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DINU PATRICIU EURASIA CENTER

Ukraine's Parliamentary Election 2012: A Critical Moment for Democracy

Political Context

On October 28, 2012, Ukraine will hold parliamentary elections—the country's sixth since gaining independence in 1991 and first since presidential and local elections that took place in January-February and October 2010, respectively.

During its early independence years, Ukraine struggled with democracy and moved towards a centralized and corrupt system until citizens protested in 2004 through massive and peaceful pro-democracy street protests that came to be known as the Orange Revolution. Victor Yushchenko assumed the country's presidency as a result. He sought to institutionalize democratic tenets and moved closer to the West. But internal political struggles stymied effective governance and prevented many significant reforms, which led to disillusionment among the electorate. In that context, Victor Yanukovich was elected head of state in 2010.

Voting for Ukraine's unicameral parliament, the Verkhovna Rada, takes place every five years. Its 450 members will be elected through a mixed system—half proportionally and half in 225 single-member districts.

The campaign officially began after July 30. Four parties make up the main contestants: Yanukovich's Party of Regions (PRU), which currently dominates both the Rada and the executive branch; the United Opposition Batkivshchyna (Fatherland) coalition of several parties, the largest of which is Yulia Tymoshenko's Batkivshchyna, followed by Arseny Yatsenyuk's Front for Change; the Communist Party of Ukraine (traditional PRU allies); and

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UDAR (Ukrainian Democratic Alliance for Reform)¹, led by boxing champion Vitaly Klitschko. Smaller parties include the populist Vpered Ukrainjino ("Forward, Ukraine," or VU) led by Natalia Korolevska, and the far-right Svoboda (Freedom) party.

The Last Two Years: Democratic Backslide

The context of the October 2012 Rada elections is the retreat of Ukrainian democracy on many fronts. Since taking office, Yanukovich has selectively targeted

¹ Udor also means "punch" in both Ukrainian and Russian.

opposition leaders; re-consolidated power within a narrow ruling elite; cracked down on media and civil society; increased corruption; and moved away from Europe and NATO and towards Russia.

The most prominent figure targeted by the government is Tymoshenko, the country's two-time prime minister, who ran against Yanukovich for the presidency in 2010. Her incarceration is widely regarded as an effort to silence his most formidable adversary. Tymoshenko is known for her populist policies and leadership in the Orange Revolution. A petite, tough woman with a trademark crown braid hair style, she has been described as the only "man" in Ukrainian politics.² She was also one of the country's richest people in the mid-late 1990s and served as president of United Energy Systems, which became the main importer of natural gas from Russia.

Tymoshenko was given a seven-year sentence in October 2011 following what was widely described as a show trial for signing, allegedly without Cabinet of Ministers' approval, a 2009 gas supply contract between Ukraine's state-owned Naftogaz and Russia's Gazprom. She was disqualified from participation in future elections and ordered to pay \$190 million in compensation. Tymoshenko claims she has suffered beatings and mistreatment in prison. While her policies perhaps deserve criticism, Tymoshenko's trial and conviction were blatantly motivated by politics. Among other jailed opposition leaders is former interior minister Yuriy Lutsenko, who was found guilty of embezzlement and abuse of power in a trial reportedly even more bogus than Tymoshenko's.³

The government has marginalized other elements of the opposition by applying economic and political pressure to coerce parties to join the government and targeted those who refuse. It has reversed Ukraine's recent relative respect for press freedom by pressuring the media to limit coverage critical of the government, whether directly

2 Christian Neef, "Germany Takes Hard Line in Tymoshenko Case," *Der Spiegel*, April 9, 2012. <http://www.spiegel.de/international/europe/germany-takes-hard-line-on-tymoshenko-case-a-826417.html>

3 Interfax Ukraine, "Prosecutors seek 2.5-year imprisonment for Lutsenko in episode in Yuschenko poisoning case," *Kyiv Post*, August 10, 2012. <http://www.kyivpost.com/content/politics/prosecutors-seek-25-year-imprisonment-for-lutsenko-in-episode-in-yuschenko-poisoning-case-311337.html>

or indirectly, and engaged in intimidation of journalists, leading many to self-censorship.⁴

