

# **A New President for Ukraine: A Democratic Choice in the CIS?**

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During the second term of President Leonid Kuchma (1999–2004) Ukraine faced a serious decline in civil rights, rule of law, and fair government. Political scandals around journalist Heorhiy Gongadze's murder and the intimidation of political opposition and independent media resulted in growing social dissatisfaction with the state institutions. At the same time, Ukrainian politics were shaped by the new strong non-leftist opposition, which presented an alternate view for modernization of the Ukrainian state and nation in conformity with European and democratic values. The main branch of this opposition, the "Our Ukraine" block led by former Prime Minister Viktor Yushchenko, included not only traditional national-democratic opposition but also former state executives who protested Kuchma's crony capitalism and corruption. In the 2002 parliamentary elections Our Ukraine won the first slot on the party slates. Having put pressure on the deputies of the Ukrainian parliament (Verkhovna Rada), Kuchma managed to form a slim pro-presidential majority. Nevertheless, Yushchenko emerged as the leading candidate in the 2004 presidential race.

## **Configuration of Forces in the Campaign**

For many years, Ukraine's opposition stood in favor of limiting the power of the Ukrainian President. After the 2002 parliamentary elections Kuchma's supporters not only formally embraced the idea of constitutional reform, but even envisaged the creation of a parliamentary republic with a powerful prime minister and nominal president. From their side it was a tactical step; in the case of Yushchenko's victory he would become a weak president while, as some analysts suggested, Kuchma (or one of his close supporters) might become a new powerful prime minister.

However, since the failure of the April 8, 2004 vote on the Constitutional Amendment Act, the Ukrainian elite have been preparing for the imminent fight for the presidency and speculating on who Leonid Kuchma would nominate as his political successor. Each oligarchic clan, namely the Kyiv, Dnipropetrovs'k, and Donetsk clans, hoped that Kuchma would anoint their leader as his "heir."

In April 2004 Viktor Yanukovych, the prime minister and representative of the Donets'k clan, had the highest personal rating (10-15 percent according to different sociological surveys) among politicians loyal to Kuchma (primarily because of his administrative position). His criminal past, however, especially his two terms of imprisonment, weakened his position and made him dependent on kompromat. The kompromat acted as strong strings that controlled his future political actions and guaranteed the security of Kuchma and his entourage. Moreover, Yanukovych supported Kuchma's ideas of strengthening ties within the Single Economic Space proposed by Moscow. Viktor Medvedchuk, head of the presidential staff and oligarchic Social Democratic Party of Ukraine (United), had to ally with Yanukovych after the failure of the constitutional reform. Still, Medvedchuk did not give up on his idea of constitutional change and even persuaded Kuchma that adoption of the constitutional amendments should be the main condition for Yanukovych to receive the powerful backing from the state bureaucracy. Medvedchuk alone controlled governors in six regions with almost six million voters or 15 percent of the Ukrainian electoral body. He was also considered to be a shadow ruler behind the decisions of the powerful heads of Internal Affairs, the Security Service and the Tax Administration. Medvedchuk's support was vital for any candidate as he owned or managed three nationwide popular television channels. He was notorious for introducing the practice of temniki (instructions for how to cover up and ignore events) to all Ukrainian mass media.

Another influential group, with Viktor Pinchuk (Kuchma's son-in-law) at the top, was elaborating plans for personal "safety nets" for the president and his family. In addition to constitutional reform, Pinchuk looked to establishing contacts with the West and organizing visits of retired high-ranked U.S. officials, such as former President George Bush, Secretary of State Henry Kissinger, Ambassador Richard Holbrooke, General Wesley Clark, and billionaire George Soros.

The authorities tried to split the opposition forces. However, this tactic was not successful enough. Yulia Tymoshenko, former vice prime minister in Yushchenko's government, sided with Yushchenko in founding the coalition "Strength of the People". Later, the idea of creating a new parliamentary coalition and a new "government of people's trust" was put forward. After Yushchenko won the first round of voting on October 31st, centrist political forces such as former prime minister Anatoly Kinakh (Party of Industrialists and Entrepreneurs of Ukraine), the People's Agrarian Party (headed by speaker Volodymyr Lytvyn, though he formally decided not to take sides), the "Democratic Platform" of People's Democratic Party, the faction "Center," and the Green Party decided to join Yushchenko's initiative.

