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Aspects of the Orange Revolution IV

Foreign Assistance and Civic Action in the 2004 Ukrainian Presidential Elections

Edited by Ingmar Bredies, Andreas Umland and Valentin Yakushik

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ASPECTS OF THE ORANGE REVOLUTION IV

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Cover picture: Demonstrators on *Kyiv's Maidan Nezalezhnosti* (Independence Square) during the Orange Revolution. The poster reads "*Kuchma kaput*" – "Down with [former Ukrainian President Leonid] Kuchma." © Tatiana Montik, Ukraine, 2004.

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Introduction

Domestic and Foreign Factors in the 2004 Ukrainian Presidential Elections

Andreas Umland, National Taras Shevchenko University of Kyiv[1]

As will become clear in this volume as well as in volume V of *Aspects of the Orange Revolution*, there is more than one way to understand the events that have become known as the 'Orange Revolution'. Most North American and European analysts (like me) interpret the actions that took place in Ukraine at the end of 2004 as a democratic breakthrough in a semi-pluralistic young state that had been under the spell of an authoritarian past. Viktor Yushchenko's election to the Ukrainian presidency in the re-run of the second round of the 2004 presidential election was, in this view, a shift of Ukraine's political orientation ushering the country into the club of 'normal,' Western-style democracies.

While there is a lot to be said for, and much has been uttered in the previous three volumes on, this version of the Orange Revolution, the events that have subsequently unfolded in Ukraine reveal that there might be other facets of this story that also deserve to be told. Ukraine's 'post-revolutionary' reality has turned out to be more complicated than had been sometimes predicted – in a way, reminding the familiar, inconsistent development of new revolutionary regimes after the classic revolutions of the 18th-20th centuries. Somewhat reminiscent, for instance, of the contradictory legacy of some

1 Originally, this introduction was meant to be a joint text by Ingmar Bredies, Valentin Yakushik and me. However, as Bredies' and Yakushik's draft was heavily cut, reformulated and expanded by me, I now appear here as the sole author. A number of elements though of the original text remained for which the input by Bredies and Yakushik is acknowledged.

national liberation movements across the globe is the ambivalent role of nationalism in the Orange camp which mainly consists of patriotic democrats with an untainted reputation, but also includes a couple of antisemites, like the former dissident Levko Lukyanenko.[2] The unpredictable effects of uprisings like the Orange Revolution – sometimes conceptualized, by political scientists, as real 'revolutions'[3] – is also vividly illustrated by the disillusioning aftermath of the Rose Revolution in Georgia and Tulip Revolution in Kyrgyzstan.[4] The events in Georgia and Kyrgyzstan in 2007, among others, can be seen as a glaring warning for how an allegedly pro-democratic new elite might be able to take advantage of Western naivety about the actual motivations and inclinations of supposedly 'democratic revolutionaries'. In Georgia and Kyrgyzstan, it appears today, yet another, mass civic action, i.e. a second (or third, depending on how one counts) post-Soviet democratic 'revolution,' might be necessary to fully institutionalize some fundamentals of an, in Robert Dahl's terms, functioning and meaningful polyarchy – i.e. of genuine power of the many.[5]

Those who were skeptical about the Ukrainian Orange Revolution – and one of this volume's editors and contributors, Valentin Yakushik, was among them – feared not only a subversion of the cultural-civilizational basis of the society through far-reaching Westernization, but also a violation and infringement of the rule of law in Ukraine.[6] As documented in Yakushik's below memorandum prepared for Viktor Yanukovich's Party of Regions' lawsuit against the way in which the third round of the presidential elections was conducted, some thought that the 'revolutionary' situation itself could lead to changes in the consciousness of political decision makers and in Ukrainian society at large. They viewed the Orange Revolution as a real revolution that could bring Ukraine to a point of no return at which subsequent

2 'Antisemitic Ukrainian Politician Gets Presidential Medal,' *FSU Monitor*, December 28, 2007, http://www.fsumonitor.com/stories/122807Ukraine2.shtml.

3 See volume VI of *Aspects of the Orange Revolution*.

4 Theodor Tudoroiu, 'Rose, Orange, and Tulip: The failed post-Soviet revolutions,' *Communist and Post-Communist Studies*, vol. 40, no. 3 (2007): 315-342.

5 Robert Dahl, *Polyarchy: Participation and Opposition* (New Haven: Yale University Press 1972).

6 Valentin Yakushik, "Politicheskie i tsivilizatsionnye aspekty ukrainiskoi revoliutsii 2004-2005 gg.," *Politicheskaia ekspertiza*, no. 2 (2006): 289-298, http://politex.info/content/view/196/40/.

questions concerning the formation of a new Ukrainian polity would thereafter be justified by Orange ethics, i.e. on the basis of Ukraine's revolutionary experience, mention of which could be used to trump regular checks on the power of political decision makers. Some of those Ukrainians who opposed the Orange Revolution, like Yakushik, did so not only because they wanted Viktor Yanukovych to become President, but also because they believed that the memories of the revolution might tarnish their country, leaving societal cleavages that ordinary politics would be unable to overcome, in the aftermath.

This volume as well as the following collection of institutional election observation reports somewhat balances the different perspectives on the Orange Revolution as they also include selected statements with a critical view on it. While the previous three volumes as well as volume VI could all stand on their own as collections that comprehensively highlight certain aspects of the Orange Revolution, this volume IV as well as volume V should be seen in the context of the previous and following volumes. By themselves, volumes IV and V would not make useful reading. They constitute elaborations of, or supplements to, discussions that started in volumes I-III. This volume's first four papers, for instance, can be perceived as a debate that carries on the discussion of foreign actors in Ukraine in 2004 started by Andrew Wilson in the last paper of volume III.[7]

Much attention has been drawn to the international – some say 'geopolitical' – dimension of the 2004 presidential elections.[8] Important papers by, among others, Taras Kuzio and Michael McFaul provide detailed analyses of the Russian and Western involvement into the Orange Revolution.[9] Kyiv's Razumkov Centre has produced a fascinating study on

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7 Andrew Wilson, 'Ukraine's Orange Revolution, NGOs and the Role of the West,' *Cambridge Review of International Affairs*, vol. 19, no. 1 (2006): 21-32.

8 E.g. Taras Kuzio, 'Ukrainian Foreign and Security Policy Since the Orange Revolution,' *The International Spectator*, no. 4 (2006): 1-18.

9 Taras Kuzio, 'Russian Policy toward Ukraine during the Elections,' *Demokratizatsiya*, vol. 13, no. 4 (2005): 491-517; Michael McFaul, 'Ukraine Imports Democracy: External Influences on the Orange Revolution,' *International Security*, vol. 32 no. 2 (2007): 45-83. I have been trying to get reprint permission for these incisive papers, yet without success. Fortunately, at least, McFaul's paper is now freely available on the WWW (http://iis-db.stanford.edu/pubs/22086/International Security-11-2007.pdf) and is recommended here explicitly as additional reading

Ukrainian think-tanks and their sponsors.[10] Shortly before the event, I have listed and briefly analyzed, in a German language paper with an afterword by Astrid Sahm, the programs of a number of Western governmental and non-governmental organizations in Ukraine.[11] The previous three volumes of this project too touched upon, and the following two will be also dealing with, that subject.

In this volume's Part I, Iris Kempe and Iryna Solonenko first analyze the complex interaction between domestic and international affairs during the Orange Revolution. Assessing the promotion of interests carried out by various global players, they evaluate the behavior of Russia, on the one side, and of Western Europe/USA, on the other, as representing opposed approaches to foreign policy. The authors introduce different tools, levers and goals that the actors were pursuing. While Russia would have benefited, primarily, from maintaining the status quo and had, obviously, little interest in the promotion of Western standards of liberal democracy, the initiatives of the EU und US were aiming at strengthening democratic procedures and civil society in Ukraine, rather than to support particular candidates verbally or financially.

On the other hand, it would be wrong to turn a blind eye to certain interests of the West in this region and a mistake to associate *all* Western activity in this region only with the promotion of democracy and civil society *only*. Vladimir Frolov takes a skeptical – to say the least – look at the Western art of democracy promotion, especially Western support of free and fair elections, by what he calls 'democracy by remote control.'[12] In some ways following Frolov's argument, Valentin Yakushik, in an English translation of a

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relevant for the below debate in Part I of this volume as well as for the matter of this entire project.

10 Razumkov Centre (ed.), 'Non-Governmental Think-Tanks in Ukraine: Their Present State and Prospects,' *National Security and Defense*, no. 10 (2003).

11 Andreas Umland, 'Westliche Förderprogramme in der Ukraine: Einblicke in die europäisch-nordamerikanische Unterstützung ukrainischer Reformbestrebungen seit 1991. Mit einem Nachwort von Astrid Sahm,' *Forschungsstelle Osteuropa Bremen: Arbeitspapiere und Materialien*, no. 63 (December 2004), http://se2.isn.ch/serviceengine/FileContent?serviceID=10&fileid=D092944E-F352-DC1A-CF4E-3CEFBC401E94&lng=de. See also Wilfried Jilge, *Dialog mit Defiziten: Die deutsch-ukrainischen Kulturbeziehungen – Bestandsaufnahme und Empfehlungen*. ifa-Dokumente 2/2001 (Stuttgart: Institut für Auslandsbeziehungen & Robert Bosch Stiftung 2001).

12 On this issue, see also the introduction to the whole project in volume I.

policy paper that he produced after the Orange Revolution at the behest of the Party of Regions, assesses the third round of the presidential election as an event that did not any longer present a real choice for Ukrainians given the inevitability of Yushchenko's, as he sees it, 'guided' presidential victory. He analyzes Ukraine's politics in the light of this, as he calls it, 'election without a choice'.

Matthias Brucker's paper concludes this section's debate about the role of foreign actors in the Orange Revolution with an analysis of the nature and tools of German assistance to Ukraine's democratization reviewing relevant transition theory and focusing on the FRG's well-known party foundations engaged in large scale support for political development around the globe. His contribution is of particular relevance within the context of the ongoing discussion, in the former Soviet Union, about the nature of the impact of (as is often alleged, self-serving) US democracy promotion programs already briefly mentioned in the introduction to this project in volume I. Brucker's analysis somewhat corrects this picture by drawing attention to the considerable activities of Germany in the former Soviet bloc. His paper illustrates that German non-governmental (yet, state-financed) foundations have been as much involved in helping to prepare Ukrainian civil society for the Orange Revolution as the various international, pan-European and Anglo-Saxon state agencies and NGOs represented in Kyiv. Brucker's analysis is important for the, in the introduction to volume I, briefly indicated Russian-Western debate on international democracy promotion in so far as Russia often claims that these programs solely further US national interests. Here it becomes clear that Germany – a country (apparently, not the least because of Putin's personal preferences) seen in Russia as a more benevolent and pro-Russian actor – is as much involved in supporting pluralistic politics and civil society abroad as the US. My own tentative findings of 2004, moreover, indicate that the summary impact of the European Union as an organization, of its member states, and of further European structures was, probably, altogether larger than the certainly considerable US-involvement in democracy promotion in Ukraine.[13]

13 Umland, 'Westliche Förderprogramme in der Ukraine.' See also Andreas Wittkowsky, *Die Unterstützung langsamer Transformationsländer: Ansätze und Erfahrungen in der Ukraine* (Bonn: DIE 1998); Stefanie Bailer, 'Förderung von

The second set of essays in this volume consists of reports from various election observers who look at the Orange Revolution from both the national and international perspectives. These reports can be read as appendices to both, the relevant research papers on the elections themselves in volumes I-III and VI, as well as the institutional elections reports collected in volume V. They are meant to add a bit of 'atmosphere' to the mostly dry texts of the other volumes. The participant observations of this section often express engagement instead of detached interpretation. In so far, they are supplements to the various relevant scholarly papers and institutional election reports of *Aspects of the Orange Revolution*. At the same time, they are, probably, the most fun reading of this project, and may even have the capacity to provide the reader with an understanding of the 2004 events which she/he otherwise would not get from mere study of the previous and following sections in this and the other volumes.

Jake Rudnitsky provides an impressionistic, yet detailed account of the campaign tactics used in the first round focusing here on the example of a 'technological' candidate in the presidential election campaign. What follows are four individual reports by Rory Finnin, Adriana Helbig, Paul and Tatiana Terdal, Peter Wittschorek, Hans-Jörg Schmedes and Adrianna Melnyk who served as official election observers for a variety of organizations. The same goes for Ingmar Bredies, Oxana Shevel and Volodymyr Bilyk who, in their three essays, pay special attention to the notorious irregularities that occurred in the Kirovohrad region. There, in Ukraine's 100th Electoral District, especially widespread ballot-stuffing and electoral manipulation characterized each of the three rounds of the presidential elections.

All in all, this volume aims less to make an individual contribution than to complement the previous and following volumes within *Aspects of the Orange Revolution* by way of providing – sometimes, highly – contradictory and emotional points of view on the events in Ukraine, in late 2004. Here, we have assembled not only scholarly analyses, but also impressionistic accounts some of which may be rejected by the reader. With these

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Zivilgesellschaft und Drittem Sektor? Eine Untersuchung der Demokratieförderung der Europäischen Union in der Ukraine und ihrer gesellschaftlichen Wirkung,' in Markus Kaiser (ed.), *WeltWissen: Entwicklungszusammenarbeit in der Weltgesellschaft* (Bielefeld: transcript-Verlag 2003), 107-132.

contributions, we want to show how various scholarly analysts, political commentators, in- and outside observers as well as more or less active participants of the Ukrainian mass rebellion were able to interpret the reasons, course, nature and results of this celebrated uprising in radically different ways. This, we hope, will give the reader a better understanding of – and, perhaps, even a 'feeling' for – the tense atmosphere in Ukraine in 2004, and why the meaning of these events is still disputed today. The analyses, reports and comments might also indicate how the Orange Revolution's assessment will continue to exert impact on the whole post-Soviet region,[14] and on our perception of when and how democracies emerge.

14 E.g. Liliana Proskuryakova, 'Worldwide Implications of the Orange Revolution,' *Harvard International Review*, 2nd May 2007, http://www.harvardir.org/articles/1305/.

I Political Transitions and External Forces in Post-Soviet Societies

Foreign Involvement and International Orientation in the Orange Revolution[1]

Iris Kempe, Center for Applied Policy Research, Munich
Iryna Solonenko, International Renaissance Foundation, Kyiv

Since the Georgian Rose Revolution in 2003, the political development in the former Soviet countries has been influenced by popular votes in which a democratic opposition supported by civil society uses Western values and mass protests to bring down the former regime that tries to remain in power by manipulating the campaign for, and falsifying the output of, the elections. Among those processes the Orange Revolution in Ukraine was one of the cases that had a decisive impact on the country's domestic agenda, the international environment, the Kremlin's attitude to continue a hegemonic approach and the Western position of demanding democratic values and at the same time being claiming to offer integration into Euro-Atlantic structures.

Following the 2004 presidential election Ukraine advanced in its relations with the EU and NATO. Moreover, it is trying to meet the necessary demands to a regional promoter of democracy for the rest of the post-Soviet space. A democratic and reform-oriented Ukraine would contribute to security at the EU's new eastern border. The EU and the United States are interested in a democratic Ukraine as an anchor of stability inside the former Soviet

1 An earlier version of this paper appeared in: Helmut Kurth and Iris Kempe (eds.), *Presidential Election and Orange Revolution: Implications for Ukraine's Transition* (Kyiv, 2005), 109-148. This edited version is reprinted with kind permission by the Kyiv Office of the Friedrich Ebert Foundation.

sphere. Will this advancement be preserved and backed up by respective domestic reforms?

Ukraine's presidential election in 2004 influenced not only the future domestic development and transition of the country, but also affected its international position. The new European Union member states, first and foremost Poland, Lithuania and Slovakia, perceive Ukraine as a key actor in Europe. For Russia, Ukraine is decisive for the establishment of Russia's political dominance as well as for the promotion of its economic and social interests in the former Soviet territory. Thus, the external actors have been carefully scrutinizing the question of how the presidential election was carried out and who the new President of Ukraine would be.

From both perspectives – internal development and external orientation – the 2004 presidential election placed Ukraine at a crossroads. Previous presidential elections in many former Soviet republics have been dominated either by a single candidate, with no real alternative, or a competition between a 'democratically' oriented candidate and a communist one. Leonid Kuchma, the second President of Ukraine, stayed in office for two terms spanning 10 years. The 2004 presidential election offered voters a choice between two front running candidates, Viktor Yushchenko and Viktor Yanukovych.

International factors carry a higher importance within a defective democracy than in a consolidated democracy because of their higher impact on the domestic agenda.[2] A common language, a high degree of economic interdependence and a shared media space, arguably, are responsible for a partial overlapping of Ukrainian with Russian interests. At the same time, Ukrainian decision makers in favor of national independence and a democratic transition predominantly promoted Western values as a cleavage within the election campaign. Furthermore, one has to ask how and by whom external factors were utilized within the power struggle between different players and interests groups during the 2004 presidential election.

This paper argues that the international framework of the Ukrainian election played an important role with implications for the further direction of

2 Timm Beichelt and Rostyslav Pavlenko, 'The Presidential Election and Constitutional Reform', in: Kurth and Kempe, *Presidential Election and Orange Revolution*, 50-85.

the Ukrainian transition. Based on this assumption, the analysis focuses on the role of international factors in the presidential election from two perspectives – international (Iris Kempe) and domestic (Iryna Solonenko). From each perspective the role is analyzed in terms of interests, goals and methods of international actors. The perspectives of both Western and Russian as well as of domestic actors are highlighted.

1 The International Perspective

1.1 Key actors

The key actors interested in the procedures and results of the election can be evaluated by basic assumptions of the transition literature. Firstly, the level of international influence is related to the country's level of foreign diplomatic and economic dependency.[3] Second, neighboring countries are particularly important due to their geographic interdependence and the spill-over effects from the neighboring country's political, economic, and social system. According to Ernst-Otto Czempiel, the close link between European countries obliges democratic states to strengthen democracy inside neighboring countries. Thus, a country's national security and stability strongly depend on the level of adherence to democratic values inside its neighboring countries.[4] Finally, the EU's enlargement to the East provides a successful example for implementing external standards.[5] More generally, membership in international organizations can also have an impact on a country's national agenda. As far as the election is concerned, this influence is related to the number of democratic members within a particular international organization.

With respect to Ukraine's geographic position, external interest in the election can be divided between East and West. Considering their geographic closeness, strong historic and cultural ties as well as economic dependency,

3 Jon C. Pevenhouse, 'Democracy from Outside-In? International Organizations and Democratization', *International Organization,* 56, 3, 2002: 515-549.

4 Ernst-Otto Czempiel, 'Intervention in den Zeiten der Interdependenz', *HSFK Report* 2, 2000.

5 Wolfgang Merkel and Hans-Jürgen Puhle, *Von der Diktatur zur Demokratie: Transformationen, Erfolgsbedingungen, Entwicklungspfade* (Opladen, 1999), 81-82.

Russia is the most important actor, from the Eastern perspective. Until little more than a decade before the Orange Revolution, Ukraine was governed from the Kremlin, and Ukrainian independence has been always predicated on Russian willingness not to interfere. From the Western perspective, Ukraine has both a 'good guy' and a 'bad guy' image. Washington and European capitals have welcomed the withdrawal of Soviet nuclear warheads, the complete shut-down of the Chernobyl nuclear reactor and Kyiv's participation in the military intervention in Iraq. Yet, problematic issues remained including violations of press freedom, President Leonid Kuchma's alleged involvement in the murder of the journalist Georgii Gongadze, weapon deals that were struck with 'axis of evil'-countries (such as the alleged sales of 'Kol'chuha' radar systems to Iraq and the related 'Kuchmagate' affair), as well as illegal migration and corruption on a large scale that provoked financier George Soros to say that 'Ukraine gives corruption a bad name'.[6]

Particularly after EU enlargement, Ukraine is a direct neighbor to the West, and one might assume that the EU is one of the most important international partners of Ukraine. Washington's position is guided more by geostrategic interests related to preventing and fighting terrorism, as well as stabilizing Afghanistan and Iraq. In this regard, Ukraine is seen as a possible refuge for international terrorism, on the one side, and a reliable partner in a sensitive region, on the other.

As a young nation-state and democracy in transition, Ukraine's membership in international organizations has considerable impact on the country's election. From the Western perspective, with its membership in the Council of Europe and the OSCE, Ukraine is obliged to adopt Western values and norms. At the same time, Ukraine is also a member of the CIS. Economic cooperation with the West and the prospect of WTO membership, however, imply that economic decisions are taken according to international standards and that Ukraine's transformation continues. If Ukraine takes its interest in becoming an EU member country seriously, fulfilling the so-called Copenhagen Criteria would have to be a guide to its further transition. Among others, these criteria include the existence of a functioning market economy

6 George Soros in: *Organized Crime and Terrorism Watch*, April 15, 2002. www.rferl.org/corruptionwatch/2002/04/15-190402.asp 110111.

as well as the ability to cope with the competitive pressure and market forces within the EU. Western-oriented economic reforms would hardly be strengthened by additional cooperation with Russia as Moscow has only limited interest in fully applying Western economic standards. That does not necessarily imply cutting economic links with Russia altogether, but could instead mean establishing relations based on interdependence and mutual interests.

1.2 Interests and resources of external actors

Western interests are guided by common values and geographic proximity meaning that a stable and democratic Ukraine is of great significance for the EU. Considering the country's state of transition, the Bertelsmann Transformation Index 2003 assessed Ukraine as having, however, 'deficiencies in terms of a market-based democracy'. The transformation is only being managed 'with moderate success'.[7]

In contrast to Western actors, the Russian elite had little interest in the democratic character of the Ukrainian election. Assuming that bilateral relations are influenced by national symmetries and asymmetries, it is natural that the Kremlin, more and more centralized under the personal power of Russian President Vladimir Putin, does not care about issues such as freedom of the press, strong civic institutions, a differentiated party system, and a limit on the influence of interest groups.[8] After losing direct influence over the Baltic States and experiencing a decrease of its impact on Georgia, the ruling elite in Russia became increasingly sensitive about its geopolitical interests in Ukraine. Strengthening relations with the countries of the Commonwealth of Independent States, including Ukraine, remains a Russian foreign policy priority.[9] According to Zbigniew Brzezinski, there is no Russian

7 *Bertelsmann Transformation Index 2003. Political Management in International Comparison.* (Gütersloh, 2004).

8 'Actors, Goals and Mechanism of External Influence', *National Security and Defense* (Kyiv), 5, 2004.

9 Vladimir Putin, 'Address to the Federal Assembly of the Russian Federation', May 26, 2004, Moscow, the Kremlin, in http://president.kremlin.ru/eng/speeches/2004/05/26/1309_type70029_71650.shtml, download. Sept. 23, 2004.

empire without Ukraine.[10] The importance of Russia's western neighbor is linked to the large number of Russian-speaking people in eastern and southern Ukraine, as well as to the two countries' economic relations, military cooperation, and personal as well as business connections among key actors and interest groups.[11]

Considering its interests and resources, Russia's position in 2004 could have been described as maintaining the status quo. Regardless who is President of Ukraine, Russia's main consideration was and is to have access to decision-making in the country. At first glance, one might assume that Yanukovych, while acting as prime minister and the candidate supported by the state apparatus, was an ideal option for Russia. Yet Yanukovych owes his political career first and foremost to the 'Donetsk' clan and its peculiar economic interests[12] providing some food for doubt as to whether he would indeed protect Russian interests rather than follow his own agenda.[13] On the other hand, Yushchenko is widely perceived as a pro-Western candidate, even if he emphasizes that Ukraine's foreign policy must be balanced between East and West.[14] Gleb Pavlovskii, an influential Russian image maker, argued that a Yushchenko victory will be only a victory for Western Ukraine, and could even threaten to divide the Ukrainian nation, while Yanukovych would contribute to national stability.[15] Beyond the question of who will win the election and which candidate is closer to the East or West, it should be noted that their outward-looking orientation did not really influence voters' decisions. The election campaign was dominated by domestic issues, such as the fight against poverty and preserving social benefits.

To sum up, the overall interest of the Russian elite was to keep Ukraine as a reliable neighbor and partner. Russia lacks democratic standards and has put various restrictions on its civic institutions. Consequently, her

10 'The international implications of Ukraine's Orange Revolution', *Ukrainian Monitor*, 1, 2005.
11 Sergei Markov, 'Moscow's perspective on Ukraine's election', *The Moscow Times*, Oct. 27, 2004.
12 Taras Kuzio, 'Why Russia gains from a Yushchenko victory', *The Moscow Times*, June 30, 2004.
13 Tatiana Ivzhenko, 'Moskva gotovit dlia Kiveva stsenarii "sil'noi ruki"', *Nezavisimaia gazeta*, July 1, 2004.
14 Tatiana Ivzhenko, 'Proshchenii ne budet', *Nezavisimaia gazeta*, July 30, 2004.
15 Viktor Panfilov, 'Pavlovskii: "Ia uzhe desiat' let kak..."', *Nezavisimaia gazeta*, July 2, 2004.

cooperation with other countries is not shaped by securing democratic standards, but by issues of dependency and influence. Regardless who is the President of Ukraine, Russia is interested in having access and being taken seriously.

1.3 Activity during the elections

The Western approach to promoting democracy

In general, the Western line on relations with Ukraine and other former Soviet countries is based on a two-pronged approach, demanding democratic standards and being in favor of identifying common interests (in the case of Russia these are, mostly, economic interests). The West, being interested in a stable and democratic Ukraine, had to develop an approach to implement its position.[16] More than a year before the elections, Western researchers had emphasized the importance of the 2004 presidential election. Assuming that democracy is one of the most important cornerstones of reform, carrying out the elections in a timely and reasonable fashion was perceived as an important milestone showing further progress on the domestic front and determining the future of relations between the West and Ukraine. Western actors had a clear perception of what procedures the elections should follow. Former U.S. Secretary of State Madeleine Albright, former American Ambassador to the United Nations Richard Holbrooke, Jan Kalchiki and Mark Brzezinski had, among others, stressed the international relevance of the Ukrainian elections and highlighted the importance of a free and fair election process. Considering that Ukrainians would decide at the ballot box whether to support those who favor integration into NATO and the European Union, or those who favor realignment with Russia and Belarus, the statements went beyond the usual comments on free and fair elections.[17]

Reacting to the first election round, US and EU leaders regretted that the presidential election in Ukraine did not meet a number of requirements to be considered democratic noting that, during the pre-election period, there

16 Anders Aslund, 'Left Behind. Ukraine's Uncertain Transformation', *The National Interest*, Fall 2003.

17 Madeleine K. Albright, 'How to help Ukraine vote', *The New York Times*, March 8, 2004; Richard Holbrooke, Jan Kalchiki and Mark Brzezinski, 'Comment: "Ukraine-U.S. relations hinge on fall elections"', *The Detroit Free Press*, Sept. 27, 2004.

was a lack of fair conditions for all candidates.[18] US Deputy State Department spokesman Adam Ereli said on 1st November 2004 that the second round of the elections on 21st November presents 'an opportunity for Ukraine to affirm its commitments to democratic principles, and we urge the Ukrainian authorities to allow the people of Ukraine to choose freely and the government to adhere scrupulously to internationally accepted standards for tabulating and registering results'.[19] The democratic shortcomings and the lack of international standards for a free and fair election increased the West's attention ahead of the second election round. When evidence suggested that Yanukovych had violated democratic standards to win the closely contested run-off election, the International Election Observation Mission (IEOM)[20] issued a statement heavily criticizing Ukraine for not meeting international standards for a democratic election. According to the preliminary statement, state authorities and the Central Election Commission (CEC) displayed a lack of will to conduct a genuinely democratic election.[21] The CEC statement drew numerous official reactions from Washington, Brussels, Berlin, Warsaw, and other European capitals and attracted headlines worldwide. Many parties expressed serious doubts that the official results of the elections reflected the will of the Ukrainian people.[22]

The International Election Observation Mission assessment of the second tour (see volume V) in addition to the results of the exit polls conducted by different Ukrainian institutions became the background against which the Orange Revolutionaries did not accept the election results and

18 Declaration by the Presidency of the European Union on the presidential elections of Oct. 31, 2004 in Ukraine, in www.eu2004.nl/default.asp?CMS_ITEM=987B8A310E8C4173BC1BC45E72D9A412X1X66772X44, download, Nov. 17, 2004.

19 U.S. Agrees with OSCE that Ukraine Vote Was 'Step Backward' Says chance remains for fully democratic second round in Ukraine November 21, http://usinfo.state.gov/eur/Archive/2004/Nov/01-993156.html, download Nov. 17, 2004.

20 Election Observation Mission (IEOM): Jointly organized by OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the European Parliament (EP) and the NATO Parliamentary Assembly.

21 International election observation mission: Presidential election (Second Round), Ukraine 21 November 2004, Statement of Preliminary Findings and Conclusions, Kyiv, Nov. 22, 2004.

22 Declaration by the Presidency of the European Union on Ukraine, 22.11.2004, Press releases (CFSP) General Affairs and External Relations.

asked for free and fair voting. During the re-run of the second round in December 2004, the OSCE increased the number of international observers to guarantee a democratic process. According to a statement released by the IEOM, the 'process brought Ukraine substantially closer to meeting OSCE election commitments and Council of Europe and other European standards'. Democratic progress was reported regarding balanced media coverage and equal campaign conditions, in general.[23]

Generally speaking, the West did not seek to directly interfere in domestic Ukrainian politics; this would have violated international law and also have caused serious confrontation with Russia. The most important Western goal was to strengthen democracy, rather than to support particular candidates verbally or financially, which would also have harmed Ukrainian election legislation. During more than a decade of Ukraine's national independence and its membership in the OSCE as well as Council of Europe, Ukrainian elections have suffered from a lack of democratic standards. Western organizations and national pro-democratic actors have criticized the high level of administrative pressure as well as limited freedom of the media.

Since appeals to international democratic standards have not had much impact, in September, some American politicians decided to go one step further. On Sept. 15, 2004, U.S. Congressman Dana Rohrabacher submitted a document entitled 'Ukraine Democracy and the Election Act of 2004'. The bill called on President Kuchma and Prime Minister Yanukovych to 'stop overt, flagrant and inadmissible violations of Ukraine's human rights commitments to the OSCE, and guarantee respect for fundamental democratic liberties'. If violations of standards listed in the bill continue, it proposes sanctions. These include barring top officials of the Ukrainian government and their family members from entering U.S. territory. Other threatened restrictions against Ukrainian officials should include the confiscation of their property in the U.S., blocking of bank accounts, seizing funds in these accounts, and banning loans to Ukrainian officials.[24]

Already on October 21, before the first round of the presidential election, the German *Bundestag* called on the government to urge Ukraine to

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23 Presidential Election (Repeat Second Round), Ukraine, International Election Observation Mission, Dec. 26, 2004.

24 'America's Final Warning', *Zerkalo Nedeli*, 37, 18-24 September 2004.

hold free and fair election mentioning their importance for the future of Ukraine and its relations to Russia and the European Union.[25] After the second round, with its obvious falsifications, representatives of the *Bundestag* from all factions supported a petition criticizing the outcome of the second round and demanding free and fair elections according to OSCE standards.[26] In contrast to the American proposal, however, the German petition did not include any kind of conditionality or sanctions as an instrument to implement the democratic standards advocated by the parliamentarians. This points to the limited potential impact of forces outside Ukraine to influence the election.

Interference of international organizations by setting democratic guidelines

The West perceived the elections as a test of the country's commitment to democratic standards. Representatives of the Council of Europe identified the biggest obstacles for a democratic separation of power within the country. The Council's tools for strengthening democratic procedures as part of the transition process consisted largely of two strategies: excluding Ukraine from the Parliamentary Assembly, and observing the election.[27] Both approaches had an important symbolic impact, but did not *per se* strengthen sustainable democratic reforms.

In general, observing an election is one of the most powerful instruments of Western interference. In terms of the number of observers and input, the OSCE mission to Ukraine was one of the largest to date.

25 'Ukraine zu freien and fairen Wahlen unter internationaler Beobachtung drängen', Auswärtiges/Antrag, Deutschers Bundestag, Oct. 21 2004, www.bundestag.de/bi/hib/2004/2004_252/03.html,download Noveber 16 2004.

26 'Antrag der Fraktionen SPD, CDU/CSU, BÜDNIS 90/ DIE GRÜNEN und der FDP: Fälschungen der ukrainischen Präsidentschaftswahlen', Deutscher Bundstag 15. Wahlperiode, Drucksache 15/ 4265.

27 'Compliance with commitments and obligations: the situation in Ukraine', Council of Europe Information Documents, SG/Inf (2004) 12.

Table I.1: Ukrainian Presidential Elections and International Observers

Election	*International Election Observation Mission*	*Official observers from foreign states*	*Official observers from international organizations*
31.10.2004 (first ballot)	650[a]	214[b]	1,591[b]
26.12.2004 (re-run of the second ballot)	1,367[c]	3,281[d]	8,996[d]

a OSCE/ODIHR: Needs Assessment Mission Report: Ukraine – Presidential Elections, 31 October 2004; http://www.osce.org/documents/odihr/2004/06/3248_en.pdf Download: 26 October 2004

b Central Election Commission of Ukraine: Official Observers from Foreign States and International Organizations (as on 25 October 2004); http://www.cvk.gov.ua/elect/wp0011e Download: 26 October 2004

c International Election Observation Mission: Presidential Elections (Repeat Second Round), Ukraine: 26 December 2004. Statement of Preliminary Findings and Conclusions; http://www.osce.org/documents/odihr/2004/12/4007_en.pdf Download: 8. February 2005

d Central Election Commission of Ukraine: Official Observers from Foreign States and International Organizations (as on 28 December 2004); http://www.cvk.gov.ua/elect/wp0011e Download: 8 February 2004

Past OSCE election observation missions have frequently assessed elections in the successor states of the former Soviet Union as only partly free and fair. The main criticisms leveled are administrative pressure, limits on press coverage, and an undemocratic environment, in general. National and international election observation missions are increasingly effective tools in situations where democracy is under pressure, as in Belarus or Serbia under former President Slobodan Milosevic. In the case of Ukraine, observation was a decisive instrument: It helped to point out the unfair character of the election. The OSCE conducted long-term and short-term monitoring of the Ukrainian elections: 428 observers for the first round, 650 for the second

round and 1,367 for the repeat of the second round.[28] For comparison, 511 OSCE observers were deployed to the 2004 presidential elections in Georgia, and 258 experts observed the Serbian presidential elections in 2002. In addition to the observers deployed by international organizations, a large number of observers were also sent to Ukraine by national governments as well as by NGOs.

The Western approach towards the presidential election was to demand adherence to democratic standards. But the practical impact was restricted to monitoring Ukrainian developments or threatening Kyiv with exclusion from Western organizations. Beyond criticizing Ukraine's domestic situation, it was and is in the West's interest to integrate Ukraine into Euro-Atlantic structures – not only to offer the country a goal for further transition, but also out of a self-interest in a stable and secure Europe. Western decision-makers were and are focused on the political realities in Ukraine, the country's ongoing internal instability, as well as the potential security risks engendered by a weak, and sometimes 'failing' state. This made and still makes Western leaders hesitant when formulating a clear long-term position for Ukraine.

In the year of the Ukrainian presidential election, a significant change within the international environment has been generated by the enlargement of the EU. While the democracy-oriented part of the Ukrainian elite has been favoring the country becoming an EU member, the EU has not linked the latest enlargement with offering accession or membership to Ukraine. The EU's alternative concept of a 'Wider Europe – Neighborhood'[29] implies far-reaching integration, but does not require institutional membership. Although the EU offers substantial concessions, this alternative concept still needs revising to be attractive enough to offer Ukraine the prospect of integration into western institutional structures and real support for democratic transition.

The relations between the West and Ukraine are also influenced by the Western countries' attitude towards the Kremlin. For instance, Germany as a driving force of European Eastern policy has been running a kind of 'Russia

28 Official web site of the Central Election Commission of Ukraine, http://ic-www.cvk.gov.ua/wp0011.

29 Commission of the European Communities, 'Communication from the Commission to the Council and the European Parliament: Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours', Brussels, COM (2003) 104 final.

first' approach based on individual relations between its Chancellors (Kohl/ Schröder) and the Russian Presidents (Yeltsin/ Putin). From this perspective, conflict resolution in Ukraine is impossible without Moscow's support.[30] The situation in Ukraine became a main issue at the EU-Russia summit on Nov. 25 in The Hague. Brussels and Moscow both had called for a peaceful approach to resolve the Ukrainian political crisis and agreed that objections to the outcome should be examined by the court. But they remained split on whether the vote was free and fair. The EU leaders did not accept the election results while President Putin sent a message of support to Yanukovych. Whereas the EU was emphasizing the relevance of democratic values, Putin supported Moscow's candidate. The disagreement on Ukraine overshadowed the summit. Moscow and Brussels failed to negotiate a 'strategic partnership' agreement on the 'Four common spaces'. The Ukrainian crises thus had an impact on the Western relations with the Kremlin. In practical terms, mutual criticism was, however, partly replaced by cooperation, and the West's use of personal relations with Putin to influence the Kremlin's position towards a democratic solution in Ukraine.

Considering developments in Ukraine after the second round of the elections, the EU based its relations toward its eastern neighbor on a two-pronged approach. On the one side, European decision-makers supported a peaceful solution of the crisis on a legal basis by not accepting the outcome of the second ballot due to its lack of democratic standards, and by opting for a repeat of the run-off. The EU High Representative for Foreign and Security policy Javier Solana, the Polish President Alexander Kwasniewski and Lithuanian President Valdas Adamkus contributed significantly to the negotiating process between both sides in Kyiv.

Brussels also adopted a 10-point action plan for supporting Ukraine.[31] The EU planed to recognize Ukraine's status as a market economy and to smooth its entry into the World Trade Organization. Other parts of the plan included cooperating more closely with Kyiv in foreign and security policy, and easing the conditions for obtaining visas to EU member states. Even this

30 Gernot Erler, *Russland kommt: Putins Staat – der Kampf um Macht und Modernisierung* (Freiburg im Breisgau, 2005), 141.

31 Council of the European Union, 'EU-Ukraine Ten Point Action Plan', Brussels 21.2.2005.

plan does not foresee, however, accession to the EU at which democratic Ukraine is aiming.

The missing signals from the Western side and the ongoing criticism that Ukraine falls short of Western standards made it difficult to promote, during the election campaign, Euro-Atlantic integration and a stronger focus on Western values. While the Western approach changed from neglecting Ukraine towards supporting democratic values and crises management, it did and does not offer a clear perspective on how to integrate Ukraine. Thus, the Orange Revolution was driven by domestic actors re-orienting the country towards Western values and less by outside players paving the way for a democratic Kyiv to Europe.

Supporting civil society

Western support for Ukraine's civil institutions offered and offers opportunities to strengthen democratic values there without interfering in the country's internal affairs. Indeed, almost all technical assistance programs of the international donor community include support for civil society organizations. The European Commission's National Indicative Programme 2004-2006 set aside some €10 million from a total amount of €212 million to support civil society, the media, and democracy.[32] Furthermore, the European Commission had allocated €1 million to support the CEC and Ukraine's civil life in conducting a free and fair election through a variety of technical assistance projects.[33] USAID gave US$1.475 million to election-related activities.[34] According to the *Nations in Transit 2004* annual report, 60% of NGOs have been working actively with Western sponsors.[35] The George Soros-funded International Renaissance Foundation has also been active in the elections. Since autumn 2003, the Foundation provided almost US$1.3 million to Ukrainian NGOs to carry out election-related projects.[36] Whether

32 National Indicative Programme Ukraine, adopted by the European Commission on Aug. 4, 2003.

33 European Union funded projects in support of the presidential elections in Ukraine: The European Commission's Delegation to Ukraine, Moldova and Belarus, www.delukr.cec.eu.int/site/page31321.html, download, Nov. 22, 2004.

34 USAID Mission to Ukraine Data sheet, FY 2004 Program.

35 *Nations in Transit 2004. Democratization in East and Central Europe and Eurasia, Country Report Ukraine.* (New York/Washington, 2004), 7.

36 'Promotion of the Fair and Open Election of 2004', *IRF*, October 2004.

civic institutions are weak or strong, international donors focused their activities on the election process and often find NGOs to implement their ideas. Activities included supporting independent public opinion polls, carrying out independent exit polls, producing television spots encouraging people to vote in order to protect their right to choose, publishing and distributing literature explaining to people their voters rights, and supporting human rights organizations to monitor violations and to prosecute those who violate them. By doing this, Ukrainian civil society protested against the obvious election fraud of the second round and became the decisive factor in the Orange Revolution.[37] The protest of the civic society was supported by representatives of the Western capitals making statements of solidarity with the democratic protest.

The particular interest and function of the neighboring states

According to our theoretical framework, neighboring countries are particularly important not only because of geographic dependency, but also due to potential spill-over effects on the neighboring political, economic, and social system ("diffusion"). Both aspects are aggravated in this case because of Russia's hegemonic impact on Ukraine and Ukraine's lag in the transition.

Since Ukraine and its Western neighbors – Poland, Lithuania, Slovakia and Hungary – gained full national independence from former Soviet structures (the CPSU and the Warsaw Pact), both sides have succeeded in developing successful neighborly relations by overcoming legacies of the past, reducing minority problems, and developing strategies of mutual cooperation.[38] By doing so the accession states, first and foremost Poland and later Slovakia, have been putting the Ukrainian issue on the European agenda.[39] The overall aim is to combine EU and NATO membership with good neighborhood relations. By not excluding future prospects for Ukrainian accession to the EU, Warsaw and Bratislava have taken an important

37 For extensive coverage of this factor, see Florian Strasser, *Zivilgesellschaftliche Einflüsse auf die Orange Revolution: Die gewaltlose Massenbewegung und die ukrainische Wahlkrise 2004*. Soviet and Post-Soviet Politics and Society 29 (Stuttgart, 2006).

38 Iris Kempe, ed., *The EU Accession States and Their Eastern Neighbours* (Gütersloh, 1999).

39 Ministry of Foreign Affaires of the Republic of Poland, non-paper, Warsaw 2003.

strategic step beyond the EU approach of 'sharing everything but institutions'.[40] Differing from the neighborhood policy of the EU, Poland and Slovakia have been emphasizing the importance of an independent and democratic Ukraine which should have prospects for a future inside the EU.[41] The position of the Western neighbors of Ukraine and new EU member states is last but not least related to the geopolitical balance between Russia and the West. From the point of view of Bratislava, Warsaw, and Budapest, everything that favors an independent Ukraine is perceived as acting as a counterbalance to Moscow.

Neighboring states have made a number of political declarations that make clear their interests in the Ukrainian elections. For instance when the Sejm, Poland's parliament, adopted a resolution calling for a free and transparent election in Ukraine, 330 MPs voted in favor with only 12 against and 22 not voting.[42] In contrast to declarations by the U.S. Congress, German *Bundestag*, Council of Europe, or European Commission, the Polish statement was much more positive. Instead of criticizing the lack of media freedom or fair election campaign, Poland's statement opted to support Ukraine's future in the EU and NATO. This declaration is of the same tenor as comments made by President Kwasniewki and cited in an article appearing, in early September 2004, in the daily newspaper *International Herald Tribune*. 'The EU has fallen short of offering any incentives to the opposition in Ukraine', Kwasniewski was quoted saying.[43] From his point of view, the EU should not stop enlargement with Turkey, i.e. it should offer Ukraine an opportunity for accession. During a state visit to Kyiv on Nov. 12, 2004, between the first and the second round of the elections, Polish Foreign Minister and new chairman-in-office of the Council of Europe Wlodzimierz Cimoszewicz called for a free and fair vote. His clear position underlining a democratic perspective for neighboring Ukraine also had an influence on a

40 Romano Prodi, 'Peace, Security and Stability International Dialogue and the Role of the EU', Sixth ECSA-World Conference. Jean Monnet Project, Brussels, 5-6 December 2002, SPEECH/02/619.

41 Ministry of Foreign Affairs of the Republic of Poland, non-paper, Warsaw 2003.

42 'Seim Pol'shchi zaklykav ukrain's'ki vlady provesty chesni vybory', *Pro Europe*, Oct. 22, 2004, http://www.proeuropa.info/news/?id=843&PHPSESSID=4e1dcd730b379cc1d0b1e58cd2e31eeb, download 25.10.2004.

43. Judy Dempesy, 'Poland's vision of the EU', *International Herald Tribune*, Sept. 2, 2004.

scheduled state visit. Instead of the originally planned meeting with Prime Minister and front-running candidate Yanukovych and President Kuchma, the Polish Minister met only with the speaker of the parliament, the head of Ukraine's CEC, and opposition presidential candidate Yushchenko.[44] Slovak Prime Minister Mikulas Dzurinda emphasized on several occasions that 'Slovakia wants to act as Ukraine's voice at the European table.'[45] Not surprisingly, the Slovak Minister of Foreign Affairs declared Ukraine a foreign policy priority for his country. As far as the election is concerned, the Slovak government has not missed a chance to declare that the election should be conducted in a free and fair manner.[46]

Neighboring states were also part of the international election observation missions. In addition to observers deployed by international organizations, the Slovak government sent 60 observers and Poland sent 24 observers to the first round.[47] During the post-election crisis, the mediation between the conflicting sides was driven by Polish President Kwasniewski, joined by Lithuanian President Adamkus, EU High Representative for Foreign and Security policy Solana, Russian State Duma Speaker Gryzlov and others. Again, the neighboring countries used their particular knowledge of Ukraine and their networks with the Ukrainian elite to negotiate a peaceful consensus. Not surprisingly, the U.S. administration decided to keep close contacts with President Kwasniewski instead of being involved in the process, which might have led to a bipolar Russo-American escalation of the Ukrainian crisis.

Beyond supporting free and fair election and conflict negotiation, the new EU member states have also been using their newly acquired membership in the EU to push the Ukrainian issue.

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44 Poland urges Ukraine to hold fair presidential vote, *RFE/RL Newsline*, vol. 8, no. 215, part II, 15 November 2004.

45 'Dzurinda said during a joint press conference with his Ukrainian counterpart Viktor Yanukovich, on June 21, 2004, in Kyiv', *EU Business*, www.eubusiness.com/afp/040621174553.lg4nkpec, download Oct. 26, 2004.

46 Daniel Forgacs, 'Slovensko Vyváza demokraciu na Ukrajin', *Narodna obroda*, Oct. 20, 2004: 2; 'Prezidentské vol'by na Ukrajine bude monitorovat' 108 slovenskych pozorovatel'ov Oct. 19, 2004', *Press Agency of the Slovak Republic*, Oct. 19, 2004.

