

**Conflict Studies Research Centre**



**At The Crossroads  
Or The Precipice? The Fate Of  
Ukraine's Orange Revolution  
And Its Implications For Europe**

**James Sherr**

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## **Abstract**

Barely one year after the Orange Revolution, Ukraine finds itself in the midst of fresh internal and external dislocations. In one respect, the revolution promises to be enduring. Ukraine is a democratic country with a vigorous political life, and a return to state intimidation and political stagnation is no longer feasible. But the revolution has not fulfilled its central promise: the emergence of authorities who, finally, would govern in the interests of the country rather than themselves. With few exceptions, there has been no attempt to challenge the country's dysfunctional institutional inheritance or replace the culture of patronage with meritocracy. This failing has not only created new internal cleavages, but reopened old international vulnerabilities. The Russian Federation has recovered from its post-Orange disorientation and is governed by an elite confident that the country's wealth and energy resources can be used to create a 'sphere of predominance' on the doorstep of the EU. Russia's gas diplomacy in Ukraine, a key corridor to European consumers, reinforces the EU's broader stakes in Ukraine's capacity and trajectory. Without indulging Ukraine's illusions about EU membership, the EU needs to develop channels of integration that are both realistic and mutually beneficial.



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It is surely time to repeat what, at the height of the 2004 electoral crisis, no one wished to hear: 'the worst outcome [for Ukraine] would be if [Yushchenko] wins and then fails'.<sup>1</sup> Has Ukraine's Orange Revolution failed? Or, with all its mistakes and perceived betrayals, has it altered the political and geopolitical landscape in ways that will prove lasting and, ultimately, beneficial? Has the worst already occurred? Or, with constitutional change in progress and parliamentary elections looming in March 2006, is the worst yet to come? What bearing will the fate of the Orange Revolution have on Russia and Europe? What bearing will the conduct of these external actors have on Ukraine's prospects? These are not questions to be pondered by Ukrainians alone. Ukraine finds itself once again between the East, the West and itself.

Four developments make re-assessment unavoidable. The first is a dramatic decline in Yushchenko's standing with his own electorate. Despite the emergence of some trenchant criticism at home and abroad, as late as 3 May 2005, 47 per cent of Ukrainians believed that the country was moving in the right direction (only five per cent below the vote for Yushchenko in December 2004).<sup>2</sup> In January 2006 support for Yushchenko had dropped to 19.76 per cent (and that of his erstwhile partner, Yulia Tymoshenko to 12.82 per cent).<sup>3</sup> The second was the ill-tempered divorce of the Orange team in September 2005 after increasingly public and venomous disputes between Orange factions prompted the President to dismiss his own government—and, to the repugnance of many, conclude an improvised agreement with the leading exponent of *revanche*, Viktor Yanukovych. The third is the constitutional reform that will transform Ukraine into a fully-fledged parliamentary republic after the parliamentary elections of 26 March 2006. Negotiated under international mediation as a way of defusing confrontation at the height of the 2004 electoral crisis, it now multiplies every other imponderable that Ukrainians face. Finally, there is the Russia-Ukraine gas crisis, ill-timed or carefully timed to accentuate Ukraine's geopolitical weakness and sharpen every existing cleavage in its fragile polity.

At the root of Ukraine's present travails is a widely acknowledged fact. Whilst the Orange Revolution was revolutionary in terms of the process that brought it about and the expectations that drove it, it has not been revolutionary in its results. The long-term expectation of its supporters was obvious: to change the nature and not simply the appearance of the system that had governed the country since 1991. It was also a lenient expectation, because most Ukrainians understood that nothing short of a long struggle would bring fundamental change about. But the short-term expectation placed upon the new authorities was tough: to demonstrate that they

were committed to fundamental change and capable of it. On the face of it, this was not an unrealistic expectation. Yushchenko arrived in office on 23 January 2005 with unparalleled moral authority and with his opponents in disarray. He had also inherited the enormous powers of the presidential system bequeathed to President Kuchma by the June 1996 constitution. What is more, the scheduled diminution of these powers beginning in January 2006 provided an element of urgency

On the face of it, these were remarkably favourable starting conditions. But they could not produce clarity and competence where they were absent. Absent these qualities and a well honed sense of purpose, it always stood to reason that cultural, institutional and geopolitical realities would undo any transient political advantage.

### **The Case For Idealism**

Had all the features of Ukraine's political culture been deleterious, then, irrespective of its geopolitical importance, the country would not have received the attention that the West has bestowed upon it since independence. Today it is worth reminding ourselves that quite a few are favourable. The country's roots in a 'Cossack anarcho-democratic semi-state', its ethno-religious diversity and divergent imperial experiences (Polish-Lithuanian, Habsburg, Ottoman, Russian, Soviet) have fostered division but they have also engendered a widespread distrust of power and a pronounced antipathy to forceful solutions to political problems.<sup>4</sup> They also instilled a rudimentary democratic consciousness and stimulated the growth of civil society. By the time of the 2002 parliamentary elections, this consciousness had become far more than rudimentary, and a large part of the electorate outwitted and defied the 'administrative resources' and manipulations of the state. The tendencies of Russia's political evolution have been noticeably different. If the Yeltsin years discredited democracy in Russia, the Kuchma years merely persuaded Ukrainians that there was no democracy in Ukraine. By no means, then, could the West be accused of 'imposing' Western models when supporting democratic standards in Ukraine, even if the charge has resonance elsewhere.

