

President Yanukovich's Policies and Tendencies

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Summary

It is doubtful that President Yanukovich believes in democracy, or that he is interested in economic reform. To avoid reform of the gas sector, he has signed agreements with Russia which, while giving him a better gas price, constrain Ukrainian freedom of action. The further agreements that Russia is proposing could threaten Ukrainian independence. Regardless of the accords with Russia, Yanukovich does need further credit from the IMF. For this, he has to get his economic house in order. Yanukovich is also interested in free trade with the EU. For this democratic and even more extensive economic reforms are required. While Ukraine can be infuriating in the persistent gap between its promises and its performance, it is in the West's interests to remain engaged.

Analysis

During his election campaign, Viktor Yanukovich conveyed divergent messages to the Ukrainians and the West. To Ukrainians, he declared he wanted closer relations with Russia, together with free trade and eventual membership in the EU. He also wanted to see Ukraine join the Moscow-led customs union, the Common Economic Space (CES), provided it was allowed by the WTO. He promised to negotiate a more favourable gas price with Russia. He supported extending the Russian Black Sea Fleet's lease of its base at Sevastopol beyond its expiry date in 2017.

At the same time, Mr. Yanukovich's aides informed The Wall Street Journal that he and his Party of the Regions accepted the democratic rules of the game. Furthermore, the oligarchs around Yanukovich saw that their economic prosperity was linked to a reduction in corruption, the expansion of free market policies, lower taxes, fewer regulations and Ukraine's eventual integration into the EU.¹

President Yanukovich's foreign policy has so far been largely foreshadowed in his campaign speeches, although it is not at all clear how he can manage the contradiction between his efforts to establish an intimate political and economic relationship with Russia, and his ostensible desire to join the EU. The assurances conveyed in the Wall Street Journal article have so far, however, proved to have little relationship to the practice.

A gap between promise and performance has been common to all Ukrainian administrations, and especially to that of President Yanukovich's former boss, President Kuchma. Playing the East off against the West was also a hallmark of President Kuchma.

Without strong outside pressure, the gap between formal policies and real practices of the Yanukovich administration is likely, on the basis of the first months of his tenure, to be considerable.

The President's statements and initiatives suggest that he has only a limited belief in democracy. Mr. Yanukovich placed little emphasis during the election campaign on democracy or the rule of law, apart from declaring that Ukraine had paid a heavy price for freedom of speech. More recently, the president, who has expressed admiration for the stability of Putin's Russia, has remarked that "the opposition shatters stability," and Ukraine needs "a rigid chain of command."ⁱⁱⁱ During the presidential election campaign, his Regions Party had the electoral law amended to weaken the safeguards against electoral fraud. Since President Yanukovich's inauguration, the Regions Party has put together a majority by violating the constitutional requirement that majorities must be constructed out of parties, and not out of individuals. This stipulation was intended to prevent a recurrence of Kuchma's practice of using bribes or blackmail to obtain parliamentary support. The administration has since apparently prevailed on the Constitutional Court to approve the way in which the coalition was formed in contradiction of the Court's own decision of 2008.

The government has also violated the constitution by postponing until the fall the local elections that were stipulated for May. Here the President wishes to restore constituencies. They had been abolished to minimize the chances for electoral fraud.

The cabinet Yanukovich has formed, "smells," according to the leading analytical weekly, *Zerkalo Nedeli*, "of mothballs." It is composed of technocrats from the Kuchma era selected more for their loyalty than for their competence, and more interested in diverting funds, than in reform.ⁱⁱⁱ

Too many members of the administration have had experience in repressing. The Prime Minister, when head of the Tax Administration, reportedly used his powers against dissidents.^{iv} Thirteen members of the cabinet were either in the Ukrainian KGB or collaborated with Soviet Security departments. Security officials who had gone into exile so as to escape prosecution following the Orange Revolution, are returning and being reinstated.^v

In consequence, the human rights situation has worsened. The Interior Ministry has closed its Human Rights Section. The President has abolished the **National Commission on Freedom of Speech and Information Development**.^{vi} **Reporters without Borders** and **The European Federation of Journalists** have noted a deterioration in press freedom.^{vii viii} Newspapers and journalists are once again being harassed. Independent television stations are forced to tow the government line and suppress criticism.^{ix} An opposition rally has been hampered by the cancellation or disruption of bus and train services.^x Yuliya Tymoshenko has complained that members of her BYUT Party are being hounded by the police. In a continuation of the Kuchma tradition of using the law to harass the opposition, Ms. Tymoshenko, herself, has been placed under investigation for alleged budgetary abuses of her government when she was Prime Minister.^{xi}

