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## Ukraine under Yanukovych: Plus ça change?

*By Amanda Paul*

Five years ago he was the “villain” of the Orange Revolution. Today, Viktor Yanukovych is Ukraine’s President-elect, beating his long-time rival – the serving Prime Minister Yulia Tymoshenko – by a whisker. With the elections declared free and fair by the international community, Ukraine continues to consolidate democracy and media pluralism, thus setting an example in, and for, the region.

Mr Yanukovych faces many challenges: creating political and economic stability, improving governance, strengthening the rule of law (including ensuring the independence of the judiciary and effectiveness of the courts), and demonstrating there is no threat to democratic institutions and freedoms. His immediate priorities will not be geopolitical, but economic.

### **Achieving political stability**

Though there is no love lost between the two candidates – and Mr Yanukovych has called for her resignation – it is not impossible that Ms Tymoshenko (who continues to dispute the election result) may remain as Prime Minister. Given the economic crisis, this may even prove advantageous for Mr Yanukovych: by appointing a new PM he risks losing popularity quickly if there is no rapid improvement in the economy.

Furthermore, as the Parliament elects the Prime Minister, removing Ms Tymoshenko from power would be difficult. Calling early parliamentary elections is constitutionally tricky, and Mr Yanukovych’s Party of Regions (PoR) would need a majority in the Rada to pass a vote of ‘no confidence’ in Ms Tymoshenko’s ability to form a new government. It would be interesting to see what sort of new government this would be, given that the PoR is jam-packed with businessmen who may feel inclined to pursue their own interests rather than those of the country.

Furthermore, the wafer-thin gap between Mr Yanukovych and Ms Tymoshenko gives him a limited mandate, as he is the first Ukrainian President to be elected with less than 50% of the vote. Given that he lost 17 of the 27 Ukrainian regions he will have to make efforts to reach out to his opponents if he is to have a real chance of political stability. His party may also face challenges as different factions compete for power and influence.

The key to long-term stability remains constitutional reform. The changes following the Orange Revolution created a hybrid system with overlapping powers between the President and the Prime Minister and a cumbersome relationship between the executive and the legislature. However, reform is unlikely as Ukraine’s political elites have consistently demonstrated a lack of political will to address the issue, and the requirement of a qualified majority – two thirds of the Rada – would be very difficult to achieve.

### **A Russian Stooge?**

Mr Yanukovych has pledged to strive for a balanced relationship with the West and Russia, although he is regularly still labelled a “Kremlin Stooge” – something he capitalised on during his election campaign. It would be a mistake to assume he will wholeheartedly toe Moscow’s line although there can be no doubt that relations will be warmer than with his predecessor. While Mr Yanukovych’s main electoral base remains Ukraine’s industrial eastern and south-eastern regions, it would be naive to believe that they would be willing to embrace Moscow unconditionally given that their financial and industrial magnates’ business interests are in the West.

Many of Ukraine's richest oligarchs who built their fortunes in the metals and mining industry sectors do not want to compete with the Russians in these sectors, and have few prospects on a Russian market, which has more than its share of metals and other natural resources. As a consequence, Mr Yanukovich will defend Ukraine's internal market and keep the Russians out of it. To do this, he will have to stick to the existing policy of creating a strong regulatory framework.

He will also have to fight hard to prove that he is able to operate independently of big business, and not be directed by those (such as Dmytro Firtash, a businessman linked with the notorious gas trader Rosukrenergo) who heavily financed his campaign. He will also need to follow through on election promises to crack down on Ukraine's pandemic levels of corruption - which will not be easy.

On other issues close to the Kremlin's heart, such as the extension beyond 2017 of the lease of Sevastopol to Russia's Black Sea Fleet, Mr Yanukovich is likely to take a pragmatic approach, staying silent on the topic although he canvassed on it during the campaign. And although he never formally withdrew his promise made in the aftermath of the 2008 war to recognise Abkhazia and South Ossetia, he has hardly talked about it since and is unlikely to aggravate the West by carrying out such a pointless action now.

While Mr Yanukovich supports awarding official status to the Russian language in Ukraine's regions and even made his victory speech in Russian, it would be impossible to legislate on this at the national level because it would need a two-thirds majority in the Rada, and since then he has been very carefully to only speak in Ukrainian. It is clear that Mr Yanukovich will not pursue NATO Membership, and instead has offered his support to Russian President Dmitry Medvedev's initiative of preparing a new security concept.

### **Energy – Continuation of the *Status Quo***

Again, contrary to his election-speak, Mr Yanukovich is unlikely to try to alter agreements reached with the EU and Russia in 2009 on gas supplies and modernising the transit system, even though he stated that Ukraine was paying too much for Russian gas and should renegotiate the terms of the deal. Neither are his previous calls for sharing control of the Ukrainian network with Gazprom (in return for discounted prices on Russian gas) likely to be pursued, as this would require changing the law substantially. It is also questionable whether Russia would consider such an offer given how costly it would be: indeed, the Kremlin may be more interested in creating a consortium on an operating system rather than ownership.

Furthermore, with the development of the Nord Stream and South Stream pipelines, Moscow's interest in Kiev's network is not as obsessive as in the past. In the long term, both routes will circumvent Ukraine and bring Russian gas directly to the EU market. The EU would also not welcome a return to a "Soviet style" framework, while Kiev would hardly renounce all the new arrangements it has made with Brussels.

Ironically, because of Ukraine's imminent membership of the Energy Community Treaty, Mr Yanukovich may be forced to increase the price of gas for domestic consumption in the early part of his Presidency. This does not bode well for a man who promised cheaper gas to the electorate.

### **Relations with the EU**

Mr Yanukovich's approach to the West, and the EU in particular, may in some respects not be totally dissimilar to that of former President Leonid Kuchma, as he may revert to the old game of "being in-between" endeavouring to play the EU and Russia against each other.

In the medium to long term, however, Kiev's relations with Moscow will be determined by how Europe (and the US) set their relations with Mr Yanukovich, and given that he plans to visit Brussels early on in his Presidency, the EU should send a strong message that it sees him as being pro-European. The President-elect wants international recognition, and Ukraine will be unable to modernise without large-scale Western assistance and investment, so the EU should continue to push Ukraine on a number of key issues, including reforming the energy sector, improving the electoral system and constitutional and judicial reform. Ensuring the independence

of the judiciary (especially the Constitutional Court) is a particularly urgent task as in its current state it cannot serve as an impartial referee.

Until now it has been more beneficial financially to delay reforms and only strong outside pressure, starting with the EU, could tip the balance and bring about change. Negotiations with the EU on a new Association Agreement will continue although the final framework of the free trade zone – which is an essential part of the future deal - will depend on how deeper economic and regulatory integration with the EU is seen by Yanukovych's inner circle. On the other hand, taking into account Ukraine's WTO membership it is highly unlikely that the country will pursue cooperation with Moscow on the Russia-Belarus-Kazakhstan Customs Union.

As a tangible incentive to making progress, the EU could push ahead on an issue close to the hearts of Ukrainians – namely visa liberalisation - by way of a visa-free roadmap as happened in the Western Balkans.

Ukraine finds itself at yet another crossroads. The Orange Revolution may be a thing of the past, but its legacy will live on: its achievements should not be forgotten but built upon. It is up to Ukraine's leadership and political elites to create a climate of political and economic stability and deliver some tangible results to the long-suffering population, rather than continuing with the destructive infighting of the last five years.

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