The authorities expanded their monitoring and regulation of civil society more closely, including through legislation that makes it easier to deregister non-governmental organizations. Recently, the National Security and Defense Council adopted a doctrine that declares as a national security threat "any international or domestic organization which provides financial or moral support to political parties or non-governmental organizations whose goals are to discredit the government of Ukraine."⁵

Corruption has worsened. Transparency International downgraded Ukraine in 2011 from 134th to 152nd place in its corruption perception index.⁶ As one example, the income of Yanukovich's son has reportedly increased eighteen fold in the last year alone.⁷ Widespread claims of corruption range from the energy sector to health and sports, including some \$4.2 billion allegedly embezzled in connection with the 2012 European football championship.⁸

The only elections held in Ukraine since Yanukovich became president were those carried out for local offices in October 2010. Gavin Weise, the International Foundation for Electoral Systems (IFES) deputy regional director for Europe and Asia, told the US Helsinki Commission in May 2012 that these were widely regarded as "most problematic" in Ukraine's recent history. The US embassy in Kyiv cited a number of concerns about it and concluded it fell below the

4 Commission on Security and Cooperation in Europe: US Helsinki Commission, "Ukraine's Upcoming Elections: A Pivotal Moment," Unofficial hearing transcript, Stephen Nix, May 17, 2012. http://www.csce.gov/index.cfm?FuseAction=ContentRecords.ViewDetail&ContentType=H&ContentRecord_id=525

5 US Helsinki Commission, "Ukraine's Upcoming Elections: A Pivotal Moment," Stephen Nix.

6 Transparency International Corruption Perception Index 2011 and 2012. See <http://cpi.transparency.org/cpi2011/results/> and <http://www.transparency.org/cpi2010/results>

7 US Helsinki Commission, "Ukraine's Upcoming Elections: A Pivotal Moment," David Kramer.

8 Maria Danilova, "Ukraine: Corruption blamed for AIDS non-treatment," *SF Gate*, June 29, 2012. <http://www.sfgate.com/news/article/Ukraine-Corruption-blamed-for-AIDS-non-treatment-3672881.php>

"Euro 2012: Uefa urged to investigate \$4bn corruption allegations in Ukraine," *Guardian*, June 20 2012. <http://www.guardian.co.uk/football/2012/jun/20/euro-2012-corruption-allegations-ukraine>

standard set by the 2010 presidential election.⁹

The Electoral Mood

Recent polls suggest that an unenthusiastic electorate gives a small plurality of support to the PRU, followed by Batkivshchyna, UDAR, and the Communists.¹⁰ The PRU hovers just over 20 to 25 percent. Support for Batkivshchyna ranges from 15 to 19 percent. UDAR gets about 10 to 11 percent, and Communists poll around 9 percent. Voter surveys have been fairly consistent in recent months in these numbers.¹¹ Support for all the opposition parties is greater than for the PRU on a national basis, and if the election was contested solely on a proportional vote (without single-member districts), they would get more seats than the PRU.¹²

The polls also show declining public confidence in elections and in the country's political institutions. Some 58 percent are "not satisfied" with life according to one survey, reports Interfax-Ukraine in *Kyiv Post*,¹³ and 30 percent are undecided about whom to vote for according to one IFES poll. Several IFES surveys found that voters are pessimistic about the election, with the majority believing

it will not be free and fair.¹⁴ Another found that only 48 percent of Ukrainians understand the new election rules and realize how decisive the single-member districts will be.¹⁵

VU and Klitschko's UDAR are new parties and their new faces may explain their growing public support.¹⁶ UDAR's supporters tend to be younger and are known as the "disappointed"—those disenchanted with the ruling PRU, the opposition, and the Orange Revolution.¹⁷

