

THE PRESIDENTIAL ELECTIONS ARE OVER – HOW CAN THE UKRAINIAN DEMOCRACY BE CONSOLIDATED?

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For some time now, the European Union and German foreign affairs politicians have been regarding developments in the Ukraine mainly under the aspect of securing gas supplies. However, the current significance of the second largest European state in terms of geographical area with 46 million inhabitants stretching from Lviv to Donetsk goes far beyond that of a raw material transit country. With the events of the Orange Revolution in the winter of 2004, the country set a course towards democratisation and modernisation, which differs clearly from that of the former Soviet republics, disregarding the Baltic states. Through the successful consolidation of liberal democracy, the Ukraine could demonstrate that this region represents an alternative to the patriarchal and authoritarian model defining those societies. The entire region and the European Union would benefit enormously from this. The example of the Ukraine therefore poses very concrete questions about the social attractiveness of democracy and its capability of solving problems, which will be highly significant for the long-term future of the European Union.

During the five years since the peaceful protests against election fraud, which have become known as the Orange Revolution, and the subsequent election of Viktor Yushchenko as President of Ukraine, the European partners have viewed the country predominantly as prone to conflict, unstable and politically confused. They hoped that the presidential elections in January and February 2010 would stabilise the situation. But within days of the decisive run-off election on 7th February 2010, the internal political developments within the Ukraine triggered renewed international anxiety with headlines about possible new escalations of the crisis of state and constitution. Viktor Yanukovych, head of the oppositional Party of Regions, won the presidential elections with a result of 49 percent. 45.5 percent of the electorate voted for Prime Minister Yulia Tymoshenko and 6.5 percent "against all candidates". Yanukovych has thereby been elected President. While his Party of Regions quickly initiated a parliamentary decision to set the date for the inauguration, the losing rival Yulia Tymoshenko went to the Supreme Administrative Court with allegations of systematic electoral fraud by Yanukovych. In a television address, she stated that she would "never recognise Yanukovych as legitimate President." Shortly afterwards, she withdrew her complaint because of what she regarded as bias on the part of the judges involved. From the Yanukovych camp, on the other hand, daily calls have emanated since election day for the resignation of the head of government, and the "end of Tymoshenko's career" has been pronounced. The parliamentary group of the Party of Regions tabled a vote of no confidence in the President and, with the

help of the communists, changed the rules of parliamentary procedure to try and topple the governing coalition. Some very obviously paid demonstrators from the Party of Regions had virtually laid siege to the central electoral commission for some days beforehand, and some of the members of parliament from the party used their immunity to physically block the entrances and exits "to protect the declaration of the election result", as they put it. In effect, the Party of Regions deposed the Tymoshenko government, but without forming a new majority coalition and government based on valid law. As a political gesture, Yulia Tymoshenko did not attend Viktor Yanukovich's inauguration, neither did the former President Kravchuk and numerous other personalities.

Apart from these legal and public disputes, it has also remained unclear since the presidential elections as to how a stable majority is to be established in the parliament, the Verkhovna Rada. Since the end of 2007, Prime Minister Tymoshenko had governed without a solid majority, and forming a new government coalition with Yanukovich's party is markedly difficult. In connection with this, the President elect and his party are threatening to hold new, early parliamentary elections. Also, after the presidential elections, the Verkhovna Rada postponed the local elections, which had been scheduled for 30th May 2010, to an indefinite date. With changes to the rules of parliamentary procedure, which are to facilitate the formation of a majority coalition by individual members of parliament rather than on the basis of parliamentary groups, Yanukovich's Party of Regions seems intent on resolving the latest political impasse in open contradiction to the constitution and existing rulings by the Constitutional Court. This produces a basis for legal challenges and further disputes. It appears that there is no end to the permanent power struggle and the violent escalation of the crisis in domestic politics in sight.

Even after the presidential elections, Ukrainian politics remain blocked by power conflicts, which are preventing political stabilisation and the necessary social and economic reforms, and which hamper the relationships with the international partners. After the impulse for system change from the Orange Revolution, the consolidation and stabilisation of democracy in the Ukraine are now also facing enormous problems from the ongoing political crisis. The Ukrainian political system is manoeuvring in a grey zone between democratic renewal and a relapse into authoritarian patterns of thought and action.