47 Official web site of the Central Election Commission of Ukraine, http://ic-www.cvk.gov.ua/wp0011.

To sum up, Ukraine's neighboring countries followed an approach of combining EU membership with good neighborhood relations with Ukraine by not only emphasizing the importance of free and fair election, but also opting for a strategy to integrate Ukraine into the West. In addition to such initiatives, the German and Polish governments have underlined, in a joint statement, the importance of Ukraine's function as a neighboring country as well as the importance of conducting an election according to free and fair standards.[48] This declaration is an example of how the new member states might, in the future, become a driving force for putting Ukraine on the European agenda.

As a part of their strategy to integrate Ukraine into the West, neighboring countries also strengthened technology transfer and NGO cooperation with Ukraine. The idea was to share with Ukraine knowledge and experience on issues of regime change, transition and fulfilling Western standards. Slovakia had appropriated a special fund of SK10,000,000 (US$300,000) in its 2004 budget for democratization projects in Belarus and Ukraine. The Slovaks also shared with Ukraine their experience in overcoming the authoritarian regime of Vladimir Meciar.[49] The same goal has been supported by the Polish Batory Foundation conducting multi-year programs that supports democracy and fosters civic engagement in Belarus and Ukraine, and strengthens the European prospects for Ukraine, with particular attention to NGOs' activities.[50] About 30 Polish organizations have thus merged into the *Grupa Zagranica* (GZ), an officially registered platform of Polish NGOs working abroad. On June 23, 2004, the group addressed a letter to Polish President Aleksander Kwasniewski, the Prime Minister, Minister of Foreign Affairs, Speakers of the Sejm and Senate regarding the presidential election in Ukraine, and the role of Poland in creating a European Neighborhood Policy. The letter by *Grupa Zagranica* urged the Polish government to become politically active at the European level with regard to the role of Ukraine after EU enlargement. The Polish NGOs suggest that

48 www.deutsche-botschaft.kyiv.ua/de/aussenpolitik/aussenpolinfo16.html, Nov. 21, 2004.

49 'Slovakia Promotes Democratization in Belarus, Ukraine', *Slovakia Aid*, July 23, 2004, www.slovakaid.mfa.sk/en/index.php/article/articleview/62/1/1/, download Oct. 27, 2004.

50 'Citizens in Action Program funded by the Ford Foundation', www.batory.org.pl/english/byukr/index.htm. download Oct. 27, 2004.

Poland, together with the countries of the Visegrad Group, should begin drawing up an EU declaration on the situation in Ukraine.

Ukraine's neighboring countries have been proceeding from the assumption that they are of particular importance to Ukraine. Differing from other Western actors, the neighboring countries put a higher priority on democratizing Ukraine offering the country prospects for a EU membership and reducing Russian influence. As part of the Western actors, the neighboring countries went beyond supporting for a free and fair election, and made their particular contributions towards building a strategy for Ukraine's future.

Assessment of the Western position

The Ukrainian elections have attracted strong interest and attention from the West. In accordance with the West's reluctance to offer Ukraine the prospect of integration into Euro-Atlantic structures (while still demanding a transition towards a market economy and democracy), its focus was on supporting a free and fair election. From the Western perspective, it was more important whether the election process would be fair rather than who the future President of Ukraine would be. Consequently, Western decision-makers did, initially, not support a specific candidate. Beyond a general agenda to strengthen democracy in Ukraine, their strategic approach to Ukraine is still underdeveloped. The exclusion of Ukraine from integration into Euro-Atlantic structures was – in spite of the EU's eastern enlargement which happened in May 2004 and took the Union to the borders of Ukraine – not only perceived as a sign of neglect by Kyiv, but as a withdrawal of support by Western- and reform-oriented actors in Ukraine. Counteracting this trend, bottom up initiatives based on NGO cooperation and contributions from the new EU member states gave important signals of continuing Western support in the conduct of the Ukrainian elections.

After the first round, the West became increasingly critical of the lack of democratic standards in Ukraine. Following the second election round, the country was overwhelmed with Western criticism of the character of the elections and rejections of Yanukovych as the elected President of Ukraine. During the ensuing crisis, the election results became an issue of international attention. Western capitals and international organizations were

driven by the overall goals of finding a peaceful solution and conducting a free and fair election. Based on these premises, Western actions played a decisive roll in providing the background for a negotiated solution of the crisis.

The Russian approach to securing national interests abroad

Given Russia's democratic shortcomings and actor-oriented decision making, supporting democracy in neighboring Ukraine was not a high priority. In spite of this, Russia charged the West with applying double standards in evaluating electoral processes in the former Soviet republics. Russia's criticism of 'Western kinds of democratic standards' led the OSCE foreign ministers' conference in Sofia on Dec. 7, 2004 to end without a mutual agreement on Russia's OSCE commitments. Considering such differences on basic values, it was not surprising that there were glaring discrepancies between how the OSCE and CIS missions assessed the elections (see volume V).

The election observation conducted by the CIS issued a statement saying that the presidential election conformed to the electoral law of Ukraine. They were evaluated as legitimate, free, and fair.[51] These statements illustrated that the CIS, and Russia as the leading member of the CIS, are relying on, to say the least, different standards for democracy than the OSCE, Council of Europe and NATO. While Western actors were, after the second round, questioning the democratic character of the election and the legitimacy of Yanukovych as President of Ukraine, Russian President Putin congratulated Yanukovych for his victory and criticized the OSCE statement as reflecting double standards.

How did it come to this stand-off? Russia's approach to furthering its national interests was to support a single candidate. In early summer 2004, it was not yet quite clear which candidate would be Moscow's choice. Besides some contacts with Yushchenko, the Kremlin also had to consider a number of cultural, political, and economic factors that made Yushchenko appear as a pro-Western candidate. At the same time, the Russian-speaking Yanukovych was first and foremost perceived as a representative of the Donetsk clan which had its own interests. To solve the situation, Moscow initially tried to

51 Zaiavlenie mezhdunarodnykh nabliudatelei ot Sodruzhestva Nezavisimykh Gosudarstv po rezul'tatam nabliudeniia za podgotovkoi i provedeniem vyborov Prezidenta Ukrainy, sostoiavshikhsia 31 oktiabria 2004 g.

support attempts to change or re-interpret the Ukrainian constitution to allow Kuchma to maintain office or participate in the elections.[52] When these attempts failed, Moscow had to decide between the two new candidates for President. Under these circumstances, Yanukovych was assessed as somebody who favors the Russian-speaking population.[53] Besides, Moscow's ruling elite perceived Yushchenko as similar to Georgian President Mikheil Saakashvili who had opted for regime change supported by the West.[54]

Thus, the Kremlin elite decided that supporting Yanukovych would be Russia's top priority, in spite of the initial suspicion that he might pursue his own interests, e.g. those of the Donetsk clan, instead of being a reliable protector of Russian national interests. In the end, Putin had more trust in the incumbent ruling elite. After meeting both Kuchma and Yanukovych in Sochi in August 2004, Putin no longer hesitated to support Yanukovych with all the administrative and personal resources available.

Starting with the decision to support Yanukovych as the future President of Ukraine, Russian officials had to find instruments to implement their interests. Moscow exerted influence through personal networks and economic dependency. Furthermore, Russia used cultural ties, such as belonging to the same media space, to influence the Ukrainian election. The social and culture linkage and dependency between Russia and Ukraine became one of the factors allowing Russia to extend its influence onto the domestic Ukrainian agenda.

Personal networks

As post-Soviet politics in general, Russo-Ukrainian relations are driven by personal networks and interest groups. Therefore the question of who, with whom, when and on which occasion met and colluded are of greater importance than in Western societies that are shaped by institutions. During the election campaign, several different occasions played a role in advancing Russian interests within Ukraine's domestic agenda. The meeting between Russian President Putin, Russian Premier Mikhail Fradkov, Ukrainian

52 Tatiana Ivzhenko, 'Moskva gotovit dlia Kieva stsenarii "sil'noi ruki"', *Nezavisimaia gazeta*, July 1, 2004: 5.

53 Viktor Panfilov, 'Pavlovskii: "Ja usche desiat' let kak…"', *Nezavisimaia gazeta*, July 2, 2004: 5.

54 Eduard Lozanskii, 'Amerikanskie illiuzii Saakashvili', *Izvestiia*, Aug. 20, 2004.

President Kuchma and Ukrainian Prime Minister Yanukovych on Aug. 18, 2004, in Sochi was not only used to demonstrate Russo-Ukrainian brotherhood. It was also the occasion to offer significant economic support by announcing that, soon after the presidential elections, Moscow would cancel the value-added tax on oil and gas exports to Ukraine and introduce simplified regulations for crossing the Ukrainian-Russian border. Regarding the latter, it is not clear what Fradkov and Yanukovych had in mind because border management at the Ukrainian-Russian frontier was already quite *laissez faire*. In any case Russian support for the incumbent elite in Kyiv was obvious, and the meeting an attempt to directly and indirectly intervene in the Ukrainian domestic agenda.

The next top-level event on the Russo-Ukrainian agenda was Yanukovych's trip to Moscow on Oct. 8, 2004, where he attended a forum of Russia's Ukrainian Diaspora in Moscow. The following day he and Kuchma met with President Putin for a publicized celebration of Putin's birthday. Both meetings were intended to demonstrate to both Russian and Ukrainian television viewers that the Kremlin's sympathy in the presidential election is with Yanukovych. Demonstrating once more their personal ties, Putin visited Kyiv three days before the first round of the elections under the pretence of celebrating the 60th anniversary of Kyiv's liberation from the Nazis in World War II.[55] The Russian President again used personal influence as well as a massive media presence to indirectly influence the Ukraine election.

Putin left no stone unturned in his efforts to support Yanukovych. On Nov. 12, 2004, 10 days ahead of the second round run-off, the Russian President visited Ukraine again and was shown on Ukrainian television embracing Yanukovych and wishing him luck in the vote. Putin and his Ukrainian counterpart Kuchma attended the signing in Kerch, Crimea, of a bilateral accord to establish a ferry line between Russia and Ukrainian Crimea. Not surprisingly, Putin was among the view foreign leaders who on Nov. 22, 2004, congratulated Yanukovych on his victory as the newly elected President of Ukraine. In accordance with Putin, Alyaksandr Lukashenka, the authoritarian President of Belarus, and the Central Asian states of Kazakhstan, Uzbekistan, and Kyrgyzstan also recognized the outcome of the

55 'Putin to visit Ukraine 3 days before vote', *The Moscow Times*, Oct. 22, 2004: 3.

Nov. 21 election and congratulated Yanukovych on his alleged victory. This was happening at the same time as 100,000 people were demonstrating in the streets of Kyiv against the officially-declared election result and the heads of most democratic states were sharply criticizing Ukraine's violation of democratic principles. One might add that, later on, it took President Putin nearly a month to congratulate Yushchenko after his victory in the repeat run-off election in Ukraine.

In addition to meetings on the highest level and offering potential economic support, other means were used to demonstrate Russia's interest in Ukraine and Moscow's preference for Yanukovych as Ukraine's future President. One example was the opening of a Russian Press Club at the Premier Palace Hotel, Kyiv's most exclusive luxury hotel. The idea was to support mutual dialogue on the political, economic, and social levels. Yanukovych not only supported the institution, but also used the opening to demonstrate his closeness to Russian issues.[56] Furthermore, the Kremlin used the services of Russian consultants, among them the 'political technologists' Gleb Pavlovskii and Sergei Markov, to push Russia's national interests. As a result, Yanukovych's campaign partly followed Russian PR strategies. For instance, a letter signed by Valentyna Khrystenko, Deputy Chairman of the Board of the Council of Ukrainian Associations in Russia, was widely distributed in Ukraine. The letter made explicit anti-Yushchenko statements, claiming Yushchenko would operate under US influence and create tensions in Russo-Ukrainian relations. The letter called for voters to support Yanukovych as the guarantor of economic growth and improved relations with Russia.

Another way of manipulating Russian influence was involving Ukrainian civic organizations in Russia as well as the Russian Orthodox Church in Russia and Ukraine to campaign in favor of Yanukovych. On Oct, 8, 2004, a large congress of Ukrainian NGOs in Russia was held, using the slogan 'Ukrainians of Russia support Yanukovych'.[57]

Certainly, the Russian liberal opposition represented by members of the Union of Right Forces (SPS) or *Yabloko* is interested in a democratic and

56 'V Kieve otkryli Rossiiskii Klub', *Izvestiia*, March 2, 2004.
57 Olga Dmitricheva, 'President of Ukraine in Russia – Viktor Yanukovych?', *Zerkalo Nedeli*, 42, 16-22 October 2004.

independent Ukraine. It used its personal networks to promote the democratic opposition.[58] Yet, as the democratic opposition in Russia was and remains weak, such Ukrainian contacts and cooperation with Russian representatives outside the ruling elite were rarely reported in the media and had little influence on the majority of the Ukrainian electorate. Russia has also tried to intimidate the opposition.

Another case of influencing the outcome of the presidential elections from outside is related to allegation by former Ukrainian President Leonid Kravchuk on 14 September 2005 that the controversial Russian tycoon Boris Berezovskii financed Yushchenko's presidential election campaign with US$15 million.[59] Under Ukrainian law, candidates are barred from using foreign funds to bankroll their campaign. Thus, in case that it could be proven that Kravchuk's accusation was true Yushchenko could have been even forced to resign.[60] Yushchenko's team strongly denied Kravchuk's allegations, dismissing them as politically motivated. At the same time, Berezovskii himself has been claiming to 'support' the Orange Revolution. However, he was talking about supporting civil society organizations, i.e. strengthening democracy, not the Orange camp. He did not confirm that his support was financial, and addressed to Yushchenko. The latest information came after an investigation by the procurator general concluding that Berezovskii did transfer money to Ukraine, but that, so far, the funds need to be earmarked, and that, therefore, Yushchenko's resignation can not be perpetuated.[61]

In contrast to Ukraine's relations with Western organizations such as NATO and the EU, Russo-Ukrainian relations were an important theme for both the Russian and the Ukrainian media. High-level meetings between the Russian and the Ukrainian elite were fully covered by print media and television. Although a ROMIR Monitoring survey of 1500 Russian citizens found that only 12% could identify at least one candidate running in Ukraine's

58 Tatiana Ivzhenko, 'Khakamada s Iushchenko proveli den' vdvoëm', *Nezavisimaia gazeta*, July 23, 2004: 5.

59 Oleg Varfolmeyev, 'Did Berezovsky finance Ukraine's Orange Revolution?', *Eurasia Daily Monitor*, September 19, 2005.

60 'Zakon Ukraïny: Pro Vybory Prezydenta Ukraïny', *Vidomosti Verkhovnoï Rady*, 14, 1999.

61 'Genprokuratura uberegla Viktora Jushchenko ot impichmenta, pishet Gazeta.Ru', http://www.korrespondent.net/main/135136.

presidential election, Russian interests were more dominant than Western ones.[62] Media coverage can be seen as a catalyst for implementing foreign, in this case Russian, interests.

Economic influence

In the fall of 2003, Russian President Putin initiated the Single Economic Space, bringing Kazakhstan, Belarus, Ukraine and Russia economically closer together. Ukraine's *Verkhovna Rada* ratified the agreement in April 2004. So far, the character of the new form of integration can not be described clearly, but it appears that the cooperation has more of a top-down character guided by Moscow than a bottom-up character driven by Ukraine, Kazakhstan, and Belarus. Moreover, it is widely recognised that integration within the Single Economic Space as envisaged by Russia (that is going far beyond the idea of free trade in the direction of a customs union and creation of supranational institutions) would preclude the possibility of establishment of a free trade area of Ukraine with the EU. Where this project would be interesting for Ukraine, namely in order to establish free trade area with Russia without any deeper forms of integration, there are serious doubts that Russia will agree to eliminate the current protectionist measures due to which, according to the Razumkov Centre, Ukraine looses about US$1 billion per year.[63]

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62 'Russian indifferent to Ukrainian presidential elections', *RFE/RL Newsline*, 8, 182, Part I, 2004.

63 'The possibilities of Russian influence are primarily connected with its rather tough position regarding the conditions of implementation of the Agreement Establishing the Single Economic Space by Ukraine. In this context, the terms and conditions of implementation of the agreement of creation of a free trade zone without exceptions and limitations may be substantially altered (Ukraine loses $180 million a year due to such direct exceptions from the free trade regime). This will leave space for manipulating the terms and conditions of the regime of operations not immediately falling under exemptions from the free trade regime but exerting negative influence on Ukraine's economy: - cancellation of export duties on strategically important goods of Russian exports to Ukraine (Ukraine currently loses $460 million a year); - cancellation of the value added tax on Russian oil and gas exported to Ukraine (Ukraine's losses are $360 million); - cancellation of special protectionist measures against Ukrainian exports to the Russian market (Ukraine's losses: $250 million). Russia's attitude to the implementation of joint projects in some hitech branches, such as aircraft building and the defence industry complex (the An-70 airplane project), can exert substantial influence as well.' See: 'Actors, goals and mechanism

One also has to consider the time setting of this initiative. It may not be an accident that Moscow started this initiative on the eve of the EU's eastern enlargement, when Kyiv pushed its own European bid. Furthermore, Russia also provoked a border dispute with Ukraine in the Sea of Azov and the Kerch Strait. After nearly escalating, the conflict was formally solved on April 20, 2004, by a new Russo-Ukrainian border treaty. Nevertheless, the conflict was perceived as a signal of Russian dominance. All in all, Russia sent some important signals concerning Ukraine's in/dependence just before the election campaign started. Thus, Russian influence remained a serious matter of concern in the Ukrainian elections, and constituted an important foreign impact.

In addition to flexing its muscles, Moscow also used economic ties to exert direct influence on the election. At the beginning of the election campaign on July 18, 2004, during a high-level meeting between Putin and Prime Minister Fradkov from the Russian side, and Kuchma and Yanukovych representing Ukraine, acting Prime Minister and front-running candidate Yanukovych signed an agreement with Russia on oil and gas supply through the Odessa-Brody pipeline to Europe.[64] The two sides agreed on the transit fees for 23 billion cubic meters of gas (ratified at US$50 per 1,000 cubic meters).[65] Although the pipeline was originally built for the transit of Caspian oil to Europe and seen as strategically important to diminish Ukraine's energy dependence on Russia, official sources argued that there was no Caspian oil available to make the pipeline work. From this perspective, not surprisingly the daily Russian paper *Izvestiya* called the agreement 'the biggest pre-election present ever', donated by Moscow to Yanukovych.[66] Yanukovych could use this deal not only to help boost the Ukrainian economy, but also to promote his position in the election as a leader whom Moscow trusts and who is able to win advantages for Ukraine.

Based on these cases of direct and indirect Russian interference that were visible to the public, it is obvious that Russo-Ukrainian economic ties are

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of external influence,' *National Security and Defense* (Kyiv), 5, 2004, http://www.uceps.org/additional/analytical_report_NSD53_eng.pdf.

64 Dmitry Koptev, 'Russian Crude for the Ukraine Economy', *Moscow News*, 38, 2004.

65 Tatiana Ivzhenko, 'Moskva i Kiev dogovorilis' o skorom ekonomicheskom proryve', *Nezavisimaia gazeta*, July 5, 2004.

66 Pëtr Netreba, 'Tarif presidentskii', *Izvestiia*, Aug. 20, 2004.

of considerable importance in the Ukrainian election. The linkage between Russian political influence and energy supply again became evident when the Russian political elite, later on, decided to triple the price of gas from US$50 per thousand cubic meters to US$160 starting on 1 January 2006, to end barter exchange, and to introduce monetization of payments for the transportation and supply of gas. In addition, *Transneft,* one of the big Russian oil companies, announced on 23 August 2005 that, this year, Russia will reduce the amount of oil it transports through Ukraine from 54 million metric tons to 45 million metric tons.[67]

As far as the economic transition is concerned, a continuing Russian presence in Ukraine's economy would signal that Ukraine develops less towards a market economy and rather follows the interests of its Big Brother in the East. With the Orange Revolution, economic factors became less important. The dominant role was now played by the pressure of the Ukrainian democratic opposition supported by mass protests by civil society.

Assessment of the Russian position

In the wake of its weakening influence over the Baltic States and Georgia, Russia's ruling elite tried to use involvement in the Ukrainian election as a means of maintaining its influence in the former Soviet space. Swaying Ukraine's presidential elections in favor of Russia's national and economic interests was a top priority for the Kremlin. Against the backgrounds of a lack of democratic standards and offers for a post-Soviet integration, Moscow pushed its interests through trying to influence the ruling Ukrainian elite as well as support Prime Minster and front-running candidate Viktor Yanukovych.

Due to their economic, social, and political interdependence as well as other close ties between the two countries, Russia was able to use its elite access to manipulate Ukraine's domestic agenda. That included a range of administrative measures including influencing the media. At the end, democratic procedures based on widespread public support for a fair election and vibrant media in Ukraine triumphed over the Kremlin's approach of working through personal networks, economic dependency, and a general

67 'Russia to Triple Price of Gas to Ukraine', *RFE/RL Newsline*, 9, 160, Part I. 2005.

kind of aggressive post-Soviet behavior. Symptomatically, Russia's stance in the Ukrainian election crisis left it strategically isolated. The Kremlin has not developed and at present cannot suggest a clear set of attractive goals for shaping the post-Soviet world. One of the key challenges for Russian foreign policy in the future will be to develop such a comprehensive strategy both for internal and external use while taking into consideration democratic values as well as the role of bottom-up cooperation.

2 The Domestic Perspective

The 2004 presidential elections in Ukraine were highly internationalized. Issues of Ukraine's external orientation and its foreign policy as well discussions about the role of international factors in Ukraine's domestic life occupied an important place in electoral discourse. Different actors in the election process let external actors get involved to influence the electoral process at home. The importance of the international dimension in the election process is surprising given that Ukrainian voters traditionally have not been aware of international politics and have tended to care more about domestic issues.

The first key question to ask is what impact did international agendas/issues have on the election process and its outcome? The second key question is how this impact mattered for Ukraine's transition? First, what types of external agendas influenced Ukrainian society and which of the candidates represented those? Analysis of the nature and content of these agendas helps to understand the development of Ukraine's orientation following the elections. Second, what conclusions can we make about the state of the Ukrainian transition by looking at how international issues were used by domestic actors in the election process? This explains the level of maturity of Ukraine's external orientation and national identity which are important indicators of the country's state of the transition.

2.1 Key actors and their interests

Even a superficial glance at Ukraine's political actors and society shows that Ukrainian society is heterogeneous and consists of various actors who have different attitudes and interests with respect to international factors. Different domestic actors also interact differently with the outside world depending on the interests and the resources they command to do so.

The following Ukrainian domestic actors can be identified based on our theoretical framework as well as with respect to their roles in the election and their interaction with external factors: the voters (the public at large); the candidates and supporting groups (political parties and interest groups); the public authorities; as well as the media and NGOs (the latter two being opinion makers).

Voters

The interests of Ukrainian voters vis-à-vis Ukraine's international standing and attitudes towards international factors vary depending on different factors (level of education, age, regions of residence, etc.). There are three important features about Ukrainian voters important to consider. First, foreign policy issues do not rank highly among the priorities for Ukrainian voters. Social issues belonging to the domain of domestic politics are of higher importance to the majority of voters. Second, a large number of voters simultaneously support different foreign policy objectives – even if they are not consistent with each other, from an expert perspective. Third, while Ukraine has become more homogeneous over recent years, the major differences in attitudes towards international factors still depend on the region of residence.

Results of public opinion polls conducted before the 2004 presidential election provide for valuable information in support of the claims made above. The *primacy of domestic politics over foreign policy* in the opinion of voters is evident from the results of a poll conducted by the Razumkov Centre in July 2004. According to the poll, social issues such as the increase of salaries and pensions, and the return of savings rank highest – they are mentioned by more than 95% of the respondents. Strengthening the independence of Ukraine and the development of democracy ranked high – 77.0% and 75.4%, respectively. Issues related to foreign policy all rank below 70%. Table I.2

shows the scale of attitudes of Ukrainian voters towards different policy components.

As a result of such a hierarchy of interests among Ukrainian voters, those foreign policy priorities most likely to be favored by them were those considered to bring about economic prosperity and high social protection. Given that the linkage between these issues and foreign affairs is not evident, Ukrainian voters' opinion as to the conduct of foreign policy and relevance of international factors was subject to influence by opinion makers. The fact that the support for European integration and Ukraine's accession to the EU diminished during the course of the election campaign supports this argument. If in March 2004 (that is before the election campaign started), 59.6% of the population supported Ukraine's accession to the EU, in September 2004 this figure was down to 49.5% and, in November 2004, to 44.7%.[68]

Results of the same opinion poll (Table I.2) demonstrate that *a majority of voters supported different directions of foreign policy simultaneously*. While 66% favored creation of the Single Economic Space with Russia, Belarus, and Kazakhstan, 60% also favored a closer relationship with the EU and 48% supported accession to the EU. According to another poll carried out by the Batory Foundation, 55% of Ukrainians supported accession to the EU and 68% supported accession to the would-be union of Russia and Belarus. According to a closer analysis within the project, around 36% of those polled thought membership in both unions is possible and entails no contradiction.[69]

68 *National Security and Defense* (Kyiv), 7, 2005: 52.
69 Joanna Koniezna, *Between the East and the West* (Warsaw, 2003), 5.

Table I.2: Would you like the activities of the next President to be directed towards…? (Percentage of those polled.)[70]

	Yes, I would	Difficult to answer	No, I would not
Increase of pensions and salaries	96.9	0.9	2.2
Return of savings	96.2	1.0	2.8
Fighting crime and corruption	95.7	1.4	2.9
Lower municipal service tariffs	95.3	1.2	3.5
Lower prices for goods of mass consumption	95.1	1.5	3.4
Fighting oligarchs	80.3	5.2	14.5
Strengthening independence of Ukraine	77.0	8.6	14.4
Development of democracy in Ukraine	75.4	6.9	17.7
Creation of the Single Economic Space with Russia, Belarus, and Kazakhstan	66.7	12.1	21.2
Carrying out market reforms	65.1	10.4	24.5
Closer relationship with the EU	60.4	12.6	27.0
Accession to the EU	48.9	19.3	31.8
Accession to NATO	22.3	45.9	31.8

70 Poll conducted by the Razumkov Centre among 2,005 respondents over 18 years old all over Ukraine during April 22-30, 2004, at the web-resource 'Ukrainian Choice. Presidential elections 2004', July 2, 2004. http://uv.ukranews.com/p4/rating/article.html?id=2642

On the one hand, this thinking is caused by objective factors, i.e. the position of Ukraine between the two integration spaces – the EU and post-Soviet integration projects – both having strong influence on the country. Another objective factor is the different historical memory of people residing in the western regions compared to those from eastern and southern Ukraine. However, the major domestic reason for the contradictions in public opinion is the scant attention Ukrainian authorities paid to building Ukrainian national identity and developing consistent and open foreign policies. The election campaign showed the authorities' cynical manipulation of foreign policy issues and people's consciousness.[71]

The difference in the external orientation of voters according to geographical characteristics was still the case in Ukraine. Polls showed that people from western Ukraine supported EU orientation and a nationally oriented ideology (support for the Ukrainian language as the single official state language). People from eastern Ukraine were rather pro-Russia and CIS-oriented or supported a multi-vector foreign policy. They also tended to support a bilingual Ukraine. According to the above-mentioned poll carried out by the Batory Foundation, 39% of voters from western Ukraine supported a pro-Western foreign policy, while almost 40% of voters from central and eastern Ukraine supported a pro-Eastern foreign policy.[72] In addition to these different external orientations, people from eastern/central and western Ukraine had always voted differently. While eastern and central Ukraine traditionally supported communist and Russian-oriented candidates, western Ukraine tended to support candidates with a right- or West-leaning orientation.

During the 2004 elections, first, these differences became less significant, and, second, the line that divided the above attitudes moved further east. These signs of a consolidation among Ukrainians, despite regional differences, appeared as mass demonstrations protesting against the falsifications in the second round of the elections and were taking place all over Ukraine. Tens of thousands of people demonstrated in Donetsk, Kharkiv and Odessa – not to mention the regions where Yushchenko won. During the course of the elections, a number of groups of voters with a

71 Examples will be provided in the next part.
72 Koniezna, *Between the East and the West,* 8.

'would-be Eastern orientation' expressed their support for Yushchenko. For example, a group of miners from the Donetsk region did so,[73] as well as a group of Russian-speaking cultural elite members.[74] This showed that Ukrainian national identity was strengthening around common values.

The fact that central and northern Ukraine opted for the same candidate as western Ukraine showed how the line between the different attitudes moved further east. While Yushchenko won in 16 regions of western, central and northern Ukraine and in Kyiv, Yanukovych won in only 10 regions of eastern and southern Ukraine (including the city of Sevastopol).

The above-listed features of the Ukrainian voter may account for the fact of limited direct access of Ukrainian citizens to international actors and processes. For instance, only about 8% of Ukrainians used the Internet[75] which, unlike other mass media (TV, radio, and press) in Ukraine during the pre-election and election periods, provided access to more or less balanced information (this was especially important during the election campaign before the 1st and 2nd rounds) and offered direct access to international communication. Also, only a limited number of Ukrainian citizens had ever traveled abroad (besides CIS countries where Ukrainian citizens do not need visa), which was evident from the fact that only a small number of Ukrainians were holders of a travel passport.[76] Mostly, those were young people, top-level professionals, people working with NGOs, journalists, etc.

As a result, the majority of voters did not have a strong international orientation and opinion on foreign policy. This made them vulnerable to misinformation and various forms of manipulation. As it will be shown below, this vulnerability was skillfully exploited during the elections.

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73 UNIAN, www.unian.net.

74 Official web site of Yushchenko's Campaign Headquarters, www.razom.org.ua.

75 Information of the State Committee of Communication and Information for 2003. www.reklamaster.com/news/showfull.php?id=3766. It is important to note that since that time the situation has changed drastically, and experts point out at the fact that a sort of Internet boom has been taking place in Ukraine. In autumn 2005, already up to 19% of population of Ukraine used the Internet.

76 According to unofficial data, approximately 20% of Ukrainian citizens are holders of travel passports which allow travel abroad beyond the countries of the CIS (for which the domestic ID suffices).

Candidates and supporting groups

The elections witnessed a high level of concentration of interests of the political elite and pressure groups around the two key candidates. Yushchenko and Yanukovych were considered to be the front-runners long before the election and both eventually made it through the first round. Viktor Yushchenko, together with the political and economic forces that supported him during the election, represented one type of interests with respect to Ukraine's transition and international standing, and Yanukovych, together with groups supporting him, presented a different type of interests. Therefore it is possible to roughly divide political forces active in Ukraine's presidential elections into two groups of interests. (Today, the political scene of Ukraine is more heterogeneous and less consolidated.)

We analyzed election programs, the rhetoric of election campaigns and international contacts of both candidates as well as voting behavior and alleged business interests of groups that supported them. This led us to certain conclusions as to what kind of transition each of the two groups of interests would support.

A close look at the election programs of the two key candidates resulted into the following observations. First, foreign policy was far from being a central issue as the candidates presented their agendas. Foreign policy issues were often limited to one sentence and were not elaborated upon. Second, the programs of the two candidates were very similar in terms of international orientation. Both candidates mentioned the EU (or the notion of Ukraine being a European country) and Russia as important partners, while their programs did mention neither NATO nor the CIS and the Single Economic Space. Also, both candidates placed emphasis on the free development and use of the Russian language – a sensitive issue for many Ukrainians who speak Russian as their first language.[77]

Somewhat different results were obtained from analyzing the pre-election rhetoric of candidates on different occasions, as well as the voting behavior of political forces supporting the candidates. While Yushchenko and his supporters proved to be more consistent in terms of promoting Ukraine's European integration, Yanukovych and his supporters favored a number of

77 See, Kempe and Solonenko, 'International Orientation and Foreign Support' in: Kurth and Kempe, *Presidential Election and Orange Revolution,* 119.

steps that arguably ran contrary to Ukraine's declared strategic 'European choice' (and, arguably, were not in compliance with Ukraine's national interests). In addition, Yushchenko and his supporters were more consistent in their rhetoric and did not mention issues that went beyond or contrary to the program (the only exception was the issue of Ukrainian troops in Iraq). By contrast, Yanukovych made a number of statements that were not part of his electoral program and often contradicted each other.

The table below summarizes three types of information:

- candidates' statements made during the election campaign or included into campaign posters as compared to the positions of the candidates towards events important for Ukraine's foreign policy that occurred during 2003-2004 and their role in those events;
- voting behavior of political forces that supported the two candidates.

This juxtaposition shows that Yushchenko's behavior and that of his supporters was consistent with his electoral program and consistent in general while Yanukovych spoke differently depending on the occasion and audience. Another difference was the importance of mentioning democratic principles, European norms and values, freedom of speech, and fair and transparent elections. Yushchenko often spoke about political values, while Yanukovych positioned himself as a pragmatic politician driven by exclusively economic interests.

Table I.3: Position towards/role of candidates and related interest groups in events/decisions related to foreign policy or international standing of Ukraine and attitudes expressed towards international factors[78]

Issues	Yushchenko and supporting parliamentary factions	Yanukovych and supporting parliamentary factions
Agreement on Single Economic Space	The 'Our Ukraine' faction together with Yuliia Tymoshenko block voted against.	Supporting factions voted in favor. Yanukovych in his capacity as prime minister promoted development and implementation of SES.
Energy policy: Odessa-Brody pipeline decision and gas supply to Ukraine	Gas balance should consist of not only Russian sources but also of domestic ones and those of third parties. A monopoly in the supply of gas by one party is a threat to the stability and not in the national interest of Ukraine.	The government of Yanukovych allowed for the 'reverse' use of the Odessa-Brody pipeline. Backed agreement according to which Russia would supply Turkmen gas to Ukraine during 2005-2028 (currently Turkmenistan supplies 45% of Ukraine's gas imports). The agreement puts Ukraine into total dependence on gas coming from Russia.
Ukraine's military doctrine. Prospects of NATO member-ship	Deepening of Ukraine's relations with NATO.[79]	Ukraine is not ready to join NATO.[80] Ukraine will join NATO in 'natural way'. Cooperation with NATO will be strengthened in the nearest future.[81] Prime Minister Yanukovych was aware of and behind this decision. In addition he stated that accession to NATO would hamper the arms industry in Ukraine. Ukraine can participate in a European security system only together with Russia.[82]
Ukrainian troops in Iraq	Ukrainian troops should return to Ukraine. On Sept, 2, 2004, Yushchenko proposed that parliament launch public hearings on Ukrainian soldiers in Iraq.	Ukrainian troops should return home as soon as democratic elections take place in Iraq, in the beginning of 2005.

78 Information has been taken from news stories posted by different information agencies, mostly UNIAN.
79 Yushchenko said this while meeting former U.S. Secretary of State Henry Kissinger on Oct. 22, 2004, in Kyiv. UNIAN, Oct. 22, 2004.
80 Talking to military officers on July, 27, 2004, www.korrespondent.net/main/98893.
81 Talking to journalists on Aug. 1, 2004, www.korrespondent.net/main/99212.
82 Statement of Viktor Yanukovych at a meeting with the Russian mass media on Sept. 27, 2004.

Issues	Yushchenko and supporting parliamentary factions	Yanukovych and supporting parliamentary factions
European Union/ European integration	Ukraine's relations with the EU should be based on thought-through and step-by-step integration with consideration of the readiness of both sides. The New Neighborhood Policy is a temporary instrument leading from partnership to association with the prospect of membership. EU-Ukraine relations are a two-way street, although more steps must be made by Ukraine.[83] European integration is the means for domestic transformation. Ukraine should work towards being admitted to the World Trade Organization.[84]	Ukraine would benefit most from relations with EU based on short-term agreements. Equal partnership relations. WTO accession might undermine Ukraine's economy.[85]
Status of Russian language and relations with Russia	There should be a state program aimed at the development of Russian and other languages in Ukraine.[86] Agreement on a mutual travel regime between Ukraine and Russia with external travel passport to be abolished. Citizens to travel with domestic passports.[87] Russo-Ukrainian relations should be based on national, not "family interests" (private channels).[88] Yushchenko will not revise Ukrainian-Russian agreement allowing the Russian navy to stay in Ukraine until 2017.[89]	Russian language should become the second state language of Ukraine. According to Yanukovych, dual Russian-Ukrainian citizenship will be introduced, if he becomes President.[90] At the same time, the Government of Yanukovych signed an agreement with Russia according to which Ukrainians can travel to Russia with external travel passports only.

83 Interview in *Süddeutsche Zeitung*, Oct. 1, 2004.
84 Yushchenko said this while meeting Henry Kissinger on Oct. 22, 2004, in Kyiv. UNIAN, Oct. 22, 2004.
85 Statement made during a national TV debate on Nov. 15, 2004.
86 Interview with journalists on Nov. 12, 2004. Source – press centre of Viktor Yushchenko, www.yuschenko.com.ua
87 The agreement was signed.
88 Interview with Russian newspaper *Novaia Gazeta*, Oct. 29, 2004, and interview with *Moscow News*, Oct. 29, 2004.
89 Yushchenko said this while meeting journalists. Press Service of Viktor Yushchenko, Aug. 18, 2004.
90 Statement of Viktor Yanukovych at a meeting with Russian mass media on Sept. 27, 2004. It is important to note that introduction of dual citizenship and Russian as

This leads to the conclusion that the major differences between the two candidates concerned less different foreign policy interests, but rather the principles of foreign policy: a consistent and open foreign policy aimed at promoting national interests (Yushchenko) versus a manipulative foreign policy (Yanukovych).

The behavior of parliamentary factions close to the two candidates demonstrated considerable differences between the two camps. Former pro-presidential factions (those who voted in favor of Yanukovych's candidacy for President) all supported ratification of the Agreement on the Single Economic Space and the reverse use of the Odessa-Brody pipeline. Factions close to Yushchenko voted against these. The decisions the former pro-presidential factions took, arguably, led to an increase of Ukraine's dependency on Russia. Results of public opinion polls also indicated that voters perceived Yushchenko to be more European-oriented than Yanukovych. According to a poll by the Razumkov Centre, 29.6% believed Yushchenko could bring Ukraine closer to the EU, while 18.4% believed that Yanukovych could. It also showed that 14.6% believed that neither of the candidates could bring Ukraine closer to EU accession, while 30.3% could not answer the question at all.[91]

During the election campaign, issues having to do with Russian relations and interests of the Russian-speaking population were frequently mentioned by both candidates. We argue, however, that to a large extent this was a public relations strategy rather than an attempt to address issues important for voters. In the case of Yanukovych, these issues were used to gain votes among Communist Party supporters, and he succeeded in doing so: in the 1999 presidential elections, Communist Party leader Symonenko gained 37.8% of votes in the second round and won in five southern and eastern regions[92] which Yanukovych also won in 2004; in the 2004 first round, Symonenko received only 4.7% of the vote. For Yushchenko, in turn, these issues were the means to counterbalance the heavy negative

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a second language require introducing changes to Ukrainian Constitution – a decision that the Parliament, not the President has to take.

91 The poll was carried out by the Razumkov Centre between July 22-28, 2004, in all regions of Ukraine. 2,014 people over 18 years of age were polled. UNIAN, Aug. 6, 2004.

92 Data of the Central Election Commission. Official web site: http://ic-www.cvk.gov.ua.

propaganda that was shaping an image of him as an anti-Russian and pro-Western candidate.

While the issues of the Russian-speaking population and relations with Russia are important for Ukrainian voters from eastern/southern Ukraine, these have never led to any social tensions. These issues traditionally did not receive much attention in Ukrainian policy-making, and the government of Yanukovych during its two years in office, before the elections, did not take a single decision to address the status and rights of Russian-speaking citizens of Ukraine. The fact that these issues only came into the center of attention before the election seems to indicate the manipulative character of their use and prominence.

Considering the *business interests* which backed the two candidates provides for additional information about the foreign interests of candidates and their eventual foreign policy behavior. This information is not easily accessible, as the real owners of many businesses are hidden. Still, information available from open sources leads to the conclusion that business interests of groups that backed Yanukovych or Yushchenko had strong interests in access to both Russian and EU markets. The table below lists the major business-political groups in Ukraine and their foreign interests as of the period prior to presidential election 2004.

Table I.4: Foreign business interests of Ukrainian business groups[93]

Business-political group	Business interests abroad
Donbas Industrial Union (DIU) (Vitalii Haiduk and Sergei Taruta)	Industrial complex DAM Steel (Hungary) Industrial complex Huta Czestochova (Poland) Pipe plant Walcownia Rur Jednosc (Poland) Industrial complex Vitkovice Steel (Czech Republic)[94] Dunaferr Steelworks (Hungary) Ruzneftegazstroi (Uzbekestan)
Privat (Ihor Kolomoiskii, Gennadii Bogoliubov and Alexander Dubilet)	A ferroalloy plant in Poland[95] A II-II in Romania[96] AZOT Chemical plant (Perm region, Russia) Privatinvest Bank (Russia), Moskomprivatbank (Russia) Commercial Bank Privatbank, International Banking Unit (Cyprus)
System Capital Management (Rinat Akhmetov)[97]	Owner of 15 Metallurgical industrial complexes Network of hotels Rixos (Turkey)
Interpipe (Viktor Pinchuk[98])	Much of the pipes production, agrarian sector, metallurgy and machine building belong to the Ukrainian-US company BIPE Co Ltd
TAS (Serhii Tyhipko)	Insurance Company 'Rutas' (Russia)
SDPU(U) (Viktor Medvedchuk and Hryhorii Surkis)[99]	_____
Energo (Henadii Vasil'ev[100])	Zrechnaya mine (Russia), Kostromskaya mine (Russia)
UkrpPromInvest (Petro Poroshenko[101])	Lipetsk confectionery factory (Russia)
UrkSibBank (Oleksandr Yaroslavskii[102])	Multibanka (Latvia)[103]
Alfa Group (Mikhail Fridman and Viktor Wekselberg)	_____

93 Source: ProUA.com.
94 The two Polish plants and the Czech one are those the DIU was planning to purchase then. See *Korrespondent*, 43, 2004: 29.
95 No name available. See *Korrespondent*, 43, 2004: 29.
96 Ibid.
97 Rinat Akhmetov is considered to be the leader of the Donetsk financial clan.
98 Pinchuk is the son-in-law of Leonid Kuchma, President of Ukraine in 1994-2004.
99 Social Democratic Party of Ukraine (United). Medvedchuk was the Head of Presidential Administration before the election.
100 Henadii Vasil'ev was the Prosecutor General of Ukraine before the election.
101 Poroshenko is an MP with Our Ukraine faction and close to Viktor Yushchenko.
102 MP, Parliamentary group 'Democratic Initiative of People Power'.
103 See *Korrespondent*, 43, 2004: 29.

All the groups listed above (aside from UkrPromInvest controlled by Petro Poroshenko) were closely linked to former pro-presidential factions in the parliament. The information in the table shows that many of them had an interest in access to EU markets, and not only to those in Russia. Also, many of the groups were involved in metallurgical, machinery, chemical, and pipeline businesses. These items are oriented towards exports to both Russian and EU markets. For instance, in Ukraine's exports to Russia, machinery and equipment comprised 36%, metals 19% and chemicals 13%. In Ukraine's export to the EU, metals comprised 32%, fuel and energy 22%, machinery and equipment 10%, and chemicals 10%.[104] The UkrPromInvest group close to Yushchenko was the largest candy exporter from Ukraine to Russia. In addition the group owned a candy factory in Russia.

In conclusion, all large business interests in Ukraine were and still are equally interested in Russian and European markets. Therefore, at least from the perspective of economic interests, we cannot say that groups close to Yushchenko were strictly pro-European and the groups that supported Yanukovych were strictly pro-Russian.

The international contacts of the two leading candidates during September-October 2004 (the election campaign) were also relevant.[105] While Yanukovych met Putin and other Russian officials five times within four months prior to the election, Yushchenko did not have any meetings of that kind. In addition, none of the meeting with Putin was linked to any interstate working relations. These were, rather, private meetings. This does not mean, however, that Yushchenko avoided contacts with Russian representatives, but rather the Russian side did not initiate any meetings of this kind with him. On the other hand, Yushchenko was more active in meeting Western diplomats in Kyiv, particularly during the days close to the voting in the first and the second rounds.

To summarize, one can define two types of interests relating to Ukraine's transition and international standing that prevailed in Ukrainian

104 Data of the National Bank of Ukraine. Provided by the Institute for Economic Research and Policy Consulting in Ukraine.

105 More detailed information in: Kempe and Solonenko, 'International Orientation and Foreign Support'.

politics before the election, and which were backed by the two leading candidates:

The *first approach* can be summarized as European-oriented and reform-minded. It presupposed a balanced foreign policy in accordance with – what should be seen as – the national interests of Ukraine. The leitmotiv of this approach was: 'We must not lose the Russian market, but it will be a great mistake, if we miss the train to Europe'. This approach presupposed a policy of integration with the EU as the major foreign policy and domestic transformation objective. Therefore, this approach was reform-oriented, focusing not only on market reforms, but also on meeting political criteria as set out by European organizations. An open and transparent foreign policy was another key point of this approach. Interest groups that supported Yushchenko in the 2004 presidential election supported this model of transformation according to the analysis provided above.

The *second approach* can be summarized as rather pro-Russian (while not isolationist in relation to the EU), and conservative in terms of carrying out reforms. It claimed that Ukraine should finally grasp that the EU will not recognize Ukraine as a potential member state, in the foreseeable future. Therefore, Ukraine should remove the goal of EU membership from its agenda. Ukraine should carry out reforms needed to reach the living standards of the EU and develop such relations with the EU as have Norway or Iceland – close integration without membership. This model presupposed close relations with Russia to the extent that it did not contradict the interests (mostly business interests) of the ruling elites. This model was convenient in terms of justifying a continued balancing between the EU and Russia. It was in the interest of those groups who wished to preserve the status quo in relations with the EU and Russia, i.e. decorative EU integration in order to avoid isolation without EU-oriented reforms, and close personal networking-based relations with Russia. Business and other interest groups supporting Yanukovych's candidacy seemed to be promoters of this model.