The dedication of the Yanukovich administration to free market reforms looks at this point also to be questionable. Ukraine badly needs economic reform. The 2010 Index of Economic Freedom puts Ukraine in the 163rd place out of 179 countries, well below Russia.^{xii} The government has announced for the second half of the year an economic reform programme lasting until 2020 with the first measures to be announced in June. Nevertheless, without strong outside pressure, it is doubtful that the government will go far in overcoming the strong vested

interests in favour of certain elements of the status quo. The Prime Minister, Nikolai Azarov, while a solid manager, is not considered to be a reformer. The only person in the government who is regarded as pro-reform is, in fact, the Vice Prime Minister for Economic Reform, Serhii Tihipko. He, however, has no minister reporting to him. He also occupied the same position under Kuchma, where he noted for his inability to get anything done. The basic disposition of the government may be reflected in the President's intention of restoring the special economic zones. These zones, which were a source of tax evasion and corruption, were finally abolished on the insistence of the IMF in 2004.

Economic reform cannot be envisaged without a fight against corruption. Like his predecessors, the President has established a committee to fight corruption. Such a fight is badly needed. Transparency International's 2009 Corruption Perceptions Index places Ukraine and Russia, in the 146th place out of 180 countries.^{xiii} He and his colleagues do not, however, come to the fight with clean hands. In an apparent response to the Communist Party's reported demand for its members to have a financial share of the booty, Mr. Yanukovich has appointed a Communist functionary as head of the traditionally corrupt customs service.^{xiv} When the present Prime Minister, Mr. Azarov, headed the Tax Administration, it was regarded as massively corrupt. Twelve of the 29 ministers of the Cabinet have criminal records.^{xv} A large number of the senior figures in the administration were associated with the company RosUkrEnerho, the middleman in gas shipments from Russia to Ukraine until January 2009. In this position it siphoned off funds for individuals and parties. One of the first actions of Mr. Yanukovich's administration has been to delay until next year the coming into force of a package of anti-corruption measures. The Economics Ministry is now requiring companies bidding on government contracts to purchase from a selected list of companies an "expertise" costing 1-4% of the cost of the contract, allegedly confirming that their prices are at market rates.^{xvi}

The Yanukovich administration is so far enjoying a honeymoon phase, with a high level of popular support. Later, however, it may need opposition backing to achieve its goals. Yanukovich has a weak mandate. He was narrowly elected. The make-up of the cabinet is not likely, if democratic principles are respected, to attract long-term, broadly based popular support. The ministers come only from the Russian-speaking South and East. The Prime Minister and many of the Vice Prime Ministers do not speak Ukrainian.

The cabinet has a reputation for being Russophile, even Sovietophile, and Ukrainophobe. The Vice Prime Minister for Security Affairs, the Minister of Defence, and the Foreign Minister were appointed on the basis of Russian recommendations.^{xvii} The Communist Party, a member of the governing coalition, is erecting busts of Stalin in various parts of the country. The Ukrainian Security Service (SBU) no longer responds to requests for information on the Soviet era from its archives. The existence of **The National Memory Institute**, concerned with past repressions, is under review.^{xviii} The Minister of Education, Dmitry Tabachnik, last year suggested in an article that the Ukrainian-speaking and nationalist Western regions might be separated from the country. His appointment has led to street demonstrations and protests from the two independent universities. President Yanukovich and Dimitry Tabachnik have outlined plans to re-write school textbooks, in some cases together with Russia, apparently so as to reflect a Soviet-Russian national identity.^{xix}

The opposition is potentially strong. The Orange Revolution has arguably changed Ukraine. The electorate may no longer be so passive. Yanukovich faces in Yuliya Tymoshenko

a formidable opponent. She is probably the most intelligent politician in the country. She is well capable of rallying public opinion against questionable policies.

While political calculation would suggest that Yanukovich should work with the opposition, compromise does not come naturally to him. In any case, the initial measures taken by the government, including the agreement extending the lease on the Russian naval base, have sufficiently infuriated the opposition that it is unlikely for the foreseeable future to work with the government on other issues. Unless the two sides can co-operate, Yanukovich may be tempted to adopt more repressive measures.

The adoption of more authoritarian politics will not help the government achieve its aim of free trade with the EU. During President Yanukovich's visit to Brussels in early March, EU officials offered to conclude a free trade agreement in twelve months as a step towards an association agreement. To achieve this goal, the Ukrainian government had to reactivate the IMF Stand-By Arrangement that had been suspended in the fall. The IMF suspended payments because the government of the day had not honoured its pledge to raise gas prices to market rates, and parliament had passed a law raising pensions and the minimum wage by an amount the IMF considered the economy could not support.

