particularly difficult conditions in the regions and in the periphery of the state. *Fifth*. Today Ukraine is a country deeply divided between the West and Russia. This polarization means that the processes of state-building and nation-building are not positively correlated, as showed the role played by Russia in threatening the Ukraine's national sovereignty and territorial integrity.

Having come to power through a democratic process, Yanukovich's

Party of Regions inherited a polity suffering from infighting, a lack of effective governance, and widespread corruption. The party's officials are systematically centralizing authority with the stated goals of bringing order to this chaotic situation, implementing difficult reforms, and advancing national aspirations to join the EU. However, there is no clear sense of limits to the push for centralization. In fact, the effort has led to policies that have degraded the capacity of civil society and the political opposition to enforce such limits. The result is a weakening of checks and balances. Moreover, history shows that undermining institutional checks and balances inexorably leads to less transparency, more corruption, and a greater risk of authoritarianism, a trend unfortunately seen in most of the former Soviet Union states.

In conclusion, our opinion is that in Ukraine, in the Nineties, democracy has been established, but now not only democracy has not yet been consolidated, but we can speak of a real democratic regression. Indeed, if left unchecked, the trends set by Ukraine's current leadership will move the country toward greater centralization and consolidation of power, that is, toward a new kind of authoritarianism.

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Pietro Grilli di Cortona, Barbara Pisciotta

The Constitutional Development of Ukraine

Amendment Procedures in Theory and Practice

CATERINA FILIPPINI

The first constitutional reforms in Ukraine made their timid appearance at the end of the Eighties, together with the implementation of the *perestroika* policy. They became far more evident, however, when Ukraine, the first of the Republics of the former Soviet Union, proclaimed its Declaration of State Sovereignty on 16 July 1990, and subsequently adopted the State Independence Act on 24 August 1991 (Kuzio, 2000; Martinyniuk, 1992). The principles set out in the foregoing declaration as a democratic country were introduced directly in the last Ukrainian SSR Constitution of 1978, becoming thereafter the subject of the many amendments gradually made up until the end of 1994 (Massias, 1999).

By adopting these amendments the Ukrainian Supreme Soviet implemented the procedure set forth by the Ukrainian Soviet Constitution of 1978. The new constitutional provisions, concerning human rights and freedoms, political pluralism and the separation of powers, were therefore introduced in the former Soviet Constitution of 1978 upon approval of the necessary two-thirds majority of the components of the Ukrainian Supreme Soviet. Considering that the State system was changed through the introduction of the foregoing amendments, it is possible to affirm that during this period the constituent power was exercised also in Ukraine, although in compliance with pre-existing rules, as was the case in many countries which had fallen under the Soviet influence.

However, given that over the years the numerous amendments made to the Ukrainian Constitution of 1978 had given rise to contradictory rules, some of which hampering the President's possibility to exercise his powers, Leonid Kuchma, after winning the presiden-

tial election of 1994, insisted (Bartole, 1999) on the need to enact a Law “On basic principles for the organization and functioning of State power and local self-government” (Filippini, 1997, 1998). This should represent a temporary Small Constitution like the Constitutional Law “On mutual relations between legislative and executive institutions and local self-government,” adopted in Poland in October 1992. However, unlike Poland, in Ukraine the Law “On basic principles for the organization and functioning of State power and local self-government” was approved by the Verkhovna Rada on 18 May 1995 by simple majority. Accordingly it could not be qualified as a super-primary rule, for which a majority of at least two thirds of Parliament members was required. With the aim of giving the foregoing law the features of a super-primary rule and prevailing on the contradictory amended provisions of the Constitution of Ukraine of 1978, the so-called Constitutional Agreement between Ukrainian Verkhovna Rada and Ukrainian President related to the Law “On the basic principles for the organization and functioning of State power and local self-government in Ukraine, until the adoption of a new Constitution” was prepared, and adopted by the Verkhovna Rada on 7 June 1995. On 8 June 1995 it was signed by the President of Ukraine, the Verkhovna Rada Speaker and the Members of Parliament who had adopted same the day before. The Agreement expressly stated that the provisions of the “Law on the basic principles for the organization and functioning of State power and self-government” would prevail (even though not approved by a majority of two-thirds of Parliament members) over the provisions of the Ukrainian Soviet Constitution of 1978, at least until the enactment of a new Constitution. Although the Constitutional Agreement was immediately applied, it should also be pointed out that it also it had only been approved by a simple majority of Parliament members.¹ The particularity of the procedure for the adoption of the Constitutional Agreement was remarked by the President Kuchma himself, who on 7 June 7 1995, addressed Parliament, saying, “We must understand that this agreement will become a most important political-legal act that, in a non-traditional manner, will strengthen the relationship between the President and the Supreme Council and will create a new foundation for the organization of state

1. The Verkhovna Rada on June 7 voted 240–81 to accept the compromise.

power in the country (Kolomayets, 1995).” At the same time, Oleksander Moroz, Chairman of the Verkhovna Rada, stated that: “Upon signing this Constitutional Agreement we can implement the law on power without the necessary constitutional majority but we do not have the possibility of entering the present Parliament. . . we should reach a compromise, even just to give our people hope and the opportunity to change for the better (1995).” Only the Communist faction in the Verkhovna Rada called the move a “constitutional coup (1995).” Although the adoption of the Constitutional Agreement could not be considered a constitutional coup, it is to “be acknowledged that there has been a rupture in the Ukrainian constitutional continuity, although only a transitory rupture, until the full legality of the regulatory order is restored by adopting of a new Constitution.”² At the same time, the procedure whereby the Constitutional Agreement was approved, represented a clear image of the newly elected President’s position vis-à-vis the other political players. Furthermore, it anticipated the standstill situation which would characterize the relations between the executive and law-making powers in the years to come. In conclusion therefore, the procedure followed in adopting the Constitutional Agreement showed that while President Kuchma was not in a position to force the situation (unlike his Russian counterpart did in 1991 when, by Presidential Decree No. 1400 enacted the “Regulations on federal power bodies during the interim period”) Ukrainian Parliamentary members had also no power to block the Head of State.

Moreover, events related to the signature of the Constitutional Agreement were only the beginning of a series of issues tied to the

2. “Opinion on the present constitutional situation in Ukraine following the adoption of the Constitutional Agreement between the Supreme Rada of Ukraine and the President of Ukraine” adopted by the Venice Commission, CDL(1995)040e-restr, 11 September 1995. In the french version of the Opinion Lavrinovitch added that «L’Accord constitutionnel n’étant pas un acte normatif du pouvoir législatif, son adoption ne peut être considérée sous l’angle des exigences de la procédure parlementaire. Il s’agit d’un acte conjoint des pouvoirs exécutif et législatif adopté selon une procédure spéciale. Outre des problèmes juridiques, l’Accord constitutionnel a réglé un dilemme politique important, en jouant un rôle de compromis dans le conflit entre les instances du pouvoir, qui reflétait objectivement la montée de la tension sociale due à une grave détérioration de la situation au sein des structures tant de l’Etat que de l’autonomie locale». Note of Lavrinovitch O. in “Avis sur la situation constitutionnelle actuelle en Ukraine à la suite de l’adoption de l’accord constitutionnel entre in to le Conseil suprême et le Président de l’Ukraine”, adopté par la Commission de Venise, CDL(1995)040f-restr, 11 septembre 1995.

procedure, emerging during the constitutional evolution in progress to date. One year after the signature of the Constitutional Agreement the procedure used to adopt the first post-soviet Constitution (Nahaylo, 1992; Vorndran, 1997; Vorndran, 1999; Vorndran, 2000; Wolczuk, 1998; Wolczuk, 2001; Gönenç, 2002). became the subject of an intense debate. For a better understanding of the procedure agreed upon to adopt the new Ukrainian Constitution, we must first consider the pre-Soviet legal tradition. Indeed, all the Constitutions of the Soviet Republics envisaged the right of the Supreme Soviet to adopt a new Fundamental Law. Whereby the Soviet Ukrainian Constitution of 1978 established that the adoption of a new Constitution came under the Supreme Soviet's competence,³ unfortunately no indications were given as to the quorum of Parliament members required for its adoption.

Consistent with the Ukrainian SSR Constitution of 1978, the "Constitutional Agreement related to the Law on basic principles for the organization and functioning of State power and local self-government until the adoption of a new Constitution" of 1995 established that the newly created Verkhovna Rada had the authority to ratify a new Constitution.⁴ However, here too no mention was made to the approval procedure. From this point of view, the Constitutional agreement was even more ambiguous than the provisions of the Constitution of 1978 as in Part IV it was stated that "Until a new Ukrainian Constitution is adopted, neither party shall submit any questions for consideration via all-Ukrainian referendum, consultative referendum, or national poll, except for those matters which concern the adoption of a new Ukrainian Constitution, the text of which shall be agreed by both Parties." Due to the increasingly sharp contrasts between the executive and law-making bodies the then President Kuchma stated that the new Constitution project had to be submitted directly to vote of the entire nation and, considering the Verkhovna Rada's inertia, the President issued a decree "On holding a pan-Ukrainian referendum on the adoption of a new Constitution in Ukraine." Verkhovna Rada's reaction to this threat, was to vote on the project of the new

3. Art. 97 of the Constitution of Ukraine SSR of 1978.

4. Art. 17 of the Constitutional Agreement.

Constitution on 28 June 1996⁵ after a 26-hour meeting, unofficially known as “the constitutional night of 1996,” with 315 ayes, 36 nays and 12 abstentions (Markus, 1996).

In conclusion the procedure followed to adopt the Ukrainian Constitution of 1996 was in line with Soviet tradition, since it had been approved neither by a constituent meeting convened for that purpose nor by a referendum, but by Parliament. On the other hand, Soviet Constitutions used to be approved unanimously, in view of the leading role of the sole party, whereas the new Constitution of Ukraine in 1996 was considered adopted only with 315 votes, thus bypassing the majority of two thirds of the members of Parliament, established by the Soviet Constitution of Ukraine of 1978, for the introduction of single amendments to the Constitution.⁶ The particularity of the adoption of the first post-Soviet Ukrainian Constitution was also remarked by the Constitutional Court of Ukraine. Its decision taken on 11 July 1997 on the enactment of the new Constitution stated the following, “Adoption of the Constitution of Ukraine by Verkhovna Rada of Ukraine was a direct act of realizing people’s sovereignty that only once authorized Verkhovna Rada of Ukraine to adopt it. Further confirmation thereof is found in Article 85.1 of the Constitution, which does not provide for the right of Verkhovna Rada of Ukraine to adopt the Constitution of Ukraine; in addition according to Article 156 of the Constitution a draft-law on introduction of amendments to chapters establishing fundamental principles of the constitutional order after adoption by Verkhovna Rada of Ukraine, is to be approved at an all-Ukrainian referendum.”⁷

Therefore, as remarked by the Constitutional Court, the new Ukrainian Constitution of 1996,⁸ which entailed the end (Markus,

5. Ukraine was the last of the Commonwealth of Independent States (CIS) to approve its first post-Soviet Constitution.

6. Art. 171 of the Constitution of USSR of 1978

7. Risheniia Konstytutsiinogo Sudu Ukraïni, n. 3-zp/1997g, in < www.ccu.gov.ua >.

8. Original text of “Konstitucija Ukraïni. Priinjata na p’iatii sesii Verkhovnoi Radi Ukraïni 28 chervnja 1996”, in *Constitutions of the countries of the world — Ukraine*, Gisbert H. Flanz ed., Oceana Publications, Inc, Dobbs Ferry, New York, Booklet 3 — Official Ukrainian Texts, Release 97-1, January 1997, pp. 1-72. English text of “Constitution of Ukraine adopted at the Fifth Session of the Verkhovna Rada of Ukraine on 28 June 1996”, in *Constitutions of the countries of the world — Ukraine*, Gisbert H. Flanz ed., Oceana Publications, Inc, Dobbs Ferry, New York, Booklet 3 — English Translations, Release 97-1, January 1997, pp. 1-85.

1996; Futey, 1996), pp. 29–34) of all the legal effects of the Ukrainian Soviet Socialist Republic's Constitution of 1978 and of the 1995 "Constitutional Agreement" no longer affirms that Verkhovna Rada has the right "to adopt a Constitution." However, like many contemporary Constitutions, it provides for two different procedures to amend the constitutional provisions, distinguishing between a severe and super-severe procedure (Mikhaleva, 1998). Both procedures provide for the intervention of the Constitutional Court to assess whether the proposed amendment limits citizens' rights guaranteed by the Constitution, or breaches the independence and territorial integrity of Ukraine. The severe procedure ends up with the approval of the proposed amendments by two-thirds of Verkhovna Rada members, while the super-severe procedure provides that same amendments voted by Verkhovna Rada are to be further submitted to the people's referendum (Venislavskii, 2010).

Pending the conflict about power sharing between the President and Parliament, and due to populist tendencies, the first attempt to modify the new institutional design did not abide by the procedure for introducing amendments into the Constitution established in 1996. Indeed, on 15 January 2000, President Kuchma issued a decree to hold a referendum on 16 April 2000 on six "constitutional" matters (Huge, 2005). Thus admitting the submission of four questions, the Constitutional Court in its decision of 27 March 2000 rejected the submission of matter No. 6⁹ concerning the adoption of a new Constitution directly by popular vote (Wolczuk, 2002; Brown and Wise, 2004) stating that, "Confirming the exclusive right of the people to determine and change the constitutional order, the Constitution has established a clear procedure for introducing changes into the Constitution. The issue of the adoption of a new Constitution is put to an all-Ukrainian referendum without prior obtaining the people's consent on the need to adopt a new Constitution. It brings into doubt the very existence of the current Constitution, which may lead to weakening of the fundamental principles of the constitutional order and of the rights

9. The Constitutional court also did not admit question No.1 about the right of the President to dissolve Parliament in case of a vote of no confidence by Verkhovna Rada expressed at an All-Ukrainian referendum.

and liberties of people and citizens.”¹⁰ Despite this decision¹¹ Kuchma still did not desist from modifying the Fundamental Law, and instead of submitting a new Constitution text to a Pan-Ukrainian referendum, during his Presidency in conformity with the Article 156 of the Constitution he decided to pass a series of drafts on the introduction of amendments into the Constitution of 1996 directly to Verkhovna Rada. Of the three main projects on constitutional amendments submitted by the President to Verkhovna Rada between 2003 and 2004 (Kuzio, 2005) the one which best deserves our attention is project No. 4180. This constitutional draft was approved in the first reading (Christensen, Rakhimkulov, Wise, 2005) and obtained the favourable opinion of the Constitutional Court before the Presidential elections in 2004. It was re-approved by Verkhovna Rada with the required quorum in a second reading, held between the second session of Presidential elections and the repetition of same, the winner being Yushchenko.¹² However, it was intended to formally validate the political agreement on the allocation of powers entered into between the two principal competitors for presidency, Viktor Yanukovich and Viktor Yushchenko (Flikke, 2008). Following the events of the Orange Revolution (Katchanovski, 2008) the constitutional project approved in the second reading by Verkhovna Rada revealed some differences compared to the first version approved. Nevertheless, it was not considered necessary, as provided for by Article 159 of the Ukrainian Constitution, to resubmit same to the Constitutional Court’s assessment of constitutionality (Hale, 2006) and on 8 December 2004 (Nußberger and Von Gall, 2010) the project was registered under Law No. 2222 “On introduction of amendments into the Constitution of Ukraine (Bos, 2010).” Failure to solicit the Constitutional Court’s opinion when drawing up the Law No. 2222 was subject to criticism also by the Parliamentary Assembly of the Council of Europe (Hülshörster, 2008) which

10. Risheniia Konstytutsiinogo Sudu Ukraïni, n. 3-rp/2000.

11. The Constitutional Court also affirmed that the referendum on the other four questions could have only advisory character. Therefore pursuant to the referendum results a corresponding draft on constitutional amendments had been submitted to the Verkhovna Rada. The Parliament anyway rejected the draft underling the conflict with the President.

12. The Constitution of Ukraine, 1996 (as Amended to 2004), in *Constitutions of the Countries of the world: Ukraine*, Wolfrum R., Grote R. Eds., Oceana Publications, Release 2006-3, Issued April 2006, pp. 1-60.

remarked in its Resolution No. 1466 of 2005, “The Assembly expressed its concern about the fact that constitutional changes were adopted without any prior consultation with the Constitutional Court, as envisaged by Article 159 of the Ukrainian Constitution and interpreted in the Constitutional Court of Ukraine’s decision of 1998. Therefore the Assembly urges the Ukrainian authorities to address these issues as soon as possible in order to secure the legitimacy of the constitutional amendments and their compliance with European standards.”¹³ At the same time some concern about the new constitutional rules was expressed (Nußberger, 2008; Nußberger, 2009) by the European Commission for Democracy through Law (better known as Venice Commission).¹⁴

President Yushchenko seriously pushed for new constitutional reforms after Law No. 2222 came into effect on 1 January 2006 (Simon, 2009; Medushveskii A., 2010). He also tried to deviate from the procedure established by the Constitution (Lange, Reismann, 2009) on introducing amendments. Although the Fundamental Law did not foresee this, on 27 December 2007 Yushchenko entrusted a Constitutional National Assembly with the task to draft new wording of the Constitution as a first move. Secondly, following the first meeting of the Constitutional National Assembly, which took place on 20 February 2008, the President affirmed that if the new wording of the Constitution written by the National Constitutional Assembly was not adopted by the majority of two-thirds of the members of Verkhovna Rada he would with no hesitation submit the project to an All-Ukrainian referendum (Yushchenko, 2008).

Yushchenko had shown his tendency towards the adoption of the

13. Resolution No.1466 (2005) “Honouring of obligations and commitments by Ukraine”, adopted by the Assembly on 5 October 2005 < www.coe.int >

14. The Venice Commission underlined that “The Law on amendments as adopted in December 2004 reflects many of the Commission’s comments in its previous opinions on this matter. Nevertheless, a number of provisions, such as the rights of legislative initiative conferred on both the Cabinet and the President, or the President’s role in foreign and defence policy might lead to unnecessary political conflicts and thus undermine the necessary strengthening of the rule of law in the country. In general, the constitutional amendments, as adopted, do not yet fully allow the aim of the constitutional reform of establishing a balanced and functional system of government to be attained”, in “Opinion on the amendments to the Constitution of Ukraine of 8.12.2004” adopted by the Venice Commission CDL-AD(2005)015, 10–11 June 2005.

Constitution by means of a referendum as early as 26 January 2006, when he affirmed that in 2004 “the constitutional reform took place without the participation of citizens. . . and I believe that the people should have their say concerning the amendment (Rakhmanin, 2006).” Therefore, given that since 1996 there had been no constitutional provisions concerning the possibility of adopting a completely new wording of the Constitution, a new appeal was made to approve some through popular vote. Nevertheless, President Yushchenko, unlike his predecessor Kuchma, appealed directly to the Constitutional Court of Ukraine to obtain an official interpretation of the provisions of the Constitution of 1996 on *referendums* and the procedure for amending the Fundamental Law.¹⁵ On 16 April 2008, referring to its previous decisions of 2000 and 2005, the Constitutional Court stated that “Provisions of Article 72.2 of the Constitution viewed in a systematic relation to Article 5 of the Constitution should be understood as the people of Ukraine being the bearers of sovereignty and the only source of power in Ukraine may exercise their exclusive rights to determine and change the constitutional order in Ukraine at an all-Ukrainian referendum upon popular initiative by means of adopting the Constitution pursuant to procedure which is to be determined in the Constitution and in the laws of Ukraine.”¹⁶

Following this decision, which in effect banned the President’s initiative to hold a binding referendum on the adoption of a new wording of the Constitution, on 31 March 2009, Yushchenko decided to submit to Parliament a draft law on the introduction of amendments into the Constitution.¹⁷ Although the Yushchenko’s draft law was submitted 25 August (as in the Soviet era) to a popular consultation, it was definitively removed from the Agenda of Verkhovna Rada on 22 October 2009. The same day, Parliament also ceased to deal with the alternative draft law¹⁸ of BYuT and the Party of Regions

15. The Constitutional Court was required to give an official interpretation of Articles 5.2, 5.3, 69, 72.2, 74, 94.2 and 156.1 of the Constitution.

16. *Risheniia Konstytutsiinogo Sudu Ukraïni*, n. 6–rp/2008.

17. The English version of the draft law of Ukraine amending the Constitution presented by the President of Ukraine is recorded in Opinion CDL(2009)068 adopted by the Venice Commission, 16 April 2009.

18. Between 1996 and 2006 efforts to change the text of the Constitution were aimed essentially to modify the relationship between the President, Government and Parliament

(Sidorenko and Kutscherk, 2009) but the constitutional reform issue was raised again after the presidential elections of January–February 2010 (Herron, 2010) by the new president Viktor Yanukovych (Silitski, 2010).

The aim of Yanukovych (Dörrenbächer and Oliinyk, 2011) was, as prior to his election, to change the institutional relationship between President, Government and Parliament. However, at the beginning, in order to change the Government structure, the President and his supporters, neither proposed the holding of an Pan–Ukrainian referendum nor the introduction of amendments in line with the procedure set forth in the Constitution, but rather only tried to change the meaning of Art. 83 Const. which provided for a decisive role of the coalition of deputy factions in the appointment of the Prime Minister (Massias, 2008). Since Law No. 2222 became effective in January 2006 under Art. 83 of the Constitution, the President could in fact put forward a candidate for the office of Prime Minister to Verkhovna Rada on the basis of a proposal of a coalition of deputy factions, representing the majority of the members of Parliament (the coalition of deputy factions had to be formed within 30 days and had to submit to President a proposal for appointment as Prime Minister within 60 days following regular or special parliamentary election or from the date when activities of the coalition of parliamentary factions in Verkhovna Rada are terminated). The need to form a coalition consisting of only parliamentary factions representing the majority of Verkhovna Rada members was also remarked on 17 September 2008 by the Constitutional Court. In its official interpretation of Art. 83 Const. stated that: “The subjects forming a coalition of deputy factions are deputy factions. Hence, whereas a deputy faction is a group of People’s Deputies of Ukraine elected from the election list of their respective political parties (election bloc of political parties), the coalition of deputy factions consists of deputy factions that, according to the results of election and reconciliation of political positions, formed a coalition of deputy factions.”¹⁹

envisaged by the original text of the 1996 Constitution. After 2006, all efforts to introduce constitutional amendments or to adopt new wording of the Ukrainian Constitution were essentially aimed at changing the form of government introduced in Ukraine pursuant to the law on the amendments of the Constitution of Ukraine No. 2222.

19. Risheniia Konstytutsiinogo Sudu Ukraïni, n. 16–rp/2008. For a summary of the decision see also “Ukraine. Cour constitutionnelle”, *Bulletin de jurisprudence constitutionnelle*,

Therefore, considering the difficulty to reach the two-thirds majority of Parliament members required to directly amend Art. 83 Const., President Yanukovych (Dörrenbächer and Oliinyk, 2011). first proposed to amend Art. 59 of the Statute “On the Rules of Procedure of Verkhovna Rada” whose original wording under Art. 83 of the Constitution required that a coalition had to consist of deputy factions only. On the contrary, Art. 59 of Verkhovna Rada Procedural Rules as amended on 9 March 2010 permitted a coalition of not only deputy factions but also of individual deputies, thus spoiling all efforts made as part of the Orange Revolution to avoid deputies switching from one party to another (Herron, 2002; Pankevich, 2009) even though this was opposed by legal scholars and international organizations. Thus, after a vote of no confidence in the Prime Minister Tymoshenko, it was possible to form a new parliamentary majority coalition, supported not only by the deputy factions of the Party of Regions, of the Communist Party and of the Popular Party, but also by Parliament members who left the NuNs and BYuT deputy factions. The formation of the new coalition was also approved by the Constitutional Court. On 6 April 2010. The Constitutional Court, departed from its earlier interpretation of Art. 83 Const. and in the new official interpretation of Art. 83 Const. and Art. 59 of the Law on Rules governing Verkhovna Rada stated that, “As far as constitutional appeals are concerned, the provisions of Article 83.6 of the Constitution, and Article 59.4 of Ukraine’s Verkhovna Rada Procedural Rules approved by the Law “On the Rules of Procedure of Ukraine’s Verkhovna Rada” No. 1861–VI dated February 10, 2010, considered in a systematic relation with Articles 1, 5, 15, 36, 38, 69, 76, 79, 80, 81, 83.5, 83.7, 83.9 and 86 of the Constitution, and Articles 60 and 61 of Rules of Procedure the Ukraine’s Verkhovna Rada shall be understood as allowing the People’s Deputies of Ukraine, in particular those who are not members of the deputy factions, which started the coalition of deputy factions in Ukraine’s Verkhovna Rada, to participate in the formation of the coalition of deputy factions in Ukraine’s Verkhovna Rada.”²⁰ The Court justified this on the grounds that its judgment of 2008 gave an official interpretation of Article 83 Const. only without considering

Editions du Conseil de l’Europe, 3 (2008), pp. 581–582.

20. Risheniia Konstytutsiinogo Sudu Ukraïni, n. 11–rp/2010.

the Rules of Procedure governing Verkhovna Rada, as at that time they had only been approved by a Parliament decree and not by law as required by the Constitution. Otherwise in its judgment of 2010 it would have given an official interpretation not only of Art. 83 Const. but also of Art. 59 of the Rules of Procedure of Verkhovna Rada, as these were adopted by law on 10 February 2010. Therefore, in Ukraine the meaning of Art. 83 of the Constitution was modified by an informal change (Ganino, 2009), at the beginning of 2010, i.e. by the amendments of a primary law and by an official interpretation of the Constitution given by the Constitutional Court.

Finally the Constitutional Court of Ukraine played a conclusive role in the shaping of the Ukrainian Government system, as between 2008 and 2010 it also changed its mind about the constitutionality of the constitutional amendments enacted in 2004 during the Orange Revolution (Mazmanyan, 2010) in their entirety.

In February 2008 (5) the Constitutional Court, following the constitutional appeal filed by 102 deputies who claimed that the Law No. 2222 had violated the procedure for its review and adoption, as it had been approved in December 2004, without receiving the mandatory opinion required from the Constitutional Court of Ukraine regarding its compliance with Articles 157 and 158 of the Constitution, stated that when the Law No. 2222 took effect on 1 January 2006, its provisions and clauses became an integral part of the Constitution, while the Law itself lost its legal validity.²¹ The Court therefore rejected the appeal, based on its non-compliance with the constitutional appeal requirement, under Article 39 of the Constitutional Court Law.

On the other hand, in its judgement of 30 September 2010²², the Constitutional Court, to which a new constitutional appeal was made by 252 deputies, who claimed again that the Law No. 2222 had infringed the procedure for its review and adoption, did not reject the application and stated that “The Verkhovna Rada of Ukraine adopted Law No. 2222 without observing the procedure of its consideration and approval, established by the Constitution of Ukraine, whereby it violated the provisions of its part 2 of Article 6, part 2 of Article 19, point 1 of part 1 of Article 85, Article 159.” The Court also ruled that

21. Uchvala Konstytutsiinogo Sudu Ukraïni, n. 6-y/2008.

22. Risheniia Konstytutsiinogo Sudu Ukraïni, n. 20-rp/2010.

“The Constitutional Court of Ukraine proceeds on the basis that the recognition as unconstitutional of Law No. 2222 in connection with a violation of the procedure of its consideration and approval means the renewal of the previous wording of the norms of the Constitution of Ukraine, which were amended and excluded by Law No. 2222. This ensures the stability of the constitutional order in Ukraine, guaranteeing of constitutional rights and freedoms of man and citizen, the integrity, inviolability and continuity of the Constitution of Ukraine, its supremacy as the Fundamental Law of the State throughout the entire territory of Ukraine.”²³

Therefore, although in 2008 the Constitutional Court of Ukraine had refused to decide on the constitutionality of the foregoing amendments, on 30 September 2010 it ruled that they were unconstitutional (Zaikin, 2010)²⁴ due to their failure to comply with the provisions of the Constitution and restored the Constitution to its original version.²⁵

The re-introduction of the original text of the Constitution of 1996 (Luchterhandt, 2010) led to the adoption of amendment of the laws governing the organization and the activity of constitutional bodies.

First of all, in October 2010, the Law “On the Procedural Rules of Verkhovna Rada” was amended for the second time after its adoption. The provisions regulating the compulsory creation of a coalition of parliamentary groups in charge of designating a candidate to the office of Prime Minister, were removed from the Procedural Rules of Verkhovna Rada.

Later on, in December 2010 the Law “On the Government of Ukraine” was amended, stating this time that the Prime Minister still had to resign, when a new President of the Republic had been elected.

Subsequently, in December 2011, Verkhovna Rada changed its electoral system for the fourth time since the Ukrainian Independence.²⁶ In the first parliamentary election after independence in 1994, the

23. English translation of the Judgment of 30 September in “Opinion” No. 599/2010 adopted by the Venice Commission, CDL(2010)116, 18 November, 2010.

24. Zaikin S., “Monitoring konstitutsionnykh novostei — Ukraina —”, «Sravnitel'noe konstitutsionnoe Obzrenie», 79.6 (2010) p. 152.

25. The Constitution of Ukraine (as Reinstated in 2010), in *Constitutions of the Countries of the world: Ukraine*, Wolfrum R., Grote R. Eds., Oceana Publications, Realease 2011-1, January 2011 [2C2?]www.oceanalaw.com[2C3?].

26. See “Opinion on the Draft Election code of the Verkhovna Rada of Ukraine” adopted by the Venice Commission, CDL-AD(2010)047, 17-18 December 2010.

unicameral legislature of 450 deputies was elected, as in the Soviet period, from one-member constituencies (Birch, 1995; Pammet, 1996; Birch, 1998; Kuzio, 1995) with, eventually, double ballot. After 1994 the Ukrainian Parliament adopted a mixed electoral system, where under half of the 450 seats in Verkhovna Rada had to be elected through proportional representation in a single nation-wide constituency with a 4% threshold, and the other half had to be elected in one round in single-member constituencies. This mixed electoral first past the post/proportional system was applied in the 1998 (Birch and Wilson, 1999; Wilson and Birch, 1999; Kubicek, 2001; Makhorkina, 2005) and 2002 (Durkot, 2002; Birch, 2003; Kuzio, 2003; Herron, 2004) parliamentary elections. In 2005 the Ukrainian Parliament moved from the mixed first past the post/proportional system to a pure proportional system with a closed list. Therefore in the 2006 parliamentary election (Hesli, 2007) and in the 2007 extraordinary election (Göckeritz, 2007; Copsey, 2008; Herron, 2008; Jacunskaja, 2008) all seats were filled by means of a proportional representation, with nation-wide closed lists and a three per cent threshold for representation. Finally, in December 2011, the Rada re-introduced a mixed electoral first past the post/proportional system (Jilge, 2012). However, there are some differences compared with the mixed electoral system applied in 1998 and in 2002. In the new mixed electoral system, the electoral threshold in the nationwide district increased from 3% to 5%, the provision on the possibility to vote against all candidates and against all parties was removed, and the participation of blocs of parties was banned. Now, only parties can nominate a list of candidates in the nationwide district, while candidates in single mandate districts can be nominated by parties or through self-nomination. Moreover, the Constitutional Court stated that the same candidate could not simultaneously contest the election in the nationwide districts and in the first past the post constituencies.²⁷ It is clear that Court ruling and also the afore-mentioned provisions of the new version of the electoral law were aimed to support large parties at the parliamentary election of 28 October 2012 when Verkhovna Rada would be elected again for a five-year period, because on 3 February 2011, 1996 Constitution

27. Risheniia Konstytutsiinogo Sudu Ukraïni, n. 8-rp/2012.

was further amended by increasing²⁸ the term of office of Parliament from four to five years (Zaikin, 2011).

On the basis of the judgement of the Constitutional Court, which resumed the text of the Constitution of 1996, thus providing again the President of Ukraine formally qualifies as “Head of State” (and not Chief of the Executive), nevertheless entrusted with important duties in the field of the executive power (Sconfietti, 1999). First of all, he can directly appoint the Prime Minister with the subsequent approval of Verkhovna Rada (Nordberg, 1998) the proposal submitted by a coalition of deputy factions, being no longer necessary. The President can also unilaterally revoke the Prime Minister and the other ministers who can also be voted out by Verkhovna Rada (Feldbrugge, 2000; Protsyk, 2006). However, Parliament can be dissolved by the President only in the case where it fails to hold a plenary meeting within 30 days of the beginning of its session (Wise and Brown, 1999). Therefore the wording of the Ukrainian Constitution formally continues to depart from the Russian Constitution because first of all the President is obliged to accept the resignation of the Prime Minister if he is vetoed out by Parliament; secondly, the possibility for the President to dissolve Verkhovna Rada is very limited. However, the horizontal checks and balances continue to be weak as well (Beichelt, 2004) therefore the comprehensive arrangements on the separation of powers proved to be unstable (Wolczuk, 1997) and could possibly lead to a concentration of powers, as seen in the past, under the same text of the Constitution during the Kuchma Presidency (Ishiyama, 2001; Protsyk, 2003; Protsyk 2005; Way, 2005a; Lambroschini, 2008).

In other words, a non well-balanced allocation of powers among the constitutional bodies might undermine the correct implementation of the principle of the power separation, not to mention the respect for human rights and pluralism, and the assertion of the form of a democratic and constitutional State (Kubicek, 2009).