Several further observations can be made:

First, the foreign policies of Yushchenko's team after the elections are consistent with pre-election statements. Ukraine made a number of important steps in terms of advancing its European and Euro-Atlantic integration. Ukraine allowed a visa-free entry for EU and US citizens, on a unilateral

basis.[106] Also, Ukraine took implementation of the EU-Ukraine Action Plan seriously. Although there are problems with its implementation due to a lack of capacity and inter-ministerial coordination, Ukraine adopted a detailed roadmap to implement the plan and regularly reports on the progress of its implementation. Finally, Ukraine joined the Intensified Dialogue on Membership and Reforms with NATO in April 2003. This program is aimed at preparing Ukraine for NATO membership without membership commitments on the part of NATO.

Nevertheless, it became clear that Ukraine is sometimes unable to resist Russia's influence. Ukrainian top officials including Yushchenko made controversial statements on closer integration within the Single Economic Space and on synchronizing WTO accession with Russia. This was a rhetoric that did not result into policy steps yet shows that Ukraine still preserves dependency on Russia.

Second, public support to Yushchenko that was extremely high after the election became as low as Kuchma's after half a year of his presidency. While, in February 2005, 46.7% of those polled expressed absolute support to the institution of the President and 48.3% for the activities of Viktor Yushchenko, in October 2005 these figures were 18.1% and 19.2% respectively.[107] Later public opinion polls showed that the Party of Regions headed by Viktor Yanukovych, enjoys the most support of the population – 20.7% according to a September 2005 poll. Yushchenko's People's Union 'Our Ukraine' goes third (13.9%) after Yuliia Tymoshenko's block (20.5%).[108]

Public authorities

The role of public authorities in the election process was crucial both in terms of direct interference into election campaign and voting, and in terms of reacting to mass protests and international mediation aimed at settling the crisis.

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106 As of May 2005 the decision was adopted as a test one for the duration of three months. As of September 2005 the decree was issued allowing visa free-entry for US and EU citizens on a permanent basis. Simultaneously decrees allowing visa-free entry for citizens of Canada, Switzerland, Norway and Japan were adopted.

107 Poll carried out by Ukrainian Centre for Economic and Policy Research named after Razumkov during 9-16 September 2005. http://www.uceps.org/ua/show/778/.

108 Democratic Initiatives Foundation. Poll carried out during 18-21 September 2005. http://www.dif.org.ua/.

From the perspective of their role in the elections, three types of actors representing public authorities are worth considering:

- the President (and Presidential Administration) and government (including regional and local governments as well as the Central Election Commission) which all took the same side aimed at bringing the successor candidate Yanukovych to power,
- the parliament – the Verkhovna Rada of Ukraine (with Speaker Volodymyr Lytvyn playing an active role) which proved to be responsive to the need to carry out free and transparent elections and to the protests against falsifications, and
- the judiciary, especially the Supreme Court which laid the legal basis for the re-run of the second round of the election.

The interests of *the President, his administration, and the government* with respect to the 2004 elections were focused on bringing the successor candidate Yanukovych, at that time the prime minister, to power. The authorities actively used international factors and Ukraine's foreign policy as tools to achieve their goals.

Analysis of the activities of the President, his administration, and the government before the election and during it proves that it was in the interest of these actors to minimize the influence of Western actors working towards conducting free and fair election in Ukraine, and to exploit, to the largest possible extent, informal networking with Russian officials to both support Yanukovych at home and use any possible resources available in Russia to increase the level of falsifications and undermine support for opposition candidate Yushchenko.

An important indicator of such interests of Ukrainian authorities was their lack of responsiveness to international pressure aimed at providing for free and fair election in Ukraine. Moreover, Ukrainian authorities consistently criticized foreign actors for 'interference' in Ukraine's domestic affairs. Examples of such behavior will be provided in the next section.

An important indicator of Ukrainian authorities seeking Moscow's support was the shift of Ukraine's foreign policy in the direction of Russia a year before the election and especially during the pre-election months. The concentration of pro-Russia policy steps within the few months prior to the

election, and a lack of transparency suggest a linkage between these steps and the election.

Already in September 2003, President Kuchma signed the agreement on the creation of the Single Economic Space with Russia, Belarus, and Kazakhstan. This step was made without any preliminary consultation with parliament or even the Cabinet of Ministers. Other steps included the subordination of the Foreign Ministry to the Presidential Administration[109] and the dismissal of a number of people from the government with clear pro-European orientation, e.g. Minister of Fuel and Energy Vitalii Haiduk and Minister of Economy Valerii Khoroshkovskii.

The steps with foreign-policy implications that were taken before the elections include

- the dismissal of Oleksandr Chalyi, First Deputy Minister of Foreign Affairs on European integration,
- the decision of the Cabinet of Ministers to allow the Odessa-Brody pipeline to be used for purposes others than transporting Caspian oil to the EU,[110]
- the issuing of the decree amending Ukraine's defense doctrine to eliminate Ukraine's willingness to join NATO[111] and
- the dismissal of Ukraine's defense minister, Yevhen Marchuk, who was active in promoting Ukraine's NATO membership.

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109 According to the decree issued by the President in December 2003, 'On Measures to Increase the Efficiency of Foreign Policy of the State', the Foreign Affairs Ministry became subordinated to the Presidential Administration.

110 As a result the Ukrainian company Ukrtransnafta signed a contract with Russian-British company TNK–BP obliging Ukraine to use the Odessa-Brody pipeline for the transport of Russian oil for three years. This decision was taken despite a previous declaration Ukraine adopted together with the EU and Poland supporting transportation of Caspian oil via the Odessa-Brody pipeline to Poland and further into the EU. The EU, US, and Poland all reacted negatively to this decision and expressed serious concerns.

111 The 16th article of Ukraine's defense doctrine was amended. The sentence 'Ukraine is preparing itself for full membership in the EU and NATO' was deleted from the article. Another phrase indicating Ukraine's willingness to join NATO was also deleted. In late July when the changes were made public, Poland, the EU, NATO and the US expressed concerns over these changes while Russia said it supported the new version.

These decisions were taken against the background of growing pro-Russian rhetoric by President Kuchma who argued that Ukraine's future lied with Russia and its partners.[112]

The timing of those steps as well as their lack of transparency indicate that they were not targeted at Ukrainian voters (as these policy issues were a matter of high, rather than electoral politics), but at Russia whose support the Ukrainian authorities were seeking in order to ensure the victory of Yanukovych. As a result, these steps seriously hampered Ukraine's image in the eyes of the EU and US, yet, indeed, ensured Russia's active involvement.[113]

All in all, these steps undermined the credibility of Ukraine's European integration policy during Kuchma's second term in office. In order to provide for the victory of the candidate convenient for the oligarchs surrounding Kuchma, the advancement of Ukraine's European integration – no matter how weak – was swept away in a few months. This leads to the conclusion that, actually, Ukrainian authorities before the Orange Revolution never took European integration seriously. Instead, Kuchma's pro-European policies seemed to be designed to legitimize his rule in the eyes of the EU and the international community. Only the 2004 presidential elections fully revealed the deeply rooted conflict between the interests of the ruling oligarchy and the national interests of Ukraine.

The position of *the Verkhovna Rada* of Ukraine during the elections, unlike that of the executive branch, proved to be more balanced. Evidence suggests that the parliament under the coordination of Speaker Lytvyn was interested in securing a positive international image: It welcomed the involvement of international actors in securing a free and fair conduct of the Ukrainian elections.

Parliament made an important step on Oct. 19, 2004, when it appealed to the Ukrainian people to participate in the elections. The appeal also addressed public authorities demanding from them to provide for fair elections in compliance with the law. The appeal also stated that the presence of a large number of international observers at the elections means

112 Interfax, Sept. 27, 2004.
113 See also Kempe and Solonenko, 'International Orientation and Foreign Support of Presidential Election'.

Ukraine belongs to the world community. The motion also expressed a wish that international observers be non-biased and objective.

Parliament Speaker Lytvyn proved to be open to working with NGOs supported by international donors during the elections. For instance, in April 2004, he created an NGO council funded by the International Renaissance Foundation (a Soros-backed NGO in Ukraine) and consisting of leading think-tank representatives. The council gathered on a regular basis and proved a valuable advising body to Lytvyn.[114] Several days before the second round of elections, Lytvyn said all responsibility for possible falsifications was lying with the authorities – a step that demonstrated his democratic orientation.[115]

The role of the Verkhovna Rada of Ukraine was very instrumental during the Orange Revolution. It was open to protests taking place in the streets and contributed a lot to peaceful resolution of the crisis that lead to a repeat run-off of the second round.

The Ukrainian judiciary was another active participant in the election process. While international factors did not play a direct role in the work of Ukrainian courts during the election, many successful cases adjudicated by the courts were put forward by Ukrainian human rights NGOs that were functioning due to support by international donors. Furthermore, the decision of the Supreme Court on December 3, 2004 not to recognize the outcome of the voting during the second round and its scheduling of a repeat run-off vote arguably took into consideration international legal practice (in its decision, the Court referred to international human rights legislation to which Ukraine was a party) and the role international actors attributed to legal means of solving the Ukrainian crisis.

Mass media and journalists

The role the media played in Ukraine's election process was two-fold. On the one hand, the media served as a tool for manipulation. On the other hand, journalists' protests escalating before and during the elections served as an important signal to voters.

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114 *Bulletin of the European Program*, 1, July 2004. International Renaissance Foundation, www.irf.Kyiv.ua.

115 UNIAN, Nov. 19, 2004. www.unian.net.

During the elections, the media was actively used as a tool to manipulate voter opinion. TV channels, especially during primetime, presented the pro-government candidate in a positive light whereas the opposition candidate was shown in a negative light. Numerous independent monitoring organizations reported biased coverage of the election campaign, including the BBC Monitoring Service, the Academy of Ukrainian Press, and Media Monitoring in Bratislava. According to the latter organization, Yanukovych received more then 60% of campaign coverage on the UT-1, Inter, 1+1, ICTV, and TRK Ukraina TV channels, while STB and Novyi Kanal provided between 40% and 50% of campaign coverage to Yanukovych. All these channels provided only between 13% and 30% of air time to Yushchenko. The only channel that provided balanced information was Channel 5. Also, all the channels (apart from Channel 5) provided mostly negative coverage of Yushchenko and only neutral or positive coverage of Yanukovych.[116]

In addition, many television channels broadcasted reports in which Yushchenko, though being a native of the east Ukrainian Sumy region, was presented as a nationalist and radical – a person who allegedly perceives Ukrainians who are not from western Ukraine to be second- and third-class citizens, and who would divide the country.

On the other hand, the position of journalists who during the election campaign protested against biased reporting was very important. They brought to the attention of Ukrainian voters the fact that Ukraine had serious problems with freedom of speech. A hunger strike announced in October 2004 by Channel 5, the refusal by a group of 39 journalists from 5 major national channels to report shortly after the second round[117] and mass protests by journalists in the regions in effect blocked the work of the Ukrainian mass media and forced their leadership to offer a better working environment to journalists.

All in all, while the media played a very negative role in the run up to the election by depriving people of objective information, the wave of protests of journalists resulted in more or less fair media coverage closer to and after the

116 *EOM Media Monitoring*, www.memo98.sk/en.
117 Press-release of the Kyiv Independent Professional Media Union, Oct. 28, 2004.

second round of election. The new behavior of many journalists contributed to the ultimate success of the Orange Revolution.

Freedom of speech is one of the undisputed achievements of the Orange Revolution. Most TV channels and newspaper present today more or less unbiased information; in any case, a plurality of thoughts and approaches, in the masse media landscape as a whole, is evident. Furthermore the state channel UT1, which served as a major tool of manipulation before the presidential election, has become politically balanced. Therefore, Ukraine has been and will be facing the following elections with an informational space of a different quality.

NGOs

The Orange Revolution witnessed an unexpected level of maturity and organization of Ukrainian NGOs. Already before the elections, Ukrainian NGOs funded by international donors proved to be able to mobilize a large number of people for demonstrations. In addition, they were active in carrying out informational and awareness-raising campaigns, monitoring election campaigns, and providing legal advice to citizens. There were also Ukrainian NGOs that played a key role in carrying out exit polls allowing for the falsifications to be identified and proven.

The role of Ukrainian NGOs in relation to international factors is important in two respects. Firstly, Ukrainian NGOs are mostly dependant on foreign funding. Secondly, they have extensive direct channels of international communication bypassing traditional diplomacy.

It is in this latter capacity that Ukrainian human rights organizations brought to the attention of international organizations the numerous violations that occurred during the elections. For instance, in August 2004 the International Helsinki Federation on Human Rights (Vienna) reported that it received numerous claims from Ukrainian citizens that were pressed to support the current Prime Minister's candidacy and were threatened to support the opposition candidate.[118] Those claims were formulated and reached Vienna due to the assistance of Ukrainian human rights organizations. Similarly, the Ukrainian Helsinki Human Rights Association

118 *Ukraïns'ka Pravda*, Aug. 10, 2004, www. pravda.com.ua.

filed numerous appeals to Amnesty International and Human Rights Watch that allowed these international organizations to exert additional pressure on the Ukrainian authorities, and to attract the attention of international actors.[119]

2.2 Activities during the elections

This section analyses how domestic actors organized and utilized foreign factors to achieve their own goals during the elections. It looks at the tools domestic actors used to either limit the impact of international actors on the elections, the opinions of voters, and the overall transition process, or to enhance that influence, or transform it into a different kind of influence.

Ukrainian international obligations with respect to holding fair and transparent elections and violations of those by the authorities

Given that there is a substantial body of literature on Ukraine's international obligations with respect to the rule of law, human rights and freedoms as well as free and fair elections,[120] we do not go into detail here. It is important to mention, however, that Ukraine's obligations with respect to providing for free and transparent elections stem from Ukraine's membership in the UN, OSCE, Council of Europe, European Bank for Reconstruction and Development, CIS, and Inter-parliamentary Union. Ukraine is also a party to bilateral agreements with the EU (PCA) and NATO which oblige it to adhere to democratic principles and values, including the holding of free and transparent elections.

While these obligations allow international organizations to exercise political pressure on Ukraine, Ukraine's domestic politics before the presidential election showed that international pressure did not have significant impact on the behavior of the authorities. Inattention to international obligations by Ukraine grew during the election. As pointed out before, media monitoring revealed biased coverage of candidates on the majority of pro-presidential channels. This was especially evident during and after the second round when neither the international democratic community,

119 Information provided by the Ukrainian Helsinki Human Rights Association, www.rupor.org.ua.

120 For a comprehensive summary and analyses on Ukraine's international obligations with respect to elections, please see, for instance, *National Security and Defense* (Kyiv), 5, 2004 (Razumkov Center, www.uceps.org.ua).

nor numerous domestic actors recognized the officially proclaimed outcome of the vote.[121] Despite numerous declarations on the part of Western institutions and governments, the authorities insisted on the validity of their officially proclaimed results.

The Ukrainian government even went as far as to accuse international organizations of interfering in Ukraine's domestic politics and to try to revise the basic principles of these organizations. One example was Ukraine's joining the anti-OSCE declaration issued by CIS countries on July 9, 2004. Russia, together with other CIS countries including Ukraine, accused the OSCE of failing to respect their sovereignty. A written statement said the OSCE does not respect the fundamental principles of non-interference in internal affairs and respect of national sovereignty.[122] Another example was the summoning of the Canadian ambassador, Andrew Robinson, to the foreign ministry over his September 21, 2004, press statement on the presidential election campaign.[123] Also, soon after the second round of elections which were reported as falsified by the OSCE and other international organizations, President Kuchma, while talking to the Prime Minister of the Netherlands by telephone, blamed the EU for statements criticizing the elections saying those 'might lead to an escalation of the situation in Ukraine'.[124] These examples show that Ukraine's membership to a number of international arrangements obliging it to conduct free and fair elections was a rather limited factor of pressure on Ukrainian authorities.

121 For instance, according to a national exit poll organized by the Democratic Initiatives NGO, carried out by the Razumkov Centre and the Kyiv International Institute of Sociology in cooperation with experts from Poland and Russia and funded by international donors, it reported Yushchenko received 54% of all votes, while Yanukovych received 43%. Nevertheless, the Central Election Commission recognised Yanukovych to be the winner.

122 www.rferl.org/featuresarticle/2004/07/7335a25f-6b7c-41aa-bc8f-4d973103166.html.

123 *The Action Ukraine Report*, 171, 2004.

124 www.pravda.com.ua, Nov. 23, 2004.

Restriction of international influence on the presidential elections because of Ukrainian legislation

The basis for restrictions on foreign influence during the election was laid down in Ukrainian legislation, in particular in the 'Law On Elections of the President'.[125] In short, this Law did provide for the activities of international observers, but restricted any activities that could be considered interference in Ukraine's domestic matters. Such activities included agitation in favor of certain candidates and financial support of electoral campaigns.

For instance, Article 37 of the law stipulates only two sources for financing electoral campaigns of candidates – the state budget and election funds of candidates – thus restricting possible financial support from non-domestic sources. In addition, Article 47 defines the election funds of a candidate as being formed out of his/her own resources, the resources of parties (or parties that belong to an election bloc) that nominated his/her candidacy, as well as optional contributions from individuals. Foreign citizens and individuals without citizenship are prohibited from making donations. Anonymous donations are prohibited as well. Furthermore, Article 64 prohibits pre-election campaigns from being carried out in the foreign mass media, which work on the territory of Ukraine. Article 70 states that official observers from foreign states and international organizations have no right to use their status to act beyond the elections process or to interfere with the work of electoral committees.

While there was no direct evidence of violation of this legislation by international actors, many activities carried out by international actors during elections could well be considered to be violation of the legislation. This was especially true concerning Russian actors as shown below.

125 The law was amended in March 2004 and later on in December 2004 in a package with the amendments to the Constitution that became know as the *politreforma* (political reform).

The Russian factor as an instrument of manipulation used by the Ukrainian authorities

Russia became an important factor during the elections for two reasons. Firstly, the fact that many Ukrainian citizens live and work in Russia was exploited by Ukrainian authorities. Secondly, the powers-that-be actively involved various Russian actors and issues in order to influence voters' opinion in Ukraine.

The factor of Ukrainians living and working in Russia and abroad in general did not play a significant role in terms of the outcome of the election. According to the data of the Central Electoral Commission (CEC), 62,373 voters cast ballots abroad during the first round, 90,168 during the second round, and 103,079 during the third round of the 2004 presidential elections[126] which comprised no more than 0.3% of all voters. However, before the elections, Ukrainian authorities made efforts to use this factor as a source of manipulation.

The first aspect that became the subject of debate before the elections was the number of polling stations in Russia. This issue was initially raised in March when the Ukrainian Embassy in Russia submitted a letter to the Russian Foreign Affairs Ministry asking it to allow the opening of 650 additional polling stations for the presidential elections. The initial number of polling stations in Russia was *four*.[127] On Oct. 24, 2004, the CEC allowed an additional 420 polling stations in Russia, and, under the pressure from MPs of the Our Ukraine bloc, decided to open a further 41 polling stations.[128] This high attention towards Ukrainian voters in Russia on the part of Ukrainian authorities looked surprising if seen in contrast to the manifest neglect of Ukrainian voters in the EU, US, Canada and other countries. In those countries, polling stations were attached to embassies and consulates whereas the proposed polling stations in Russia were supposed to work beyond Ukrainian diplomatic offices. It is difficult to find legal grounds for such behavior on the part of Ukrainian authorities as there are no compact settlements of Ukrainian voters in Russia aside from Moscow and Western

126 Data of the Central Election Commission, www.cvk.gov.ua.
127 Olha Dmitricheva, 'President of Ukraine in Russia – Viktor Yanukovych?' *Zerkalo Nedeli*, 42, 16-22 October 2004.
128 www.unian.net.

Siberia. Therefore, many polling stations would have been useless.[129] Given this circumstance, some observers believed that the high number of polling stations in Russia could have led to significant fraud and as it would have allowed to falsify around 1 million votes.[130] Finally, on Oct. 29, 2004, the Supreme Court of Ukraine satisfied the appeal of Yushchenko and cancelled the decision taken by the CEC to open an additional 41 polling stations in Russia.[131]

Another aspect related to Ukrainian voters in Russia was the explicit pro-Yanukovych propaganda in Russia. Several Internet publications, Channel 5, and *Korrespondent* magazine reported about Russian billboards with a picture of Yanukovych saying 'Ukrainians of Russia are choosing for President Viktor Yanukovych on October 31.'[132] Still another example was the fact that Yanukovych managed to collect 562,000 signatures of Ukrainian nationals living in Russia in support of his candidacy.[133]

Similarly, Russia became a tool of manipulation to influence voters in Ukraine. Probably the most explicit example was the visit of Russian President Putin to Ukraine to commemorate the 60th anniversary of Kyiv's liberation from Nazi occupation during World War II. Two days before the military parade in which Putin participated, three national channels in Ukraine (Inter, 1+1 and UT-1) organized a live one-hour broadcast with Putin. While Putin behaved diplomatically, Ukrainian journalists asked him questions that presupposed answers showing sympathy with Yanukovych and praising his achievements as Prime Minister.[134]

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129 'Falsification of votes with the help of Russia may total 1,000,000', www.pravda.com.ua, Oct. 20, 2004.

130 This opinion was expressed by Valerii Semenko, the deputy head of the Union of Ukrainians in Russia. According to him, an additional 400 polling stations would have allowed officials to falsify up to 1 million votes. Ibid.

131 www.unian.net, Oct. 29, 2004.

132 A picture of this billboard can be found in 'Vybor gastarbaiterov,' *Korrespondent*, Oct. 23, 2004: 24–25.

133 'P'iat' kopiiok', TV Channel 5, Sept. 18, 2004.

134 The transcript of the conversation, as well as video files, can be found at the official web site of the President of the Russian Federation. www.president.kremlin.ru/appears/2004/10/27/0000_type63379type63381_78550.shtml.

In addition, Yanukovych's campaign organized open-air concerts with popular Russian singers.[135] Another example of using Russia to put pressure on the opposition was the announcement by the Russian prosecutor's office that opposition figure Yuliia Tymoshenko was the subject of an international criminal investigation. No indignation was expressed or attempt to protect Tymoshenko was made by Ukrainian authorities suggesting suspicions that they were involved or even planned this move. Ukrainian mass media widely reported that Tymoshenko supported Yushchenko's candidacy to undermine popular support for Yushchenko. While there was no documented evidence disclosing the link of Ukrainian authorities agreeing to Tymoshenko's prosecution, after the second round of the elections, politicians from the People's Power Coalition referred to a source in the Interior Ministry indicating that Interior Minister Mykola Bilokon' had ordered Tymoshenko's arrest and extradition to Russia.[136]

These examples show how skillfully Ukrainian authorities, in cooperation with Russia, managed to engage Ukrainian citizens living in Russia in the election campaign in support of Yanukovych, and also their use of Russian actors in the campaign. While there was no sufficient evidence to interpret these steps as abusing Ukrainian legislation, they obviously demonstrated close, if sometimes hidden personal contacts between Ukrainian and Russian authorities. Such contacts seemed to be seen as the major foundation for building relations between the two countries. The alarming news about the presence of Russian troops in Kyiv after the second round of elections showed how deeply rooted the idea of such policy-making was. It showed that the interests of the elite that ran the country for 10 years (and would have continued doing so, if Yanukovych had become President) were above – what most non-Russian observers would identify as – elementary national interests of Ukraine.

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135 One such concert took place in Donetsk on Aug. 29, 2004. Iosif Kobzon and Russian rock-band *Reflex* took part (www.korrespondent.net/main/101005). On Sept. 16, 2004, a representative of the Yanukovych team submitted an appeal to the Rivne City Council asking it for permission to hold a concert there with Russian singers in support of Yanukovych (UNIAN, Sept. 23, 2004). On Oct. 12, 2004, another such concert took place in Pavlovgrad (http://5tv.com.ua/newsline/119/0/1719/).

136 www.pravda.com.ua, Nov. 24, 2004.

A deepening east-west division of Ukraine as a result of election campaigning strategies

The 2004 presidential elections campaign resulted into the creation of a division in Ukraine between the east and west. While the east-west differences were present before, these had little implications in terms of creating social tensions or even threatening the unity of the country. The deterioration of east-west relations that Ukraine had to overcome following the presidential election was, to a large extent, caused by the election campaign and propaganda carried out by the authorities.

The majority of voters in the east and south of Ukraine voted against Yushchenko. According to the results of the re-run of the second round, nearly 13 million voters refused to accept the agenda of the orange camp, i.e. voted in support of Yanukovych. Suddenly, the issues of a separation of eastern regions from the rest of the country and of a federalization of Ukraine appeared on the agenda after the second round which was an alarming signal. A closer look at the origin of separatist trends in Ukraine brings one back to the course of the electoral campaign and reveals its somewhat artificial nature.

Firstly, the election campaign carried out by the Yanukovych camp and the authorities was marked by primitive anti-Western, anti-EU and anti-U.S. propaganda of the Cold War type, coupled with anti-Yushchenko propaganda aimed at creating an image of him as a nationalist, fascist, and chauvinist. The state-controlled mass media and other pro-presidential media in Ukraine focused extensively on legal violations, corruption, and other imperfections in the EU. It also reported widely on the negative impact of accession on the new EU member states and on Euro-skepticism across the EU. As a result Ukrainians received a rather negative selection of information about the EU.[137] Opposition MP Mykola Tomenko claimed several times that there were anti-EU '*temnyky*' (unofficial guidelines for journalists on how to report on certain subjects) which were disseminated by the Presidential Administration among reporters, commentators, and media outlets.

Analysis of election TV reels of some candidates shows how widely they exploited the allegation that Yushchenko represented the interests of the

137 Personal observations by the authors. Reading through several regional newspapers distributed in eastern Ukraine proved this.

US and the West, in general.[138] They claimed that Yushchenko as President would turn voters from eastern Ukraine into second-class citizens. Other TV reels broadcast on the *Inter* TV channel showed Nazi symbols combined with Yushchenko's election campaign colors obviously aimed at discrediting Yushchenko.

Beyond media manipulation, the authorities applied other primitive techniques of influencing voters. According to one report, for instance, Vasyl' Kremen', then Minister of Education, ordered teachers at schools to make their pupils write letters to the U.S. President complaining of 'US interference'.[139] 150 tons of anti-American posters were found in Kyiv at the same warehouse where Yanukovych campaign posters were being stored. Those posters showed the upper part of Bush's face combined with the lower part of Yushchenko's face on the background of a U.S. flag.[140]

Secondly, the idea of a separation of eastern and southern regions from Ukraine was announced by some of these regions' Governors, i.e. regional officials appointed by President Kuchma, while the locally elected authorities mostly criticized it (the Donetsk region being one exception). The separatist officials only dropped this idea when the opposition brought to their attention the possibility of criminal punishment for undermining the territorial integrity of Ukraine, a deed forbidden by the Constitution. In addition, it was made clear, by opposition politicians, that issues leading to fundamental changes in the Constitution are to be decided only in a national referendum.

Thirdly, the lack of a real basis for separation is also evident from the fact that Yushchenko won in 17 regions while Kuchma, in 1994, had won in just 14 regions. Regions that traditionally voted differently from western Ukraine, in 2004, supported the same candidate as western Ukraine did.

Fourthly, the idea of separation came from the same regions in which most of the violations during the elections took place. Thus, one can interpret that the separatist ideas may have been, among others, attempts by these

138 For instance, Oleksandr Bazyliuk, the leader and presidential candidate of the Slavonic Party, in his pre-election TV ad says Yushchenko's American wife should become a Ukrainian national. Earlier in September 2004, he called on the Verhovna Rada to prohibit those aspiring for the presidency from being nominated for the post if members of their family were foreign citizens.

139 www.pravda.com.ua. Oct. 20, 2004.

140 *Korrespondent*, 41, 2004, showed the picture.

regions' authorities involved in the violations to turn attention away from their actions which, potentially, could become subjects of criminal proceedings if investigated.

Last but not least, there are, arguably, no objective grounds for separation. For instance, the Donetsk region is not self-sustainable. It receives donations from the national budget. It is a myth that eastern Ukraine 'feeds' the whole of Ukraine.

In any way, immediately after the elections, Yushchenko and the Ukrainian government enjoyed high support among the population. In February 2005, over 46% of the respondents in a nation-wide poll expressed absolute support of the institution of the President and Viktor Yushchenko in particular and only 23% said they did not support the activities of Yushchenko.[141] In addition, Yuliia Timoshenko's appointment as Prime Minister was, in February 2005, supported by 373 MPs which was the highest support any candidacy for this post ever received in the Ukrainian parliament. Therefore, soon after the elections, the population at large and the majority of political forces perceived Yushchenko and his government to be legitimate and positive.

The use of the international factor to support protests against falsifications

As the wave of protests started after the second tour of the elections and the authorities kept doing their best to legitimize the victory of Yanukovych, much support for the opposition and the protesters came from abroad. In this situation of a confrontation between the people and the authorities, the value of this support was high. Leaders of the Ukrainian opposition took advantage of the overwhelming international support skillfully and used it as an additional leverage to maintain the support of the protesters.

Firstly, the fact that the democratic countries did not recognize the outcome of the second round of the elections was very much emphasized. It was argued that, actually, those countries supported the Ukrainian people, not the authorities. The fact that Ukraine was shown on all major international TV channels and became the top story of leading newspapers was utilized to

141 Razumkov Centre poll.

make Ukrainians feel it was due to them that Ukraine had become the center of world attention. Secondly, the Ukrainian opposition invited many international politicians to talk to the crowds from the stage at *Maidan Nezalezhnosti* (Independence Square), the organizational heart of the protests. Thirdly, the protesters were informed about all major demonstrations abroad in support of them, whether organized by Ukrainians living abroad or other nationals. This was another important support factor.

The key message was that the international democratic community supported the protesters, not the Ukrainian authorities who had falsified the elections, and that Ukraine was the focus of world attention. The Ukrainian opposition delivered this message to the people skillfully and this, arguably, contributed much to mobilizing – what could be called – the psychological resources of Maidan.

3 Conclusions

There is a clear link between the Ukraine elections, the country's international focus, and the future of reform. Both sides – Russia and the West – identified the Ukrainian 2004 presidential elections as a crossroads for future reforms, but neither Russia nor the West had a clear strategy in place. Russia's interest might be seen as keeping a certain kind of hegemony, along with maintaining strong economic and personal networks on the highest level. There was almost no Russian concept for supporting the transition process in Ukraine. The West's priority with regard to Ukraine was pushing forward democratic reforms, and the elections were perceived as a litmus test for the state of the transition.

Initially, Russia was in a more favorable position in terms of influencing Ukraine's elections than other actors. The presence of Russian media in Ukraine and the large size of the Russian-speaking population, most of which has strong ties to the 'common motherland', put Russia in a privileged position in terms of influencing the Ukrainian election. Although, officially, Russia did not express explicit support for any of the candidates, it did not resist the temptation of presenting pro-Yanukovych propaganda in the

Russian media, and of Putin demonstratively meeting Yanukovych several times before the elections. At the same time, Western institutions had limited mechanisms for setting guidelines from outside. One of the most important players and direct neighbors, the EU, was neither capable of, nor interested in, offering Ukraine attractive prospects for integration. Moreover, Ukraine's attempts to become an EU member country have been explicitly rejected by the EU. Criticizing the violations of democratic values and investing in NGOs became the most important mechanism of the Western capitals in terms of influencing Ukraine's election.

The impact of the international influence changed significantly after the second tour when the entire process became guided by a demand for democratic values and the Ukrainian elections as such became internationalized. By not accepting the official election results of the second round, Western governments and international organizations supported Ukrainian civil society in initiating a regime change. Again opting for democratic standards, the West, driven first and foremost by the knowledge and networks of the new EU member states, succeeded in negotiating a peaceful transition process. At the same time, the Kremlin lost its way in influencing Ukraine based on personal networks and economic dependency.

The domestic discourse during the elections became heavily impregnated with international issues despite the fact that these were of low importance for voters. The election campaign had to a large extent been dominated by an East (Russia) – West, Soviet-style antagonism. In addition, Ukraine's division was artificially exaggerated by the state-controlled media. This debate escalated after the second tour when some actors started questioning the territorial integrity of the country. Evidence shows that this was a manipulative action aimed at evoking old stereotypes, threatening voters, and discrediting the opposition candidate. The relatively low success of these techniques – the majority of voters had, according to exit polls and parallel vote counts, already voted on November 21, 2004 in favor of Yushchenko – shows that people opted first and foremost for democratic change. The active manipulation through foreign policy issues and involvement of international actors, demonstrated the low commitment of the then public authorities to safeguarding the country's national interests. Indeed, the needs of short-term tactics aimed at winning the election by a

certain group of the political elites overwhelmed consideration of the long-term strategic interests of the country.

A close analysis of Ukraine's foreign policy agenda, which was articulated during the election period, demonstrated two approaches. The first model suggested preserving the status quo in balancing influences from the East and West, making half-hearted moves towards democracy, and implementing limited market reforms. The second approach aimed at Ukraine taking the road its Central European neighbors had entered upon, that is, consistent integration with the EU, and pragmatic transparent relations with Russia. The two approaches were in fact less about foreign policy and more about the principles of domestic and foreign policy-making as well as different value systems. An analysis of Yanukovych's interests and activities suggested that he represented the first model. Dominance of this model would have gradually led Ukraine to isolation from the democratic world and towards a growing influence of Russia. Yushchenko was a more transparent and consistent candidate who would focus on safeguarding Ukrainian interests in both the Russian and Western directions. 'We must not lose the Russian market, but it will be a great mistake, if we miss the train to Europe' – that was the motto of Yushchenko's foreign policy agenda.

The Ukrainian presidential elections in 2004 were a focus of worldwide attention. On the one hand the elections exemplified Russia's attempt and failure to maintain its influence in the former Soviet Union via personal networks and non-democratic methods in Ukraine. On the other hand, the Western approach was devoted to democracy, yet lacked concrete concepts and measures for integrating Ukraine into Euro-Atlantic structures.

The period after the elections showed that interests of international actors with respect to Ukraine remained alive. The EU and US have tried to encourage further democratic transformation of Ukraine by offering incentives like support to WTO accession or visa liberalization with the EU. Russia, on the contrary, has taken a rather tough stance by manipulating Ukraine's energy dependence. In addition, even a superficial look at Russia's media indicates that Russia fears that Ukraine's transformation will become a success story which could encourage democratic changes in Russia. With respect to the domestic dimension, the period after the Orange Revolution, to a large extent, proved that foreign policy priorities and principles as declared

by Yushchenko before the presidential election have been implemented. At the same time, this period has brought about disappointments as to the pace of domestic reforms. The party led by Viktor Yanukovych won the 2006 and 2007 parliamentary elections showing that the personality of Yanukovych and his party agenda are still appealing to many people in Ukraine.

Overall both, Ukraine's 2004 presidential elections and the period following showed that the future of Ukraine lies in its own hands. International factors can have an impact given that there are domestic prerequisites and a critical mass of domestic actors whose interests coincide with those of certain external actors. The stability and performance of the third Orange Coalition and the next presidential elections will show where Ukraine stands in its transformation.

Democracy by Remote Control

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At no other time in history have election campaigns in the post-Soviet space attracted more attention than in the last few years. This is rather understandable since the majority of these countries have suffered political cataclysms, as well as the active involvement of outside actors. While the Western mass media broadly described Russia's interference as a bid to realize its 'imperial ambitions,' as well as to prevent the free expression of other peoples' will, it pictured Western involvement in these contests as an indisputable good that contributes to the proliferation of freedom and democracy.

In this context, the article 'The Orange Revolution' by Timothy Garton Ash and Timothy Snyder, published in *The New York Review of Books* in April 2005, is quite characteristic. The authors bluntly claim: 'Some "interventions" by foreigners are justifiable, some are clearly not. There should be an open debate about the ground rules of external, mainly financial intervention to promote democracy...' The authors understand 'justifiable interventions' to mean Western financial and organizational aid in election monitoring, training of opposition activists and conducting independent exit polls. Inadmissible methods of interference are considered to be the pre-election visit by Russian President Vladimir Putin to Ukraine, participation of Russian political technologists in the pre-election campaign (incidentally, not only on the side of Yanukovich) and funds, allegedly spent by Russia on Yanukovich's campaign.

The authors' ideas concerning external control of the election legitimacy and its results require careful examination. These are, after all, new instruments of Western policy that Russia will have to consider in the future.

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1 First published in *Russia in Global Affairs*, no. 4 (2005), http://eng.globalaffairs.ru/numbers/13/976.html. Reprinted with kind permission by the editors. Biographical information on the author at: http://www.leffgroup.ru/about/experts1.

For example, their claim to legitimize an outside interference into domestic affairs of a sovereign state falls under the heading of 'limited sovereignty' – a concept that has never been internationally recognized. Another concept involves the development of criteria for armed 'humanitarian intervention' – a policy that has become the pastime of a small group of Western political scientists and legal experts.

Today, Russia is facing a fundamentally new phenomenon in the post-Soviet space – one that is radically changing the role of election procedures in the formation of legitimate power. Elections in the CIS countries are turning from an instrument of the people's will into a convenient pretext for outside multilateral interference. This new environment is aimed at creating international legal conditions for changing a regime by challenging election results, claiming as illegitimate the existing constitutional procedures and provoking an acute political crisis. As a rule, the crisis either turns into a 'colored' revolution, that is, an unconstitutional change of power through a coup that is automatically recognized by the 'international community,' or else it leads to long-lasting political destabilization that is controlled from outside and which ultimately paralyzes the legally elected power.

The outside factor – represented by an integrated network of Western nongovernmental organizations; mass media (above all television), international observation organizations, such as the Office for Democratic Institutions and Human Rights (ODIHR), OSCE and PACE; public opinion agencies and the political leadership of Western countries – now plays a crucial role in managing election results in the post-Soviet space. They have accomplished this role by claiming to know which elections are legitimate and which ones are not. Thus, an election is legitimate and corresponding to international standards if the results satisfy these organizations in terms of the makeup of the winning forces. If, however, the probable winner does not suit their needs, they portray the election as illegitimate, not free and unjust. Paradoxical as it may seem, the same teams of 'observers' declare election results as illegitimate in some countries of the former Soviet Union and legitimate in others despite the almost mirror-like coincidence of claims (as was the case during the March parliamentary elections in Moldova that were conducted with considerable violations).

Thus, the issue of election legitimacy and its correspondence with international norms amounts to a pretext for taking away the legitimacy of the governing authorities, with the help of outside forces and the coordinated efforts of the opposition; it becomes a political and legal instrument for regime change. The winning party – in case of being recognized by the international organizations as 'unfair and unjust' – is declared illegitimate by international legal standards and thus 'legally' becomes an object for tough outside pressure. The very threat of internationally recognizing election results as illegitimate, together with the subsequent crisis and regime change, becomes an effective instrument of influence in all post-Soviet countries, including Russia. The OSCE and PACE supervisory structures attempted to cast doubt on the legitimacy of Russia's State Duma election results in December 2003, and again on the presidential election in March 2004.

Starting with the presidential election in Armenia in the spring of 2003, international election observation organizations, together with the EU member states and the U.S., failed to recognize a single legitimate and democratic election campaign in the post-Soviet states. In 2003-2005, five election campaigns ended with massive protests; in three cases they led to the unconstitutional change of power (Georgia, Ukraine, Kyrgyzstan), while in two cases (Azerbaijan, Armenia) they resulted in a political destabilization. In Belarus, the parliamentary elections and a referendum for prolonging the authorities of Alexander Lukashenko in October 2004 were recognized as 'totally undemocratic and illegitimate.' Today, Washington and Brussels use this conclusion as a legal basis for publicly arguing the necessity for overthrowing the ruling regime in Belarus.

In all cases, these organizations delivered guilty verdicts against the elections of those regimes whose policies did not suit the U.S. and the EU, yet had the support of Russia. They also delivered similar verdicts against those countries where opposition to the West is strong. In those CIS countries where the geopolitical orientation of the ruling regime is acceptable for Washington and Brussels, and where there is no viable alternative to the ruling power, the criticism has been much more moderate. Moreover, there have been no 'far-reaching' organizational conclusions (as regards, for example, the parliamentary elections in Kazakhstan, Tajikistan and Moldova in 2004 and 2005).

The model of externally controlling election results through managing election legitimacy looks practically the same everywhere, with minor differences depending on the specifics of local political process, of course. The important components of this model are as follows.

Long before an election process begins, the Western mass media (as well as the opposition-controlled mass media of the given country) begin an intensive information campaign with the participation of leading Western experts and public opinion leaders (including former heads of state). This campaign aims to convince the world at large that the ruling regime of country 'X' is undemocratic, corrupted and authoritarian, and that it intends to falsify the forthcoming election for the sake of keeping power. There can be no fair election under such a regime because 'a corrupted regime will never win a fair election.'

In order to add legitimacy to their claims, the West must pressure the authorities of country 'X,' threaten to seize the foreign assets and property of regime leaders and their family members, and refuse to issue them visas. Such actions receive legal support (one example is the bill forwarded by Dana Tyron Rohrabacher, Republican member of the U.S. House of Representatives, entitled 'Ukraine Democracy and Fair Elections Act of 2004', which required such sanctions if the outcome of Ukraine's presidential election should be recognized undemocratic and unfair). Additionally, country 'X' receives support in holding fair elections by financing the oppositional mass media and establishing non-governmental organizations for training election observers and opposition lawyers to make continuous complaints, as well as organizing information campaigns in the mass media in order to 'expose the facts of election falsification.'

Under the motto 'There can be no fair election under the criminal regime,' the opposition conducts its own election campaign with the predetermined result: the election results were false, the ruling power officially designated itself the winner, while actually the opposition believes that victory belongs to it. This conclusion is further replicated at all levels and in all forms. Opposition lawyers file piles of suits with election commissions and courts dealing with the most insignificant contraventions of election norms (in fact, they engage in petty caviling). Information about 'numerous violations' becomes proof of the 'resultant mass falsification.'

Western NGOs begin to spread their 'enlightening activity' in country 'X.' International election observation organizations, above all, the ODIHR of the OSCE, start monitoring and fix 'numerous violations in the election.'

It is crucially important to quickly announce the election results based on the exit polls, as these tend to lean heavily in favor of the opposition. The difference between this data and the preliminary results of the Central Election Commission in favor of power is used as a basis for appeals by the opposition to its supporters to crowd the streets and block government buildings (importantly, the technology of 'crowding the streets' must be practiced in advance).

Then the most interesting thing happens. Missions of international observers (OSCE, PACE, Western NGOs) make official statements declaring the election undemocratic, unfair and contradictory to international norms. This serves as a basis for the U.S. authorities and EU leadership to declare that they do not recognize the voting results in country 'X' and argue that it is thus necessary to hold a new 'fair' election. This is the key point: non-recognition of the voting results by the world's leading states turns country 'X' and its power elite into international outcasts. The country's constitutional power also becomes illegitimate; hence, its overthrow – perhaps even its violent overthrow – becomes justifiable.

At this point, powerful outside pressure exerts itself on the victorious authorities. It is also targeted at all forces in the country that support them – business, middle class, culture elites, i.e. those layers of society which are most sensitive to international isolation and which, at the same time, act as communicators with the electorate inside their own political systems. For example, according to reports of the Ukrainian and Western mass media, the decisive role in preventing Ukraine's President Leonid Kuchma from the use of force against the opposition and making him agree with Western demands for a second election was due to his daughter Elena Franchuk and her husband, billionaire Viktor Pinchuk.

In autumn 2004, the presidential election in Ukraine carried all of the modern pre-election procedures. An elaborate system of election monitoring, legal support, vote denial, complaint procedures and mass media involvement were mobilized for the first time as a single technological system to provide all of the resources for achieving one result: the recognition of the

election as illegitimate. The country's authorities were taken unawares and could not counter such an onslaught.

In 2005 and 2006, the Western mechanism of 'controlling election legitimacy' was applied to the presidential election in Kazakhstan, parliamentary elections in Azerbaijan and parliamentary elections in Transnistria. However, the main event was expected to be the election of the head of state in 2006 in Belarus where the system of preventive election de-legitimization underwent a general rehearsal before 'the main battle' in Russia in 2007 and 2008.

It is obvious that Russia and other countries of the CIS, which consider themselves sovereign, cannot ignore the fact that Western structures have the available effective technology to control election results and, consequently, an opportunity to form the composition of power per se. However, today Russia and its allies have no system of their own to legitimize the election procedures and results as a mechanism of sovereign and democratic self-defence.

Thus, the only answer to the West's challenge has been Vladimir Putin's tough statement that Russia, as any state with self-respect, 'will not allow the foreign financing of political activity of public organizations,' together with the call by deputy chief of the Kremlin administration Vladislav Surkov to build 'a sovereign democracy' in Russia. However, this is not enough. Russia needs to master the Western tools of legitimizing the political processes in the post-Soviet space.

The Orange Revolution and the Distortion of the Citizenry's Will: Material for a Complaint by the Party of Regions

(*Original title:* Material for the possible structure of arguments in support of a complaint to the Supreme Court and for discussion in mass media [paper prepared for the Proceedings Concerning the Legitimacy of the Third Round])

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Introductory Comment

The below paper was originally produced as a briefing note in support of a legal action undertaken in opposition to the claims on the Presidency of Ukraine by Viktor A. Yushchenko. The paper was prepared for and discussed with a group of Ukrainian MPs, who in December 2004 – January 2005 were supporting Viktor F. Yanukovych in his own bid for the Presidency. It was employed by Nestor I. Shufrych, MP, before the Supreme Court of Ukraine in January 2005.[1] *The central premise of this legal action was that the uncertainty surrounding the outcome of the Presidential Election of the 26th of December 2004 invalidated* all *claims on the Presidency, including that of Viktor A. Yushchenko.*

The paper attempts to pose questions, to identify a number of abuses of the political and electoral process, and present ideas in the context of a confused and rapidly-changing set of political conditions. The original format of a briefing note reflects the immediacy of the events to which the arguments relate. As a historical document, it also reflects engagement on the part of the author with events as they unfolded, while operating in an environment which

1 See, Valentin Yakushik, 'Ukraïns'ka revoliutsiia 2004-2005 rokiv: Sproba teoretychnogo analizu', *Politychnyi menedzhment,* no. 2, 2006, p. 24, http://www.politik.org.ua/vid/magcontent.php3?m=1&n=56&c=1180; *idem,* 'Politicheskie i tsivilizatsionnye aspekty ukrainskoi revoliutsii 2004-2005 gg.', *Politicheskaia ekspertiza*, vol. 2, no. 2, 2006, p. 290, http://politex.info/content/view/196/40/.

provided limited and frequently distorted information. Finally, the note reflects the urgency of a situation in which the uncertainties of rapidly shifting circumstances overlay what was believed to be an attempted unconstitutional and illegal seizure of State power. In order to retain this sense of uncertainty the original format of the briefing note has been retained.