The Campaign: PRU vs. Opposition and Why the Communists Matter

The campaign reportedly has been peaceful. Most parties, including the PRU and Batkivshchyna, promise to lower taxes, raise wages, and fight corruption.¹⁸ Largely similar platforms diverge on language policy. The PRU, which is strong in Ukraine's east and south where ethnic and other ties to Russia remain strong, backed legislation in July 2012 that gave Russian regional language status. Batkivshchyna, UDAR, and Svoboda all opposed it. The PRU and to some extent the opposition politicized the language issue.¹⁹

The PRU's strategy, according to International Republican Institute (IRI) Eurasia regional director Stephen Nix, has focused on issues related to Russia and Russian language policy; on the stability it claims the government's policies have engendered, despite some costs; and on winning in the single-member districts. The opposition's campaign, by contrast, has sought substantively to highlight jobs,

9 US Helsinki Commission, "Ukraine's Upcoming Elections: A Pivotal Moment," Gavin Weise. See also US Government Statement On Ukraine's Local Elections, November 3, 2010. <http://ukraine.usembassy.gov/local-elections.html>

10 Interfax Ukraine, "Poll: Four parties pass to parliament, one-third of Ukrainians satisfied with life," *Kyiv Post*, September 8, 2012. <http://www.kyivpost.com/content/ukraine/poll-four-parties-pass-to-parliament-one-third-of-ukrainians-satisfied-with-life-312685.html>

Oleg Varfolomeyev, "Ruling Party, Opposition Run Neck and Neck in Ukrainian Election Race," *Eurasian Daily Monitor*, v. 9, issues, 151, Jamestown, August 8, 2012.

"Only four parties still are sure to get into Rada," *Zerkalo Nedeli*, September 13, 2012 http://news.zn.ua/POLITICS/uverenno_prohodyat_v_radu_po-prezhnemu_tolko_chetyre_partii-108633.html?print

11 International Foundation for Electoral Systems (IFES), "Survey Shows Pessimism, Indecision Ahead of Ukraine's October Elections," July 10, 2012 <http://www.ifes.org/Content/Publications/Survey/2012/Survey-Shows-Pessimism-Indecision-Ahead-of-Ukraines-October-Elections.aspx>

Interfax Ukraine, "Poll: Jobs, Economy Greatest Concern for Ukrainians," September 6, 2012, *Kyiv Post*. <https://www.kyivpost.com/content/ukraine/poll-jobs-economy-greatest-concern-for-ukrainians-312580.html?flavour=full>

12 Stephen Nix, "Ukraine's Upcoming Parliamentary Elections: A Pivotal Moment for Democracy?" Atlantic Council event, October 17, 2012.

13 Interfax, "Poll: Four parties pass to parliament, one-third of Ukrainians satisfied with life."

14 IFES, "Survey Shows Pessimism, Indecision Ahead of Ukraine's October Elections."

See also "Key Findings. Public Opinion in Ukraine." October 16, 2012. <http://www.ifes.org/Content/Publications/Survey/2012/Key-Findings-Public-Opinion-in-Ukraine.aspx>

15 Yuriy Onyshkiv, "Poll: Less than half of Ukrainians understand rules ahead of high-stakes election," September 14, 2012 <http://www.kyivpost.com/content/politics/polls-less-than-half-of-ukrainians-understand-rules-ahead-of-high-stakes-election-312957.html>

16 Varfolomeyev, "Ruling Party, Opposition Run Neck and Neck in Ukrainian Election Race." http://www.jamestown.org/programs/edm/single/?tx_ttnews%5Btt_news%5D=39743&cHash=bb165453aea57e11391395b10f759d59

17 Oksana Grytsenko, "Boxer Vitali Klitschko faces toughest fight yet – for Ukrainian parliament," *Guardian*, September 7, 2012.