Therefore, it would appear that Ukraine has not yet reached a steady constitutional law system (Tudoroiu, 2007) since, as previously discussed, during its 20 years of independence, the procedures adopted to change the Constitution to a certain degree, were not in full compli-

28. Verfassungsänderung: Fünffährige Legislaturperiode für das Parlament — Dokumentation, « Ukraine-Analysen », n. 86, 08–02–2011, pp. 12–13.

ance with the procedure set forth by the first post-Soviet Constitution, and the constitutional agreement in force over time appears to be incapable of withstanding the political (Way, 2005b) and economic pressures.

Finally, on 24 August 2010, Yanukovych, after having abolished the National Constitutional Council created by the previous President Yushchenko, signed a new decree “On support to an initiative for the creation of a Constitutional assembly” that envisaged the formation of a Scientific expert group on Constitutional assembly preparation led by Leonid Kravchuk, first President of Ukraine. The Constitutional assembly, as specified on 21 February 2011 in decree No. 224 “On the concept paper on the establishment and functioning of a Constitutional assembly” should be a “consultative–advisory body” to the President²⁹ and began to operate, composed of 95 members nominated by the President, on 20 June 2012. The constitutional laboratory of Ukraine seems really never ending.

29. The Parliamentary Assembly and the Venice Commission of the Council of Europe welcomed the initiative to implement a new constitutional reform but at the same time they underlined that it was necessary to observe the amending procedure to the current Constitution. The Parliamentary Assembly underlined that “the decision of the Constitutional Court of Ukraine of 1 October 2010 that declares as unconstitutional Law No. 2222 amending the constitution in 2004. . . should now prompt the Verkhovna Rada to initiate a comprehensive constitutional reform process with a view to bringing Ukraine’s constitution fully in line with European standards” while “the current Constitution should be amended instead of entirely new Constitution being adopted”, in Resolution “On Functioning of democratic institution in Ukraine”, No. 1755(2010), 5 October 2010. The Venice Commission affirmed that “It is clear that the current constitutional framework based on a ruling of the Constitutional Court does not enjoy sufficient legitimacy, which only the regular constitutional procedure for a constitutional amendments in the Verkhovna Rada can ensure”, in “Opinion on the constitutional situation in Ukraine” adopted by the Venice Commission, CDL–AD(2010)044, 17–18 December 2010. Finally directly referring to the Concept paper the Venice Commission said that: “The propose constitutional assembly in Ukraine appears to be a preparatory constitutional assembly, which will draft a reform package, to be presented to the President, with the proposal that it should then be submitted to the Verkhovna Rada for the adoption according to the existing procedures, as laid down in section XIII of the current Constitution (point 12 of the Concept Paper). This guarantee for the respect of the existing constitutional amendment procedure is strongly commanded”, in “Opinion on the concept paper on the establishment and functioning of a Constitutional assembly of Ukraine” adopted by the Venice Commission, CDL–AD(2011)002, 25–26 March 2011.

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Caterina Filippini

Threats to Free Speech in Ukraine: The Bigger Picture

MARTA DYCZOK

We asked for freedom
and you gave us the market
Ivan Klima 2009

1. Introduction

‘The single most important change that occurred in media is that the role of money is now linked to media’, said Oleksandr Martynenko. The Ukrainian journalist and former Presidential Press Secretary continued, ‘Media is now a business’. When communism was collapsing, many believed that this would be a good thing, that the best way to secure free speech was to privatize the media system. Anti-communist and anti-state feelings coming from within society combined with the neo-liberal exuberance coming from abroad. Together they produced a dominant view that the market would allow media to act as the watchdog of the state and a guarantor of democracy.

However, privatization did not in fact lead to free speech. The market simply reframed the issues. It added entirely new dimensions of complexity, creating both new opportunities and new problems. When writing about media developments in the United States in the mid 1970s, Herbert Schiller asked, ‘For whose benefit and under whose control was the media system reformed?’ This key question helps understand how Ukraine’s media system was transformed after the collapse of communism. The process is better understood when viewed in the context of larger power struggles, and a global, comparative perspective.

Initially, private ownership led to an explosion of new media outlets that were independent from the state. But over time global patterns

were replicated. Media ownership became concentrated, political and corporate elites became closely intertwined, and market logic began influencing media content and policy-making. Like elsewhere, corporate elites in Ukraine use their media holdings to maintain good relations with the state in order to further their other commercial interests. Private ownership did not prevent censorship from creeping back in or a return to semi-authoritarianism in the late 1990s, or after 2010. In fact, private media outlets work hand in hand with the state in limiting information from circulating, creating a new, hybrid threat.

Although in many ways Ukraine is following global media patterns, there are complexities and nuances specific to the country that arise out of the post-communist transformation. Both the similarities and differences need to be considered.

2. Inherent contradictions

When communism was collapsing there was a public desire for democracy, freedom and the market. Critical of their communist past, these societies embraced the market without considering its challenges, or discussing the public service dimension of the media.

Many in developed democracies also believe that the media must be in private hands since its main role is to act as the watchdog of the state. Much of the scholarly literature on Ukraine and the post communist world reflects this perspective and focuses on political threats to free speech. Such views are deeply rooted in liberal political theory, which holds that a free press is generated by private citizens independent of government censorship and control which dates back to the era when the media was mainly small newspapers.

Critical theorists challenge this view by drawing attention to the fact that in a globalized world, threats to free speech can also come from the market. They make the point that ownership structures often determine whose interests the media serves. Today's corporate media owners are more often motivated by profits rather than public service.

The idea of media as a watchdog remains relevant, but it does not legitimize the neo-liberal claim that a free market system is the best guarantor of free speech because 'controllers of market based media

are not necessarily independent — they can muzzle media surveillance of government if they are government supporters.’ And the hope that civil society would act as a guarantor of freedom, including freedom of speech, proved illusory.

3. Type of reforms

For the most part, Ukrainians and other residents of formerly communist states turned to the established Western democracies for guidance. Much of the advice they received was shaped by the Milton Friedmanesque neo-liberal ideas of the Washington consensus. The general thrust of these reforms was to roll back the state and allow market forces a free hand. Policy adviser Anders Aslund noted that, ‘Democracy and the rule of law were, of course, desirable,’ but the emphasis was on marketization.

Although there was heated debate about the pace of reforms, there was general consensus that Ukraine and all the formerly communist countries should move towards this type of market system as quickly as possible. Even years after the collapse, the dominant view in the academic literature is that market reforms disentangle political power from economic resources. There is less discussion of the fact that political and economic actors are part of the same elite group acting largely independently from society. For the most part, there has been relatively little critical assessment of the type of market reforms that were advocated and what impact these policies have had on politics, society, and the media.

Few analysts, such as former EBRD head banker Jaques Attali, cautioned that the goals of the market and democracy are not the same. Among those who did draw attention to the dangers of overly rapid marketization, few had policy advice to offer these countries who were engaged in economic reforms.

4. The manner in which reforms were introduced

To a certain degree, Ukraine followed the same path as most states exiting communism. Many East Central European states followed

advice and rapidly privatized their media systems. Generally praised for demolishing the state-owned system quickly, some analysts note that these countries uncritically adopted Western models from 'irresponsible foreigners who do not distinguish between Mongolia and Slovenia', and even exceeded the extent and forms of media privatization that exists in Western countries. The practice of privatization was also highly political, and mass media have remained vulnerable to manipulation by political forces or become dependent on commercial corporations. Media scholar Splichal commented that in East Central Europe: 'In most countries efforts to establish a democratic media system are limited — media ownership, organization, financing, management, control, procedures for licensing, rules for access — remain ineffectual and subject to political pressures'.

5. What happened in Ukraine?

In Ukraine, the situation in the early 1990s was even more complex. Elites and society were divided on the pace and direction of reforms, the economy was in steep decline, and little Western capital was flowing in. And there was the Russia factor — Ukraine remained integrated into Soviet-era networks and systems, including the centralized telecommunications system still controlled in Moscow. Without experience as a modern state, it faced the challenges of state and nation building in addition to needing political, economic and societal reforms.

In this context, media restructuring was only one of many priorities. Apart from a handful of Ukrainian journalists, a small number of romantics in the political arena and an assortment of idealists working for foreign NGOs, few were interested in creating a media system that would strengthen democracy and create an informed citizenry. Most were motivated by political power, or private gain, or both. Political actors wanted to relieve the state of the burden of financing a media sector that was in decline, but they wanted the media system to remain compliant and not pose a threat to them. Emerging economic actors were interested in acquiring media assets for two reasons. They believed that they could use media to both shape public opinion and influence political elites.

The first few years of independence were dynamic but somewhat chaotic. A private sector was emerging, and media outlets began appearing 'like mushrooms after a rainfall'. Few of them lasted long. For example, the country's top print journalists founded an independent newspaper funded by an early businessman. They called it *Respublika*, and began publishing in 1993. The owner gave them full editorial freedom and the paper soon became a national leader. However, within a year he ran into difficulties with his other business ventures and fled the country. The paper collapsed.

Slowly, relations with the outside world began changing. Ukraine was accepted as an independent political entity and Western finance began to trickle in. The country began to integrate into European communications networks and disengage from old Soviet ones. Internet technology arrived, and the first hubs were deliberately directed through Eastern Europe rather than Russia. However, in the early 1990s, Ukraine's entire media system still remained largely state owned and in decline.

6. Kuchma Takes Control and Privatizes the Media System

Real changes began when Leonid Kuchma was elected President in March 1994. His technocratic approach produced a hybrid, rather corrupt media system that continued to suffer from both state and corporate pressures. Kuchma began his political career with an ambitious economic reform drive. In 10 years the country's economy turned around and went into high rates of growth, but also experienced democratic backsliding. Kuchma probably did not really understand capitalism or democracy, but seeing economic decline, Russia's continued hegemonic behavior, and fearing unrestricted Western capital influx, he adopted a version of the neo-liberal vision of reform proposed by the Washington consensus and pushed through change.

He faced serious opposition. The political left was still powerful in parliament and attempted to block his reforms. Much of the old economic elite, known as the 'red directors', were threatened by the prospect of economic change and stalled while they stole from the increasingly weakened state. Kuchma looked for an alternative power base. He turned to the emerging business class, mainly small

entrepreneurs and the more savvy former communists, who were accumulating capital in a less than scrupulous manner but were the engine of the economy. Increasingly bypassing the stalemated parliament, he ruled by decree, and distributed portions of the economy to these new businessmen who could get things done.

Kuchma introduced two changes that fundamentally altered the media system. The way this was done shaped the complex inter-relationship between the state, market and media to the present. First, Kuchma removed Russia's domination over Ukraine's information space by issuing a series of Presidential decrees that asserted Ukraine's ownership over broadcast frequencies over its territory. The second step was privatization. Kuchma wanted the media sector to function efficiently and regarded broadcast media as just another type of state asset. Public service media was not part of his thinking, and television was privatized much in the same way as other state assets: certain actors were given privileged access and foreign capital was allowed in but limited. According to one insider, initiative groups came to Kuchma and said, 'Papa, here is a state enterprise that is failing, let's take this and make it work, and make it profitable'.

In the mid 1990s there were three TV channels with national broadcast reach. Kuchma kept one in state hands, UT1 and transferred the other two into private hands. Two very different groups created the private TV companies which received the valuable licenses and began broadcasting in 1996. Both had foreign investors, formally limited to 30 %, different visions, and good contacts with the President. One was Studio 1+1, cosmopolitan, Western oriented, created by Kyiv born German resident filmmaker Oleksandr Rodnianskyi, controversial early businessman Vadym Rabinovych, and US billionaire Ronald Lauder. The other, INTER was founded was Kyiv businessman Yevhen Pluzhnikov, influential member of the so called 'Kyiv clan' and SDPU(o) party. He secured 25% funding from the Ukrainian State Property Fund, and offered the Russian TV company ORT owned 30%. That same year legislation was adopted regulating advertising in media.

These two companies established themselves as the leaders in Ukraine's TV market because of these licenses. Others, like ICTV created by two Americans in 1992 who did not have the right contacts in the President's office, never managed to successfully compete until they were purchased by the President's son-in-law Victor Pinchuk in

1999.

From the beginning the private companies broadcast programming aimed at capturing audiences. Former TV star Olha Herasymiuk remembers the early days of working at Studio 1+1: 'We learned the word "ratings." The channel began with showing Western films and Hollywood soap operas, while INTER relied on more traditional Soviet-era films and shows from Russia. News was not their focus. INTER broadcast Russian news with only a short Ukrainian supplement until 2001. Studio 1+1 regularly changed news directors since it was difficult to find a good journalist who would also comply with the company's directives. Oleksandr Tkachenko, Reuters trained journalist who created the first Western style TV news programme, lasted less than a year. He left in 1997, refusing to spin the election campaign coverage to please the management, which was being pressured by the presidential administration. BBC trained Andriy Kulykov replaced him, only to be fired for displeasing an owner in a different way. In an interview he explained, 'Rabinovych invited me to his office and told me that he did not want to see Tymoshenko on his TV station. Soon afterwards there was some event where Tymoshenko was present and we reported on that. The following day I was fired from my position as news editor.' Similar things were happening throughout the media sector at the time.

As the economy improved the number of media outlets grew. Their owners, wealthy and powerful businessmen, expanded their media holdings, buying newspapers, radio stations and, eventually, internet sites. By the late 1990s, they had formed media corporations that included various forms of media, mirroring the patterns of convergence and concentration of media ownership in mature democracies.

However, because these businessmen and TV owners had gained their broadcast licenses (and other commercial assets) in non-transparent ways, and the judicial system is not independent, they remain vulnerable to state pressures. Kuchma tried to maintain control by balancing the interests of various oligarchic groups, granting and withdrawing privileges, removing some from the inner circle and bringing in new players. In 1999, Rabinovych was declared *persona non grata* and forced to leave the country, while Kuchma's new son-in-law Victor Pinchuk was brought to Kyiv and allowed to accumulate media assets, the three most successful second-tier TV companies (ICTV, STB and

New Channel).

It looked as if things might change after Kuchma was re-elected President. He announced, 'You are going to see a new Kuchma'. By 2000, the economy was growing for the first time in a decade, it seemed like the oligarchs were being reigned in. Kuchma appointed the pro-Western Victor Yushchenko as Prime Minister and travelled to Paris for the EU Summit where he was welcomed as a successful reformer. That autumn the Kuchmagate scandal erupted—the president was implicated in the death of journalist Heorhii Gongadze. He managed to hold onto power but was seriously weakened, shunned internationally by all except Russia. Domestically the oligarchs gained the upper hand. The Kyiv clan became particularly strong, with their key member, Victor Medvechuk, taking over the Presidential Administration and gaining control over much of the media system.

During this entire period censorship intensified. Much that is written about this focuses on the fact of the censorship, and few raised the question, what type of information was being censored? During the entire period when Ukraine's democracy was backsliding, *information crucial to the economy continued to circulate freely*. As internet usage grew around the turn of the millennium, even more information became available from global sources. Journalist Iryna Pohorelova noted that during the era of 'temnyky' (censorship instructions) the economy flourished.

7. The Orange Revolution and Beyond

In 2004, mass protests erupted in Ukraine, when the Kuchma-led establishment attempted to steal the presidential election. Two new important TV actors appeared in the lead-up to the election, owned by groups backing the two lead candidates. TRK Ukraina was financed by Rinat Akhmetov, a major oligarch from Donetsk behind establishment candidate Victor Yanukovych. Channel 5, which became the media darling of the revolution, was created on the suggestion of journalists Andriy Shevchenko, Roman Skrypin, Yeven Hlibovyts'kyi, and Roman Chaika. They convinced opposition candidate Victor Yushchenko and his supporter, mini-oligarch Petro Poroshenko to finance the venture. While Kuchma was still in power, Channel 5

effectively broke through the establishment's political information blockade and is widely regarded as an important contributing factor in mobilizing society.

After the Orange Revolution the 'Kyiv clan' lost their influence. The two most successful TV channels, Studio 1+1 and INTER, changed hands to businessmen allied with the new President Yushchenko. All the new and old owners quickly accommodated to the new President and continued to use their media to further their larger corporate interests.

Yushchenko was widely praised for ending heavy handed state censorship of news, however, he did not end state ownership of the national TV channel UTI and convert it into a public broadcaster, despite promises. Furthermore, commercial pressures on media outlets remained and arguably increased. In 2005, one TV news editor admitted, 'We are now receiving corporate "temnyky" ' meaning that owners were increasingly attempting to shape the news. The chase for audiences accelerated the pace of infotainment, and tabloidization of the press increased. Widely respected internet paper *Ukrainska Pravda* began regularly posting images of semi-nude or nude women to attract readers. Hidden advertising, or 'jeans' as it is called in Ukraine, became an open secret. It became commonplace for journalists, editors, and media outlets to place promotional stories about political or corporate actors masqueraded as news in exchange for a fee. Thus during the Yushchenko Presidency, information provided to society through media continued to be distorted despite the lack of political censorship. In 2010 political pressures returned after Victor Yanukovich was elected President, although in a more sophisticated form.

In the new millennium Ukraine's communication environment has been transformed by technological advancements, the appearance of cable and satellite TV, and particularly the internet. Ukraine is now integrated with global media systems, open to both positive and negative international influences. It is now possible to receive over 400 channels in Ukraine and Russian TV has made a strong comeback. Thus although Ukraine's media system was successfully re-territorialized, in the global communications era this means little beyond the ability to license foreign broadcasters. The Habermasian public sphere has now splintered into what Tod Gitlin aptly called public sphericules. However, as is the case in other countries, these

changes have not fundamentally altered the power relationships between the state, the market, and the media.

8. Conclusion

Changes to Ukraine's media system in its first twenty years of independence need to be analyzed within a global comparative context and within the larger transformation processes. Despite the initial optimism that the market would eliminate censorship, privatization did not result in real free speech. Media scholars have documented this extensively, noting that the market can also curtail and distort communications. The Neo-liberal views in the US and UK in the late 1980s and early 1990s led to deregulation of their media systems, and shaped the policy advice to Ukraine. The results were similar. In the US seven to eight companies own most of the media system; in Britain, 80 percent of print media is owned by three men; in Ukraine the media is dominated by three large corporate groups. In all cases this led to a narrowing of the number of voices in the mediated public sphere, homogenization of media content, and a trend towards infotainment. In Ukraine the situation is more complicated due to a lack of an independent judiciary which makes media owners vulnerable to political pressures in a more direct way, and significant differences remain in the relations between political elites and journalists. However, as American media scholar McChesney has noted, 'There are no simple solutions on how best to organize media and communications systems to promote a healthy economy and democratic values'.

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The Consequences of the 2012 Election in Ukraine

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Parliamentary elections October 28, 2012 revealed a number of trends. First: The elections showed that a victory of the opposition was not just possible in an indeterminate future, but was already possible in short. Civil society underwent deep changes and a clear increase in political experience has become apparent. The government lost the proportional part of the election, despite pressure on society. The elections testify of a gradual revival in the social society of faith in themselves. Society learned the ability to work together. Election by proportional lists gave optimistic assessments of the common sense of the population. The opposition won the elections on proportional lists by as much as 7%, which is twice more than the gap between Yanukovych and Tymoshenko in 2010.

Only a strong society has the privilege to vote. Real elections in Ukraine, without significant violations, took place mainly in Western Ukraine. At least, there, the social society is stronger than in the rest of the territory. That means that there was real competition. On the contrary, the East and South did mostly vote for any candidate proposed by the government, without a serious competition. Often, they voted not out of sympathy for a candidate or a party, but out of weakness.

In the Center of the country a real competition, almost a “war” took place, because of the kind of “halfway” situation of society: the civic society had enough strength to disagree with government appointees, but simultaneously, candidates could often not reach enough strength and consensus to break the situation to their advantage. In actual fact, in the large Central regions of Ukraine (from Khmelnytsky to Sumy and from Polissya to Kyrovohrad, with a population of 17 million), the opposition won only when strong local leaders and a

serious level of agreement were available.

Second: The opposition was still too weak. It fielded many candidates who apparently lacked political and social strength and persuasiveness. Nonetheless, in large parts of the country the population voted for “opposition brands”, sometimes preferring opposition even where it did not really fight for victory. As a result of competition between “UDAR” and “Batkivshchyna” in more than two dozen of electoral “districts” (okruhs) officials who radically changed the composition of Parliament, went on to victory. The main content of the last election was not confrontation between opposition and government in itself, but the achievement of a consensus in a multiparty opposition camp.

Opposition (the whole of it) looked extremely sluggish. For example, the entire program of “Batkivshchina” was built on the slogan “We will stop them”, although its real action contradicted this very ambitious task.

Third: The elections revealed serious shortcomings of the electoral law, which allowed authorities *de facto* to win the election, while *de jure* government lost elections. The half of Ukraine’s Parliament — 225 members — were elected from closed party lists. The remaining members were elected in single-seat constituencies by majority rule.

The introduction of a system of relative majority (which foresees the possibility to win even with only a 1% more of votes than the competitor) dramatically reduced the role of the social community, that means, ultimately, the role of democracy. On the contrary, it raised the significance of intrigue and manipulation, among others introducing “technical” parties and candidates who only pretended to be in competition, while, in actual fact, they swindled people. By that “trick” the vast majority of the winners received only about 30% of the votes, but they now represent the entire society.

Even there, where the confrontation between pro-government candidates offered a possibility of victory for the candidates of the opposition, the current electoral system still can not be considered an expression of democracy, it remains the result of intrigues. Indeed, the system of relative majority sharply increased the importance of fraud and bribery. By the end, the final result was often determined by only hundreds or even tens of votes. Before the elections, some experts suggested that the government anyway may steal about 5–7%

of votes. Now, they had to acknowledge that there was no need to steal more in order to fulfill the entire election fraud: their result has been falsified by 180 degrees in most majority districts

We have to admit that the opposition failed to put up any kind of resistance to the introduction of such an electoral system. Nobody did even raise voice against this clear violation of the principles of democracy. This is true also for the paradoxical silence of NGOs, which either lacked the competence to assess the threat, or did not allocate their grants on the issue.

“Batkivshchyna” and “UDAR” tried to withdraw their risky candidates, however, without success. They lost their chance to create the adequate competitive conditions for a selection through elections conducted in two rounds. It should be clearly understood that without a return to an electoral system based on the absolute majority of voters, the return to democracy will not be possible.

Fourth: Falsification and extremely wide bribery influenced the outcome in dozens of districts. Dozens of deputies who in actual fact were not elected were to form part of the Parliament.

Authorities have provided the best conditions for impunity of bribery and, sometimes, blackmail of voters, creating what boils down to an actual “law enforcement”. At the same time the government concentrated most of its monetary resources for bribery. On their side, local government officials intimidated activists and even ordinary voters, threatening to deprive them of salaries and pensions, should they not comply with the directives of the authorities, which are thus guaranteed of getting the expected number of votes.

However, besides the widespread frauds and strong administrative resources enacted to have candidates elected in majoritarian constituencies, another factor that disadvantaged part of voters is connected with social problems. An impoverished society, demoralized by preceding Soviet style rule and contemporary examples of behavior given by “modern” politicians, proved to be very vulnerable to bribery, be it direct and indirect. As a consequence, in the Parliament will sit a large number of MPs who have just “bought” a neighborhood. Pro-regime candidates often “bought” such consensus making use of public funds.

The conditions for acquisition of votes and consensus taking possession of state treasury and public resources, were created by the

government itself. No upper limits for election funds were established, no limits for television advertising. Competition of candidates and their programs were replaced by competition of money bags and technologies. The role of technology put at the disposal of political propaganda increased. Live TV shows became means of manipulation mainly due to the selection of guests. Voters in Ukraine received a lot of mindless information and outright misinformation. The state information machine spent taxpayers' money for pro-government propaganda.

Fifth: Another bothering result indicated by these election may be labeled as the "fate of technical projects". Footballers, actors, ex-president and other such candidates failed primarily because they offered a minimal quantum of politically and intellectually valid content. Of course, it is possible to counterclaim that 29% for the Party of Regions and more than 13% for the CPU (Communist Party of Ukraine) is too much to be seriously contested or counterbalanced. On the other hand, it must be taken into account that people in the provinces of the South and the East of the country are living since decades in isolated information ghettos, still now they are not living in the era of Internet. All this considered, the main question remains the following: did all the components of the opposition mentioned above do enough to reach these people and offer them a credible alternative and convincing plans for future?

Sixth: The victory of the nationalist "Freedom" party, "Svoboda".

The official result of the party grew from 0.7% in 2007 to 10.44% in 2012. There is clear evidence that the "Freedom" party had many of its votes stolen by competitors: at the beginning, 4 out of 6 exit polls gave "Freedom" more votes than the Communists; the latter, however, was eventually accredited to have received over 13% of the votes. Remarkable is the fact that 25% of the electorate of the party of "Freedom" is represented by Russian-speaking voters, who have been influenced by the anti-Ukrainian initiatives organized by the government itself in the humanitarian and social policies. This made the style and ideas of "Freedom" acceptable for a significant number of voters of the South and East of the country.

Other reasons for the success of "Freedom" may be found in the fact that it offered real ideology, a unique case for the standards of cynic politicians in Ukraine. Moreover, one should mention the ability

of the party to organize themselves and not to make their internal affairs public. The future of the party will depend on the common sense of its managers and the ability to transit the party from solely national identity issues to the level of real solutions that truly define the life of the whole country and its society: anti-corruption measures, judicial reform, land issues, local government and others.

“Freedom” and “Batkivshchyna”, as expected, divided the “bonus of radicalism” which previously had been absorbed by Yulia Tymoshenko: all the elections — 2006, 2007, 2010 — gave her a better result than foreseen by sociologists. Political analysts often judge people on their own and refused to acknowledge that in all elections in Ukraine there was a very appreciable correction toward a more radical outcome.

However, in the first tour of the elections in 2015, the government could try to make Oleh Tyahnybok a leader of “Freedom”: he is an opponent to Viktor Yanukovych but, with such an opponent, Yanukovych can count on winning. Indeed, on the second tour, a candidate like Tyahnybok would hardly receive the votes of Eastern and Southern electors, and Yanukovych might mobilize these voters for himself.

Seven: The turnout of 57% is the result of discrediting not only politics, but also the Parliament as such. The Parliament lost its weight as a real instrument of power and a platform for dialogue.

Eighth: There is one positive aspect in the results of the elections of October 2012: in Ukraine there is a gradual convergence of electoral regional preferences. There is no real division, as often stated by Western media. Despite the pressure exerted on them by authorities, people of the South and East of the country are now beginning to look for alternatives. 12% in Sevastopol and the Donbass, 20% in the Crimea, 32% in Kharkiv, almost 40% in Kherson and Dnipropetrovsk voted for three big opposition parties.

Which may be the possible counteraction to change the whole situation? It would be vital to prescribe stricter procedure for the counting of votes, beginning with its broadcast on cameras to show each ballot to observers. It would be useful to introduce extremely heavy fines for violation of procedure. In addition, it would be very useful to limit the time of voting and close the polls at 6 PM, instead of 8 PM as it is now. The country should know the elections’ results

on the same day of the elections. Tightening of time and rules for vote counting might reduce the possibility of fraud.

The creation by the government itself of the most favorable conditions for fraud and absolute toleration of bribery showed that it is an impossible task to remove the government with the simple recurrence to elections, without direct public pressure. The government is not afraid of receiving a law percent of votes, because it draws them from the electorate with all possible means and falsifications.

Most likely, the next step the government will take when the next elections will take place, will be a tentative of obtaining unanimity in the exit polls. This may be actuated ordering only a little amount of dependent exit polls. However, the possibility exists that time will play against the Party of Regions thanks to the economic crisis which tightens budget belts.

Since Yanukovych did not obtain the needed 300 seats in Parliament in order to be elected President, there is the possibility that he will perpetuate his rule through constitutional changes, to be introduced with a referendum.

Indeed, a new law on Referendum was taken, without public debate, in the last days of function of the “old” Parliament, before the “new” Parliament was installed: the score of only 43.50% clearly shows the lack of public support for crucial decisions.

Thus, we may foresee two possible scenarios. In the first case, when the 2015 elections will approach, Yanukovych might introduce changes to the constitution through a referendum to preserve its dominance. As a second hypothesis he may organize a referendum together with elections. He would then propose for referendum such questions which may allow to convey favorable answers of his voters for the questions of the referendum, and for himself at the same time. For instance, the question of language may be such a means to mobilize the voters in favor of himself.

Indeed, the special nature of the Law regulating the Referendum is connected with the creation of “vertical commissions” for a referendum that will be completely in the hands of the authorities. Commissions are formed by local councils which, in 24 out of 27 regions of Ukraine, are dominated by the Party of Regions. Moreover, the Central Electoral Commission is under Yanukovych’s control as well, and he has the possibility of changing the composition of Commissions.

For this reason, unifying the parliamentary election with a referendum deprives the voters of a true democratic chance of expressing their opinion. On the other hand, in parliamentary elections this would be tantamount to having more pluralism, as the electoral commissions are actually formed by representatives of the major parties selected by lot.

The law regulating the referendum may allow the authorities in office to achieve any kind of result without problems. Moreover, this law did not totally exclude the possibility to violate the very independence of the country. In addition, the law provided the President with all means to agitate on matters of referendum, while media can be easily influenced by money to express their “favorable” or “negative” position on the referendum. In actual fact, the government has done everything to block public debate and have all possible means to enhance the solutions which are more suitable for themselves. One of the main traps of the referendum law is that the number of words in the questions is not restricted, nor is there any limit to the number of questions themselves. This brings a high degree of uncertainty among the electorate: Only a little percentage of people is able to read and understand the laws and its specific language, (indeed, often one has the impression that laws are not understood even by those who write them!). Useless to say that this is one of the worst kinds of total manipulation and that it has nothing to do with democracy.

Lastly, the economic situation should be taken into account. Ukraine’s GDP fell by 1.3% in the third quarter of 2012. No significant changes came in the IV quarter of 2012. In its election program, the Party of Regions “guaranteed” a GDP growth of at least 5%: the budget of 2012, however, showed only a 3.9%, while the global economy in 2012 grew by 2%, and the economy of developing countries by 4.5%.

Industrial production in Ukraine showed a clear falling tendency in 2012: in June industrial production in Ukraine fell by 0.9%, in July it fell by 1.4%, in August by 4.7%, in September by 7%, in October by 4.2% in November by 3.7%. Thus the overall industrial production grew in the first months of the year, but fell dramatically after June: in average, from January to November the industrial production grew only of 1.5%.

It must be acknowledged that some improvements took place in industry, where export represents the main branch for Ukrainian

economy and prices on world markets have grown. Also in the agricultural sector of Ukraine's foreign trade surplus for the year 2012 reached \$ 10 billion.

The main causes of the economic inefficiency in Ukraine may be seen in the dominance of monopoly and in corruption. They directly curtail any possibility of economic performance of the country as a whole. This harms the business climate, market incentives, investment and, ultimately, the vast majority of enterprises. Monopoly power liquidates market incentives, squeezes out the country's economically active population and dramatically reduces the competitiveness of the economy.

The year 2013 will be a year of struggle between the civil society of Ukraine and the ruinous instincts of the governmental authorities, which deepen the economical problems of the country.

Unfortunately, Russian influence still remains significant. Russia's interest in the Customs and the Eurasian Union is clear. Russia wants to defy the West again. In addition, Russia needs a market for its uncompetitive goods. Recently, Vladimir Putin said that Russia lacks 50 million workers for its modernization. Such Russian-centered "unions" as the "Free Trade Agreement", the "Collective Security Treaty Organization" and the new "Eurasian Customs Union" which is supposed to become operative shortly, are all unacceptable both for people and authorities of Ukraine.

Oleksandr Paliy

Nobody Wanted to Win

VOLODYMYR HORBACH

The best phrase to explain the hidden agenda of the parliamentary campaign held in Ukraine in October 2012, is that “nobody wanted to win”. Of course, not the candidates, but the chief strategists of the main political forces. Although nobody will confirm it aloud, the electoral campaign and actions of the main players reveal their motivation quite clearly.

In Ukraine, the Party of Regions had a plan to gather 300 seats in the parliament in order to change the Constitution. Changing the Constitution would have allowed the President to be elected again in 2015, not by public ballot but by vote in the Parliament. Achieving this goal was, if not an immediate result, then as a gradual process of enticement throughout 2013 and 2014 of supporters who wanted to prolong Viktor Yanukovich’s stay in power. Andriy Klyuyev, the party’s chief of staff during the electoral campaign and secretary of the National Security and Defence Council of Ukraine (NSDC), was responsible for this scenario. If successful, he could also expect to become Prime-minister and thus occupy the second highest position in the power structure after the President. The latter was also approved by a simple majority in the Parliament upon to the President’s request.

1. Internal Contradictions

However, apparently, not everyone in the Government could be enticed, especially those whose services may have appeared unnecessary for the President had the above scenario become a reality. An example would be Klyuyev’s main competitor, head of the Presidential Administration Sergey Levochkin. Levochkin played an active role in the

process of selecting candidates for the Party of Regions for October 28th elections and provided administrative support for them. It is obvious that the fundamental contradiction within the Yanukovych's team has been between the different strategies and visions of the heads of the NSDC, and the Presidential Administration: while Klyuyev directed staff and the campaign (people and finances), Levochkin controlled administrative resources and information policy of the major media outlets. At the same time each was tempting to shift responsibility to the opponent.