The author did not have any institutional affiliation with a Ukrainian political party, but has, for some years been providing advice to the Members of Parliament representing the Party of Regions and to the officials of that Party.[2] *This work was, at the choice of the author, exclusively advisory and unpaid. His analytical and advisory work has been an expression only of his status as an individual citizen, undertaken in support of the values of the rule of law and the principles of multiculturalism. The major incentive for supporting Viktor F. Yanukovych during the 2004-2005 Ukrainian Revolution was the author's conviction that the President Leonid D. Kuchma was attempting to preserve his personal power. It was clear that the President, with his feigned, hypocritical and even obtrusive 'support' for 'his official successor', was cynically trying to use Viktor F. Yanukovych, the Prime-Minister and the candidate for the Presidency, as a 'small fish' to catch a big one – to 'eliminate' both major candidates, and to play the role of the country's 'savior'.*

The present paper was one of several briefing notes prepared by the author for the Party of Regions in October 2004 – April 2005, and it served as a basis for the series of his further publications.[3]

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2 Valentin Yakushik, 'Linii politychnogo i kulturno-tsyvilizatsiinogo rozmezhuvanniia v suchasnii Ukraïni', *Kurasivs'ki chytannia – 2005. Naukovi zapysky*. Vol. 30. Part 1. (Kiev: Instytut politychnyh i etnonatsional'nyh doslidzhen' im. I. F. Kurasa, 2006): 379-380.

3 Valentin Yakushik, 'Revoliutsiia, no ne oranzhevaia', *Den* (Kiev), 15 December, 2005, p. 4, http://www.day.kiev.ua/154501/; *idem*, 'The 2004-2005 Ukrainian Revolution: Basic Characteristics and Manifestations', in Geir Flikke and Sergiy Kisselyov (eds.), *Beyond Recognition? Ukraine and Europe after the Orange Revolution. Conference Proceedings* (Oslo: Norwegian Institute of International Affairs, 2006): 79-86, http://www.dfc.ukma.kiev.ua/books/beyond_recognition_eng_text.pdf; Valentin Yakushik, 'Ukraïna 2004-2005: revoliutsiia chy ni?', in Yuri Shapoval (ed.), *U koliorah 'pomaranchevoïï revoliutsiï'* (Kyïv: EksOb, 2007): 255-280.

Kiev, 11th January 2005

Important, but not determining, are those (already well developed) arguments addressed to the Supreme Court that comprise a series of questions related to **infringements of human and citizens' rights** due to:

(a) the **discriminatory regulations of the new Law 'On the peculiarities of the application of the Law of Ukraine "On the election of the President of Ukraine",'**[4]

(b) the failure of the Central Electoral Committee to provide the necessary time period for informing electoral committees about the decision of the Constitutional Court (of 25th of December, 2004) concerning the nullification of one of the items of this law,[5]

(c) the discriminatory and illegal nature of the comments of the Central Electoral Committee regarding the decision of the Constitutional Court).

Much more important are questions connected to the **lack of normal conditions for conducting democratic elections in Ukraine due to the system of unconstitutional (revolutionary) bodies**, that have to a significant extent replaced the system of legitimate constitutional authorities. Actually there has been created a diarchy in Ukraine with parallel systems of constitutional and revolutionary authorities, resulting in a conflict between constitutional and a revolutionary legality. Consequently, *the expression of free will (on the basis of liberal-democratic norms and voting procedures) by a significant part of the citizens was seriously restricted. The distortion of the will of citizens has been of a massive and systemic nature.*

I. The basic components of the mechanism of pressure upon the citizens on the part of unconstitutional bodies

1. The presence of a **self-proclaimed 'new legitimate President'** (in November – December 2004):

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4 Zakon Ukraïny 'Pro osoblyvosti zastosuvannia Zakonu Ukraïny 'Pro vybory Prezydenta Ukraïny' pry povtornomu golosuvanni 26 grudnia 2004 roku'. http://www.vybory.com/ukr/legis/3president/specific_use.html.

5 Reshenie Konstitutsionnogo suda Ukrainy ot 25.12.2004. http://ua2004.ru/docs/ks/.

(a) The oath in the Verkhovna Rada by the 'President' V. A. Yushchenko on the 23rd of November 2004 that has never been disavowed either by himself, or by 'Our Ukraine'.

(b) Constant statements by the leaders of the Maidan that 'Ukraine already has a lawfully elected President'.

(c) Statements by the leaders of 'Our Ukraine' (for example, by Yurii Kostenko in televised debates, etc.), that 'Our Ukraine' would not recognize any other result of the elections, except for V. A. Yushchenko's victory. (Similar statements were characteristic also of a number of foreign representatives. But this is really a different aspect of this very problem – interference into the internal affairs of Ukraine.)

So, we are dealing with a massive systematic pressure upon the public opinion of the country intended to create the impression that there is already 'a lawfully elected President', and that this fact of revolutionary legitimacy should just be formally confirmed through the use of liberal-democratic procedures (while any alternative result of these procedures is actually denied). These are very specific elections without a choice. (Whether you vote or not, whatever, you get... Yushchenko.)

2. The political institution of the Maidan, copied from similar Tadjik and Azerbaijani structures of the early 1990s. (One should recollect numerous political arguments such as: 'The Maidan did not give us consent for that...', 'Have you asked the Maidan?', etc.)

It is necessary:

- to reveal the structure of the 'institution of the Maidan', its functions, informational, financial and material flows, mutual relations with other unconstitutional revolutionary bodies and foreign states, 'legal status' (especially from the point of view of the acts of the Kiev authorities and administration of the appropriate district authorities and district judicial bodies);

- to demonstrate the nature of the Maidan forum and its playwrights, the features of the scenarios, and their trance and NLP techniques (comparable to the techniques used by religious organizations like 'God's Embassy'), the introduction of techniques of carnival culture;

- to attract attention to the fact that religious congregations were drawn by the Maidan into a political struggle – bearing in mind that against the

background of speeches of their representatives, V. A. Yushchenko has declared that there is a struggle of Good against Evil, representing himself as an embodiment of Good, with his opponents being depicted as embodiments of Evil (by the way, on the 8th or 9th of January 2005, these conceptions were repeated by Filaret, the head of the Kiev Patriarchy, in his interview with Kiev TV);

- to explain the status of the tents (tent city) with its strict discipline, entry permit system, security, etc.;

- to address the subject of the almost non-stop television coverage from the Maidan (primarily by the '5th Channel'), and coverage of the Maidan through other mass media.

3. The Maidan and the creation and active functioning of **militarized (though not armed) groups**, **seizure by them of roads and public buildings** (such groups as 'SVU' – 'Soldiers of the free Ukraine', 'Tryzub' – 'Trident', 'Chervona kalyna' – 'Red Guelder Rose', etc.); the creation of obstacles for the functioning of state bodies – **blocking**, 'noise accompaniment', etc.

4. The official central revolutionary body – the National Salvation Committee[6] (with its central, regional and local bodies):

(a) **Its central bodies'** structure, personal composition (including who from among the People's Deputies from the Verkhovna Rada are among its members) and functions.

The actions in the centre. On the 22nd of November, 2004, an arbitrary illegal capture of the state authority has begun. The National Salvation Committee has issued decrees by which it has actually suspended validity of some clauses of the Constitution of Ukraine. There were appeals and threats to block or seize government institutions, highways, post offices, telegraphs, airports, and a lot of these actions were carried out. The Attorney General – while that post was held by G. A. Vasilev – was reacting to these actions, a number of criminal cases were open. But the Attorney General, Mr. S. M. Piskun, has closed all these cases without any lawful basis.

(b) **Its regional and local bodies'** structure, personal composition (in particular what public [state and municipal] servants and deputies [members

6 Vpervye publikuetsia sostav Komiteta natsionalnogo spaseniia Ukrainy. (08.12. 2004). http://obozrevatel.com/news_files/169000.

of councils] are among their members) and functions (in regions, districts, village councils, in particular organizations, e.g. in military units, in militia – i.e. police, etc.).

Actions in the western regions of Ukraine: under the influence of the National Salvation Committee regional councils (*radas*) on their sessions have passed decisions to appoint 'their' governors, to take under their subordination local heads of law-enforcement institutions, regional divisions of the Ministry of Internal Affairs and the Security Service of Ukraine (SBU).

(It would be useful to analyse examples of how certain representatives of the 'old regime' were discharged of the authority, new 'officials' were elected or appointed, new power structures were created.)

II. Manifestations of biased attitudes towards one of the candidates for the Presidency on the part of various legitimate state institutions as a result of the **establishment of the r evolutionary control over a number of constitutional bodies,** or illegal exercise of determining influence on their activity or their compulsion into illegal or formally legal, though one-sided actions in favour of one of the candidates for the Presidency.

1. The cr eation of condi tions of 'anarchy' or functioning of alternative to the centra l authority (to the Government and the President) local a nd regional centres of authorit y, in particular in many regions of western Ukraine and in a number of central state institutions.

In this respect a certain interest can represent a public statement of the speaker (head of the press-service) of the Ministry of Foreign Affairs, Mr. Markiian Lubkivskyi, of the 23rd of November 2004, which was disorientating Ukrainian diplomats and the public concerning the standpoint of employees of the Ministry of Foreign Affairs (incidentally, the letter of Ukrainian diplomats to which Mr. M. Lubkivskyi was referring has never been published).

2. The Office of Attorney General, illegally headed by Sviatoslav Piskun, **has developed a campaign of pe rsecution and in timidation of the leaders of r egions and cities which have acted again st anticonstitutional protest actions of the for ces supporting V. A. Yushchenko**, and in this respect have offered to seriously consider the problems of changing the present form of state organisation in Ukraine (the replacement of the unitary form by a federal or a decentralised unitary with

some elements of federalism). At the same time the Office of Attorney General, had not reacted in any way to the creation and activities in the western regions of Ukraine of anticonstitutional authorities (bodies such as the National Salvation Committees) that were provoking the confrontation of the regions of Ukraine.

The 'return' of S. M. Piskun to the post of Attorney General is absolutely illegitimate. (On this issue it is worthwhile taking into account the assessments of the former Attorney General, G. A. Vasilev.)

3. Provoking units of the army and militia (police) to stop subordinating to the constitutional authorities:

(a) Official statement at the meeting of the officers and non-commissioned officers of Drogobych **military unit** D0090 of the Ministry of Extraordinary Situations that the leadership and personnel of the unit 'together with the Ukrainian people recognise Viktor Yushchenko as Head of State';[7] statement of rear admiral Igor Teniukh; the actions of the TV of the Ministry of Defence, etc.

(b) Active **implementation on the Maidan of the tactics of 'demobbing' of the army, militia (police), security service** (with such slogans as: 'Militia with the people!'; 'Do not carry out criminal orders!'; carefully chosen selection of speakers on the Maidan, etc.)

4. The Verkhovna Rada has frequently acted under the influence of revolutionary pressure, **breaking constitutional procedures**.

5. There was a massed **pressure on the Central Electoral Committee**. (Besides, among the members of the newly elected Central Electoral Committee there are no representatives from the supporters of V. F. Yanukovych.)

Administrative resources for the distortion of electoral results were fraudulently **used on the part of the Central Electoral Committee** at polling stations (and in electoral districts) where voting in favour of V. F. Yanukovych was anticipated (for example, **insufficient quantity of voting slips** in some polling districts).

Also it is worthwhile mentioning that before the first round of voting a significant number of Ukrainian citizens living in Russia were on purpose

7 Andrii Goruna, 'Krok do svobody', *Lvivs'ka gazeta,* 25 November, 2004, http://www.gazeta.lviv.ua/articles/2004/11/25/430/.

deprived of the right to vote – due to the results of the first revolutionary actions of 'Our Ukraine' in the premises of the Central Electoral Committee (when already after midnight of the last day envisaged for the formation of polling stations abroad, there were approved polling stations, for example, in Vietnam, but not in many locations in Russia, where significant numbers of citizens of Ukraine reside). In fact, 'Our Ukraine' promoted not the issue of guaranteeing the fairness of voting procedures, but the issue of 'legitimately' denying the opportunity of expressing one's will by parts of Ukrainian citizens (by those who were probably considered to be insufficiently reliable). It was just the beginning...

Quite 'specific' conditions were created **at the special ('closed'**, i.e. of a restricted access) **polling stations**.

(a) Psychiatric clinics.

There may be taken the following example of such voting – the one at the **Psychiatric hospital named in honour of the academi cian O. I. Yushchenko** (address: 109, Pirogova Street, 21005, Vinnytsa; phone number: 52-45-63). Foreign observers (from Israel and the CIS) have drawn attention to flagrant forgeries, including an incomparably large number of 'voters' who appeared from outside and have voted at this special polling station without the appropriate documents. *(It would be interesting to check and compare what the results of voting there were during the first two rounds, and in the last round.)*

(b) Jails and other places of imprisonment. *(It's advisable to find indicative examples: how voting results have changed; reveal the mechanisms of achieving such results – promises of the amnesty, pressure on the part of the administration, etc. Are there any relevant testimonies?)*

(c) Military units and ships, especially those whose staff in advance have been sworn on oath to 'the new President'.

6. A number of examples of **actions of admi nistrative bodies in favour of one of the candidates**:

- *de facto* actions approved by legally sanctioned acts of administrative and representative bodies, or remaining without formal legal approval – the example of the city of Kiev and actions of its Mayor O. O. Omelchenko concerning the permanent informational and propagandist centre of supporters of V. A. Yushchenko (the Maidan, a tent city), seizure of buildings,

actions of militarized groups, etc.; examples of a number of west Ukrainian residential settlements, etc.);

- acts and actions of a number of heads of state universities and some institutes of the National Academy of Sciences of Ukraine (for example, the press centre of V. A. Yushchenko was located at the University of 'Kiev-Mohyla Academy'; and the academician Mykola Zhulynsky has passed the premises of 'his' institute to 'revolutionaries' supporting V. A. Yushchenko who established control posts at the entrance of the academic institutes' building at 4, Grushevskogo Street).

III. Other important aspects of the processes characterising the general situation in Ukraine during the election campaign.

1. Various forms of **political advertising on the elections day**:

- A permanent rostrum and a concert centre (with the relevant political attributes) on the Maidan *(what was the legal status of this centre?)*;
- permanent tent camps;
- an orange flag on the monument of independence on the Maidan in Kiev ('the victory banner') and on many administrative buildings in various regions (for example, on a mayoralty in Vinnytsia).

2. Illegal financing of the electoral campaign of one of the candidates for the Presidency:

- *direct and indirect;*
- *the amount, and for what purposes?*
- *sources?*

In particular it should be specified how much was paid for the 'use' of the 'Trade Unions House', the 'Ukrainian House', the 'October Palace' and the ground floor of the City Hall; and what would be the real price for leasing these premises, as well as premises of several institutes of the National Academy of Sciences of Ukraine, the 'House of Architects', etc.

In a half-joking way, there may be a proposal made to check the accuracy of O. O. Omelchenko's reports of the expenditure of the received funds for food and accommodation of revolutionaries (and similar information concerning the reporting for the funds received by 'Pora' organization through its grants.)

Of particular interest is the information on the help rendered by foreign states and foreign capital (especially by Russian capital – the friends of V. A. Yushchenko and his companions-in-arms, and also those who were 'deprived' during the privatisation of some important industrial objects in Ukraine, and personal opponents of V. V. Putin (who were acting on the basis of political priorities – 'to do a bad turn to the allies of Putin'), in particular by B. A. Berezovskii and the forces financing the Union of the Right Forces.

3. Regular and mass **dissemination of distorted information**, **forcing political hysteria, the use of trance and NLP techni ques** that may be harmful for mental health.

A). Lies and political provocations on TV channels:

- open insults of representatives and supporters of V. F. Yanukovych (allegedly being 'gangsters', 'skinheads', 'living according to criminal precepts', etc.;

- forcing by the TV '5th Channel', the Maidan and a number of People's Deputies of the anti-Russian hysteria and regular disinformation related to the ostensible aggression on the part of Russia:

(a) 'Russian '*spetsnaz*' (special troops) stationed in the Administration of the President of Ukraine' (Yu. Tymoshenko's statements) and 'near the town of Vasylkiv';

(b) 'the concentration of the Russian army in border areas';

(c) 'V. A. Yushchenko was poisoned with Russian poison and by Russian agents';

(d) the arrest of two Russian citizens 'with the explosive who wanted to blow up V. A. Yushchenko and his Headquarters';

(e) 'The Black Sea fleet has passed arms to militarized groups of supporters of Viktor Yanukovych in East Ukraine' (the statement of Grigorii Omelchenko, a People's Deputy).

B). Purges ('personnel cleanings') on TV channels and in other mass media after the second round of voting.

C). The atmosphere of i ntimidation and r eprisals vis-à-vis supporters of V. F. Yanukovych in many regions and organisations:

(a) posting lists of unreliable persons (those who are known as having voted for V. F. Yanukovych or in other way supported him);

(b) punishing mayors – supporters of V. F. Yanukovych, almost lynching, forcefully bringing them on local Maidans to repent;

(c) punishing 'unbelievers'.

D). The people have undergone a mass influence of trance and the use of the newest NLP (neuro-linguistic programming) technologies.

A high professional use of these techniques by the playwrights of the Maidan is proven by the numerous facts which were not so noticeable to the majority of ordinary citizens (who are not so much acquainted with the subtleties of political and psychological technologies used in relation to them), but which could not have been unperceived by a number of professionals – political scientists and psychologists.

At the mass meetings on the Maidan, political technologists (spin-doctors) primarily tried 'to disconnect thinking' and to maximize emotional engagement.

For the creation of the image of a successful revolution (of a uniform revolutionary political system) and the 'destruction of the old state', consecutive symbolic representations were staged on the Maidan and in the TV broadcasts of the '5th channel' when 'conscious' policemen (militiamen), military, representatives of the SBU (security service) were speaking – a clear hint at the disintegration of the law enforcement structures. Then a 'communist' takes the floor and, according to the script of 1991, tears to pieces his party membership card (actually symbolising the appeal to all supporters of leftist forces to join the Socialists who became 'revolutionaries'). Speaking after a group of priests – representatives of various religious denominations (Christian, Jewish and Muslim) one Sunday 'the people's President' proclaims that it is exactly him who represents the Forces of Good who, undoubtedly, will defeat the Forces of Evil which, obviously, are personified by his political opponent. And with an unambiguous hint at the destiny similar to that of E. Shevardnadze regime, just in front of the rostrum on the Maidan, for many days, in the same place, a new revolutionary Georgian flag has been flying. Later on, an orange 'banner of victory' will appear up on the central monument at the Maidan, and is present there hitherto. And so on and so forth. A system of such symbols is delicately, 'gently' influencing the consciousness (and even more the subconsciousness) of citizens.

And the 'revolutionary' TV (especially the '5th channel' owned by Petro Poroshenko, a People's Deputy) is 'bringing the Maidan' (with its infinite meetings and a revolutionary festivity non-stop disco) into each house. And it should be absolutely clear to all and everybody that only Viktor Yushchenko is with the people and for the people, and that he is an embodiment of the Forces of Good.

The use of psychological techniques for inducing large groups of people into a state of trance (a superficial hypnosis) – along the patterns of 'the White Brotherhood' and 'God's Embassy' – is beyond doubt. By the way, 'God's Embassy' was actively involved in V. A. Yushchenko's electoral campaign nationwide). Meanwhile, the constant scanning and chanting of a limited set of slogans with the assistance of professional 'conductors' from among political technologists (spin-masters) is only one of components of such psychological techniques. It is worth remembering, that also the Mayor of Kiev O. O. Omelchenko has drawn attention to the fact of zombieing (i.e. of induction into a state of trance) of those present at the meetings on the Maidan. In particular he spoke about it at the meeting with President L. D. Kuchma in Koncha-Zaspa, emphasizing, that on the Maidan there are 'zombied people standing'. There is the relevant TV footage that was seen by the whole country (the TV coverage of O. O. Omelchenko's statement).

4. The creation of a system of use of special technical means for illegal mass eavesdropping of telephone conversations and transfer of this information to V. A. Yushchenko's headquarters.

5. Direct intervention of foreign states in the election process:

(a) Open or latent financing of supporters of V. A. Yushchenko (what was mentioned above in item 2). In that issue, of significant interest is information of the American congressman Ron Paul about the channels and forms of support on the part of the USA to one of the candidates for the Presidency of Ukraine.[8]

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8 Polnyi tekst vystupleniia kongressmena Rona Pola, Tekhas, pered komitetom po mezhdunarodnym otnosheniiam palaty predstavitelei Kongressa 7 dekabria 2004 g. http://ukr.ru/common/73794955; Ron Paul, 'Exactly How Has the US Meddled in the Ukrainian Elections?' *Statement before the US House International Relations Committee, December 7, 2004 by Rep. Ron Paul, MD.* http://www.lewrockwell.com/paul/paul223.html.

(b) Constant presence of the 'Voice of America' on Ukrainian TV with an unequivocal political orientation of its comments (in special broadcasts prepared by it for Ukrainian TV channels), and the participation of the employees of 'the Voice of America' and the invited (by them) commentators in the programmes of the '5th channel'.

(c) Arrival to Kiev and speeches at mass meetings of numerous high-ranking foreign politicians supporting V. A. Yushchenko, their speeches in the mass media.

(d) Other forms of rendering assistance to one of the candidates for the Presidency on the part of Poland, USA, Georgia and other countries (advisers, 'support groups', technical means, etc.).

Trans-national Actors in Democratizing States: The Case of German Political Foundations in Ukraine[1]

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Abstract

The Orange Revolution halted an increasingly undemocratic tendency in Ukraine, but it remains unclear whether this was entirely generated within Ukraine or was in part stimulated from outside. Evidence suggests that trans-national actors, such as German political foundations, influenced this change. As norm entrepreneurs, agents of socialization and pro-active elements in the democratization process itself, they have fostered democratic tendencies over a long period, and this has had a positive influence on the development of civil society and the values needed to sustain democracy.

At the end of 2004, the Orange Revolution halted an increasingly undemocratic tendency in Ukrainian politics. Manipulated election results, which saw the candidate in power win the presidential elections, were contested by a democratic opposition and a protesting Ukrainian population. Those in power were forced out of office and handed over the reins of the highest Ukrainian institution peacefully.

Lyudmila Yanukovych, the wife of Prime Minister Yanukovych, who was forced to resign during the revolution, however, seems extremely perspicacious:

> Dear friends, I've just come back from Kyiv and I can tell you what's happening there. An Orange Orgy! For example, you find endless rows of felt boots there – all produced in the USA. And mountains of oranges... They are loaded. ... The people of this square have been poisoned, in masses!

1 Originally published in *Journal of Communist Studies and Transition Politics*, vol. 23, no. 2 (2007): 296-319.

And her husband agreed:

> This is not a revolution but a machination of the special services... These people carry a heavy sin, they will have to answer to God for it.[2]

Like the Yanukovyches, instead of democracy's advance, many see the Ukrainian Orange Revolution as a Western-funded conspiracy and raise the question of whether it was influenced by external actors. The work of German political foundations in Ukraine has not been covered by the media and few question their activities. However, it is widely acknowledged that they played a significant role in the democratization process on the Iberian peninsula and in South America. The main goal of this article, therefore, is to analyse how active German political foundations were in Ukraine. It will be argued that as norm entrepreneurs, agents of socialization and pro-active elements in the democratization process itself, they fostered democratic tendencies over a long period. To have a better understanding of their work, the second goal is to put this case study into a larger theoretical framework. It will be suggested that insights of democratization theory may be complemented by trans-national relations literature.

Hence, after a theoretical analysis of democratization processes, it will be argued that classical work on regime transition puts too much emphasis on domestic explanations, while external factors are neglected. Since the third democratization wave in the late 1980s and early 1990s, this criticism may have been alleviated. Scholars increasingly incorporate external causes of transition into their work and an overview of this will be presented. However, these attempts remain highly general. It will be argued that research on trans-national actors can help fill this gap. This includes concepts of trans-national actors' roles in the emergence of norms, and suggestions concerning the factors influencing their activity; the German political foundations mentioned are such trans-national actors. The third part presents their characteristics, their goals, instruments and methods.

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2 As quoted in Konrad Schuller, 'Jugendrevolte, nationale Erweckung. Was hielt die "orangene Orgie" der Opposition in der Ukraine zusammen?', *Frankfurter Allgemeine Zeitung*, 9 December 2004.

To understand the events of November and December 2004 in Ukraine, it is necessary to know what was at issue: the domestic structure. Ukraine was a semi-authoritarian state in which elections were held, but these were subject to extensive manipulation by state officials. This was challenged by the Orange Revolution, which will then be analysed, with reference to the initial theoretical analysis of transition. The subsequent part discusses the foundations' activities within Ukraine, through the lens of the literature on trans-national relations mentioned above. The foundations are depicted as norm entrepreneurs and agents moulding events inside Ukraine, and we highlight how the domestic Ukrainian structure and the foundations' own assets influence their work.

Trans-national Actors in Democratizing States

The transition literature seems consensual on the different phases of transition, but there is much debate on the causes. Therefore, I first outline an ideal type of democratization process based on Adam Przeworski[3] and then enter into the debate on causation.

The mined path to democracy[4]

At the very beginning of his work on transitions in Eastern Europe, Przeworski considers that 'the path to democracy is mined and consolidated democracy is only one among many possible outcomes of transition'.[5] This path initially leads through a phase of liberalization followed by the democratization phase.

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3 Adam Przeworski, *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America* (New York: Cambridge University Press, 1991).

4 Democracy is defined following Juan Linz and Alfred Stepan, *The Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe* (Baltimore, MD: Johns Hopkins University Press, 1996), 3: "A democratic transition is complete when sufficient agreement has been reached about political procedures to produce an elected government, when a government comes to power that is the direct result of a free and popular vote, when this government *de facto* has the authority to generate new policies, and when the executive, legislative and judicial power generated by the new democracy does not have to share power with other bodies *de jure*."

5 Przeworski, *Democracy and the Market*, 55.

In that analysis, liberalization is a consequence of fissures among the power holders, coupled with the emergence of an autonomous civil society, which leads to a rearrangement of forces. Potential reformers in the government may be interested in an alliance with the emergent civil society, and likewise splits in the power bloc demonstrate to civil society that the time may be ripe for change. Whether governments choose to move on from liberalization to democratization depends on the depths of the splits in the government, the strength of the popular protests, and the general inclination to compromise. The major issue in the unfolding democratization process is to secure the acceptance of new institutions, which make open-ended contestation possible. Whether this succeeds depends on the strategic alliances among the major actors. Przeworski observes that to reach democracy

> something [has to crack] in the authoritarian power apparatus; a group that begins to feel that perhaps it would prefer to share power with consent rather than monopolize it by force, decides to make a move, and turns to eventual partners outside the regime in quest of assurances about its role under democracy.[6]

The subsequent constitution phase entails bargaining over which democratic institutions to establish. Preferences for institutions differ, and thus can cause conflict. Often, the different political forces concoct pacts to remove threats to the embryonic democracy.

The major feature of a democratizing state is its intrinsic uncertainty. As Geoffrey Pridham shows, the scene is populated by actors who have not completely internalized democratic norms and who sometimes lack a genuine commitment to democracy.[7] Old actors fight for their interests in new surroundings, and new, inexperienced actors make their entry. Moreover, many inherited institutions have to be reordered to make them conform to democratic ways of governance. Often democratic rules of competition are

6 Ibid., 72.

7 Geoffrey Pridham, 'International Influences and Democratic Transition: Problems of Theory and Practice in Linkage Politics', in Geoffrey Pridham (ed.), *Encouraging Democracy: The International Context of Regime Transition in Southern Europe* (Leicester: Leicester University Press, 1991), 1-28.

questioned, which makes outcomes highly uncertain and leads to high anxiety among actors.

Internal or external causation – an artificial dichotomy

Like Przeworski, many students of democratic transition have predominantly focused on internal causes of transition. They draw a sharp line between internal and external factors, relegating the latter to a marginal role.[8] The third wave of democratization led scholars to look at the process of democratization from a new theoretical angle. It was obvious that 'new political thinking' in the USSR and cross-fertilization between neighbouring countries played an important role in stimulating democratization. Hence, it was evident that the previous literature had put aside external factors too easily.

Among the scholars who recognized this, Huntington tries to tackle the phenomenon of democratic waves.[9] He notices that declining legitimacy and performance leads authoritarian regimes to accept the rhetoric and ideas of democracy. This is echoed by Linz and Stepan who speak of *Zeitgeist* (spirit of the times):

> When a country is part of an international ideological community where democracy is only one of many strongly contested ideologies, the chances of transiting to and consolidating democracy are substantially less than if the spirit of the time is one where democratic ideologies have no powerful contenders.[10]

Samuel Huntington further observes that democratization can be influenced by the actions of governments and institutions external to that country.[11] He specifically cites the example of the West German government

8 See Dankwart A. Rustow, 'Transitions to Democracy. Toward a Dynamic Model', *Comparative Politics,* Vol. 2, No. 3 (1970): 346, and Guillermo O'Donnell, Phillippe C. Schmitter and Laurence Whitehead (eds.), *Transitions from Authoritarian Rule Prospects for Democracy* (Baltimore,MD and London: John Hopkins University Press, 1986): iv.

9 Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman, OK and London: University of Oklahoma Press, 1991), 34.

10 Linz and Stepan, *The Problems of Democratic Transition and Consolidation*, 74.

11 Huntington, *The Third Wave*, 86.

and the Social Democratic Party which, in the 1970s, actively intervened in the Portuguese struggle, financially supporting the Portuguese socialists. As regime transition is an inherently uncertain process, Whitehead has argued that domestic parties try to look for international support to gain legitimacy.[12] This support can be provided by foreign governments, international organizations and non-governmental agencies and may range on a continuum from legitimate external influence to 'improper intervention'.[13]

Juan Linz and Alfred Stepan agree in several ways.[14] When they start to reform internally, formal and informal empires can transfuse these developments to their subordinates and thus assume the role of opening a gate to democratic efforts. Also, a 'regional hegemon may, by a consistent policy package of meaningful incentives and disincentives, play a major supportive (but not determinative) role in helping a fledgling democracy in the region complete a democratic transition'.

Another feature of democratization are demonstration effects. Huntington observes that events in one society demonstrate 'the ability of leaders and groups in another society to bring about the end of an authoritarian system and to install a democratic system'.[15] This means that members of one society learn from earlier democratizations.

Although it is acknowledged that international factors have a bearing on the modalities of transition, a major problem remains the difficulty of going beyond general indications. Measuring the impact of a single factor is complicated. Also, as noted by Almond, 'social and international change may continue for a long period and only begin to trigger change in the political system when a short-term kink or set of kinks occurs in the curve or curves'.[16]

The neat division between internal and external effects, drawn to facilitate analysis, is somewhat artificial. It is necessary to break up this

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12 Laurence Whitehead, 'International Aspects of Democratization', in Guillermo O'Donnell, Phillippe C. Schmitter and Laurence Whitehead (eds.), *Transitions from Authoritarian Rule Prospects for Democracy* (Baltimore, MD and London: John Hopkins University Press, 1986), 4-9.

13 Whitehead, '*International Aspects of Democratization*', 19.

14 Linz and Stepan, *The Problems of Democratic Transition and Consolidation*, 73-74.

15 Huntington, *The Third Wave*, 101.

16 Gabriel A. Almond, 'Approaches to Developmental Causation', in Gabriel A. Almond, Scott C. Flanagan and Robert J. Mundt (eds.), *Crisis, Choice and Change: Historical Studies of Political Development* (Boston, MA: Little, Brown, 1973), 28.

dichotomy, as we can observe a process of constant interaction between different parts of the international system and the state.[17] Pridham brings some conceptual clarity into these insights.[18] His framework suggests differentiating between background variables, the different external actors and the forms of their influence in order to 'unscramble' the complexity of the national and international contexts. Through this deconstruction, it becomes possible to study the interactions between the two contexts. The international ceases to be considered as a dependent variable: external intervention and external actors interact with the institutional and social structures of the transition country.

Trans-national Actors: A Vehicle for Norms and Ideas

Zeitgeist, external actors and demonstration effects seem to be important approaches to understanding democratization processes; however, they require further specification. Interestingly, a large body of research called trans-national relations adds important insights to the role of international norms and trans-national actors for the sources and trajectories of regime transitions. At the same time, it reduces the dichotomy of internal and external.

Trans-national relations made their way into the discipline of international relations in the 1970s when Robert Keohane and Joseph Nye defined them as 'contacts, coalitions, and interactions across state boundaries that are not controlled by the central foreign policy organs of governments' where at least one participant is non-governmental.[19]

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17 Robert Gilpin, *The Political Economy of International Relations* (Princeton, NJ: Princeton University Press, 1987).

18 Geoffrey Pridham, 'The International Dimension of Democratisation: Theory, Practice, and Inter-regional Comparisons', in Geoffrey Pridham, Eric Herring, George Sanford (eds.), *Building Democracy? The International Dimension of Democratisation in Eastern Europe* (London: Leicester University Press, 1994), 10-12.

19 Robert O. Keohane and Joseph S. Nye, *Trans-national Relations and Wold Politics* (Cambridge, MA: Harvard University Press, 1971), xi.

For Keohane and Nye[20] societies are connected to each other by multiple channels. This includes trans-national actors (TNAs) which are crucial not only because of their self-interested behaviour, but also because they act as transmission belts and make countries more sensitive to each other. Moreover, Keohane and Nye reveal an absence of hierarchy among political issues: 'Many issues arise from what used to be considered domestic policy, and the distinction between domestic and foreign issues becomes blurred'.[21] This means that TNAs are able to introduce ideas into domestic issue areas. As force has lost its role as a dominant policy tool, the distribution of power in different issue areas may arise through new factors. This leads to the reconstitution of the balance of power between different actors. Consequently, a high diversity of political processes, coalitions and patterns of outcomes arises from one issue to another. Agendas will be affected by both domestic and foreign factors. Traditional national boundaries will not restrain actors in their coalition building.

Another generation of scholars has focused on actors promoting norms and ideas. Constructivists see states as constituent parts of a community shared with other states, TNAs and international institutions. In this community, members jointly determine which units are seen as legitimate. Defined as 'standard[s] of appropriate behavior',[22] norms are an essential part of these legitimizing elements. Democracy is understood as such a norm.

The norm 'life cycle', a three-stage process, and the role of TNAs in it, has been analysed by Martha Finnemore and Kathryn Sikkink.[23] The first stage is norm emergence, in which norm entrepreneurs promote their norm and try to persuade others to espouse it. The second stage is norm cascade, in which norm leaders attempt 'to socialize other states to become norm followers'. Here the norm trickles down to the rest of the community. The third stage is achieved when norms are taken for granted and are internalized.

Norm entrepreneurs – agents with strong ideas about the right behaviour in their community – are essential in the emergence of norms.

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20 Robert O. Keohane and Joseph S. Nye, *Power and Interdependence* (New York and London: Longman, 2001).

21 Ibid., 21.

22 Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *International Organization*, Vol. 52, No. 4 (1998): 891.

23 Ibid., p.895.

They consciously frame new issues. However, the framing processes – which 'render events or occurrences meaningful', and 'function to organize experience and guide action'[24] – often face fierce challenges, which norm entrepreneurs have to overcome through elaborate strategies. The strategies include organizational platforms such as non-governmental organizations (NGOs) or trans-national advocacy networks. Their main instruments are the use of their expertise and information. To succeed in their endeavour, norm entrepreneurs have to gain access to state actors so that these incorporate the norm in their agendas. Also normative change is difficult to achieve without significant domestic support. Normally, NGOs are not powerful enough to force their agendas on to states, so they are compelled to use persuasion.

Finnemore and Sikkink argue that to reach the second stage, the norm has to be institutionalized in international rules and to be accepted by a critical mass of states. Then the international system will pressure states to embrace new norms. Contagion will occur, in which international and trans-national influences are more important than domestic politics. The agents of socialization will also include networks of norm entrepreneurs. The reasons for elites to accept new norms relate to questions of identity. If they define themselves in relation to the international community, and if a majority of states in this community are moving towards a new norm, this will create pressure. Legitimation, conformity and esteem are three motivations to respond to these pressures. Domestic legitimacy is based on acceptance of the domestic political structure and compliance with it. If these are challenged by a new norm, and agents constantly point to their obsolescence, the legitimate power base of a government erodes. Therefore, the acceptance of a new norm helps elites to adjust to new circumstances and save their interests.

> Because much norm advocacy involves pointing to discrepancies between words and actions and holding actors personally responsible for adverse consequences of their actions, one way to

24 D.A. Snow, E.B. Rochford, S.K. Worden and R.D. Benford, 'Frame Alignment Processes, Micromobilization, and Movement Participation', *American Sociological Review,* Vol. 51, No. 4 (1986) : 464.

> think about norm entrepreneurs is that they provide the information and publicity that provoke cognitive dissonance among norm violators.[25]

Pressured by activists, repressive governments will make tactical concessions and later accept the international norm.[26] When norms are fully internalized and accepted, the last stage is reached.

Hence, TNAs can function as transmission belts to spread democratic norms into the domestic sphere. Joachim's work is useful in understanding this transmission process.[27] She analyses which factors lead to the success of ideas advocated by NGOs and what leads to their marginalization. Policy issues do not define themselves, but emerge out of social and political framing processes in which NGOs take an active role. Whether an idea promoted by NGOs is successful depends on 'the strategic use of the political opportunity structure in which NGOs are embedded and the mobilizing structures they themselves have at their disposal'.[28]

The political opportunity structure influences how easy it is for NGOs to gain access to the domestic arena.[29] It determines what efforts will be necessary to find influential allies, and shifts in political alignments can generate opportunities for NGOs.

The success of NGOs also depends on how they take advantage of their own mobilizing structures. These include individuals or organizations disposed to bear the costs of certain policies; it also includes experts, who provide knowledge and experience. Finally, it includes international constituencies, which have a legitimizing function and can enable NGOs to use pressure to promote their ideas.

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25 Finnemore and Sikkink, 'International Norm Dynamics', 904.

26 Thomas Risse and Kathryn Sikkink, 'The Socialization of International Human Rights Norms into Domestic Practices: Introduction', in Thomas Risse, Stephen C. Ropp and Kathryn Sikkink (eds.), *The Power of Human Rights. International Norms and Domestic Change.* (Cambridge: Cambridge University Press, 1999), 18.

27 Jutta Joachim, 'Framing Issues and Seizing Opportunities: The UN, NGOs and Women's Rights', *International Studies Quarterly*, Vol. 47, No. 2 (2003): 247-274.

28 Ibid, 251.

29 See also Thomas Risse-Kappen, Bringing Trans-national Relations Back In: Non State Actors, Domestic Structures and International Institutions (Cambridge: Cambridge University Press, 1995).

Trans-national actors promoting democracy challenge the domestic structures of other countries as such. In this case international constituencies and strong ties between local activists and international partners are necessary: Margaret Keck and Kathryn Sikkink argue that, in situations where governments refuse to recognize rights, domestic activists will find support outside their state and try to bring pressure on their state from outside.[30]

As Hans-Peter Schmitz argues, this generally positive assessment of TNA's work is debatable.[31] For example, he refers to Clifford Bob, who argues that an effective impact of trans-national activism requires the availability of domestic groups, which are frequently missing.[32] He also points to the possibility that outside support de-legitimizes domestic groups, making it easier for governments to marginalize them for their subversive activities.

In the Name of Democracy: German Political Foundations' Mission

German Political Foundations have been an essential TNA in the realm of democratization, as they have been involved in almost all waves of democratization of the twentieth century.[33]

In characterizing the six existing political foundations (see Table I.5) the dichotomy of state and non-state is problematic.[34] As they are almost completely financed by the state, their activities need to be co-ordinated with the German government. Nevertheless, they call themselves non-

30 Margaret Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998), 12.

31 Hans-Peter Schmitz, 'Domestic and Trans-national Perspectives on Democratization', *International Studies Review*, Vol. 6, No. 3 (2004): 412.

32 Clifford Bob, 'Marketing Rebellion: Insurgent Groups, International Media, and NGO Support', *International Politics,* Vol. 38, No. 3 (2001): 311–33.

33 Dorota Dakowska, 'Les fondations politiques allemandes en Europe centrale', *Critique internationale*, Vol..24, special issue 'Promouvoir la démocratie?' (2004), 139-57; Beate Kohler, *Political Forces in Spain, Greece and Portugal* (London: Butterworths Scientific, in association with the European Centre for Political Studies, 1982); Michael Pinto-Duschinsky, 'Foreign Political Aid: The German Political Foundations and Their US Counterparts', *International Affairs,* Vol. 67, No. 1 (1991): 33-63).

34 Franz Nuscheler, 'Denkfabriken und diplomatische Hilfstruppen. Die Politischen Stiftungen der Parteien und ihre Auslandsarbeit', in Dieter Weirich (ed.), *Auftrag Deutschland – Nach der Einheit: Unser Land der Welt vermitteln* (Mainz and Munich: von Hase & Koehler, 1993), 224.

governmental, because they plan and implement their projects in a *de facto* autonomous way. This autonomy is largely due to their programmatic affinity with political parties and their overlap among personnel.

Foundation	Political Party
Konrad-Adenauer-Stiftung (KAS)	CDU
Hanns-Seidel-Stiftung (HSS)	CSU
Friedrich-Ebert-Stiftung (FES)	SPD
Friedrich-Naumann-Stiftung (FNS)	FDP
Heinrich-Böll-Stiftung (HBS)	Bündnis 90/ Die Grünen
Rosa-Luxemburg-Stiftung (RLS)	Die Linkspartei

Today, more than half of their budget goes into programmes abroad. In 2003, this was €187 million.[35]

Their general programmes differ minimally. The foundations' aim is to strengthen democratic and pluralist structures in developing and transition countries. They promote measures to broaden the political participation of the population and to increase the economic independence of the country. They support partners who profess a respect for the United Nations human rights charter and the rule of law. The main beneficiaries of technical and organizational advice and support are institutions close to political parties, trade unions and free media.

However, because of their political affinities, certain differences exist, particularly in reference to their target groups. For example, the Konrad-Adenauer-Stiftung (KAS) attaches importance to working with partners who profess adherence to Christian values; the Friedrich-Ebert-Stiftung (FES) puts

35 BMZ, Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung, *Wege und Akteure*, 2, at http://www.bmz.de/de/wege/bilaterale_ez/akteure_ez/polstiftungen/index.html, retrieved 13 Aug. 2005.

a lot of effort into the support of trade unions, and the Hanns-Seidel-Stiftung (HSS) is known for its support of administrations and its stress on security questions.[36]

The foundations' major principle is to implement projects in co-operation with domestic partner organizations. However, in recent years, the foundations have started to realize projects on their own initiative, because adequate partners were missing.[37]

The foundations cultivate close ties to a wide range of groups and individuals, whether they are in the government or the opposition. As the foundations are 'non-state' organizations, their representatives possess a much wider range of opportunities than diplomats, who are subject to certain rules of good conduct. On the other hand, they do not have the position of random NGOs, for they are close to strong parties, which sometimes even run the German government. Thus, they have a special status that opens doors and protects them from the arrogance of the powerful. As the foundations foster contacts with groups and individuals who remain remote from diplomats, they are an important tool for German foreign policy. This is the main reason for giving them as much autonomy as possible.[38]

The foundations are not very forthcoming when it comes to details about their activities. Although many activities are publicized in fairly detailed annual reports, full project lists or project budgets are never published; Some activities are considered 'sensitive'.[39]

36 Nuscheler, 'Denkfabriken und diplomatische Hilfstruppen', 232; Dakowska, 'Les fondations politiques allemandes', 148.
37 Maximilian Schürmann, *Zwischen Partnerschaft und politischem Auftrag. Fallstudie zur entwicklungspolitischen Tätigkeit der Konrad-Adenauer-Stifung* (Saarbrücken and Fort Lauderdale, FL: Verlag Breitenbach Publishers, 1989), 61-62.
38 Nuscheler, 'Denkfabriken und diplomatische Hilfstruppen', 230-231.
39 Pinto-Duschinsky, 'Foreign Political Aid', 35.

German Political Foundations in Ukraine

To understand in what environment the foundations operate and what they want to influence, it is first necessary to outline Ukraine's structure as it appeared on the eve of the Orange Revolution of 2004. Then we shall describe the Orange Revolution. Finally, the third section approaches the foundations' work with the conceptual support of trans-national relations literature.

Ukraine: A Hybrid Regime

Ukraine's democratization, which started in 1991 with the first post-Soviet elections, is still going on. As argued above, democratization is not a one-way process and major setbacks are noticeable in Ukraine.

After independence, Ukraine initially displayed major democratic features. This was based on pluralism by default, with elite polarization on core national issues and weak institutions.[40] Through an early pact, the main cleavage line – national unity – was plastered over: the nationalists were ready to sacrifice democratic goals for national unity, which they valued more highly. Subsequently, elite polarization decreased, thereby reducing the few checks that existed on governmental power. Although state institutions remained weak, the presidency was able to divert the transition process towards more authoritarian forms of government.[41] Thus, at the end of the 1990s, Ukraine had features of a hybrid regime, with weak democratic institutions and authoritarian practices;[42] the government constantly abused civil liberties and political rights. None the less, elections, media, courts and the legislature remained sources of political competition.[43]

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40 Lucan A. Way, *Pluralism by Default: Challenges of Authoritarian State-building in Belarus, Moldova, and Ukraine* (Glasgow: University of Strathclyde, Centre for the Study of Public Policy, 2003).

41 Keith A. Darden, 'Blackmail as a Tool of State Domination: Ukraine under Kuchma', *East European Constitutional Review*, Vol. 10, No. 2/3 (2001): 3, at http://www.law.nyu.edu/eecr/vol10num2_3/focus/darden. html>, accessed 20 June 2005.

42 Paul Kubicek, *Unbroken Ties: The State, Interest Associations, and Corporatism in Post-Soviet Ukraine* (Ann Arbor, MI: University of Michigan Press, 2000); Larry Diamond, 'Elections Without Democracy: Thinking about Hybrid Regimes', *Journal of Democracy*, Vol. 13, No. 2 (2002): 21-35.

43 Steven Levitsky and Lucan A. Way, 'The Rise of Competitive Authoritarianism', *Journal of Democracy*, Vol. 13, No. 2 (2002): 55.