Alongside this democratic consciousness, one must highlight three other factors. First amongst these is the relative absence of ethnic cleavages<sup>5</sup> and separatist sentiment—not to say civil conflict—in a country with strong regional divisions and a limited experience of statehood.<sup>6</sup> Second has been the palpable, if sharply uneven growth in the sophistication and capacity of state institutions and the pronounced Euro-Atlantic sympathies of many who work in them.<sup>7</sup> The third factor has been the marked absence of great power sentiment, let alone a spirit of rivalry with neighbours or territorial claims upon them.

The fourth and related factor is an avoidance of exclusivity in relations with Russia and the West. It is a factor which must be understood with due subtlety and treated with care. Despite extremes of opinion, for the majority of Ukrainians Russia engenders strong affinities and powerful ambivalences, as one would expect when histories are closely related and historical relationships profoundly unequal. They are, to be sure, *related* histories—perhaps more related than those which connect Germany and Austria, England and Ireland or Norway and Sweden—but certainly more distinct than the *common* history loudly proclaimed by much of Russia's political class. It is for the most part a manageable ambivalence, combining affinity for the Russian people with a distrust of *rossiyskoe gosudarstvo* [the Russian state]. But as we have seen repeatedly—during the September 2003 Tuzla crisis,<sup>8</sup> the 2004 elections and the recent gas crisis—affinity rapidly turns to anger when

'brotherhood' turns to domination.<sup>9</sup> In sum, the impulse towards friendship will be as strong as Russia allows. It will flourish so long as Russians do not confuse it with integration or subservience.

For all of these reasons, there is no exaggeration in stating, as former President Kuchma did in a book of this title, that 'Ukraine is not Russia'. Equally, there is nothing fanciful in postulating a course of development that would anchor Ukraine firmly in a Europe that does not define its development or enlargement in anti-Russian terms. But no course can be realised without a strategy for realising it. No strategy can succeed unless skills and resources are mobilised behind it. In neither of these respects has the new leadership succeeded or the country been led.

### **The Dynamic of Disillusionment**

The spirit of the *Maidan*—of the hundreds of thousands who converged on Kyiv's Independence Square (*Maidan Nezalezhnosti*)—was both compelling and simple: that finally Ukraine should be governed by authorities who put the country's interests ahead of their own. The course that this spirit dictated was equally compelling, albeit far from simple to realise: to transform the country's institutions and, by doing so, end the criminality of the state. Under Kuchma, Ukraine had pursued a course of reform by declaration: by 'programmes' that, with rare exceptions, did not touch the dysfunctional administrative cultures inherited from the Soviet system, let alone the inbred, opaque networks of power which, under the stewardship of Kravchuk, Kuchma and their minions, had mutated rather than disappeared. The defining features of Soviet political culture—the divide between state and society, the concentration of power and privilege, the powerlessness of ordinary people and the 'war against civil society'—remained the defining features of post-Soviet Ukraine. No one of consequence expected these realities to vanish after Yushchenko's victory, but those who fought for it expected them to be addressed.

In one fundamental respect, they were not disappointed. In terms emphasised by the West and many Ukrainians themselves, Ukraine is no longer a virtual democracy, but a genuine one. The 'administrative resource' of the state (i.e., of central government) has largely been withdrawn as a means of pressure against political parties, the mass media, public organisations, independent centres of opinion and (to a discernable but still arguable degree) the courts. The war against civil society has ended. But it has not ended all levels (as noted by Freedom House in June).<sup>10</sup> When it comes to local structures of administrative power and the 'shadow' structures that work in illicit alliance with them, it has not ended. Average Ukrainians (who do not live in Kyiv, do not speak to ministers and do not work for an NGO) will not feel that their country is *theirs* until they cease to be at the mercy of the petty powers and 'licensed thieves' who have damaged and, in some cases, ruined their lives. For these citizens, Ukraine still is far from being a democracy, because the real authorities of the country live at the expense of the people rather than serve them.

It was always questionable how much this would be understood by people who, for all their repugnance towards the culture of power in Ukraine, were part of it. To be sure, Yushchenko and the majority of those he trusted stood on one side of a divide within it. Whereas the lapsed Leninists of the Kuchma system had no proper understanding of democracy, Yushchenko and his inner circle saw themselves as democrats beyond reproach; whereas the former were congenitally cunning, the

latter were ostentatiously principled; whereas the former were concrete and pragmatic, the latter were almost romantic in their vision of Ukraine 'at the heart of Europe' and affronted when members of the EU did not share this moral imperative. Yet these were variations on a theme. Both wings of this establishment were accustomed to holding power, but had limited experience of being on the receiving end of it. Both had acquired their political instincts in a culture of patronage, rather than merit, and both regarded loyalty, rather than professionalism, as the main criterion of indispensability. Both had bonded together in tight, inclusive factions, held together as much by *kompromat*<sup>11</sup> and fear as by shared outlook and experience. Both had learnt to be solicitous of the private, 'subjective' interests of allies. Both were consumed by struggles within cliques and clans, and both lost sight of the country.

Therefore, the new leadership was fated to exercise power with many of the instincts, instruments and interests of the old. Nevertheless, to achieve its aims and retain popular support, it needed to confront three factors that hindered systemic change, but also made it urgent.

