

## Ukraine before the start of the presidential campaign

Tadeusz A. Olszański

The spring session of the Verkhovna Rada of Ukraine ended on 11 July. This autumn, political life in Ukraine will be dominated by preparations for the presidential election to be held in the beginning of 2010. There will be two main candidates in that ballot, Viktor Yanukovych and Yulia Tymoshenko. Viktor Yushchenko's chances of re-election are negligible, although as the incumbent president, he will be an important player in the election process. Meanwhile, an impasse continues in the Ukrainian parliament: the government does not have an effective majority and a new, different coalition cannot be formed. It is very unlikely that this impasse can be overcome without a new, early election. However, a fresh ballot would not be in the interests of any of the major political forces, therefore the deadlock is expected to continue. However, some *ad hoc* compromises may be reached in order to pass selected bills.

### Origins of the current crisis

One has to go back to late 2004 in order to understand recent developments in Ukraine: at that time a badly prepared constitutional amendment was adopted as part of the compromise which ended the Orange Revolution, destroying the imperfect but nonetheless coherent presidential-parliamentary system. The winners, Viktor Yushchenko's group, decided not to hold an early election<sup>1</sup>, and in January 2005 Yulia Tymoshenko was appointed as the head of government. Most people in the president's circle were against Tymoshenko from the start, and later on the president himself joined the ranks of her opponents. In autumn 2005 a serious conflict occurred, which was once again resolved through a compromise: Tymoshenko lost her position and one of Yushchenko's strongest aides, Petro Poroshenko, was removed from power by the president. At that moment the 'democratic' or 'Orange Revolution' camp ceased to exist – Yushchenko and Tymoshenko became rivals. At the same time the president's bloc, Our Ukraine, gradually started to fall apart.

The Party of Regions won the 2006 election, although, the Yulia Tymoshenko Bloc (BYuT) and Our Ukraine were able to form a majority by forming an alliance with the Socialist Party of Ukraine led by Oleksander Moroz. Such a coalition was indeed created, but only a few days later Moroz switched sides and joined the Party of Regions, which then made up the Viktor Yanukovych cabinet in an alliance with the socialists and the communists. In spring 2007 Yulia Tymoshenko backed the Party of Regions' draft law on government, which aimed to seriously restrict the president's prerogatives, and the coalition took steps to build a majority that would be able to amend the constitution. Yushchenko responded to this by dissolving the parliament. However, this decision was a violation of the constitution, and Yushchenko

<sup>1</sup> This was probably a confidential element of the compromise.

was not able to schedule the early election for a favourable moment, that spring. In the end, another compromise was reached, in which the election date was postponed until the end of September, which allowed the Party of Regions ample time for an intensive campaign. The early election was a defeat for Our Ukraine<sup>2</sup> and a success for BYuT<sup>3</sup>. However, given the balance of power which emerged in the newly elected Verkhovna Rada, an effective majority could only be achieved by a coalition between the Party of Regions and Our Ukraine<sup>4</sup>. Before the election, Yushchenko had reached an agreement with a section of the Party of Regions leadership concerning such a coalition, but after the ballot it turned out that most of Our Ukraine MP's were under Yulia Tymoshenko's influence. The president therefore had to accept a coalition between Our Ukraine and BYuT, and see Yulia Tymoshenko appointed to as prime minister. The coalition had a majority of only two votes and was not able to guarantee effective support for the government.

## Impasse between the president and the prime minister

For a greater part of the spring session, the Verkhovna Rada of Ukraine held no plenary meetings and most of the decisions taken concerned matters of secondary importance such as ratification of international agreements or appointment of judges. The parliament did not even manage to work out a compromise on the nomination of deputy parliamentary speakers. Both the Party of Regions, then in opposition, and the coalition member BYuT, resorted to measures such as obstructing parliamentary meetings, either by blocking the rostrum or by restricting access to the speaker's podium. In May BYuT, undoubtedly acting on an order from the head of government, prevented President Yushchenko from delivering his state-of-the-nation address. This move was intended to provoke the president into dissolving the coalition so as to put Yulia Tymoshenko in opposition, which was her objective at that time. However, Yushchenko and his circle ignored the provocation.