Weak institutions and strong informal mechanisms of control

In 2004, the Ukrainian institutional environment was highly fluid after successive constitutional reforms. It is striking that, over the years, the average term in office for a prime minister was 13 months. This high turnover speaks against continuity of policy and institutional development.[44]

Generally, the distribution of power was confused, which led to institutional competition[45] and to a 'profusion of conflicting and rarely enforced decrees and laws'.[46] Decision making was characterized by hierarchical top–down processes; nevertheless, top decision makers were paralysed by 'vast amounts of micro-management'. This enabled lower functionaries to 'exploit opportunities to accumulate influence, extract bribes, and stifle reforms'.[47]

Implementing institutional reforms was difficult because of a lack of trained public servants. Hence, many ministries existed in name only, while others found themselves in the stranglehold of former apparatchiks with suspect democratic credentials.[48] As Keith A. Darden argues, many of the state's capacities were exercised through informal mechanisms of control such as blackmail.[49]

Fragmented political pluralism and an embryonic civil society

At independence, Ukraine was endowed with only faint traces of what is commonly understood as civil society.[50] The only large opposition movement was Rukh, organized around former Soviet dissidents, which disintegrated after independence.[51] The former Soviet *nomenklatura* continued to exert a high level of influence on Ukrainian political life. Over the years, new actors

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44 Paul D'Anieri, Robert Kravchuk and Taras Kuzio, *Politics and Society in Ukraine* (Boulder, CO and Oxford: Westview, 1999), 132.
45 Ibid., 91.
46 Way, *Pluralism by Default*, 9.
47 D'Anieri et al., *Politics and Society in Ukraine*, 105.
48 Ibid., 106-109.
49 Darden, 'Blackmail as a Tool of State Domination'.
50 Civil society is understood here in Linz and Stepan's terms as the 'arena of the polity where self-organizing groups… relatively autonomous from the state, attempt to articulate values… and advance their interests': *The Problems of Democratic Transition and Consolidation*, 7.
51 Astrid Sahm, 'Zwischen Selbstbehauptung und Unterdrückung: Zum Verhältnis von Staat und Gesellschaft in der Ukraine', in Günther Ammon and Michael Hartmeier (eds.), *Zivilgesellschaft und Staat in Europa: Ein Spannungsfeld im Wandel* (Baden-Baden: Nomos, 2001), 98-99.

such as the infamous oligarchs were integrated. 'These groups [have] perpetuated the corruption of the former system through the persistence of clannish, highly nepotistic networks of relations'.[52] In 2004, it was possible to speak of oligarchic rule in which powerful business-owners accumulated key positions in political and economic life; many used their political posts to foster their own economic interests.[53] Hence, personalities dominated the Ukrainian political landscape. Their interests were so heterogeneous that pluralism was a persistent feature of the Ukrainian system.[54]

In these circumstances, Way argues that it is difficult to explain the Ukrainian pluralism of the 1990s through civil society approaches. Rather, pluralism has to be understood as a consequence of its transition by collapse. Incumbents lost their control over the resources needed to impose non-democratic rule and were forced to give way to demands for liberalization. This was enforced by elite polarization over core national issues. In Ukraine, this split ran between nationalists, who supported an independent state, and communists, who favoured strong ties with Russia. However, political competition decreased as the elites gradually adapted to the new institutional environment. Way observes that the end of polarization in Ukraine – a consensus on national unity – eliminated the main source of pluralism. As mentioned above, this freed the way for much more authoritarian forms of rule.[55]

It is only from 2000 onwards that an embryonic pluralism based on independent civil society actors was able slowly to emerge. The regime's main actors were caught up in the Gongadze scandal, in which President Leonid Kuchma was enmeshed in the assassination of an opposition journalist. This helped to catalyse criticism into organized protest movements,

52 D'Anieri et al., *Politics and Society in Ukraine*, 6.

53 Lucan A. Way, 'Ukraine's Orange Revolution: Kuchma's Failed Authoritarianism', *Journal of Democracy*, Vol. 16, No. 2 (2005): 136.

54 Political pluralism is defined in opposition to the plenipotentiary state; social life comprises multiple sources of authority, which strive to control government through a stable and institutionalized political competition: see Paul Q. Hirst, *The Pluralist Theory of the State: Selected writings of G. D. H. Cole, J. N. Figgis, and H. J. Laski* (London and New York: Routledge, 1989).

55 Way, *Pluralism by Default*, 39.

and the rigged parliamentary elections of 2002 further increased this tendency.[56]

From independence to 2004, Ukraine's party system was weak and highly atomized. Parties did not possess broad, mass support and had no resources to spread their ideas efficiently.[57] Moreover, Przeworski's abstract categories of reformers and hard-liners[58] – 'yesterday's reformer often becomes more conservative once in power'[59] – did not apply to the Ukrainian case. Hence, parties were unable to develop coherent ideological programmes and mainly represented platforms for personalities.[60]

In 2004, the largest and most powerful interest groups – trade unions, industrialists and agricultural associations – were relics of the Soviet regime and were tightly linked to the state apparatus. These 'non-competitive interest associations enjoy[ed] a representational monopoly and institutionalized access to policy formation and implementation'.[61] Hence it is possible to speak of corporatism.[62]

Also contrary to Przeworski's expectations, the existing civil society was not always on the side of democratization. The population remained fundamentally apolitical[63] and the major feature of the Ukrainian model was a yearning for social equilibrium.[64] Conflict had to be avoided at any price, thus precluding any possibility of change and reform.

In brief, there were no proper bridging institutions between the individual and the political authorities. Groups were not represented; on occasion they were even repressed.[65] Most existing organizations functioning

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56 Andrew Wilson, *Ukraine's Orange Revolution* (New Haven, CT and London: Yale University Press, 2005), 58-69.
57 D'Anieri et al., *Politics and Society in Ukraine*, 148-149.
58 Przeworski, *Democracy and the Market*.
59 Kubicek, *Unbroken Ties*, 2.
60 D'Anieri et al., *Politics and Society in Ukraine*, 151.
61 Kubicek, *Unbroken Ties*, 8.
62 Kubicek, *Unbroken Ties*, 20, understands corporatism 'as a noncompetitive form of interest representation in which officially sanctioned groups have guaranteed access to processes of policy formation and implementation but are subject to control from above'.
63 Jerzy Maćków, *Am Rande Europas? Nation, Zivilgesellschaft und außenpolitische Integration in Belarus, Litauen, Polen, Russland und der Ukraine* (Freiburg: Herder, 2004), 214.
64 Kubicek, *Unbroken Ties*, 209-210.
65 Ibid., 201.

as a bridge between society and the state were under state control. Nevertheless, an opposition movement found a way to emerge and grow steadily from 2000 onwards; independent civil society actors were able to gain experience and organize.

The Orange Revolution

The Orange Revolution may well be portrayed as a second democratic transformation. The election campaign itself shows many features of Przeworski's liberalization phase. The protests in Kyiv's streets resemble his democratization phase, where the actors agree on democratic institutions. The difference from a 'classic' democratization phase is that no new institutions were to be built up; rather, the issue was to breathe life into the institutions that existed only on paper.

The presidential elections of 2004 were seen as a choice between two political cultures: the Eurasian and the European, with two blocs opposing each other. Viktor Yanukovych, with the support of President Leonid Kuchma, was seen not only as a continuation of Kuchma's 'bandit regime' but as 'a step backwards to the more gruff, neo-Soviet political culture that dominated Russia and the Eurasian CIS'.[66] Viktor Yushchenko, the opposition leader, personified European values, supporting democratization and the rule of law. However, the campaign was never really about issues and the content was very populistic on all sides. For the incumbents, Yanukovych and Kuchma, the stakes were high, as a political change endangered their personal and clan interests.

In consequence, they tried every trick to remain in power. The elections were characterized by extensive, thoroughly planned and well-organized electoral fraud and intimidation.[67] However, despite Herculean efforts to manipulate the balloting, 'the vote theft is estimated to have been no more

66 Taras Kuzio, 'From Kuchma to Yushchenko', *Problems of Post-Communism*, Vol. 52, No. 2 (2005): 35.

67 Way, 'Ukraine's Orange Revolution', 134–5; Kuzio, 'From Kuchma to Yushchenko', 31.

than 10 percent'[68] and the opposition continued to have access to some newspapers and television channels. Although highly handicapped, the opposition managed to raise its voice.

The trigger for the protests was the announcement of the official electoral results, which confirmed Yanukovych as the winner of the elections. These were contradicted by exit polls conducted by the Kyiv International Institute of Sociology and the Razumkov Centre, which declared Yushchenko president.[69]

The revolution was based on three social groups: the organizers (civil society and opposition), the people, and the defectors.

The nucleus of the opposition had formed after the Gongadze scandal in 2000. It gained a charismatic leader when Yushchenko was dismissed as prime minister in 2001,[70] and in the second run-off for the 2004 presidential elections, the opposition had grown into a heterogeneous alliance ranging from the dissident oligarch Yulia Tymoshenko, to Yushchenko's coalition, *Nasha Ukraïna* (Our Ukraine), and the left-wing Socialist Party of Ukraine (SPU), led by Oleksandr Moroz.[71]

The origins of the newly emerging civil society have to be placed at the same time. Groups such as the civic organization PORA were able to form and gain experience in the regular protests after the Gongadze scandal, which at times mobilized up to 50,000 people in Kyiv.[72]

The protests could only be sustained by the spontaneous mobilization of up to a million people. Dominique Arel stresses the generational and national characteristics of these protestors. 'The driving force ... was a generation that had not been in a position of authority during the Soviet era ... [and] is anything but a *homo sovieticus* in how it views the state'.[73] In addition, nationalists in west Ukraine, where civil society had taken root more

68 Way, 'Ukraine's Orange Revolution', 132.
69 Gerhard Simon, 'Neubeginn in der Ukraine: Vom Schwanken zur Revolution in Orange', *Osteuropa*, Vol. 55, No. 1 (2005): 23.
70 Michael McFaul, 'Transitions from Postcommunism', *Journal of Democracy*, Vol. 16, No. 3 (2005), 9.
71 Kuzio, 'From Kuchma to Yushchenko', 33.
72 Ibid., 40.
73 Dominique Arel, 'The "Orange Revolution": Analysis and Implications of the 2004 Presidential Election in Ukraine', third annual Stasiuk Cambridge Lecture on Contemporary Ukraine, Cambridge University (25 Feb. 2005), 5, at http://www.ukrainianstudies.uottawa.ca/pdf/Arel_Cambridge.pdf, accessed 22 June 2005.

thoroughly, were highly represented on Kyiv's street. Yet, the revolution is not a 'Galician coup', for inhabitants of central as well as western Ukraine came together to protest against electoral fraud. What seems important is that Ukrainian society had changed since independence. Most of the protestors had been uninterested in politics before, and participated in protests for the first time.[74] Now, a young electorate, conscious of democratic values, had emerged and the Ukrainian nationalists had shifted from adherence to an 'authoritarian model of society' to embrace democratic values.[75]

Since 2000, Kuchma's power base had been under strain. Most oligarchs understood the need to legitimize their status in the post-Kuchma era.[76] Thus, they chose to support a relaxation of the authoritarian regime. This is what Thomas Risse and Kathryn Sikkink call tactical concessions. As the political centre was co-opted by the executive, oligarchs who defected were constrained to join forces with the opposition. Yushchenko's moderate message, intended to gain the defectors' support, opened up palatable alternatives.[77] During the revolution, more and more key officials and institutions began to change sides. Kuchma and Yanukovych's power base disintegrated.

Confronted by the blatant electoral violations and massive street protests, the international community condemned the presidential elections.[78] An exception remained Russia, which sent congratulations on Yanukovych's victory even before the official election results were proclaimed.[79]

The last blow to Yanukovych's machinations came from the parliament and the supreme court, which both invalidated the second round and ordered a third one, in which Yanukovych lost to Yushchenko. The Orange Revolution had defended the democratic institutions against efforts to increase the authoritarian features of the system.

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74 Kuzio, 'From Kuchma to Yushchenko', 40.
75 Arel, 'The "Orange Revolution"', 6.
76 Taras Kuzio, 'Ukraine: Splits Emerging in Pro-presidential Ranks', *Oxford Analytica*, 4 July 2003, 15-16, at http://www.artukraine.com/buildukraine/kuzio5.htm, accessed 20 June 2005.
77 Ibid., 15.
78 OSCE Kyiv, press release, 'Widespread Campaign Irregularities Observed in Ukrainian Presidential Election, 1 Nov. 2004', at http://www.osce.org/odihr-elections/item_1_8702.html, accessed 20 June 2005.
79 Walter Mayr and Christian Neef, 'Revolution in Orange', *Der Spiegel*, 29 Nov. 2005.

How the Foundations Foster Democratic Tendencies in Ukraine

Programmes Designed to Fill the Democratic Gap[80]

Three German political foundations are active in Ukraine: the Hanns-Seidel-Stiftung, the Friedrich-Ebert-Stiftung and the Konrad-Adenauer-Stiftung. Their presence in the country dates back to the early 1990s. They have all declared the democratization of Ukraine to be their goal, although they focus on different sectors of activity. In general, HSS supports the structural improvements of the administrative apparatus and the education of police and security forces; FES concentrates on fostering the emergent civil society by supporting the development of NGOs and trade unions; KAS is concerned with the development of a democratic political society and the rule of law. Both KAS and FES declare Ukrainian integration into European structures to be their goal.

Specifically, HSS has formulated three objectives.[81] Its first pillar is the education of police and security forces. The programme focuses on the dissemination of democratic ideas within these bodies and on the civic role of the police force. For example, in June 2004, HSS organized a conference in co-operation with the Ukrainian ministry of the interior, its topic being 'the role and status of police forces within society'. The second pillar is to promote an efficient administration based on democratic principles; this includes disseminating knowledge of democratic forms of governance, promoting transparency and helping to introduce management techniques into the administration. In this area, HSS works in particular with representatives of the public services and the Kyiv Academy of Public Administration, which trains nearly every Ukrainian functionary.[82] One of HSS's most successful projects is a management course in Sevastopol where functionaries are trained in modern administration techniques based on responsible and

80 When not indicated differently, this section is based on the respective foundations' Ukrainian websites.

81 Gerhard Michels, Hanns-Seidel-Stiftung Ukraine, by e-mail to author, 14 July 2005.

82 Swetlana W. Pogorelskaja, *Die politischen Stiftungen in der deutschen Außenpolitik: Überlegungen am Beispiel der Tätigkeit der Konrad-Adenauer-Stiftung und der Hanns-Seidel-Stiftung in der Gemeinschaft der Unabhängigen Staaten und in den baltischen Staaten* (Bonn: Holos Verlag, 1997), 101.

autonomous decision making. The last pillar is its support for NGOs and the emergence of a free press.

FES operates along eight threads: strengthening and developing the political system in Ukraine; supporting economic and social transformation processes; promoting municipal self-government approaches; strengthening independent and democratic trade unions; raising interest in politics among young people; assisting the development of independent mass media; creating a higher awareness of the build-up of a civil society; and encouraging the integration of Ukraine into European structures.

The work related to the promotion of civil society needs special attention. Thus, FES has organized annual conferences for German and Ukrainian NGOs. From 2001 to 2004, 300 new German NGOs began to co-operate with Ukrainian partners, which culminated in the creation of an umbrella organization for all participants. The aim of this project is to protect non-governmental actors from bureaucratic assaults and manipulation. Moreover, a handbook of German–Ukrainian NGOs has been created, which has had a direct impact on the prestige of different groups and has made fund-raising easier. In conferences, practical topics are discussed, such as methods of increasing the financial autonomy of non-state organizations, project implementation skills, or the role of NGOs within a democratic society and their relationship with state organs.

KAS has divided its programme into three broad strands. The first is the classical emphasis on co-operation with reform-oriented political parties and the support of junior politicians. KAS tries to convey an understanding of how to manage a party efficiently, how to run a modern election campaign or how to professionalize public relations. Moreover, it brings together parliamentary committees and non-governmental experts to work on current legislative problems.

For example, this programme included a series of workshops entitled 'the role of youth in the presidential elections' organized throughout 2004. It targeted representatives of youth organizations who were prepared for their role in the coming elections, and were trained in techniques of electoral campaigning in situations of extensive electoral fraud. This included techniques such as door-to-door campaigning, direct mailing or telephone campaigns. The organizers proposed strategies for motivating first-time

voters and campaigning in rural areas. Finally, participants learned how to fight against unfair campaigning methods and were informed of the importance of election observation. The promotion of free media is another aim of this programme; in these projects, the emphasis lies on the role of media within a democratic society, the relationship between politicians and journalists, and ethics in reporting.

The second thread of KAS's approach aims to disseminate information on the German model of a social market economy. Thus, in August 2004 a workshop dealt with the role of the state in such an economy and the concept of social partnership. It analysed the forms of state influence on the Ukrainian economy and the fight against corruption and the shadow economy. The third programme thread is concerned with the European and Euro-Atlantic integration of Ukraine.

This overview is striking in that the foundations' work affects all the elements crucial to unfolding and sustaining the Orange Revolution. The foundations worked hard to foster civil society through diverse programmes supporting NGOs; they trained representatives of youth organizations in workshops; they organized conferences and lectures in universities: hence they played their part in fostering the changed attitude of the Ukrainian public. They worked with key officials trying to influence their beliefs and they strengthened those institutions that are needed in a functioning democracy.

Norm Entrepreneurs and More

The foundations' goal is to spread democratic norms within Ukraine and foster democratization. Consequently, they can be understood in Finnemore and Sikkink's sense as norm entrepreneurs and agents of socialization.

It is debatable whether democracy has already reached the stage of norm cascade, or whether it is still stuck in the phase of norm emergence. Schmitz argues that powerful states such as the USA and EU members work hard to push non-democratic governments towards democracy, and from his perspective, it can be argued that norm cascade has been reached. On the other hand, a closer look at the region to which Ukraine historically belongs – the post-Soviet space – offers a very bleak picture of democracy. There, most countries seem to embrace semi-authoritarian or authoritarian regimes and democracy is still emerging as a norm. Thus, in the Ukrainian case,

Finnemore and Sikkink's norm life-cycle is not as neat as they depict it: the phases overlap.

As norm entrepreneurs, the foundations use their expertise and knowledge to spread democratic values. As predicted by Finnemore and Sikkink, they typically target state actors so that these absorb the norm. Also, they do not work without domestic support. Every project is realized through a partner organization. The foundations use persuasion to influence the knowledge, motives and attitudes of the individuals participating in their projects.

They also act as agents of socialization. Here, questions of identity are at work. Thus, it has been the declaratory practice of Ukrainian officials to assert that Ukraine is moving towards democracy, so as to legitimize the government internationally and domestically. The foundations have constantly pointed towards discrepancies between discourse and practice, however. As Kurth points out, during the active phase of the elections, FES organized a poster campaign describing how free and fair elections work.[83] The foundations target questions of conformity and esteem. For example, they invited state officials to Berlin, where they met German deputies. Or, in 2004, KAS invited Viktor Yushchenko on a trip to the European institutions.[84] Thus, the projects devoted to Euro-Atlantic integration aim to make Ukrainian officials aware of European values. The EU creates norm pressure, and the foundations act as transmission belts of this pressure. The foundations thus spread information and create publicity, which then provokes cognitive dissonance among norm violators and society.

However, the foundations are more than norm entrepreneurs and agents of socialization – they actively interfere in domestic processes. Thus, HSS educated police forces, which later refrained from the use of force against civilian protestors;[85] FES fosters an emergent civil society; KAS has good contacts with all leading members of *Nasha Ukraïna*[86] and trains youth organizations, a social stratum that later represented the major part of the

83 Helmut Kurth (spokesman), Friedrich-Ebert-Stiftung Ukraine, 20 July 2005, interview with author.
84 Ralf Wachsmuth (spokesman), Konrad-Adenauer-Stiftung Ukraine, 27 July 2005, interview with author.
85 Michels, by e-mail (n. 79).
86 Wachsmuth interview.

protesters in Kyiv's central square. Hence, the work of the foundations is not simply about norm dissemination, but also about moulding domestic processes.

The Impact of Ukraine's Domestic Structure

Joachim and Risse-Kappen argue that a proper understanding of a transnational actor's success needs to take into account how he makes use of the political opportunity structure. Ukraine has features of a fragile domestic structure, in which access points to society are multiple. With a high turnover of key officials and weak institutions, it will be difficult to have a continuous impact on politics. Moreover, the coalition building necessary to put forward an issue should be expected to be painful and slow.

These expectations are in line with what KAS, FES and HSS have experienced.[87] Since the goal of the foundations is to challenge and change the domestic structure, their programmes are thematically focused on Ukraine's domestic structure; in addition, the domestic structure has shaped the strategies and methods employed.

In Ukraine, the foundations were confronted by weak institutional structures and a lack of democratic experience within the administration and the government. This made capacity building a central task, so they decided to train decision makers, university teachers, students and other groups that are important for the development of democracy.

As expected, the political instability and high turnover among decision makers has made the coalition-building process difficult; at the beginning it was even a problem to find reliable partners to work with.[88] Because of this instability, in the early work it proved easier to achieve structural impacts through projects conducted without long-term partners.

It also meant that the foundations had to revise the main focus of their work regularly.[89] Sometimes it had to be changed completely. For example, Wachsmuth mentions that, after the presidential change of 2004, 18,000 functionaries were replaced. In practice, this meant the loss of many key

87 Kurth, Michels, and Wachsmuth interviews.
88 Pogorelskaja, *Die politischen Stiftungen*, 150.
89 Pogorelskaja, *Die politischen Stiftungen*; Michels e-mail; Wachsmuth interview.

contacts and people who had been trained.[90] The new functionaries were the core of the political activists who had brought about the Orange Revolution. They were motivated, but also young and inexperienced, so they had to get acquainted with their work as fast as possible. Often bureaucratic processes were disturbed as the functionaries did not know one another. KAS's reaction was a project that aims to bring these people together, so that they get to know each other and establish networks.

Joachim believes that the political change of 2004–2005 also generated an important opportunity for the foundations, since the new political configuration brought actors on to the scene who are much more favourable to the foundations' work.

The transformation process was almost entirely led by the former *nomenklatura*. At the beginning, a civil society was non-existent, so the foundations had to work with old communist leaders, who retained the real power.[91] Another solution to this lack of civil society was to foster it; consequently, FES set up its NGO programme line.

A further Ukrainian characteristic is the disproportionate importance of the personality factor, which made political projects very dependent on single individuals. Rather then choosing weak personalities, which first needed to be built up, the foundations developed a large network of political contacts with key personalities, and this increased the effectiveness of the foundations' work.[92]

A further issue was that Ukrainian political parties have displayed a tendency to develop no positive programmes and to be created around personalities rather than ideologies. Especially at the beginning, the political parties that wanted to co-operate with the foundations were motivated by a desire to enhance their prestige and legitimacy.[93] They lacked experience of democratic behaviour and all were at an early stage of development; programmatic differences led to frequent fissions. For the foundations, this made it crucial to promote the consolidation of the democratic political spectrum.

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90 Wachsmuth interview.
91 Pogorelskaja, *Die politischen Stiftungen*, 96.
92 Ibid., 154.
93 Ibid., 152-153.

Moreover, as a rule, the foundations channel their support into NGOs or think-tanks close to parties, yet in Ukraine, these NGOs and think-tanks did not exist. In the end, the foundations departed from their principle that projects have to be carried out through long-term partners. Projects were conducted in collaboration with state and non-state organizations, but on a case-by-case basis. Organizations and institutions were thus tested for their compatibility with the foundations' values and their potential for future long-term partnerships. The foundations were not willing to operate immediately with regular partners, as these were in danger of easily drowning in the fluid post-communist system and could mutate into clubs created to applaud a single personality, rather than developing as a true interest group.

Later, after proper institutions had emerged, permanent partnerships were institutionalized and it was possible to work with reliable democratic opposition forces. For example, today KAS works with the Institute for Reforms, a think-tank that gives policy advice to *Nasha Ukraïna*; KAS also works with the Committee of Voters, which has close links to the parliament and promotes free and fair elections.

Inter-linkage with German Society as a Major Asset

Joachim argues that the success of trans-national actors is a function of the strategic use they make of their mobilizing structure.[94] The foundations' major assets are their access to knowledge and experience, which they disseminate through conferences, workshops and information campaigns. Moreover, they are platforms of dialogue and can bring together parties that did not previously speak with each other. A very successful example is the KAS church–state project: relations among the different Ukrainian churches were originally very conflictual. However, since 1994, 16 conferences have been organized bringing all major churches to one table and leading to a tangible rapprochement, which culminated in a contract on the relationship between church and state, signed by Kuchma.[95] Another example is the conference organized by FES at which German and Ukrainian NGOs had the opportunity to work out common strategies.

94 Joachim, 'Framing Issues and Seizing Opportunities'.
95 Wachsmuth interview.

This access to knowledge and information is increased by the foundations' inter-linkage with German political and civil society. Thus, exchanges and study trips can be organized. The connections to the German parliament and government also represent a safety net for the foundations and their partners. Interestingly, no Ukrainian official has tried to obstruct or hinder the foundations, as Kekk and Sikkink would expect.[96] This is particularly relevant as the foundations and their partners challenge the domestic political structure as such and need outside support to wield sufficient leverage and pressure on Ukrainian officials. These connections to the highest echelons of the German state did not de-legitimize domestic groups and did not lead to their marginalization by Ukrainian state officials, as Schmitz suspected might happen.

In addition, the foundations are relevant to creating access to European institutions. In this case, they clearly have the role of socializing agents that provide legitimacy to their domestic partners. Moreover, with the pro-European orientation of the new Yushchenko-government, the EU factor will certainly gain weight.

Conclusion

This work has attempted to answer two questions. First, it tried to convey a better understanding of how German political foundations were involved in Ukraine's recent, second democratization. The Orange Revolution was the result of long-term tendencies concerning three elements of Ukrainian society, which have been called the organizers, the people and the defectors. The organizers consisted of the democratic opposition, which was able to organize around democratic values from 2000 onwards. This was also the time in which civil society, the other organizer, has its origins. At the time, scholars were puzzled by an uprising of popular sentiment, since the people had always been described as an apolitical and amorphous mass unwilling to

96 Kurth interview; Michels e-mail; Wachsmuth interview.

stand up for their rights. Finally, there were the defectors, who one after another left Kuchma's sinking ship to join the opposition.[97]

The foundations were able to help foster all three tendencies. They worked hard to convince politicians to espouse democratic values and constantly pointed to the discrepancy between what Kuchma said and what he did. They promoted civil society through different programmes supporting youth organizations and NGOs. They organized lectures, campaigns, seminars and workshops and thus were involved in this perplexing shift in the Ukrainian public mood. Also, they trained functionaries in the administration and institutions in how to act in conformity with democratic values. Thus, through their long-term work, the foundations have been able to promote these tendencies, which attempt to close the gap between Ukraine's semi-authoritarian reality and its democratic ideals.

Second, this case is also an interesting example for work on democratic transitions. It suggests that the incorporation of trans-national literature into transition theory can clarify an understanding of how external factors have a bearing on democratization processes. Finnemore and Sikkink's work seems applicable to the case, even if the norm life-cycle is not a direct line as they imply. The foundations certainly have been acting as norm entrepreneurs and agents of socialization, but also as actors who actively intervene in domestic processes.

Ukraine has been described as a state with fluid institutions and high uncertainty, and thus can be called a fragile state. Joachim and Risse-Kappen's suggestion that this has an impact on the work of TNAs can be agreed with. The foundations had to revise their programmes regularly, and it has been shown that their strategies and methods were specially adapted and designed for Ukraine's changing circumstances.

Moreover, the success of TNAs was also dependent on how they used their mobilizing structures. The foundations took advantage of their expertise and their links to German political and civil societies to influence the transformation process and protect themselves from eventual obstacles. Kekk and Sikkink's argument that weak domestic groups look for outside support is applicable as well, even if originally these domestic groups were non-existent.

97 Kuzio, 'From Kuchma to Yushchenko', 40.

Hence, Lyudmila and Viktor Yanukovych were not completely wrong in claiming that external factors were at play in the Orange Revolution. However, they were mistaken in their assertion that the events were due to 'a machination of special services'. German political foundations were active in Ukraine, but they always supported and promoted existing tendencies. They worked with state officials, such as Leonid Kuchma in person, who never objected to their presence. The foundations' model of democracy promotion seems highly effective, and others have attempted to emulate it.[98]

98 Thomas Carothers, *In the Name of Democracy: U.S. Policy toward Latin America in the Reagan Years* (Los Angeles, CA: University of California Press, 1991).

II Voices from the Ground: Reports by International Election Observers

Ukrainians in the Mist: Gorilla Tactics in the Campaign for Ukraine's Highest Office[1]

Jake Rudnitsky, 'the eXile', Moscow

For anyone who has been paying an unhealthy amount of attention to the Ukrainian presidential election campaign, Oleksandr Rzhavs'kyi was the 'honest' candidate. That's because Rzhavs'kyi was the only one among a field of 26 politicians, character assassins, thugs and clowns running for President who posted an even remotely believable figure in his tax declarations. He declared an income of about US$373,000 last year, five foreign cars (including a Cadillac De Ville) and various other properties. By comparison, the second richest candidate – former prime minister Viktor Yanukovych – declared an income of 8000 bucks (only slightly more than his US$6300 government salary), an apartment and a garage. Rzhavs'kyi's statement was a clever PR move that got him mentioned in several papers when the Central Election Committee released the figures.

Unfortunately for him, it didn't do much good. For most people, Ukrainians included, Rzhavs'kyi remained a nobody. The real race was between Yanukovych, the candidate backed by President Leonid Kuchma and Ukraine's most powerful oligarchs, and Viktor Yushchenko, a former prime minister and central bank chief who lead opposition party *Nasha Ukraïna* (Our Ukraine). Yanukovych hails from the Donbass in the heavily Russified east, where the country's most powerful clans and economic strength (such as it is) are based. Yushchenko is the favorite of Ukrainian

1 Originally published in *the eXile*, no. 198, 17 September 2004.

nationalists and the West alike (he is married to an American who worked for USAID). Meanwhile, polls had Rzhavs'kyi running neck and neck with 19 other candidates, below the radar at somewhere less than 1 percent. His name recognition is about the same. That's probably why he agreed to let me tag along with him for a day on the campaign trail. He welcomes any press, even the eXile. But, unlike most of the other marginal candidates, he actually seems to care, spending lots of time and money campaigning. The only question is, why?

I traveled with him to Vinnytsia, a small city about three hours west of Kiev, to try to find the answer. While a day of campaigning didn't leave me with any new insights into Rzhavs'kyi's motivation, it did reaffirm one truth: politics in post-Soviet space are monkey business. Politicians here are like Koko, the sign-language-talking gorilla; they might mimic the right gestures sometimes, but it doesn't mean they've got the hang of participatory democracy. Kissing the baby doesn't mean jack without a mechanism behind it to bring it home to the public. And it's this mechanism that is totally lacking in Ukraine and the rest of the CIS.

This lack of a party apparatus is more apparent tracking a minor candidate like Rzhavs'kyi than with the serious players, because it is counterintuitive that a small player would run without structural support. What's the point of campaigning unless a. you have a chance of winning or b. you've got a party backing you up? While nationwide party politics in the States has become choreographed beyond recognition, on a micro level political parties and organizations still matter. Minor figures in a real democracy are grassroots politicians trying to forward their agendas. They range from crazy Christians to Greens, and through concerted action they manage to get their agendas, if not their candidates, into the discourse. But in Ukraine's pseudo-democracy, they're either agents of the powers that be or, like Rzhavs'kyi, *aferisty*, con men, with nothing but money behind them.

I arrived in Vinnytsia with a bus full of university students campaigning for Rzhavs'kyi. These *agitatory* were getting paid UAH75 (about US$14) for the day to hand out newspapers. No volunteers, just college kids earning spending money. They were sent off to the market to distribute propaganda, while I went to see Rzhavs'kyi's first engagement of the day.

This was a speech to a group of abandoned children at an orphanage and the first of four stump speeches he'd give that day. Ah, orphans... a great way to establish himself as a compassionate candidate. I was the only member of the press there. So he recited his stump speech to a collection of raggedy 8 to 15-year-olds who, in the best of Soviet pedagogical tradition, sat quietly at attention. The only rise he got out of them was when he presented the orphanage with a VCR. Then, at the end of his speech, his campaign manager inexplicably distributed Rzhavs'kyi's *visitki* (business cards) to the kids – underage kids with no parents.

I heard the stump several times that day in Ukrainian, so many times that I found myself understanding it. Perhaps it helped that Rzhavs'kyi's Ukrainian isn't perfect – like Yanukovych, he comes from the Donbass region – but I imagine I'd have understood it even if it'd been in Swahili after so many repetitions. The speech had several main points.

In his most radical proposal, Rzhavskyi said that, in exchange for security guarantees from Russia and the US, he'd do away with the entire army. Honestly, it's a pretty good idea. A group of nomadic sheep herders would put up more of a fight than the Ukrainian army. They are primarily known for their screw-ups – several years ago they mistakenly blew a hole through an occupied apartment building with an errant missile, killing several people. Then there's the time they downed a Sibir passenger jet during military exercises. Both times they denied involvement even long after everyone knew they were guilty. The Ukrainian army (the largest non-NATO contingent in Iraq until 2005) also made news several months ago when they skipped town rather than face a little Iraqi small arms fire in Kut. It's not much of a fighting force.

However, Rzhavs'kyi's not content leaving well enough alone. 'I would turn Ukraine into an international peace center, an eastern Switzerland,' he said on the stump. One time, during a particularly passionate rant, he told me, 'If I'd been in office, there'd have been no war in Iraq. I'd've told Saddam, 'You can have whatever you want – palaces, gold, girls – just so long as there's no war'.' Apparently, Rzhavs'kyi thinks the diplomatic failure was just a question of using the wrong carrot in the carrot-and-stick game. A couple of long-legged Ukrainian girls and a Crimean dacha would have done the trick!

Other items in his platform include (surprise, surprise) populist ploys like raising pensions and stipends and a system of distributing UAH250 billion (US$50 billion) in privatization money. The system, which he would illustrate whenever there was a chalkboard handy, involved several arrows, a few stick figures, Ukraine's state savings bank *Oshchadbank* (the Ukrainian *Sberbank*) and the internet ('to keep things transparent,' he said). He also called for dealing with Ukrainian oligarchs the same way that Putin took care of Russia's.

Rzhavs'kyi seemed to see himself as a Ukrainian Putin – I imagine him singing '*Takogo kak Putin*' in the shower. Only his plan for the oligarchs didn't involve jailing or exiling opposing oligarchs but rather forcing them to become socially conscious. He held up Vladimir Potanin's conversion – which most of us were unaware of – as an example. 'Children all over Russia now can play football in new uniforms thanks to Potanin,' Rzhavs'kyi claimed. Potanin is the owner of *Noril'sk Nickel* and *Prof-Media*, which owns a large stake in the Moscow *Times*' parent company, Independent Media.

Rzhavs'kyi's speeches are laden with references to family (his party's name, *Edyna Rodyna*, means One Family), and he believes that Ukraine should be run like one. Basically, most of his platform is just fluff.

But none of this answers why he is running in the first place. Many journalists in Kiev – at least the independent ones – assume that most of the marginal candidates were financed by Yanukovych to siphon votes away from his primary opposition, Viktor Yushchenko. Only such ploys don't work here as easily as in the US, where Republicans are financing Ralph Nader to steal votes from Kerry. Ukraine has a two-stage election, in which the two front runners go head-to-head in the second round.

Yanukovych wouldn't have a prayer in a free and fair head-to-head election against Yushchenko. Not only does he charisma, but he is an ex-convict who has served time twice. In much of the US, as a convicted felon, he wouldn't even be allowed to vote for himself. Sixty-five percent of Ukrainians are against a former prisoner becoming President. Not a single person out of dozens I asked said they would vote for Yanukovych (of course, this was in relatively cosmopolitan Kiev and western Vinnytsia; the east might be different).

Yushchenko, by contrast, is a civilized, intelligent man running on an anti-corruption, pro-European integration platform. People from the Russified east worry that they might be marginalized if Yushchenko were to win, but that fear is blown way out of proportion. So, the Yanukovych team adopted several strategies. The most effective was the most simple: they just stuffed the ballot boxes. Lest anyone doubt his democratic credentials, at the end of August 2004 Yanukovych was quoted saying, 'I do not believe in exit polls. These are new technologies that will be tested in Ukraine for the first time. We do not know how to manipulate them.'

But they have also embarked on a smear campaign against Yushchenko to paint him as a both fascist nationalist with ties to extremist movements and an American stooge. This improbable combination was achieved with the help of proxies who have been labeled 'technological candidates.' A proto-fascist presidential candidate like Roman Kozak could make outrageous claims in his heavily accented Carpathian-Ukrainian about, say, expelling Russians from Ukraine and then in the next breath say they'll endorse Yushchenko in the runoff. Interfax has estimated that fringe Kozak is, after Yanukovych and Yushchenko, the highest spending candidate. Dmytro Korchins'kyi, a once respectable nationalist who has totally sold out, was given primetime air to relentlessly attack Yushchenko's nationalist credentials, accusing him of being an American lapdog funded by the CIA. By attacking Yushchenko from both sides, the goal was to drum up fear among the fifty percent of Ukraine that is Russian-speaking while alienating his moderate nationalist base.

But Rzhavs'kyi didn't fall into either of these categories. In fact, nobody really knows what the hell he's doing. This was his second run for President and he's not afraid to spend money. The most plausible explanation I've come up with is that he likes the sound of his own voice. It is almost tempting to take his words at face value. 'I visited Transdnister recently,' he told me last week, 'and the divisions within Ukraine today are the same that led to war there 13 years ago. We could be on the verge of war. I may not be everyone's first choice, but I represent the only viable compromise that will avert bloodshed.' Well, maybe not that tempting, after all.

It takes an overactive imagination to picture Ukrainians upset enough over politics to start killing each other. Rzhavs'kyi's hypothesis was that if

Yanukovich wins, most Ukrainians will be convinced the election was a fraud and take to the streets. If Yushchenko wins, there would be powerful vested interests with too much to lose to give up quietly. However, this is the same country that couldn't even muster enough will to dethrone Kuchma after tapes implicated him in the beheading of muckraking journalist Hryhorii Gongadze. No matter how blatant the theft of the elections, few people believe Ukrainians could muster the political will necessary to overturn the results. Short of an extremely well organized strike like we saw in Georgia's Rose Revolution, the results of the election are likely to stand. It's not likely, as Ukraine is much bigger, there's much more money at stake, and the entrenched powers now know what to expect from the opposition.

Motives aside, 45-year-old Rzhavs'kyi is a rather appealing character. With short, slicked-back hair, a round face and well-tailored clothes, he looks like exactly what he is: a reformed New Russian. I have no doubt that ten years ago he was running around his native Donbass decked out in a track suit and gold jewelry, waving his oversized mobile phone about. He told me he made his money in machine building and banking, and he retired when he became a Rada deputy. I never heard him swear, even after a few drinks, and all his staff was genuinely fond of him. While he came across a bit wooden in most public appearances, he's a vast improvement over most public figures in this part of the world. He'd customize each speech, altering them slightly and using different metaphors. When there wasn't a crowd, he was quite charismatic.

The entire day was spent giving speeches and talking to the press. Meanwhile, the *agitatory* handed out Rzhavskyi newspapers at various points around town. During the brief time I spent with them outside the central market, the highlight was getting denounced as 'bourgeois' by an old Communist. 'It's mostly the *babushki* who don't have anything better to do that want to argue politics,' *agitator* Andrei told me. The 18-year-old student liked Rzhavs'kyi, although he didn't care one way or the other about his political positions. 'But the pay's decent,' he said about the work he found over the internet.

The *agitatory* usually handed out papers and sweets in Kiev for 25 hryvna a day. By comparison, Yushchenko's kids, who sat in yellow tents

along Kiev's main drag Khreshchatyk handing out propaganda, are rumored to earn 40 hryvna. So much for ideals.

Most of Rzhavs'kyi's other campaign stops that day were as misguided as the first one at the orphanage. Two were held at technical colleges, where most of the kids were 17, still too young to vote. Even the prospect of 400 hryvna stipends didn't seem enough to excite them. The press conference with local journalists and the live TV interview were slightly more lively, but even these dragged. During the press conference, a cute campaign worker named Marina wrote in my notebook, 'EVERYONE'S FALLING ASLEEP.' I certainly was. As with most press conferences, I got the feeling that most journalists had showed up for the prospect of a *furshet* (free food and, of course, vodka) at the end, rather than to gather material. Indeed, there were only a few questions asked. Unfortunately, Rzhavs'kyi's tendency to draw out his answers interminably caused it to drag on. The live interview was a little more interesting, with the interviewer asking aggressive questions and Rzhavs'kyi fielding them relatively well. It also helped that they were only allotted a finite amount of time.

During the conference, much was made of the presence of two foreign correspondents, me and Volodya. Volodya was Rzhavs'kyi's press handler and was posing as a Moscow journalist so that he could lob a few easy questions that Rzhavs'kyi could hit out of the park.

Volodya wore many hats. He'd prompt students to ask questions if none were forthcoming, he dropped his Ukrainian 'h' in favor of a Russian 'g' when posing as the reporter, and he called in to fawn on Rzhavs'kyi during the live interview. It was as though the campaign really thought that these tricks would work in lieu of popular support. 'Sometimes people need to be helped along, to keep things lively,' Volodya said. Volodya did pardon their apathy – he himself is a Ukrainian patriot who undoubtedly feels closer to Yushchenko than Rzhavs'kyi, an easterner who never really learned Ukrainian. But he said he joined the campaign for the professional experience and, I'm sure, the money. Like everyone else in the campaign, he wasn't a believer.

Rzhavs'kyi himself was amazingly optimistic about his own chances. He'd refuse to answer whom he'd vote for in the runoff, saying that he planned to participate. Even when he was alone with his workers and me, he'd act like he had a chance. The closest he got to admitting otherwise was

during a photo shoot, when he was joking with his campaign manager about the ministers he'd appoint as President. 'Oleg has a minister's face – I'll make him minister of transportation,' he said about his massive driver/body guard. If minister's face means 'flathead,' I'd have to agree.

The most interesting event of the day, and the only one that at all approached real politics, was a meeting organized with Vinnytsia minibus drivers. These men, who provide a vital transportation service to the city, were being threatened with a thuggish attempt by the city government to extort money from them. Basically, the city wanted to hold a tender for its 300 routes. Currently, the routes are controlled by independent operators who own and operate their own vehicles. Corrupt politicians wanted to give their friends a piece of the pie by selling the licenses to a single entity and forcing the drivers to become sub-contractors. Without providing any service, the license holder would be able to skim 20-30% off of the drivers' net. This was being done in the name of competition, although a tender had already been held some four years ago. As Rzhavs'kyi succinctly put it, 'I know why they have to have beauty competitions every year – the contestants get old and ugly. But this?'

The drivers, threatened with having their livelihood taken away, had formed a union and were prepared to strike. They were appealing to Rzhavs'kyi as a Rada deputy and well-connected person in Kiev to intervene in a last ditch effort. He quickly understood the dynamics of the situation and said he would try to help. Then, in the only really political maneuver I saw all day, he asked what it would cost to put up ads in all the minibuses. The drivers were, understandably, nonplused initially; here they were facing the destruction of their business and Rzhavs'kyi was talking ads! But they quickly realized it was the price of enlisting a politician's help. They soon agreed to the following: Rzhavs'kyi would report back to them the next day about their prospects, and they would then plaster their vans with his posters.

This was the old Tammany Hall approach at work – provide services for your constituents in return for support. It's Civics 101. Sure it lends itself to accusations of minor corruption and favoritism, but it actually creates a constituency, the one thing totally lacking in post-Soviet politics. You're not supposed to pay the kids to hand out newspapers; they ought to do that in order to get integrated into the political and civil society. Parties help on a

neighborhood level and in return are given control over larger spheres of influence. Amazingly, one of Rzhavs'kyi's campaign workers, seeing me scribbling notes furiously during this meeting, came up to me and said curtly, 'This discussion isn't for the newspaper.' Even if there was minor corruption involved (free ads), it doesn't mean anything because a service was actually being rendered. The drivers were supporting a politician who supported them. The politician was answerable to his constituents. How foreign is that in post-Soviet politics?

Of course, the problem is that minibus disputes in small cities aren't supposed to be decided by presidential candidates. But since there isn't a single political party other than the Communists in Ukraine, that's the way things work. Parties are little more than cults of personality, and without that personality nothing gets done. Strikes like this always peak in an election year, when workers with grievances have hope of gaining a national candidate's attention.

On a certain level, Rzhavs'kyi was like the elections and even Ukraine itself – hopeless, completely ignored, and a bit eccentric. While Ukraine boosters will tell you there's a myriad of reasons that Ukraine should matter (geographically it's the largest country wholly in Europe, it's got a huge border with the new NATO/EU territories, the 48 million people who live there are among Europe's poorest...) even the staunchest patriot doesn't confuse how much Ukraine should matter with how much it actually does. Most of the world never really accepted that it's independent. It took until Atlanta for them to be granted their own Olympic team and even now Ukraine has about as much name recognition as Togo.

Coming from Putin's Russia, it's relatively easy to be impressed by the health of Ukrainian political debate. There's even something at stake in the elections beyond ownership of the country's choicest industrial morsels – Ukraine's oligarchs are clearly worried that Yushchenko will end their free ride and try to drag the country westward. But a healthy opposition doesn't mean that there's a healthy democracy. That's why these elections should be so easy to steal. Without political parties that represent members with a stake in their functionality, politics remains easy to manipulate. And in Ukraine, from the technological candidates to *aferisty* like Rzhavs'kyi all the way up to Yushchenko, there are no real parties.

Prelude to a Revolution: Reflections on Observing the 2004 Presidential Elections in Ukraine

Rory Finnin, Columbia University, New York
Adriana Helbig, University of Illinois at Urbana-Champaign

Being, at that time, graduate students at Columbia University, we served as official observers during the course of the highly contested 2004 presidential elections in Ukraine. Rory Finnin, then doctoral student in the Department of Slavic Languages and the Center for Comparative Literature and Society, and Adriana Helbig, then PhD candidate in the Department of Music, were members of delegations fielded by the Ukrainian Congressional Committee of America (UCCA), a U.S.-based non-governmental organization founded in 1940 and registered with the Central Election Commission of Ukraine. Rory served in the Cherkasy oblast in central Ukraine during the first round of the elections on October 31, 2004, and Adriana served in the Transcarpathian oblast in western Ukraine during both the first round on October 31 and the second round on November 21, 2004.