18 Varfolomeyev, "Ruling Party, Opposition Run Neck and Neck in Ukrainian Election Race."

19 Author interview with Nataliya Jensen, independent Ukraine analyst in Washington, October 2, 2012.

the economy, and corruption, while aiming, with limited success, for unity in the single-member district contests.²⁰

Opora, the largest independent citizen monitoring group in Ukraine, notes that both the PRU and Batkivshchyna are leaders in outdoor political advertising.²¹ The PRU's campaign focuses on combining local and national slogans, such as “the future of Crimea is in friendship with Russia” (highlighting the party's pro-Russian stance), “we are opening seven new prenatal centers,” and flaunting other government social initiatives. Batkivshchyna advertisements bluntly proclaim “Ukraine against Yanukovich” and protest against the Russian language law.²²

Klitschko's party promises, like Batkivshchyna, to fight corruption, to oppose the language policy, and “to drive the PRU out of power and defend Ukrainian sovereignty.”²³ It promotes social responsibility, such as its environmental “let's clean up the country” campaign,²⁴ presumably to distinguish itself from other opposition parties.

The Communists are important to watch. Polling data suggests that a PRU-Communist alliance—one possible outcome of the elections—could gain a plurality of perhaps some 35 to 40 percent. The party's traditional support base is in the eastern part of the country that Ukrainians refer to as the “Red Belt.” Many there are disappointed with the PRU's failure to deliver promised economic improvements. Poverty is widespread, and the older generation especially is swayed by promises of the Communists, whose strategy is to portray the PRU and opposition as equally bad, and present themselves as a better alternative.²⁵

“The basic feature of the [Communists'] campaign,” argues Nataliya Jensen, an independent analyst who recently

returned from Ukraine, “is that they are bribing people and talking about doing things for the community.” She believes “This is very disappointing because they have the ground to win: economic, social, and psychological.” Further, she claims party leader “Symonenko himself is an oligarch.”²⁶ While the younger generation will vote for young candidates such as Klitschko, “Ukraine is not a young country,” she added.

Campaign violations and media coverage

Opora found that the most common campaign violation is abuse of administrative resources, followed by bribery of voters. Others include obstruction of political parties and candidates and illegal campaigning.²⁷ Overall, the PRU accounts for the lion's share of campaign violations—188.²⁸

Laura Jewett, National Democratic Institute (NDI) Eurasia regional director, expressed several concerns about the campaign, especially intimidation and harassment of candidates from parties other than the PRU, the Communist Party, and the VU—i.e., the ruling party and its allies. Among NDI's other concerns are central elections commissions composition, which disproportionately excluded some parties “with a significant stake in the elections,” a media environment that does not allow equal, fair coverage of all candidates; and web-cams being placed in voting stations ostensibly to combat fraud, but that many voters fear will record how they vote.²⁹

Concerns About New Electoral Law

After the widely criticized 2010 local elections, Yanukovich's government announced plans to conduct comprehensive electoral reform, including revising the election law which had been regarded as “the least flawed” the country has had since gaining independence.³⁰ The

20 Stephen Nix, “Ukraine's Upcoming Parliamentary Elections: A Pivotal Moment for Democracy?” Atlantic Council event, October 17, 2012.

21 Opora means “pillar” or “reliance” in Russian and Ukrainian.

22 Opora, Fifth report based on results of all-national monitoring – parliamentary elections 2012, September 4, 2012, <http://opora.ua/org/en/news/2255-pjatyj-zvit-za-rezultatamy-zagalnonacionalnogo-sposterezhennja-parlamentski-vybory-2012-serpen>

23 Vitaliy Klitschko, official blog <http://klichko.org/ua/team/blogs/leader/golovna-meta-parlamentskih-vivoriv-vidstoronennya-pr-vid-vladi-i-zahist-ukrayinskoyi-nezalezhnosti>

24 Opora, Fifth report based on results of all-national monitoring – parliamentary elections 2012.

25 Author interview with Nataliya Jensen, October 2, 2012.

26 Indeed, Symonenko's lifestyle allegedly far exceeds his reportedly-modest income. See Denis Rafalsky, Svitlana Tuchynska, “Extreme Choices: Communists pine for Soviet times,” Oct. 18, 2012, Kyiv Post. <http://www.kyivpost.com/content/politics/extreme-choices-communists-pine-for-soviet-times-314615.html?flavour=mobile>