The EU made it clear that Ukraine had to continue economic reforms, tackle the judicial system, revise the constitution, improve the electoral system, and combat corruption.^{xx xxi} In doing so, the government had to work with the opposition.

The EU also insisted that transparency and market conditions had to be adopted in the gas sector, including charging the market rate for gas, which would cause the price to double, so as to bring into force the 2009 Energy Community Treaty. Such reforms would allow Ukraine to receive investments for modernizing the Ukrainian Gas Transit Pipeline from Russia.

In response, President Yanukovich affirmed that his goal was integration with the EU, and adherence to the Energy Community Treaty.

The agreements Ukraine concluded with Russia on 21 March, resulting in a reduction by a third in the price of gas, may, however, be an effort to avoid a serious reform of the gas sector. Ukrainians have, however, argued that raising the price for gas now, would make it harder to bring the public later to accept more painful sacrifices. Nevertheless, Ukraine's initial discussions with the IMF held at the end of March, showed a reluctance to make other changes. Ukraine insisted on maintaining not only the subsidies for gas, but also the increase in pensions.

There are three accords between Russia and Ukraine:

- The agreement on gas maintains more or less the existing price mechanisms for Russian gas and the transit of Russian gas to Western markets. It stipulates, however, that Ukraine has to increase its annual purchases by a third. There is, however, no obligation on Russia to maintain its current level of gas shipments through Ukraine to Western Europe.
- The Russian lease on its naval base in Sevastopol in the Crimea, which was to expire in 2017, is extended to 2042, with only a slight increase in the existing annual rent. Russia is also allowed to add to its naval forces.
- As a separate agreement, the Russian government has agreed to waive until 2019 the export duties up to a certain amount on gas exports, thus reducing the existing gas price for 1000 cubic metres from \$330 to \$230.^{xxii}

While the agreements will save Ukraine \$40 billion up to 2019, they have several disadvantages:

- The requirement on Ukraine to increase substantially its purchase of Russian gas will act as a disincentive for Ukraine to become more efficient in its use of gas, and to diversify its supply. Ukraine is one of the most inefficient users of energy in the industrial world. Ukraine's own resources are underdeveloped. It has shale deposits.^{xxiii xxiv} Besides this, there are other foreign sources of gas available at comparable prices.
- A cheaper supply of gas, coupled with the possibility of Russian credits for the modernization of the pipeline, will not encourage Ukraine to run its gas sector in accordance with market principles in order to get Western support.
- Ukraine has had to make a major concession - the extension of the lease on the Russian naval base - in order to obtain a gas price which is about what Western European countries are paying for Russian gas after the transportation cost is removed.^{xxv}
- There is apparently nothing to prevent Russia from restoring the export tax on the gas. It may therefore use, as it has done with Belarus, this stick for disciplining Ukraine.
- In any case, the long-term presence of the Russian naval base in the Crimea will give Russia a strong influence on Ukrainian affairs.

The geo-political disadvantages of the three agreements for Ukraine are amplified by other agreements that Russia has proposed:

- The two national gas companies, Gazprom and Naftohaz should merge, thus putting Ukrainian gas prices, the Ukrainian Gas Transit Line, the Ukrainian gas distribution network, and the Ukrainian gas reservoirs under Russian control. This might mean that Ukraine could no longer resist Russian price increases, withstand Russia turning off the tap, or diversify its sources.
- the Ukrainian electrical and nuclear industries, including reactors, and uranium deposits being jointly managed with Russia.
- Russian companies and their subsidiaries should be granted immunity under Ukrainian law.^{xxvi}
 - Ukrainian courts would have no immunity against Russian judicial investigations and would be obliged to apply without appeal the decisions of Russian courts.^{xxvii}

The Ukrainian government's reaction to the latest Russian proposals has been wary. The US and the EU comments on the blossoming friendship between Russia and Ukraine have amounted to stating that it is up to the two sides to decide on the form that their relations will take. It is possible that they are tired of Ukrainian government's seeking to play the East off against the West. They may also not be convinced by what they have seen so far of the Yanukovich government's protestations of democratic convictions and commitment to economic reform. They may even be happy no longer to have the inconvenience of a democratic, but chaotic Ukrainian government knocking at the door of NATO and the EU.

They should, however, be concerned by what they see happening in Ukraine. The agreements that Russia has now proposed would have the effect of limiting Ukraine's effective sovereignty. If they are accepted, they also have the potential to destabilize the country, with consequences reaching beyond Ukraine's borders.