This article is comprised of two sections, organized by electoral round and region. Based on Rory's observations, the first section addresses the October 31 poll in Cherkasy, briefly reviewing the electoral significance of the oblast before elaborating upon the corrupted voter registries and the state's use of 'soft' intimidation that undermined the voting process there. The second section, based on Adriana's observations, deals with the November 21 poll in Transcarpathia; the account is prefaced with a discussion of the political machinations in Uzhhorod prior to the elections between the pro-government *Sotsial-demokratychna partiia Ukraïny (ob'ednana)* (Social Democratic Party of Ukraine (united); SDPU(o)) and the opposition party, *Nasha Ukraïna* (Our Ukraine). It then proceeds to describe many of the ways in which local officials intimidated voters and manipulated marginalized constituencies in a campaign of falsification and fraud.

First Round: Cherkasy Oblast

As crowds in the hundreds of thousands swelled Kyiv's *Maidan Nezalezhnosti* (Independence Square) to protest widespread electoral fraud following the November 21 run-off between Viktor Yushchenko and Viktor Yanukovych, journalists in Europe and the United States tended to cast the dramatic events of the Orange Revolution in binary terms, as the outcome of a conflict not only between a 'pro-Western reformer' and a 'Kremlin-backed prime minister,' but also between 'western' and 'eastern' Ukraine. 'Ukraine's East and West Are Miles Apart on the Issues,' declared one headline on the front page of the *Los Angeles Times*,[1] while television commentators in the United States depicted the crisis as a confrontation between a 'Red State vs. Blue State' Ukraine.[2] This regional cleavage, while qualified by some, was frequently depicted in the popular media with Manichean simplicity, offering journalists a convenient analogue to the international power play putatively taking place between Moscow, on one hand, and Washington and Brussels, on the other, over the election row.[3]

Of course, the thesis of 'two Ukraines' is nothing new. In 1992, the Ukrainian intellectual Mykola Riabchuk introduced the concept *per se* in an article entitled 'Two Ukraines?' in the *East European Reporter*[4]; in 2002 he sought to update and clarify it in an article entitled 'One State: Two Countries?' in *Transit*.[5] Nor is it necessarily misleading. Differing historical, linguistic, and cultural circumstances have produced something of a political divergence that can be drawn along a geographical imaginary in Ukraine, and it is one that Yushchenko himself effectively acknowledged in a campaign slogan, 'Donets'k + L'viv = Peremoha' (Donets'k + L'viv = Victory).[6] It is rather

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1 Kim Murphy, 'Ukraine's East and West Are Miles Away on the Issues,' *Los Angeles Times*, December 3, 2004, front page.

2 See Michael McFaul's conversation with Jim Lehrer of the PBS *NewsHour* on November 23, 2004, http://www.pbs.org/newshour/bb/international/july-dec04/ukraine_11-23.html.

3 See, for example, Fred Weir and Howard Lafranchi, 'The East-West Stakes over Ukraine,' *Christian Science Monitor*, November 25-26, 2004: front page.

4 Mykola Riabchuk, 'Two Ukraines?' *East European Reporter* 5:4 (July-August 1992).

5 Mykola Riabchuk, 'One State, Two Countries?' *Transit: Europaeische Revue,* 23 2002.

6 *Bez Tsenzury: Hromads'ko-Politychnyi tyzhnevyk,* 34, October 31 - November 6, 2003, 1, quoted in Yaroslav Hytsak, 'On the Relevance and Irrelevance of Nationalism in Ukraine', Paper presented at the Second Annual Cambridge-Stasiuk

when the concept of 'two Ukraines' participates in essentializing these differences, casting them as irrevocably black and white and devoid of shades of gray, that it becomes not only grossly simplistic but also dangerous fodder for political manipulation.[7]

Orest Subtelny, among others, has argued for an evaluation of Ukraine's political geography in terms of 'a three-part rather than a two-part scheme,' which identifies three basic regions that, notably, may be broken down further:

> western Ukraine; central Ukraine, encompassing what was traditionally called Right- and Left-Bank Ukraine, with Kyiv at its center; and the southeast, which includes such areas as the Donbas, the Crimea, and the Odessa regions. In this scheme, the west and the southeast represent the two extremes of the national consciousness spectrum, while the center occupies an intermediate position.[8]

Central Ukraine's intermediacy, Subtelny points out, stems from the fact that it did not experience the degree of 'ethnic confrontation' that historically beleaguered western Ukraine, nor was it subject to the degree of 'ethnic homogenization' that took place in southeastern Ukraine.[9] As a result, the region has tended to mediate the 'national extremism of the west' and the 'national nihilism of the southeast,' acting as a glue, as it were, that keeps Ukraine together.[10]

Lecture on Ukraine, University of Alberta, February 20, 2004, http://www.ualberta.ca/~cius/stasiuk/st-articles/2004-02-20_Cambridge%20Lecture%202004.pdf: 8.

7 In this regard, we need only look to the events in Severodonets'k on November 28, 2004, when 3,500 pro-Yanukovych officials from seventeen eastern regions mobilized the rhetoric of regionalism and threatened secession and Ukraine's territorial integrity.

8 Orest Subtelny, 'Introduction' in Sharon L. Wolchik and Volodymyr Zviglyanich (eds.), *Ukraine: The Search for a National Identity* (New York and Oxford: Rowman and Littlefield, 2000): 5. As we shall see in the second section of this article, western Ukraine is a very complicated tableau itself. One would be mistaken to equate the level of 'national consciousness' in Uzhhorod with that of L'viv, for example.

9 Ibid.

10 Ibid., 6.

This accommodation of differing political viewpoints has been especially evident in presidential election years. In the run-off between Leonid Kuchma and Leonid Kravchuk in 1994, for example, the most highly contested oblasts were Cherkasy and Kirovohrad, where Kuchma garnered 45.7% (compared to Kravchuk's 50.8%) and 49.7% (to Kravchuk's 45.7%) of the vote, respectively. In 1999, when the Kyiv oblast and the city of Kyiv cast their lots with Kuchma over the Communist Petro Symonenko, the Cherkasy oblast joined those of Luhans'k, Kherson, and Crimea, among others, in supporting the latter candidate. This potential to 'swing' made central Ukraine a linchpin in the 2004 presidential elections, 'the region that will most likely decide [their] outcome,'[11] and its importance meant that it was never far from the threat of electoral foul play.

When our team of six observers arrived in the city of Cherkasy on October 30, the day before the first-round contest, we met with Maksym Mykhlyk, head of the local branch of the independent nongovernmental organization *Komitet Vybortsiv Ukraïny* (Committee of Voters of Ukraine; CVU), to gauge the pre-election atmosphere in the Cherkasy oblast and identify the polling stations that were feared particularly susceptible to falsification and fraud.[12] Only the day before, the CVU had released a report alleging a number of recent incidents of violent intimidation of political

11 Taras Kuzio, 'Front Runners Battle It Out in Ukraine's Last Presidential Polls,' *Eurasian Daily Monitor*, October 22, 2004.

12 An independent NGO active throughout Ukraine, the CVU also organized approximately 10,000 domestic observers for the first round. The polling stations on our itinerary were often full of domestic observers, as most of the 24 candidates for president had their own corps of them. A place for chairs, resembling a jury box, was usually cordoned off inside the voting premises to accommodate them, and most sat there throughout the day, content to 'observe' from a distance. Observers from the CVU and Our Ukraine were exceptional in this regard, however; they tended to move about the polling stations, anticipating potential problems, and were very eager to work with us. Observers from the Yanukovych camp, meanwhile, were eager to photograph us, and to our amusement, one woman in Korsun'-Shevchenkivs'kyi, wearing black sunglasses, went to great lengths to do so while hiding behind voters and members of the election commission. Two days earlier in Kyiv, rather less amusingly, two thugs accosted me for taking a photo of a Yanukovych campaign truck. Taking campaign- or election-related photos is the right of all observers upon their registration with the Central Election Commission, but even after seeing my credentials, they did not relent in fighting, ultimately unsuccessfully, for the film in my camera. Adorned with Yanukovych's likeness, the campaign truck bore the slogan 'Hadiia – dobre, nadiinist' – krashche' (Hope is good; certainty is better).

activists in Cherkasy, which included the poisoning of animals on the farm of a leader of a 'pro-Yushchenko civic group' on October 5 and the destruction of a Socialist Party print shop on October 10.[13] These acts portended the possibility of active voter intimidation in *Cherkashchyna* on Election Day. The CVU also informed us of its concern about the integrity of ballot papers and voter registries, and we compiled a list of polling stations in the oblast considered at risk to these problems, mapping out an itinerary for the next day.

Our team split into three mobile groups of two on Election Day, and I worked with Stefan Petelycky, an Auschwitz survivor, representing the Ukrainian Canadian Congress,[14] throughout territorial election district 199, a predominantly rural consistency of approximately 140,000 voters and 177 polling stations.[15] Together we visited two polling stations in the town of Horodyshche, eight in the town of Korsun'-Shevchenkivs'kyi, and two in the district of Lysianka. We were permitted entry at every stage, and the chairpersons of the polling station election commissions were, by and large, friendly and cooperative. Similarly, the members of the election commissions who checked voter identification, distributed the ballots, and counted the votes were, on the whole, diligent and well-trained. Of course, as in any country, conditions were far from perfect – the voting premises in polling station No 2 in Horodyshche, for example, failed to meet size specifications, and the subsequent overcrowding undermined the secrecy of the voting process there – but upon being informed of our observations, the election commissions tended to act quickly and professionally to remediate any problems.

With twenty-four candidates vying for the presidency in the first round, the election ballot consisted of a long sheet of paper consisting of a control

13 Committee of Voters of Ukraine, 'Report on the Pre-Election Environment for October 4-15, 2004,' *CVU Events Chronicle,* October 29, 2004, http://www.cvu.org.ua/?menu=chronicles&po=doc&lang=eng&date_end=2004-07-14&date_beg=2005-01-10&id=646. These acts of violence in the Cherkasy oblast would culminate in the second round in the murder of police captain Petro Potiekhin, who was guarding ballot papers in the village of Molodets'k in election district 202, which abuts district 199.

14 Mr. Petelycky has recounted his ordeal in Auschwitz in his autobiography, *Into Auschwitz, For Ukraine* (Kingston, Ontario: Kashtan Press, 1999).

15 The chairperson of territorial election district 199 was Tamara Mosenko, a supporter of Victor Yanukovych.

coupon, which contained the numbers of the territorial election district and the polling station, and the body of the ballot itself, which listed the surnames, names, and patronymics of the candidates next to brief summaries of their respective platforms. By law, each voter is to receive one ballot upon presentation of valid identification, and its receipt is confirmed by the voter's signature on the control coupon, which is then separated from the body of the ballot and kept for the record before the vote is cast in anonymity. When issuing a ballot, the member of the election commission must sign both the control coupon and the body of the ballot; otherwise, it is *nediisnyi* (invalid). In polling station No 2 in Horodyshche, we observed one member of the election commission repeatedly fail to append her signature to the ballots that she distributed, in effect invalidating votes before they were cast. Upon our deposit of an *akt pro porushennia* (violation report form), this individual was apparently relieved of her post, although we cannot confirm that she did not return to it later in the day.

The problem that pervaded every polling station on our itinerary was not within the primary purview of the polling station election commissions, however. Incomplete and often woefully inaccurate voter registries were commonplace, and their assembly was the responsibility of the Central Election Commission and the executive bodies of local municipalities. We observed scores of prospective voters in electoral precinct 199 being turned away from polling stations and instructed to go to the local court in order to submit a complaint (in accordance with Article 34, part 3 of the law, 'On Elections of the President of Ukraine') and petition for their immediate inclusion in the relevant voter registry. Only with a positive decision from the court could they return to the polling station and cast their vote. Many of the voters affected by this problem informed us that they were lifelong residents of their towns or villages and had even voted in the same polling station in the 1994 and 1999 presidential elections. The perception of injustice among the disenfranchised was often so acute that some adamantly refused to go to the local court, accusing the polling station election commissions of misdeeds and insisting that that the matter be resolved then and there. In fact, two residents of Korsun'-Shevchenkivs'kyi nearly came to blows with members of the election commission in polling station No 43 over their exclusion from the

voter registry, and it was only upon the intervention of a police officer that they reluctantly acquiesced and departed for the local court.[16]

The majority of these disenfranchised voters appeared middle-aged, and a number of them told us that their demographic had been deliberately targeted for its pro-Yushchenko sympathies. They suspected that old-age pensioners, who by contrast were inclined to vote for Yanukovych, had not been as widely omitted from the voter registries.[17] (Irrespective of the legitimacy of this claim, we did observe that a number of pensioners were indeed turned away from polling stations in electoral precinct 199, and we met one elderly woman in Korsun'-Shevchenkivs'kyi who, like many others, had to walk over a kilometer to the local court and back again.) Word quickly spread of long lines at the local courts, and some of the residents excluded from the voter registries seemed to leave the polling stations frustrated and discouraged upon hearing this news. It was impossible for us to know whether they went to appeal their exclusion or simply returned home in resignation.

Rumors ran rampant on Election Day, and the grapevine worked to the advantage of the state and its party of power. In Lysianka, a district with a population of approximately 28,000, we observed an armed contingent of what appeared to be *Berkuty* (Golden Eagles), an elite police force under the command of the Ministry of the Interior, disembark from two buses near the center of town. They did not approach a polling station or physically intimidate voters, but rather congregated outside the buses for a half an hour. What the *Berkuty* were doing in Lysianka on a Sunday afternoon remains a mystery – indeed, the mayor of Lysianka, a member of Yushchenko's Our Ukraine party, had not been informed in advance of their arrival – but their presence alone was enough to frighten voters and contribute to an already tense atmosphere. Similar visits reportedly occurred throughout central Ukraine on October 31, evidently part of a larger program of what might be called 'soft'

16 A more than 10% increase in eligible voters in polling station No 43 between the first round on October 31 (1,730) and the repeat run-off on December 26 (1,908) testifies to the extent of the voter registry debacle.

17 In October 2004, only weeks before the first round, Yanukovych had raised pensions and public sector pay in a naked campaign appeal to pensioners and civil servants.

intimidation, whereby the state conspicuously wields its stick, as it were, without using it.

The arrival of the *Berkuty* proved a distraction in Lysianka, but the counting of the votes in polling station No 96 nonetheless proceeded apace when the polls closed at 8:00 pm. Members of the election commission manually conducted the count well past midnight, and I remained there until the election materials were secured and prepared for transport to the territorial election commission. The count was orderly and thorough, with only one exception. Superfluous marks on a ballot may invalidate it, and two members of the election commission were counting with pens in their hands. A domestic observer and I raised the issue to the chairperson of the election commission, who then made adjustments accordingly. At the conclusion of the count, I retrieved a copy of the result protocol, signed and sealed by the election commission; of the 2,093 votes cast in polling station No 96, a resounding 1,477 (or 71%) were for Yushchenko, 232 (11%) for the Socialist Oleksandr Moroz, and 165 (or 8%) for Yanukovych. Results later published by the Central Election Committee of Ukraine revealed that, out of the 108,940 votes cast in election district 199, 65,426 (60%) were for Yushchenko, 16,940 (16%) for Yanukovych, and 14,716 (14%) for Moroz. After winning 76% of the vote in district 199 in the invalidated second round on November 21, Yushchenko went on to win 85% there in the repeat run-off on December 26. Indeed, at the turn of 2005, district 199 and the entire Cherkasy oblast had unequivocally become Yushchenko country.

Second Round: Transcarpathia

Whereas the regions indicated in Yushchenko's slogan 'Dontes'k + L'viv = Victory' represent two relatively homogenous electorates – the former being predominantly Russophone Orthodox, the latter largely Ukrainophone Greek Catholic – the oblast of Transcarpathia is a collage of diverse ethnic, religious, and linguistic affiliations. More than seventeen changes of statehood over the course of its history have greatly influenced the sense of

identity in Transcarpathia.[18] Since constituting part of the Austro-Hungarian Empire, the region has been a part of Czechoslovakia (1919-38), Hungary (1938-44), the USSR (1945-91), and Ukraine (1991-present). The oblast is home to more than seventy ethnic groups and twelve ethnic minorities, among them Russians, Hungarians, Slovaks, Roma (Gypsies), and Jews. Ukrainian, Russian, Hungarian, and Slovak are commonly spoken in Transcarpathia, and Roman Catholic, Greek Catholic, Orthodox, and Baptist are among the most common religious affiliations. Identity is extremely open to fluidity in Transcarpathia, differentiating it from other western oblasts like Ternopil', L'viv, and Ivano-Frankivs'k, where the majority of the electorate expresses a relatively strong Ukrainian patriotic sentiment. While political analysts never doubted a strong win for Viktor Yushchenko in these oblasts, they considered Transcarpathia, like Cherkasy to some extent, something of a 'swing state.' This ambivalence, however, did not stem from a lack of clarity regarding which candidate particular ethnic groups would support, but rather from the degree of influence that the political and economic party of power in the region, namely, the Social Democratic Party of Ukraine (united) (SDPU(o)), would have over the electorate on Election Day.

Transcarpathia is the poorest and least developed region in western Ukraine, and with unemployment at 70%, it was not difficult for a group of Kyiv oligarchs with Transcarpathian family connections to take control in the region. For close to a decade, the SDPU(o), which is closely allied to President Leonid Kuchma, considered Transcarpathia a solid home base.[19] An Uzhhorod resident best described the party's financial and political monopoly in the region in this way: 'If you were for them, you had money in

18 Judy Batt, 'Transcarpathia: Peripheral Region at the "Centre of Europe",' *Regional and Federal Studies*. 12:2 (Summer 2002): 155-77.

19 Much of my knowledge regarding the role of SDPU(o) in Transcarpathia is rooted in first-hand experience, because in 2001-2002, I conducted dissertation research among Roma in the region. I chose to serve as an election observer in Uzhhorod because I felt that, in order to be effective, one had to have a grasp of local politics. My sister Zenia Helbig and I worked as a two-person observer team, whose task was to monitor the larger, more problematic polling stations in central Uzhhorod. In both rounds of the elections, I recognized and knew many members of the voting commissions as well as the voters themselves. Being aware of people's social and political positions helped me discern which people to monitor more closely than others.

your pocket. If you weren't, you got left behind.'[20] On April 18, 2003, the mayoral elections in the Transcarpathian town of Mukachevo proved to be a harbinger of the struggle for power that would occur between the SDPU(o) and the increasingly popular Our Ukraine party during the 2004 presidential elections. In Mukachevo, independent exit polls and voting protocols indicated that the Our Ukraine candidate for mayor, Viktor Baloha, had won the elections with 57% of the vote over SDPU(o) candidate Ernest Nusser, who had received 40%. The election commission in Mukachevo nonetheless announced Nusser the official winner. Observers of the mayoral elections noted serious violations during the voting: skinhead groups harassed voters and exit poll workers, international observers were not allowed to enter polling stations, ballots were manipulated, and ballot boxes were stolen.[21] On May 29, 2004, following more than a year of protests and legal appeals from the opposition, Nusser resigned. While the events in Mukachevo were an indication that the SDPU(o) was slowly losing its grip in the region, SDPU(o) loyalists remained determined to prevent Viktor Yushchenko from winning in the oblast in the presidential elections.

Between the first and second rounds of the presidential elections (October 31 – November 21, 2004), twenty school directors in Uzhhorod, Transcarpathia, were removed from their posts. They had received significant bribes to influence the vote in polling stations set up in their respective schools and were instructed to choose trusted teachers to comprise local polling station election commissions. These teachers were to work in a way that would ensure a final vote count that favored the pro-government candidate, Viktor Yanukovych.[22] Such hand-picked commissions were meant to ensure that pro-government supporters outnumbered opposition supporters at the local level. It was ultimately Viktor Yushchenko, however, who won the first round of the elections in the Transcarpathia oblast with 47% of the vote; the school directors were presumably punished for his victory.

Despite numerous complaints lodged by local and international observers over the imbalance of representative power in election

20 Interview with an anonymous voter, Uzhhorod, Transcarpathia, November 21, 2004.
21 'Elections Put Democracy, Rule of Law to a Test in Ukraine,' *USA Today*, Aug. 14, 2004, http://www.usatoday.com/news/world/2004-08-14-ukraine-elections_x.htm.
22 Interview with an anonymous member of the election commission at polling station No 6, Uzhhorod, Transcarpathia, November, 21, 2004.

commissions, the structure of the commissions remained the same in the second round of elections. In the first round, I had served as an international observer in polling station No 7, among the largest of the 41 polling districts in Uzhhorod's territorial election district 70. The head of the polling station election commission there, Maria Zhebliak, had kept 1,739 unused ballots in an open, unguarded safe out of the view of observers and other commission members. The ballots were placed beneath a desk in a side room where Ms. Zhebliak and her assistant claimed they were 'doing paperwork.' In response, representatives from Our Ukraine immediately filed a criminal complaint in the local courts, at which time we counted the unused ballots. They were all accounted for, but during the eventual vote count, many cast ballots were deemed invalid (*nediisnyi*) because they had been stamped with two seals from the election commission rather than one. (Had 10% of the ballots been deemed *nediisnyi,* the voting in polling station No 7 would have been invalidated, nullifying Viktor Yushchenko's 68% win in the polling station.) Despite these suspicious incidents in the first round, the courts dismissed the criminal complaint against Ms. Zhebliak filed by Our Ukraine and signed by local observers and myself. In fact, she was reappointed chairperson of the election commission for polling station No 7 in the second round of the presidential elections on November 21, 2004.[23]

Our Ukraine representatives who served on electoral commissions were harassed and threatened even more during the second round of elections than they had been during the first. The former head of the electoral commission in polling station No 6, an Our Ukraine supporter, was pressured to resign; a Yanukovych representative replaced her. At the same polling station, pro-Yanukovych commission members relegated the greatly outnumbered Our Ukraine representatives to the post of observers and prohibited them from distributing ballots to voters.

23 On November 21, my sister Zenia served as an election observer in Ms. Zhebliak's polling station. Commission members forbade Zenia, along with other local observers, to walk freely throughout the station. Zenia filed a complaint against Ms. Zhebliak for allowing commission members to commit this violation, among others. Unfortunately, even after the rights of the observers had been 'reinstated' at the polling station, the commission's boldness intimidated local observers to the point that none felt comfortable monitoring the commission members closely.

During the second round on November 21, one figure who immediately caught my eye in Uzhhorod's polling station No 7 was a school director, who was lingering around the voting premises. When I asked him to leave the polling station because he had already voted and had no reason to stay since he was not a member of the electoral commission, he replied that he ran the school where the voting was taking place and had to stay to ensure that voters did not damage school property. The school director neglected to admit, however, that he was an elected SDPU(o) official on the city council and by law could not be present on the premises at all. Nonetheless, he greeted voters at the door and, with a firm handshake, a smile, or stern look, 'reminded' them for whom to vote. Days before he had instructed the schoolchildren in a homework assignment to write an essay about the candidate for whom their parents would vote. At a dinner on the eve of the elections, Vera Madiar-Novak, a music professor whose children attend the particular school in question, told me that the director had actively encouraged parents to vote for Viktor Yanukovych in the presidential elections.[24] The director hinted that such a vote would benefit their children's 'progress' in the school.

Transcarpathia's university students were coerced as well. Students from Uzhhorod informed us that they were forced to vote by absentee ballot in polling stations outside the city. Before they cast their ballots, the students had to hold them in such a way that the Yanukovych representative lingering near the ballot boxes could ensure that they voted for the 'correct' candidate. Students who did not cooperate were expelled, fined, or given low marks.

Particular segments of the voting public were especially vulnerable to manipulation, and Roma voters are among the poorest and most marginalized members of Transcarpathian society. Roma activists Aladar Adam and Evhenija Navrotska reported that, throughout the region, Roma passports were taken away for 'routine inspection' a few days prior to both the first and second round of elections.[25] Third parties submitted these documents to obtain absentee ballots, which were then used to cast votes for Viktor Yanukovych. Many Roma in rural settings were physically harassed

24 Personal communication, Vera Madiar-Novak, Uzhhorod, Transcarpathia.
25 Interviews with Aladar Adam and Evhenija Navrotska, editors of the *Romani Yag* newspaper in Uzhhorod, Transcarpathia.

and transported to polling stations where they received instructions to cast pre-checked ballots in favor of Yanukovych. In a village a few kilometers from Uzhhorod, a local official attempted to accompany Roma voters into the voting booths, stating that they were illiterate and that he had to help them read the ballot.

Perhaps the most elaborate violation scheme uncovered in Uzhhorod was a vote-rigging system known as a 'carousel.' An operative outside the polling station paid a voter to bring out a blank ballot. The operative marked the ballot for a particular candidate and gave it to the next voter, who then dropped it in the ballot box and brought back a blank ballot. Such a system was very difficult to identify; in fact, an investigation only began when a voter mistook an observer as the contact person for a local 'carousel.'

As in Cherkasy, the fear factor was among the more effective forces utilized by pro-government factions during the pre-electoral campaign and during both rounds of the presidential elections. One voter called our observer team 'the Ukrainian people's only hope,' and an election commission member from the Our Ukraine party pointed out that the presence of international figures in the polling stations was a form of moral support. Seeing international observers gave her the confidence to stand up against the commission members who were breaking election laws.

Working together, my sister Zenia Helbig and I noticed that at numerous polling stations, however, local election observers did not report election violations. When I asked one observer to sign a violation report form as a witness, he declined, stating, 'Tomorrow you will leave, but I have to live here.' Such a statement implies that the observer, an Our Ukraine supporter, did not believe that Viktor Yushchenko would be pronounced the winner of the second round of elections. The statement also indicates that the observer had been intimidated or feared harassment by those in power. Among the observers who refused to sign my violation report forms, however, were also those who had been paid to look the other way.

Despite the violations my sister and I witnessed as election observers in Uzhhorod, and despite the stronghold that the SDPU(o) had had in the region in the past, Viktor Yushchenko won the second round of the elections in Transcarpathia with 55% of the vote. In the repeat run-off on December 26,

2004, he won the region with a solid 67% of the vote. His margin of victory nationwide was approximately 3 million votes.

Conclusion

When a record number of more than 12,000 international observers walked into polling stations across Ukraine on the morning of December 26, 2004, they encountered an electoral atmosphere marked by significant improvement. After the Ukrainian Supreme Court's dramatic ruling on December 3 that invalidated the November 21 poll, the *Verkhovna Rada* (Supreme Council, Ukraine's Parliament) implemented a number of measures designed to curb future falsification and fraud. Several members of the Ukrainian Central Election Commission were replaced, for example, and territorial and polling station election commissions were restructured as well. Polling station commissions were no longer comprised of thirty or more members; rather, each election commission had twelve members with equal representation afforded to both candidates. Crucial modifications were also made to numerous election laws. Because absentee ballots were so extensively abused in the first and second rounds, the percentage of absentee ballots allowed in the December 26 run-off was reduced from 4% to 0.5% of all ballots cast. All ballots were also imprinted with the registration number of their respective polling stations in order to ensure that voters only cast ballots in the stations where they were registered. New regulations also stated that the results in a particular polling station could be annulled if observers, journalists, or commission members were not allowed entrance into the polling station or prevented from attending commission meetings or the vote count.

The efforts of international and domestic observers were instrumental in bringing world opinion to bear on the Ukrainian presidential elections and highlighting the electoral violations that prompted the *Verkhovna Rada* to adopt these changes. But it was the tremendous will of the people of Ukraine – who came together from all regions of the country to defend the integrity of their vote in a peaceful 'Orange Revolution' – that ultimately made the 2004 Ukrainian presidential elections a true victory for democracy.

Observations from the Cherkasy Region

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Introduction

While working as Visiting Professors in the Institute for Non-Profit Management at the Ukrainian Catholic University in L'viv during the 2003-2004 academic year, we could not help but notice the increasing level of citizen's participation in the political process in Ukraine. We witnessed several political meetings and rallies on the streets in L'viv and Kyiv; and many of our colleagues described their hopes and fears for the coming elections. When the 2004 elections took place and the media reported allegations of widespread fraud, we followed the post-election development of events daily hoping for peaceful resolution of the crisis. When the decision was made to stage a re-run of the Second Round of elections between Yanukovych and Yushchenko on December 26, 2004, we decided to volunteer as international election observers to assist in ensuring a fair election process.

After contacting several other organizations, we joined the delegation coordinated by the Ukrainian Congress Committee of America, and were assigned to the Cherkasy region. On Election Day, we inspected 11 polling stations in and near the city of Cherkasy, including 'normal' polling stations in both rural and urban areas, and three 'special' polling stations, in a prison, on a military base, and in a hospital. We finished our day of inspections late at night in the territorial elections commission office as the polling stations reported their results.

In this report, we will describe our observations and impressions of the elections monitoring process, the voting processes, and the elections commissions.

Election Monitoring Process

The Ukrainian Congress Committee of America fielded a large number of election monitors who covered many different regions throughout Ukraine. We were a part of a group of more than a dozen people who went to Cherkasy region. On Election Day the group separated into smaller teams of two to three people each with a list of polling stations in the region and their addresses. Individual teams followed different strategies, with some teams choosing to spend the entire day at one polling station, and others visiting many separate polling stations. Each monitoring team was equipped with both a still camera and a video camera to be able to make records of their observations of the elections.

We visited most of polling stations on our suggested route, staying longer at the ones that did not seem to follow the election procedure too rigorously with a number of observed voting irregularities and cutting our stay short at the stations that were run more smoothly. In addition, we also added other nearby polling stations that were of particular interest, including 'special' polling stations at a maximum security prison and at a regional hospital.

We were treated very professionally, and with considerable courtesy and respect, at every polling station that we visited, both by the commission members and the voters. While some commission members may have taken somewhat defensive attitudes towards our questions regarding the voting process, most were eager to 'show-case' their stations and their successes. Several commission leaders were happy to inform us of the relatively minor voting irregularities that they themselves had observed and to describe the actions that they had already taken to address them.

All of the polling stations were cooperative and provided us with the full access that we were entitled to. Even the maximum security prison allowed us unfettered access upon presentation of our credentials, although they asked us to leave our camera and video camera at the guard booth. (Under the rule of the election, we should have been allowed to bring them in with us to photograph the polling station, but we chose to comply with their request).

Although we did not encounter any other teams of international monitors in person, by the end of the day each station we visited had already been inspected by several other international monitoring teams, representing

both Western countries and institutions, Commonwealth of Independent States (CIS) countries and institutions, and international bodies.

Many of the voters at the polling stations seemed to be happy to see us, asking us what country and organization we represented, requesting to take their pictures. We felt that they appreciated our presence as the confirmation of the importance of their particular polling station in the overall election process. Most of the polling stations we visited that day were rural stations in villages that are unlikely to see much international attention and international visitors on a regular basis thus they seemed to particularly appreciate international attention on election day.

Voting Process

The voting process was well designed, clearly defined, and targeted at preventing ballot box stuffing. All voters were required to register in advance, and the polling station commissions were provided with a voter list. For this round of the elections, voters were only allowed to vote at the one polling station at which they were registered. In order to receive a ballot, the voter was required to present his or her internal passport (a form of national ID card) as proof of identify, and the commissioner compared that passport to the voter list. We observed one elderly woman turned away from one polling station after she was unable to find her passport. Both the voter and the polling station commissioner then sign the voter list to confirm that the voter has been issued a ballot.

Picture II.1: Check-in Process

TEC: 197

Polling Station: 092 (Normal)

Time: 11:59 AM, 26 December 2004

Description: Voting at polling station 92. Note that the polling booths are well-lit, and the check in process is smooth and orderly. This polling station had 1050 registered voters, and thus needed only 2 stationary ballot boxes.

The ballots themselves were printed on multi-colored paper, with the territorial commission and polling station numbers printed both on a removable stub and on the ballot itself. Each ballot was also hand-stamped by the polling station commission upon receipt. Polling stations were given very limited numbers of ballots, closely matching the number of registered voters, to ensure that there were few extra ballots to be stolen or used illicitly.

Picture II.2: The Ballot

TEC: 197
Polling Station: 092 (Normal)
Time: 11:36 AM, 26 December 2004
Description: An unused ballot from polling station 92. Contrary to the procedures, a commissioner signed this ballot (and one other) before the station opened in an attempt to save time. The Chair and Secretary stopped the commissioner from signing any more, and set these aside as invalid. In some other polling stations we visited, commissioners routinely signed ballots before the voters arrived without intervention by the Chair or Secretary.

When the ballot was issued, both the voter and commissioner signed a stub, which was then removed, and the commissioner signed the ballot itself. In this way, the actual ballot could be traced to the territory, polling station, and commissioner who issued it, but not to the voter who cast it.

Picture II.3: Voter List and Ballot Stubs

TEC: 197
Polling Station: 085 (Normal)
Time: 10:53 AM, 26 December 2004
Description: Ballot stubs and voter list for polling station 85. Upon issuing a ballot to a voter, the commissioner signs the ballot, the ballot stub, and the voter list, and the voter signs the ballot stub and voter list. Note that in one case in this picture, the commissioner failed to sign the voter list.

The voter then took the ballot to a private voting booth, marked his or her choice, and then deposited it into a sealed ballot box made out of a transparent material and stored in a very visible location.

Picture II.4: Ballot Boxes

TEC: 197
Polling Station: 094 (Normal)
Time: 8:47 AM, 26 December 2004
Description: Four ballot boxes to accommodate a polling station with 1890 registered voters. Initial ballots from the first hour of voting have been deposited.

These security measures made it difficult, during this round, to 'stuff' a ballot box with illegal ballots without being detected. Although we didn't observe any problems ourselves, it would still have been possible to interfere with the vote by stealing or damaging ballots; while these efforts would certainly be detected, they could potentially lead to having an entire polling station's ballots invalidated.

Election Commissions

The bi-partisan elections commissions were important contributors to the success of the December 26th election. Although the polling station commissions varied somewhat in their knowledge of the process and in the rigor with which they applied it, the commissioners that we observed in the Cherkasy region overall did a very good job and demonstrated clear dedication to achieving a fair and transparent election.

Picture II.5: Elections Commission

TEC: 197
Polling Station: 092 (Normal)
Time: 11:27 AM, 26 December 2004
Description: The chair and secretary of the polling station commission for polling station 92. Note the colorful process map on the desk, created by Development Associates, Inc., with funding from USAID. This process map was widely used, and received praise from the leaders of several commissions we visited.

Some local commission leaders went above and beyond the process requirements to ensure good work of their commissions and the election process. The best example of the polling commission leadership, in our mind, was the Chairperson of polling station 7, TEC number 198. Since his polling

station was located inside a regional hospital with many bed-ridden patients, he was concerned that the election process rule restricting mobile box voting to only the most infirm ('Invalids of categories I & II') would preclude many of registered voters at his polling station from voting. In anticipation of a court ruling to ease this requirement, he started collecting written requests from bed-ridden patients to be allowed to vote by mobile box while the rule change was being deliberated. Thus, when the rule was changed just two days before the election, this particular polling station was already prepared, and 154 of the voters in this polling station (out of 472 total) were authorized to cast their votes into a mobile box brought to their bedsides in their hospital rooms.

Picture II.6: Ballot Boxes in a Hospital

TEC: 198
Polling Station: 007 (Hospital)
Time: 7:51 PM, 26 December 2004
Description: Stationary and mobile ballot boxes at polling station 007, a hospital. Note that the mobile box is nearly full, since 154 of the 472 registered voters were authorized to vote from their hospital beds. This mobile box has been stored upside down, as it should be, to prevent voters at the polling station from putting their ballots into the mobile box by mistake.

A very large number of Ukrainians were direct, official participants in the elections process, through membership on the local polling station

commissions. Each polling station represented between 1,000 and 3,000 voters (with some special stations, such as hospitals, having fewer voters), and each of these polling stations had commissions with between 12 and 16 members – so between 0.5% and 1.0% of the registered voters served on a polling station commission. We observed the following numbers: 16 commission members for 2065 registered voters in polling station 85 TEC number 197 (0.77% of registered voters); 12 commission members for 1050 registered voters in polling station 92 TEC number 197 (1.1% of registered voters); 16 commission members for 2386 registered voters for in polling station 67 TEC number 197 (0.67% of registered voters).

Most of the commissions we visited reported that all commission members were present on Election Day, although a few commissions did have one or two members missing. However, even with the missing members the smallest commission size we observed was 10 people for 472 registered voters (2.1% of registered voters), at polling station 7 TEC number 198; two of the Yanukovych delegates to the commission were absent.

The commissions we observed seemed to have an even mix between male and female members, and the commissions seemed to be just as likely to be led by men as by women.

It was interesting to note that the lowest quality of work that we observed was exhibited by the Territorial Elections Commission (TEC) number 198, where we went at the end of day to observe the local commissions submitting their vote counts. Despite the fact that the TEC was at a more senior level of the elections organization, the members of the TEC did not appear to take their roles as seriously as the local polling station commissioners. They tended to deviate from the process and give conflicting information to the representatives from the local polling stations as they reported their vote count results. Since we were only able to observe one TEC on Election Day, we cannot generalize our impression of the work of the TEC's in the Cherkasy region; however, we were surprised by the weak performance of the TEC when compared to the local polling station commissions that we had just visited.

Voting Irregularities

Although we observed some voting irregularities at different polling stations we visited, it is our opinion that all were minor deviations from the process due to the lack of training or lack of rigor on the part of the commissions' Chairpersons in enforcing the rules rather than a conscious decision to commit fraud. Some polling stations had several small irregularities, such as poor lighting in the voting booths, commission members who failed to properly display their identification cards, or missing signs specifying the polling station number, which pointed to a lack of rigorous rule enforcement on the part of the commission leadership. Other irregularities, while still minor, had the potential to lead to more serious irregularities that could affect the voting process and the vote count; for instance, at one polling station, a commission member occasionally failed to sign the voter list when issuing ballots to the voter, leaving an opportunity to challenge the results during the counting process. In several others, the mobile ballot boxes were stored right-side up when they should have been upside down, to prevent anyone from accidentally placing a ballot into them.

At the stations that were better run with great attention to detail and enforcement of the process, voting irregularities were either prevented from happening or stopped promptly before they caused major problems. For example, at one station, a commission member started signing ballots before the polling station opened in order to save herself some time later. The Chair of the commission stopped her after she signed just two ballots, invalidated them, and instructed all commissioners to be more diligent in following the procedure.

Picture II.7: Mobile Ballot Box Stored Improperly

TEC: 197
Polling Station: 085 (Normal)
Time: 10:54 AM, 26 December 2004
Description: Stationary and mobile ballot boxes for polling station 85. Note that the mobile ballot box has been stored with the handle up; by the proper procedure, it should have been upside down to prevent ballots from being deposited into it at the polling station.

The biggest problem that we encountered on the Election Day was at a special military base. In accordance with the rules for the election, the polling station at the base was given a number of ballots equal to the number of the registered voters at the time of the 1st round of the Presidential Elections in October 2004. However, due to a major troop rotation in the intervening months, the number of registered voters at the base increased dramatically and the polling station ended up more than 2,300 ballots short on Election Day of December 26, 2004. As a result of this ballot shortage, nearly three quarters of the voters on the base were unable to vote.

Due to the rushed nature of the 3rd round of voting, the polling station commission on the base was formed less just 6 days before the election. The commissioners realized the looming problem and contacted the Territorial Elections Commission (#198) for assistance; they reportedly were promised

additional ballots, but none were delivered. While we saw no evidence of fraud or intentional malfeasance, the situation was very upsetting for both the commissioners and voters on the base.

Vote Count

We observed the vote count process at the polling station 007, TEC number 198, located at a regional hospital. We arrived at the polling station shortly before the close of voting at 8:00 PM. At that time the polling station did not have anybody voting since everybody who was going to vote there had voted earlier in the day (hospital patients tend to get up early and go to bed early). The doors of the polling station were locked for the vote count at precisely 8:00 PM with the commissioners, observers, and monitors remaining at the polling station through the end of the vote count.

Having observed the process from beginning to end we can say that it was very well designed with a number of verification steps ensuring that every ballot is accounted for, every vote is counted and the vote count results can be confirmed and verified again at a later time if necessary.

Since not all the ballots received by the polling station were used by the voters, the unused ballots were counted, voided and sealed at the very beginning of the process. The number of voters that received ballots was determined based on the number of control coupons and the signatures in the voter list. The sum of the unused ballots and the used ballots was verified to equal to the total number of ballots received by the polling station—just the first of several verification steps in the process. The process envisioned specific steps to be taken if a ballot was found to be unaccounted for or if there were extra ballots found, however, since none of those things occurred at the hospital polling station, we did not see how the commission would have handled those problems.

The vote count process went very smoothly with every verification step giving the expected result and accounting for every ballot. Everything was done in the open view of the commission members and observers representing both candidates, so they could confirm for themselves the integrity of the seals on the ballot boxes, see the boxes being opened and

ballots counted. The vote count was carried out aloud, with the Secretary holding up ballots one at a time and calling out the current count.

Picture II.8: Inspecting the Seals on the Mobile Ballot Box

TEC: 198
Polling Station: 007 (Hospital)
Time: 8:14 PM, 26 December 2004
Description: At the start of the vote counting process, the Chair of the polling station commission inspects and verifies the seals on the mobile ballot box in view of the other commissioners and the observers.

During the sorting of the ballots into the piles for each candidate and 'none of the above', six ballots out of four hundred forty one were put aside into 'undetermined' pile. Each of those ballots was examined later to determine the intent of the voter and three of them were determined valid with all the commissioners and all the observers agreeing with the decision. Three ballots were determined to be invalid, one was an under-vote (no marking at all) and two over-votes (markings next to both candidates). Thus, out of four hundred forty one ballots cast, only three were considered invalid – an error rate of just 0.6%. Considering that this error rate occurred in a hospital, with sick and elderly patients, it is impressively low.

Picture II.9: Reviewing Questionable Ballots

TEC: 198
Polling Station: 007 (Hospital)
Time: 8:35 PM, 26 December 2004
Description: While sorting the ballots into separate piles for Yushchenko, Yanukovych, and 'none of the above,' the commissioners inspect a questionable ballot. At this polling station, 3 ballots were ultimately discarded – one under-vote (no markings at all), and two over-votes (markings next to both candidates).

Once the cast ballots were counted and sealed, the commission prepared numerous copies of a vote tabulation protocol with each observer receiving a signed original. The vote count process ended for us at the TEC number 198 where we observed the Chair and the Secretary of polling station commission 007 announce the vote count results from their station. We verified that the vote count results announced at the TEC correctly matched the vote tabulation protocol – one more verification step to ensure that the vote count results were not 'corrupted' while in transit from the polling station to the TEC. The TEC also received the sealed package with the original ballots, control coupons, and the voter list from the polling station 007 to ensure sure that the paper trail was available in case of a re-count.

All in all, the vote count process took about 3 hours from the time the doors were locked at 8:00 PM in the evening to the time the vote count results were announced at the TEC around 11:00 PM (including travel time

from the polling station to the TEC and the wait time at the TEC). Since the 'special' polling station 007 had only four hundred seventy two registered voters, the counting process was much quicker than it would have been at a 'normal' polling station with up to 3000 registered voters. Even a full-sized polling station, however, would have been able to count all of its ballots during the course of the night, making it possible to know the results for all polling stations by the next morning.

This counting process was very labor-intensive, in that it required the presence and attention of many people to watch as each ballot was counted and sorted multiple times in different steps of the process. However, the transparency provided by allowing witnesses from both parties to watch as every ballot was counted made the process more trustable than, say, a process in which ballots are counted by machine.

Comparison to the Voting Systems in the United States

As international observers, it was very interesting to compare the Ukrainian system with the American systems we use ourselves. In the state of Oregon, where we now live, all voting is done by mail – there are no polling stations. Voters register by mail, with minimal proof of identification (photocopies of utility bills bearing the prospective voter's name and address are sufficient) and no proof of citizenship or age beyond a signed statement.

Voters in Oregon are given two weeks to return their ballots after receiving them in the mail. They are instructed to complete them in secret; a double envelope system is used, with the voter signing the outer envelope and the ballot's secrecy protected by an anonymous inner envelope. Voters have many options for returning their ballots – they may place them in the regular mail, deliver them in person to a designated ballot collection spot (such as a public library or the elections commission offices) – or allow someone else to bring their ballot in for them. During the voting process, the political parties recruit teams of volunteers to go door to door collecting ballots from their supporters.

Oregon's system is clearly far less secure than that used in Ukraine for the December 26th run-off election – and yet it is very popular in the state,

and widely perceived to be safe. Whereas Ukraine's process is designed to guarantee that no invalid votes are counted, at the risk of making the process difficult for voters, Oregon's process is designed to make it as easy as possible for voters to vote, to ensure the broadest possible participation, even at the risk of small-scale fraud.

Conclusion

Our overall impression of the conduct of the elections on December 26, 2004, in the polling stations of Cherkasy Region that we visited was very positive. We were given full access and cooperation by the polling station commission members and felt that our presence was noticed and appreciated by both the commissions and the voters. We thought that the voting process was well designed and transparent and achieved its goal to provide sufficient security measures to minimize fraud. While we observed a few minor voting irregularities, we saw no evidence of fraud or intentional malfeasance at any of the stations that we visited. The elections appeared to go very smoothly, with the voters enthusiastic and eager to participate in the process. This energy was reflected in the work of the polling station commissions that, in our mind, greatly contributed to the successful conduct of the election by active participation in the process. While the election process we observed in Ukraine differed greatly from the one we are familiar with in the US state of Oregon, we thought that it adequately reflected the particular needs of the emerging democracy. We are also grateful to both the government of Ukraine and the Ukrainian Congress Committee of America for giving us the opportunity to participate in the election process and observe the development of this vital institution of democracy.

From Sunset to Sunrise in a Territorial Election Commission: Some Observations during a Crucial Night

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Having observed elections in some other countries before, it was nothing really new to both of us that neither elections end with the always challenging counting process in a polling station nor does election observation. The election results and documents have to get submitted by phone or internet for a first information and afterwards by land for the official delivery to the next higher level, where they get registered and summed up – something that should be watched carefully in addition to the observation of the voting procedures in individual voting stations in the course of day. This is why an observer in an ordinary polling station can find himself or herself trying to listen to phone calls in backrooms, to catch an eye of computerized figures and finally to follow the board of the Polling Station Commissions (PSC) sometimes adventurously to the higher-level election authority where he or she might end up in overcrowded corridors, trying not to loose track of the PSC board being followed or not to get refused to enter the building at all. This is quite a hard job – especially after having been up and around since early election morning. Therefore, it was a good decision that the OSCE/ODIHR International Election Observation Mission (IEOM) for the presidential elections in Ukraine had decided to form specifically designated teams for observing the regional reporting and tabulation process particularly in several Territorial Election Commissions (TEC).

