



# Ukraine turns away from democracy and the EU

*By Tomas Valasek*

★ Many in Europe worry that the new government in Kyiv is taking Ukraine into Russia's orbit. Others fear that the president, Viktor Yanukovich, will play Russia off against the West. Both groups miss the main change in Ukraine: the country is turning inwards and becoming increasingly authoritarian.

★ The president has taken steps to muzzle independent media, harass critics and sideline the opposition, ostensibly to improve governance. The EU should discourage Yanukovich from building a one-party system, while supporting the economic and energy reforms he launched in the summer of 2010.

★ Ukraine's progress towards EU membership will continue to be very slow. Yanukovich is focused on consolidating domestic power and rebuilding the economy. His diplomacy will be focused on short-term objectives that are inconsistent and often contradictory.

In February 2010, Ukrainians elected Viktor Yanukovich as the country's new president. In his first month in office, Yanukovich declared that his country no longer wanted to join NATO. Then, in April, he signed a deal with Moscow to allow Russia's Black Sea Fleet to stay in the Crimean port of Sevastopol until 2042. The president's first steps alarmed those who wish to see Ukraine move closer to the EU. They seemed to suggest that Kyiv was returning to Moscow's sphere of influence, or at least acquiescing in Russia's attempts to draw it in. Ukraine is very important to the EU's eastern policy; with a population of 46 million it is the second-largest country in Eastern Europe. Is it now becoming a Russian satellite?

This policy brief argues that the new government in Kyiv is less beholden to Russia than its early decisions indicate. While Ukraine will be friendly to Moscow, it will also struggle with the Kremlin over control of key industries in Ukraine. Kyiv's co-operation with the EU will stagnate but for reasons that have little to do with Russia: key EU capitals have lost appetite for further EU enlargement while European integration is not a priority for Yanukovich.

The president is far more focused on reviving Ukraine's economy and consolidating power. His early steps also suggest that he may be building a one-party state. This, rather than Ukraine's Russia policy, should be the focus of EU capitals and institutions. They should use their influence to preserve democracy in Ukraine while supporting Yanukovich's economic reforms.

## Deficits, disagreements and dysfunction

Viktor Yanukovich has sound reasons to focus on domestic challenges rather than international ones. He has inherited a country with deep-seated problems. Ukraine's economy remains highly dependent on exports of steel. In 2009, the country's GDP shrank by 15 per cent, chiefly because steel prices collapsed. The government came close to defaulting, partly because of the economic contraction but also because of the country's ruinous gas subsidies. Ukraine's gas monopoly, Naftogaz, buys from Russia at close to West European average prices but, until recently, resold to companies and households at a heavy discount. The government, in turn, spends nearly 2 per cent of GDP annually subsidising Naftogaz.

Former President Viktor Yushchenko and former Prime Minister Yulia Tymoshenko made things worse by publicly disagreeing on how to respond to the global economic crisis; feuding between them prevented the government from agreeing a budget in 2009. This unnerved investors and prompted the International Monetary Fund (IMF) to suspend lending. Despite the slump in economic activity and tax revenue, Ukraine increased social benefits in 2009. The combination of lower receipts and higher outlays nearly broke the treasury. Budget deficit ballooned to nearly 9 per cent of GDP in 2009, and Ukraine only met its debt obligations thanks to the \$11 billion of loans disbursed by the IMF before it suspended aid later in the year.

The country's domestic woes extend beyond the economy. The judiciary is weak and discredited. Ukraine's highest court, the constitutional court, has been known to reverse its judgements depending on the direction of the political winds; some of its judges have in the past resigned rather than take a stance on a controversial issue. The 2004 constitution is a muddle; it fails to divide clearly the powers of the prime minister and the president. When they disagree, chaos can easily ensue.