In addition, the President ordered Levochkin to secure the Western acceptance of Ukrainian elections being fair and democratic. It is well known that Western observers and politicians have declared that the October elections were a step backwards in terms of democratic developments in comparison with the previous elections. Thus, it appears that both 'pillars of the ruling regime' have lost because they did not fulfil the President's orders. One of them did not manage to provide a simple majority for the Party of Regions, as his competitor prevented him from achieving it. While the other failed to provide positive publicity of the electoral process itself, due to incidents in the single-mandate (winner-takes-all) constituencies after the polling stations were closed.

The Joint Opposition "Batkivshchyna" (The Fatherland) also did not have any illusions about whether Yanukovych would simply hand over power based on the elections' outcome. The main problem here was that the authorities have restored the 1996 Constitution, according to which, the Government should resign only in the case of a change of President. Parliament only had the right to express distrust for the Government, and in such a case, the President should issue a decree on the resignation of the Government. But the President still had the possibility to preserve the Government if, for example, Parliament refused to approve the new candidate for the position of Prime-minister. Only the President had the right to propose this candidature. One can easily imagine President Yanukovych acting this way given the current political conflict between the authorities and the opposition.

Furthermore, there were no volunteers among the opposition willing to take the responsibility for the unpopular measures that would be inevitable during this time of growing economic and debt

crisis. If the opposition had won and the President had agreed to nominate pro-opposition candidate for the position of Prime minister, he would still, in fact, control the security ministries. He would also actively use his right to *veto*. The media sphere, controlled by the oligarchs, would shape the image of the failure of opposition's social and economic policies.

The issue of the release of the former Prime-minister, Yulia Tymoshenko, might have been the only motivation for 'Batkivshchyna' to win the recent parliamentary elections. However, it looks as she was deliberately sacrificed at the stage of creating an election coalition of the two major opposition parties — 'Batkivshchyna' and 'Front Zmin' (The Front for Change). The clear explanation for this sacrifice is that the new leaders of the (Post-Tymoshenko) opposition had to secure favourable conditions for their own participation in the 2015 Presidential elections.

2. The Most Important Issue

Yuliya Tymoshenko's initial strategic goal, to create an anti-presidential majority around 'Batkivshchyna,' was becoming unattainable very quickly. Therefore, the joint opposition leaders established a new strategic objective to control more than 150 parliamentary seats in order not to allow the President to execute a Constitutional reform through the Parliament, essentially blocking Yanukovych's re-election. This explains why the opposition began negotiations with the Ukrainian Democratic Alliance for Reforms ('UDAR') on the mutual withdrawal of candidates in the single-mandate (winner-takes-all) constituencies that brought significant benefits, but not overall victory.

The leader of UDAR, boxer Vitali Klitschko, stated his readiness to form an own Government, although hardly anyone hoped that this opportunity would immediately come true. It was the first time his party had participated in parliamentary elections and, therefore, it was also an application for participation in the selection for the second round of presidential elections in 2015. The visible slowdown of rhetoric toward the end of the campaign could be explained as 'UDAR's will not to confront the authorities too early. 'UDAR', however, did not manage to avoid the attacks from both the Joint Opposition and 'Svoboda' (the

right-wing nationalistic party), but most importantly, still managed to enter the Parliament gaining 40 seats.

The main phenomenon of ‘*protest voting*’ during the recent elections, when the “*against all*” option was eliminated from voting ballots for the first time, was the fact that ‘Svoboda’ also managed to enter the Parliament. Not just the nationalists (in the common sense of the word) voted for Svoboda, but also liberals, including Russian-speaking Ukrainians. This time it was the most popular form of protest vote: the worse for the Party of Regions, the better! This situational motivation overcame the ideological beliefs of voters, who clearly understood against whom (and what) they voted by supporting the most radical opponents of the Party of Regions.

This was also evidenced by the fact that the electorate remained divided into what can be called “post-orange” and “post-white-and-blue”. Flows of support between ‘Batkivshchyna’, ‘UDAR’ and ‘Svoboda’ occurred depending on the current motivation of voters. More radical ‘Svoboda’ succeeded in convincing the electorate of its importance and managed to take away up to five per cent of ‘UDAR’s votes within two to three weeks. The nationalist party with a liberal name (‘Svoboda’s literal translation in English is ‘freedom’) proposed a more radical alternative than a liberal party with an aggressive name (‘UDAR’ also means ‘Strike’), and thereby satisfied the demand for radicalism. One more contender for the 2015 presidential elections now appeared: Oleh Tyahnybok, the leader of ‘Svoboda’.

3. The Elections

On October 28th 2012, voting was almost perfect, at least in those constituencies where there were real observers. However, in the post-Soviet space it is not the procedure but the whole electoral process that is usually falsified.

The introduction of a mixed electoral system allowed the Party of Regions to distort significantly the representation of Ukrainian voters. In the proportional part, three opposition parties gained significantly better results (about 50 per cent) than the ruling party (30 per cent), even if one takes into account the outcome of the ruling party’s allies — the Communists (an additional 13.18 per cent). Thus, if the elections

were held on a proportional basis, President Yanukovych would have lost control over the legislature.

Results of the Parliamentary Election 2012

Party	Number of seats won in proportional representation constituencies	Number of seats won in single-mandate (winner takes all) constituencies	Total number of seats
Party of Regions	72	115	185
Batkivshchyna	62	40	101
UDAR	34	6	40
Svoboda	25	13	37
Communist Party of Ukraine	32	—	32
Single Centre	—	3	3
People's Party	—	2	2
"Soyuz" Party	—	1	1
Independent candidates	—	44	43
Total	225	225	445

As the table demonstrates the results of the vote, the Party of Regions gained only 185 seats, nowhere close to the desired 300 seat constitutional majority, not even enough for a simple majority of 226 seats. Even with the Communists' 32 seats they would not have had enough. However, they had a large reserve among independent candidates. Consider also the fact that voter bribing lasted for many months, administrative pressure occurred, and administrative resources and selective financing addressed to some single-mandate constituencies were widely used.

A specific feature of the elections was the fact that most of the fraud, which had previously occurred at the level of local commissions, had shifted to the level of district election commissions. This time, the district commissions became an area in which the will of citizens was actively distorted and voting results had been adjusted. Although they operated in different ways, a comparison of the number of invalid ballots in some single-mandate constituencies as well as in

the whole country provides evidence of the manipulation undertaken by district commissions and their influence on the final outcome of the elections. The number of such ballots in the national constituency (about two per cent) is almost twice as low as the similar number in single-mandate constituencies. In some districts the difference is just incredible! In cases when the proportion of invalid ballots at a particular polling station differs dramatically from the average level and is approaching 50 per cent, it is not hard to realise that manipulation was going on, namely a deliberate damage of ballots containing the votes for opposition candidates.

There were tangible manipulations of voter turnout and voting itself in the regions being under the control of the ruling party. Thus, a recorded voter turnout in some adjacent polling stations in Donetsk differed by 30 per cent. This indicates the phenomenon of artificial overstating; In other words, voting on behalf of people who did not show up at the polling stations. There are many examples discussed online which focus on purely mathematical analysis and modelling of the electoral process.

4. Room for Hope

The main conclusion is that Ukraine still differs from its post-Soviet neighbours — Russia and Belarus, at least because the 2012 parliamentary elections were held under real competition and the opposition had access to the media, despite some significant violations being noted. The presence of a parliamentary opposition retained the hope of the restoration of democracy as soon as a window of opportunity would appear. The emergence of a single opposition candidate in the 2015 presidential elections will almost certainly mean the defeat of authoritarian President Yanukovich.

Despite the fact no change in power took place, the parliamentary opposition had changed qualitatively. The presence of 'UDAR' and 'Svoboda' made it much harder for the authorities to suppress the opposition. It will be also much harder to induce the informal backroom "corridor agreements" on some opposition parties, as there will be a tough fight within the opposition camp for the right to run for the presidency in the status of the opposition leader, not just a satellite of

the ruling party.

This is something that has certainly changed on the Ukrainian political scene, despite the fact that the real power still remained in the hands of the President's 'family'. President Yanukovich was to bear personal responsibility for everything that is going to happen in Ukraine in the nearest future, regardless of what he thinks about it and whether he wanted it or not. And, besides, nobody wanted to win!

Volodymyr Horbach

Ukraine after the Yanukovych Ruin

ALEXANDER J. MOTYL

1. Introduction

It may strike us as unlikely now, but sooner or later Viktor Yanukovych's presidency will end. It could happen in 2015, if the oligarchs who back him decide he is a loser and connive to remove him. It could happen in 2020, after his second term is up and Ukraine has been devastated so thoroughly that no one will want him around. It could happen between now and 2020, if some Party of Regions cabal decides that his incompetence is undermining their status or if the people realize that the prospect of endless Regionnaire rapine is no way to live one's life.

Although Yanukovych the man may not believe it now, he is human and humans have been known to suffer from creeping mortality. And although Yanukovych the president certainly cannot envision the end of his presidency—what aspiring dictator does not dream of misruling forever?—that presidency will end. Presidencies always do, even good ones, and Viktor Yanukovych, like his role models Vladimir Putin of Russia and Aleksandr Lukashenko of Belarus, will one day just be a bad memory

Although Ukraine may have to endure another three to eight years of Yanukovych's misrule, the end, fortunately, is in sight and the challenges of post-Yanukovych reconstruction may be envisioned, at least in broad outlines. Following the destruction wrought by Yanukovych and the Party of Regions, Ukraine will have to be reconstructed from top to bottom. Mere reform will no longer be enough. Even "radical reform" may not quite accurately capture the magnitude of change that Ukraine will have to endure to emerge from the Yanukovych Ruin energized and rejuvenated, and not enervated and ossified.

2. The Rise of Sultanism

Whether or not Yanukovych remains in office through 2015 or 2020 almost does not matter. The institutional destruction he initiated in 2010 is more or less complete, a sultanistic regime has emerged, and neither three nor eight years of additional misrule will significantly deepen or extend the institutional damage. Naturally, Ukraine's economy and society will experience far more damage from eight years of ruin than from three. By the same token, the likelihood of an oligarch-led putsch or a popular rebellion involving violence will grow the longer Yanukovych and his Regionnaires remain in power. That said, the regime he created—sultanism—will not change qualitatively anymore, except to break down.

After his election as president in early 2010, Yanukovych quickly accumulated vast powers, thereby transforming the presidency into a near-dictatorial office, while subordinating the other two branches of government—the parliament and the courts—to himself and his party. Despite claiming to be a moderate, Yanukovych actually proved to be a quintessential radical, indeed, even a revolutionary, one committed to destroying the existing order as rapidly and as thoroughly as possible.¹

Yanukovych created a political system that resembles a hub and spokes—with him at the center and almost all key political appointees directly responsible to him. The vast majority of these appointees are political clients from the Donbas, with very little experience of independent decision making, democratic procedures, and the technical know-how required to run a complex society, polity, and economy. Yanukovych acts as their patron, doling out favors, providing access to power and privilege, and supervising their work in a personalistic fashion. The logical end point of such a system is a neo-feudal regime with one patron, Yanukovych, presiding over a set of servile clients.

Yanukovych's power base, meanwhile, the Party of Regions, became the functional equivalent of the Communist party of the Soviet Union under Leonid Brezhnev: a vehicle for acquiring power, accumulating wealth, and dispensing patronage. Whatever ideological visions the Party of Regions once claimed to have were abandoned, and its

1. I discuss this development in Alexander J. Motyl (2010). See also Menon and Motyl (2011).

cadres became little more than the greedy clerks who once mismanaged the Soviet Union. Given the evisceration of the non-presidential branches of government and the emergence of the Party of Regions as the party of both power and theft, it was probably inevitable that Yanukovych himself would become the source of increasingly personalized rule, while his closest confidantes—and a sultan's closest confidantes are always his family members—would join him in running the country for their own ends.

The apex of this institutional development was reached in 2012: the triumph of Yanukovych and his “family,” the reduction of the Rada and the courts to meaninglessness and buffoonery, and the emergence of the Party of Regions as an instrument of plunder. There is nothing more for such a sultanistic regime to experience—besides decline, of course—in the next three to eight years. Yanukovych and his family cannot acquire more power, the other institutions of government cannot become more meaningless, and the Party of Regions cannot become more rapacious. Ukraine and Ukrainians can of course become poorer and more humiliated, but that is a different issue, to which I shall return below.

3. The Instability of Sultanism

A sultanistic regime is intrinsically brittle and therefore destined to decay. First, a personalistic regime is the antithesis of a stable institutionalized state. Sultanism may function in a medieval feudal setting with a primitive peasant economy and an illiterate society, but it is incompatible with both a modern economy and society that can be governed only with flexible and effective institutions and an increasingly globalized world within which information plays a critically important role in government. Second, personalistic regimes are dysfunctional precisely because vassals are unwilling to employ individual initiative without the patron's approval. As a result, decision making inexorably moves up the hierarchy and the decision-making capacity of the sultan becomes terribly overloaded. Third, because clients compete with one another for the patron's favor, they tend to compartmentalize, refuse to cooperate, and desist from providing the patron with accurate information—thereby undermining his capacity

to make good decisions.² Fourth, such regimes are, by definition, highly corrupt, and corruption transforms the bureaucrats who run the state into little more than self-interested cogs with no loyalty to the sultan.³

Four additional factors peculiar to Ukraine compound the brittleness of Yanukovych's sultanism. Thus, a sultanistic regime might be able to survive if the sultan were a philosopher king. Needless to say, Yanukovych is no Plato. Although he understands "street politics" extremely well and knows how to manipulate friends and foes to maintain a rough balance of balance among his associates, he appears to lack fundamental knowledge about the world and fundamental governing skills. It is in this light that his notorious and embarrassing proclivity to get his facts wrong is important. He has confused the famous Russian poet Anna Akhmatova with his billionaire backer Rinat Akhmetov, the Jewish writer Isaac Babel with the German socialist August Bebel, Slovenia with Slovakia, and genocide with the genetic fund. Yanukovych has called the Russian playwright Anton Chekhov a Ukrainian poet and the Helsinki Treaty the Stockholm Treaty. Yanukovych's best-known gaffe was to have misspelled "profFessor" back in 2004—a mistake that is doubly embarrassing inasmuch as he claims to have two higher degrees, a Master of International Law and a Doctorate of Economic Sciences (the latter from some unnamed institution of higher learning). Yanukovych somehow managed to acquire both degrees and write a dissertation while serv-

2. Typical of this inability to make good decisions is the Yanukovych regime's embarrassing non-deal with Spain's Gas Natural Fenosa utility company. On November 26, 2012, Vladyslav Kaskiv, the director of the Ukrainian state investment agency, and a man he believed to be Fenosa's plenipotentiary, one Jordi Sarda Bonvehí, signed a document committing Fenosa to participate in a \$1 billion project to build a liquefied natural gas plant near Odessa. The signing took place amid much fanfare and in the presence of a beaming Prime Minister Mykola Azarov and Energy Minister Yuri Boyko. Almost immediately after the TV cameras stopped rolling, Fenosa denied that Sarda Bonvehí was empowered to sign anything on its behalf. In a word, the Yanukovych regime's top policy makers had agreed to a deal with an imposter. The Ukrainian press had a field day (<http://www.pravda.com.ua/articles/2012/11/29/6978414/>). Even *The New York Times* (<http://www.nytimes.com/2012/11/30/business/global/in-ukraine-a-mystery-man-fakes-a-natural-gas-deal.htm>) and other international news outlets (<http://www.reuters.com/article/2012/11/28/ukraine-lng-idUSL5E8MS2XI20121128>) covered this remarkable example of regime ineffectiveness.

3. On the dysfunctional features of over-centralized regimes, see Motyl (2001).

ing as full-time deputy governor and governor of Donetsk province, which with 4.5 million people is Ukraine's largest.

A Ukrainian sultan might also be able to compensate for regime weaknesses if he enjoyed vast legitimacy. Once again, Yanukovych came to office with very weak legitimacy and whatever reserves he possessed in 2010 have almost entirely evaporated. Yanukovych's efforts to establish strong-man rule already are, and will continue to be, resisted and ridiculed by the general population—partly because Yanukovych is so prone to gaffes, partly because he has accumulated fabulous wealth while the rest of the country has experienced severe economic contraction,⁴ and partly because all government leaders can maintain popular support with some combination of three resources. If leaders are charismatic, people will support them because they believe in their wisdom. Yanukovych, needless to say, does not fit the bill. If regimes have ideological appeal, people will support them because they believe in their visions for the future. The Yanukovych regime, as all Ukrainians know, has only no vision except perhaps for plunder. Finally, if regimes have economic resources, people will support them because of the material advantages that accrue to them. As even the Yanukovych people admit, they have no benefits to distribute and can stay afloat only by increasing taxes, cutting social programs, and enjoining the population to tighten its belts.

A Ukrainian sultan might be able to rule effectively if he possessed a state apparatus able to administer a population and territory. Instead, Yanukovych inherited a shambolic state bureaucracy that cannot serve as the basis of an effective authoritarian government. Tough talk by the sultan will fail to whip a bloated, corrupt, and inefficient bureaucracy into shape. Worse, Ukraine's security service and army are a far cry from those in Belarus or Russia. Yanukovych may want to be President Lukashenko, who inherited the Soviet security apparatus more or less intact, or President Putin, who can rely on thousands of *siloviki* in the secret police and army for support, but without a strong bureaucracy and coercive apparatus, Yanukovych can at most be a weak authoritarian ruler.

4. His fabulous residence outside capital city Kyiv, in Mezhyhirya, has become a symbol of Yanukovych's avarice and seeming indifference to the popular outrage his wealth provokes. His son, Oleksandr, has also managed to become one of Ukraine's wealthiest men since 2010.

Bona fide authoritarian regimes always need the support of the army and the secret police in order to stay in power. Ukraine's armed forces are underfed, undersupplied, underpaid, and undertrained. Ukraine's Security Service is a fair-weather friend. It may have conspired to undermine President Leonid Kuchma; it appears to have played some role in preventing a crackdown during the Orange Revolution. And it knows too much—both about the rottenness of the Yanukovych regime and the hatred of the public—to blithely throw in its lot with a lost cause. The militia, which may number about 350,000, is also unreliable. Many of them are new recruits. Few of them believe in the regime. Most have joined because of the money and especially the bribes they extort from citizens. In sum, they are mercenaries, and mercenaries, as we know from world experience, often flinch when push comes to shove and they have to crack the heads of friends and relatives and realize they have no place to hide if and when the regime comes crashing down. That leaves the special forces. They are tough, and they are probably ruthless. But even thugs cannot be counted on in crises. After all, what made Iran's Revolutionary Guards, the USSR's KGB, or Germany's SS so formidable is that they were true believers in the regime and its leader. What exactly do Ukraine's elite forces believe in?

Finally, sultanism flourishes best where society is passive, apathetic, and weak. The condition of Ukrainian society is quite the opposite. The Orange Revolution and the five years of the Yushchenko presidency empowered the Ukrainian population, endowing it with a self-confidence that it lacked before 2004 and consolidating a vigorous civil society consisting of professionals, intellectuals, students, and businesspeople with no fear of the powers that be. Especially significant is the fact that, contrary to the conventional wisdom, Ukrainians are highly prone to protests. According to a study by the Center for the Study of Society, Ukraine has experienced 100–300 protest actions every single month of 2010 and 2011.⁵ The numbers are usually highest, between 200 and 300, when one would expect them to be highest—during the spring months of March, April, May, and June and during the fall months of October and November. The numbers for 2012 were especially impressive. There were about 100–150 more

5. <http://www.pravda.com.ua/articles/2012/07/23/6969317/>

protest actions per month in March, April, May, and June than for corresponding months in 2010 and 2011. A more recent study by the Center of protests in July shows that, at 404, they exceeded the previous month's 330 by 74.⁶ That was a record, sparked largely by the Regionnaire-controlled Parliament's adoption in late June of a law on languages that outraged Ukrainians. Significantly, July also saw another record: the number of repressive responses went up from 70 in May–June to 101—a 44% increase.

Will sultanism be able to modernize Ukraine? Obviously not. Sultanistic regimes are invariably corrupt and conservative, and there is no reason to think that the avaricious mediocrities who man the Yanukovych system will be able or willing to sacrifice their well-being to vague notions of reform, especially if reform undermines the very bases of their power and privilege. Such a regime will also be unable to develop any long-term solutions to Ukraine's deepening economic crisis, as reflected in declining GDP and industrial production, stagnant agriculture, an unfavorable current account, and a weakening currency. Stable, long-term economic growth requires creating institutional and legislative conditions that promote entrepreneurship and risk-taking by small and medium-sized business. Just such conditions, however, are antithetical to the regime's rent-seeking behavior and subversive of its alliance with the oligopolistic class of tycoons.

A corrupt regime such as this is a likely candidate for stagnation and decay.⁷ And, sooner or later, the regime will collapse under its own dead weight. That collapse may come in 2015, during the next presidential elections, or it may come in 2020, after Yanukovych finishes his second term. The only real question facing Ukraine is whether or not the collapse will occur peacefully.

It is perfectly possible for the tycoons who own a large chunk of Ukraine's GDP and whose assets are being stripped by the Yanukovych regime to join up with the forces of coercion and, in the manner of many third-world countries, stage a violent coup.⁸ It is also perfectly possible for mass-based violence to occur. It generally does when

6. <http://cedos.org.ua/protestmonitor/33-reports/129-repressions>

7. I discuss institutional decay in Motyl (2001).

8. See Huntington's masterful *Political Order in Changing Societies* (1968), on why and how coups and other forms of regime breakdown happen.

societies are humiliated and exploited, when oppressors look vulnerable and weak, and when individuals or groups with violent agendas exist.⁹ The first two conditions are already present in Ukraine and both will only intensify as the economy continues to stagnate and Regionnaire abuse of the population continues. The third could easily emerge, especially if a brittle sultanistic regime resorts to violence itself. Weak regimes often employ violence in the hope of quashing internal opposition. More likely than not, however, their violence only induces radically inclined individuals and groups within society to respond with violence.

4. After Sultanism's Collapse

The task facing Ukrainians after Yanukovych will be enormous. Inasmuch as Yanukovych and the Regionnaires have effectively destroyed post-Soviet Ukraine's political institutions and will continue to plunder the economy, Ukrainians will have to construct a regime and a state *de novo*. The collapse of sultanism will mean the collapse of a meaningless Parliament, meaningless courts, and an all-powerful presidency. The Party of Regions is also likely to collapse, as its ideologically indifferent cadres flee Ukraine or attempt to find refuge in other political institutions. Were the Regionnaires an ideological party, some of them might stay and fight. But inasmuch as their primary concern is self-enrichment, they will head for the hills as soon as the writing appears on the wall.

While sultanism's collapse is not tantamount to an institutional void, the institutional destruction wrought by sultanism will in fact place post-Yanukovych Ukraine in the extraordinary position of being a country without effective political institutions. Indeed, Ukraine will approximate a failed state. Under conditions such as these, the most important political actors will be the oligarchs, the forces of coercion, civil society and opposition movements, and charismatic individuals.

The oligarchs, the military, the militia, and the security service are almost certain to survive collapse intact, even if the regime's downfall is accompanied by social upheaval and mass violence.

9. For a discussion of the literature on revolution, see Motyl (1999).

- Ukraine's fabulously wealthy tycoons will remain fabulously wealthy and influential, regardless of whether they hide in their estates or their villas in the West. Their primary interests will, as always, be stability and security. Although sultanism offered some measure of both, the collapse of sultanism and Ukraine's subsequent time of troubles will likely incline the oligarchs to seek to align Ukraine with the global economy in general and the West in particular as the only reliable guarantors of both.
- The forces of coercion will remain relatively strong, although, in all likelihood, despised by, and illegitimate in the eyes of most of, the population.
- A variety of civic and political groups, movements, and organizations will survive, and perhaps even thrive, in a stagnant sultanistic regime, and all of them will make claims on the right to craft and guide Ukraine in the immediate aftermath of Yanukovych's departure. Their claims will be persuasive, legitimate, and popular, but they will be effective only if civil society resists the temptation to squabble and self-destruct.
- Finally, in uncertain, transitional circumstances such as these, charismatic leaders will thrive. Articulate individuals with forceful agendas and moral authority will be best positioned to play such roles, and it is they who could provide civic and political organizations with a unifying agenda and a common purpose. It is also they who could conduct negotiations with strong, but weakened forces of coercion and win them over to the side of the people. If she survives until then, whether in jail or in exile, Yulia Tymoshenko could easily emerge as Ukraine's Nelson Mandela.

5. Paths of Future Development

With institutional destruction, regime collapse, and Regionnaire flight on the one hand, and oligarch influence, coercive uncertainty, social mobilization, and charismatic leaders on the other, Ukraine could be in the position to break with more than 24 years of regime ineffectiveness and achieve an institutional breakthrough along the lines of what transpired in East Central Europe in 1989–1991. Then,

too, the existing communist regimes had managed both to eviscerate political institutions and promote state decay and to tolerate the emergence of powerful civic institutions such as Solidarity, dissident movements such as Charter 77, and charismatic individuals such as Lech Wał[229?]sa and Vaclav Havel.

When the communist regimes collapsed and the forces of coercion remained indecisive and unwilling to crack down, the existing civic/political organizations could join forces with charismatic individuals to promote breakthroughs that enabled their countries to abandon communism and embark on democratic and free-market reform. The forces of the *ancien regime* were too weak, too confused, or too preoccupied with saving their own skins to stop them, and success was assured.

The choice before Ukraine's future democratic elites will mirror that before Poland and Czechoslovakia over twenty years ago. Post-Yanukovych Ukraine will remain unified, like Poland, if its civic-political institutions and leaders can agree on some degree of federalization or decentralization that enables Ukrainian-language speakers and Russian-language speakers to agree on Ukrainian as a lingua franca and on linguistic choice at every other level of social interaction. Post-Yanukovych Ukraine will go the way of Czechoslovakia if some such consensus is *not* found.

Chances are that the Polish scenario will get the upper hand. The Yanukovych regime's endorsement of Russian-language supremacism may appeal to some diehard Russian-language speakers, but it will, several years from now, likely be as discredited as the regime that spawned it. Unless the post-Yanukovych democrats engage in linguistic maximalism, it is a good bet that Ukraine will survive intact and that a "social contract" between East and West just may emerge.

A more substantive danger to post-Yanukovych Ukraine will be Russia, especially if Vladimir Putin remains president. The chances that a quasi-fascist petro-state such as Russia will become strong and stable are few.¹⁰ Quite the contrary, three to eight years from now Putin Russia is likely to be even weaker than today. Unfortunately, weakness may make Russia more, and not less, dangerous. A beleaguered Putin will almost certainly not choose democracy as the

10. See Menon and Motyl (2007).

means to save himself and his fascistoid regime.¹¹ Instead, Putin will tighten the reins and increase his neo-imperialist rhetoric, perhaps hoping for a “quick little war” that could, with seemingly minimal expenditure of resources, enhance his authority and legitimacy and provide his tottering regime with a shot in the arm.

Will Putin be able to resist taking advantage of a weakened post-Yanukovych Ukraine that is scrambling to build a democratic regime, an effective state, and durable bonds between its eastern and western oblasts? Probably not. Moscow’s continued political, religious, and financial support of pro-Russian parties is certain. Russian military intervention in the Crimea or the Donbas is perfectly possible. Although a post-Yanukovych Ukraine will survive the mobilization of pro-Russian forces, will it be able to resist a possible military intervention?

In normal times, such as today, the answer would be No. But post-Yanukovych times will be anything but normal. Post-Yanukovych democrats and forces of coercion may decide that they and their country could benefit from a mass mobilization in defense of “sacred” Ukrainian territory. And the people might just respond favorably to such calls. And the outcome could easily be a stalemate, which would be tantamount to a victory for Ukraine. Naturally, a defeat would mean Ukraine’s loss of the Crimea and some other territories to Russia. That would be painful, of course, but it could also serve to consolidate a post-Yanukovych consensus around a breakthrough agenda. If Russia forces Ukraine to assume Czechoslovakia’s path, we should remember that both the Czech Republic and Slovakia prospered after their divorce.

6. Prospects for Ukraine

Future historians are likely to credit the Yanukovych Ruin with having cleaned Ukraine’s slate institutionally and thereby prepared the way for a breakthrough toward a consolidated democracy and a free-market economy. Of course, nothing is inevitable and it is also possible that post-Yanukovych Ukraine will become a failed state di-

11. See Motyl (2012).

vided amongst oligarch-led clans, crime families, and warlords along the lines of too many precedents in Ukraine's history. Although *Otamanshchyna* is possible, it is significantly less so than a breakthrough toward a happier denouement. After all, the one thing that Yanukovych will never succeed in destroying is Ukrainian civil society. Because sultanism is too weak for that, civil society will continue to develop and to serve as the bedrock of the future Ukrainian republic.

Will Ukraine have "lost" five to ten years of opportunities for political and economic development? Not necessarily—but only if Ukrainian democrats begin thinking strategically now, envisioning the post-Yanukovych epoch, and preparing for it accordingly. Strategic alliances between and among democratic forces will be imperative. Promoting and consolidating civil society—if need be, even of a parallel society along the lines of Poland in the 1980s—will be no less necessary. So, too, will thinking seriously about how the forces of coercion can be made an effective and democratically inclined part of a functioning rule-of-law democracy.

It took Poland a little more than three decades to become independent after the uprising of 1956. If one considers that Ukraine's independence in 1991 is like Poland's upheaval in 1956, that the Orange Revolution of 2004 is equivalent to the Solidarity upheaval in 1980–1981, and that Viktor Yanukovych is General Wojciech Jaruzelski, then Ukraine's 1989 will come no later than thirty years after 1991—or 2021. With the acceleration of time in today's day and age, 1989 may even come in 2015. And then, with a little luck, Ukraine may finally become "normal."

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Alexander J. Motyl

PART II

LANGUAGE, CULTURE, LITERATURE

Pushing the “Regional Language”

Ukraine’s Law “On Principles of the State Language Policy” in Force

MICHAEL A. MOSER

The events that took place in Ukraine’s Verkhovna Rada on 13 December 2012 had highly symbolic value.¹ After people’s deputy Vadym Kolisnychenko from the Party of Regions began his presentation in Russian, a scuffle occurred in the Ukrainian Parliament. In the meantime, Kolisnychenko talked into the microphone and quoted from the recently adopted new Ukrainian language law that he himself had co-registered and co-authored:

Today we see people that are unable to read in the Ukrainian language. We see the actions of people who do not read the regulations. I would like to draw the attention of these analphabetic deputies to the fact that in accordance with article 2, part 3 of the regulations the language of the sessions of the Verkhovna Rada of Ukraine is defined by article 9 of the Law of Ukraine On Principles of the State Language Policy. And the law says that during the session of the Verkhovna Rada the deputy has the right to speak in the state language or in another one — we have eighteen of them. (“U Radi stalasia”; see also “Kolisnychenko zajavil”)

While oppositioners demanded that Kolisnychenko speak Ukrainian according to the Constitution of Ukraine, they did not notice that Kolisnychenko had in fact violated his own law. Namely, the relevant paragraph of the law “On Principles of the State Language Policy” reads as follows:

Article 9. Language for Sessions of Verkhovna Rada of Ukraine. 1. Sessions of Verkhovna Rada of Ukraine, its committees and commissions shall be

1. A detailed analysis can be found in my forthcoming monograph “Language Policy and Discourse on Languages in Ukraine under President Viktor Yanukovych”.

conducted in the state language. The speaker may use other language. Translation of his/her speech shall be ensured by Verkhovna Rada Secretariat when necessary [...]. (“Draft Law on Principles”)

The protests clearly demonstrated that a translation would indeed have been “necessary”. Kolisnychenko had again distorted the law that he and his party had pushed through the Verkhovna Rada in the summer of 2012 in violation of virtually all principles and rules of democratic conduct.²

On 15 December 2012, the party in power took the next step when Kolisnychenko’s party fellow Olena Bondarenko declared on TV that henceforth all deputies from her party would speak only Russian in the Verkhovna Rada (“‘Rehionaly’ pryntsypovo”). All this was just one more initiative to promote the Russian language under the guise of the protection of the “right for the native language” and the “regional or minority languages of Ukraine”.

1. The Non-Existent Regional or Minority Language

Officially, Ukraine under President Viktor Yanukovich is merely realizing the regulations of the European Charter for Regional or Minority Language and granting “the human right to speak one’s native language”, while former President Viktor Yushchenko had allegedly conducted “forcible Ukrainianization”. In fact, Ukrainian language policy under Viktor Yanukovich had first and foremost perverted the Charter.

The essential mistake regarding the European Charter in Ukraine stems from the fact that the Russian language as used in Ukraine does not meet the criteria of a “regional or minority language” as established in the Charter, which offers the following definitions:

For the purposes of this Charter:

2. Interestingly, on that same day when he presented to the Verkhovna Rada in Russian, Kolesničenko, who is Chairman of the so-called “Human Rights Public Movement ‘Russian-Speaking Ukraine’” as well as a leading member of the allegedly non-governmental (but in fact government-organized) Russia-based organization “World Without Nazism”, was elected “Chairman of the Executive Committee of the International Council of Russian Compatriots” (“Kolesničenko izbran”).

[...] “regional or minority languages” means languages that are:

- i) traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State’s population; and
- ii) different from the official language(s) of that State; it does not include either dialects of the official language(s) of the State or the languages of migrants. (“Charter”: 1)

All serious surveys³ reveal unanimously that owing to the Soviet heritage,

- a) Russian in Ukraine is not only used as a first language by most ethnic Russians of Ukraine but also by a significant percentage of ethnic Ukrainians, and by a large percentage of several non-Russian minorities of Ukraine,
- b) it is also used on a broad basis as a second (or third) language by many ethnic Ukrainians as well as representatives of several minorities of Ukraine and in many regards dominates the linguistic landscape of Ukraine.