Having been assigned to such kind of teams and having received numerous indications beforehand that observing the presidential elections discussed herein was going to become a very difficult exercise, we introduced ourselves to the respective TEC boards already one or two days before Election Day itself in order to inform them about our task and rights as well as

to ensure getting access to the TEC premises and receiving information during election night – a preparation that proved to be worthwhile as in several situations during the night when it came to a head, we faced the threat of getting in severe trouble or almost thrown out. Yet even with this preparation, it happened that one of our teams was not lead into the TEC building in Uzhgorod (Transcarpathia region) by a group of young people who aggressively blocked the main entrance, narrowly surrounding the group of two observers and one interpreter who tried to enter the building. Moreover, access *via* the back entrance of the premises was denied by a couple of men in black suits, identifying themselves as journalists but declining to present proper identification documents. The presence of about 20 police officers who watched both situations did not help the observers at all since they claimed not to be competent for that matter.[1]

On Election Day itself, we started much later than other observers, visited only a couple of polling stations for a warm up and, in due time before the official closing of the polling stations at 18.00 hrs when counting started simultaneously in the whole country, we ended up in the regional center with its TEC.[2] There, we had to stay until the final result was announced – usually some time after sunrise. Our experience at these selected points of interest

1 This incidence was later also mentioned in the final IEOM report: 'During the first round, at TEC 71 and 74 in Zakarpats'ka, observers were prevented from entering the TEC premises by a group of young men, despite the presence of police'. *OSCE/ODIHR Election Observation Mission Final Report.* (Warsaw, 11.05.2005): 29.

2 In the first round, one of us was not assigned to a specific TEC tem, but a regular team that was supposed to concentrate its work on the conduct of the electoral process in individual polling stations in Transcarpathia region during the day as well as observing the vote count in one individual station (deliberately chosen upon impressions received during the day) and following the PSC board to its higher-level TEC afterwards. In the particular case witnessed, the atmosphere during the counting procedure in the rural polling station visited was a very tense one, accompanied by aggressive approaches towards us observers as well as several attempts to throw us out of the polling station. This was a bit surprising against the background that we did not observe any serious attempts of systematically forging the outcome of the vote count, although it is important to add that we had received several corresponding and credible allegations of serious voter intimidations in that village in the run-up to Election Day as well as in front of the polling station while the elections took place. When intending to follow the PSC board on their way to report the results of their station to the TEC after the counting procedure was finished and the protocol was drawn up, we were deliberately deceived and lost track of the car that transported the PSC board with the voting material. This, again, was surprising since the results recorded in the protocol of the voting station we observed agreed with the one being reported to the TEC, as we could confirm later.

for IEOM is based on visits with different and changing teams to Kyiv Region and Transcarpathia for the first round vote (October 31) as well as to Crimea Autonomous Republic and again to Transcarpathia for the second round (November 21).

For both presidential and parliamentary elections, Ukraine has been divided in 225 Territorial election districts within the last decade – corresponding to its 225 single member constituencies in which half of the Members of Parliament were elected in the past. Thus, in 225 places all over the country which are at least of local importance, there is something like a regional headquarter of the election administration; in bigger cities, respectively, several of them. Each of these TECs reports directly to the Central Election Commission (CEC) in Kyiv which appoints the TEC members (on proposals of the registered candidates) and supervises the work of these bodies. A TEC itself has the duty to organize the elections in all of its roughly 150 subordinated polling stations in the corresponding region, i.e. to appoint their members (again upon registered candidates' nominations), to arrange for their training, to distribute and control the distribution of election material including the sensitive issue of ballots, to decide on complaints before Election Day, and, finally, to receive the results as well as to announce and report them to the CEC.

In late summer 2004, all TECs (as well as PSCs) were established for the October 31 vote and a possible second round.[3] As there were 24 candidates registered for the first round vote and, by analogy with the highly disputed issue of CEC membership, each of them had the possibility to nominate two members of each TEC and each PSC, these bodies could (and

3 In the run-up to the repeat second round vote on December 26, some largely disputed changes in the regulations were achieved according to which election administration commissions were reorganized with fewer members (nominated only by the two remaining candidates) as well as with an equal number of members and board members for each of the two candidates. As the two authors could not observe this 'third' and deciding round, we can only refer to the final IEOM report, highlighting that the short period of time that remained for the formation of TECs and the heated political situation led to the fact that 'some 12% of TECs experienced difficulties reaching a quorum to take valid decisions (yet they obviously took them!), and a poor level of 'collegiality' was reported in almost 32%' (*OSCE/ODIHR Election Observation Mission Final Report*. (Warsaw, 11.05.2005): 33).

in most cases did) grow up to 48 people.[4] In order to work and take decisions, the law stipulates that at least two thirds of all commission members have to be present. Imagine what it means when such a crowd has to insure a proper process including tabulation and calculation of a huge pile of figures and has to make some very complex decisions – and even worse, in the middle of the night!

Thus, observing the performance of TECs appeared to be a very exciting experience, indeed, as well as a very challenging one, taking into account that these bodies are most crucial especially during the process of tabulating and aggregating incoming results of all polling stations within their area of responsibility and reporting the aggregated results to the CEC. Very important in this whole process were the protocols that each PSC had to issue after the count and to deliver to the TEC, together with all used and unused ballots and other documents, sealed in envelopes and put in big bags. At the TECs, the results of these protocols got registered, their consistency was double-checked, and the intactness of all seals had to be controlled. As a copy of each PSC protocol has been published at the respective polling station in addition to the ones supposedly being issued to local observers, media, and others, this could theoretically have been the best possibility for those who had witnessed the count in this stage to follow up if this result was later included correctly into the tabulation on TEC level and into the country-wide final result. The same rules applied to the protocols and documents the TECs had to write and deliver to the CEC after having received and aggregated all PSC results. Copies of these protocols were kept and published at the TECs, thereby offering the possibility to double-check the results announced later by the CEC.

However, even the issue of distributing and controlling the ballots by the TEC seemed to be quite difficult. Visiting some places already the day before Election Day, we partly observed quite chaotic situations with crowds trying to count hundreds and thousands of sheets of paper in a room or corridor full of

4 This provision of the election law helps to understand the high number of candidates during the first round despite the very low chances for most of them (19 of them got less that 1% of the votes, 13 of them even less then 0,05%!) and the enormous costs that resulted out of their candidacy. Most of them were so-called 'technical candidates', simply organized and paid by the ones with better perspectives in order to achieve stronger support in the election commissions.

tenseness and noise, in order to hand them out to the boards of each PSC that had to bring the ballots to their premises. Once the ballots arrived at the scene, they did not only get locked in safes and guarded by police overnight, but also recounted by the PSCs in different categories (ballots received from TEC, issued to voters, received back with a vote or void or spoiled, not issued and used at all, returned finally to TEC) several times during the next day and finally noted in the protocols with which they got transmitted to the TEC. In the meantime, the TEC board had to make sure that all the spare ballots they kept in reserve were also registered properly until they had to be distributed on further request or delivered back to the CEC together with to the documents and protocols of all PSCs. This system can indeed be characterized as quite a complex one, mainly known from countries where there is a huge lack of trust in voter registration and a significant fear of falsified ballots deposed in ballot boxes, whereas in other places nobody would care about the figure of ballots until they get issued to voters. Besides, the system can also be described as quite a non-transparent and not very secure arrangement, as we could not only witness during the counting procedures described above, but for instance also when in the mid of Election Day, TECs had to distribute extra ballots to polling stations that had not received a sufficient number in advance, or when it appeared during the report of PSC results to the TEC that there was not at all the same understanding of 'not used', 'void' and other terms. In addition, one should not forget the 'large number of complaints' mentioned in the OSCE/ODIHR IEOM report, concerning the accuracy of some TEC protocols after the first round with the 'number of votes cast exceeding the numbers of ballots issued to the TECs.'[5]

A still more serious challenge related to the work of TECs was the fact that the CEC in Kyiv had established, specifically for these elections, a computer network connecting the CEC's computer infrastructure with even the most remote of all the 225 regional election centers. This was a positive technical improvement, taking into account the time the delivery of the protocol by a TEC board to the capital by car, train or plane takes. However, if not properly and transparently done, the involvement of computers in a

5 *OSCE/ODIHR Election Observation Mission Final Report.* (Warsaw, 11.05.2005): 25.

country with an administration hardly used to such technical standards, yet having a long record of all kinds of manipulations could be the best background for systematic falsifications – or at least for many rumors, thereby significantly reducing the public legitimacy attached to the whole process of electing a new President. Indeed, given the many interferences of the central state authorities leading to a total control of the media during the pre-election period, it seemed at least possible that the CEC could have implanted something like hidden commands in the software of TEC computers in order to direct the tabulation process in the whole country automatically towards a 'planed result'. For this matter, the TEC level would have been the best place as it was impossible to control and manipulate a majority of the 30,000 polling stations, while each TEC had only to 'control' some 150 incoming databases. Furthermore, the number of 225 TECs was too high for any kind of coordinated, universal observation (even the OSCE/ ODIHR IEOM only managed to track a smaller part of TECs during the night). Besides, TECs as such were much less observed by the public than the CEC whose performance was tracked by most prominent experts and even partly broadcasted on TV.

Whether the many versions of allegations of this kind we heard during the night were reasonable or not, the fact that the computerization of the databases was the less transparent part of the work of the TECs we observed was quite worrying. Maybe the most tense situation we faced when one of us dared to approach the computer behind the desk of the TEC board (even worse that we did so when the chairman was out for a smoke) and to talk to the operator. Even with free access to his devices, we would hardly have been able to follow what exactly was transmitted to Kyiv – not talking about the huge majority of TEC members that had never been working with computers before. Interestingly, however, was the fact that the man sitting behind the computer in this particular case was not a TEC member at all and typed the information he received from the TEC chairman on the results of a polling station just before it was announced loudly to all TEC members. In other words, somebody not under control of the TEC as a joint decision making body delivered a first result to Kyiv before this result was made accessible to the TEC members. Given the role of the first results published by the CEC during the next morning on basis of these figures – although

being 'unofficial', this was the starting point for all kind of political claims or actions, i.e. declaring the leadership or calling for protest – the outcome of this completely non-transparent process had much more influence on the situation immediately after the elections than any theoretical possibility of checking the CEC announcements with the protocols of all TECs delivered a couple of hours or days later to the CEC and published in copies at the place of each TEC.

Another very challenging point concerning the role of the TECs in the whole election administration process was a provision of the Election law discussed already long before the elections – or better a missing provision: This law did not demand the publication of the results of all 30,000 polling stations in the country by the CEC, but only the publication of the regionally aggregated results of the 225 TECs after the elections. Not even considering the fact that the CEC with its judgments in the above mentioned cases of inaccuracy between the figures for votes cast and ballots used in TEC protocols apparently did not see any special relevance in the tabulation process on the TEC level[6], this insufficiency provided hardly any possibility to compare a result on the lowest level to the final national one. In other words, all protocols issued and distributed by the PSCs were *de facto* worthless because none of the brave local observers, no local representative of a candidate and no journalist who had watched the vote count and noted the results in an individual polling station ever again got a chance to see if the results were properly reported up to the top. Only if these people had the chance to follow 'their' PSC board to the TEC and to witness the final entry of their databases in the TEC protocol (not thinking about the TEC computer), and further, if this was done by observers, representatives and journalists from all of the about 150 polling stations located within a territorial election district and they altogether used a network in order to compare the final TEC result to the sum of their individual PSC results, there would have been something like a possibility to check the databases transmitted.

6 A fact that gave rise to severe criticism of the performance of the CEC by the IEOM: 'In all such cases, the majority of the CEC members voted 'to leave without consideration' these complaints, arguing that TEC protocols are not 'decisions' or 'acts' of an election commission, but simply 'mathematical calculations''. (Ibid.).

However, such a chain of observation is not feasible, leaving local and international observers who had attended the vote count in a polling station with hardly anything else but the possibility to trust that the right version of 'their protocol' was not only entered to the TEC list without changes, but finally also included properly in the national result. First, in each country of the world, the means, capacities and logistics for such a comprehensive control from the bottom of the announcement of the results by each PSC to the final tabulation on the national level would hardly be sufficient. This is the more the case for a country like Ukraine where election observation by serious civil society actors has only been starting. Second, the conditions within the TECs to allow for such a kind of observation were in most cases completely insufficient. As mentioned above, their scenes were mostly filled up with a notable number of TEC members. If one adds three members of each of the approximately 150 PSCs that had to deliver their protocols and documents as well as one police officer accompanying each of this group, plus the one or ten or, theoretically, 100 observers, candidates' representatives or journalists registered at the TEC level (not mentioning the several unauthorized persons also present, mostly being closely linked to the local administration and sometimes with unintended irony stating themselves that they had to 'control' that everything went fine), the number of people being potentially simultaneously within the TEC premises could easily have risen up to several hundreds. Such a crowd had to get organized and coordinated somehow – which, due to the fact that there exist only some very general regulations on the work of the TEC, was done in 225 sometimes very different ways.

The easiest possibility to reduce the number of people inside the TEC we could observe was to exclude the persons that approached the TEC premises as observers, candidates' representatives or journalists, trying to follow the PSC board with the protocol of the polling station in which they had observed the voting procedures and the vote count. In one place observed where the TEC was operating in a conference room that was hardly big enough for the commission members itself, they were not even allowed to enter the location where 'their' PSC delivered the protocol and where the registered results from this protocol were announced to all persons present in the room by the chairman. In another place, some of the few people who had found a possibility to come the long way from their village to the town in the

middle of the night were at least allowed to enter the TEC meeting place. Yet since it was a huge conference hall and they had to stay in the very back, they could not see anything of what was going on in the front and hardly hear the results announced by the chairman.

This and other differences in the performance of TECs observed were often demonstrating a worrying lack of experience and professionalism of many TEC (and PSC) members as they frequently did their job in these non-standing bodies for the first time. And as another serious concern, they could not at all guarantee an equal treatment of the incoming results and, thus, the observance of the equality of each single vote.

A few incidents we have observed during the first and the second round of the election can further exemplify our assessments: There was, for example, this one, apparently very efficiently organized TEC that formed several small groups of 'receiving' commissions in order to check simultaneously the protocols brought by incoming PSC boards and to forward the results to the TEC chairman who announced them. Yet as many PSC boards were present in the room simultaneously, talking and arguing with TEC members who themselves were all busy with handling incoming PSC boards, hardly anybody paid attention to the announcements. How can the fact be judged that in this case many TEC members did never get in direct contact with most of the incoming results, but at the end all of them signed a protocol in which they state that these figures were correct? And how – as a contrary example – can the TEC be assessed, in which each incoming PSC board had to enter the room separately, hand the results over only to the TEC board where the figures got checked and aggregated to the computer databases before they had been announced to all the other TEC members? What about this TEC's members' ability to control the incoming figures *before* being entered into the computer and to control the final output of their TEC, thereby assuring the accuracy of the final result of the region?

Furthermore, we watched different ways on how to decide on dubious issues, i.e. in case a figure in a PSC protocol was written unclear, or the figures of a PSC protocol did not round up the way they were supposed to because a summarizing had not been done properly or if envelopes were not sealed properly. Either, these questions were dealt with by the TEC as a whole (usually being stopped by the chairperson for even the least important

issue in order to get a swift vote on it, while most TEC members did not even know what the question was all about but simply voted together with their board), or, alternatively, this kind of disputes was already 'settled' by a group of two or three TEC members (acting upon the authorization of their board) with the PSC boards in the hall before they finally entered the TEC's room in order to hand over their results. And as another example, there existed considerably varying ways of refusing the acceptance of PSC protocols with mistakes of major importance, with already the decision of what actually has to be viewed as of 'major importance' depending on most subjective factors: Did it reconcile with the regulations to send the PSC boards with incorrect protocols just out of the TEC room again, helping them to change their protocol outside and accepting their delivery five minutes later, although everybody knew that they should have driven the whole way back to their polling station and reassembled all PSC members for issuing a new version of the protocol? Or, alternatively, was it better not to accept incorrect PSC protocols, even if only with minor mistakes, and to send the respective PSC board back in their remote home place – and this in the middle of the night and sometimes without appropriate transport available?

We saw interestingly organized 'single-track systems' with police officers allowing PSC boards to enter the TEC premises through one door and leaving through the other. In other places, we came across overcrowded halls with PSC members sitting around and chatting, while others hectically changed figures in their protocols and, again, others noisily complained about being sent back the whole way to their polling station in order to correct their protocol (but already planning how to resolve their problem without bringing together all 25 or 35 PSC members once again). And not surprisingly at all if one remembers how the TECs were formed, we observed everywhere a very active group of three members (chairperson, deputy chairperson, and secretary) plus sometimes some two more persons mainly managing the whole process – while in one place for instance, all the other TEC members were more or less hanging around the whole night, at best trying to note down the results announced by the chairman in order to sum them up what appeared to be their control at the end. It seemed that their only real task was to be present as pseudo witnesses who were delivering signatures in dozens on protocols (in some cases they were distributed to each of them and many

other persons), although most of them could hardly control what they signed. Not surprisingly, however, that one lady member of one TEC, as we learnt when she took the floor after sunrise, had found the time and pleasure to write a poem of about five minutes, praising the excellent election process in their region and without forgetting to mention the 'strict eyes' of OSCE observers.

Yet by far not all has been so amusing, especially because the TEC boards were in most cases under clear pressure and severe stress. Already the days and hours before they started receiving PSC protocols had been very demanding for them, as a result of their responsibility for the organization of the process in the region as a whole, the control of the distribution of ballots and all necessary equipment, the decision making process on several hundred voter complaints, the settlement of internal conflicts between the two main political positions in the commissions' own membership – and at least thinking also about the likely fact that they were put under high pressure from above to help to produce the 'right results' in their electoral district. Accordingly, at several points during this very long night, we witnessed individuals being nervous wrecks and had to watch them and ourselves carefully to avoid any severe conflict. What would have happened in most cases if not at least one person in the inner circle of the TEC, in most cases the TEC's secretary who usually was a woman, would have had this special character to direct the crowd calmly and almost invisible, to take over responsibilities of other colleagues including the chairperson, to settle all kinds of problems and tensions, and, as if it was not yet enough, to be the most sympathetic person *per se*.

Not surprisingly, this person was often also the one closer to the local administration than others. This relationship between the election administration and the executive power in general was also present in other issues, and it is furthermore a fact that we know from other countries, including our own one, too. For instance, all TECs visited were located very close to the local authorities, usually with members of these authorities being visible here and then. Of course, there is nothing to worry about the fact that these not permanently working bodies used the resources of public premises and logistics. Yet in a post-Soviet country, this nearness frequently gets a

starting point for extremely shady stories which could be diminished or avoided quite easily.

As this chapter concentrated on experiences we made in various TECs during the first and the second round of Ukraine's presidential elections in fall 2004, we did not deal with herein in more detail other observations we made in individual polling stations.[7] On this level, having hardly been in contact with voters themselves, our findings do not cover the more emotional side of election observation which appears through contacts with the public. Nevertheless, we can say that spending this crucial night among TEC members was also an exciting experience that offered the opportunity to approach some of them personally, meeting interesting individuals that had to perform important functions in extremely challenging situations and, as their payment was hardly worth to be mentioned, often with little personal incentive. In some of them we met highly motivated persons, trying and sometimes also managing to do the best in their responsible job, while others, due to the mixture of complex tasks and the generally tense political background, were not able to act appropriately. In the same way, we had some more disappointing encounters, getting at least an impression of how deep the struggle for power in a situation like the one in Ukraine in 2004 may infect not only the public but also individuals.

Our personal observations in a small number of TECs seem to correspond with a significant share of TECs observed by the IEOM – a share too large to characterize the elections as being free and fair. While the

7 We would at least like to emphasise our opinion that individual provisions of the Ukrainian electoral law served as means for potential attempts to manipulate the outcome of the election and to intimidate, in particular, elderly, less well-informed voters. For example, the obligation for voters to sign the ballot counterfoil as well as the existence of the polling station number on both the ballot and the control tab was, in some cases observed, interpreted by individual voters as possibility to learn about their voting behaviour afterwards, although this was of course not possible. Also, the provision that ballots with more than a single cross at the appropriate place were declared as void despite the voter's will clearly being able to identify served as a means to exclude unpleasant individuals from their participation in the elections since this provision formed, in individual polling stations we visited, the background for misguiding apparently unpleasant voters by telling them that they are supposed to mark their candidate with a cross and cross out all the others – a procedure which automatically invalidated their ballot. Third, we have observed the lack of envelopes being used by voters before putting their ballots in the respective box as a means of counteracting the secrecy of the vote, again opening up opportunities for manipulation and voter intimidation.

counting of the results by the PSCs for the first and second round vote was assessed as 'bad' in 8% of the polling stations observed by IEOM members and as 'very bad' in 1% (in addition to 5% of the results in the polling stations that, according to these observers, 'lacked confidence in the accuracy of the count'), the tabulation process in the TECs observed during these two rounds was assessed as 'bad' or 'very bad' in 21% of all reports. In 15% of the TECs observed, the international observers 'lacked confidence in the accuracy of the tabulation', and in 17%, they missed sufficient transparency.[8]

While most of these irregularities and violations of the electoral provisions on the TEC level hardly resulted out of attempts to systematically manipulate the outcome of the elections, the lack of transparency and the impossibility to control the performance of these bodies is very worrying since it might at least enable forging to take place. However, the most alarming feature in connection with the TEC performance in general was the fact that the results of individual polling stations have not been published on the CEC's web site, thereby depriving both the general public as well as election observers of the possibility to compare the figures of individual polling stations as officially acknowledged in the CEC with the figures as counted and acknowledged by the individual PSCs. This is the more surprising since several experts in Ukraine and abroad suggested already before the elections to publish the results of all individual polling stations, yet the CEC failed to meet this important proposal. With such a provision, TECs in Ukraine could become mainly 'technical' bodies. Combined with changes in their membership requirements (less in numbers but with appropriate abilities), this provision could secure much more efficiency and quality in their performance.

8 For more details see OSCE/ODIHR Election Observation Mission Final Report. (Warsaw, 11.05.2005): 27-30.

Optimism and Gratitude: Reflections of an Election Observer in the Poltava Region

Adrianna Melnyk, The Orange Circle, New York

On December 22nd, my first night in Kyiv as an international election observer, my friend Natalia, a Ukrainian-speaking, Georgian-born, ethnic Russian, told me that psychologists and sociologists descended upon Kyiv in those first days of the Orange Revolution to study the behavioral dynamics of the crowd. I could see why. Standing on Independence Square in Kyiv that evening, after days of watching events unfold on TV, on the Internet, and in the papers, I felt uplifted, euphoric, as if I had stepped outside myself and into a dream, but one with a cast of thousands. The cameras which scanned the crowd and projected faces up on the huge screens on both sides of the stage served to unite everyone, and had the effect of making the crowd appear larger than it actually was.

Much has been written about the smiling faces, the joyous crowds, the excitement, the hope and anticipation of a freer and more democratic future. The days leading up to December 26th were indeed about that both for the citizens of Ukraine and for all of those that had come to support them: election observers, foreign journalists, students from countries that had recently undergone their own transformations such as Georgia and Serbia, and those from countries which were waiting in the wings, such as Belarus and Azerbaijan. But for those who had come from the Ukrainian diaspora, they were also about contributing to a cause that had occupied our every waking moment for weeks.

Arriving in Kyiv on the 22nd of December, I was immediately struck by the mood on the street. I had never particularly liked Kyiv. Somehow the city, despite its majestic beauty and history, had always felt cold and unwelcoming to me. This time, there was an energy, an electricity that permeated people's faces and that confirmed for me that there was nowhere in the world I would rather be. The evening of the 22nd, later Prime Minister Yulia Tymoshenko

told the crowds that the Maidan would always belong to them, that they would always have the right to demonstrate against the government, and that this right included expressing dissatisfaction with the new regime once it came into power. Three men in their 60s standing next to me expressed their surprise. 'How can this be?' one asked. Another said that it didn't make sense to come to the Maidan once their government of choice was in power. At that moment, I suddenly understood the degree to which the mindset of the older generation would have to change. For them, the fact that they could come to the Maidan to fight against a corrupt regime was a miracle in and of itself; taking it one step further and being granted the right to protest a regime that they had freely chosen was simply incomprehensible.

Until we left Kyiv for our respective voting districts, the other observers and I spent time socializing with one another, with diaspora Ukrainians from all over the world, and with foreign journalists who were anxious to learn everything they could about us, about Ukrainian history and politics, and about the current situation in Ukraine. They too were missing Christmas, had left their families behind, but in the words of one Italian journalist, would have stopped at nothing to be part of what was, at that time, 'the most important story in the world'. In an interview with a Polish journalist, I mentioned Lech Walesa and told her how thankful the Ukrainian people were for his support. She stopped her tape, and said that events in Ukraine had served to unify the Polish people and to remind them of their own hard-won freedom. She told me that she had traveled to Ukraine not only to report on events, but also to be reminded of and to witness the incredible spirit of a nation yearning for democratic change and standing up for its basic human rights. She had tears in her eyes as she recalled and shared with me her own memories of the early days of Poles taking to the streets, of the beginnings of their Solidarity movement, and of the excitement and energy that filled cafes, nightclubs, and every home in Poland just a few decades earlier.

Late one evening before the election, we visited the tent city on Khreshchatyk. It was lined with signs of all kinds:

'*The Truth is Yushchenko*'

'*We are united, Crimea and Karpaty, we are united across space and time, we are united and nobody can defeat us, Ukraine unites us*'

'*Fight and you will win, God is with you* – Taras Schevchenko'

'*My nation exists, my nation always will.* – Vasyl Symonenko'

'*The truth will be known! Freedom will conquer!* – Taras Schevchenko'

'*Democratic world, don't stay aside*',

'*Beauty will save the world*' (next to a photograph of Yuliia Tymoshenko!).

After passing through 'security', which consisted of showing our passports and our official election observer badges, we spent many hours with the residents of the camp. We sang, some of us played volleyball in the snow (with no visible net), and the tent city residents took us in, served us hot tea and sandwiches, and bombarded us with orange memorabilia. On one orange banner that was given to me as a souvenir, someone wrote '*Virte v peremohu i vy peremozhete*': Believe in victory and you will be victorious. These words of inspiration, words that clearly had kept the occupants of the tent city going through snow, rain, sub-zero temperatures, and the possibility of danger, are ones that will stay etched in my memory forever, not because of their meaning, but because of the context in which they were written. As we were leaving, I asked one of our new friends if they were or had been scared to be there, and he matter-of-factly replied that there is fear only where there is doubt, and that from the time the tents were set up, the residents of the tent city had not had a moment of doubt about their mission.

I was assigned to observe in Hadiach, a small city of about 30,000 an hour and a half from Poltava, and a stronghold of Yushchenko support. Yuschenko's headquarters in Hadiach were based in the living room of an apartment, and were recognizable only by the orange ribbons tied to a tree in

front of the Soviet-style apartment building. The night before the elections, in the apartment, a group of twenty-something chaotically worked on computers, talked endlessly on their cell phones, and coordinated logistics for the next day.

Hadiach is steeped in history: it is the birthplace of both the well-known Ukrainian poet Lesia Ukrainka and her mother, Olena Pchilka, was once the capital of the Left Bank of Ukraine, was the site of the 1658 Treaty of Hadiach, which if it had been successfully implemented, would have created a loose confederation of Poles, Lithuanians and Ruthenians. Our hosts were eager to share with us all of their knowledge of the history of their home town. As we visited polling districts in small villages, we were told over and over again by villagers that they had 'heard' that many observers were coming to Ukraine, but didn't think that any would actually come to their remote part of the country. I don't think I have ever heard so many words of gratitude in my life. As elsewhere throughout Ukraine, the villages are poor, but the people are hospitable beyond belief. The older generation all expressed the same sentiment: this vote and their support for the opposition were not for them, but for their children and grandchildren. Despite years under Russian rule, the residents of this part of Poltavshchyna exhibited such a pride in their language (the most beautiful Ukrainian I have ever heard spoken), their land, and their history and traditions that all reports of an east-west divide in Ukraine seemed incongruous.

We returned to Kyiv early in the morning of the 27th. People were once again gathering, and the mood on the streets was different than it had been before we left. People were a bit more on edge, but their spirit was still characterized by an underlying optimism and hope. Later in the day and on the next day, once it became clear that this time the elections had been fair and that Yushchenko had won the vote, the celebration began for real. Too-close-for-comfort fireworks and monkeys with orange ribbons around their necks are two images that I have had trouble shaking since I returned home.

Before I left, my friend Natalia told me how her mother, who had died on November 21st, 2004 and had been a huge supporter of Yushchenko and a survivor of the *Holodomor* (the Ukrainian Famine-Genocide), said on her deathbed that if the Kuchma regime was to continue, there was a real possibility of another *Holodomor*, either literal or figurative. She didn't live to

see Yushchenko's victory, but I believe that the real credit for the revolution should go not only to those on the streets, but also to their parents and grandparents, and to those, like Natalia's mother, who had held onto hope through one of the most brutal regimes in history.

And the real work is still ahead. Natalia told me that her husband, who had never visited the countryside before last week, came back to Kyiv depressed, even despite the jubilation in the city. She had packed him sausage for his three-day trip which he put on the table of his hosts, and which disappeared within moments. He could not believe the drinking water, the poverty and the abysmal conditions only a few hours outside Kyiv. Development in Kyiv itself is uneven: I had dinner one evening on Andriyivskyi Uzviz, called by guidebooks 'the most charming street in Kyiv'. The street is named for the Baroque cathedral that stands atop the hill, whose site was chosen because it was there that the Apostle Andrew raised a cross and predicted that a great city, full of churches, would one day rise from that spot. The street is steep and winding and made of cobblestones – and totally unlit and deserted at night. In any other European city, this would be a street lined with cafes, restaurants, bars. In Kyiv, it remains a prime development opportunity.

This was a revolution, as some have said, that was won by music, laughter, song and dance. Once the euphoria wears off, the work must begin. The *Pora* students who were helped by Serbian *Otpor* and by Georgian Khmara must in turn pass their knowledge and experiences to the Belarussian Zubr opposition movement, to the Azerbaijhanis, and to the Kazakhs. The pride and excitement that brought people out of their homes and onto the streets must not wane if the policies of the new government do not bring immediate changes and results. The diaspora that so readily and admirably gave up its Christmas holidays to donate time and money during the elections must stand ready to share its educational resources and professional experiences. As I was leaving, I was asked by a friend in Kyiv to encourage everyone, but especially the youth in the diaspora, to consider spending more time in Ukraine in the coming months and years. 'We need you', he said.

The sheer number of young observers of Ukrainian descent from all over the world who were willing to travel to Ukraine for the elections, at their

own cost, was a testament to the love that our parents and grandparents instilled in us for our country and for our people. May 2005 usher in a new period of cooperation between Ukraine and the Ukrainian diaspora. May it go down in history as the year when a new Ukraine was born, one in which Ukrainian citizens can live comfortably and freely. May Ukraine become a country which our children and grandchildren visit not to take part in democracy-building missions, but to rent summer vacation homes in the countryside, to be educated, to conduct business in a fair and transparent environment, and to eat dinner on a well-lit and bustling Andriiyvskiy Uzviz.

III The Special Case of Electoral District No. 100

Election Observation in a ' Notorious Region': The 100th Territorial Electoral District in the Kirovohrad Oblast

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The destination Kirovohrad was chosen for election observation during the second ballot (21.11.2004) due to reports of rampant violations against the Ukrainian election legislation and the annulment of the results of the first ballot (31.10.2004) by the Oblast' Election Commission. The observers were hampered in performing their obligations immediately after their arrival: Unknown individuals damaged their car that was parked in front of Viktor Yushchenko's election headquarter. Further provocations should follow during election day.

At 8 a.m. indications of violations in a toxicological clinic (polling station 125) occurred. All 227 registered voters were patients of the clinic, predominantly because of drug addiction/alcoholism. In comparison with the first ballot some 70 voters more were registered. Just the day before, the station's head of the election commission resigned, transferring his functions to the clinic director Serhii D. Prokopenko, who was officially a representative of Viktor Yanukovych. In consideration of such an equivocal practice from an ethical standpoint the observers raised serious objections. Additionally, among the polling station's election commission were a couple of nurses. The first ballot (31.10.2004) turned out with a slight majority of one vote in favour of Viktor Yanukovych. According to a nurse's statement, the clinic would have been refused subsidies in case of Yanukovych's defeat in the second ballot.

1 In 2004, International Election Observer for the Konrad Adenauer Foundation, Kyiv.

At 10 a.m. almost all patients had given their vote. Afterwards the observers went to polling station 5 of Kirovohrad, where they were denied access. A picture was taken of the head of this election commission.

Following this, the polling station 116, which is one of the largest districts of Kirovohrad (3,500 registered voters), was chosen to observe the counting procedures. The head of the election commission, Ihor I. Maksimets, a teacher, should prove to be responsible for numerous violations of Ukraine's election legislation in the course of the process that lasted until 8.30 a.m. next day. The whole election commission almost entirely consisted of teachers of a school located nearby the polling station. Noticeable eight of 25 members were bound by family ties, including Maksimets' mother.

During the polling no relevant incidents aimed at manipulating the election outcome were noticed. A resident of the given district spotted the initials of a man currently imprisoned in the polling station's register. Maksimets acted very unsociable, provoked election observers and representatives of the media and refused beforehand to hand out the observer [I.B.] a copy of the protocol confirming the final results (guaranteed by article 69, paragraph 7 'About the Election of the President of Ukraine'). Furthermore, the observer [I.B.] was offended because of his nationality by Maksimets and other members of the election commission. In the course of the ballot the observers weren't offered seats; they were denied access to bathrooms.

At 8 p.m. Maksimets announced that he was going to deny counting, facing serious physical and psychological pressure by unknown individuals. He referred to a former member of the election commission who died as a result of a heart attack, suffered during the first ballot (31.10.2004). This decision was carried out by affirmation of 13 (of 25) members of the election commission. Maksimets was unable to exhibit appropriate proofs to justify his decision; there were no indications of substantial violations of the election legislative. The election commission wanted the observers to leave the room for a closed session, which the latter denied. Hereupon the school director, whose instructions Maksimets was carrying out, took over initiative. Referring to a threat of violence against the election commission and their family members in case of an 'undesirable' election outcome she wanted the media

representatives and election observers to keep silent about the events within the ballot station.

At 10.30 p.m. the members of the election commission started counting the unused ballot papers. After 20 minutes the electricity supply in the building was interrupted. Under these circumstances the election commission considered the continuation of the counting process impossible. At about 11.45 p.m. the building was reconnected to the power supply system. While determining the total sum of unused ballot papers Maksimets noticed the loss of the official stamp, without which any further action would have proven invalid. Maksimets suspected the observer [I.B.] and his colleague Serhii Shtepa of the disappearance.

There were 'unofficial' observers without proper documents present, supposedly belonging to a local criminal group named 'Volkanovtsy'. The head of this group is a deputy of Kirovohrad's oblast' parliament and vice-mayor. The members of this group were evidently instructed to boycott the presidential elections to achieve the withdrawal of the election results (as it was the case after the first ballot 31.10.2004).

After the secretary of the election commission was verbally attacked by a Volkanovtsy-member, she fainted, whereupon an emergency ambulance was requested. Another female member of the election commission needed medical help as well. As Maksimets refused to inform the Territorial Election Commission, he delegated his powers to the deputy head. Only through journalists was the police informed about the loss of the stamp. After the arrival of a police task force, Maksimets and his commission entrenched themselves in an adjoining room isolated from the election observers. Finally, being instructed to continue the counting procedure, the process was disturbed by numerous calls on Maksimets' mobile phone. Maksimets used phrases like 'I cannot realise this at this moment' or 'We will definitely cope with this'. At 3 a.m. the ballot boxes were finally opened. The Volkanovtsy-group posed as a permanent threat to the counting process; in other polling stations theft of the ballot boxes was reported. The election commission proved biased in the acceptance of invalid ballots to the favour of Viktor Yanukovych. At 7 a.m. the following results were fixed:

1,470 ballots were unused. 2,032 were in the ballot boxes. 106 ballots were declared invalid, 47 voted against both candidates, 1,249 supported Viktor Yushchenko, 614 voted for Viktor Yanukovych.

The author [I.B] left the polling station 116 of Kirovohrad immediately after the declaration of the final results. As the results were not officially confirmed, they could have been either manipulated or disappeared while being transported to the Territorial Election Commission. In that case the author [I.B] advocates to open criminal proceedings against the head of the election commission Ihor Ivanovych Maksimets and is ready to witness in court. Of all incidents described in this report, video material exists.

The Repeat Second Round of the 2004 Presidential Elections in Kirovohrad

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Why Kirovohrad?

The historic decision of the Ukrainian Supreme Court on December 3, 2004 to overturn the results of the 2nd round of the presidential elections and to schedule a re-vote for December 26 brought scores of foreign observers to Ukraine. But perhaps even more remarkable than an unprecedented international presence was the newly-found activism of Ukrainian citizens. Ukrainians defied centuries-long stereotype of Ukrainians as passive and self-organized to ensure electoral transparency. My experience monitoring the repeat 2nd round of elections in Kirovohrad in central Ukraine was my first foray into election monitoring as well. Kirovohrad is a rather unremarkable oblast center without any particular claim to fame, but by the time of the repeat 2nd round it has acquired notoriety as the region where some of the most widespread electoral fraud took place, specifically in the Territorial Election Commission (TEC) No 100 covering Kirovohrad city. TEC 100 has been in the news since the first round of voting on October 31 when it first took TEC 100 days to certify Yushchenko's victory. A decision of the Supreme Court was necessary to make the Central Electoral Commission (CEC) to accept these results. The second round at TEC 100 proved even more dramatic, with TEC 100 firing over 400 polling station officials representing Yushchenko the night before the election day, submitting an apparently falsified protocol for the electoral district after the vote (official results of TEC 100 would later be declared invalid and called 'illegitimate' by the Kirovohrad Oblast Court), and all eight TEC 100 members representing

1 In 2004, official elections observer for the Committee of Voters of Ukraine (http://www.cvu.org.ua/).

Yanukovych disappearing from the city the day after the election and going into hiding.[2]

The day before the vote

So the day before elections five of us piled in a car and set for Kirovohrad. My companions were three Ukrainians who were not involved in politics before, but who at the time of the 2004 elections also felt compelled to get involved, and one international observer who, like me, was observing for the first time. By the repeat second round, my Ukrainian companions were seasoned observers, having observed in Kirovohrad in the much more hostile atmosphere during the second round. Our adventure began even before we reached Kirovohrad. On the road we got stopped twice by the road police. Although we were not speeding, the 'protocol' in Ukraine at the time was to give policeman UAH10 (about US$2) in any case. We did, and were allowed to proceed both times. Much to my surprise, the first policeman did not take the money. My companions believed that this must mean he was pro-Yuschenko (since we did tell the policemen we were going to Kirovohrad for the election). Perhaps he was.

Kirovohrad greeted us with a curious street advertisement. Throughout the city center, Article 5 of the constitution was prominently displayed: 'The people are the bearers of sovereignty and the only source of power in Ukraine. ... No one shall usurp state power.' If Yushchenko campaign paid for it, it was a clever advertisement strategy. There are 129 precincts (Precinct Election Commissions, of PECs) in Kirovohrad city that together constitute TEC no. 100. My companions had a list of a dozen or so precincts where, on the basis of what transpired in the second round, there were more reasons to expect fraud. We decided to visit at least one the night before election day. By law, the precinct electoral commission has to hold a meeting at 8pm the evening before to determine, among other things, how many people applied to vote at home. Home voting became one of the chief fraud mechanisms in

2 For background on the electoral process in TEC 100 during the 1st and the 2nd round, see *Kyiv Post*, 16 December 2004, and *Korrespondent*, 11 December 2004: 26-28.

the 2nd round, but the amended electoral law made requirements for home voting much more stringent.

The precinct we visited Saturday night was PEC no. 102 located in a student dormitory. In the second round, voting at this precinct did not start until late afternoon because the head and the secretary of the PEC simply did not show up, and they had a key to the safe containing ballots. Only after a court order to break the safe was secured and election observers procured a hand saw somewhere was the safe open with the saw and voting started (this information, without precinct number, was reported in the media).[3] This student precinct went for Yushchenko according a copy of the precinct protocol obtained by the Yushchenko campaign (but not the official result – see Table III.1). With voting lasting only about 4 hours instead of scheduled 12, many registered voters simply did not get a chance to vote. As the below Table III.1 shows, 662 people voted at this precinct in the 2nd round versus 992 in the repeat 2nd round.

We were in the precinct no. 102 in time for the 8pm meeting. The premises were empty except for a policeman on guard, and a few students congregating in the hallway, one of them smiling slyly and demonstratively wiggling her orange slippers at our group. The policeman agreed to call the head of the precinct (a representative of Yanukovych) who arrived shortly looking very nervous. She said she did not hold the meeting at 8pm because they have no one who applied to vote at home. She assured us that everything would proceed smoothly on the voting day, and said she was embarrassed about what had transpired during the 2nd round at this precinct. And yes, the former head of the precinct commission who disappeared with the key last time was still a member of the commission, but he was no longer the head. We decided to come back the next day to observe the voting process. When we arrived the next morning, the atmosphere was light and orderly and everything indeed appeared to be proceeding smoothly. The final tally result for this precinct in the repeat 2nd round would be 842 for Yushchenko, 150 for Yanukovych (Table III.1).

3 See, for example, *Kyiv Post*, 16 December 2004.

The voting day: observations from nine precincts

On election day we visited nine precincts during the day to observe the voting process, and later observed vote counting at one of them. The difference in the atmosphere, transparency, precinct officials' attitude and their observance of the law were often striking, including among the precincts located no more than a few blocks from each other. Our morning began with a visit to precinct no. 79. This precinct acquired a national 'fame' after the second round. The zealousness of its head to deliver a result in favor of Yanukovych candidacy earned her a feature in the *Korrespondent* weekly magazine[4]. Although the composition of the PECs was changed dramatically for the repeat 2nd round (amended electoral law provided that for the repeat 2nd round, half of each PEC members should represent one candidate and half the other), in PEC 79 the same lady somehow retained the position of the head. PEC 79 was looking like an interesting test case of how different (or not) the repeat 2nd round would be from the 2nd round.

PEC 79 did not disappoint with surprises. Our group arrived before the voting opened to be present during the morning meeting of PEC. The meeting began with a confrontation as PEC head put to the vote the motion to take the mobile ballot box to all 114 people who voted at home during the second round, despite the fact that PEC only had 15 applications requesting home voting this time. This motion was in clear violation of the amended electoral law that explicitly limited home voting only to those who were disabled and applied in advance in writing for home voting. PEC members voted strict partisan lines: those members representing Yanukovych voted for, those representing Yushchenko voted against. Astonishingly, the head declared the motion passed. Chaos followed, with PEC members arguing among each other, with the PEC head, and with the observers. An international observer in our group demanded to know why the PEC head was trying to violate the electoral law. Undeterred, the head of PEC started reflecting upon 'why Americans are trying to teach us how to live,' at which point another member of the PEC representing Yanukovych began to whisper to her to 'be quiet.' International observer status may have had some clout, but not with the head of PEC 79.

4 *Korrespondent*, 11 December 2004: 26-28.

Protests of the PEC members representing Yushchenko and of the observers paid off, however, at least temporarily, as the protocol on the proposed home voting motion was not signed. It was time to open the precinct for voting. Despite the early hour on Sunday morning, there was a crowed of voters waiting to cast their ballots. As voters were let in and crowded the tables where ballots were handed out, we tried to observe the ballot-hanging process from up close. In the previous rounds there were widespread reports of multiple ballots being issued to the 'right' people (who were identified, for example, by a specific item, such as a calendar or a picture, included in their passports). PEC 79 was a good place to ensure transparency of ballot issuance. In this precinct the second round a bunch of ballots somehow went missing, one PEC 79 member told us, and during final vote tabulation the head (who actually had the key to the safe containing ballots the whole time) tried to use the discrepancy to annul the entire vote during vote count. The amended electoral law explicitly allowed observers to observe the work of PEC officials 'from any distance,' but following the law at PEC 79 was not an easy task. This time it was not the PEC head, however, but an observer from Yanukovych who tried to prevent our group from observing the issuance of ballots. She insisted that the law required observers to remain seated and did not allow them to approach the tables where PEC members were seated. The law stated precisely the opposite, but the Yanukovych observer was unrelenting. My guess was that she was trying to make a scene and have us thrown out of the precinct for disturbing the voting process. In the second round the removal of observers, and even PEC members representing Yushchenko, was a common practice.

Since we planned to visit more precincts during the day, we decided to leave and return to PEC 79 later in the day, especially since it looked like the head of PEC 79 may have more tricks up her sleeve. As we were leaving, the head proudly announced that she will not surrender the PEC stamp (used to stamp the final protocols with the total vote count at the precinct) to the PEC secretary before delivering the ballots to the district electoral commission at the end of the day. The requirement for the precinct stamp to remain on the premises of the precinct with the PEC official (secretary or head) representing the opposite candidate from the one represented by the PEC official delivering the ballots and the protocol with final results to TEC was another

amendment to electoral law aimed at preventing fraud. In previous rounds, even if vote count at the precinct was conducted accurately and reflected in the protocol, these protocols often falsified afterwards, as PEC official in possession of the stamp would (after leaving his/her PEC and before submitting the protocol with the ballots on the TEC) fill in a new protocol reflecting a 'desired' result, fake signatures of PEC members, and stamp the falsified protocol with the original PEC seal. Head of PEC no. 79 was no stranger to the practice of faking protocols and stamping the forged ones with the original precinct stamp.[5]

The practice of replacing protocols signed at the premises of each PEC with 'correct' protocols before they were submitted to TEC 100 (or by the TEC 100 itself) may have been particularly widespread in Kirovohrad during the 2nd round. Table III.1 compares the results from the 129 precincts of TEC 100 and shows significant discrepancies between the official results (as announced by TEC 100 after the 2nd round) and the results from the copies of the official protocols completed at the precincts. In 45 cases (including PEC 79), the results appear to be simply switched around (with the Yanukovych vote total becoming Yuschenko's and visa versa); while in many other instances Yuschenko 'lost' and Yanukovych 'gained' anywhere from a few to a few hundred votes per precinct. Overall, data in Table III.1 (which does not capture any possible manipulation with the vote tabulation at the precinct level before the conclusion of the original precinct protocols) shows that Yushchenko lost almost 43,000 votes, while Yanukovych gained almost 36,000 votes in the second round as a result of precinct data tabulation by TEC 100.