*Shared power.* Yushchenko had come to power with the assistance of an ideologically diverse coalition and, at least illicitly, of forces within the country's powerful and resourceful state apparatus. He was also assisted by money, the donors of which not only had principled aspirations, but concrete interests. Yet the key, countervailing fact was that he had come to power with Kuchma's constitution and with immense moral authority. These conditions should have stimulated the President to seize the initiative and maintain it. Instead he ceded it to others: on one side, to the empire building of Petro Poroshenko (Secretary of the once impressively run National Security and Defence Council until September 2005), to Oleksandr Tretyakov (Head of the President's Office until September 2005) and to the latter's rival, Oleksandr Zinchenko (Head of the Presidential Secretariat until September 2005);<sup>12</sup> on the other, to his highly conditional ally, then Prime Minister Yulia Tymoshenko, whose 'non-market' economic policies quickly diverged from his own, not to say the expectations of Western business. Rather than resolve these conflicts, he allowed them to ripen. For the first critical months of his administration, it is no exaggeration to say that Yushchenko behaved more like the spiritual than the political leader of his country.

*The bureaucratic and legal inheritance.* The Orange forces had inherited not only a convoluted, meddlesome and obdurate bureaucracy, but a legal 'order' that was little more than a system of 'codified arbitrariness'.<sup>13</sup> Ukraine's assortment of laws, codes and 'normative acts', rife with contradictions, gaps, permissive powers and regulative minutiae, had not only stimulated criminality and corruption; it had also usurped many traditional prerogatives of entrepreneurship and management. In these circumstances, the challenges of legal and administrative reform were inescapable.<sup>14</sup> Yet they were evaded. More than once, Yushchenko suggested that serious reform could begin only after the March 2006 elections, a view which implied, quixotically, that time was on his side.

*The geopolitical crucible.* Fifteen years after achieving independence, Ukraine's fundamental problem with Russia remains. Its formal independence, its *nezavisimost'*,<sup>15</sup> has been eminently acceptable to Russia's largely pragmatic elites. But its *samostoyatel'nost'*<sup>16</sup>—its 'ability to stand' apart from Russia has always been controversial, both as practical possibility and as a basis for cooperation. In the Yeltsin years, cooperation was predicated on integration; under Putin, it has been predicated on recognition of Russia's primacy. Ukraine also has had to contend with three asymmetries in its relations with Russia and the West. First, Ukraine's



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'vector of development' is deemed a vital interest by Russia, but only an important interest by most EU and NATO member states. Second, whereas Ukraine's policy towards the EU and NATO was clearly *foreign* policy, language, inter-elite ties and a common business culture made Russia, in addition, a structural component of *internal* politics in Ukraine. Third, whereas Ukraine's 'European choice' has always confronted a seemingly insurmountable wall of conditions, standards and criteria, Russians have attached no conditions to integration except 'firm good neighbourliness'. Hence, the weaker Ukraine internally, the stronger the Russian factor—in internal affairs as well as international relations. For this reason, internal incapacity and external dependence have operated like the blades of a scissor, opening or closing in tandem.

After the Orange victory, it appeared that these asymmetries might finally come to an end. Putin's gambit had collapsed; the European Neighbourhood Policy was on the defensive. Yet both of these appearances were illusory. President Putin did not believe he had been defeated by Ukrainians, but by the West. Whilst shaken, his remorselessly geopolitical paradigm of security and his business-led scheme of integration survived Yanukovych's defeat. For its part, the EU did not believe that the Orange Revolution established the case for membership; its most enthusiastic supporters believed that it had established the *preconditions* for membership and, at most (*pace* the European Parliament resolution of 13 January) that it should be offered 'a clear perspective for membership...possibly leading ultimately to accession'. The moral for any objective observer was clear: Russia was down, but not out. It 'could make itself urgent, whatever priorities Ukraine might wish to adopt'.<sup>17</sup> Hence, Yushchenko's first foreign policy priority should be the success of internal policy. But he focused on foreign policy—at least until crisis loomed.

It is not surprising that these sins of omission took time for others to register. Inside and outside Ukraine, people were digesting the implications of the Orange Revolution for months. Few were prepared for another somersault of reassessment. Whilst brutal messages were delivered to the Orange team at the June 2005 economic forum, most critics presumed that the authorities were suffering from teething problems that would diminish rather than solidify. Yet by the summer of 2005, the indicators of disillusionment had become visible. First, by mid-August, was the decline in public support: a mere 20 per cent for Yushchenko's *Nasha Ukraina* (compared to 31.6 per cent in May) and 10.5 per cent for the Tymoshenko bloc (down from 15.5 per cent in May).<sup>18</sup> Second were the increasingly public frictions within the Orange team and within Yushchenko's administration itself. On 5 September this sharpening of interfaces took a sanguinary turn when State Secretary Oleksandr Zinchenko, two days after his resignation, charged National Security and Defence Council Secretary Petro Poroshenko and the Head of the President's Office, Oleksandr Tretyakov with 'escalating bribery and corruption,' attempting to 'take over the instruments of power' and the 'cynical' maintenance of an 'information blockade of the President'. The next series of moves redoubled the shock. On 8 September, Yushchenko not only dismissed Poroshenko and Tretyakov, but their principal foil, Prime Minister Yulia Tymoshenko; on 22 September, he signed a Memorandum of Understanding with Viktor Yanukovych. These shocks overshadowed Yushchenko's prompt selection of a more unified, more competent, but also more conservative team, led by Prime Minister Yuriy Yekhanurov. Rather than arrest decline, Yushchenko's belated decisiveness only precipitated a 'catastrophic drop in ratings'. For the first time (18-21 September) Yanukovych's Party of Regions moved into first place (20.7 per cent, versus 20.5 per cent for the dismissed Tymoshenko and 13.9 per cent for Yushchenko's *Nasha Ukraina*). More indicative was the decline in the trust of the public, which delivered

a rating of minus 8 for Yushchenko (compared to +34 per cent in March).<sup>19</sup> In the wake of these developments, it was only to be expected that Russia would return to the scene.