Russian has thus obviously been established as a regional or minority language of Ukraine by mistake.⁴ The group that — more or less traditionally — uses Russian in Ukraine is not “numerically smaller than the rest of the State’s population” in most territories as well as across the entire territory of Ukraine. Russian in Ukraine does thus not qualify as a “regional or minority” language in Ukraine (as opposed to “Bowring”: 71–72), not to mention the fact that the protection of Russian in Ukraine by the Charter contradicts the spirit of that European document, which, according to its Explanatory Report, is primarily dealing with “small communities” that “have been engulfed

3. Statistical data can be found in my forthcoming monograph.

4. On 27 October 2012, I turned to Professor Stefan Oeter from the University of Hamburg, Chair of the Committee of Experts of the Charter, with the question why the Council of Europe accepted the inclusion of Russian into the list of “regional or minority languages”. Professor Oeter replied that my interpretation that Russian does not constitute a “regional or minority language” is well arguable, but the Committee of Experts for the Language Charter, as “treaty body” of the Council of Europe, does not perceive it as its task to criticize the ratification of the member states unless they are completely absurd. As, however, Russian is also the language of the Russian minority, this was, in Professor Oeter’s opinion, not the case (e-mail, 31 October 2012).

by larger ones” (“Explanatory Report”).

The history of the European Charter in Ukraine is delicate enough. After Ukraine signed the document on 2 May 1996 in order to be accepted as a new member state of the Council of Europe, the first ratification from 24 December 1999 proved to be unsuccessful, and the eventual ratification took place only on 19 September 2005 (“Humenchyk”: 72–74; “Radchuk”). The Ukrainian version of the Charter was not translated from either the (English or French) authentic versions, but from the non-authentic Russian translation. During the first stage of the ratification, Ukrainian documents related to the Charter erroneously dealt with the protection of nationalities, not languages. Since the Charter entered into force in Ukraine on 1 January 2006, it has officially protected the following languages: Belarusian, Bulgarian, Gagauz, Greek, Jewish, Crimean Tatar, Moldovan, German, Polish, Russian, Rumanian, Slovak, and Hungarian. The Charter is thus still protecting the “Jewish language”, which does not exist, as opposed to Yiddish or (Modern) Hebrew, which are not mentioned in the document. The Charter is problematic inasmuch as it is built upon a terminology completely different from that of the Constitution of Ukraine. Apart from that, during its ratification several rules of the procedure of the Verkhovna Rada were violated. Interestingly, among the most ardent supporters of the Charter, a document clearly designed as a pillar of Western democratic values, were the representatives of the Communist Party, who have never distanced themselves from Bolshevik terror (“Humenchyk”: 76–80). Another strong supporter has been official Russia, which has not ratified the Charter itself.

A final major problem regarding the Charter in Ukraine is the way of its implementation. Although the Charter stipulates that it is only “the Parties”, ie. the Ukrainian central state organs that “undertake to allow and/or encourage” the use of regional or minority languages (article 7), it has repeatedly been the local organs of power that have proclaimed Russian as a “regional or minority language” on their administrative level.

2. The Draft Law from 7 September 2010

At the beginning of his election campaign of 2009, Viktor Yanukovich,

while enjoying the same strong support by Russia as back in 2004, had again promised to make Russian the second state language of Ukraine ("Yanukovych zrobyt"). During his campaign, he however changed the slogans, because the status of Ukrainian as the sole state language is enshrined in the Constitution, and the prospects to change it based on a constitutional majority of 300 votes in Parliament and a successful nationwide referendum were (and still are) unrealistic. Therefore, the President and his party have temporarily adapted their program and are now promoting Russian as a "regional language".

Soon after Yanukovych became President in February 2010, first rumors about a new language law reached the public. On 7 September 2010, the law "On Languages in Ukraine" was submitted to the Verkhovna Rada by Serhiy Iefremov from the Party of Regions, Petro Symonenko from the Communist Party of Ukraine, and Serhii Hrynevets'kyi from the Lytvyn Bloc. The official authors of the law were Serhiy Iefremov and Jevhen Kushnar'ov. The latter had passed away in 2007. He is still being honored for his actions in 2004, when he organized protest meetings after the so-called "Orange Revolution" and threatened to establish a "South-East Ukrainian Autonomous Republic" (in Ukrainian: "PSUAR" or, ironically, "PISUAR"), with Kharkiv as its capital.

To put it briefly, the law "On Languages in Ukraine" foresaw that "Russian and other regional or minority languages" were to be used on a par with the state language in all territorial units where at least 10% of the population use that language. The regulations would have led to the protection of Russian on a par with Ukrainian in 13 out of 27 oblasts of Ukraine, whereas along with Russian, only Hungarian in Transcarpathia Oblast and Romanian in Chernivci Oblast had a chance to be protected too. The only sphere where the use of Ukrainian would have been mandatory was the army.

In the following months, both Ukrainian and international institutions issued negative assessments of the draft. The Venice Commission argued:

The main effect of the Draft will be to protect and promote Russian at an almost equal level as the State language in many spheres of public, social, economic, cultural and educational life throughout the entire territory of Ukraine (paragraph 65). [...] Such a preferential legislative treatment of the

Russian language promotes a de facto obligatory use of that language [...].
 (“Opinion”: paragraph 71)

At that point, Kolisnychenko announced that the Venice Commission had applied double standards, “because they dislike our snouts” [“ПОТОМУ ЧТО МЫ РЫЛОМ НЕ ВЫШЛИ”] (“Kolisnychenko *zvynuvatyv*”).

3. A Ukrainian Language Legislator and Human Rights Activist

It is remarkable that the fight for the rights of the Russian language is stereotypically linked with more or less hidden propaganda against the very existence of the Ukrainian language. According to his and his fellows’ propaganda, the alleged “fight against anything Russian” during Viktor Yushchenko’s Presidency had led not only to “the extinction of education among the Russian-speaking population, but also to a colossal decrease of education among the Ukrainian-speaking population”, while “the empty spaces were filled not with the Ukrainian language, but with Polonisms, Ukrainian–Galician, L’viv–based Galician dialects or altogether with a horrible Suržyk that cannot be labeled as the Ukrainian language” (“Kolisnychenko Press”). In early July 2012, he declared: “I am against L’viv–Galician dialects that have currently soiled the mass media. I do not regard that which they offer us as the Ukrainian language. This is the eructation of that part of Ukraine that was at some point always under somebody’s oppression” (“Kolisnychenko: *l’vivs’ko–halyts’kyi*”).

Kolisnychenko’s understanding of “multilingualism” and “linguistic tolerance” is illustrated by an interview he gave back in February 2008. After he claimed that it is impossible to receive university education in Russian, the interviewer disagreed and asked, “If you are not able to learn a Slavic kin language, what kind of scholar are you then?” At that point, Kolisnychenko replied: “So why should I, having Russian as a native language, learn anything else?” (“Mykhel’son Deputat”).

Ukraine’s independence is problematic in Kolisnychenko’s view. In his view, it “did not give anything, for 20 years whatever had been received from the Soviet Union has merely been consumed” (“Kolisnychenko *ob otmene*”). Kolisnychenko’s understanding of tolerance is

of a particular kind. In June 2011, he declared that deputies not in favor of recent draft laws on languages should be “checked by psychiatrists before they get their parliamentary mandates” and that they are people “who the state should get rid of” (“Kolisnychenko predlagaet”). In a blog conference in June 2010, he wrote that the oppositioners should be “laid on the scaffold” (“Kolisnychenko — Prezident”). Kolisnychenko’s initiatives in the sphere of language legislation are of course inseparable from these general political rhetorics and activities.

4. The Draft Law from 26 August 2011

After the draft law from 7 September 2010 had failed, it was Kolisnychenko who registered another draft law together with his party fellow Serhiy Kivalov (who is above all known for playing a leading role in the election fraud of 2004 that led to the Orange Revolution). Along with them, some representatives of the Jewish, Hungarian, and Romanian minorities were listed as the authors of the law “On Principles of the State Language Policy”. Almost all of them are members of the party in power or Kolisnychenko’s organization “Russian-Speaking Ukraine”.

The draft was almost identical with its predecessor. Not surprisingly, it evoked similar criticism.

The Venice Commission stated in its assessment from 19 December 2011 that

the main result of the proposed amendments will [...] not be that the Russian language will be used in fewer situations than it would have been the case according to the previous draft. (ibid.: paragraph 40)

Concluding, they found that

further improvements, increased guarantees and more substantial changes to the normative content of the Draft should be introduced, in order to create conditions for the effective implementation, in line with the applicable international standards, of the principles enshrined in the Ukrainian Constitution and formulated by the Draft itself. (paragraph 65)

Importantly, they argued:

The question remains whether, having regard to the specific situation in Ukraine, there are sufficient guarantees, in the current Draft Law, for the consolidation of the Ukrainian language as the sole State language, and of the role it has to play in the Ukrainian multilingual society. The Venice Commission can only reiterate its call, in its previous Opinion, for a fair balance between the protection of the rights of minorities, on the one hand, and the preservation of the State language as a tool for integration within society, on the other hand. (paragraph 66)

This time, the Party of Regions reacted in a curious manner. Serhiy Kivalov in all earnest claimed that the Venice Commission had positively assessed the draft (“Venkomissii”), and Vadym Kolisnychenko triumphed that “the approval of a draft law in the sphere of language regulation occurs for the first time in the history of Ukraine” (“Venkomissija”). As for the negative assessment of OSCE High Commissioner Knut Vollebaek, the party in power simply decided not to publish it. Instead, Kolisnychenko published a fabricated appeal that demanded no less than the High Commissioner’s dismissal (“Kolisnychenko More than 120”). Moreover, he called upon “Ukrainian society” that “one has to collaborate with and hear [“слышать”] not only the European institutions, but, above all, listen to and hear our Ukrainian organizations and one another” (“Kolisnychenko Na primere”).

5. Pushing the Law Into Force

In mid May 2012, Kivalov announced that it was “a rude violation of the rules of procedure” that the draft law had not been passed yet. From the position of a seemingly safe time lag to December 2011, he again alleged that the Venice Commission, “institutions of higher learning” and “practically all civic organizations connected with national minorities” had given positive assessments of his draft law (“‘Rehionaly’ pospišajut”).

On that same day, Vadym Kolisnychenko reported:

Unfortunately, however, yesterday, when the Party of Regions suggested to include [the language law] into the debates of the Verkhovna Rada of Ukraine during this Parliamentary week, Parliamentary Speaker Volodymyr Lytvyn again suggested to postpone the issue — to “discuss” it once more

with the faction leaders — that is, again “to begin talking” and to “let it ride” [in Russian “запустить по долгому колу”]. The inability to take decisions important for the country (without paying attention to the momentary moods of the electorate in a concrete electoral district) is not the best trait of a political leader. (“Kolisnychenko Nastav”; the entire fragment is emphasized in original)

On 16 May 2012, Kolisnychenko appeared on the Ukrainian TV channel TVi [“ТБі”], which is one of the last bastions of independent media in Ukraine (and, consequently, under constant attack from the party in power). Kolisnychenko first advertised his law and then reiterated the stereotypical formulae:

We do not have a draft law on bilingualism. We have a draft law on principles of the state language policy, which is in full accordance with the obligations of Ukraine regarding the implementation of the European Charter for Regional or Minority Languages. [...] Nobody has removed the banner under the label ‘Russian, the second state language’ from the program of the Party of Regions. There are simply objective circumstances saying that a change of the language [in Ukrainian “ЗМІНА МОВИ”] — this is a constitutional referendum, and its fixation requires 300 votes in Parliament. [...] As for today, we cannot conduct a referendum. We cannot conduct it both because there is no law on the referendum and for financial reasons. (“‘Rehional’ pojasnnyv”)

Kolisnychenko thus openly announced a “change of the language” (“ЗМІНА МОВИ”) in the future. Was this just a remarkable Freudian slip? Or was it a conscious hint that the introduction of the so-called second state language would ultimately aim at the replacement of Ukrainian with Russian, as more or less demonstrated by Belarus?

On 20 May 2012, Parliamentary Speaker Volodymyr Lytvyn announced that the draft was “for the time being” not on the agenda (*ibid.*). Three days later, he wrote about “political hysteria” that had allegedly evolved around the draft law, which had suddenly appeared on the agenda anyway (“Zaiava Holovy”). He further explained that the draft law had in fact been included into the agenda in February 2012 and that at that time, 309 people’s deputies had voted for this agenda.

Prior to the Parliamentary Session of 24 May 2012, several deputies of the Party of Regions made preparations to prevent the opposition-

ers from blocking the tribune (“Rehiony sydjat”). In the meantime, more than one thousand protesters gathered in front of the Parliamentary building (“Aktyvisty”). During the session, Lytvyn declared he was planning to put to the vote the suggestion to take from the voting list or to postpone all draft laws on languages (“Lytvyn poobicjav”). Also, the Committee of the Verkhovna Rada on Culture and Spirituality had again advised the Verkhovna Rada not to adopt the draft law (“Lytvyn zakryv”).

Prior to the presentation of the draft law, Vadym Kolisnychenko presented himself in the Verkhovna Rada in a T-shirt featuring the slogan “The Great Russian Word” and the flag of the Russian Federation (“Kolisnychenko pryishov”). Later, he presented the draft law “On Prohibiting the Narrowing of the Scope of the Use of Regional or Minority Languages in Ukraine” and declared:

Dear Vladimir Mikhajlovich [Lytvyn], dear voters! You can hear the coven organized by the national fascists who do not accept any other point of view except their own. These are national fascists who are able to shoot a human being because he speaks a different language and not the one they like him to speak. These are national fascists who are able to shoot a human being because he claims a different nationality. (“Kolisnychenko Vystuplenie”, all in Russian).

Then Kolisnychenko presented the draft law “On Principles of the State Language Policy” and concluded:

So we have now seen this spectacle of greatness, as the great Ukrainian nation gives the opportunity to those people who are building the Ukrainian state, who have built it and are maintaining it with their taxes to give them the opportunity⁵ to communicate, along with the Ukrainian state language, in the regional language, in the native language, in order to be able to say to their children: native son or native daughter, I know that we live in this country that protects the rights of all people, I know that we live in this country where there will never be fascism and nazism. (ibid.)

During the following discussion, a scuffle evolved. The Parliamentary session ended.

5. Sic: “коли українська велика нація дає можливість цим людям, які будують українську державу, які їй збудували, які їй утримують на своїй видатки, дати їм можливість”.

A few days later, on 5 June 2012, Ukraine's Parliament adopted the draft law "On Principles of the State Language Policy" in its first reading. The voting was carried out in such a peculiar way that the oppositioners apparently did not understand what was going on (see "Najem Jak"). By the morning of 5 June 2012, some deputies of the Party of Regions had already blocked the chairman's tribune in order to prevent the oppositioners from averting the vote. Prior to the session, the deputies agreed to debate five registered draft laws regarding the language issue ("Chervonenko — Vuc — Gruzdev"). After Speaker Lytvyn opened the session, the opposition asked for a 30-minute break. Lytvyn agreed, but declared that some questions of minor importance had to be solved before. Four draft laws were withdrawn from the agenda, then Lytvyn suddenly put Kolisnychenko's and Kivalov's bill to the vote, but mentioned only its registration number (9073). Allegedly, the opposition was unable to identify the law without its name or the name of its authors, and after a few seconds of total confusion it turned out that the bill had been adopted with a majority of 234 votes (*ibid.*). Not surprisingly, many observers had the impression that the opposition knew much more about the scenario than they would admit.

Soon after the vote, journalist Serhiy Andrushko proved with reference to the Parliament's list of registration from 5 June 2012 that not 234, but only 172 deputies had actually voted for the draft law, while 62 alleged supporters had not even been in the Chamber ("Zakonoproekt"; see also "Leshchenko Obminnyj kurs"). Ukrainian law requires personal voting thus the adoption of the law in its first reading was thus invalid.

On 13 June 2012, Lytvyn informed the public that "no amendments" had "been proposed to the draft law ... in course of preparation for its second reading", but that he expected "many of them" later on ("Lytvyn: Ukraine"). Meanwhile, Kivalov declared that the law would be voted in its second reading as early as on 19 June ("Kivalov announces"), although the usual time span between the adoption of a bill in the first reading and its vote in the second reading is thirty days. On 15 June 2012, Lytvyn corrected Kivalov. He added that by that time, 400 proposed amendments had reached the Verkhovna Rada ("Lytvyn: 19 chervnia").

After two weeks of enthusiasm for the EURO soccer championship

held in Poland and Ukraine, Kremlin chief of staff Sergej Ivanov remarked on 2 July that the adoption of the language law would “do good for Ukraine itself and its citizens, its people” (“Ivzhenko”). Several noted that this may have been an indirect signal from Russian President Vladimir Putin as he was about to pay an official visit to Ukraine. Some regard the language bill as a component of the Russian program “The Russian language 2011–2015”, which aims to expand Russian in the CIS countries and the Baltic region (“Kostenko”).

On 2 July, Parliamentary Speaker Lytvyn reiterated that the draft law would not be put to the vote soon “for two reasons — its analysis in the Committee has not been finished, and this draft evokes political confrontation”. He even added: “We made a major mistake. Already prior to the first reading, we should have created a working group and seriously worked on that document” (“Rada vidklykala”).

The next day the draft law was adopted in its second reading. This is in violation of Verkhovna Rada’s rules of procedure which require 30 days to pass after the adoption of a law in its first reading, to allow committees to review suggested amendments before proceeding to the second reading. More than 2,000 suggested amendments had been proposed and the committee had reviewed only about 300 of them (“Ivzhenko”).

“Coincidentally”, Lytvyn was not in the Verkhovna Rada that day, but met with the President. Verkhovna Rada minutes reveal the following scenario: Vice Speaker Adam Martyniuk (Communist Party of Ukraine) raised the question who supported putting the draft law to vote (“Movnyi zakonoproekt”). As only 219 deputies voted for the proposal, he proposed to return to this question, and this was approved by 241 voting cards. Although the Vice Speaker then needed to ask whether the draft law should be put to the vote once again, he did not do so. Instead, while fighting for his microphone in mid of the turmoil that had broken out at the Chairman’s tribune, he moved to Lytvyn’s seat and immediately proposed to “adopt law 9073”. When the table showed that 248 cards voted for the adoption, Martyniuk declared, “The decision has been taken. Thank you”. The turmoil reached a climax, and the Vice Speaker closed the session (*ibid.*). After these events, Myxajlo Chechetov, Presidential Adviser and Deputy Chairman of the Regions Party, triumphed: “Experience the beauty of the game. We mixed them up like kittens. I don’t know what they will

be doing during the elections" ("Partia rehioniv"). Three months later, Vice Speaker Martyniuk admitted that "really, certain violations occurred" during the vote of the law, yet he argued that this was done in order to prevent "the occupation of the Parliamentary building by the most aggressive pro-nationalist forces" ("Martyniuk"). Apart from the violations of the procedure, again as many as 92 deputies had "voted" while they were actually not present in Parliament ("Nikolaenko"), and 156 would not have been sufficient for the approval of the bill.

During the week between 30 June and 6 July 2012, largely due to the language bill, the largest number of protest actions per week ever was recorded by Kyiv's "Center of Society Research" ["Центру дослідження суспільства"] ("Кил'кист' протестив").

Mustafa Džemil'ov, Chairman of the Mejlis of the Crimean Tatar people (and oppositioner), announced that the language bill is "unacceptable" for Crimean Tatars ("Kryms'kym tataram"). The Association of Jewish Organizations and Communities of Ukraine issued a particularly strong appeal saying that the bill "does not solve any problems regarding the languages of national minorities, but instead contradicts the Constitution of Ukraine, the regulations of the European Charter of Regional and Minority Languages, and the Convention for the Protection of National Minorities"). The signatories found that the authors of the draft law in fact "fight that the citizens do not speak the Ukrainian language, do not learn and use it", and they outrightly labeled the bill as "a crime against the Ukrainian language" ("Zaiava").

Shortly after the events of 3 July 2012, Kyiv's Razumkov Center published a fresh survey from mid-June (16–25 June 2012) revealing that 65.1% of the respondents believed that Kolisnychenko's and Kivalov's draft law was primarily designed as a measure to increase the popularity of the party in power prior to the fall elections, whilst only 24.0% interpreted these actions as an expression of the government's concern about the citizens' needs ("Bil'she 65%").

Meanwhile, Konstantin Zatulin, Head of the Russian Institute of CIS countries, made it clear in a remarkable statement that at least some Russian "specialists on Ukraine" actually saw a relation between the language bill and Vladimir Putin's upcoming visit to Ukraine ("Skandal'nyi"). In his amazing outline, the images of Catherine the Great and Vladimir Putin merged into one:

It was 225 years ago that Catherine II traveled to New Russia and the Crimea. Now President Putin will come to the Crimea instead of Catherine the Great. [...] Yesterday, when our President Vladimir Putin delivered a speech to the ambassadors of the Russian Federation in the whole world he appealed that Russia has to employ its strength with full measure. And the sense of this is conceivable. We should not only rely on our political and economic opportunities. We shall also employ our culture and language. All this has to foster the integration in the frame of the post-Soviet space. [...] In these days in Ukraine, confrontations do not stop after the adoption of a law that will allow giving Russian the status of a regional language in the eastern oblast's of Ukraine and the Crimea. [...] And Russia has to react to that. [Russia and Ukraine are still] heirs of a common history, regardless of any attempts at its falsification. . . Therefore we have to do everything that the common historical truth be innovated [...] No independence whatsoever can disunite us. (ibid.)

When Putin finally came to Ukraine on 13 July 2012 with a delay of several hours (because he preferred to spend some time with Russian bikers on his way to the Crimea) ("Ukraine slams 'rude' Putin"), the bill had not been signed by either Speaker Lytvyn nor by President Yanukovych.

Between 3 July and 30 July, the story of the language bill turned into a farce around Parliamentary Speaker Volodymyr Lytvyn, who first threatened to resign, was then threatened to be dismissed, repeatedly denied to sign the law and finally signed it on 31 July 2012 ("Lytvyn pidpysav").

According to the procedure, the language bill was then forwarded to the President. Yanukovych himself commented on the language bill during a meeting with the Club of Editors in Chief of the Commonwealth of Independent States, the Baltic Countries and Georgia in the Crimea:

I am sure that we must look at global practice. [...] The best guideline in this issue is the European Charter for Languages. Experts are to say how much this law conforms to this Charter, its standards. [...] The lawmakers who have initiated this law assure me that it has been tested at the Venice Commission. We'll see if this is the case. This process is underway right now. It will enable us to find the solution that will make it possible to take the language issue off the agenda for a long time. ("Experts to say")⁶

6. The President must of course have known about the negative assessments by the

On 6 August 2012, Presidential Adviser Hanna Herman, who occasionally plays the role of the Ukrainian patriot from the Presidential Administration, declared on TV that she did "not know what decision" Yanukovych would take, but after all Lytvyn had "taken away the major ace" from him ("Herman: Lytvyn"). On that same day, the media informed that President Yanukovych had invited some selected Ukrainian intellectuals to the Crimea in order to listen to their comments on the language bill. After the meeting, Herman announced:

The President has suggested very substantial amendments to the law. Apart from that, Yanukovych suggested a state target program for Ukrainian as a state language. He made the suggestion that all participants of the meeting take part in a working group that will work on this program and perfect it. ("Yanukovych tezh")

On 8 August 2012, the Presidential press service informed that Yanukovych had signed the law ("Yanukovych pidpysav").⁷ At the same time, Yanukovych in fact commissioned the Cabinet of Ministers to create two working groups commissioned to elaborate on amendments to the law and a "State Program for the All-Side Development and Functioning of the Ukrainian language" (ibid.).

As expected, it immediately turned out that Russian was to become virtually the only language protected by the law. Mykhailo Chechetov, Vice Chairman of the Regions Party Faction, announced on 16 August 2012 that the law met all requirements of the European Charter for Regional or Minority Languages, and added:

46 million people understand two languages: Russian and Ukrainian. Not Bulgarian, not Hungarian, not Rumanian, not Jewish, Yiddish, or Ivrit, I do not know how they are called. Only a couple of people understand these languages. We are talking about two languages, which all the people understand. ("Chechetov")

This statement embodied the ultimate perversion of the European Charter for Regional or Minority Languages. So did the further events.

Venice Commission.

7. On 9 August, he also signed the ratification of a Free Trade Zone with Russia and Belarus ("Yanukovych pidpysav zonu").

On 13 August 2012, Odesa's City Council held an extraordinary session and established Russian as a regional language ("V Odesi"). A day later, Prime Minister Azarov used a visit to Odesa to advertise the City Council's decision:

Now citizens have the opportunity to teach children, read literature, watch television and communicate freely in the native language ("Yanukovych: z chasom").

More oblast and city councils followed in, despite the fact that no local organ of self-government is entitled to proclaim a regional language. Only the Crimea hesitated, although it is in fact the "most Russian" territory of Ukraine. The obvious reason was that not only Russian, but also Crimean Tatar would have to function as a "regional language" in the Crimea.

As for languages other than Russian, almost nothing happened. Some of the local councils did call smaller administrative units to consider the establishment of regional languages other than Russian, but first and foremost warned against the significant financial burdens caused by such decisions ("Shche u tr'ox"). There were few exceptions for the principle of Russian as the only "regional or minority language" and they had almost no significance. Hungarian was established as a regional language by the City Council of Berehove/Beregszáz, a town of 25,500 inhabitants with roughly 48% Hungarians ("Uhors'ku 1"), and in Berehove district (rajon) ("Uhors'ku 2"), where Hungarian had been in broad official use before. As for Romanian, it was declared a regional language on the village level only in Bila Tserkva in Zakarpattia's Rakhiv rayon ("Rumuns'ka") and in Tarasivci in Chernivtsi Oblast' ("Moldovs'ka"), where 95% of the village dwellers are Romanians or Moldovans and the establishment of the regional language was little more than a declarative act.

One of the major reasons for the very limited enthusiasm for any regional languages except Russian were the immense costs of official multilingualism. This became obvious by late September 2012, when the State Law Court Administration announced that it had requested 16 million UAH for translators from PM Azarov, since according to the law "On Principles of the State Language Policy", any procedural documents had to be handed to the parties in the regional languages

("Sudy prosjat"). Vice Prime Minister and Minister of Social Policy Serhiy Tihipko declared from the outset that his Ministry would not pay attention to the regulations of the law, as it cost millions ("Oleksiienko"). Several companies complained that the law would cost them millions, as they were obliged to label their products in the regional languages ("Yazyk' nanese"; "Oleksiienko").

After several weeks the Presidential working groups on language legislation presented their results, including a "State Target Program for the Full-Fledged Functioning of the Ukrainian Language in all Spheres of Societal Life on the Entire Territory of Ukraine". Their final meetings were scheduled so late that the results could not be discussed in the Verkhovna Rada prior to the October 2012 elections. After the elections, nothing more was heard about these working groups.

The actual impact of the law "On Principles of the State Language Policy" has not yet become clear. Given the nature of the "fight for the Russian native language" as conducted by the current political agents of Ukraine, the law is barely more than a step toward the major agenda: the introduction of Russian as a "second state language". Preparations have already been made: The President has installed a Constitutional Assembly and signed a law "On the Referendum", both of which could contribute to a "change of the language", as Kolisnychenko put it (see above), and as it has been impressively demonstrated, *mutatis mutandis*, in Belarus after 1995, as well as in Ukraine itself, where as early as in December 2010, Odesa's newly-elected mayor Oleksii Kostusiev from the Party of Regions had demanded that henceforth, Russian only was to be used in the sessions of the City Council, and all documents were to be forwarded to him in Russian only ("V Odesse otkazalis").

For all these reasons, the case of Ukraine clearly demonstrates that not only the protection of regional or minority languages, but also the protection of state languages can be a very important contribution to the maintenance of the linguistic diversity of East Central and Eastern Europe.

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Language and Identity in Contemporary Ukraine^I

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During the first 20 years of Ukraine's independence the language question has been in the epicenter of political life. Ukrainian language situation, is one of the most difficult at the Post-Soviet space, and often compared to the situation in Belarus. According to traditional language classifications, the proximity of languages that belong to Eastern-Slavic group (Belorussian, Russian, Ukrainian) causes difficulties in the sociolinguistic situation and language policy, the similarity of the languages, mutual intelligibility often leads to a competition for domination in the most important domains of public life, education, official proceedings and documentation and mass-media.

In Ukraine critics often call the language problem a pre-election toy for politicians. After The Orange revolution in 2004, ex-president of Ukraine Victor Yuschenko and his team, along with ex-premier Yulia Tymoshenko, made significant political decisions in the area of language policy that supported the development of state Ukrainian language in many spheres.

First of all, the presence of Ukrainian in mass-media language was increased due to the decision requiring 70–100% dubbing of Western films into Ukrainian (films made in Russia were shown in Russian but with Ukrainian subtitles) in January 2007. Also, many new Ukrainian magazines appeared, such as *Ukrainsky Tyzhden* (Ukrainian Weekly), *Krajina* (Country) not necessarily due to a direct political decision, but due to the policy of the freedom of speech and mass-media.

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Secondly, in the educational sphere, the minister's decision to write independent assessment tests (externally administered tests required for admittance into universities) only in Ukrainian was a proper way of integrating national minorities into Ukrainian culture. Thirdly, in the sphere of legal proceedings the obligatory usage of Ukrainian was provided by new Civil Procedure Code and the Code of Administrative Procedure in September 2005. While all these political decisions were criticized in Ukraine's Eastern regions, and especially in the Crimea and by the Russian government, nevertheless, they were effectively implemented. These decisions partly changed the status of language planning, however, they did not significantly influence corpus language planning — there was no reform of the orthography at this period etc. These decisions were analyzed by language policy experts; therefore, for average Ukrainians they were not so remarkable. As the results of sociological survey conducted in the frame of the international project INTAS on "Language policy and language situation in Ukraine: anthropological, linguistic and further perspectives" conducted in December 2006 demonstrated, 37.5% of respondents responded that "Nothing has changed" when answering the question "How, in your opinion, has the general situation concerning the Ukrainian language usage in Ukraine changed during the years of independence?" 18.7% replied "There is a significant turn for better", 25.9% said "There is a slight turn for the better", 7.8% — "There is a slight turn for the worse", 5.8% — "There is a significant turn to the worse", 4.3% — "Difficult to say" (Besters-Dilger, p. 391).

However, some decisions were adopted but not implemented due to political reasons. For example, Viacheslav Kyrylenko — ex-vice-prime-minister on issues of humanities — proposed to establish a test on Ukrainian language for public servants. Furthermore, Ukrainian society was ready for such a decision, as 50.9% of the respondents favor such a test due mentioned above INTAS survey. Ivan Vakarchuk (former education minister) also proposed to introduce interregional exchanges among the universities: students and professors from Donetsk have to come to Lviv for one semester and vice versa (Shevchuk H., Trach, p. 101). Additionally, in January 2008, ex-president of Ukraine V. Yushenko had intended to establish an executive institution on the issues of language policy and signed the appropriate documents; nevertheless, this decision was not imple-

mented.

The reasons of the discrepancy of political decisions and their implementation lie in Ukraine's complex political situation wherein compromise among political parties often is unattainable due to extremely polarized positions about some questions, in particular about language problem. Consequently, ideas are developed but not implemented — due to the political conflict these ideas do not gained majority of decision-makers in parliament or government.

During the Yushchenko presidency, the National Commission on Strengthening Democracy and Law Supremacy adopted the Conception of Language Policy. A team of professional linguists, sociolinguists and political leaders worked on it, discussing the final version for a long period of time; nevertheless, it was not adopted at the level of Supreme Council. The main principles of this document are: 1) widening the functioning of Ukrainian as the official state language and, at the same time, non-interference of state into private language communication of the citizens; 2) providing linguistic-cultural rights to representatives of national minorities, if it does not contradict the functioning of Ukrainian as the official state language; 3) assignment to Ukrainian language the status of state symbol (such a status as arms, flag and anthem already have) and calling to account in a case of non-respect to language as a symbol; 4) knowledge of Ukrainian language as a basis to the acquirement of citizenship; 5) struggle with surzhyk (mixed Ukrainian-Russian language) and with plenitude of loan-words, especially in mass-media language; 6) increase the prestige of the Ukrainian language, in particular by means of orthography reforming; 7) state protection of shifting national minorities languages (Gagauz, Rum, Crimean-Tatar, and Karaim languages); 8) establishment of "positive discrimination" measures for languages that need special protection, in particular for Ukrainian language in some regions of Ukraine (Shevchuk, Trach, p. 99). Despite the fact that this document was not adopted at the high state level it still has considerable influence on the discussions about language policy and it is recognized as the most productive and constructive project in this sphere. An important characteristic of that period was that Ukrainian language and culture became popular and fashionable thanks to personal promotion of political elite. In that time many ethno-music festivals were organized, many musicians switched from Russian

singing to Ukrainian. Moreover, political language decisions were really implemented, not just declared.

After the presidential elections of 2009 V. Yanukovych, leader of the Party of Regions, became the President of Ukraine; as a result, since that time political orientation of Ukraine changed its vector from Europe to Russia. In the sphere of language policy it is undoubtedly demonstrated by the activity of Dmytro Tabachnyk — the Minister of Education and Science. First of all, political decisions of previous political leaders were partly cancelled; for instance, political changes into film dubbing were made: now in Ukrainian cinema theaters, Western films are broadcast not only with Ukrainian dubbing, but also with Russian. Such a decision is explained by protection the languages of national minorities; however, other minority languages besides Russian are not supported and represented in the cinema theaters.