In the spring, Yulia Tymoshenko suffered a series of defeats. She did not manage to move over into opposition on her own terms, in May her bloc lost the early municipal elections in Kyiv

(which Tymoshenko herself had triggered), and her attempt in June to take over control of the State Property Fund<sup>5</sup> ended without success. In June, two coalition MP's quit the coalition and the government lost its majority in the parliament. Consequently, it was not possible to adopt an amendment to the budget law in order to correct the indexes developed I by the Yanukovych government. As regards this last issue, the government was also denied support by a group of Our Ukraine deputies associated with the Presidential Secretariat. Yulia Tymoshenko was only able to overcome the impression of failure

<sup>2</sup> The number of seats decreased from 86 to 72.

<sup>3</sup> The number of seats increased from 129 to 156.

<sup>4</sup> See Appendix for information on the crisis-generating solutions in the Ukrainian constitutional system.

<sup>5</sup> Privatisation office.

**Tymoshenko's defeats did not translate into successes for Yushchenko. As the disintegration of the Our Ukraine – People's Self-Defence bloc progressed and a large group of the bloc's members became *de facto* members of Yulia Tymoshenko's camp, the president lost not only his political backing, but also the possibility of forming a coalition between Our Ukraine and the Party of Regions.**

by skilfully calling the vote of no confidence, proposed by the Party of Regions, which the opposition lost, prior to the budget vote, lost by the coalition. She was thus able to end the political season with a media success.

Tymoshenko's defeats did not translate into successes for Yushchenko. As the disintegration of the Our Ukraine – People's Self-Defence bloc progressed and a large group of the bloc's members became *de facto* members of Yulia Tymoshenko's camp, the president lost not only his political backing, but also the possibility of forming a coalition between Our Ukraine and the Party of Regions. It is therefore questionable if there is any purpose at all to his uno-

fficial co-operation with that party. A return to the old alliance with Yulia Tymoshenko seems to be unacceptable for both sides, and especially for Yushchenko's and Tymoshenko's supporters in business circles, i.e. the groups that will finance next year's election campaign.

## The parliamentary crisis and the condition of the state

The political impasse which has paralysed the highest state bodies does not mean that the state as a whole is paralysed. Many important decisions and initiatives are being taken at lower levels of administration, starting from the ministries and other central bodies, which are improving the working of the state and implementing various solutions to bring Ukraine closer to EU standards. The situation in local self-government is also improving, although the bad system of finance is impeding activities. The situation is at its worst in the judicial system which has as yet failed to embrace the principle of the independence of judges.

Nevertheless, significant progress in some fields depends on legislative changes, which are not taking place. On the other hand, the parliamentary commissions have already prepared and continue to prepare numerous draft bills which may be adopted in the future, when the current impasse is resolved (in the Ukrainian parliamentary system legislative drafts are not discarded at the end of the parliamentary term).

The objectionable rows in the parliament, broadcast by on radio and television, have undermined the authority of the Verkhovna Rada (which has never been high), but also of the prime minister, the president and the political elite as a whole. The great hopes and concerns of 2002–2004 have given way to deep disillusionment with politics, which is why it is expected that the turnout for the 2010 election may be significantly lower. It is also true, that the events of that time have left their mark on the Ukrainian public: nowadays the citizens undertake protest actions in defence of the interests of particular groups using means that would have been unthinkable before 2004. Recent examples of this include the two-day blockade of roads leading to Kyiv by truck drivers and the demonstrations in front of consular offices of the EU Member States staged to protest against the new, stricter visa rules introduced following the enlargement of the Schengen treaty zone. The citizens are increasingly aware of their interests and prepared to defend them, but on the other hand no political protests are taking place and no new political movements are forming. This is a comfortable situation for those in power – as long as they do not make a serious mistake, they need not fear major protests on a scale comparable to what happened in 2000–2003, not to mention a new Orange Revolution.