### **The Scissors Close**

The so-called gas crisis has proved understandably problematic in its causes, dynamics and, not least of all, its potential consequences. But it has been made needlessly contentious by those who have a taste for single variant explanations. The energy relationship between the Russian Federation and its neighbours operates along three dimensions: the economic, the geopolitical and the 'subjective'—the personal, as distinct from the national interests of people in power. These dimensions are like primary colours. Only when combined is it possible to see properly.

The economic case in support of Russia's 'joint' (but de facto state) company *Gazprom* is simple and eminently justifiable. The Soviet Union collapsed in 1991, but Soviet era price levels have largely survived until the present day. It is time that market pricing replaced them. But the complexity is twofold. What is the 'market price' in conditions where the product sold is a primary, unsubstitutable commodity and the supplier is a monopolist? When OPEC sharply raised the price for oil in 1974 and again in 1979, was the new price the market price or the old price? What we know is that Europe managed to pay both, just as it can afford to pay the \$230 per mcm of gas which (with variations) is charged by *Gazprom*. If Ukraine, Georgia and other customers cannot pay such a price, would it be more profitable for *Gazprom* to lower the price or dispense with these markets entirely?

That question leads to the second complexity: we don't know. The reason we don't know is because *Gazprom* is not a transparent company. Just how it forms its prices and establishes the line between profit and loss is ultimately a matter of assertion and opinion. To be sure, few energy companies are properly transparent, but until *Gazprom* becomes as transparent as the others (e.g. the joint Russo-British venture, *TNK-BP*), the claim that Ukraine is not being made to pay a political tariff is simply impossible to prove.<sup>20</sup> When (admittedly after months of chicanery and evasiveness by the Ukrainian side) a price is demanded which plainly would result in the collapse of an economy—and proposals for staged price increases are brusquely rejected—the basis for examining political motives is strong.

The geopolitical dimension is undeniable to all but the casuist. The first paragraph of the official (2003) *Energy Strategy of the Russian Federation to 2020* defines the country's fuel and energy complex as an 'instrument for the conduct of internal and external policy', adding that 'the role of the country in world energy markets to a large extent determines its geopolitical influence'.<sup>21</sup> Russian analysts known for their objectivity have echoed the view that *Gazprom* has become instrumental to the aim of restoring Russia 'to the capacity of a global centre of power' and the establishment of a 'sphere of predominance for Russian interests'.<sup>22</sup>

The linkage between economic and political dimensions also has a number of recent precedents. On becoming Acting President of the Russian Federation in December 1999, Vladimir Putin cut the supply of oil to Ukraine for the fifth time since 1991. The taps stayed off until April 2000, when President Kuchma took the first steps to meet Putin's political demands. The dynamic of concession led, by turns, to the dismissal of Ukraine's then (and once again current) foreign minister, Boris Tarasyuk in September 2000. By winter-spring 2001, energy interests, Ukrainian

and Russian, played an influential role in securing the dismissal of the first deputy prime minister, Yulia Tymoshenko, and finally the then Prime Minister Viktor Yushchenko. In August 2004, the relationship re-emerged in inverse form when *Gazprom* and *Naftohaz Ukrainiy* signed a supplementary agreement to their 2002 contract, setting a five-year price of \$50 per mcm. Few have questioned that this agreement was predicated on the assumption that post-Kuchma Ukraine would remain in Russia's 'sphere of predominance'. Comparative analysis of the energy equation in Moldova and Georgia also gives point to the conclusion that economic, geo-economic and geo-political factors coalesce and are difficult to separate. In this context, are *Gazprom's* methodical efforts to acquire ownership of pipelines and other infrastructure in neighbouring countries economic or political? It is a distinction without a difference.

Yet it is the institutional and personal dimension of the crisis which is proving to be the most telling for the future of Yushchenko and his administration. According to a growing body of evidence, neither Ukraine's government nor its National Security and Defence Council played a material, let alone direct role in negotiating the agreement signed with apparent haste between *UkrNaftohaz*, *Gazprom* and *RosUkrEnergo* on 4 January 2006, nor was the agreement submitted for review by the National Security and Defence Council or Cabinet of Ministers. The insecurity of the agreed price, the non-market (but long-term) prices agreed for transit (two thirds the European average) and storage of Russian gas (one eighth the European average), the absence of information about the real owners of *RosUkrEnergo*, the absence of clarity about the joint venture being established with its participation, combined with the revelations of journalists on every one of these very points, has presented a murky and sinister picture: that persons tied to *UkrNaftohaz*, the former Kuchma regime and the Kremlin are profiting at the expense of Ukraine and possibly Russia as well.<sup>23</sup>

In this acrid atmosphere, it has proved all but impossible for the President and government to shift attention to the agreement's arguable merits (the apparent preservation of the pipeline network, the shift from barter to cash, and the admittedly temporary \$95 price as a baseline for further increments). Perhaps more fatefully, it has proved difficult to focus attention on first principles: the unavailability of alternative routes of supply, the impermissibility (in the eyes of Europe) of further gas siphoning and the fact that over the short-to-mid term, Russia is fated to remain a monopolist and Ukraine a hostage. In these miserable conditions, what is the alternative to lesser evils except greater ones? In an energy 'market' dominated by opaque and criminalised entities, with whom does one conclude agreements apart from opaque and criminalised entities? Ironically, it has even proved difficult to examine the authorities' principal culpability: the failure to prepare for 'gas attack', let alone negotiate with *Gazprom* in earnest during the spring, when its approach (and the Kremlin's) was still cautious and its terms comparatively lenient. Given the atmosphere, it was not surprising that the government was dismissed by parliament on 11 January.