Thus this decision cannot be recognized as adopted due to the principles of multiculturalism and language diversity protection; it strengthens Russian domination in the area of mass-media language. Bilingualism, and problems associated with it, has been increasingly prevalent since Victor Yanukovych became the President of Ukraine. In contrast, the policy of ex-President Victor Yushenko and his team was oriented to European traditions and values: the practice of majority of European states provides a national language with state status and gives linguistic rights to ethnic minorities. Ukraine as a typical postcolonial post-Soviet state is under the strong influence of the Russian media; the majority of mass-media in Central, East, and South Ukraine are broadcast and published in Russian. Most notably in the educational sphere, the Party of Regions intensifies Russian influence through The Draft Law on Languages in Ukraine (the authors O. IIEfremov, P. Symonenko, S. Hrynevetsky, #1015-3, 07.09.2010), among other political decisions. This draft law on languages proposes widening the use of the Russian language and has caused numerous protests by NGO movements. Cultural leaders also criticized the draft law as a way to relegate Ukrainian as “a language imprisoned in a folklore-ghetto,”² as compared to language policy of previous Ukrainian

2. Strikha M., *Tozh iaku derzhavu vony buduiut’?* (sproba analizu humanitarnoi polityky novoi vlady). Available at <http://www.day.kiev.ua/316979>; Published 10/18/2010

presidents that provided “compromises for European perspective.”³ The legislative strengthening of Russian language presence was called to support already dominant language, not minority one. The results of the survey “Language balance — 2” which was conducted by O. Medvedyev in 2010 demonstrated: “In general, in Ukraine, the Russian language dominates in all spheres of society, except education, advertisement, and cinema theatres. In many spheres the presence of Ukrainian language is extremely low, for example on the magazine market, in Internet, musical radio-stations, or close to zero, in such spheres as business, services, in the industry of entertainment, show-business, and video-distribution etc.”⁴

Moreover, the presence of Russian increased on the national TV-channels; for instance, “National council on issues of television and radio decreased the part of obligatory Ukrainian broadcasting for Ukrainian National Television Company from 95% to 75%.”⁵ The mentioned above The Draft Law on Languages in Ukraine (the authors O. IIEfremov, P. Symonenko, S. Hrynevetsky, #1015-3, 07.09.2010) was given to consideration of parliament committee in September 2010. This draft law does not proclaim Russian as a second official language; nevertheless, it promotes Russian in different spheres, in particular in education. According to the draft law students can choose their language of education and, moreover, change it in the process of learning. This principle has a direct link to Soviet times, when parents had the right to choose the Russian as a language of learning in school for their children, but this draft law proposes to widen this principle to the system of higher education. The consideration of this draft law in parliament committee was accompanied by protests where students and representatives of NGOs participated. Moreover, this draft law was criticized on the international level by Venice Commission, the advisory body of the Council of Europe in the field of constitutional law.

Experts of the Venice Commission assume that this draft law is misbalanced and recommend Ukrainian politicians to find more “in-

3. Ibid.

4. Medvediev O., *Braty moi rosiis'komovni, napyshit', choho vam shche brakuie*, Available: <http://www.pravda.com.ua/columns/2010/09/15/5384034/>. Published 15.09.2010

5. *Ukraiins'koi movy na UT-1 stalo menshe*, Available: <http://www.ut.net.ua/News/8307>, Published 10.0.2011

tegrated approach in language problem solving.”⁶ In its recommendations the Commission considers that structuring of language surroundings is a challenge to Ukraine in the context of its historical, lingual and political development. The draft law on languages put forth for consideration in Ukraine’s parliament is not a constructive project. On the contrary, in the case of its adopting it can become “counterproductive measure of regulating language usage in the country.”⁷ The project is perceived as an “attempt to widen the sphere of the usage of Russian language in Ukraine and as a step on the way of practical official bilingualism — Ukrainian and Russian.”⁸ As well it is remarked that in this project that “limited efforts are aimed at the direction of assistance to other languages of national minorities.”⁹ In their conclusion, the experts state that at the present time the real statistics of data about lingual self-identification has the most important meaning. Special attention has to be paid to high-lighting the language issue at the next national census.

In August 2011 the new draft law On Principles of State Language Policy (the authors S. Kivalov, V. Kolisnychenko, # 9073, 26.08.2011) was registered in Supreme Council. Actually, the previous draft law criticized by Venice Commission became a basis for the new one. The basic principle that reveals pro-Russian orientation of the document is expressed in Article 7: “To each language ... measures directed to usage of regional or minority languages are provided ... on the assumption of that number of persons — regional language speakers that live on the territory where this language is spread — is 10% and more of number of its population”.¹⁰ As Larysa Masenko, Ukrainian sociolinguist pointed out: “The criterion for definition of number of regional languages speakers, 10% and more, is arbitrary (there is no such a criterion in any international law) practically is used to provide usage of only Russian language along with or instead of Ukrainian as

6. Venetsians’ka komisiia: proekt zakonu pro movy obmezhuie status ukraiins’koi, Available: <http://www.unian.net/ukr/news/news-427889.html>, Published 26.03.2011

7. Ibid

8. Ibid

9. Ibid

10. Proekt zakonu pro movnu polityku, Available: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=41018, Published 26.08.2011

state language on the larger part of Ukrainian territory.”¹¹

The draft law has many contradictions. For example, article 8 proclaims that “public humiliation or disrespect, intentional disfiguration of state, regional languages or minority languages”¹² should cause criminal responsibility. The leaders of Party of Regions (for example, current prime-minister Mykola Azarov, minister of education Dmytro Tabachnyk, as well as president Victor Yanukovych) are famous for mispronunciation of Ukrainian vocabulary, as well as for disrespectful statements about Ukrainian language and culture. It looks like Party of Regions lobbied draft law according to which they should to bear criminal responsibility. Hence, in post-Soviet area the laws are more declarations than real mechanisms of social interactions.

On 5 June 2012 the Party of Regions lobbied draft law on languages to become almost a law (adopted in 1st reading). During voting there were legislative procedure violations. As is mentioned in a publication of independent journalist Serhiy Andrushko on Ukrainian Pravda, the real number of voting deputies was 172, not 234, as was officially proclaimed. Analyzing the list of deputies who voted for a draft law adoption, journalist revealed that many of them officially had vacations, were sick or in business trip to other countries.¹³ The situation around voting on 5th of June reminds a detective story. As was mentioned in numerous publications, the opposition had a plan to block a tribune of Supreme Council, but due to unknown reasons it did not work. Then opposition accused a speaker Volodymyr Lytvyn for defeat in language political game, and he blamed the opposition in union with a Party of Regions. Arseniy Yatseniuk, the leader of opposition, explaining situation, said: “There will be no such a law in Ukraine about Russian as a second state language! We did not win in this battle. But we will have a victory in a war!”¹⁴

11. Masenko L., Iaku metu naspravdi maiut’ avtory zakonoproektu, Available: <http://www.day.kiev.ua/229401/>, Published 6.06.2012

12. Proekt zakonu pro movnu polityku, Available: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=41018, Published 26.08.2011

13. Andrushko S., Holosuvannia za movnyi zakonoproekt — ne diisne?, Available: <http://blogs.pravda.com.ua/authors/andrushko/4fcf5283e29da/>, Published 6.06.2012

14. Oleksiienko O., Lielich M., Kolysnih kadestiv ne buvae: lidery opozytsii diut’ v unison z vladoiu, Available: <http://tyzhden.ua/Politics/52273>, Published 7.06.2012

Language politics has many intrigues, important actors and decision-makers are often not shown on the public. In the case of the language question the names of those “grey eminences” are revealed. In a recent publication by well known Ukrainian scholar Oxana Pachlovska and interview with Austrian linguist Michael Moser the question of Russian political influence on language question in Ukraine is analyzed in detail. Namely these are sponsored by Russian government pro-Russian organizations in Ukraine: *Russky mir* etc.¹⁵

The adoption of the draft law in its first reading was followed by protests in Kyiv and other regions. The main place where protests were taken place was nearby Ukraini's'ky Dim in the center of Kyiv. Some of people who protested against language draft law announced hunger strike. The actions were organized by NGO movements, and then politicians from opposition joined them. The dominant power answered the protests with military attack, as a result, some people suffered from riot gas attack.

Moreover, the protests looked like performances — young writers read their poems. In general, in Kyiv the protests united not only people who supported Ukrainian language and were against the draft law adoption, but also people who did not support the current President Victor Yanukovych and Party of Regions, as well as their political decisions in different political spheres. Numerous actions took place in Western Ukraine, the most Ukrainian-speaking region in country. Some of them had a form of humorous performance. For example, in Ivano-Frankivsk region, participants of the protest put wooden sticks with cut off pigs heads and tongues (language game — *язык* in Russian means both language and tongue), and posters with the names of draft law authors and the deputies from Ivano-Frankivsk region who voted for draft law adoption.¹⁶ The language law battles

15. See for detailed: Moser M., *Za teperishnikh obstavyn ofitsiina odnomovnist', iak ne paradoksalno, ie vazhlyvoiu peredumovoio dlia faktychnoi bahatomovnosti kraïny*: <http://historians.in.ua/index.php/ukrayinska-mova/299-mikhael-moser-za-teperishnikh-obstavyn-ofitsiina-odnomovnist-iak-ne-paradoksalno-ie-vazhlyvoiu-peredumovoio-dlia-faktychnoi-bahatomovnosti-kraïny>, 14.06.2012; Pakhlovs'ka O., *Strana rabov, strana gospod*, <http://www.day.kiev.ua/229647/>, 8.06.2012.

16. *Movni protesty" v rehionakh: vyrvani svyniachi iazyky, chynovnyky, iaki lizut' u vikna, ta spaleni prapory PR*, Available: <http://www.unian.ua/news/513021-movni-protesti-v-regionah-virvani-svyniachi-yaziki-chinovniki-yaki-lizut-u-vikna-ta-spaleni-prapori-pr.html>, Published 04.07.2012

endured while Ukraine was a host country for soccer championship “Euro–2012”. It could be considered as strategy of Party of Regions to change language legislation while public attention is concentrated on sport events. Moreover, majority of students were not in Kyiv, because they already finished educational year. In previous protests against Russian–language rights strengthening young people played a key role.

To block adoption of the draft law in 2nd reading deputies from opposition criticized its main principles and proposed to make 2000 amendments. As was stated in Supreme Council experts’ opinion, “the conceptual failing of draft law is that language is considered not as one of the main ethno–national characteristic, but as territorial feature that does not correspond to the theory of ethnos and nation. Due to this the draft law is directed not for meeting lingual needs of national minorities in Ukraine, but for implementation of regional languages, among which special place is given to Russian language.”¹⁷ The experts also underlined economical shortcomings, according to the draft law the state is obligated to provide official publication of state documents, except of state language, also in Russian and other minority language, which means that state documents have to be published in 14 languages.¹⁸

Proposals of the opposition were not taken to consideration by Party of Regions. On 4 July 2012, language draft law was adopted in 2nd reading. It caused a political crisis, therefore Volodymyr Lytvyn, speaker of Verkhovna Rada, submitted his resignation. Deputies did not support his decision; finally, on 21 July 2012 Volodymyr Lytvyn signed the document. On 8 August 2012 the document was signed into force by the president Victor Yanukovych and finally became a law n° 5029–VI “On Principles of State Language Policy”. Before signing the document president had meeting with Ukrainian intelligentsia and 1st president of independent Ukraine Leonid Kravchuk which tried to convince Victor Yanukovych do not make this political step.

The decision of Victor Yanukovych was widely discussed in Eu-

17. Chervonenko V., Iurysty Lytvyna: Movnyi zakon superechyt’ Konstytutsii, Available: <http://glavcom.ua/articles/7357.html>, Published 15.06.2012

18. Chervonenko V., Iurysty Lytvyna: Movnyi zakon superechyt’ Konstytutsii, Available: <http://glavcom.ua/articles/7357.html>, Published 15.06.2012

ropean and US media. They were disturbed by polarization of country and quoted Ukrainian oppositional strategist Oleg Medvedev: “Yanukovych has managed to do everything that the Russian emperors and the Soviet general secretaries could not do. He has passed a death sentence on the Ukrainian language”.¹⁹ The signing of language law was met by joyful meetings of Russian-speaking citizens in the East and the South of Ukraine, as well as by indignant protests in the West. As was mentioned in Kyiv Post publication, “... in other regions, some people were celebrating, although the sincerity of the reaction was in question”²⁰. To not lose the electorate in the Western Ukraine, Victor Yanukovych promised to provide a program of Ukrainian language development, which was called “the height of cynicism.”²¹ by opposition. Moreover, human rights activist Vitaliy Kupriy, from Dniprodzerdzhynsk, in Eastern Ukraine, launched a court case, blaming deputies for violating voting procedures, and accusing Volodymyr Lytvyn and Viktor Yanukovych in division in Ukrainian society.²²

After this political decision on the language question, the Ukrainian nation faces numerous questions: could a Belorusan variant be possible in the near future in Ukraine? What does it mean to be Ukrainian? Does it obligatory mean to speak Ukrainian in all domains? What is the Ukrainian national idea? Could Ukraine exist without the Ukrainian language? What effects, linguistic, cultural, economical, political, could adoption of the draft law in the second reading cause? But the main question is, what is Ukrainian identity? How does language form and influence it? What are the interconnections and correlations between language and identity?

19. Ukraine president passes Russian language bill, Available: <http://www.guardian.co.uk/world/2012/aug/08/ukraine-president-russian-language-bill>, Published 8.08.2012

20. Yanukovych signs contentious Russian language law into force, Available: <http://www.kyivpost.com/content/ukraine/ukraine-leader-signs-contentious-russian-language-law-into-force-311237.html>, Published 8.08.2012

21. Medvediev O., Te, choho ne vstyhly zrobyty rosiiski imperatory ta radians'ki henseky, zmih Ianukovych. Smertnyi vyrok ukraiins'kii movi pidpysano!, Available:., Published 8.08.2012

22. Ukhvalennia movnoho zakonu oskarzhyly v sudi, Available: <http://www.unian.ua/news/519633-uhvalennya-movnogo-zakonu-oskarzjili-u-sudi.html>, Published 10.08.2012

To answer all these questions first of all let us take a look on a definition of language policy. As it is defined in encyclopedia "Ukrainian Language" "language policy is a range of ideological postulates and practical actions directed to regulation of lingual relations in a country or to the development of lingual system in some direction. In multinational states language policy is a part of national policy, it reflects its principles, relates to dominate ideology. Direction and forms of implementation of language policy are determined by current societal-political organization, management regime, inter-ethnic relations in economics, culture, religion etc. Language policy is able to support the privileges of dominant language or assist for overcoming of national conflicts by supporting the language of national minorities." (Brytsyn, p. 105).

This definition refers to interdisciplinary concepts, but still it lacks one of the main things — concept of identity. Language forms identity, not only within small communities: ethnic, religious, corporate, regional, but also within a whole state. Therefore, the goal of language policy lies in supporting of this identity, not fragmentation, diffusion or breaking it. In his book on sociolinguistics, Spolsky underlines the social meaning of language: "The very centrality of language to social life, the value of language as a means of access to power and influence, and the symbolic value of language in establishing social class and ethnic identity, all produce conditions where people want to engineer language or language choice itself" (Spolsky, p. 66). The Ukrainian philosopher and linguist Kis points out direct links between language and culture, stating that "sometimes culture is defined as a way of organization (organizing, combining, and structuring) of proper stable meanings, conventional senses and symbols that characterized representatives of some community or group" (Kis', p. 10). Describing the political situation in Post-Soviet republics, particularly in Ukraine, Carmichael remarked, "... the ethnic situation in Ukraine is extremely complex for many reasons" (Carmichael, p. 273). The researcher supposes that in the case of Ukraine, "language is only one of the elements that have become the markers of a separate national culture, and is not necessarily the most important" (Carmichael, p. 273). However, we have doubt that language is not the most significant marker of national identity.

The question of language policy in contemporary Ukraine is more

political than linguistic. American sociolinguist Joshua Fishman analyzing interrelations between language and politics wrote: "It is difficult to oppose languages without opposing their speakers and their community interests. As might be expected, communities that are opposed frequently organize ("mobilize"), consciously, openly, unconsciously, covertly, to resist such opposition and to advance their own interests." (Fishman, p. 154). Oxana Pachlovska concluded in her article: "As it was during Soviet times, language is transformed to instrument of propaganda, indoctrination, and manipulative meanings."²³ Moreover, according to the results of sociological survey conducted by the Razumkov Centre in June 2012, 43.6% of Ukrainians support the current language situation without need of legislative changes, 31.8% are proud of the Ukrainian language as an attribute of Ukrainian statehood, and 60.5% have positive attitude towards the Ukrainian language.²⁴ Furthermore, the language question is not urgent among other social and political problems. As the Razumkov polls show, in 2005 8.9% of Ukrainians believed that resolving the status of the Russian language was urgent, in 2007 the number was 7.5%, and by June of 2012 had dropped to only 3.9%.²⁵

Analyzing the linguistic-political perspectives of Ukraine, Austrian linguist Michael Moser underlines importance not only of language choice, but also of language attitudes. He has a moderately optimistic point of view, considering that Ukrainian language could develop even in such a situation as a result of resistance to Yanukovych's regime: "Ukrainian-speaking alternatives have great chances nowadays. Language that differs from dominant language of fake slogans only will increase its attractiveness."²⁶

Summing up, language policy in contemporary Ukraine is com-

23. Pakhlovs'ka O., "Strana rabov, strana gospod", Available <http://www.day.kiev.ua/229647/>, Published 8.06.2012

24. Mel'nyk M., "Zakon pro movu: zasady movnoii polityky chy zasidka?", Available: http://dt.ua/LAW/zakon_pro_movu_zasadi_movnoyi_politiki_chi_zasidka\Tr\textendash106070.html, Published 27.07.2012

25. Ibid.

26. Moser M. "Za teperishnikh obstavyn ofitsiina odnomovnist', iak ne paradoksalno, ie vazhlyvoiu peredumovoioiu dlia faktychnoi bahatomovnosti kraïny", Available: <http://historians.in.ua/index.php/ukrayinska-mova/299-mikhael-mozher-za-teperishnikh-obstavyn-ofitsiina-odnomovnist-iak-ne-paradoksalno-ie-vazhlyvoiu-pere-dumovoioiu-dlia-faktychnoi-bahatomovnosti-kraïny>, Published 14.06.2012.

plicated and tightly connected with foreign policy as well as with economic issues. Recently, for the first time in history of independent Ukraine, language legislation was changed radically, strengthening the Russian language presence that already dominates almost in all spheres of public life. Such a political decision threatens Ukrainian language development, especially in the Eastern and Southern regions of Ukraine, as well as language attitudes towards Ukrainian language as one of the main attributes of Ukrainian independence and statehood. The solution of the problem needs complex analysis of language situation, and of correlation between language and identity in contemporary Ukraine.

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Nadiya Trach

A New Hero for Ukraine

Mazepa in Recent Ukrainian Publication

ALOIS WOLDAN

The year 2009 marked the 300th anniversary not only of the battle of Poltava, which, according to Voltaire, had a decisive influence on the history of East–Central Europe, but also that of Mazepa. The Hetman in fact died in 1709 at Bender, where he had fled with the great loser of that battle, king Charles XII of Sweden. It comes as no surprise that these events achieved a certain resonance in 2009 in the Ukraine: already in 2007, president Yushchenko had issued a decree for a special commemoration of this date¹, and at that time discussions started on a new monument to be built in Poltava, for the fallen of both sides, the victors and the losers. These discussions showed once again, to quote Giovanna Brogi, that Mazepa is ‘the most controversial personality of Ukraine and Russia’s shared history’ (Brogi–Bercoff 2008: 368).

Within the context of that anniversary it is interesting to consider the large number of publications devoted to Mazepa that have appeared over the last few years, mostly in the Ukraine, but not only. This renewed interest in Mazepa’s person, life and deeds, his importance for Ukrainian culture and history can first be noticed in scholarship as well as philology. In 2003 Oleksander P. Ohloblyn’s book *Hetman Ivan Mazepa ta ioho doba* was re–edited in New York (3rd edition), in 2002 the first volume of Mazepa’s letters appeared in Kyiv (*Lysty Ivana Mazepy*, ed. by Viacheslav Stanislavs’kyi), in 2007 two volumes of documents were published (*Doba Hetmana Ivana Mazepy v dokumentach*, ed. by Serhii Pavlenko, Kyiv 2007, *Getman*

1. Presidential Decree України № 955/2007 about commemorating the 300th anniversary of events, connected with the military–political activities of Hetman Ivan Mazepa and the formation of the Ukrainian–Swedish Alliance. <http://www.president.gov.ua/documents/6789.html?PrintVersion>

Ivan Mazepa. Dokumenty iz archivnykh sobranii Sankt–Peterburga ed. by T.G. Tairova–Iakovleva, St.Petersburg 2007, 1st vol.). In addition, a collection of interesting essays from different areas of human sciences, *Mazepa e il suo tempo. Storia, cultura, società*, ed. by Giovanna Siedina, was published in 2004.

Of quite a different character there are also anthological publications such as the large volume ed. by Rostyslav Radyshchevs'kyi and Volodymyr Sverbyhuz *Ivan Mazepa v sarmatsko–roksolans'komu vymiri vysokoho baroko* (Kyiv 2006). This provides a collection of texts and pictures from Mazepa's life–time, responding to the emblematic character of the quoted panegyrica in Latin, Polish and Early Ukrainian. A similar, even larger edition appeared in Kyiv in 2009: *Het'man. Do 370–richchia z dnia narodzhennia ta 300–richchia z dnia smerti het'mana Viis'ka Zaporoz'koho Ivana Stepanovycha Mazepy* (2 volumes, collected by five authors well known for their own publications, such as Ol'ha Kovalevs'ka, Serhii Pavlenko, Viacheslav Stanislavs'kyi and others). This work tries to give a 'complete portrait'² of Mazepa set in the context of his time, illustrating his life, his deeds, his career in Ukrainian and World literature, his role in the fine arts (portraits, pictures, monuments, operas, films).

Here I would like to focus on a third group of publications devoted to Mazepa: these can be categorized as being somewhere between scholarship and popular scholarship, not without a certain dose of fiction. They are addressed not to specialists, but to a larger readership and appear to aim at re–shaping public opinion, for almost three centuries dominated by the Russian anathema on the Hetman, in a new, pro–Mazepa way. Examples of this kind of literature include: Valerii Shevchuk's book *Prosvichenyi volodar. Ivan Mazepa iak budivnychy Kozats'koï derzhavy i iak literaturnyi heroï* (2006), Denys F. Zhuravl'ov's *Mazepa. Istorychne dos'ie* (Kharkiv 2007), Serhii Pavlenko's *Ivan Mazepa iak budivnychy ukraïns'koï kul'tury* (Kyiv 2005), *Zahybel' Baturina 2 lystopada 1708 r.* (2007), Ol'ha Kovalevs'ka's *Ivan Mazepa u zapytanniach ta vidpovidiach* (Kyiv 2008), Iurii Mytsyk's *Ivan Mazepa* from the series *Velyki ukraïnci* (Kyiv 2007) and, last but not least, a book in Russian: Tat'iana Tairova–Iakovleva's biography *Mazepa* from

2. 'tsilisnyi portret vydatnoi osobystosti v konteksti svoiei epokhy' (Olijnyk, Davydko 2009: frontpiece).

the well-known series *Zhizn' zamechatel'nykh liudei* (2007), which was followed by her most recent publication *Ivan Mazepa i rossiiskaia imperiia. Istoriia 'predatel'stva'* (2011). Although most of these works are written by historians, they cannot be qualified as historical works proper, their aim is to promote historic understanding in order to correct a view of Mazepa that has been falsified for too long. The same goal is also pursued by purely fictional texts, which continue the tradition of Mazepa in Ukrainian fiction, historic novels by Roman Ivanchuk *Orda* (1991) and Bohdan Sushyns'kyi *Het'man Mazepa: povernennia do Baturyna* (2001).

Valerii Shevchuk (born 1939) is a writer well-known for his psychological prose, as well as for his historical novels. He has been writing about Mazepa for more than twenty years, publishing a couple of works, for example a play on Mazepa entitled *Brama smertel'noï tini* (1995). His book *Prosviuchenyi volodar. Ivan Mazepa iak budivnychy Kozats'koï derzhavy i iak literaturnyj heroi* is, according to the author's own words, a step towards a monograph on the Hetman, that has yet to be written (Shevchuk 2006: 5). For this book Shevchuk collected a huge amount of different material, from history to the arts, to advance a view that sounds strange: Mazepa, a man from the real Baroque age, is an Enlightened ruler ('prosvichenyi volodar'). But since the notion of the enlightened ruler may also be applied to Mazepa's antagonist, tsar Peter I, the author needs to underline the difference between the two men: Mazepa was never an absolute despot, he only ever had limited power at his disposal, but, within these limitations, he managed to do his best for his people and his country, Ukraine.

To illustrate Mazepa's balancing act between loyalty to the Russian tsar and serving the interests of his own people, between dependancy on a foreign power and autonomous decisions in his own country, Shevchuk borrows another concept from pre-Baroque times — the ideas of Niccolò Machiavelli, explored in his famous work *Il Principe* (1513). Readers would be justifiably surprised to see Mazepa rehabilitated from Russian accusations only to be tarred with Machiavellianism.

The idea that Mazepa may have applied certain principles of Machiavelli's ethics of the ruler in his policies was first articulated by the Ukrainian right-wing ideologist Dmytro Dontsov in a booklet published in German in Vienna in 1916 (Dontsov 1916) and in Ukrainian

in the journal *Shliakhy* in 1917 (Dontsov 1917), quoted by Shevchuk. Dontsov calls Mazepa 'one of the most talented pupils of Machiavelli,'³ but that does not necessarily mean that Mazepa had actually read Machiavelli's masterpiece. For Shevchuk there is no doubt that Mazepa had read *Il principe* either in original or in translation. What is important for Dontsov, however, is not the fact of real influence, but rather a typological analogy between the historic figure of Mazepa and the type of ruler described in *Il principe*. Years later, in 1934, when Machiavelli's work was translated into Ukrainian and published in the *Vistnyk Library* ('*Knyhozbirnia Vistnyka*'), in the preface to this edition Dontsov pointed out that the real leader, the real ruler has only one desire: the desire for power: 'Iedyna pruzhnia vsioho, shcho ie i staie — tvorcha liuds'ka volia' (Dontsov 1934: 6). What Mazepa represented in the early 18th century is what was required for the Ukraine in the early 20th century: a strong man, a real leader, who would be allowed to transgress the traditional boundaries of good and evil. And Machiavelli's ideas were therefore very important in those years: 'Nikoly nauka Machiavelia ne bula taka aktual'na, iak teper' (Dontsov 1934: 5). In addition, the Ukrainian translation of *Il Principe* had the same title as Shevchuk's book: *Volodar*.

A final remark on this kind of Mazepa-interpretation, which seems to be attractive again today: Dontsov found this type of character in a now forgotten German play by Rudolf Gottschall (as an author Gottschall today is as forgotten as his works), *Mazeppa. Geschichtliches Trauerspiel in fünf Aufzügen* (1865), where—in allusion to one of the famous paintings by French romantic painters such as Vernet, Boulanger, Delacroix showing the naked man bound to the back of a horse—the German author comes to the following conclusion: 'look at the large picture—the youth / Bound to a stallion! This is your father— / And not merely your father, he is a man / swept away by an unbridled will'⁴. What in Romantic phraseology is called 'unbridled will,' could, in terms of Nietzsche's philosophy, be called 'the will for power' ('*Der Wille zur Macht*'), and this is precisely the term Dontsov used in

3. „einer der fähigsten Schüler Machiavells“ (Dontsov 1916: 20).

4. „..sieh' das große Bild — den Jüngling / Ans Roß gebunden! Dieses ist dein Vater — / Und nicht dein Vater bloß, es ist der Mensch, / Den ein unbändig Wollen mit sich fortreißt!“ (Gottschall 1865: 135).

his first analysis of Gottschall's play from 1917 (Doncov 1917a: 284). Together with Machiavelli's apology for human will ('tvorcha liuds'ka volia') these concepts provide a key to interpreting the historic figure of Mazepa. This play about Mazepa, highly esteemed by Dontsov, was harshly criticized by Ivan Franko, who published its translation into Ukrainian completed by Iu. O. Fed'kovich in one of the volumes of Fed'kovich's first complete edition (Franko 1902: X–XI). Nevertheless here we have an interesting case of feedback from fiction affecting the understanding of Mazepa as a historic figure in a certain historic situation: Dontsov developed his conception of Mazepa during World War I (1916, 1917), because for him the time had come to revise the direction East European history had taken after Poltava: German and Austrian armies were then advancing against Russia on the same tracks trodden by Swedish soldiers 200 years earlier, and this was a new chance for Ukraine to gain independence, similar to the chance missed in 1709. But the spirit of Mazepa was needed to seize this chance, as Dontsov points out (Dontsov 1918: 27). To re-evoke this spirit, he brings together historical data with works of literature and concepts from philosophy. So, in the short time between 1909, the 200th anniversary of Poltava, and 1918, Mazepa was re-discovered as a Ukrainian hero, and the same appears to have happened around the year 2009, the 300th anniversary. As Shevchuk's book shows, some of the notions attributed to the Hetman are still the same.

Let us return to Shevchuk's book from 2006, containing a chapter 'Ivan Mazepa— polityk—makiiavelist' (Shevchuk 2006: 171–193). As a true follower of Machiavelli's principles, Mazepa acts like a fox when confronting a stronger adversary, but like a lion when dealing with a weaker combatant (a motto quoted already by Mickiewicz in the foreword to his *Konrad Wallenrod*: '...bisogno essere volpe e leone,') casts a new light on the widespread accusation of Mazepa as a traitor to the Russian tsar. The double strategy of fox and lion would allow such behaviour as the only possible game plan of the weaker, but Shevchuk does not argue like this, he does not see Mazepa as a Konrad Wallenrod; Peter is the traitor, because he, like his ancestors, had systematically violated Ukrainian rights guaranteed by the treaties of Pereiaslav, and therefore Mazepa had been entitled to change sides. The only Machiavellian aspect of this action is the fact that he had kept this decision secret and failed to inform his sovereign

about it. Giovanna Brogi Bercoff agrees with Shevchuk's vision of the Machiavellian character of Mazepa's policy, but sees it in the broader context of 'conflict between moral and political principles [which — A.W.] tried to find a solution in the proposal of a sort of 'legal lie' (Brogi-Bercoff 2008: 380–381).

What else is important in Shevchuk's vision of Mazepa? Thanks to his education and predilections, the Hetman is a true European ruler. He speaks several western languages, he is very well educated, he is a promoter of fine arts, finds himself at the center of the Kyiv intellectual world, the Mazepian Athens, as Shevchuk calls it ('Mazepians'kyi Atenei') (Shevchuk 2006: 255). And he is a supporter of the Church, has new churches built, gives donations to monasteries, is a patron of ecclesiastic life, which also fits into the pattern of the 'enlightened' Western ruler. Mazepa's merits concerning his country's education and cultural life are not only acknowledged, but underlined by all the recent Ukrainian publications concerning him; thus they emphasize his cultural activities as a certain counterpart to politics: Mazepa becomes part of the cultural history of Ukraine, after having become part of its political history.

One last point that I would like to mention about Shevchuk's book is the attention he pays to the literary works devoted to the Hetman. He lists many of them from different literatures in different languages (sometimes not very precisely), but does not really appraise them, because his focus is on the extent to which they corresponded to historical truth. He has little appreciation of their artistic value, and therefore comments, for example, on Pushkin's *Poltava* as follows: 'Pushkin vyiavyyv sebe v poemi *Poltava* iak perekonanyi imperialist I shovininist' (Shevchuk 2006: 409).

A much more adequate dealing with literary sources can be seen in Zhurav'ov's aforementioned 'historical dossier' *Mazepa. Ljudyna-polityk-lehenda* (Kharkiv 2007), where the author refuses *expressis verbis* to judge literary texts according to the criteria of historical truth ("але ми знехтуємо і улюбленим прийомом деяких вітчизняних авторів подібних нарисів-виявленням "міфів" і "правди" в художніх творах про Мазепу,") (Zhuravl'ov 2007: 308) but rather as a medium for shaping the readers' perception of Mazepa. That leads to quite another appraisal of Pushkin's work, which, due to its artistic values, had had an enormous impact on the percep-

tion of the Hetman in Russian and Soviet historical consciousness. Although Zhural'ov's book contains a couple of incorrect items of information concerning literary texts on Mazepa, the author nevertheless provides some interesting interpretations, starting from Bulgarin's Mazepa-novel from 1834 up to Iurii Illienko's movie *Molytva za het'mana Mazepu*.

Serhii Pavlenko is another author who has written extensively on Mazepa. Pavlenko is qualified as a philologist and journalist, but his books have a more scientific bent in that they are effectively historical investigations. I will mention two of them here. In 2005 Pavlenko published *Ivan Mazepa iak budivnychyi ukrains'koi kul'tury* devoted to Mazepa's rule up until 1708, a moment that marked a highlight in Ukrainian culture. The author concentrates on Mazepa's efforts to improve the system of education, on his sponsorship of churches and monasteries, on his own literary activities as well as the panegyric literature devoted to him. This is again a picture of an enlightened ruler, to use Shevchuk's words, and of a prince who cares about the cultural life of his people.