On the left, the Socialist party (SPU) was struggling for the brand of the "main left force" with the Communists. Head of the SPU Oleksandr Moroz (former speaker and a staunch critic of Kuchma) claimed that his participation in the campaign gave people real choice, whereas Symonenko presented the Soviet past; Yanukovych, the power of criminal clans; and Yushchenko, the power of big business. At the same time, many supporters of the SPU pragmatically voted for Yushchenko because of his greater chances to defeat Yanukovych. Therefore, on the eve of the run-off Moroz signed an agreement with Yushchenko. It was an important symbol, as Yushchenko received support from the center-left.

The Communist leader, Petro Symonenko, accused both Yushchenko and Yanukovych of being “puppets” of the oligarchic clans, though his strongest criticism was aimed at Yushchenko. Thus, the Communists once again played into the hands of the existing regime. The results of the first round were a devastating blow to the Communists. Symonenko got only 5 percent, and for the first time the Socialist candidate was ahead with 6 percent of the votes. In the run-off the Communists declared their neutrality, although many communists, especially in the eastern and southern regions, favored the prime minister for his pro-Russian policies.

### **The Stakes: Democracy and Sovereignty vs. a “Corrupted, Criminal Regime”**

Throughout the election campaign, the presidential administration tried in every way possible to stop Yushchenko from winning the elections. Kuchma himself “predicted” that it would be the dirtiest campaign in Ukrainian history. In early April 2004, a conflict was staged during the mayoral elections in the small town of Mukachevo (Transcarpathian oblast), where both criminals and law enforcement agencies directly interfered with the electoral process, stealing the victory from the Our Ukraine candidate.

Ruthless and illegal actions in Mukachevo pushed the parliament to issue a special statement. About a dozen deputies announced their departure from the pro-government majority, thus breaking Kuchma’s control over the parliament. It helped the opposition prevent another attempt to change the Constitution.

In response, Medvedchuk imposed even more severe censorship on major Ukrainian TV-channels. Pressure then mounted on the only free TV company, Channel 5. Since August there have been attempts to block Channel 5 from its regional audience by intimidating its partner broadcasting and cable companies. In October, Channel 5 was sued by one of the deputies and its major bank accounts were frozen. The fate of the channel was saved by dozens of journalists conducting a hunger strike and wide public protests which led to the reversal of this decision.

The main card played by Medvedchuk and Yanukovych involved presenting Yushchenko as a radical nationalist who was going to oppress the Russian-speaking population, whereas Yanukovych was portrayed as a decent public servant and a great friend of Russia. Russian and Ukrainian consultants to Yanukovych started to promote the idea of a schism in Ukraine between the “nationalistic” West and “industrial” East.

According to the Russian magazine Profile, Moscow directly contributed a half billion dollars to the Yanukovych campaign. Also, Russian President Vladimir Putin agreed to restructure \$800 million of Ukrainian debt for purchased gas and decided to repeal value-added taxes on oil exports to Ukraine starting January 1, 2005. Moreover, on October 26th, five days before the first round of voting, Putin made a visit to Kyiv and praised Yanukovych’s government. To support Yanukovych before the run-off on November 21st, the Russian Duma adopted a law weakening control of Ukrainians traveling to Russia. Also, President Putin ordered the preparation of legal documents to introduce the prospect of dual citizenship between Russia and Ukraine – another electoral promise made by Yanukovych.

In September 2004, Russian influence increased after the opening in Kyiv of a “Russian Club,” which became a cover for the presence of Gleb Pavlovskiy and other Russian consultants in Ukraine. The “Russian Club” was opened to publicize the results of opinion polls, which showed Yanukovych’s rating rising without giving information about the methodology of the survey. It also organized dubious alternative exit-polls in the first and second rounds that declared Yanukovych the winner.

The most dramatic moment of the campaign happened in early September when Yushchenko was hospitalized in Vienna and had to quit active campaigning until the middle of October. Our Ukraine blamed authorities for poisoning Yushchenko. Authorities responded with an even more brutal falsification campaign. The head of the news service at the ICTV channel (controlled by Pinchuk), Dmitrii Kiselyov, a Russian citizen, directly participated in this campaign, thus violating Ukrainian electoral law.

The Western influence was not directed at supporting a particular candidate but rather at monitoring the electoral process. The United States, the European Union, the Organization of Security and Cooperation in Europe, the Council of Europe, and a number of western NGOs sent hundreds of observers to watch the elections. The United States gave messages of warning to Ukrainian authorities that in case of mass fraud it could impose sanctions on certain Ukrainian politicians responsible for unlawful decisions. To support the point, the State Department refused to issue a visa to Hryhoriy Surkis, the closest partner of Viktor Medvedchuk.