27 For example, use of government office for campaigning, which is against Ukrainian law.

28 Opora, Fifth report based on results of all-national monitoring – parliamentary elections 2012.

29 Laura Jewett, “Ukraine's Upcoming Parliamentary Elections: A Pivotal Moment for Democracy?” Atlantic Council.

30 US Helsinki Commission, “Ukraine's Upcoming Elections: A Pivotal Moment,” Gavin Weise.

government set up a working group to develop revisions. However, before any meeting of this group and without consulting the opposition or civil society, it moved peremptorily to reinstate the mixed electoral system, prohibit electoral blocs, and establish a 5 percent threshold required for parties to receive proportional representation—an increase from 3 percent in 2007.

An international outcry led the government to allow some input from opposition and civil society representatives. The PRU then reached a compromise with the opposition that the law would not be re-opened for further changes until after the parliamentary elections.³¹ The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) noted that opposition parties refused to discuss revisions "due to a lack of trust," even though the law contains many flaws and technical errors, "believing that the ruling party would attempt to amend other, fundamental provisions" of it.³² The implication was that fear of worse from the government prevented civil society and opposition figures from pushing for change.

While ODIHR concluded that democratic elections are possible if the law is "implemented properly,"³³ the Council of Europe's Venice Commission strongly criticized it, especially the change to a mixed proportional and single-member district system. It advocated for an open party-list system and expressed concern about unclear criteria and deadlines for the designation of electoral districts. It also expressed concern over the law's lack of clarity on appealing the results of elections and insufficient requirements to disclose the sources and sums of electoral campaign funding.³⁴

The return to mixed system proportional and single-member district representation is significant and in practice will likely favor the PRU. The mixed system was in place ten years ago when President Leonid Kuchma's government was

losing popularity. The pro-Kuchma ZaYedu³⁵ party received slightly less than 12 percent of the vote nationwide, but won 22.4 percent of the Rada seats because it did very well in single-member districts, enabling Kuchma to retain control of the legislature. "A commonly held assertion among experts," explains Gavin Weise, "was that in some cases use and control of administrative resources in certain territorial regions helped ensure a victory of pro-government candidates where the pro-governmental party did not enjoy a plurality of support."³⁶

Under the new parliamentary election law, parties can no longer form electoral blocs. Such blocs were a way for parties to compete together for Rada seats but retain their independence. Now, parties wishing to compete together must do so as a coalition, which requires giving up much of their identity—a disincentive for smaller parties that makes it harder for them to gain seats and an advantage for the PRU. Still, several opposition parties formally joined the Batkivshchyna list.

The new law also gave the Central Electoral Commission (CEC) wide discretion in the establishment of electoral district boundaries. IFES and the Committee of Voters of Ukraine noted problems where the CEC created districts "with non-contiguous boundaries without any explanation or justification." Contiguous districts typically represent a "community of interests"—an element absent, it appears, in these districts. In other cases, the CEC made "no effort to keep geographically concentrated minorities together within a single election district" and "had not attempted to involve stakeholders in consultations regarding boundary delimitation."³⁷

Another problem is that dispute adjudication is no longer vested in the Supreme Court, but in administrative courts, where judges are appointed by the ruling party.³⁸

31 Organization for Security and Cooperation in Europe, Office for Democratic Institutions and Human Rights, Ukraine. Parliamentary Elections 28 October 2012. OSCE/ ODIHR Needs Assessment Mission Report, 22-25 May 2012, Warsaw, June 8 2012, p.4.