In 2007 Pavlenko published the second, revised and extended version of a small book that had first appeared in Chernihiv in 1994, *Zahybel' Baturyna 2 lystopada 1708 r.* As the first edition probably went unnoticed, it seems to have been necessary to re-edit and re-write this book, extending it with numerous illustrations and documents. It focuses on the closing years of Mazepa's rule, on his death and his legacy. Like Shevchuk, Pavlenko strongly rejects the accusation of betrayal, but he does so with different arguments: he doubts the authenticity of documents proving contacts between the Hetman and the Polish king Leszczyński. Pavlenko dismisses these documents as Russian falsifications left by tsarist agents to misguide later historians, among them scholars such as Oleksander Ohloblyn and Teodor Mats'kiv (Pavlenko 2007: 144). Criticising established opinions in history, Pavlenko gives his own version of the events and thus gets involved in a scholarly debate.

The most important aspect of this book, however, is a shift in focus from Poltava to Baturyn, as the title suggests. Baturyn becomes the key place for Ukrainian history and presence, a symbol of Ukraine's struggle for freedom, which had not been erased, although the Hetman's residence had been totally destroyed. Baturyn is thus a burden on com-

mon Ukraino–Russian history too. The massacre, perpetrated by Menshikov's troops on the innocent inhabitants of the town (Pavlenko puts the number of victims at between 11,000 and 14,000) (Pavlenko 2007: 120) has been kept secret for nearly 300 years. Now both sides have to clarify what really happened, and Pavlenko sees his book as a step in this direction. He includes photographs showing the re-burial of victims with president Iushchenko taking part, a modest wooden cross, pictures of archeological excavations on the site of the former residence. In Pavlenko's view, Baturyn should become one of the most important 'lieux de memoire,' 'places of memory' in Ukrainian historical consciousness.

The importance of Baturyn in the whole complex of thinking about Mazepa is underlined by a historical novel from 1991, *Orda*, by Roman Ivanchuk. This novel starts with the destruction of Baturyn in November 1708, with horrifying descriptions of the cruelties committed by the conquerers. The depiction of all these atrocities, tortures and slaughter are reminiscent of certain chapters in Pavlenko's book, the asserted historic investigation and the fictional historic novel coincide in poetical devices. For Ivanchuk's hero, the monarch Epifanii, one of the few to have survived the massacre, Baturyn becomes a symbol of the fault of all the Ukrainians who failed to join Mazepa and are now condemned to pay for this failure for the rest of their lives. Although Mazepa is only presented once in this novel, on his death bed, he is nevertheless present throughout the text: he would have provided the better alternative for the Ukraine, freedom instead of suffering, but alas, he was not heeded. Ivanchuk's novel is not a masterpiece of historic prose, but rather a strange compilation of historical data, motifs from world literature and national messianism.

The most curious book in this context is probably Bohdan Sushyns'kyi's *Hetman Mazepa: povernennia do Baturyna* (2001). Sushyns'kyi, author of more than 40 books (including titles such as *Try dni v Paryzhi z kokhanoi zhinkoiu*), of soap operas and a Cossack encyclopedia, is a member of the Ukrainian Academy of Science as well as an active member of the Cossack movement ('nakaznyi otaman Ukrain'skoho Kozatstva z pytan' ideolohii') (Sushyns'kyi 2001: 394). This kind of ambiguity is also typical of his book, an essayistic novel, as he calls the genre. On the one hand he provides a fictional reconstruction of Mazepa's deeds during the last two years of his

life, on the other, there is documentation about a strange mission that the author undertook in 1999: he brought soil from the city of Halati/Halac, Rumania, where the historic Mazepa had been buried, to Ukraine, to Baturyn. Although Sushyns'kyi knows perfectly well that Mazepa's tomb no longer exists, that even the monastery where he had been buried was destroyed in the 1960s, he nevertheless calls this earth 'prakh Mazepy,' and speaks of the whole mission as of the 'perenesennia prakhu het'mana do Baturyna' (Sushyns'kyi 2001: 105). It is probable that neither this mission nor the book, published in Kolomyia, had any great resonance, but once again it marks Baturyn as a „lieu de memoire“: on the one hand this town echoes with memories of a genocide (Sushyns'kyi 2001: 103) committed against the Ukrainian people, the author uses a term which became popular in connection with the Holodomor of the 1930s, while on the other it is a symbol of national glory, 'the undefeated capital of an undefeated people' ('neskorena stolytsia neskorenoho narodu') (Sushyns'kyi 2001: 8).

Special treatment has been reserved for Mazepa in Ol'ha Kovalevs'ka's book *Ivan Mazepa u zapytanniakh ta vidpovidiakh* (2008), a kind of schoolbook consisting of more than 70 questions and answers concerning the life, deeds and personality of Ivan Mazepa. These questions are of a different kind: they ask for essential information (why did Mazepa switch to the Swedish side?) and also for less essential information (did Mazepa have anything to do with deciding on the colours of the Ukrainian flag?) Kovalevs'ka had already published an article on the problem of the real portrait of the Hetman (Kovalevs'ka 2007) and in her book she devotes great attention to this question. Which of the numerous portraits claiming to show Mazepa are authentic? A preliminary answer to this question is given by the illustration on the cover of her book, it shows a fair-haired Mazepa, painted by an unknown artist, which is said to be an authentic portrait (Kovalevs'ka 2008: 163) unlike numerous other illustrations that depict him with dark hair. And she claims that well-known Mazepa portraits are in fact falsifications showing somebody else.

Kovalevs'ka also deals with the presence or absence of the figure of Mazepa in public life in modern Ukraine. She points out that there is no official award in his name, that his portrait appears on 10-hryvna banknotes, in slightly different versions in the 1994, 2004

and 2006 editions. She mentions the rare monuments devoted to the Hetman and the single Mazepa Street in Kyiv, which came under discussion in 2010 when the Orthodox patriarch demanded that it should be renamed. Thus she touches on the problem of Mazepa's official standing in Ukraine, of the official politics of memory.

Perhaps the key question posed by Kovalevs'ka in her compendium is the closing one: 'Who is Mazepa for contemporary Ukrainians?' (Kovalevs'ka 2008: 184) A preliminary answer to that question is included in a typical analogy with figures comparable to Mazepa: Stanisław Leszczyński, for example, who fought for Poland's 'Golden freedom' against Saxon absolutism, Demetrie Cantemir, who tried to free his country from Turkish dependency, and Ferenc II. Rakoczy, who wanted to free Hungary from Austrian rule. Rakoczy's example once again demonstrates that someone considered a traitor and a rebel in one national narrative, can be seen as a hero in another, a fact proved by numerous monuments to Rakoczy in Hungary, but not in Austria, where he is not so much an enemy as a forgotten figure. This implies that Mazepa's importance depends on his meaning for Ukraine and for Ukrainians, for them he is first a patriot ('Dlia svidomykh ukraintsiv I. Mazepa buv i zalyshaiets'ia patriotom') and second a symbol of independence (Kovalevs'ka 2008: 185). In this sense Kovalevs'ka finishes her book with an impassioned appeal to the reader: 'If you are Ukrainian, if you have national pride, respect Ivan Mazepa!'⁵ In this way, an appraisal of Mazepa becomes a criterion for deciding who is a good Ukrainian and who is not, it becomes a touchstone of national consciousness. In general, this book is not so much a source of information on the figure of the Hetman, but an attempt to restore his place in the nation's consciousness. Mazepa himself becomes a 'lieu de memoire,' a crossing point, where, to quote Pierre Nora, 'histoire' meets 'memoire,' (Nora 1984: XXIII) where historical data are not banished to museums, but become vital truth.

Let us go back to more historic works on the Hetman. In 2007 Tat'iana Tairova-Iakovleva published her biography *Mazepa* in Russian (Tairova-Iakovleva 2007). Although she is essentially a historian and a scholar rather than a writer or a journalist, this book, which

5. Iakshcho ty ie ukraintsem, iakshcho ty maiesh natsional'nu hidnist', shanui Ivana Mazepu! (Kovalevs'ka 2008: 185).

appeared in the series *Zhizn' zamechatel'nykh liudei*, is not a scholarly, but a popular scholarly work, which aims to overcome the stereotypic characterization of the 'traitor' ('izmennik') or 'hero' ('geroi'). This book, which to a large extent coincides in its conclusions with the Ukrainian point of view, uncharacteristically for a Russian historian, reminds us of Shevchuk's aforementioned work, at least as regards one common idea: that Mazepa was influenced by the thinking of Machiavelli (her book contains a chapter entitled 'uchenik Makiavelli' and the author is convinced that Mazepa was well informed about the ideas of the Italian writer). For Tairova-Iakovleva 'Machiavellism' does not mean dual strategy, but rather political realism when dealing with Russian dominance.

Like Shevchuk and Pavlenko, the Russian author stresses Mazepa's merits in the field of culture, the large sums of money devoted to churches and monasteries, his patronage of the Kyiv-Mohyla Academy and of other institutions. Like her Ukrainian colleagues, Tairova-Iakovleva is persuaded that Kyiv and Baturyn enjoyed a European style of life. One small detail suffices to prove this: at Mazepa's table, for the very first time in Ukraine, diners used forks (Tairova-Iakovleva 2007: 144). The Hetman was a Westerner, influenced by Western European standards not only in cultural life, but also in politics. His understanding of contracts is based on the conviction of mutuality, a contract is binding as long as both sides fulfil their obligations. When the tsar failed to fulfil his, Mazepa felt free to do the same. "Sootvetstvenno, narushenie polozhennyi dogovora odnoi strani osvobozhdala druguiu ot svoikh obiazatel'stva" (Tairova-Iakovleva 2007: 189). But this was European thinking, not Russian, for the Russian tsar, contracts were simply unilateral, only to be observed by the subjugated. This European way of understanding international law and obligations leads to the first conclusions concerning Mazepa's so called 'betrayal.'

In this way Tairova-Iakovleva gives a completely new interpretation of what, for 300 years, has been dubbed betrayal in Russian historiography: not the intrigue of a traitor, but the reason why a responsible politician such as Mazepa decided to change sides. He did so to avoid the worst consequences for his country, devastation by both Russian and Swedish troops. This leads to a comparison with the behaviour of the Polish king August II, who relinquished his

duty as an ally of the Russian tsar when he was faced with no other alternative: “Mazepa, po suti, prosto povtoril put’ Avgusta, postavyl interesy svoieho kraia i svoieho naroda vishe soiuznicheskogo dolga” (Tairova–Iakovleva 2007: 219). Tairova–Iakovleva’s book brings belated rehabilitation for the Hetman, a view of him that corresponds closely to that of Ukrainians themselves, but her interpretation does not fit into the pattern of the most controversial figure in shared Russian–Ukrainian history.

In 2011 Tairova–Iakovleva published a new book, this time a scholarly investigation, called *Ivan Mazepa i rossiiskaia imperiia, Istoriia ‘predatel’sтва*, where she again contests the stereotype of the ‘traitor’ (‘izmennik’), but comes to a quite new conclusion. As she herself states, this conclusion will disappoint pseudo patriots from both sides: “Ivan Mazepa vnes vydaushchii vklad v sozdanie Rossiiskoi imperii” (Tairova–Iakovleva 2011: 11). Whether true or not, historians will be forced to see that Russian public opinion is far from accepting Tairova–Iakovleva’s premises, as one of the reviews of this book illustrates, Aleksandr Karevin, who calls himself a Ukrainian historian at the very beginning of his 17-page review, describes Tairova–Iakovleva’s book as follows: “Ta monografiia ... okazalas’ perepolnena grubeishimi oshibkami, nagliadno prodemonstrirovavshimi vopiiushchee nezvestvo avtora, chto vyzvala v iio adres mnozhestvo kriticheskikh zamechanii i dazhe nasmeshek.”⁶ Such a review shows that there is still a long way to go to reach common ground on how to interpret the Mazepa phenomenon in Russian–Ukrainian history.

Summarizing the aforementioned positions from Ukrainian literature, there is no doubt that Mazepa, Hetman of the Ukraine, was a true exponent of Western European culture. As an ‘enlightened’ ruler he was not only personally better educated than his Eastern neighbours, but promoted much better policies in terms of culture and education. Compared with Kyiv at Mazepa’s time, Moscow was backward, and Kyiv’s leading position was due to Mazepa’s efforts. Mazepa was a Westerner in another sense too: he was the first Ukrainian to seek a Western political ally. His alliance with the Swedish king was a better alternative than alliances with traditional partners such as Poland, Russia or the Ottoman empire. Even if he failed due to certain

6. Karevin review was published only on the internet.

historic obstacles, his strategy had been correct, Mazepa had shown his people the right direction for future decisions.

The basic aim of all the Ukrainian works on Mazepa is to demonstrate that he was not a traitor, as claimed by the Russians for 300 years. Mazepa was not a traitor, because he was not the first to breach his obligations, for more than 20 years he had been a true liegeman to the Russian sovereign. He only changed sides after the tsar himself had breached their mutual obligations, thereby releasing him from the same (this way of understanding treaties is a further proof of Mazepa's Western education). Changing sides from Russia to Sweden was motivated by a feeling of *realpolitik*, by a sense of pragmatism. In this sense Mazepa is a follower of Machivelli's doctrine, to do the best in a given situation, without worrying about abstract moral principles.

And there is a third phenomenon worth noting in the whole Mazepa story: the symbolic dimension represented by the town of Baturyn. Although Baturyn was the site of a great defeat, just as Mazepa's story ended in defeat, Baturyn is a symbol of hope: Ukraine will never be completely defeated, its people will never feel defeated as long as they believe in a future mission. Both Mazepa and Baturyn have become places of memory, where a tragic past is not only alive, but offers hope for the present and for the future. By commemorating the battle of Poltava and the struggle for Baturyn, we can continue to hope for different historic constellations in future.

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Building Memory

National Identities and Monuments in Post-Soviet Ukraine¹

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Over the last 30 years or so, the Kyiv skyline has changed considerably: approaching the city from the airport, and therefore from the left bank of the Dnipro, observers are struck by the way the ancient bell-tower of the *Pechers'ka Lavra* (Monastery of Caves) has been dwarfed, since 1981, by the overbearing 203-foot statue of the Mother–Motherland (*Bat'kivshchyna — Matu*), the core of the Memorial complex and of the Museum of the Great Patriotic War, which usually arouses a disquieting feeling of awe in all and sundry. In November 2008, these two monuments were joined by the tower of the Holodomor memorial, the so called “Candle of Memory.” The significance of the Pechersk hills in Ukrainian historical consciousness is obvious: the monastery is one of the oldest buildings in Eastern Europe and it refers directly to the foundations of the Rus' civilization.

In the last twenty years Ukrainians have built numerous new monuments and memorials, clearly with the intention of giving physical shape to a particular interpretation of national history and providing the same with public space. Monuments, and especially memorials, are what Pierre Nora calls *lieux de mémoire* (Nora, 1994), places of remembrance, around which the new political community formed in 1991 is called upon to remember, to commemorate and to express its national identity.

The erection of memorials and the ceremonies that take place around them, especially those commemorating the Holodomor, have often been the subject of fierce political and historical controversy.

1. The paper presented at the conference has been modified following the suggestions and the comments I received during the discussion. I am especially thankful to Serhii Plokhii, Marta Dyczok, and Yevhen Zakharov.

The ensuing debates and the political meaning thereof have been studied, for example, by Tatiana Zhurzhenko (2011). My own intention here is somewhat different: I wish to focus on visual history or the history of visual culture. This involves looking at the monuments and memorials as a source of knowledge in themselves (Burke, 2001). Examining monuments allows one to understand the events that they commemorate and the modes of expression applied for remembrance or ceremony. Other kinds of documents (e.g. written documents) may be equally useful for our understanding, but I am convinced that a close analysis of the monuments may offer a good picture of how a new-born political community, such as Ukraine, conceptualizes and reconstructs its past. More specifically, I will try to illustrate the changes which have taken place in some places of memory and in some of the memorials built in Ukraine in the last decades.

In order to illustrate the history of how Ukrainians have physically represented their past, I will begin with the history that divides the memorials of the Mother–Motherland and the Candle of Memory. Both these works are by the same artist, Anatoliy Haidamaka, the former commissioned by Brezhnev and the latter by Yushchenko. I will also take into consideration some other monuments built in various epochs in other parts of Ukraine. Although this research is at an initial stage, I hope to stimulate a broader discussion and contribute to understanding the ongoing process of creating a national public memory in present day Ukraine.

1. Soviet Memorials

The starting point will be the Great Patriotic War Museum memorial, which is an excellent example of Soviet iconography in Ukraine. To understand the changes that took place after 1991 we need to see this memorial as a yardstick, a criterion with which to assess future developments. The memorial was inaugurated on 9 May, 1981. It consists of a small park at the top of the Pechersk hills, where a paved pathway leads to the huge statue of the Mother–Motherland, the base of which houses the museum.

Before reaching the statue, the path splits into two. On the right there is an outdoor museum of military equipment (tanks, heavy

artillery and so on), a great favorite with children, while on the left, a tunnel features various sculptural groups representing the war. The inscription over the entrance to the tunnel reads: "Their great deeds will live forever, their names are immortal."

Although a few statues are dedicated to describing the horrors and the victims of Nazi occupation, the vast majority of the sculptural groups illustrate the struggle for Soviet victory [figure 1]. As it may easily be expected, there is a group dedicated to the classic Soviet theme of the contribution made to the war effort by industry and by the workers [figure 1-op]. Lastly, a final group of statues placed in a small artificial lake constitutes a visual climax leading up to the triumph of the Mother–Motherland [figure 2].

The motherland is here represented as a sword-bearing female warrior; the whole complex is clearly designed to celebrate victory. In Soviet Ukraine the fatherland could only be represented as a victor; there was little or no room for indulging in grief.² The focus is on those who accomplished one great deed: struggling against and defeating the fascist enemy. According to the myth of the Great Patriotic War, the complex celebrated the efforts of an apparently united nation. There is no mention of the Jews, or even of the Germans. The memorial is as great a success in terms of visitors today as it was in the 1980s; criticism is mainly directed at the appearance of the statue of the Mother–Motherland herself, which is not exactly beautiful.³

This victorious rhetoric is ubiquitous in Soviet monuments, to the point that it resounds even in the monuments built to remember the victims. If we consider the memorial built in 1976 in Babyn Yar, despite the fact that at the top of the monument there is a mother crying over her child's corpse, the man in the foreground has a proud and victorious expression. Granted that he should quite surely be a victim

2. Although this statue is a clear representation of the classic Soviet motherland, I would like to stress that it also embodied Ukraine as a part of the Soviet Union; moreover, in official iconography Ukraine was usually represented as a woman, while Russia was a man, as in the well-known poster *Long live the fraternal union, and the great friendship among the peoples of the USSR!*

3. Kyivians did not like the statue, which they renamed "baba" (ugly woman). Since 1991, there have been numerous proposals to demolish the statue but none have been implemented because of the technical difficulties. In spite of the hatred that it inspires, or precisely because of it, the statue seems to be a good yardstick for judging subsequent representations of the father-/mother-land.

as well, what the monument celebrates is courage and self-confidence. The monument does not commemorate the murder of innocent victims, but celebrates the fearless and proud sacrifice of Soviet civilians in the war. In my opinion, this memorial does not look like a place of mourning either. It is worth remembering that the inscription fails to mention that the victims in Babyn Yar were Jewish, here referred to as “civilians” (Gitelman, 1994).

Even more clearly, the memorial to the victims of the Great Patriotic War in Vinnytsia, also known as the Glory memorial, fails to represent the victims, but depicts three soldiers honoring the eternal flame. Once again it is the victors, three strong soldiers, who are portrayed, while no space is devoted to suffering or death [figure 3]. Soviet art ignored negative events: only positive events were allowed to become part of the visual culture of Soviet man. The reason for this monument was, that during World War Two the Nazis discovered the place where thousands of victims of the Great Terror had been buried. The German authorities widely exploited the discovery in their propaganda and, after the war, Moscow tried to erase the memory of the NKVD victims: the monument marked a step in this direction (Kamenetsky, 1989; Bellezza, 2004).

2. Memorials in independent Ukraine

After Ukrainian independence, a drastic change took place in the events celebrated in monuments. In the first few years after 1991, a few memorials to the victims of the Holodomor were effectively built, but, as previous research has demonstrated, these monuments were mainly located in the countryside; they were not the result of official initiatives but of a spontaneous movement of the population, which had already begun in the 1980s and was linked to the dissident movement “Rukh.” These memorials were mainly places in which to mourn, where country people remembered relatives who had perished in the famine: they usually consisted of a memorial plaque, with the names of the victims and/or a cross (Veselova, 2009). The first was put up in the village of Tahan (Kyiv region) in 1986; figure 4 shows the original plaque incorporated in the main element of the new memorial rebuilt in 2008. The great exception to this rule is the memorial

in Kyiv, commissioned by the authorities in 1993 to commemorate the 60th anniversary of the famine [figure 4]. This monument was institutionalized by Leonid Kuchma in 1998 and remained the focal point for commemorating the famine until 2008. Designed by the artist Vasyl' Pereval's'kyi and the architect Mykola Kyslyi, it takes the form of a cross with a grieving mother and her crucified child in it. Its fame has spread and it is almost a hallmark for other initiatives dedicated to the Holodomor. It also institutionalized and canonized the cross as the form of memorials in Ukraine. I shall return to this monument later.

Since 1993, however, monuments and memorials built in Ukraine have usually been sponsored by the State or by other local institutions, but without being dedicated to the Great Famine. The subject of the Holodomor, in fact, has been put somewhat aside, while the main themes for memorials have become repression and the victims of the Great Terror. This is only partially surprising: the first condemnation of the Great Terror came from Khrushchev himself in 1956 and therefore the Great Terror was more widely perceived as unjustified violence against the Ukrainian nation. Memorials were built in different cities all over Ukraine between 1993 and 2008: examples include Vinnytsia (1994), the memorial to the victims of the Shot Renaissance in Kyiv (1994), Odessa (1995), Tryby (in the Poltava region, 1995), Kharkiv (1991, a new part added in 1998), Dnipropetrovsk (2005), Cherkasy (2006), and many others in smaller towns and villages. The genre of the memorials is completely different from those in Ukraine under the Soviets: usually located where mass graves have been discovered, these memorials commemorate the victims of Stalinist repressions in 1937–38. In most cases they consist of crosses, because they are meant to be a place for mourning, for collective grief; they are like graves, cemeteries that could not be built during the Soviet period.⁴ This mode of expression, the cross, has remained constant over the years (we began with 1994 and the last picture of Cherkasy is of a monument built in 2006) [figures 5 and 6]. There are some exceptions to the cross, for example in Bykivnia near Kyiv, but this lo-

4. It is true that the cross is surely one of the cheapest forms of monuments, however it was selected from among many different and equally inexpensive forms of memorials (a small engraved stone or a plaque could have been even cheaper).

cation underlines another point: unlike remembering the Holodomor, commemorating the Great Terror is a far less controversial and better established tradition. Bykivnia is the location where the *shistdesiatnyky* used to commemorate the victims of Stalinism in the 1960s. In those years, they had no memories or, rather, no awareness of the famine of 1932–33 and therefore they started the tradition of commemorating NKVD victims, a tradition which is now fifty years old (Taniuk, 1996) (the monument in the picture is much newer: it was built in 1994).

Only after seventy years of celebrating a glorious nation, did Ukraine begin to commemorate its past as a nation in mourning, a nation whose identity was strongly characterized by Soviet violence. In reinventing its identity as a victim of Soviet power, Ukraine had an ally: this ally was a champion of the rhetoric that accompanied a nation as the victim of opposing forms of totalitarianism: Poland. This link is explicit in the Kharkiv memorial, which deserves closer analysis, especially the part built in 1998. In 1991, at the initiative of the security service agents themselves, a wall and a cross were built to commemorate NKVD victims [see figure 7]. In 1998, the Ukrainian government officially commissioned a new part, inaugurated in the area in front of the 1991 wall. The new part of the memorial to the NKVD victims is intended as a cemetery: figure 8 shows the crosses on top of small mounds, which are individual graves, and figure 9 shows the plaques giving details of the bodies identified (name, nationality, etc.). There are even symbols for the different religions (Catholic, Orthodox or Jewish). Finally, the official plaque states that the presidents of Ukraine and Poland decided to commemorate both the Polish officers killed in the Katyn massacre (some of whom were actually executed in Kharkiv) and also the Ukrainian victims of NKVD repressions [figure 10] (Zavorotnov, 2003).

Therefore, with the help and the official international recognition of Poland, from 1991 onwards Ukraine began to revise its past: it was no longer glorious and victorious as in Soviet times, but marked by grief for the victims of Soviet repression. This revision infers that the State created in 1991 cannot be held responsible for what happened before 1991, neither as regards its own citizens, nor as regards other nations such as Poland. This is a historiographic interpretation which is corroborated by the friendship forged between Poland and Ukraine after the collapse of the Soviet Union. These conclusions should be

taken as provisional. Further investigation is necessary, especially in order to analyze the monuments built in Ukraine to commemorate Ukrainian nationalists and Ukrainian partisans during WWII (Symon Pletliura, Stepan Bandera, Taras Bul'ba–Borovets' and more generally the UPA). Such monuments were mainly built in West Ukraine, while all the monuments I have taken into consideration so far are in what is now known as Central and Eastern Ukraine. The analysis of monuments I have not yet visited might at least partially affect considerations about the Ukrainian–Polish relationship. At the present state of the art, however, I think we are allowed to consider the new friendship between the two countries as a matter of fact, even if it may appear that nationalist monuments were built in West Ukraine.

3. Yushchenko's presidency

A turning point for monument–building came with the presidency of Viktor Yushchenko, who decided to promote the construction of Holodomor memorials all over Ukraine and was even personally engaged in two of them, in Kyiv and in Kharkiv. Yushchenko intended the 75th anniversary of the Holodomor to be commemorated not only in Ukraine but all over the world through official recognition of the Ukrainian genocide on the part of foreign parliaments. I will not go into this further because Yushchenko's policy is widely known and studied. My focus will be on the forms of memory through monuments.

Concrete evidence of the fact that the memory and the history of the Ukrainian famine is contested can be seen in the panels added to the 1993 memorial in Kyiv [figure 11]. The purpose of these panels, both in Ukrainian and in English, is to provide maps, figures and historical data proving that the 1932–33 famine was an act of genocide against the Ukrainian nation. This is very interesting because no one ever felt the need to corroborate the memorials of the victims of the Great Terror with historical information about the killings. In the case of Holodomor, visitors are clearly supposed to require scientific proof of what the monument commemorates.

At is noteworthy too that, after 1993, there was a 15-year pause before a new wave of monuments to the Holodomor started in 2008.

The plan to build a major new Holodomor memorial in Kyiv was actually conceived as early as 2003, during the Kuchma era, but the project never came to fruition. I believe that the new wave of monument-building in Ukraine under Yushchenko's presidency changed the modes of expression of such memorials. The monuments of the Yushchenko period borrowed several typical techniques of expression from the tradition of Holocaust memorials. These new modes of expression were used in Holodomor memorials to reformulate the memory of the famine as the defining event (or tragedy) of the Ukrainian nation, just as the Holocaust had been the tragedy that reunited Jewish communities.

The new Kyiv memorial, inaugurated in November 2008, is a small garden of remembrance: the entrance features two angels in prayer and two stones engraved with the dates 1932–1933. At the end of a circular clearing stands the candle of memory, while at the center a statue depicts the waif-like figure of a little girl [figure 12]. In her hand she holds a few ears of corn, clearly a reference to the Soviet five ears law (*zakon pro piat' koloskiv*). The choice of a child as the subject of the memorial statue is not a random one: the last decade has seen an increase in figures of children in iconography. Culturally speaking, childhood is considered to be essentially vulnerable. Children symbolize sentiment, hope for a better future, so the figurative use of children in monuments and the contrast between their expectations and the reality of their lives has a strong impact. In our time, but perhaps even earlier, children are seen as essentially helpless, by their very nature disenfranchised and therefore implicitly dependant on adults, who are supposed to protect and take care of them. The predominance of this kind of iconography has led the historian of women and childhood Karel Dubinsky to speak of "How Babies Rule the World" in iconography (Dubinsky, 2012).

The helplessness of this little girl is also underlined by the absence of an adult at her side. In Soviet iconography adults were always presented as protectors of childhood: the most famous child of Soviet iconography is Gelja Marzikova, the Mongolian girl that Stalin carried on his shoulders, while her father was erased from the picture because he was accused of spying for Japan. Stalin liked to introduce himself as *batiushka*, and he posed as the father of all war orphans. Another typical depiction of the relationship between adults and children is the

statue of the Soviet memorial of World War Two in Treptower Park, in Berlin: the Soviet soldier with a little girl in his arms is the rescuer of childhood. The loneliness of helpless children has also been used to commemorate the Holocaust, as it is in the monument to the child victims of the Holocaust in Ramat Hashalon, in Tel Aviv, Israel [figure 13].

The helpless child is a typical mode of expression for Holodomor memorials in Ukraine: in Vinnytsia for example a Holodomor memorial was also erected in 2008 and it consists of a statue of a starving child holding some grain [figure 14]. In 2008 a Holodomor memorial was built in Kharkiv: although parents are also present, children are again used to portray the worst consequences of the famine. The meaning of the statue of the little girl is even clearer if compared to the statue of the Mother–Motherland: the patriotic representation of Soviet patriotism, made up of strong and self-confident women, contrasts starkly with the rhetoric of hunger, with the little girl who represents a completely different version of life under Soviet rule.

Behind the statue of the little girl, at the back of the clearing, stands the candle-shaped tower, clearly a funerary candle: 26 November has been officially recognized as the day when Ukrainians remember the victims of the Holodomor by lighting candles around the memorials [figure 15]. Since 2009, visitors can go down the steps into the base of the candle memorial to visit the Holodomor Museum. This descent below ground is a clear metaphor for the *descensio ad inferos* (descent into the underworld). The inside of the museum consists of a single dark, circular room where pictures and videos illustrating the Holodomor are set against the walls, but, above all, the room preserves the *National Book of Memory*, the національна книга пам'яті, also published in 2008. The numerous volumes of the book contain the names of all the identified victims of the Holodomor, thus they are similar to another Jewish canon of memory. As James Young, the renowned historian of Holocaust memorials, has demonstrated, the first form of memory of the Holocaust in Jewish culture (which is also known as the culture of the book, the Torah) was the drafting of the memorial books, *Yizkor Bikher* in Hebrew, which contained the names of the victims (Young, 1993).

Lastly, leaving the museum behind, visitors can go down the hill and read the names of the villages affected by the famine: these names

are written on the walls of numerous terraces, reminiscent of the memorial to the victims of the Vietnam war in Washington (on the right) [figure 16 and 16op].

4. Provisional conclusions

In the first twenty years following independence Ukraine abandoned the Soviet rhetoric that only ever portrayed the heroic and victorious figures of a glorious past. The new state reformulated its national memories through the rhetoric of mourning, commemorating the victims of Soviet repression. For a very long time Ukraine commemorated the NKVD victims, exploiting a much older and less contested tradition, and joining forces with other post-Socialist countries such as Poland. The Yushchenko presidency marked a turning point in monument building because it made a political decision to highlight the Great Famine instead of the Great Terror. The new memorials built at Yushchenko's insistence employed the expressive techniques of memorials in the West, and especially those dedicated to the Holocaust, to foster the memory of the Holodomor as the tragic event that has characterized Ukrainian history. Finally, while the monuments to NKVD victims were quite simple, the new Holodomor memorials have a very strong emotional impact which clearly differs from the Soviet rhetoric, although the goal is the same: to form a physical repository of uncontested national memory.

Finally, I would like to recall the title of this paper, which is «National identities and monuments»: I have chosen to use the plural «national identities» because I wish to underline that all the different national and patriotic narratives that we have seen coexist in Ukrainian visual culture and memory building. We can only understand how Ukrainians conceive their past if we understand that memory consists of different layers. My immediate task is to recognize which layer is on top today, but also to be aware of the fact that people view their past through all these layers. The present point of view on the past and the meaning of each single layer can therefore only be understood in a reciprocal relationship with the others. In order to grasp how Ukrainians interacted with the memorials and their messages, the next step will be to analyze the visitors' books signed both at the Great

Patriotic War Memorial and at the Candle of Memory and to collect the public's opinions and reactions.

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Dmytro Dontsov's Ideology of Integral Nationalism in Post-Soviet Ukraine

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It is especially significant that this conference “*Twenty years after Independence: Assessments, Perspectives, Challenges*” is being held in Rome, the cradle of ancient Latin civilisation, which long ago forged the concepts of the *forma mentis* and of the *ius romanum*. Both of these much later created the basis for the founding of the Nation-State and of European civilisation, of which contemporary Ukraine is now a *de facto* part.

Dontsov felt himself part of this civilisation and wished to forge a state taking the great European nations as his model. In 1921, Dontsov wrote in his *Foundations of Our Politics* (*Pidstavy nashoi polityky*): “What strikes us when we compare those two worlds — the Latin–Teutonic and the Russian? The grandeur, the magnificence of history as a whole, the intensity of conflict, the free motion of forces, the complexity of the role of brilliant personalities, the primacy of law and logic, all in the West. And in Russia, monotony, the dullness and torpor of individual protagonists, the trifling importance of historical events, the enormous influence of the popularist element, and the disproportionate dominance of the role of the state apparatus” (Dontsov 2001, p. 106).