## **In Advance Of A Conclusion**

At the outset of this discussion, we asked whether the Orange Revolution's triumphs would have a more lasting influence than its disappointments. Despite a gloomy picture of challenges ignored and challenges weakly accepted, it was not a rhetorical question. Neither disillusionment nor even the sense of betrayal need translate into nostalgia for the old regime or trust in its presumptive heirs. Over the past year, Viktor Yanukovich's standing has risen or fallen within the limits of his previous support. A substantial portion of Ukraine's electorate, 44 per cent, voted for him in December 2004 before there was any Orange system to be disillusioned about. Yet at the end of last year, support for Yanukovich's Party of Regions stood at 26.6 per cent and for all 'blue' forces in the range of 31-40 per cent.<sup>24</sup> After the fresh scandals surrounding the gas crisis (and Parliament's dismissal of the government), this support has, according to one poll fallen (to 24 per cent) and, according to another, moderately risen to 29.9 per cent.<sup>25</sup>

But the main imponderable for Orange forces lies in the political algorithm that will translate electoral support into parliamentary seats. As disillusionment with the two main Orange wings has grown, a number of their supporters have drifted to smaller Orange factions that might not clear the three per cent threshold required for representation. If they don't, the lost percentages are algebraically transferred to the parties that enter parliament. Depending upon which of the smaller parties succeed or fail, then (according to Razumkov Centre figures) Regions could find itself with 34-37 per cent of parliamentary seats, compared to 22-24.5 per cent for NSNU (*Nasha Ukraina-People's Union*). Unless there is a coalition between Regions and one of the two Orange blocs, the smaller parties—the Socialists, Lytvyn's People's Bloc and the Communists—could emerge as kingmakers: not only at the outset but on every occasion where legislation is needed and agreement sought. Given these imponderables, the future remains open, and so must judgement.

But three hypotheses can be hazarded. First, efforts to find common ground between NSNU and Regions are likely to continue. The allure of a grand coalition between a de-radicalised Yushchenko and a reconstituted, more centrist (and probably post-Yanukovich) Party of Regions is twofold: it might be a route to stability, even (in stark contrast to the ethos of the *Maidan*), stabilisation, based on a deal between oligarchic interests in each camp. Second, as a practical matter, the escalating enmity between the Yushchenko and Tymoshenko factions is now probably too great to overcome, and it is not surprising that the most recent efforts to overcome it have failed.

Second, even if it is realised, such a coalition is unlikely to achieve its aims. Even the more centrist wings of these blocs have very different visions of Ukraine's future, starting with its geopolitical future. Besides, oligarchic interests are not so easily reconciled in Ukraine, even in the east, where the dominance of Renat Akhmetov (the ultimate source of power in the Party of Regions) is strongly opposed on grounds of outlook and interest by other powerful figures, notably the businessmen grouped around the Industrial Union of Donbass. Apart from these factors, such a coalition risks turning Yushchenko into a risible and not merely compromised figure. He is now running his campaign on a patriotic and reformist image by attacking the more dubious aspects of the 4 January gas accord that his negotiators signed; also by portraying the Party of Regions as a force that would make Ukraine 'safe for criminals'.<sup>27</sup> Can his reputation withstand any further reversals? Wouldn't such reversals allow Yulia Tymoshenko to emerge as the heir of the Orange tradition and the centre of a truculent parliamentary opposition?

Third, whatever the outcome, there is likely to be yet a further delay on urgently needed reforms. This is suggested not only by the compromises required to build

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coalitions and oppose them. It is also suggested by the fact that Yushchenko is now committed to a new constitution and to a referendum for approving it. Deliberating upon, drafting and mobilising support for such a constitution will be arduous, acrimonious tasks, and it is far from certain that those who have already dithered on reform will be able to concentrate upon it in these circumstances.

These hypotheses point neither to a radiant future nor a dire one for Ukraine. Dire prognostications must also be tempered by the qualitative change that has taken place in several areas outside the ambit of this discussion: reform of the defence and security sector, relations with NATO and with the EU. Nearly all NATO professionals engaged in the first enterprise attest that the reformist ethos (present even under Kuchma's presidency) has now acquired tangible form. Resisting the temptation ingrained in Ukraine's administrative culture, Yushchenko's Minister of Defence, Anatoliy Grytsenko, has amended rather than scrapped the better plans of his predecessors and concentrated on developing the mechanisms that will bring them to fruition. The core mechanism is a transformed system of national defence planning designed to produce a smaller military establishment of 143,000 by 2011 (compared to 260,000 in mid-2005), with priority given to Joint Rapid Reaction Forces and Immediate Response Forces (20 per cent of the force, but 50 per cent of the budget). Efforts to increase transparency, uncover fraud and pare down redundant infrastructure and bloated establishments have already begun to bite and—as is always the case when real reform takes place—these efforts are arousing resentment. Progress, therefore, remains hostage to politics.