The West has every interest therefore to remain involved in Ukraine. Should Ukraine revert to authoritarianism, it should not surprise us. It is almost a rite of passage for countries evolving towards pluralism. It does not necessarily predict the future. Under President Yushchenko, Ukraine had become, according to Freedom House, completely free, and indeed ahead of Turkey in its rights and freedoms. Although Ukraine has moved closer to Russia, there are still strong economic interests pulling it in the opposite direction: Ukraine strongly needs an understanding with the IMF. It wants free trade with the EU. For this reason, Ukraine rejected, during its initial negotiations with Russia, the idea of joining the Russian-led common market, the Common Economic Space (CES). It is important, therefore, that the IMF, the EU, and the West in general, should resist surrendering to Ukraine fatigue. It still is in our interest to support democracy and economic reform in Ukraine.

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- ⁱ Vide Karatnycky, Adrian, **Reintroducing Victor Yanukovich**, Wall Street Journal Europe, 8 February, 2010, Johnson's Russia List, 2010-26 # 23
- ⁱⁱ BBC Monitoring, **Russian Opposition criticizes gas-for-fleet deal with Ukraine**, Echo Moskvy Radio, 29 April, 2010, Johnson's Russia List, 2010-86 # 27
- ⁱⁱⁱ Mostavaya, Yuliya and others, **Back to the U\$\$R**, Zerkalo Nedeli No10, 13-19 March 2010
- ^{iv} Mostavaya, Yuliya, **Svy Nakladybat' budem?**, Zerkalo Nedeli No.8 27 February – 5 March 2010, Rakhmanin, Serhy, **Nabor Instrumentov**, Zerkalo Nedeli No.9 6– 12 March 2010
- ^v Kuzio, Taras, **Pro-Russian Old Guard Returns to run Ukrainian Security Forces**, *loc. cit.*,
- ^{vi} **Yanukovich liquidates number of coordination bodies and working groups**, Kyiv Post, 03/04/2010
- ^{vii} **Media Watchdog: Ukraine's Press Freedom Declines**, New York Times, April 16, 2010
- ^{viii} Interfax –Ukraine, Brussels, 11 May 2010, **European Journalists call on Ukrainian Authorities, media owners to respect press freedom**, Kyiv Post 11/05/2010
- ^{ix} Idem.
- ^x **Police move to dampen protest turnout**, Kyiv Post, 11/05/ 2010
- ^{xi} Interfax-Ukraine, 11/05/2010, **Official Budgetary Abuses under Tymoshenko exceed Hr 100 billion**, Kyiv Post, 11/05/ 2010
- ^{xii} <http://www.heritage.org/index/Ranking.aspx>
- ^{xiii} http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table
- ^{xiv} Bustov, Yuriy, **Pravitelstvo s ogranichennymi bozmozhnostyami**, Zerkalo Nedeli No.12, 27 March – 2 April 2010
- ^{xv} Kuzio, Taras, **Pro-Russian Old Guard Returns to run Ukrainian Security Forces**, Eurasia Daily Monitor, 26 March 2010, Vol. 7, Issue 59
- ^{xvi} **Istochnik “ZN”: Za “ekspertnye uslugi” storonniye firmy budut poluchat' do 4% ot summy goszakupok**, Zerkalo Nedeli, No. 16 (796) 24-29 April 2010
- ^{xvii} Kuzio, Taras, **op. cit.**
- ^{xviii} **National Memory Institute under assault by new leaders**, Kyiv Post 01/04/2010
- ^{xix} Kuzio, Taras, **Shift to Soviet-Russian national Identity in Ukraine**, Eurasia Daily Monitor, Vol. 7, Issue 90, 10 May, 2010
- ^{xx} **European Commissioner: Yanukovich should be ready to work with the opposition**, Kyiv Post, 04/03/2010 <http://www.kyivpost.com/news/nation/detail/61014/print/>
- ^{xxi} **ES ekonomit ha Ukraine**, Kommersant Ukraina No. 38, 03.03.2010
- ^{xxii} **Chernomorskii flot Rossii ostavlyayut b Ukraine do 2042 goda**, Kommersant Ukraina No. 70 22.04.2010
- ^{xxiii} Chow, Edward, **Bad deal all around**, Kyiv Post, 22/04/2010
- ^{xxiv} **Slate Deposits in Ukraine bad news for Russia**, ZIK Western Information Agency, 19/04/2010
- ^{xxv} Chow, Edward, **op.cit.**
- ^{xxvi} **Rossiia khochet nepricosvennogo statusa dlya svoikh predpriyatiy v Ukraine**, Zerkalo Nedeli, No. 16 (796) 24-29/April 2010
- ^{xxvii} Idem.