As an observer, I felt the following was needed to ensure the fairness of the electoral process: (1) prevention of known violation techniques at the PEC level during the voting process (especially manipulation of the in-home voting process); (2) accurate and transparent vote tabulation at the PEC level at the end of the day; and (3) delivery of the unaltered precinct protocols and ballots to the TEC 100, their acceptance, and accurate reporting of the results by the TEC to the Central Electoral Commission. Violations at the level of TEC 100 seemed less likely this time, given that its composition was totally changed

5 For details, see *Korrespondent*, 11 December 2004: 28.

and now was evenly split between Yanukovych and Yuschchenko representatives (in the second round, 8 of 10 TEC 100 members represented Yanukovych). Deciding to concentrate our energies at the level of PECs, we set out to observe the voting process in other precincts.

Of the other 8 precincts we visited, PECs no. 4, 38, 102, 105, and 107 appeared as textbook examples of how to conduct free and transparent democratic electoral process. Precinct officials representing both candidates were courteous, professional, and followed the law in spirit even if at times not in the letter. A common irregularity at all precincts, for example, was the way blank ballots were handled. The election law required no blank ballots to be left in the safe after voting commenced, but in practice virtually in every precinct the procedure of choice was for the head to issue each PEC member a certain number of ballots at the beginning of the day and to keep the rest in the safe until PEC officials handed out the batch they received. Once PEC members handed out the ballots they initially received, they would receive another batch of blank ballots from the safe.

Although technically a violation of the electoral law, this practice seemed to be preferred by the PEC personnel and a better way or keeping track of ballots. At the 'model' precincts we visited representatives of both candidates were satisfied with the practice. The safe with extra ballots was in plain view of all, locked and taped with a stamped piece of paper showing the number of the ballots remaining, the time each batch or ballots were taken out, and the signature of the officials handling ballots. Another technical irregularity observed in almost every precinct was extra ballot boxes that stood with the slot at the top (as opposed to being flipped over, as required by law). The precinct officials were likely either unaware or simply forgot to flip the boxed. In the 'model' precincts the boxes were flipped immediately at our request.

Home voting procedure proved to be especially tricky at many precincts. The amended electoral law initially limited home voting to invalids of 1st category (most severely disabled ones), and imposed other safeguards against fraud (such as individual applications with copies of invalid cards attached, and a requirement for the mobile ballot box to be accompanied by PEC members representing different candidates as well as observers). Two days before elections, however, the Constitutional Court ruled the provision

limiting home voting to only invalids of the 1st category unconstitutional. Other people who for health reasons could not come to the polling stations were thus allowed to vote at home, but the requirement to apply in writing by 8pm the day before the elections and to attach to the application a copy of the document confirming one's physical condition that prevented one from making it to the polling station remained in force. The law also required precinct officials to compile a separate list of home voters and to mark those voting at home in the master vote list before the start of voting on the voting day. This requirement was aimed at preventing double voting.

As we visited different precincts, it became clear that precinct officials at times did not observe all of these requirements, and at other times puzzled about how to enable home bound voters to vote without violating the law. At PEC no. 105, for example, there were 15 applications for home voting, but only 4 of them were accompanied by copies of the documents certifying the voters' physical condition that qualified them for home voting. Following the letter of the law, PEC officials prepared voter list for home voting containing only four names, and called TEC 100 for instructions on how to proceed with the remaining applicants. During our visit to PEC no. 105, an official from TEC 100 arrived with instructions. Apparently TEC 100 decided that, although those who did not apply properly (i.e. when application for home voting was not accompanied by a document certifying voter's physical condition) cannot be included on the voter list for home voting, PECs could send out a car to transport these voters to the precinct and then take them back home. A way was thus found to allow those home-bound voters who expressed their wish to vote by submitting an application, although this procedure relied on PECs to be in possession of a car that they could dispatch to transport voters.

The dedication of some precinct officials to enable all those willing to vote while observing the law was also apparent at the PEC no. 38. There, according to the precinct officials, many voters did not find their names on the voter registry because the precinct was given the old voter registry (the one compiled before the 1st round of voting that did not reflect changes and additions to the voter list introduced before the 2nd round). Precinct officials representing both candidates seemed genuinely distressed by the fact that some voters did not find their names on the voter registry this time and thus were unable to vote. PEC 38 officials were assisting these voters by directing

them to a local court that had the authority to add voters to the voter registry on election day. Another interesting feature of PEC 38 was an unusual security system it had in place. A relative of one of the PEC officials was stationed in a car outside the precinct, so that if something were to go wrong, he could quickly leave and seek help.

What kind of scenario a relative in a car could prevent was not immediately obvious to me, but my companions thought that this arrangement was wise, given what has often transpired in Kirovohrad in the 2nd round. Apparently, local mafia in Kirovohrad was actively involved in the electoral process. If during vote counting it was becoming obvious that the precinct was going for Yushchenko rather than Yanukovych and pro-Yanukovych members of PEC had trouble convincing other PEC members to sing a protocol reflecting Yanukovych's victory or declaring the election at the precinct invalid, mafia would be called in (at times by the precinct officials themselves!) to intimidate those members of PEC who were unwilling to sign a falsified protocol and/or to trash the precinct and steal the ballots. If PEC members called the police, the police simply did not show up. I was told that during the second round thugs 'visited' least two of the nine precincts on our list.

I would get to puzzle about the true role of the police in Kirovohrad elections from a personal experience during a visit to PEC no. 106. The atmosphere at this PEC, located just a stone throw from PEC 105, seemed a lot more tense. Apparently, our group was first mistaken for a mafia (because we arrived in an SUV!) since in the 2nd round this precinct was visited by mafia in an SUV. When we arrived, we quickly discovered that the home voting procedure was not handled correctly at this precinct. The law required a list of voters voting at home to be prepared the night before, and the names of those voting at home marked in the master voter registry. This was not done, and when our group asked why, precinct officials appeared defensive and initially unwilling to correct what was clearly a violation of the law. It was becoming very clear to me by that time that to be an effective observer, one must be well familiar with the law. We had a copy of the law with us and were able to point to the precinct officials the exact articles their practice contradicted. This argument worked, and the officials corrected their records as we watched. Everything else seemed in order and we were preparing to

leave. At that moment I was asked to step aside by a tall gentlemen wearing police uniform. Something interesting was about to transpire.

The policeman wanted to confirm whether indeed one member of our group was a foreigner with an international observer status. Once I confirmed this, the policeman introduced himself and his colleague as senior officers of the organized crime division of the Kirovohrad district police. They stated that they want to make sure the international observer encountered no problems in the exercise of his functions throughout the day, and gave me their cell phone numbers asking me to call them if we were to see anything that did not appear orderly. I admit I was rather impressed with these policemen's apparent determination to ensure that the electoral process can proceed without outside interference. My companions who observed in Kirovohrad in the second round were a lot more skeptical of the policemen's true intent, however. They believed that if something indeed was happening at any particular precinct that would call for police involvement (such as thugs interfering with the electoral process) and we called to inform these officers, this would be a way for the police commanders to make sure police was *not* dispatched to that particular location so that the mafia would be able to do its job. Fortunately, nothing we observed that day would have required police intervention anyway. I thus could only wonder about the true intentions of the two officers who gave me their phone numbers.

Among other precincts we visited, we observed some problems at PEC no. 116 and PEC no. 3. PEC116, one of the largest ones in the Kirovohrad electoral district, became 'famous' in the 2nd round for trying to prevent voters from casting votes in a rather ingenious manner – by placing a sign 'precinct closed due to weather conditions' on the front door. Voters who ignored the sign and went in were able to vote, but some voters turned back upon seeing the sign. I was told that once it became clear during the vote count that Yushchenko won in this precinct in the 2nd round, the head of the precinct declared that the PEC stamp is lost and the vote must therefore be declared invalid. Some PEC members protested, and PEC head tried all night to convince the reluctant PEC members to sign the protocol invalidating the results. Throughout the night, thugs reportedly circled the precinct, knocking on doors and windows. Police was called and arrived some hours later, but reportedly did not leave its buses and did not disperse the thugs. By 8am the

next morning, the head conceded to sign the protocol reflecting Yushchenko victory, but refused to transport the actual ballots to TEC 100 as required by law, wanting to take to the TEC the protocol only, and leave the ballots in the precinct in a safe. Since the protocol could be easily altered and the safe was such that could be easily carried away, PEC members representing Yushchenko insisted the head takes the ballots to TEC 100. The saga of PEC no. 116 was not over, since TEC 100 refused to accept them. As the head of PEC 116 tried to leave the premises of TEC 100 with the ballots, Yushchenko representatives began to call on passers-by to 'save Yushchenko ballots.' A makeshift street meeting convened, and TEC 100 was forced to accept the ballots. As Table III.1 (see the end of this report) shows, PEC no. 116 turned out to be the only precinct where Yushchenko won by a large margin according to the 2nd round official results.

During our visit to PEC no. 116 on the day of the repeat 2nd round, the precinct was crowded with voters. The head of PEC no. 116 representing Yanukovych was insisting that as observers we must keep a certain distance from the tables where the ballots were handed out, which was contrary to the law. The extra ballots at this precinct were also kept in the safe, but unlike in other precinct, here the safe was not in the voting room but in an adjoining room, guarded by one policeman. The safe was locked and sealed with a strip of paper showing the times the ballots were taken and remaining number of ballots, however. The situation with observers at this precinct also appeared suspect. In our group there was one official observer from Yushchenko. The head of PEC refused to let him on the premises, arguing that there were already four Yushchenko observers inside (by law, only four observers from the same candidate can be present at a precinct at any time). The rest of us decided to talk to the Yushchenko observers inside to see if they had any concerns about the electoral process. The observers, who sat in the far corner of the precinct clearly not observing actively, looked at us suspiciously and were reluctant to talk. They also refused our request for one of them to step out for a moment so that the Yushchenko observer in our group could get in. While we could not be sure, it almost looked like these were 'fake' observers, present at this precinct with the only purpose not to let genuine Yushchenko observers in. PEC no. 116 looked like a precinct to watch closely. In the course of our visit there we met a group of Canadian

observers who also felt uneasy about what they saw and decided to return to observe the vote count. We thus were free to observe vote count at another precinct. Based on everything we have seen thus far, PEC no. 79 seemed the best candidate to monitor vote count. Before returning to PEC no. 79 for the evening, we had time to visit one more precinct. We headed to PEC no. 3, where another adventure was in store for us.

Located just a few blocks from PEC no. 4 which looked like a model precinct in every way, PEC no. 3 was a different matter all together. As we entered, we had to pass by two thuggish-looking individuals standing on both sides of the door leading to the voting room. They were clearly not police. When asked, they said they were precinct officials but we had strong doubts if they indeed were, since the job of precinct officials is not to stand by the door but to hand out ballots to voters inside the precinct. Our suspicions were strengthened when, shortly after we arrived, we saw one of these 'guards' calling someone on his cell phone while giving our group with an unfriendly stare. Precinct officials also seemed tense, and tension only rose when we quickly discovered a significant violation of the home voting procedure at this precinct.

A total of 54 people applied to vote at home in this precinct – a rather significant number. We asked to see their applications which the head produced after some hesitation. An examination of the applications immediately revelled that these were not written by 54 different individuals, but were written by the same hand and photocopied. Furthermore, those who voted at home were not marked as such in the master voter registry, creating an opportunity for double-voting by 54 people. Knowledge of the law came handy again. PEC officials at first insisted that the law did not require them to mark home voters on the master voter registry in advance. Once I pointed to the secretary the exact article of the law that required so, she eventually conceded, but was in no hurry to mark the registry. The international observer in our group stated that he's not leaving until he verifies that the home voters were marked in the voter registry, at which point the secretary reluctantly agreed to mark the registry. If this PEC had plans to restore to double voting due to their handling of the home voters, we swayed these plans.

Photocopied applications for home voting were a major violation, and the Yushchenko observer in our group decided to submit official complaint.

However, as he kept talking with the PEC official and the observers (including one from Yushchenko) who accompanied the mobile ballot box, it was beginning to look like PEC 3 officials violated the letter but perhaps not the sprit of the law. Observers stationed at PEC 3 all day, including a Yushchenko observer who said he accompanied the mobile ballot box, assured us that all people who cast their ballots at home were indeed physically disabled or seriously infirm individuals. PEC officials maintained that they photocopied the applications for the convenience of voters. At the end, after the master voter registry was amended to mark those who voted at home, the Yushchenko observer decided to withdraw his formal complaint. As we were leaving, we were followed outside by a member of PEC representing Yushchenko who asked us to send some international observers to observe the vote count. According to him, during vote counting in the 2nd round pro-Yanukovych PEC members tried to disqualify as many pro-Yushchenko ballots as they could on technicalities. 'If the tick mark is just a millimetre outside the box, they say this ballot is invalid,' this PEC member told us. We told him we'll try to have someone come to observe the vote count. Throughout the second half of the day, we have been in communication with one of the OSCE observers we met during lunch. The speed at which information networks can form and how effective they can is rather remarkable. The OSCE observer we met was in touch with many more international observer groups, so I send him a text message with a request to send someone to PEC 3 to observe the vote count. We, for our part, headed back to PEC 79 anticipating an exciting night ahead.

The vote counting: Precinct no. 79

The night proved to be not all that exciting, however, but for the electoral process it was a good thing. Remembering what has transpired at PEC 79 this very morning, I was expecting the PEC head to keep fighting for Yanukovych victory until bitter end. Miraculously, some time during the day she apparently have simply given up (whether on her own initiative or upon receiving order, we will never know). During the day we received a phone call from one of the observers at PEC no. 79 who informed us that PEC head gave up on her initial plan to send the ballot box to all those who voted at

home in the 2nd round, even if they have not applied to vote at home this time. The vote count also proceeded virtually without incident.

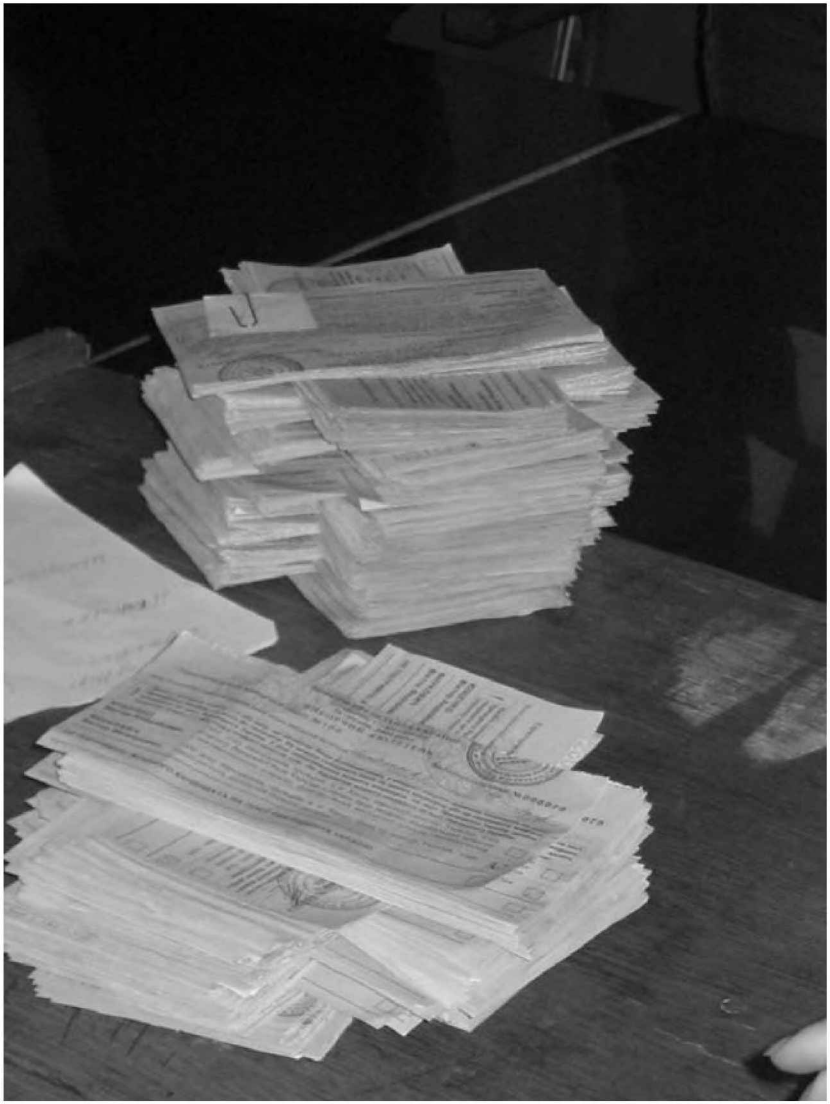
As the ballot boxes were emptied and the count began, it was established that the number of the ballots received matches up with the number of the ballots cast and the number of unused ballots. Precinct officials greeted this announcement with applause: unlike last time, this time there would be no attempt to invalidate the results because of the missing ballots.

Picture III.1: Getting ready to open ballot boxes

Picture III.2: The vote count begins

As the count began, 'Yushchenko, Yushchenko, Yushchenko, Yanukovych'... echoed in the room. As this approximate frequently of the mentioning of the two names continued, PEC members representing Yushchenko could hardly conceal their apparent delight, while those representing Yanukovych looked rather gloomy. Several of the Yanukovych representatives were watching the ballots very vigilantly, frequently arguing that a particular Yushchenko ballot is invalid. Most of the ballots were declared invalid because they did not bear a complete stamp of the precinct (showing precinct number). This was indeed a legitimate reason to consider the ballot invalid under the law, although one can wonder why so many ballots were improperly stamped at this precinct in the first place. At the end, there were 76 invalid ballots at PEC no. 79 – the second largest number of invalid ballots among all 129 precincts of TEC 100 (see official results for the repeat 2nd round for TEC 100 posted on the website of the Central Electoral Commission).

Picture III.3: The two stacks of ballots leave no doubt about who won



Energized by the impending victory of their candidate, PEC members representing Yushchenko were not nearly as vigilant with regard to the validity of the ballots. Yushchenko observers observing the vote count at times pointed out to them that a particular Yanukovych ballot was also missing a stamp. Pro-Yanukovych PEC members inspected these ballots carefully before putting them in the invalid ballots pile, but eventually did so. A dispute over the validity of a given ballot ensued only once, and concerned a ballot for Yushchenko that contained the following message on the back. 'Thank you, Yushchenko, that you exist. Happiness and good health to you.' At the insistence of pro-Yanukovych members of PEC no. 79, this ballot was eventually declared invalid. The final result for precinct no. 79 was 861 for Yushchenko, 389 for Yanukovych, 39 against all, and 76 invalid ballots.

Once the vote count was over, the filling in of multiple copies of the final protocol began. Once again we witnessed a way in which electoral fraud could (and did) take place. By law, the number of protocols that must be completed equals the number of PEC members plus four. All of these protocols (12 in the case of PEC no. 79) are considered original and can potentially be used to dispute the results of the elections. As multiple copies of the protocol were being completed, a good number of them were passed around for signature by the head of PEC *before* the final results for the two candidates were entered on p. 2 (see picture of the protocol below), or only with the third column (numeric) completed but not the second (where the total vote received must be written in long hand). With this handling of the protocols, it would be easy to simply switch around the results for the two candidates after the protocols were signed. Likewise, if only numbers were entered before the protocols were signed, numbers could be corrected by hand. This correction may seem unsuspicious if in the longhand column 'new' number is spelled out correctly after the correction is made.

Picture III.4: Final protocol with precinct results (front page)

ВИБОРИ ПРЕЗИДЕНТА УКРАЇНИ
ПОВТОРНЕ ГОЛОСУВАННЯ
26 грудня 2004 року

ПРОТОКОЛ
дільничної виборчої комісії
про підрахунок голосів виборців на звичайній виборчій дільниці

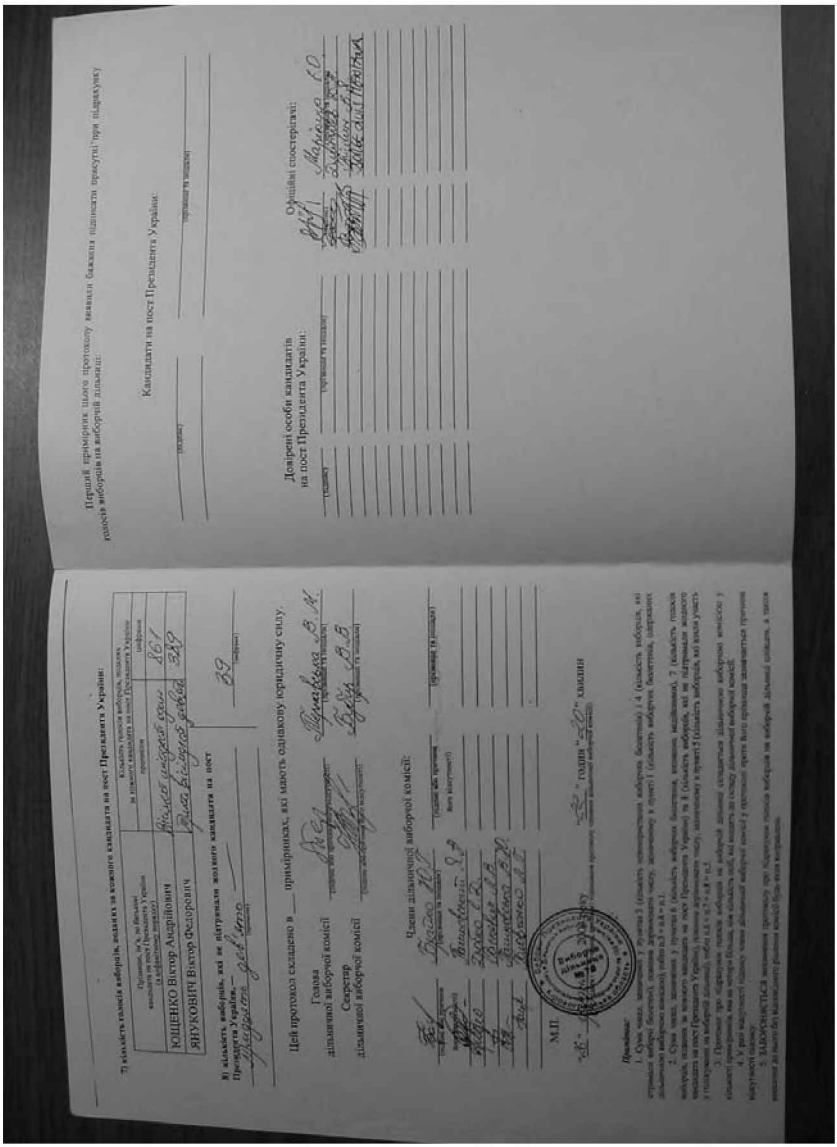
Виборча дільниця № 79 територіального виборчого округу № 100

(місцезнаходження дільничної виборчої комісії – село, селище, місто, район у місті, район, область, Автономна Республіка Крим)

Відповідно до частин четвертої, п'ятої статті 75, статей 78, 79, частини шостої статті 85 Закону України "Про вибори Президента України", Закону України "Про особливості застосування Закону України "Про вибори Президента України" при повторному голосуванні 26 грудня 2004 року" при підрахунку голосів виборців на виборчій дільниці дільнична виборча комісія **встановила:**

1) кількість виборчих бюлетенів, одержаних дільничною виборчою комісією, — (прописом)	2044 (цифрами)
2) кількість виборців, внесених до списку виборців на виборчій дільниці, — (прописом)	(цифрами)
3) кількість невикористаних виборчих бюлетенів — (прописом)	678 (цифрами)
4) кількість виборців, які отримали виборчі бюлетені, — (прописом)	1366 (цифрами)
5) кількість виборців, які взяли участь у голосуванні на виборчій дільниці, — (прописом)	1366 (цифрами)
6) кількість виборчих бюлетенів, визнаних недійсними, —	

Picture III.5: Final protocol with precinct results (back pages)



We will never know for sure whether some officials at PEC no. 79 intended to resort to this technique in the repeat 2nd round, or if omitting to fill in all copies of the protocol completely before passing them around for signature was simply caused by the rush to get it done and over with as quickly as possible. Several observers, myself included, raised objections to this practice. The presence of an international observer in our group again proved useful. By law, international observers have the right to sign the protocols as well.

Members of PEC also apparently wanted the international observer to sing their copy of the protocol (presumably because it would give the information in their copy of the protocol the 'endorsement' of international community?). The international observer insisted that all protocols be fully completed before he signs them, while several other observers began to inspect each protocol to make sure they are fully completed as well. No member of PEC no. 79 objected to our insistence on having the protocols fully completed, although my personal impression was that at least two of PEC members representing Yanukovych were less than pleased with our vigilance. Once all the protocols were duly signed, it was time to transport the ballots to TEC no. 100.

The amended electoral law ruled that the ballots are to be transported by two PEC members representing different candidates, and that the precinct stamp is to remain at the precinct. Given that in the morning the head of PEC no. 79 proclaimed that she would not leave the stamp behind, we were preparing to witness a confrontation at the last moment. No confrontation ensued, however, as the head surrendered the stamp to the precinct secretary before she departed with the ballots. It clearly appeared that, sometime during the day, PEC no. 79 simply gave up any attempts to falsify the electoral process.

Picture III.6: 'It is over!'

We accompanied the ballots to TEC no. 100 to see if anything out of the ordinary might transpire at the time of ballot transfer to TEC no. 100. At TEC no. 100 everything went without a hitch. Two PEC 79 officials with the bag of ballots and the protocols were admitted inside, what precinct the ballots came from was recorded, and PEC 79 officials joined the line of other precinct officials waiting to submit their bags of ballots to the designated TEC official. Since all ballots were transported in large sacks, I could not help but thinking that the line of PEC officials with their ballot bags looked like a line of Santas. Since it was Christmas day, the analogy did not seem out of place.

The very same night we set out back for Kyiv. We were leaving Kirovohrad in good spirits, with the sense of our job well done and with the appreciation of the historic nature of the elections we just witnessed. As we left TEC no. 100 and were coming down the main street of Kirovohrad, our driver all of a sudden began to sound 'Yu-shchenk-ko, Yu-shchenk-ko' with his car horn, the sound piercing the winter night. The street that a minute ago looked deserted all of a sudden became alive, with a number pedestrians stepping onto the road and enthusiastically waiving at our car as we drove by. This image of the Kirovohrad citizens appearing as if out of nowhere in the dead of the night to express their enthusiasm for their candidate stayed with me for a long time.

Table III.1: Precinct results for TEC no. 100 (2nd and repeat second rounds)

Precinct No.	2nd round results according to PEC protocols (parallel count of the Yushchenko campaign)		2nd round results announced by TEC no.100		Repeat 2nd round official results	
	Yush-chenko	*Yanu-kovych*	*Yush-chenko*	*Yanu-kovych*	*Yush-chenko*	*Yanu-kovych*
1	601	493	451	493	625	412
2	686	590	486	690	761	505
3	964	621	314	621	1,018	443
4	851	554	501	554	895	442
5	611	325	325	611	664	291
6	445	279	255	279	434	229

Precinct No.	2nd round results according to PEC protocols (parallel count of the Yushchenko campaign)		2nd round results announced by TEC no.100		Repeat 2nd round official results	
	Yush-chenko	*Yanu-kovych*	*Yush-chenko*	*Yanu-kovych*	*Yush-chenko*	*Yanu-kovych*
7	362	280	280	362	414	167
8	798	531	531	798	856	411
9	608	354	308	354	637	232
10	1,203	811	811	1,203	1,239	632
11	424	248	224	248	433	215
12	1,094	630	642	1,094	1,117	557
13	620	377	377	620	628	282
14	851	668	668	851	890	521
15	1,187	567	567	1,187	1,226	483
16	1,066	660	660	1,066	1,129	419
17	804	516	504	516	856	348
18	733	366	134	366	752	342
19	333	188	333	188	331	178
20	655	292	292	655	644	279
21	332	171	171	332	354	161
22	483	340	340	483	510	240
23	866	483	483	886	968	452
24	880	562	540	562	885	329
25	744	594	594	744	729	360
26	727	436	436	727	720	418
27	261	163	261	163	288	134
28	689	696	689	696	724	617
29	654	331	331	655	654	304
30	411	348	211	448	421	328
31	428	164	178	164	459	132
32	588	383	383	588	599	280
33	1,258	662	662	1,258	1,251	523
34	945	508	445	508	920	443
35	738	425	453	738	737	283
36	932	427	427	932	1,038	286
37	867	455	455	867	975	296
38	1,081	868	268	1,481	1,139	464

Precinct No.	2nd round results according to PEC protocols (parallel count of the Yushchenko campaign)		2nd round results announced by TEC no.100		Repeat 2nd round official results	
	Yush-chenko	*Yanu-kovych*	*Yush-chenko*	*Yanu-kovych*	*Yush-chenko*	*Yanu-kovych*
39	619	198	198	619	623	188
40	3	24	3	24	5	2
41	1	265	1	265	2	262
42	17	36	17	36	38	9
43	66	51	66	51	42	32
44	17	39	17	39	10	5
45	112	115	112	115	105	62
46	86	853	86	853	509	472
47	143	1,183	143	1,183	824	407
48	752	446	446	752	776	369
49	916	921	916	921	971	416
50	816	859	816	859	843	779
51	516	501	501	516	580	513
52	263	241	141	363	286	145
53	639	696	189	1,146	688	590
54	552	447	147	832	611	361
55	506	368	156	668	510	305
56	485	446	137	496	496	356
57	985	827	177	1,635	1,033	534
58	1,148	770	770	1,148	1,262	632
59	820	462	162	1,120	817	396
60	463	503	463	503	566	389
61	747	347	147	574	774	310
62	810	403	403	810	780	328
63	962	541	141	1,362	1,088	462
64	1,103	502	103	702	1,167	495
65	674	411	411	674	672	355
66	619	347	219	347	671	311
67	790	616	116	1,290	802	484
68	833	342	342	833	919	349
69	452	228	202	228	469	192
70	900	100	467	900	953	452

Precinct No.	2nd round results according to PEC protocols (parallel count of the Yushchenko campaign)		2nd round results announced by TEC no.100		Repeat 2nd round official results	
	Yush-chenko	*Yanu-kovych*	*Yush-chenko*	*Yanu-kovych*	*Yush-chenko*	*Yanu-kovych*
71	681	448	448	681	687	376
72	1,057	593	193	1,457	1,093	536
73	516	321	116	657	532	318
74	1,025	594	594	1,025	1,044	525
75	1,452	709	709	1,452	1,515	569
76	321	171	121	271	315	136
77	792	486	186	1,092	831	426
78	777	715	215	1,277	888	471
79	870	452	453	870	861	389
80	630	367	173	988	877	418
81	1,179	694	194	1,679	1,289	583
82	523	277	127	673	542	254
83	653	367	115	909	642	264
84	794	1,083	794	1,083	841	551
85	806	766	160	1,408	847	495
86	946	560	560	946	1,017	497
87	951	954	194	1,351	989	531
88	785	734	734	785	801	470
89	769	405	405	769	831	389
90	1,195	562	562	1,195	1,245	550
91	1,226	758	42	2,793	1,275	573
92	1,106	695	42	2,594	1,220	604
93	1,230	725	276	1,670	1,264	446
94	546	409	409	576	581	280
95	746	756	283	1,219	1,029	447
96	1,023	624	224	1,423	1,278	482
97	538	494	338	494	610	238
98	970	389	228	1,120	1,007	346
99	748	273	348	273	805	235
100	784	260	184	260	814	250
101					1,199	581
102	548	114	114	548	842	150

Precinct No.	2nd round results according to PEC protocols (parallel count of the Yushchenko campaign)		2nd round results announced by TEC no.100		Repeat 2nd round official results	
	Yush-chenko	*Yanu-kovych*	*Yush-chenko*	*Yanu-kovych*	*Yush-chenko*	*Yanu-kovych*
103	1,291	503	203	1,591	1,275	400
104	737	410	410	737	806	310
105	966	530	530	966	1,059	397
106	342	366	342	366	473	192
107	564	328	328	564	541	251
108	609	486	409	486	645	344
109	710	381	430	381	711	347
110	648	331	131	648	620	279
111	604	282	204	282	641	227
112	554	464	464	554	599	253
113	619	162	162	619	631	191
114	536	964	506	964	826	330
115	867	377	377	867	906	345
116	1,249	614	1,249	614	1,294	420
117	877	516	516	877	964	401
118	44	178	44	178	79	95
119	119	80	119	80	69	44
120	49	71	49	71	31	8
121	81	188	81	188	47	24
122	57	96	57	96	75	30
124	209	128	209	128	173	66
125	32	129	31	129	33	30
126	1	14	-	14	-	2
127	31	69	-	69	15	18
128	65	82	65	82	62	35
129	162	385	162	385	180	171
Total	83,805	56,343	40,824	92,326	91,178	42,990

Sources: Precinct results for the 2nd round (official and parallel count) provided by the Yushchenko campaign; precinct results for the repeat 2nd round are from the Central Election Commission web site http://www.cvk.gov.ua/.

Table III.2: Vote for Yushchenko and Yanukovych in TEC no. 100, all rounds

	1st round, official results	2nd round, official results	2nd round, parallel count from PEC protocols	Repeat 2nd round, official results
Yushchenko	63,280	40,857	83,805	91,178
Yanukovych	39,152	92,580	56,343	42,990

Sources: official results for all rounds from the Central Election Commission web site http://www.cvk.gov.ua/; parallel count from PEC protocols for the 2nd round provided by the Yushchenko campaign.

My Experience of a Lifetime: Elections 2004 in Ukraine

Volodymyr Bilyk, Retail Expert Agency, Kyiv

Why?

Why did I participate in the events described below? Definitely not for money – I spent some thousands bucks on my own (I own and work for a BTL advertising agency) to make the presidential elections of 2004 fair. Definitely not for fame – I've got only one magazine publication after all these events. And definitely not for political benefits – I'm a businessman, 27 years old, and I do not have any desire to become a politician. So why? Okay, why should you help a kitten to get down a tree? Because you know that it is GOOD. Why should you protect a little kid from a street gang? Because you know that it is FAIR. Our Ukrainian baby-democracy was in danger – it was in need for help and we all HAD TO protect it.

Where?

I spent that day (21st November, a day before the Orange Revolution) in Kirovohrad. It is one of 24 Ukrainian oblast centers – situated halfway from Kyiv to Odessa. Kirovohrad used to be a real back of beyond. If you are a Kyivan citizen you feel there like a time-traveler – you're back in the mid-nineties. No hotels, no fast-foods, and completely no roads – you've got to have an SUV to drive there. But anyway, some 250,000 residents are living there, and I should say they are good and hospitable people.

For the second election round, I decided to become an official election observer because in Kyiv we all have heard terrible rumors about the first one in Kirovohrad, i.e. in electoral district no. 100. People were telling about some armed gangs, about shooting in polling stations, about kidnapping of members of election committees and so on.

During the first round of elections I understood – the situation in Kyiv was not causing great concern. When I came to my polling station to check the situation at the evening of election day, I met about 30 people near the door of the polling station – they all were waiting with their cameras for the protocol with the elections results. I have to say that all people were volunteers and each participated without any coordination with one another or Yushchenko's headquarter. People just wanted to be sure that nobody will steal their votes – the same situation was practically on every polling station in Kyiv. So, 70% of Kyivan citizens voted for Yushchenko (and 14% for Yanukovych), and their votes could be safeguarded.

Taking into consideration the situation in Kyiv, I decided to become an observer in Kirovohrad – I knew that most of the people there were voting for Yushchenko, but the Central Election Commission stated a 50/50 situation after the first round in Kirovohrad. It was clear for everybody that some 100,000 of votes were stolen.

What?

What was happening during the second round in Kirovohrad? Me and some of my colleagues from my agency gathered eight cars of volunteers (around 30 people) for the second round in Kirovohrad oblast. We all intended to be official observers from Yushchenko's side. We did not know that the election commission in district no. 100 consisted of eight members representing Yanukovych's political force and only two members supporting Yushchenko. The commission rejected our request to register us as official election observers a day before the second ballot. According to the Ukrainian electoral law, only members of local election commissions, official observers and people with journalist identifications should be present on the vote-count. The Territorial Election Commission rejected about 250 requests from Yushchenko's official observers. So, in district no. 100 with 250,000 of voters and 130 polling stations, there were only four official observers from Yushchenko. Those eight guys in district commission had a simple plan – they wanted to leave only Yanukovych's local commission members and observers inside polling stations during the counting procedures. But we

where sophisticated enough to make Kyiv journalist IDs for ourselves. Surely, those IDs were a fake. But how should we get inside the polling stations without them? IDs were our only chance to make it, so we asked some friends working for liberal media to help us with documents a week before the second round.

A day before the second round we arrived in Kirovohrad. In my car, I had two friends, an armed guard (I hired him for $100 per day), a laptop with GPRS connection to the web and a mobile phone with unlimited account. You see, I felt I should be well-prepared for the elections. We visited Yushchenko's headquarters. The people there were extremely glad to see us: Eight cars with volunteers were an unexpected and significant support for them. They gave us a list of some 30 polling stations which had the most severe problems during the first round. I met there a Member of Parliament (MP) who was Yushchenko's personal election curator in Kirovohrad oblast. When I told his assistant that I've got a professional bodyguard in my car, he asked me:

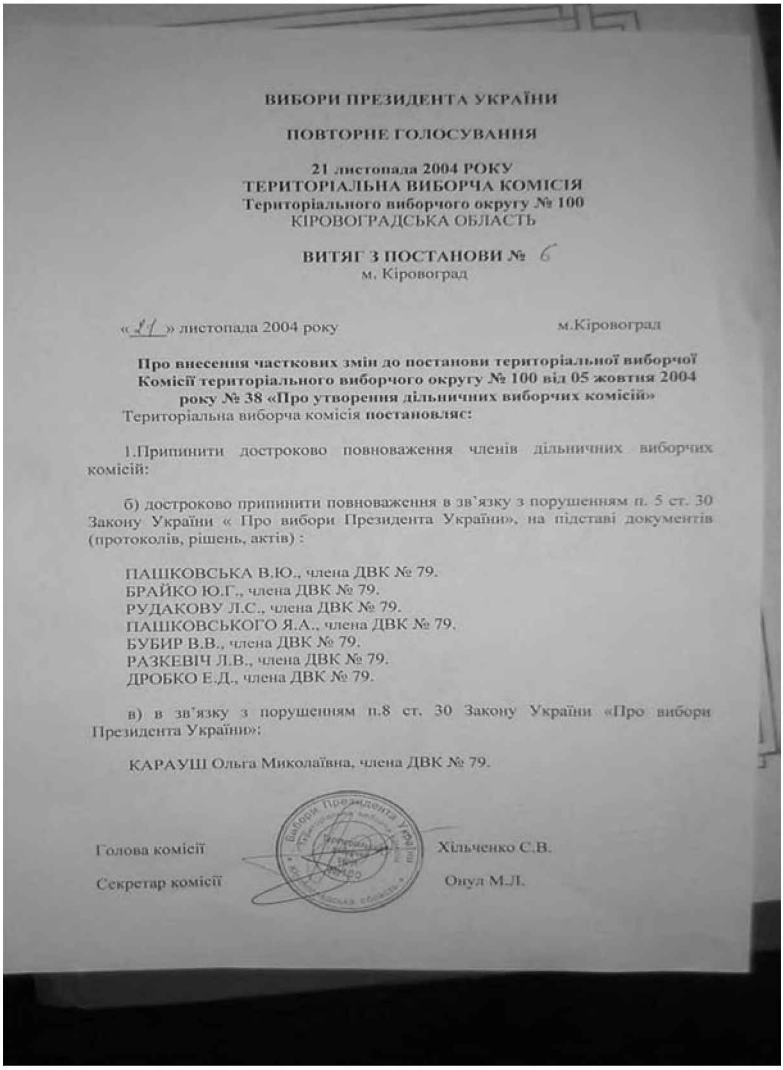
> Man, please, may we use your guard? My boss now has no guards with him here, but we really do need one – two unknown cars are following us wherever we go here. I guess its Volkanov's people.

Volkanov is a local mafia boss and was a member of the local municipal council in Kirovohrad during the elections. Currently he is wanted by the police; some people say that he's hiding in Moldova. I told him that I would gladly do so, but I need to have some protection for my own people. 'You don't need to worry' – he said – 'I'll give you a number, you just call in case of any danger – in five minutes you'll be safe'. He gave me a number and a bit strange name – Aliosha, the Red. 'Who is this guy?', I asked him. 'You'll see', replied the MP's assistant with a sort of gloomy smile on his face.

A day before elections we managed to visit some ten polling stations – and everything was calm. Next day we got up at seven. We came to the polling station no. 79 at 7.30 – elections started at 8.00. And the first thing we saw inside the station no. 79 was a protocol in the hands of the local election commission's head Mrs. Tarnavs'ka. According to this protocol, all of

Yushchenko's reliable persons in the local election commission were expelled because of absence on commission meetings. In fact, they were present on every session and could even prove it in the protocols of these meetings.

Picture III.7: The protocol on the exclusion of TEC no. 100 members



ВИБОРИ ПРЕЗИДЕНТА УКРАЇНИ

ПОВТОРНЕ ГОЛОСУВАННЯ

21 листопада 2004 РОКУ
ТЕРИТОРІАЛЬНА ВИБОРЧА КОМІСІЯ
Територіального виборчого округу № 100
КІРОВОГРАДСЬКА ОБЛАСТЬ

ВИТЯГ З ПОСТАНОВИ № 6
м. Кіровоград

«11» листопада 2004 року м.Кіровоград

Про внесення часткових змін до постанови територіальної виборчої Комісії територіального виборчого округу № 100 від 05 жовтня 2004 року № 38 «Про утворення дільничних виборчих комісій»

Територіальна виборча комісія **постановляє:**

1.Припинити достроково повноваження членів дільничних виборчих комісій:

б) достроково припинити повноваження в зв'язку з порушенням п. 5 ст. 30 Закону України « Про вибори Президента України», на підставі документів (протоколів, рішень, актів) :

ПАШКОВСЬКА В.Ю., члена ДВК № 79.
БРАЙКО Ю.Г., члена ДВК № 79.
РУДАКОВУ Л.С., члена ДВК № 79.
ПАШКОВСЬКОГО Я.А., члена ДВК № 79.
БУБИР В.В., члена ДВК № 79.
РАЗКЕВІЧ Л.В., члена ДВК № 79.
ДРОБКО Е.Д., члена ДВК № 79.

в) в зв'язку з порушенням п.8 ст. 30 Закону України «Про вибори Президента України»:

КАРАУШ Ольга Миколаївна, члена ДВК № 79.

Голова комісії Хільченко С.В.

Секретар комісії Онул М.Л.

Later this day, we found out that the same situation was reported in 50 polling stations of district no. 100. We had only one choice – to go to the local court to cancel that absurd protocol. Mrs. Tarnavs'ka refused to give us ('journalists') a copy of the protocol, so we took a picture of it and went to the court. But there, the head of the Kirovohrad Kyivsky court judge Yaroshenko told me that 'this computer stuff is not a proof, get out of here!' That was the plan of the pro-Kuchma local powers: You have no proof to go to the court, and you have no right to request it as a journalist. I understood that scheme at once – I got to my car and in some five minutes told it all to Kirovohrad Yushchenko's headquarters chief Mr. Kal'chenko. Kal'chenko had some '*kompromat*' (compromising material) on judge Yaroshenko (Yaroshenko allegedly used to be a bribe-taker, as far as I remember); so after some 3 hours we had the court's verdict which cancelled the protocol. But another surprising matter was waiting for us: Mrs. Tarnavs'ka now refused to execute the court's verdict.

Picture III.8: Tarnavska refuses to execute verdict of the court

She told us that she will only listen to what the district commission decides – nothing else, even any court verdict. What to do next was obvious: We had to bring policemen of the court to the polling station to force Mrs. Tarnavs'ka to obey the court verdict. It was already 5 p.m. We had only 3 hours left until the polling station would be closed for vote-count. Unfortunately, all policemen of the courts had a day off that Sunday (usually they work on Sundays, but that week a special order came from the municipal administration). So, it was an extremely lucky coincidence that, after searching all over the city, I found two officers of the court and persuaded them to come with me. I don't know how I managed to do it. Anyway, thanks to these police officers and another two guys on military service, we managed to return Yushchenko's reliable persons into the election commission.

On that polling station, 1,000 of voters voted for Yushchenko and some 250 for Yanukovych. When the result became clear – it was about 3.00 a.m. – Mrs. Tarnavs'ka refused to sign the final protocol and concealed the official stamp needed to legitimate the vote in her underpants (this is NOT a joke!). Then she called somebody on the phone and cried: 'Everything is lost!!! Send a SQUAD over here!!!' After those words, we all became nervous. Locals told us that 'squad' meant an armed gang that should come and destroy all the voting bulletins. I called Aliosha, the Red, and told him that we need help at polling station 79. And what do you think: In a few minutes came an armed gang – but an armed gang with ORANGE SCARVES! Later I found out that Aliosha, the Red, was a local criminal boss who was in bad relations with the old municipal power in charge. All Aliosha's guys were armed, and with their help we prevented Yanukovych's squad from occupying the polling station. After that, we succeeded, with help of MP Volodymyr Yavorivs'kyi, in convincing Tarnavs'ka to sign three copies of the final protocol with the official election outcome.

Picture III.9: Yavorivsky and Tarnavska

What was the reason of such a behaviour of Mrs. Tarnavs'ka? Surely, it's all about money. Allegedly, she received $1000 from a member of the local municipal council called Vitalii Belov – at least, that is what the rumors said. Indeed, Mr. Belov came at the day of elections to many polling stations – one suspects to remind the PEC heads of their 'obligations'.

Picture III.10: Vitalii Belov

Later we were driving around the town, trying to help people facing similar problems. In one polling station the commission's head lost the key from the safe with bulletins: We had to cut the safe with a hand saw. In another one, the head lost the keys from the room where the election results were locked. All commission members had to spend 14 hours in the room without a WC. Everything was done to destroy any evidence of people's choice. In most polling stations, two or three decent men and women had to struggle with a dozen of bribe-takers.

But this time they got their calculations wrong! On Monday night, after 52 sleepless hours and 400 kilometers on the road, we were building barricades from benches and trash-containers on the Maidan along with another 200,000 people: We were starting the ORANGE REVOLUTION – the most remarkable event in my life.

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