In contrast to the Kuchma years, the reformist impulse has also begun to enter domains critical to the relationship between state and society: the Ministry of Interior and the SBU (Security Service of Ukraine). By the same token, these institutions have become more positive in their attitudes towards NATO, and the traditionally positive relationship between the latter and Ukraine's Ministry of Defence and Armed Forces (in the new framework of Intensified Dialogue) has become far more integrated than it was in the past. Whilst the relationship with the EU (in the stale framework of New Neighbourhood) has lost none of its ambivalences, it has at last moved from pantomime to practical cooperation. Yet, the same daunting challenge remains. It is the EU which retains a broadly positive resonance within Ukrainian society (although, thanks to the conviction that 'Europe does not want us', less so than once was the case); whereas in the wake of the Kosovo crisis and Iraq war, NATO continues to be regarded with pronounced suspicion.<sup>30</sup> Until Yushchenko and pro-NATO institutions lose their timidity and confront public prejudice directly, membership of the Alliance will remain off the table.

In these mixed circumstances, it would be as bold to predict the revival of Orange forces, as it would be rash to predict their rout. Barring the most extreme public retribution—and a wholesale defeat of Orange forces in March—what one can predict is that foreign policy will be more consistent than domestic policy. How, then, will Ukraine approach its interests in the outside world?

First, even if Orange forces preserve their dominance, there will be far more emphasis on the Russian factor, even if not a fully fledged return to *mnogovektornost'*: the 'multi-vector' policy placing equal emphasis on Russia and the West, which was traditionally reviled by Yushchenko's core supporters and officially abandoned when Yushchenko came to office. The gas crisis has

demonstrated even to his inner circle that this policy was not the simply the product of Kuchma's vices, but of Ukraine's weaknesses and hence, for the foreseeable future, its dependence upon Russian energy. Certain taboos are likely to remain: *de facto* (as opposed to rhetorical) membership of the Russian sponsored Single Economic Space, membership of the Collective Security Treaty Organisation, surrender of the pipeline network, the ceding of autonomy in defence and security policy, and the 'coordination' of foreign policy, particularly where NATO and the EU are concerned. It remains to be seen whether these bastions are breached. Even if they do, there are likely to be gestures, manoeuvres and compromises that, from time to time, will discomfit Ukraine's Western partners and its own patriots. What is indisputable is that Ukraine needs figures who, whilst firm about upholding Ukraine's interests, are well connected in Russia and know how to find a common language with it.

Second, membership of the EU will remain an existential, but unshakeable long-term commitment, both political and moral, and EU members who share this vision (notably Poland) will find themselves treated as privileged, as well as burdened partners. Nevertheless, Ukrainians will continue to perceive the EU as an entity whose interest in Ukraine always takes second place to its interests in Russia. For both of these reasons, the EU's New Neighbourhood policy (which, in Ukraine's eyes, puts the country on the same footing as Morocco), will remain unacceptable, an emotionally charged issue, and a continued obstruction to what is urgently needed: the emergence of realistic perspectives about how Ukraine might achieve closer integration with the EU in practice.

Third, despite all the ambivalences in Ukrainian society, the United States is likely to be perceived by pro-Yushchenko forces and many centrist forces as Ukraine's indispensable partner and NATO as an indispensable vehicle of that partnership. It is the United States which is seen as the ultimate guarantor of Ukraine's security: the one partner who combines the will and capacity to counterbalance Russia (unlike Poland) and the one power willing to sacrifice good relations with Russia for the sake of Ukraine (unlike the EU). Likely as it is that this perception will survive, it is not certain, because Yulia Tymoshenko has yet to demonstrate that she shares it.

Given these internal and external coordinates, how should the EU prepare for the future and shape it? Too often, the EU forgets that it is a determinant actor, yet the fact is not forgotten in Kyiv or Moscow. On 1 January, the Kremlin was fully resolved upon a course that would have struck at the foundations of Ukraine's economy and disrupted gas supplies to Europe. On 4 January, it reconsidered. What had intervened was a groundswell of European opinion critical of Russia. The lessons to be drawn from this episode are threefold: Russia showed itself to be as dependent upon the European consumer as the latter is upon Russia; the EU's strong reaction, or the fear of one, induced Russia to think again; thanks to this fact, Russia's relations with the EU have been damaged far less than they would have been had the EU stepped back and acquiesced in Russia's course. Given its wealth and power, the EU influences its neighbours whether it tries to do so or not.

Nevertheless, the EU's means of influence over Ukraine have not always been well chosen. First, it has diminished its own influence through a policy, which too often unfolds in the shadow of policy towards Russia. There is no case for the EU to pursue a policy towards Ukraine that is anti-Russian. Equally, there is no good reason for hesitancy in approaching Ukraine on its own merits and with clear regard for the distinct ways that its development affects EU interests. After all, Ukraine is the northern littoral of the Black Sea, its frontier will form the principal

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eastern border of the Union after Romania's accession, and it is the transit zone for 80 per cent of the EU's imported gas from Russia. Our stake in the security and economic development of that country, in the independence and capacity of its institutions—and its democratic foundations—should require no defence and should not be made contingent upon other interests. The United States has developed, with profit, distinct and constructive relations with both Russia and Ukraine, and it is difficult to see why the EU should not be able to do the same.