Seen from an internal perspective, the political confrontations are not a series of different conflicts between Ukrainian institutions or competing political elites, but rather a permanent simmering structural crisis, which keeps breaking into flame every now and again. The malaise of these constant political tensions has been going on with cyclical escalations for over a decade now. It has its origin in the inadequate constitutional system of 1996, which prepared the stage for the political actors in parliament and the presidential

administration to keep provoking seemingly insurmountable confrontations. From the end of the nineties, President Leonid Kuchma strengthened the position of the office of president step by step in order to win out in the power conflict through strong authoritarian leadership. In the end, the Ukrainian political system had very clear dictatorial traits. However, President Kuchma's regime did not succeed in installing its preferred successor Yanukovich in the presidential elections of 2004. The break brought about by the Orange Revolution resulted in freeing up the media and created pluralism in the society. Furthermore, Ukrainian civil society collectively experienced the success of peaceful demonstrations, which was very important for the citizens' self-confidence. However, the decisive third ballot, during which Yushchenko was finally elected President, was in the end only brought about by a politically motivated decision of the Constitutional Court. The democratic movement had to make concessions to the ancien regime by way of extensive constitutional changes, which particularly strengthened parliament and the government to the detriment of the office of president and divided the Ukrainian executive. Ever since then, the renewed power struggle between several political and economic groupings has been determining the domestic political scene.

How then can the Ukraine be helped to come out of the grey zone, the state halfway between democracy and authoritarianism and to develop into a solid and stable democracy? Both the descriptive approach by spelling out the characteristics of the permanent structural crisis and the analytical examination of the situation on the basis of the concept of liberal democracies point towards similar main starting points. These are in particular economic stabilisation, correction and acceptance of the constitutional system and promotion of an elite consensus.

Financial and economic stabilisation are clearly the most urgent issues for the Ukraine and therefore also for Ukrainian democracy. Consolidation of the democratic system is hardly possible without adequate economic performance.

The central problem areas identified in this analysis were the ambiguities in the constitutional system and the inadequate rule of law. Repairing the basics of the constitution will require an inclusive discourse involving all the essential political actors. The establishment of an independent judiciary and the safeguarding of rights must in future be at the forefront of the reforming efforts. Only a positive development of the rule of law can ultimately generate impulses to solve the problematic interaction between the economy and politics.

Repairing the constitutional system and getting it accepted will no doubt require elite consensus. The deliberations in this article indicate that the plural-

ism currently existing in the Ukraine and the free elections are forming the basis from which a democratic elite consensus can emerge in spite of all the problems. The presidential election campaigns and the election results show that the established elites are coming under pressure from new forces because of their ongoing conflict escalations. Further learning by the elites to allow the consensus to be worked out will only be possible if free elections and pluralism for a possible elite change are ensured. This is where the conflict lies which might determine the development of democracy in the Ukraine. With the currently valid parliamentary election law, the closed lists and the imperative mandate, the old elites are shoring up their position and preventing renewal. The postponement of the local elections, which was decided on shortly after the presidential elections, and a coalition to prevent new parliamentary elections formed in contradiction to the valid constitution also serve mainly to preserve the power of the existing elites.

Which conclusions can external actors who have an interest in the democratic consolidation of the Ukraine draw from all this? If you consider the importance of the strengthening of Ukrainian democracy for the region, what is most important of all is to abandon a position of 'wait and see'. Even in the unstable and confusing environment of the permanent political crisis, the European Union and German foreign affairs politicians should not leave the Ukrainians to their own devices. Ensuring the economic stabilisation of the country will require external help and simultaneously offer the opportunity of demanding some conditions to be met. These should be used in two ways. On the one hand, clear signals must be given indicating that renewed authoritarianisation for the purpose of stabilisation cannot be accepted. Pluralism in the Ukraine, the "low level equilibrium" of the Ukrainian democracy remain the essential foundations for a consolidation which cannot be abandoned. The postponing of the local elections and the open disregard for the constitutional system in connection with the forming of coalitions must be responded to by clear statements by the European partners of the Ukraine. On the other hand, external actors should find ways to employ conditionalities, which can be used to bring about some positive action to attack the core problems of the constitutional situation and the rule of law. Under the conditions of pluralism, free elections and the existing widespread approval of the European Union, it seems to make sense to address the political efforts more strongly to Ukrainian civil society and its citizens and less to the political elites, which are entrenched in their power struggle. If the current pluralism and the critical public prevail and the series of democratic elections continues, the necessary pressure might develop within the society to force the existing elites into political action or, in the end, initiate an elite change.