The ideology of today's radical Ukrainian nationalism did not appear out of nothing. Its roots were formed in the messianic vision of the Ukrainian nation which was conceived during the *Shot-Down Renaissance* (*Rozstriliane Vidrozhennia*) (Pachlovska 1998, pp. 712–731) of the nineteen–twenties. Exploding against an historical backdrop ridden with tragedy, the *Shot-Down Renaissance*, according to Dontsov, was itself bound within the fatal triangle of Russia, Europe, and Ukraine. This cultural renewal of Ukraine evolved within what Dontsov terms the *European psychology of the time* which, according to our au-

thor, was imbued with a Faustian mind-set. This particular mind-set flowed out of a desire for creativity, a will to discover and innovate. This, for Dontsov, was exactly opposed to the spirit of despotism made incarnate by Russia. The Ukrainian Renaissance, for Dontsov, extended its breadth to assume psychological and anthropological dimensions. As a newly-born Faustian *homo europaeus*, the Ukrainian was completely free to gamble with his own destiny and could no longer coexist with the cowed *homo russicus*. The latter remained forever a slave with a psychological need for domination by a tsar-father figure (Caruso 2010, p. 93).

1. What is Nationalism?

In the language of politics and in the lexica of history and sociology, this term has a diverse set of meanings. History and sociology only began systematically to concern themselves with the problem of nationalism during the 1920s and '30s. Initially, the term was used in a rather broad and neutral sense. To take one example, the work of Carlton J.H. Hayes, one of the founding fathers of the scientific study of nationalism, is of prime importance. In his *The Historical Evolution of Modern Nationalism*, Hayes defines the following types of nationalism: *humanitarian* (Rousseau, Herder), *Jacobin* (Robespierre), *traditional* (Burke, Bonald, Schlegel), *liberal* (Bentham, Humboldt, von Stein, Guizot, Mazzini, Cavour), *integral* (Maurras, Barrès), and *economic* (List, but more generally the adherents of protectionist, autarchic, and later imperialist political schemes).

Following a path beyond the traditional kinds of nationalism and with the important study of Karl W. Deutsch in mind, nationalism would seem to be, above all, a specific function of the process of modernization. What was once unthinkable in a traditional agrarian-oriented society becomes on the contrary an indispensable principle of social integration and political legitimacy in modern mass society.

The emergence and the evolution of nationalism are linked to the creation of a national state. This means the consolidation of society in a national community — another name, again, for the national state.

After having attained these aims, nationalist impulses become latent

and reawaken only in situations when national independence is threatened. A too evident activity of nationalistic forces when the national state is not attacked or threatened stands out in blatant contrast to the principles of democracy.

2. Dontsov's Integral Nationalism

Dmytro Dontsov's doctrine of Ukrainian nationalism, conceived just before the First World War, shows the influence of both German romanticism, and of that philosophy of life that was later transformed into a popular movement by both Fascism and Nazism. Dontsov was to affirm his idea of what he called *active nationalism* (*chinnii natsionalizm*).

Although Ukrainians also felt persecuted by the Poles, the radical antithesis of Ukraine, at least for Dontsov, was Russia. Indeed, it was Russia that threatened the very existence of a Ukrainian state. Dontsov wrote: "the conflict between Europe and Russia is a conflict between two civilisations, between two political, social, and cultural and religious ideals" (Dontsov 2001, pp. 94–95). The "shapeless Russian masses" can only be ruled by an autocratic regime: despotic Russia which has always been opposed to the European social order, an antagonist which has always sought to eradicate the European foe (Sosnov'skyi 1974, pp. 205–207).

According to Dontsov, Bolshevism itself was merely tsarist autocracy by a different name. The historic destiny of Ukraine, on the other hand, was to save Europe from Russia and to save itself from the very contraposition of Russia and Europe.

For Dontsov, the nation was the "purest emanation of the will to fight and struggle for freedom", but only those nations which are "guided by the mind of an authoritarian and domineering people" are guaranteed success. If Ukraine is not willing to jump into the breach, someone else will. Nature hates a vacuum. "Ukraine still does not exist — affirmed Dontsov — but we can create it in our souls. A nation does not need objective preconditions to extort from history its claim on statehood". The only thing necessary is the subjective courage of a few individuals (Dontsov 2001, p. 394).

Dontsov considered Ukrainian independence as the prime objec-

tive of the entire nation. Therefore, he rejected any compromise, any form of a federation or political autonomy with the Poles or Russians. “We have not gone beyond the point when we no longer need to defend ourselves,” countered Dontsov (Dontsov 2001, p. 395). It was precisely the lack of any national instinct directed towards the will to power which led to the absence of a national ideal among the Ukrainians. The Ukrainian people should not disavow the use of force in order to achieve state and nationhood. Such things can only be won through the use of violence

In his most successful work *Natsionalizm*, Dontsov enunciated the principles of his integral nationalism. He also insisted that the Ukrainian national movement should be formed in order to serve his own ideology. The content of his Ukrainian idea (*zmist ukrains'koi idei*) had to be based on three elementary principles: intensity (*iaskravist*'), exceptionality (*vykliuchnist*'), and globalism (*vseobiimaiuchist*') (Dontsov 2001, pp. 400–409).

The OUN came into being in 1929 as a form of protest against current political conditions. Dontsov himself was never a member of the OUN, but he became its chief ideologue. While Dontsov's *integral nationalism* was inspired by classical principles of totalitarianism, the *Organisation of Ukrainian Nationalists* had more in common with groups which came into being in the South–East of Europe. According to Ivan Lysiak–Rudnyts'kyi, a Ukrainian political commentator, “the roots of (integral) nationalism should not be sought in Italy's Fascism or in Germany's National Socialism, which were conceived in industrial and urbanised societies, but rather in the agrarian political parties of an economically underdeveloped Eastern Europe — the Croatian Ustaši and the Romanian Iron Guard” (Lysiak–Rudnyts'kyi 1973, pp. 239–240).

3. Dontsov's Ideology of Integral Nationalism in Today's Ukraine

Looking at today's Ukraine just before October's 2012 parliamentary elections, it might be useful to turn our attention to those political parties which are still active and which have not been compromised by the scandals of the last few years.

We shall use Dontsov's ideology of nationalism as the prism through

which we shall attempt to ascertain the current strength of certain myths of the past and whether they still have the power to attract that section of the population disillusioned by current events in the Ukraine.

The radical nationalist political organizations active in contemporary Ukraine include: The National Ukrainian Assembly (*Ukrains'ka Natsional'na Asambleia* — UNA); The National Ukrainian Organisation for Self-Defence (*Ukrains'ka Natsional'na Samooborona* — UNSO), which is the para-military wing of the UNA; The National Independence of Ukraine (*Derzhavna Samostiinist' Ukrainy* — DSU); The Organisation of Ukrainian Nationalists (*Orhanizatsiia Ukrains'kykh Natsionalistiv* — OUN); The Conservative Ukrainian Republican Party (*Ukrains'ka Konservatyvna Respublikans'ka Partiia* — UKRP); The Social-National Ukrainian Party (*Ukrains'ka Sotsial-Natsional'na Partiia* — USNP), and from 2004 the All-Ukrainian Union — “Freedom” (*Vseukrains'ke ob'iednannia “Svoboda”*); The Organisation of Ukrainian Idealists, as well as other less known and less influential groups.

Over the last few years, Ukrainians have once again been seduced by Dontsov. His works are continually being republished and a number of studies, both negative and positive, have appeared. These include the *Scientific-Ideological Centre Dmytro Dontsov* (*Naukovo-ideolohichnii centr imeni Dmytra Dontsova*), with headquarters in Drohobych (L'viv region), under the direction of Oleh Bahan, a political commentator and author of a number of articles on nationalism as well as the mouth-piece for the diffusion of older Ukrainian tracts on nationalism (Bahan, available at: <http://dontsov-nic.org.ua/>).

However, we are more interested here in the application of Dontsovian ideology rather than its simple diffusion by word of mouth or in print. Among those political parties that define themselves as nationalistic, *Svoboda* is the only one to have a chance of taking part in the *Verkhovna Rada* of Ukraine in October.

On 22 January, 2012, Ukraine's pro-Western opposition leaders signed an agreement to unite their candidates in a single list to compete for single-winner, single-mandate districts in the October 28 parliamentary elections in order to take the reins of government away from the Donetsk clan before it consolidates power even further. How much this agreement may influence the issue of the elections remains uncertain. As Volodymyr Fesenko, board chairman of the Penta Cen-

ter for Applied Political Research in Kiev, puts it: “It was a symbolic unification, yet agreeing to an actual (electoral) list is a completely different matter. Sociological polls already show that the Bat’kyvshchyna electorate does not want to vote for the Svoboda nationalists, so it is very early to talk about the unification of the opposition”.

In the October vote, half of Ukraine’s 450 members of Parliament will be determined through single-winner, single-mandate districts (the so-called majoritarian system), while the other half will be determined by closed-list voting for political parties, which will need to exceed a five-percent barrier (the so-called proportional system).

Arsenii Iatseniuk, the leader of the Front for Change (*Front Zmin*), called for the opposition to limit itself voluntarily to the only three leading forces that stand a chance of achieving 5 percent: his own party, the Bat’kyvshchyna party led by imprisoned former Prime Minister Iuliia Tymoshenko and the nationalist Svoboda Party led by Oleh Tiahnybok.

Oleh Tiahnybok’s Svoboda Party swept in from the fringes of Ukrainian politics in 2010, scoring emphatic victories in local elections throughout the traditionally nationalist West Ukrainian heartlands. The right-wing group secured local election wins in L’viv, Ternopil’, and Ivano-Frankivs’k oblasts, making Svoboda one of the leading political forces in West Ukraine and bolstering their leader’s credentials as he seeks a place for himself and his movement at the top table of Ukrainian politics.

Tiahnybok said: “There were two revolutions in Ukraine’s modern history, first in 1989–1991, when an independent Ukrainian state emerged. The second in 2004 was betrayed. 2012 is set to become the beginning of the third revolution — a revolution of social and national justice, which will conclude with a victory and transform Ukraine from a state of oligarchs to a state for Ukrainians, where social and national justice will rule” (Zawada 2012, p. 1 and 17).

Let us take Tiahnybok’s official declarations as well as his party’s programme as examples to better understand what the Svoboda leader and other representatives of his party have in common with the political thought of Dmytro Dontsov.

Tiahnybok has often spoken of the charismatic Dontsov. He is also the author of several introductions to the re-edited works of the ideologist. In August 2011, the *svobodcy* of Ternopil’ paid for

a new edition of *By Cross and Sword* (*Khrestom i Mechem*) in honour of the 128th anniversary of the birth of Dontsov. In his introduction, Tiahnybok characterised Dontsov as “not only a man, but a man whose thought inspired an entire epoch” (Tiahnybok 2011, <http://www.svoboda.org.ua/dopysy/analitika/023570/>)

Here is one of the principles which the Svoboda leader has made public: “We base our ideology [...] on Dontsov. We are simply trying to modernise it to conform it better to today’s reality and the conditions of life in today’s world” (Tiahnybok 2004, <http://www.pravda.com.ua/news/2004/03/31/2998984/>).

Which ideas of Dontsov would Svoboda like to put into practice?

Svoboda propaganda is especially clear on one point: members attempt everywhere to emphasize the idea of ethnicity as the basis for the consolidation of the nation. They also insist on the concept of a Ukraine which is geopolitically a *pivotal area* of Europe and which must be definitively separated from its Asiatic neighbor, the Russian Federation.

Svoboda would like to take an active part in the Ukrainian parliament, and for this reason maintains a rather *moderate* line in its official demands. One example is economics. Here the party wishes to implement an independent energy programme. It also has ideas regarding the implementation of historical justice. It has suggested specifying the origins of Ukrainian statehood in the national constitution. According to Svoboda, Ukrainian statehood begins with Kyivan Rus’, continues with the principality of Galicia–Volynia, through the Cossack Republic of the Hetmanate, through the Ukrainian Republic, the Ukrainian Republic of Western Ukraine and Carpatho–Ukraine, and finally culminates with the emergence of a Ukrainian state called into existence by the law of the 30 June 1941 and an independent Ukraine which came into being only after a three-century long battle for national freedom. Lastly it demands publicity for what it deems the *occupation* of Ukraine by Bolshevik Russia which, according to Svoboda, resulted in an unprecedented national tragedy and the genocide of the Ukrainian people (Svoboda Party Programme, available at: http://www.svoboda.org.ua/pro_partiyu/prohrama/).

Svoboda says that it wishes to recognise the realities of the present. It aims at displacing the axis of Ukrainian attention away from Russia and towards Europe and seeks to limit the political and economic

hegemony which the Russian government still exerts over independent Ukraine.

For Dontsov, however, the idea of Ukraine as a nation was only a fervent desire. In fact, he himself said as much: “The Ukrainian idea lacks a new spirit. Our pilgrimage through the desert is not yet finished. We still have thousands of things on our wish list, rather than only one. And hundreds of vague thoughts rather than one clear idea that would give form to an integral programme. What good is a nation when there is no unity of thousands of desires around one central idea? We must re-awaken the idea of the supremacy of one ethnic group on one specific territory — an aspiration which has come down from our ancestors and which they wished to leave to their progeny” (Dontsov 2001, p. 395). Dontsov wanted to create a new state in which the ruling elite would have been steeped in a new national idea, an idea free of any moral constraint commonly held by the society of the time. This elite, according to Dontsov, should preach and defend its own morality and its own moral dogma. Dontsov also explained how Ukrainian society was to be unified: “First of all, we must establish a series of dogmas, a series of laws or norms, a series of axioms, in all sectors of social life. . . we must establish our own truth, unique and infallible. . . We must drum this new credo and this new truth into the benighted heads of the mob and liquidate without pity those who express any doubts. . . One elite group, a minority, will take on the role of a magnet. This group will impose their own views and dogma on the thoughts and will of the masses. This elite coterie will be organised not as a political party, nor as a type of union, but rather as a disciplinary brotherhood which will drive the masses. The fanatic possesses his own acclaimed truth which must be heard by others, and from which flows his own aggressiveness and intolerance towards all other points of view” (Dontsov 1967, p. 123). Therefore, according to Dontsov, integral nationalism must be based on emotions, or rather on *emotionality* (*emotyvnost*), a condition necessary in order to preserve its adepts from the twin forces of logic and rationality.

Today, however, Ukraine exists as a sovereign and independent state — and has done for over twenty years. Aside from the anachronistic regurgitations of Dontsovian ideology which we have just mentioned, the actual theory of integral nationalism really belongs to the past and the age of totalitarianism. It is no longer necessary to create a new

Ukrainian state, but rather to consolidate and develop the one which already exists.

Just as in the kaleidoscope world of the novels of Andrii Kurkov, where nothing really is as it seems, new and old myths have surfaced during the last twenty years of Ukrainian independence. A new nation has emerged out of the ashes of the cataclysm which swept away the Soviet monolith. Many of these myths have been considered effective in the process of strengthening and re-enforcing a new sovereign state which would seem to want to impose itself in the world arena as a governmental entity worthy of respect.

This recalls the surreal world of Kurkov where a colonel of the Ukrainian army and a member of the UNA-UNSO meet in the deserts of Kazakhstan and rediscover in that god-forsaken place what it means to be Ukrainian, in other words: the significance of the expression "Ukrainian national spirit". Allow me to quote the words that Kurkov places in the mouth of the colonel: "The national spirit goes beyond language. It changes the relationship of the person with his surroundings and with himself. The spirit acts on a person of any nationality and reawakens what is good in him. But language, on the other hand, is only an external sign of nationality. Both the president of a nation as well as the nation's most ferocious assassin can speak the same language with equal ability" (Kurkov 2005, p. 194).

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Post-coloniality as Method and Mind-Set

Ukrainian Literature and Literary Scholarship 1991–2011

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Why pay attention, at a forum dedicated to the major developments in Ukraine in the first twenty years of its independence, to a relatively narrow topic, literary scholarship? The answer lies in the special role that literature, and the public discussion into which literary criticism sometimes merges, have had in Central and East European countries. Literature there traditionally has been, and in Ukraine continues to be, an indicator of the state of affairs in culture and society and a place for the articulation, in its own aesthetically charged codes, of views on matters of public concern — even at times when parts of the literary guild have proclaimed themselves a- or anti-political. For this reason literature, as a complex system of arguments addressing not only readers' aesthetic sensibilities, but also their reason and judgment, is an obvious corpus of sources to question about its response to the challenges of independence. As for literary scholarship, it was the matrix out of which the term “postcolonial” emerged, and is still the pre-eminent location of the line of scholarly inquiry known as “post-colonial studies.” “Postcolonial studies” came into being in the 1970s as a way of studying the discourses through which Western colonising countries and their cultural representatives exercised power over their overseas colonies, on the one hand, and, on the other, the ways in which the (former) colonies resisted such dominion. Almost all of the not inconsiderable body of postcolonial studies scholarship has examined the coloniser-colonised relationships between First World and Third World countries. But in principle postcolonial studies is an instrument for the study of any colonial (or colonial-like) domination, including that of the Russian Empire and the Soviet Union over its non-metropolitan, non-Russian, territories and peoples, however

little this theoretical resource has been utilised in these domains. If we want an indication of how Ukrainian culture has (or has not) dealt with its dependent past it is, therefore, not without interest to know to what extent literary scholarship has embraced the paradigm that has developed elsewhere to address precisely such questions, and whether and how it has advanced a “postcolonial cause.”

Some terminological clarification is in order. The attribute “colonial” may be applied to cultural texts and other cultural phenomena if they tend to subject the interests of the colonised entity to those of the coloniser. In the realm of culture, strategies of colonialism include the exploitation of the cultural resources of the colonised (people, institutions, cultural artefacts and histories); the control of cultural value so that prestige and the mystique of universalism attach to the coloniser, while the colony figures as marginal, attaining significance only through the mediation of the coloniser; and the regulation of cultural activity in the colony to minimise competition for visibility and prestige with the coloniser’s cultural output. “Anticolonial” are those phenomena, texts or aspects of texts that pursue the contrary goal (asserting the autonomy, dignity and value of the colonised) and resist the strategies of cultural colonialism. “Postcolonial” is that which, eschewing the claims to power explicit and implicit in colonial and anticolonial stances, ameliorates the antagonisms and competitive intentions of (former) coloniser and colonised; promotes mutual understanding in place of grievance as the dominant affect in relations between them; acknowledges the abuses of the past, but recognises them as history, rather than determinants of present behaviour; and encourages former coloniser and colonised to find a *modus vivendi* that corresponds to the interests of both (see Pavlyshyn 1992 and Pavlyshyn 2012).

Should Ukrainian literary scholarship, or parts of it, in fact or in potential, be regarded as postcolonial? In a narrow sense, in order to qualify as postcolonial, a community of literary–critical practice needs to make plausible claims about belonging to the global “postcolonial studies” community. It needs to apprehend the subjects of its inquiries in particular ways: metropolitan texts need to be viewed as wielding or imposing or claiming — with or without the author’s awareness — cultural power over colonial subjects; texts produced in colonies, need to be viewed as resisting, or negotiating with, or subverting, or

collaborating with colonial power. Members of such a critical community defer to a particular circle of authorities (Frantz Fanon, Edward Said, Gayatri Chakravory Spivak and Homi K. Bhabha belong to this iconostasis); in addition, they identify with some other theoretical framework (Derridean deconstruction, or Lacanian psychoanalysis, or gender theory, or one of the inflections of Marxism). Finally, they generally need to season their claim to scholarly objectivity with a profession of political partisanship.

In a broader sense, in order to be labelled by an outside observer as postcolonial, it suffices for a critical community or individual critic to deal with the favoured themes of postcolonial studies as just outlined, without necessarily invoking any of the identity markers of postcolonial studies, but within an ethical framework that models the relationship between former coloniser and former colonised neither as an antagonistic desire for a colonial restoration, nor as a revanchist yearning to turn the tables and assert the power of the formerly powerless.

Let me anticipate my conclusions: there is little postcoloniality in either the broad or the narrow sense in Ukrainian literary scholarship (or, indeed, in Ukrainian intellectual discourse generally). There are very few publications that identify themselves as belonging to postcolonial studies. Those that do, generally use the word “postcolonial” not as a term requiring definition and precise use, but as an element of common parlance, meaning “after the fall of the USSR” and carrying vague but negative connotations. (In this respect it is like the non-terms “post-Soviet” and “post-totalitarian.”) It is in this sense that the word appears in the phrase “postcolonial syndrome.” Based on the metaphor of a complicated disease, the phrase was invoked by Tamara Hundorova (Hundorova 1993: 80) and enshrined by Mykola Riabchuk as the title of his book *Postkoloniial'nyi syndrome* (Riabchuk 2011a). As a rule, use of the term “postcolonial” by scholars in Ukraine does not imply engagement with the international (or even Ukrainian-language) literature in postcolonial studies. On the other hand, a significant number of scholars, without naming the tools of postcolonial studies, do inquire into the questions of cultural power and its flows between coloniser and colonised. Given the importance of the issue, it is not surprising that among those who do are some of the most notable contributors to Ukrainian literary studies in general.

These observations are based, in part, on an analysis of five one-year runs (1991, 1996, 2001, 2006 and 2011) of Ukraine's main journal of literary scholarship "Slovo i chas" (Word and Time). The journal was selected because it is the organ of the largest institutional entity conducting literary research in Ukraine, the Taras Shevchenko Institute of Literature of the National Academy of Sciences of Ukraine; because it is representative of the profession of literary scholarship in that it publishes papers by contributors from all parts of Ukraine and at all stages of their career development; and because, more than any other journal, it demarcates professional literary research from essay or cultural commentary. It was this desire for representativeness that directed the choice to "Slovo i chas", rather than, say, "Krytyka" (Critique), which, while publishing a number of notable examples of postcolonial criticism, has a narrower and more stable coterie of authors.¹

The analysis was limited to research articles; reviews and the other occasional materials that appear in "Slovo i chas" were excluded. The record for each article included its theoretical or methodological basis, whether announced or not, and a judgment concerning whether the subject matter would normally be regarded as belonging within the orbit of postcolonial studies. Articles that explicitly invoked the notion of postcoloniality in any way were identified, and for these it was recorded whether they cited any theoretical writings in postcolonial studies. A record was also kept of the languages in which each article cited any of its theoretical sources.

Overall the number of scholarly articles published by "Slovo i chas" has grown, especially in recent years.² Quite a number of these addressed questions that could be regarded as falling within the domain of postcolonial studies.³ (It was not, however, a very large number, given the importance for contemporary politics of questions of the Soviet (colonial, in some but not all eyes) heritage and, especially, of a sig-

1. I am grateful to Ms Zoryana Drozda, Candidate of Philological Sciences, who assisted me in the collection of the data on which these observations are based.

2. For the five years in question, the numbers of articles analysed were, respectively, 79, 31, 80, 82 and 128. The low number for 1996 coincided with an economically difficult year for the journal when several two-monthly issues replaced the usual monthly ones.

3. 1991: 9 articles (11% of the total for the year); 1996: 9 (29%); 2001: 23 (29%); 2006: 24 (29%); 2011: 27 (21%).

nificant part of that heritage, the role of Russian language and culture in independent Ukraine. A much smaller number of studies indicated awareness of postcolonial studies as a branch of literary scholarship and in some way, however general, located themselves in relation to it.⁴ But almost no articles both explicitly identified themselves as part of postcolonial studies and actively engaged with previous work in the field.⁵

This went hand in hand with a more general reluctance to claim participation in particular theoretical projects. Few works explicitly professed adherence to psychoanalytic approaches, to semiotics or hermeneutics, to deconstruction, to gender studies (despite the not insubstantial publicity, positive and negative, enjoyed by feminist criticism), or to reception theory (not including untheorised descriptions of “influences”).⁶ A few more engaged in myth criticism⁷ or inquired into periodization and period styles;⁸ a significant number studied genre and various aspects of literary form. The majority of works fell within the category of what we have called “common sense.” Here are combined the traditional concerns of (East European) literary scholarship: literary history, biography, and socially or biographically contextualised interpretation, generally unaccompanied by theoretical or methodological reflection.⁹

Evidently, theoretical models commonplace in the West, and post-colonial studies in particular, “have not found their niche in Ukrainian literary scholarship,” as one of the few scholars in Ukraine who frequently invoke postcolonial interpretive models has remarked (Iurchuk 2008). In part, the observed phenomenon may be a consequence of the editorial culture of *Slovo i chas*, which prefers shortish, to-the-point contributions and short lists of works cited. In part, it may relate to broader cultural circumstances. There have been no

4. 1991: 1 (1%); 1996: 5 (16%); 2001: 7 (9%); 2006: 6 (7%); 2011: 6 (5%).

5. In the whole of the sample only three articles cited Said and two Homi Bhabha.

6. Totals for the whole of the sample were as follows: psychological and psychoanalytic approaches: 24; all studies invoking semiotics, phenomenology, hermeneutics, discourse analysis, cultural anthropology, psycholinguistics and trauma studies taken together: 18; deconstruction: 9; feminist criticism and gender studies: 14; and reception theory: 8.

7. 1991: 0; 1996: 1 (3%); 2001: 11 (14%); 2006: 4 (5%); 2011: 5 (4%).

8. 1991: 2 (3%); 1996: 0; 2001: 6 (8%); 2006: 3 (4%); 2011: 10 (8%).

9. 1991: 45 (57%); 1996: 10 (32%); 2001: 19 (24%); 2006: 30 (37%); 2011: 68 (53%).

strong theoretical impulses emanating from Ukraine itself, and the theoretical paradigms that are familiar in the West are not easily adopted for simple technical reasons, such as the limited availability, despite digitisation, of Western scholarly publications. One can speculate, further, that there may be at work a natural (anticolonial!) reluctance to adopt Western theories and methods, perhaps less than adequately because on the basis of fragmentary and limited sources. The overwhelming prevalence, and even growing relative strength, of “common-sense” approaches, may well testify to a strong traditionalist attachment to what has been called a “national model of literary development” (Shumylo 2012: 3). Adding to historical knowledge of the “facts” of literature and literary culture; refining and broadening its canon; multiplying the corpus of interpretations of works that comprise that canon — all of these are forms of research inherited from the nineteenth-century national philologies. Even — indeed, especially — when such studies make no overt reference to the national project, they serve the implicit purpose of enhancing the dignity of their national culture, giving impetus to its anticolonial, rather than postcolonial vector.

One further empirical observation concerning publications in *Slovo i chas* points to some enduringly colonial aspects of the environment in which the journal operates. In this respect it is *pars pro toto* for the profession of literary scholarship and Ukrainian high culture itself. One of the trends in the formal style of *Slovo i chas* articles has been an increase, and then a decline, in the proportion of articles citing theoretical and methodological texts.¹⁰ An initial growth in enthusiasm for exploratory work indebted to explicit abstract theoretical models was predicated, one surmises, on a desire after 1991 to discover non-Marxist foundations for literary-critical endeavour. The trend peaked in 2001, and its decline thereafter went hand in hand with a growth in the dominance of “common sense” as the journal’s main theoretical ground, confirming the consolidation of the national,

10. The numbers and percentages of articles citing theoretical and methodological sources in Ukrainian were: 1991: 3 (4%); 1996: 14 (45%); 2001: 52 (65%); 2006: 22 (27%); 2011: 42 (33%). The corresponding figures for Russian were: 1991: 7 (9%); 1996: 15 (48%); 2001: 50 (63%); 2006: 33 (40%); 2011: 39 (30%), and for English, 1991: 8 (10%), 1996: 9 (29%); 2001: 11 (14%); 2006: 12 (15%), 2011: 7 (5%). Authors also cited theoretical and methodological texts in Polish (20 articles in the whole sample), German (11) and French (3).

anticolonial tone of the journal's culture.

The study recorded the languages in which authors cited theoretical and methodological texts. The figures reveal that, while the proportion of articles citing any theoretical work at all has varied, the proportion of articles citing theoretical work in Ukrainian has been much the same as the proportion citing in Russian throughout. (The significant advantage of Russian in 1991, occasioned, no doubt, by the fact that there were few Ukrainian translations or publications in this category, soon disappeared.)

The data do not distinguish between work originally published in Ukrainian and Russian, and translations into these languages. It is clear, however, that, insofar as authors read Western theorists, they did so predominantly in Russian, Ukrainian, or — most frequently — both of these languages. What is, perhaps, surprising is the initial growth spurt in the proportion of articles citing texts in English, followed by a steady decline after 1996. At no stage except in 1996 did the proportion of texts citing in English approach the proportion citing in Ukrainian or Russian.

For all of its affective anticolonialism, then, Ukrainian literary scholarship is still dependent to no small extent upon infrastructure provided by the former coloniser. In particular, access to the newly authoritative critical and theoretical sources, most of them Western, continues to be mediated in large part by Russian translations. It would be true to say that, in addition to the overall dominance in the public media and in popular culture of the Russian language — a fruit of the gradients of cultural prestige established in tsarist times and reinforced, with a few intermissions, in the Soviet period — even for nationally-minded cultural professionals the use of old pathways of cultural influence remains a practical necessity.

Of course, quantitative observations like the above can give only part of the picture. Perhaps outside of the institutionally mainstream *Slovo i chas* there exist significant studies — whether avowedly within the postcolonial studies paradigm or not — that not only address issues of colonial cultural power and resistance to it or negotiation with it, but also whose political subtext goes beyond anticoloniality and pursues postcolonial goals? Certainly, researches carried out outside Ukraine by scholars in neighbouring humanities disciplines sometimes reveal as their subtextual values principles that can be defined as postcolonial.

Many of the essays gathered in the recent collection *Die Ukraine: Prozesse der Nationsbildung* (Ukraine: Processes of Nation Formation) are cases in point (e.g., Kappeler 2011 and Wendland 2011). Some work on Early Modern history and literary history carried out in North America and Italy (and in Ukraine, too), focussing as it does on intercultural interactions in a multi-ethnic, multiconfessional and plurilingual Eastern Europe, fits snugly into the postcolonial paradigm without formally claiming a postcolonial mantle.

What of literary studies? Again, it seems easier to view literary phenomena from a postcolonial angle, and to recommend a postcolonial ethos, from outside Ukraine than from within the country. Perhaps the inheritance of a centuries-old colonialism and the new pressures of Western neo-colonialism, both irksomely in evidence, have made postcoloniality as a critical ethos and a normative stance for the critic even less popular in Ukraine than it is as a methodological tool. There have been exceptions. The historian Oleksii Tolochko advocated a deconstruction of empire and imperial discourse (as distinct from the erection of their nationalist mirror images) a propos of the 1997 republication of Andrukhovych's *Rekreatsii* (Recreations, 1992) and *Moskoviada* (The Moscoviad, 1993); but the defensive tone of his essay reflected the isolated nature of his intervention (Tolochko 1997). Tamara Hundorova's critique of the aggrieved, reactive confrontationalism that she detected in Ukrainian prose, both anticolonial and postcolonial, suggested, if only by implication, the possibility of a cultural paradigm free of such Nietzschean *ressentiment* (Hundorova 2007). But overall, postcoloniality as defined here is uncharacteristic of literary scholarship in Ukraine — and, for that matter, of Ukrainian literary studies abroad. This holds true even for those studies that have conceded the methodological benefit of distinguishing the postcolonial from the colonial and the anticolonial: Myroslav Shkandrij's *Russia and Ukraine* avoids adopting a normative stance, while Mykola Riabchuk's essays and reviews, where the distinction is sometimes (though not consistently) applied in the analysis of texts and cultural situations, are in general rhetorically more intent upon combating the residue of Soviet colonialism than laying the grounds for postcolonial reconciliation (see, e.g., Riabchuk 2011b).

This is unsurprising, given the context. Whereas in the Ukrainian-Polish relationship scholarship the discourse of public intellectuals on both

sides has made serious advances toward mutual understanding, notwithstanding a shared past fraught with conflict, no analogous movement is discernible in the Ukrainian–Russian relationship. On the Russian side, Sergei Averintsev’s calls to his compatriots in the early 1990s to renounce imperial ambitions and to see in the independence of the union republics an opportunity for a renewed national self-definition for Russia (Averintsev 1991) had practically no echo. As Martin Malek has shown, the utterances of Russian political, intellectual and religious elites in relation to Ukraine and Ukrainians are characterised with disturbing frequency by the combination of dismissiveness, condescension and ignorance that is characteristic of colonising and orientalist discourse.

Only a very small part of Ukrainian literary scholarship, then, openly confesses a connection to postcolonial studies. But, given the centrality in the history of Ukrainian culture of the dominion of colonising Others, and of self-assertion through resistance to them, it is unsurprising that a great deal of the weightiest Ukrainian humanities scholarship and criticism predating and postdating 1991 belongs to this field *de facto*: the classic texts of Ukrainian dissident literary and cultural criticism; the increasingly rich discussion of the figure and works of Nikolai Gogol/Mykola Hohol’; the researches and debates surrounding Ukrainian modernism and its relationship to the modernisms of Western Europe; and reinterpretations of figures of the Ukrainian literary canon, most notably Shevchenko. Ivan Dziuba and Ievhen Sverstiuk; Solomiia Pavlychko and Tamara Hundorova; Iurii Barabash and George Grabowicz; Iurii Sherekh and George Luckyj; Oksana Zabuzhko and Oleh Ilnytzkyj — a good part of their opus may be read as contributions to postcolonial studies (for a detailed discussion see Pavlyshyn 2000).