Second, in inverse proportion to Ukraine itself, the EU diminishes its influence by confusing the issues of integration and membership. Membership, like the *acquis communautaire*, is indivisible. But integration can be approached on a case by case basis. If Ukraine seeks a friendly Schengen frontier and Europe a safe one, then it stands to reason that Ukraine should strive to meet EU standards on border management, policing and customs regulation. If the EU can help Ukraine increase its capacity in these areas, that is manifestly in the interest of Europe. If Ukraine seeks levels of trade and investment analogous to Poland's (and not per capita investment at one-tenth the Polish level), then it is essential to focus efforts on meeting Copenhagen criteria regarding contract enforcement, judicial integrity and transparency. If the EU seeks expanding markets, not to say the expansion of its business culture elsewhere, this too is an important issue for Ukraine. The importance of gas to Europe needs no explanation. The establishment of an EU-Ukraine Energy Dialogue (analogous to that with Russia) should not need justification either, particularly because interests and relationships are so different (Russia being a producing and transit country and Ukraine being an importing and transit country). To this end, the establishment of a joint Ukraine-EU mechanism in the area of energy sector reform (analogous to NATO's highly successful Joint Working Group on Defence Reform) warrants consideration.

Integration and a differentiated approach to it—and a process advancing in well defined areas, by stages and to the extent that capacity and political will allow—should be based on mutual interest and benefit. It should be a 25+1 process with its own distinct mechanisms. Such a process should neither rule membership in nor rule it out. It would give a positive impulse to the relationship with Ukraine (unlike the New Neighbourhood policy, which has caused nothing but resentment in Kyiv) and would suffer from none of the contentiousness (and few of the burdens) of an 'accession process'. Yet by making 'signals' and 'perspectives' the *sine qua non* of relations with the EU, Ukraine has unwittingly strengthened those inside the EU who would dismiss Ukraine's prospects and acquiesce in its return to Russia's fold.

Within much of the EU Russia, too, is seen through a false perspective: 'how will Ukraine's integration with Europe affect Russia's interests?' That is the natural, but narrower question. The broader and more significant question is how Europe's interests will be affected by the evolution of Russia. Is it in Europe's interests to vindicate Putin's geopolitically outmoded view of security or give encouragement to those in Russia who would question it? Will 'zones of interest' built upon the weakness of neighbours, rather than their strength, contribute to security in Eurasia or undermine it? To the EU's 'new neighbours', the question answers itself. From the EU, an answer is still awaited.

## Endnotes

<sup>1</sup> J. Sherr, 'Viyboriy v Ukraine: vzaimodeistvie vnutrennikh i vneshnikh faktorov' [Ukraine's Elections: The Interplay Between Internal and External Factors], *Zerkalo Nedeli*, n. 40 (515), 9-15 October 2004 <[www.zerkalo-nedeli.com/nn/show/515/48035/](http://www.zerkalo-nedeli.com/nn/show/515/48035/)>.

<sup>2</sup> On 10 January 2005, Ukraine's Central Electoral Commission declared Yushchenko the winner of the third round of the elections (26 December) with 51.99 per cent of votes cast compared to 44.2 per cent for his rival, Viktor Yanukovych, on the basis of a 77 per cent turnout.

<sup>3</sup> Poll conducted by Sotsis 18-23 January, cited in *BBC Summary of World Broadcasts: Former Soviet Union* (hereafter *SWB*).

<sup>4</sup> D. Furman, 'Kuchme dostalsya ne tot narod' [Kuchma has got the wrong people], *Vremya MN* [*The 'Times' of Moscow News*], 15 October 2002. As he goes on to note with arguable exaggeration, 'Russian society is culturally homogeneous, but in Ukraine there are two languages, four churches and huge cultural differences between regions'.

<sup>5</sup> Although the term 'ethnicity' rarely appears in official discourse, according to the last census of 1989, 22 per cent of Ukrainians were of Russian 'nationality'—a highly misleading figure, as a large percentage of Ukrainian citizens are ethnically mixed, and in Soviet times there was an incentive to claim Russian nationality. Yet outside Crimea, attitudes to Ukrainian statehood have not reflected noticeable ethnic divisions. As a case in point, a Democratic Initiatives poll of Kyiv residents in January 1995 revealed 62 per cent of ethnic Ukrainians and 58 per cent of ethnic Russians firmly in favour of independence; on the other hand, 16 per cent of Ukrainians and only 10 per cent of Russians pronounced themselves against it.

<sup>6</sup> Even at the most dangerous and polarized stage of the 2004 elections, the separatist gambit launched by several political figures in eastern Ukraine (and supported by Moscow's mayor, Yuriy Luzhkov) swiftly fell apart for lack of popular support. The one exception to the rule about separatism, the Autonomous Republic Crimea, reinforces the rule, because unlike Ukraine's 24 *oblasti* (regions), Crimea was only transferred to Ukraine's administrative jurisdiction in 1954, and almost 90 per cent of its Russian population (then 67 per cent of the peninsula's inhabitants) had settled in the territory after the Tatar deportations of 1944.

<sup>7</sup> For this reason, as we noted some years previously, '[w]hilst at one level the growth of civic instincts is sharpening the divide between state and society, it is also creating points of friction within the state and hence, a dynamic of evolution inside it'. J. Sherr, 'Ukraine's Parliamentary Elections: The Limits of Manipulation', *Occasional Brief*, Conflict Studies Research Centre, April 2002.

<sup>8</sup> The island of Tuzla, located in the Kerch Straits linking the Azov Sea with the Black Sea, was in 2003 the subject of a territorial dispute between Russia and Ukraine.

<sup>9</sup> In a January 2006 poll, 95 per cent of Ukrainians characterised Russia's cut-off of gas as an 'attack' [*napadenie*] upon Ukraine.