Despite a controlled mass media and the use of administrative resources, the opposition was successful both in depicting Yanukovych as a mere continuation of Kuchma’s regime and in disseminating information about Yanukovych’s criminal past and irresponsible economic policy, which ended with sharp growth in prices of gasoline and food. On the other hand, the Yushchenko team declared its desire to get rid of “state capture” by clans, to decrease the administrative pressure on businesses, abolish the tax police, and lighten the tax burden. Thus, small and medium business supported Yushchenko.

According to exit polls conducted by the respected Kyiv International Institute of Sociology and the Razumkov Center, Yushchenko won the victory by 7 percent in the first round and by 9 percent in the run-off. However, fraud was widely used, and after the first round the Central Election Commission (CEC) counted the votes for 10 days (!) before recognizing Yushchenko’s victory (the official result was 39.87 percent against 39.32 percent for Yanukovych). On November 24, the CEC declared Yanukovych the winner in the run-off (49.56 percent against 46.61 percent). Thus, the changes in favor of Yanukovych comprised 11 percent, and in total – 17.4 percent!

### **Culmination: the “Orange Revolution”**

The live-broadcast session of the CEC on November 24, which named Yanukovych the winner after obvious and cynical violations, only increased the scope of the protests. It is no secret that the opposition knew about the possibility of such a scenario and was prepared to call people to streets. But even Yushchenko and Tymoshenko did not expect such massive non-stop rallies all over Ukraine, which combined the celebration of the “orange” victory (the color of Yushchenko) with protests against falsifications. The civil

movement against falsifications was joined by the protests of journalists against manipulation and censorship, and the policy of the main television channels changed to more balanced coverage.

When the protests started, the authorities did not manage to provoke the crowds into the violent clashes they expected. In this situation, another method was used: three governors of eastern oblasts started to blackmail Yushchenko with the possible creation of a 'South-Eastern autonomous republic', and the Kharkiv governor even declared he would refuse to make payments to the state budget. The Yushchenko team immediately accused Yanukovych supporters of separatism and demanded that Kuchma act as the guarantor of Ukrainian territorial integrity. Many local authorities did not side with the separatist factions. In fact, Yushchenko won not only in the west, but also in the center of the country. He moved to northeastern Chernihiv and Sumy regions, and according to exit polls, won in the southern Kherson oblast. In the Ukrainian capital he officially secured 75 percent of the vote. Even oligarchs supporting Kuchma (such as Pinchuk and Akhmetov, the main business figure behind Yanukovych) were not interested in splitting the country, as their access to world markets would suffer.

The Verkhovna Rada firmly denounced separatism, declaring on November 27th that the results of the run-off were distorted, expressing non-confidence in the CEC and then, on December 1st, in Yanukovych's government. It was a great moral victory for Yushchenko.

Kuchma and his entourage also tried once again to immediately push through the constitutional reform aimed at stripping Yushchenko of real power. In turn, Yushchenko repeated his original position: his team is in favor of adopting reform now, while implementing it only in 2006 when the new parliamentary election would take place. Now the Ukrainian political system is more open and pluralistic than in other post-Soviet countries, and there is a trend towards greater responsibility of the parliament. It is clear that under Yushchenko an opposition will continue to exist (contrary to expectations about Yanukovych policy) and will actively participate in the 2006 parliamentary election.

On November 29th, the Supreme Court of Ukraine began an examination of Yushchenko's complaint on the decision of the CEC. The live broadcast of its session revealed the scale of falsifications to the country and to the international community. International mediators including the EU High Representative for the Common Security and Foreign Policy Javier Solana, Polish President Alexander Kwasniewski, OSCE Secretary General Jan Kubish, and Lithuanian President Valdas Adamkus also played an important role in persuading Kuchma, Yushchenko and Yanukovych to wait until the Supreme Court made a final decision about elections.

The speaker of the Russian Duma, Boris Gryzlov, also participated in these negotiations. However, Russia's position appeared quite dubious, as Putin congratulated Yanukovych with victory even before the CEC announced its decision (while even Kuchma refrained).

Kuchma and Putin were eager to have a new presidential campaign from the very beginning. It seems that it was initially considered an ideal scenario by Kuchma's administration, although they did not expect such strong protests from Ukrainians as well

as from the international community. On the contrary, the opposition and the West insisted on repeating the run-off. Putin's position has already increased anti-Russian sentiments in Ukraine. Therefore, if Russia continues to interfere with the Ukrainian electoral process, it may eventually lead to the undermining of Russian-Ukrainian relations and the interests of Russian business in Ukraine.

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