32 OSCE/ ODIHR Needs Assessment Mission Report, 22-25 May 2012.

33 OSCE/ ODIHR Needs Assessment Mission Report, 22-25 May 2012.

34 US Helsinki Commission, "Ukraine's Upcoming Elections: A Pivotal Moment," Steve Nix. http://www.csce.gov/index.cfm?FuseAction=ContentRecords.ViewDetail&ContentType=H&ContentRecord_id=525

35 The party's full name was "For a Single Ukraine."

36 US Helsinki Commission, "Ukraine's Upcoming Elections: A Pivotal Moment," Gavin Weise

37 IFES "2012 Parliamentary Elections Boundary Delimitation Summary and Analysis."

IFES, "IFES Ukraine Election Bulletin #1," June 5, 2012 http://www.ifes.org/Content/Publications/News-in-Brief/2012/July/~media/Files/Publications/IFES%20News%20in%20Brief/2012/IFES_2012_Ukrainian_Election_Bulletin_1_Eng.pdf

38 Stephen Nix, "Ukraine's Upcoming Parliamentary Elections: A Pivotal Moment for Democracy?" Atlantic Council.

Russian Relations in Context of this Election

Given Ukraine's unique relationship with Moscow, Russia matters in the country's politics.

Ukraine's east and south are historically pro-Russian, while its west is more Europe-oriented. President Putin is currently trying to strengthen Moscow's control over the independent countries along its periphery by creating a Eurasian Union. Given the unique Ukraine-Russia connection—the two are linked by history, culture, language, and family more so than any other post-Soviet republic—including Ukraine is crucial to this project's success. Seventy percent of the country's natural gas comes from Russia, and the Kremlin has hinted that it will offer better gas prices if Ukraine joins the Eurasian Union.

Supporting Putin was an important point that helped Yanukovich win the presidential election in 2010. Yanukovich annulled his country's bid for NATO membership and slowed ties with the European Union. Despite a public outcry, in April 2011 he extended for twenty-five years Russia's lease at Sevastopol for its Black Sea Fleet. In July 2012 Yanukovich joined Russia and Belarus in signing a law ratifying Ukrainian participation in a free trade zone with the Commonwealth of Independent States (CIS)—arguably a precursor to a Moscow-dominated customs union and a Putin-proposed Eurasian Union.

Despite a relationship colored by mistrust and animosity, Yanukovich has continued to seek Russia's support, including to secure lower prices for natural gas that might bolster support for his party. He declared in Moscow in August, "We would like to slightly alter our positions in our relations with Russia" and to become observers of the Shanghai Cooperation Organization (SCO),³⁹ presumably to placate the Kremlin. He has also sought to balance Moscow by pursuing an association agreement with the EU that includes a proposed deep and comprehensive free trade agreement (DCFTA). These contradictory policies towards Russia and Europe are perhaps not surprising given the nature of Yanukovich's relationship with Putin. It

³⁹ Reuters, "Yanukovich flirts with Russia as election looms," Kyiv Post, August 26, 2012 <http://www.kyivpost.com/content/ukraine/yanukovich-flirts-with-russia-as-election-looms-312055.html>

would seem that ultimately Yanukovich knows that moving closer to Russia will be problematic for his country. After the election Ukraine's new leadership will have to make a choice about which policy to pursue.

Conclusion

Ukraine remains a key country for the West. Since the Soviet Union's collapse, it has consistently demonstrated a commitment to peace. It eliminated the world's third largest stockpile of nuclear weapons, which it had inherited from the USSR. It has contributed to counterterrorism efforts and continues to play an important role in the energy sphere for Europe. As Freedom House president David Kramer argues, Ukraine's geostrategic location in Europe, its size, and its potential to become a democratic nation among the former Soviet republics are important.⁴⁰

In 2013, Ukraine will become chairman-in-office of the OSCE. A poor parliamentary election will have implications not just for Ukraine but also for the OSCE's reputation in the international community. The October elections have the potential to move Ukraine further down the authoritarian path or back towards democracy. Regardless of the outcome, it is critical that the West remain committed to supporting democratic values in Ukraine and not shy away from pushing back against any further democratic backslide.

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⁴⁰ Alena Getmanchuk, "David Kramer: Obama Administration Can Marginalize Ukraine," Glavred Washington, EuropeanDialogue.org, <http://eurodialogue.org/David-Kramer-Obama-Administration-Can-Marginalize-Ukraine>

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