## Prospects for the new political season

The end of the Verkhovna Rada's spring session marks the end of another stage of the political crisis. From this autumn, political life in Ukraine will be completely dominated by preparations for the presidential campaign, and many previous plans and strategies will lose their currency.

The election struggle will almost certainly involve the two frontrunners, i.e. Yulia Tymoshenko and Viktor Yanukovich, as well as a third candidate, Viktor Yushchenko, who at this stage has practically no chance of re-election but remains a powerful player capable of giving significant support to Yulia Tymoshenko or, on the other hand, seriously harming her interests.

**The election struggle will almost certainly involve the two frontrunners, i.e. Yulia Tymoshenko and Viktor Yanukovich, as well as a third candidate, Viktor Yushchenko, who at this stage has practically no chance of re-election but remains a powerful player capable of giving significant support to Yulia Tymoshenko or, on the other hand, seriously harming her interests.**

None of the other candidates, of whom there may be more than ten, will play a significant role: it is already too late to promote a new candidate with adequate political and organisational backing and the necessary funding.

The Verkhovna Rada of Ukraine will meet again on 2 September. There are strong indications that the current parliamentary impasse will continue, as any attempt at overcoming it would undermine the interests of some of the main political forces, and a compromise between Our Ukraine, the Yulia Tymoshenko Bloc and the Party of Regions seems unthinkable. As the date of the presidential election approaches, the chances of resolving the impasse are diminishing. However, even now another early election would be an obstacle to the organisational and financial preparations for the presidential election.

In addition, it would not be in anybody's interests to interrupt the parliament's activities as the direct broadcast of its proceedings in the media offer the politicians excellent (and free) opportunities for making political capital. Even when no election campaign is underway, the MP's often directly address "radio listeners and television viewers". It should therefore be expected that the plenary meetings will continue to take place, although the results of legislative works will be negligible. Depending on the 'presidential' strategies of particular groups, ad hoc compromises enabling the adoption of certain legal acts will also be possible. Such compromises may also be reached between the Yulia Tymoshenko Bloc and the Party of Regions, especially if Yushchenko takes decisive steps to bring the current government to an end.

A lasting agreement between Yushchenko and Tymoshenko would have to include guarantees that the two sides would mutually respect their 'zones of influence'. However, such a compromise seems impossible due to a complete lack of confidence between Yushchenko and Tymoshenko.

Further developments will depend on the strategies to be adopted by the particular groups. It seems certain that the Party of Regions will nominate Viktor Yanukovich as its presidential candidate and highly likely that it will choose to conduct its campaign as an opposition party. It is in a comfortable situation today – the open and relentless strife between Yulia Tymoshenko and Viktor Yushchenko undermines the positions of both candidates who largely target the same electorate.

Yulia Tymoshenko may fight for the presidency both as current prime minister and as ex PM, but she would find herself in a very difficult situation if she were pushed to the position of acting prime minister – that would limit her capacity without taking away any of the responsibility, and would make it easier for others to blame her for the effects of an economic decline which most experts expect to occur. However, of the three candidates she has the most room for manoeuvre and the greatest courage, and therefore may be expected to take some unexpected and risky moves.

Viktor Yushchenko is in the most difficult situation. Given his dramatic loss of popularity<sup>6</sup>, he should be inclined to give up the fight for a second term, but his personal sense of unfulfilled mission and pressure from politicians and business people around him will probably make him take the opposite decision. The people surrounding Yushchenko today actually have only one thing in common – fear and hatred of Yulia Tymoshenko. It is clear, though, that this group has no concept for a new image of the president, which would allow Yushchenko to confront Tymoshenko on an equal footing. It remains an open question whether or not Yushchenko will choose to run for a second term.

<sup>6</sup> Only 11% in June.

## APPENDIX

### Legal aspects of the parliamentary crisis

Selected Ukrainian regulations and legislative practices which substantially differ from those adopted in Poland and render it difficult to overcome the current political crisis in Ukraine.