<sup>10</sup> Cited in 'Yushchenko's Disappearing Moment', TOL (Transitions On-Line), Prague, 20 June 2005.

<sup>11</sup> compromising information.

<sup>12</sup> Although Yushchenko originally planned to cut the staff of the Presidential Administration (renamed Presidential Secretariat) threefold, it is indicative of his approach that he allowed it to expand and then, in compensation, allowed the size of Tretyakov's office to exceed it. O. Dmytrycheva, Yu. Mostovaya, S. Rakhmanin and T. Sylyna, 'How a Fairytale Was Born and a Myth Died', *Zerkalo Nedeli*, 10 September 2005.

<sup>13</sup> The term is Françoise Thom's.

<sup>14</sup> In the words of the Lyudmilla Suprun, First Deputy Chairman of the parliament's budget committee, 'No single president can substantially change the situation in the country without reforms of the legal system' (Interview with *FirsTnews*, 17 July 2005, reprinted in *Action Ukraine Report*, 18 July 2005).

<sup>15</sup> Independence.

<sup>16</sup> Autonomy.

<sup>17</sup> James Sherr, 'Between Regimes: The Relationship between Internal and External Factors', *Zerkalo Nedeli*, no 1(529), 15-21 January 2005.

<sup>18</sup> Poll taken by the Razumkov Centre on 5-12 August, cited in *SWB* 30 August. Yet whilst Yanukovych's Party of Regions had now moved into second place, its level of support was still a modest 14.2 per cent.



<sup>19</sup> Poll taken by Democratic Initiatives and the Kyiv International Sociology Institute. The 'catastrophic drop in ratings', also applied to the parliament, with a -28 per cent rating, compared to +23 per cent in March.

<sup>20</sup> When negotiating the supply contract for the Odessa-Brody pipeline, *TNK-BP* was assiduous in presenting all relevant data to the Ukrainian side. All of the terms—which included a right for Ukraine to withdraw from the contract with three months notice—were open to public inspection.

<sup>21</sup> *Energeticheskaya strategiya Rossijskoi Federacii do 2020 goda* [The Energy Strategy of Russia up to 2020], <[www.minprom.gov.ru/docs/strateg/1](http://www.minprom.gov.ru/docs/strateg/1)>.

<sup>22</sup> Dmitri Trenin, 'Postimperski proekt' [The Post-Imperial Project], *Nezavisimaya Gazeta-Dipkurier*, n. 2, January 2006, <[www.ng.ru//courier/2006-01-30/9\\_project.html](http://www.ng.ru//courier/2006-01-30/9_project.html)>. In an earlier paper, Trenin analysed Putin's strategy of utilising economic, cultural and inter-elite factors 'to establish and promote in neighbouring countries groups of influence orientated towards Moscow and to progressively neutralise pro-Western circles'. ('*Proekt SNG – noviy prioritet rossijskoj vneshney politiki?*' [The "CIS Project": A New Priority of Russian Foreign Policy?], February 2004 (author's copy). On 31 December 2005 Andrey Illarionov, President Putin's former economics adviser (who resigned on 27 December) stated that the Kremlin's gas policy towards Ukraine 'had no relation not only to liberal economic policy, but to economic policy at all.... Energy weapons are being used against neighbours.' (*Eurasia Daily Monitor*, Jamestown Foundation, vol 3, issue 5, 9 January 2006. On 3 January, he went on to argue that the mechanism used for determining European prices had been shelved with respect to Ukraine and that price-maximisation had been substituted for profit-maximisation).

<sup>23</sup> For an intentionally damning but fairly convincing analysis, see two English language translations on the website of *Zerkalo Nedeli*: A. Yeremenko, 'Shalom Gazavat!', *Zerkalo Nedeli*, n.1 (580), 14-20 January, [www.mirror-weekly.com/ie/show/580/52315/](http://www.mirror-weekly.com/ie/show/580/52315/) and Yu. Mostovaya, 'More to the Gas Issue', *Zerkalo Nedeli*, n. 2 (581) 21-27 January, <[www.mirror-weekly.com/nn/show/581/52384/](http://www.mirror-weekly.com/nn/show/581/52384/)>. For an analysis of the relevant financial interests at play in the Russian President's Administration, see S. Charap, 'An Executive Branch Moscow Could Love,' *Moscow Times*, 19 January 2006.

<sup>24</sup> Poll conducted by Kyiv International Institute of Sociology and Kyiv-Mohyla Academy 9-20 December 2005. The range in numbers reflects the as yet uncertain allegiances of the Socialists and People's Party, as well as the support given to 'blue' parties below the 3 per cent threshold entitling a faction to representation.

<sup>25</sup> The first poll, conducted by Kyiv's National Institute of Strategic Studies, shows the Party of Regions with 24 per cent, *Nasha Ukraina* with 22 per cent, Yulia Tymoshenko's bloc with 15 per cent, the Socialists with 9 per cent, the Communists 8 per cent and the People's Party of parliamentary Speaker Lytvyn with 5 per cent. The second poll, conducted by the Razumkov Centre, gives Regions 29.9 per cent, *Nasha Ukraina* 19.6 per cent and Tymoshenko's bloc 13.7 per cent.

<sup>27</sup> *Nasha Ukraina* weekly press release, 10 February 2006.

<sup>30</sup> Although it was not NATO, but a 'coalition of the willing' that prosecuted the Iraq war, it is indicative of the 'information war' being fought in Ukraine that the electorate is largely unaware of the fact.



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