While explicitly postcolonial contributions to literary scholarship are few, their number has increased in the last five years, especially in the publication venues favoured by emerging scholars. Only a tiny minority of these studies cite their theoretical sources in the language of the original (e.g., Hachko 2009 and Vlasova 2011). The body of relevant international scholarship available in translation into Ukrainian is small. It includes Said’s two major books, 2001, Saïd 2001 and Saïd 2007, Gayatri Chakravorty Spivak’s *in Other Worlds* (Spivak 2006), excerpts from the canon of postcolonial studies in Maria

Zubryts'ka's *Anthology of Twentieth-Century World Literary-Critical Thought* (Zubryts'ka 1996: 531–68) and some passages on the web from Fanon's *Les Damnés de la Terre* (The Wretched of the Earth) (Fanon 2010). This is not much increased when translations into Russian are counted. The situation does not appear to have been much influenced by the increase in the number of Western books available on the web. The brevity of the academic genre in which these avowedly postcolonial studies appear generally works against such their making significant contributions. Some essentially constitute reportage of aspects of the Western discussion (e.g., Zelins'ka 2009, Hachko 2009 and Vlasova 2011). A few do make the cultural transmission of power through discourse the focus of their interpretive endeavour (Iurchuk 2011). Some announce a connection to postcolonial studies that is not then borne out by the inquiry itself. This is, at best, a modest harvest, especially when compared with neighbouring Poland, where a bibliography of postcolonial studies fills a respectable nine pages, covers a broad range of translations and original works, including a few by Ukrainian authors, and lists four special issues of journals over the period 2002–2008 (Domańska 2008).

In its ability or inability to come to terms with the colonial past, Ukrainian literary scholarship is a synecdoche for the intellectual public sphere and for high culture at large. Postcoloniality as a world-view and an ethical position — as a “mind-set” — remains as remote as ever. Only a few participants acknowledge the need for an accommodation between coloniser and colonised so that they may graduate to the status of *former* coloniser and colonised. The incompatibility of the national identity projects of Ukraine and Russia, where it is foregrounded as a problem by Ukrainian scholars and intellectuals, is viewed by most as a challenge more forcefully to articulate anti-colonial arguments and grievances, rather than to seek dialogue and mutual understanding. On the other hand, on the part of the potential Russian interlocutors there is even less evidence of readiness for such postcolonial dialogue.

As for “postcoloniality as method” — participation in an international postcolonial studies community, familiarity with its authorities and discourses, access to its forums — this is a fact of professional life for only a tiny proportion of practitioners of literary studies in Ukraine. This is no less true of many other domains of scholarly

activity in Ukraine, and is but one dimension of the complex net of disadvantage that afflicts Ukrainian society as a whole and that is a consequence of the realities of Soviet and pre-Soviet heritage on the one hand and the asymmetry of wealth and opportunity vis-à-vis the newly accessible West, on the other.

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Marko Pavlyshyn

Soviet Dissident Writers in The Literary Canon of Contemporary Ukraine

ALESSANDRO ACHILLI

Of all the tricky unsolved issues surrounding contemporary Ukrainian culture, the question of the literary canon¹ is undoubtedly one of the most complicated and most pressing. Literary critics and historians have been reflecting on both the theoretical premises of the canon and on its practical realization since the early Nineties, when the cumbersome heritage of over fifty years of Socialist Realism had already lost its hitherto undisputed authority. In a 1990 article on the issue of recanonization in Ukraine after 1985, Marko Pavlyshyn noted how instead of creating a brand new literary canon, the cultural establishment of the day was simply adding a list of forbidden names to the old one, which he compared, significantly, to an iconostas.² Nine years later, Tamara Hundorova underlined the co-presence of various canons in the history of Ukrainian literature, such as the populist (*narodnyts'kyi*) and the postcolonial ones, concluding her article with a sort of postmodern plea for them to be re-thought: “The deconstruction of each of these narratives, as literary canon, great tradition and national literature, is the condition of any historiography”.³ In 2002, Volodymyr Morenets’ gave a fruitful contribution to the discussion, stressing the difference between canon and literary legacy (*literaturna spadshchyna*), identifying in the former the subject of the formation of national aesthetic thinking, while relating the latter to a mass of

1. For a good introduction to the problem of the literary canon (and a re-evaluation of its significance), see: Gorak (1991). For a wider approach see: von Heydebrand (1998) and Wichrowska (2012). An extremely insightful synthesis is to be found in: Anderson, Zanetti (2000).

2. Pavlyshyn (1991).

3. Hundorova (2001), p. 24. All translations are mine. See also: Hundorova (2001a).

writings devoid of any real communicative power.⁴

It seems that the main aim of his essay is to deny a certain “negative myth of contemporary literary criticism about the absence of a Ukrainian literary canon,” as the author mentions at the beginning of his argumentation. A similar affirmation of the existence of a canon of Ukrainian literature is to be found in a recent article by Vira Aheieva, who defines the canon as “the ability to remember, a way of organizing an unbounded cultural heritage.”⁵ Despite contending that in Ukrainian culture a theoretical basis for the creation of a canon (*kanonotvorennia*) has not yet been formulated, she concludes her contribution by claiming that “at the beginning of the XXI century the canon of national classic literature is nevertheless freeing itself from ideological influences. [...] The less literature is expected to serve a patriotic purpose, which is not a characteristic of art, the less we will be obliged to read bad books. And the classic canon will become a list of effectively valuable artistic texts.” The overbearing role of ideological factors in the formation of literary canons in Ukraine has been stressed by Anna Bila, who has noticed how, since the Nineteenth century, the question of the artistic character (*khudozhnist'*) of Ukrainian literary texts has often been overshadowed by concern about their usefulness (*potribnist'*) or uselessness (*nepotribnist'*) for readers.⁶ At the beginning of her article, Bila speaks openly about the unease felt by Ukrainian scholars when dealing with issues of canon, since in Ukrainian history the institutional processes of selecting and delimitating have generally been carried out by foreigners.

The brief survey above illustrates the key role of the canon question in the cultural debate of contemporary Ukraine. It was a heated debate at the core of Western literary discussions throughout the second half of the Twentieth century, ideally culminating in the 1994 publication of Harold Bloom's *The Western Canon*, with its tireless defense of an elitist and well-defined corpus of highly authoritative texts. By comparison, however, the Ukrainian canon-debate features a rather different set of premises and aims. The main concerns of advocates of a renewal in literary things in America and Western Europe have been either

4. Morenets' (2003).

5. Aheieva (2010).

6. Bila (2010).

the elimination of the canon itself or its broadening to writers from traditionally under-represented social groups. The first option, as pointed out by Pavlyshyn as early as 1990,⁷ has been totally ignored in Ukraine, while the second does not seem to be the most controversial issue at stake in Ukrainian cultural development, discussions about feminist writers and critics notwithstanding.

What reflection on the history of Ukrainian culture basically needs nowadays is probably not an enlargement, but a redefinition, a wider re-evaluation of many of its elements. There seems to be a sort of split between the highly advanced achievements of a considerable number of scholars in various fields of Ukrainian literature studies and its canon as it appears in official histories of literature and anthologies. The works of critics such as George G. Grabowicz, T. Hundorova and V. Aheieva about the national myths Taras Shevchenko,⁸ Ivan Franko⁹ and Lesia Ukrainka¹⁰ have offered a wide range of new possibilities for a fresh, broader approach to their literary and cultural legacy, but it is difficult to assess whether they have been thoroughly accepted by the Ukrainian literary establishment. It seems quite hard for Ukrainian literary studies to rid themselves of the traditional, perhaps pointless contrast between populism and modernism, or between a pronounced affirmation of one's own uniqueness and natural integration into a more pluralistic and international literary discourse. On the other hand, scholarly discussion between advocates of these two main camps is obviously a positive factor on the way towards a richer and more articulate scientific literary scholarship. A good example of this is a collection of articles entitled *Nova Istorija ukrains'koi literatury (teoretyko-metodolohichni aspekty)* (*The New History of Ukrainian Literature [theoretical and methodological aspects]*),¹¹ published in 2005, in which contributions by authors with different backgrounds and different theoretical and ideological approaches show a fairly broad spectrum of ideas for the realization of a new academic history of Ukrainian literature.¹² However, it should be noted that articles with a

7. See note 2.

8. Grabowicz (1982).

9. Hundorova (1996).

10. Aheieva (1999).

11. Skupeiko (2005).

12. On the problems of the canons of Ukrainian literature and Ukrainian literary history,

conservative, at times nationalistic point of view prevail in papers open to a more international and up-to-date standpoint. It is interesting to read how Vitalii Donchyk, one of the organizers of the project, denies the possibility for a history of literature to create a canon. In his conception, while the former shows the development of literature in time and space as widely and precisely as possible, the latter should emerge by itself on the basis of the material presented in the history. He instead links study handbooks to canon.

It is evident that contemporary literature, if we can use this word for the literature of the last fifty years or so, is difficult to discuss in terms of its canonicity. Anyway, the upheavals in Ukrainian history during the Eighties and early Nineties enable or should enable contemporary critics and historians to look at the heritage of the Sixties and the Seventies as a well-defined and autonomous phenomenon. We can affirm with a good degree of certainty that a group of Ukrainian writers who began their literary, cultural and artistic activity in the late Fifties and early Sixties and who are known as the Sixtiers (*Shistdesiatnyky*) is now part of the acknowledged canon of Ukrainian literature (if we accept the existence and validity of such a canon). Their huge importance not only in the modernization of literature at the time of Khrushchev's Thaw, but also in shaping the political, social, philosophical and cultural coordinates of Ukraine's path towards independence and the enhancement of its own statehood has been repeatedly underlined by scholars. Oxana Pakhlovskaya wrote in 2000 that the genetic code of the new Ukraine has been worked out by the Sixtiers, whose philosophical roots she traces back to the tradition of Existentialism.¹³ At the same time Pakhlovskaya shows how younger generations of Ukrainian writers have betrayed the legacy of the Sixtiers, promoting a possibly dangerous division between engaged and unengaged literature, quite alien to the Ukrainian tradition of the artist as a spokesman for his people deprived of national self-determination.

The question of the legacy of the *Shistdesiatnyky* in contemporary Ukrainian culture is one of the most controversial and problematic, and we will return to this issue later on. The first difficulty that arises

see also: Dems'ka-Budzuliak (2010), as well as one of the most up-to-date contributions: Dems'ka-Budzuliak (2012).

13. Pakhl'ovs'ka (2000).

when attempting to define who the Sixtiers actually were is the list of their names, the “canon” of the authors and works of the group in the words of Liudmyla Tarnashyns’ka,¹⁴ one of the most hard-working and prolific scholars writing on them. The Ukrainian word *Shistdesiatnytstvo* is used to refer to young prose writers, poets, literary critics, journalists, and artists who doubtlessly enjoyed the benefits of the more liberal politics of the late Fifties and early Sixties, before experiencing the harsh repression of the following years. In its broadest sense it encompasses both writers and artists who devoted, or wished they could devote their life to creation and men and women actively involved in dissident underground politics. Thus the words *Shistdesiatnyky* and *Shistdesiatnytstvo* may refer to extremely different personalities, destinies, attitudes and worldviews, surely united by a determined refusal to comply with the Soviet cultural and national politics of the Brezhnev era. One other key element of their common cultural and political horizon is their conscious and active promotion of the national element in art; this means above all preserving the endangered Ukrainian language and thoroughly re-assessing the Ukrainian literary heritage. As already mentioned above, some of the most influential Sixtiers became leading figures of the liberation movement of the Eighties and subsequently major actors in the social and political life of independent Ukraine. This evolution from opposition to power, in addition to the memory of the compromise with the Soviet authorities that some Sixtiers had arrived at, could be seen as the main cause of the widespread refusal of their legacy by contemporary writers that Pakhlovskaya has spoken of.¹⁵

The issue is obviously very complex and involves the quite typical phenomenon of estrangement from the older generation among the young, in the context of the usual Ukrainian blend of culture and politics. Hundorova has gone so far as to argue that the most heated discussion in Ukrainian culture and literature in the Nineties, namely

14. Tarnashyns’ka (2006).

15. Similar conclusions are drawn by Pavlyshyn in a more recent article about literary canons in Ukraine. Pavlyshyn (2006). “It was the political *engagement* of the Sixtiers that deprived them of exemplary status as writers in the eyes of many who began their literary careers in the 1980s or later. Indifference, irony and hostility often marked the comments that spokespeople of these successor cohorts not infrequently made about the Sixtiers” (p. 14).

about the role and destiny of postmodernism, is essentially based on the reception of the Sixtiers and on the ambiguous attitude of rejection and attraction between Nineties and Sixtiers.¹⁶ So, Oksana Zabuzhko has defined the Sixtiers as her literary fathers,¹⁷ while at the same time expressing clear dissatisfaction with much of their legacy. In an article published in 2001, the writer Anatolii Dnistrovyi suggested instead that *Shistdesiatnytstvo* should be viewed not as a homogeneous phenomenon, which he sees as a blurring of myth and reality, but as the co-existence of two distinct aesthetic and philosophical camps.¹⁸ The first he defines as “something for the masses, ‘low,’ popular” (“masove, nyz’ke, narodotsentrychne”). The second group he sees as “high, elitist, artistic” (“vysoke, elitarne, mystets’ke). Further, he affirms that Ukrainian writers of the Nineties (*Dev’iatdesiatnyky*) have pursued the fusion of indigenous and international cultural elements typical of the “high Sixtiers”, thus explicitly recognizing a link between the two generations.

One more claim made in Dnistrovyi’s article arouses interesting discussion: he considers the poetry of Vasyl’ Stus to be at the origin of the “high *Shistdesiatnytstvo*” and his image of a poet–citizen and fighter (poet–hromadianyn ta borets’) as part of the genealogy of the “low *Shistdesiatnytstvo*.”

There is no clear consensus among critics and writers–critics as to the actual value of the *Shistdesiatnyky* and their place in the canon. A good example of the difference in opinion about their literary merits is to be found in the dialogue between the New York Group poets Iurii Tarnavs’kyi and Bohdan Boichuk in the journal “Krytyka” in 2000.¹⁹ Discussing the controversial issue of modernism in Ukrainian literature, Tarnavs’kyi expresses his idea of *Shistdesiatnytstvo* in terms of a group of writers not ascribable to this artistic tradition and alien to the influences of Western models. He uses the word “natsrealizm” to describe their production and goes as far as rebuking critics for wasting time on their literary legacy instead of focusing their efforts on modernism. Then he quotes the name of Vasyl’ Stus as a case

16. Hundorova (2005), p. 165.

17. Zabuzhko (1995).

18. Dnistrovyi (2001).

19. Tarnavs’kyi (2000).

of over-estimation, pointing with a certain degree of correctness to an uncritical stance towards his poetry. In his article-answer to Tarnavskiy, among other issues Boichuk rehabilitates the Sixtiers, quoting Ivan Drach, Lina Kostenko and Mykola Vinhranovskiy, but does not mention Stus.

Within the context of the debate about the Sixtiers, the figure of Vasyl' Stus clearly deserves more detailed treatment. It is no coincidence that critical inquiries into the life and work of this poet, who died in 1985 in a camp near Perm' in Russia, have often been accompanied by metacritic surveys of his reception. After his comeback in the literary life of Ukraine between 1989 and 1990, and already before these years in the press of the Ukrainian diaspora, Stus was portrayed as a hero, a martyr for the cause of national independence, which has in many cases deflected from an attentive examination of his poetry. This tendency has been carefully analyzed by various critics and Pavlyshyn gave a detailed account of it in an article he published in 2010 under the title "Martyrology and Literary Scholarship: The Case of Vasyl Stus."²⁰ In 1995 Zabuzhko wrote about the cult of Stus among Ukrainians in the early 1990s, underlining the split between his image as a victim of the regime and the difficulty in finding his texts. Two years earlier, the poet and critic Iurii Bedryk had stressed the aristocratic traits and the anti-popular character (*antynarodnist'*) of his poetry.²¹ In 1990, Mykola Zhulynskiy, still one of the most influential literary scholars of contemporary Ukraine, concluded his presentation of Stus in his book *Iz zabuttia v bezsmertia* (From oblivion to immortality) with the following words, "This customary return to his own self, inner conflict with his own self, uncompromising and proud in his struggle to remain an artist, because any compromise, whatever you may say, could have soothed his destiny, this continuous looking back in the hope of justifying what had happened and coming to terms with it, in order to survive and create reminders of a poetic Golgotha, which Stus climbed and on which he intended to nail himself to a cross of grief, of sacrifice: grief grown in the comprehension of the tragic fate of the Ukrainian people, and sacrifice in the name of a

20. Pavlyshyn (2010).

21. Bedryk (1993), pp. 66–67.

happy historic future for native Ukraine.”²² This martyrological interpretation of Stus’ life and death set the tone for the prevailing global view of his biography and poetry in the years to come.

The same hagiographical tone informs a ten-page presentation of Stus in a new anthology of Ukrainian literature²³ for students and teachers edited by Zhulyns’kyi.²⁴ The book was published last year and is recommended by the Ministry of Education and Science of Ukraine. Stus is directly compared to Christ bearing the cross of Ukrainian history, and his fate is even said to be lighter than that of Shevchenko.²⁵ A glance at school handbooks²⁶ for sale in one of Kyiv’s best bookshops confirms that Stus is firmly part of a Ukrainian literary canon, but the way he is presented in it is undoubtedly unsatisfactory. In a recent reference book in Ukrainian literature for school students, approved by the Ministry of Education, a detailed discussion of Stus’ biography leaves little room for a truly literary description of his poetry, which is confined to some quotations of his best known lines.²⁷ The first sentence of the text does not fail to mention the usual and rather groundless identification of Stus as the Shevchenko of the Twentieth century. There follows an account of his persecutions by the Soviet authorities, but his literary achievements are almost completely ignored. Even narrower and more one-sided is the poet’s portrayal in a collection of valuable student papers in Ukrainian language and literature published in 2010, whose Stus-related titles are mainly linked to his fame as a patriot and a hero of Ukraine.²⁸ Among them are highly rhetorical papers on topics such as “Tuha za ridnym kraiem u poetychnykh tvorakh V. Stusa” (Longing for the homeland in the

22. Zhulyns’kyi (1990), p. 431.

23. On the problematic issue of compiling an anthology of Ukrainian literature and on the links between anthology and canon see: Brogi Bercoff.

24. Zhulyns’ki (2011).

25. See: Zhulyns’kyi (2011), p. 1075.

26. For a good insight into the problem of the link between canon and school, see: Guillory (1993), pp. vii–ix. For interesting and recent reflections on these issues with special regard to Eastern Europe, see: For interesting and recent reflections on these issues with special regard to Eastern Europe, see: Bakula (2011). The author underlines the typical Ukrainian dependence of the canon on political conjuncture (p. 35). See also: Maslowski, Francfort and Gradwohl, (2011), as well as Garncarek, Kajak, and Zieniewicz (2010).

27. Marchenko and Marchenko (2011). On Stus see pp. 660–667.

28. Melezhyk (2010). On Stus see pp. 395–411.

poetic work of V. Stus), “Vasyl’ Stus — nezlamnyi lytsar pravdy i svobody” (Vasyl Stus: an invincible fighter for truth and freedom), and “Zhyttievyi podvyh V. Stusa” (The life and deeds of V. Stus). Far less attention is devoted to a more scientific (although scholastic) discussion of his poetry.

The origin of this trend could be traced back to an article from the mid-Nineties entitled “Vykorystannia poezii Shistdesiatnykiv dlia stanovlennia svitohliadu uchniv” (Using the poetry of the Sixties to form pupils’ life vision), published in 1996 in the Journal of the Ukrainian Ministry of Education “Dyvoslovo.”²⁹ The publication invites teachers to use the works of Lina Kostenko, Vasyl’ Stus and Ivan Svitlychnyi on historical themes in order to reinforce a sense of national belonging among children. However, the very word “using” in relation to poetry is puzzling. As to higher education textbooks, the only academic history of Twentieth Century Ukrainian Literature published after 1991³⁰ gives a more detailed and more balanced account of Stus’ life and work. Edited by the leading academicians of independent Ukraine, the History has been strongly criticized by Grabowicz as a “heap of facts accumulated in a positivistic way.”³¹ However, it must be recognized that it contains useful information and good reflection cues, having been conceived in a period when the struggle to overcome Soviet dogmas and limitations was the most pressing problem. Mykhailyna Kotsiubyns’ka’s portrayal of Stus’ legacy in the context of his biography³² is well-structured and totally free from the heroic pathos of several other writings about him, despite her being a close friend of his. Her account ends with recognition of the insufficient degree of knowledge of Stus’ art followed by a hopeful affirmation of his future appreciation as a world-class poet. Herself a key figure of the *Shistdesiatnytstvo*, the late Kotsiubyns’ka’s contribution as a literary critic in publishing, spreading and interpreting Stus’ poetry can hardly be overestimated.

In 2011 Pavlyshyn wrote about the persistence of hagiographical style in the preface to the second edition of Stus’ works, the publica-

29. Bondarenko and Bondarenko (1996), pp. 52–55.

30. Donchyk (1993–1995; 1998²).

31. Hrabovych (2001).

32. Donchyk (1993–1995; 1998²), 2/2, pp. 184–193.

tion of which has been interrupted due to lack of funding, while the first edition from 1995–1999 has become a rarity. In 2012 the Smoloskyp publishing house presented a valuable and inexpensive collection of selected works by Stus, edited by his son Dmytro.³³ This opens the way for numerous readers to gain access to a good edition of Stus' main works and to some fundamental critical studies on them reprinted in the book, such as George Y. Shevelov's path-breaking study from 1986.³⁴ However, we cannot help noting that the same reproach Pavlyshyn expressed about Kostiantyn Moskalets's foreword could be made about the first of the two new essays on Stus, respectively by Aleksei Zakharovich and Vasyl' Herasym'iuk, which bring the new anthology to a close. Apart from that, we cannot but welcome the book, which will surely contribute to a wider acquaintance with Stus' poetry and to a re-assessment of his place in the living canon of Ukrainian literature. The important work of the Smoloskyp publishing house in gathering and printing books by Sixtiers, as well as studies on them, is definitely worth mentioning in this respect. Further examples of recent admirable projects related to the Sixtiers include a wide selection of poems by Vasyl' Symonenko and the edition of Iryna Zhylenko's memories *Homo feriens*.

As previously mentioned, the issue of the Ukrainian literary canon is said to cause unease among critics. The same word could perhaps apply to discussions about the *Shistdesiatnytstvo*.

Literature about them ranges from texts with an almost panegyric tone to attempts to demystify their fame. In the first pages of her book published in 2010 by Smoloskyp as *Ukrains'ke Shistdesiatnytstvo: profili na tli pokolinnia* ('The Ukrainian Sixtiers: profiles on the background of a generation')³⁵ L. Tarnashyns'ka admits the profoundly personal character of her approach to these writers, but there is no denying that some of her pages are pervaded by a tone of excessive praise. So, Stus, Symonenko and Ievhen Sverstiuk are indirectly compared to Christ, while the figure of Ivan Dziuba is defined as the "honor and conscience of the Sixtiers."³⁶ Tarnashyns'ka claims to be

33. Stus (2012).

34. Shevel'ov (1986).

35. Tarnashyns'ka (2010).

36. Tarnashyns'ka (2010), pp. 142 and 456.

aware of the high pathos of some of her judgments, by means of which she consciously counters the efforts of some “defamers of this unique phenomenon” in her words. One of the most polemical articles on the *Shistdesiatnyky* had been published in 1994 by Vasyl’ Ivashko in the journal *Svito-vyd*,³⁷ jointly edited by the Kyiv organization of the *Spilka Pys’mennykiv Ukrainy* (Union of Writers of Ukraine) and the New York Group. The aim of its author was to free Stus’ poetry from the myth that living *Shistdesiatnyky*, which he identified as the new power, had built around him.

The variety of viewpoints and methodologies in the process of interpretation of the artistic and human heritage of the Sixtiers, as well as discussions about the literary canon, are surely a promising confirmation of the vitality of Ukrainian literature, in the hope of a wider, long-awaited acknowledgment of its achievements by other European cultures.

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37. Ivashko (1994). See also: Medvid’ (1997). Medvid’ invites living *Shistdesiatnyky* to “abandon the mythologization of their own self” (p. 114), while concluding his article with the quite polemical affirmation that “*Shistdesiatnytstvo* is a private affair of everyone of us” (p. 117). On the question of Stus’s actual belonging to the *Shistdesiatnyky* as a poetic movement, see: Ilnyts’kyi (1999). Ilnyts’kyi writes: “It is undoubtedly hard to separate Vasyl’ Stus from the phenomenon of the *Shistdesiatnytstvo*, dealing with this phenomenon in all its complexity, first of all as a negation of the official status of literature, but not as a negation of the status of the literator as a mouthpiece for social, in particular national ideas. More precisely, V. Stus could be called a postsixtier, the link between the Sixtiers and the representatives of the soon suffocated Kyiv School, by whom the social principle was already searching for existential ways out in order to realize itself, while the artistic text was conquering a greater deal of autonomy” (p. 167).

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Alessandro Achilli

Educational Policy of Ukraine since 2010

Back to the Imperial Past

MAKSYM V. STRIKHA

In the period stretching from 1991 to 2010 there were a number of Ukrainian governments, but only five ministers were actually in charge of education policy, namely: Petro Talanchuk (1991–1994), Mykhailo Zhurovskyi (1994–1999), Vasyl Kremin (2000–2005), Stanislav Nikolaienko (2005–2008), and Ivan Vakarchuk (2008–2010).

Obviously there were differences when it came to addressing single issues. Talanchuk and Zhurovskyi were technocrats, as both came from the top-ranking technical University of Ukraine, the Kyiv Polytechnic Institute. Kremin was a Soviet bureaucrat, a former Communist party activist. Nikolaienko was a technical school teacher, and Vakarchuk a professor of theoretical physics and rector of Lviv University. However, their general strategy in the field of education was reasonably consistent. It included the removal of the numerous ideological markers of the Soviet period, still extant primarily in the humanities, an increase in university autonomy, as well as a better integration into the European educational area. Despite the numerous problems caused by the general situation in Ukraine and the constant lack of funds for schools and universities, generally speaking, this policy was fairly successful. As a matter of fact, Ukraine's education is still ranking high in the UNO Human Development Index, and graduates from Ukrainian universities are quite competitive and successful in finding good jobs outside their country.

There is one more thing of paramount importance which must be pointed out. In the late 1980s, as a result of the long-term Russification policy in the USSR, Ukrainian had become the language of instruction for less than 50% of school children. There were no schools with Ukrainian as the language of instruction in many cities of

Eastern and Southern Ukraine. Furthermore, there remained practically no university courses held in Ukrainian outside the departments of Ukrainian philology. From 1991 to 2010 the number of pupils who could rely on Ukrainian as the language of instruction rose to 80%, and Ukrainian became the dominant language in universities, at least in Western and Central Ukraine. This occurred without any forcible actions on the part of the authorities, but just in the wake of the general bottom-up movement towards national revival, which the government generally supported, among other things, in compliance with article 10 of the Ukrainian Constitution. As a result of this liberal educational policy of the period 1991–2010 young men and women below 30 are now more liberal and pro-Western than Ukrainians generally are. There is more to it than that. University teachers and students strongly support Ukraine's eventual membership in the EU and NATO. Also, if in 2004 elections they had mainly supported Victor Yushchenko, in 2010 they definitely supported Yulia Tymoshenko.

Things changed gradually in 2010 after Viktor Yanukovych's victory in the presidential elections. One of the winning team leaders, the 46 year old prominent pro-Russian politician Dmytro Tabachnyk (a.k.a. Dmitrii Tabachnik in Russian) was appointed Minister of Education and Science (later he was also made responsible for sports and for policy towards youth). This appointment was met with widespread criticism and protests in many universities, especially in Kyiv–Mohyla Academy, a stronghold of liberal professors and students, because of the numerous anti-Ukrainian and xenophobic statements which Tabachnyk had made in previous writings and public speeches. However, in 2010–2012 period, the parliamentary opposition was nothing to speak of. In addition, Moscow went to all lengths to support the new minister, who could act without any public control.

Mr. Tabachnyk's educational strategy boils down to 3 main points:

- a) The 1999 school reform, which turned the 10-year primary and secondary school system inherited from the USSR into a 12-year one. As a matter of fact, it took a decade for the reform to be implemented. Just think of a set of new text-books to be prepared and printed, since the Ukrainian Constitution has a norm which makes it mandatory for Ukrainian school children to have their text-books free of charge.

However, in 2010, when the reform was close to its accomplishment, a new law was passed, strongly recommended by the Ministry of education, reducing the duration of study to 11 years only. In fact, this resulted in the necessity of renewing all the school programmes and of printing the new textbooks.

Experts had even mentioned the opportunity of resorting to manipulation of budget funds to counter the excessive costs of the reform. Let's now come to the point, which was basically political. An 11-year school-system makes Ukrainian school close to Russian school, whereas EU countries generally envisage a 12-year term. This way the 2010 school-reform makes further re-integration of Ukraine into the sphere of Russian interests much easier.

- b) As far as universities and their autonomy are concerned, Mr. Tabachnyk did everything in his power to establish complete control. In the summer of 2010, the two long-term rectors of Donetsk and Odesa Universities, outstanding scholars in mathematics and in physics, were simply fired. In Odesa, a person supported by the ministry was elected soon after the previous rector had stepped down (the media said after pressure from the ministry). In Donetsk, however, the officially supported candidate failed, but the ministry did not appoint the winner as a rector, and the university has been working living for more than 2 years under an acting rector, appointed by the ministry, as was the case with many minor universities.

Practically only two major Universities, Kyiv-Mohyla Academy and Kyiv Polytechnic Institute, had upheld their right to elect their own rectors even in an open opposition to ministerial will. However, they have suffered from many administrative restrictions and disadvantages, as well as from drastic curtailing of budget funds for their research activity.

It should be mentioned that the ministry has recently issued many severe restrictions jeopardising educational and research mobility as well as the very idea of interdisciplinary studies. For instance, a student can enter now the Master program only in the discipline in which he had graduated with a Bachelor's degree. Transfers between disciplines which are actually close are definitely ruled out. Furthermore, members of the commis-

sions authorized to confer PhD degrees are strictly limited to act within the area of their own doctoral certificates, thus excluding any intervention outside their narrow discipline, even though their actual activities might have been interested in other related disciplines.

There is more to it than that. Take Ukrainian integration into the Bologna process, officially proclaimed in 2005. All the relating activity has practically vanished, as professors, who generally have 900 hours of lectures annually, are busy with new plans and reports that take up the rest of their time.

- c) Issues of identity and memory. Mr. Tabachnyk is an open champion of Ukrainian integration into the so called “Russian World” (the new anti-Western community of Orthodox nations, led by Russia). Therefore, the new school textbooks, written and printed after the 2010 reform, deal with many controversial points of Ukrainian history from the former imperial stand-point. The champions of Ukrainian independence are looked upon as “traitors of Russian Tsars” (like Hetman Ivan Mazepa), or as “Nazi collaborators” (like the Ukrainian Insurgent Army in WWII). The great Famine of 1932–33 (known as the “Holodomor”) is no longer treated as genocide against Ukrainians, but as a mere tragic excess of Stalin’s policy, just one among many, etc. In the course of World literature many writers of the “Western Canon” (in Ukrainian translations) are replaced by Russian authors (in their original language).

A new controversial language law was pushed through by the ruling Party of Regions in the summer of 2012. It retains the Ukrainian language as the official one, but makes its use in almost all spheres (including schools and universities) *de facto* no longer mandatory. Mr. Tabachnyk had strongly supported the actions of local authorities in South and East Ukraine (especially in Odesa) in order to reduce the number of children in schools where Ukrainian was the language of instruction. As a result, the number of pupils that study in Ukrainian has decreased in 2012 for the first time in the whole period of independence. The official position of the ministry in this case was that “all the schools in Ukraine are Ukrainian despite their language of instruction”.

Although Mr. Tabachnyk gained a reputation as the most controversial figure of the Ukrainian government, deeply hated by many Ukrainians, demonstrated no wish to be more moderate in words and deeds, and no will to establish some dialogue with his opponents, he was re-appointed as Minister by president Yanukovich in the new government of Mykola Azarov, formed after the 2012 parliamentary elections. Immediately after this he was elected an “acting member” of the Board of the National Academy of Sciences (not being a member of the National Academy of Sciences himself).

According to the evaluations of experts, this has come to pass at least for two reasons.

Firstly, despite the success stories with Kyiv–Mohyla Academy and Kyiv Polytechnic Institute, despite the active position of some students and academics associations, in general the academic community of Ukraine has put up a rather feeble resistance against these clear violations of moral and professional norms. This is due in large part, to the extremely low social status of Ukrainian university teachers and academics, forced to survive in the difficult conditions of low salaries and heavy teaching duties on one hand, and with many rectors inclined to accept the practices of the “blackmail state” on the other.

Secondly, Mr. Tabachnyk has proved to be extremely effective from the point of view of Russian effort to reintegrate Ukraine into its sphere of influence, beginning with making administrative scheme of the school system in Ukraine similar to the Russian one and ending with switching the model of national identity of modern Ukrainians from patriotic and pro–European to pro–Russian one. Therefore as long as Mr. Tabachnyk will be in his office, no pro–European statement of the Ukrainian president should be viewed in a serious way.

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