#### I. Parliamentary majority

Under the Ukrainian constitution, a simple parliamentary majority means an absolute majority of the total number of deputies as set out in the constitution, i.e. 226 votes (a relative majority of 150 votes is allowed only in some procedural matters). As a result, deputies usually do not vote against proposals, but rather abstain from voting; a situation in which votes 'against' exceed those 'for' has never happened. Voting 'against' is unnecessary: a proposal is rejected even if 225 deputies are for and no-one is against.

In spite of the provision that deputies vote in person, voting for those absent is an accepted practice. Votes are cast exclusively using the electronic vote system (no show of hands), and the statutory voting time is 10 seconds. Consequently, a deputy on 'vote duty' may vote for four to six colleagues who are absent or busy with other activities. Currently it is not possible to block the electronic voting cards of deputies who are not present in the chamber. It has been announced that the possibility of voting for absent deputies will be disabled this autumn; such a change would lead to the complete paralysis of the Verkhovna Rada – with the current definition of simple majority the coalition, which has less than 300 deputies, would not be able to ensure that the required number of deputies are present in the chamber.

#### II. Forming coalitions and disbanding the parliament

Under the constitution as amended in 2004, "a coalition of factions forms in the Verkhovna Rada, which **comprises** a majority of the people's deputies of Ukraine". Only such a coalition may present a candidate for prime minister to the president. If the above provision referred to "factions which **comprise**...", the situation would be clear. However, the text in its current wording implies that membership of a faction is not identifiable with membership of the coalition. This interpretation is affirmed by the practice whereby coalition agreements are not signed by faction leaders, but rather by all faction members individually. It also supports the view that it is possible to be in a faction without being a member of the coalition to which this faction belongs.

The Verkhovna Rada of Ukraine cannot adopt a decision on self-dissolution, and the president may disband it only in three instances: if no coalition has been formed within one month, if no government has been formed within two months, or if no plenary meetings have been held for thirty days. However, the decision is always left to the president who is not obliged to dissolve the parliament in any situation. The Verkhovna Rada may not be disbanded during the last half-year of the presidential term, and if it was elected in an early election – within one year of the election date (or the official announcement of results, which takes place within two weeks of the election date – the provision is ambiguous on this point).

#### III. Financing of political parties

The provisions concerning the financing of political parties include some restrictions concerning the acceptance of donations from domestic legal entities and individual persons, while any financing from abroad is prohibited. However, these restrictions are commonly violated. There is no state funding of parties. The obligation to report election campaign spending is generally ignored and the reports submitted, as well as the statements of assets presented by leading politicians, are highly inaccurate, although only some NGOs are protesting against this practice. Since election campaigns are enormously costly, especially in terms of presence in the electronic media, the parties depend on financial support from major entrepreneurs, i.e. oligarchs, who also have interests of a political nature.

In Ukraine, the spheres of business and political activity have never been separated in practical terms. In the past some political parties were formed at the initiative of major entrepreneurs (as in the case of the Party of Regions which to a large extent remains a representation of Ukraine's largest businessman Rinat Akhmetov), and the rivalry between large finance and industrial groups has been and continues to be transferred to the political level.

Due to badly drafted legislation, it is possible neither for major entrepreneurs to operate without political backing, nor for leading politicians and parties to do without support from big business, and the rivalry between the main political groups and politicians is also a rivalry between the business groups that support them.

\* 'Faction' means here an organised group of MPs elected from certain party or bloc list.

**Centre for Eastern Studies**  
Koszykowa 6A  
00-564 Warsaw  
phone: (+48 22) 525 80 00  
fax: (+48 22) 629 87 99  
e-mail: info@osw.waw.pl

**The Centre for Eastern Studies (CES)** was established in 1990. CES is financed from the budget. The Centre monitors and analyses the political, economic and social situation in Russia, Central and Eastern European countries, the Balkans, the Caucasus and the Central Asia. CES focuses on the key political, economic and security issues, such as internal situations and stability of the mentioned countries, the systems of power, relations between political centres, foreign policies, issues related to NATO and EU enlargement, energy supply security, existing and potential conflicts, among other issues.

© Copyright by OSW  
Editor: Anna Łabuszewska,  
Co-operation: Peter Hart  
DTP: Katarzyna Kazimierska