Petty corruption at the lower echelons of government irritates ordinary Ukrainians. The administration excels at creating arbitrary administrative problems which magically disappear once cash changes hands. Ukrainians steer clear of state authorities, including the tax office: Yanukovich's economic czar, Iryna

<sup>1</sup> *Svitlana Tuchyńska, 'Akimova: 'We're serious about reform'', Kyiv Post, June 16<sup>th</sup> 2010.*

Akimova, estimates the size of the informal economy at 50 per cent of Ukraine's GDP.<sup>1</sup> Top-level corruption and red tape deter foreign investors. Ukraine has promising gas reserves under the Black Sea and under land (in shale, a type of organic rock) but foreign oil executives think the government too corrupt and unpredictable to invest in their exploration. The country has recently failed the 'IKEA test': the furniture company, famous for its willingness to invest in newly emerging and risky markets, has stopped building new shops in Ukraine and sold its local factories. Officially, IKEA says this is because the downturn made economic prospects too bleak. But Ukrainian observers say that the company found the business environment too unfriendly.<sup>2</sup>

<sup>2</sup> *Yuliya Popova, 'The adventures of IKEA in Russia', Kyiv Post, May 28<sup>th</sup> 2010.*

Ukrainians have come to abhor this mess, and they have elected Viktor Yanukovich to sort it out. While he is partly responsible for the state of affairs – he twice served as prime minister in the 2000s, and as opposition leader he proposed the disastrous

legislation in 2009 that increased social benefits – Yanukovich won the presidential election by promising voters to pay more attention to the daily business of running the government than Yushchenko did. He has also vowed to spend less time on lofty and seemingly unattainable goals like EU membership, which has resonated with the population.

### The spring clean-up

In keeping with his electoral promise, Yanukovich devoted the early months of his administration almost entirely to domestic policy. He browbeat law-makers into ousting the prime minister, Yulia Tymoshenko, and replacing her with Mykola Azarov, one of his longstanding allies. For the first time since the heady days of the Orange Revolution, Ukraine has a president and prime minister of the same party and similar political philosophy, and the government enjoys a large majority in the parliament.

Yanukovich moved quickly to reform the economy. The government increased taxes on gasoline, tobacco and alcohol. It has raised the retirement age for women (male life expectancy is only a little higher than the official retirement age) and promised further gradual increases. Yanukovich has even trodden where the previous 'Orange' government never dared to: it hiked gas prices in order to reduce the country's budget deficit. Yulia Tymoshenko promised the EU to do so in 2009 but did not, fearing voter backlash. In July 2010, the Rada (parliament) also passed a law that would gradually break up Naftogaz, which the EU had been urging Ukraine to do. Even though the break-up remains in the planning stage, the EU has accepted Ukraine into its 'energy community'.<sup>3</sup>

<sup>3</sup> *The EU set up the energy community in order to encourage countries of South-East Europe to build a unified energy market. Countries that want to join need to align their energy laws with those of the EU and pledge to uphold security of supply.*

There have been missteps: the proposal for a new tax code won so little support in parliament that the government had to rewrite it. Yanukovich postponed many of the most difficult reforms, such as the introduction of a new pension system and measures to slim down the government, until 2011. There is a risk that they may never come to pass: Ukraine holds regional elections in late October 2010 and if voters reject the austerity measures implemented so far, Yanukovich may rethink future ones. But to date, though much remains to be done, the president has delivered important economic reforms that Ukraine badly needs. And the Ukrainians seem inclined to accept his bitter medicine: the new president's support has strengthened since the election whereas the popularity of the previous leadership continues to plunge.

However, in other important respects, Yanukovich has disappointed: in his first few months in power, the new president has shown a worrying authoritarian streak, which has alarmed many of his liberal-minded compatriots. He has begun suppressing alternative views: journalists at TV stations in Ukraine complain that stories critical of the government are being withdrawn. Two outspoken TV stations have had their allocated frequencies revoked on a technicality. Yanukovich's Party of Regions forced key legislation – such as the 2010 budget or the deal extending the Russian fleet's lease – through the parliament without allowing for a debate. The country's secret police has harassed foreign foundations (which it suspects of supporting the opposition) and universities (because most students do support the opposition). The authorities have opened criminal proceedings against seven senior figures from the previous administration including Yulia Tymoshenko. Yanukovich is right to suspect corruption in the highest circles of government – but corrupt figures close to the president appear to enjoy protection. The president seems to be using the anti-corruption drive as cover for a political witch hunt.

Even more worryingly, in July 2010 the parliament passed a new law on local elections, which effectively prevents Bloc Yulia Tymoshenko (BYuT), Ukraine's largest opposition entity, from fielding candidates under the BYuT label. And in October 2010 the Constitutional Court, which Yanukovich has stacked with allies since coming to power, ruled to change Ukraine's constitution towards a presidential-style system; this means that the current president and his successors, rather than the Rada, will have sole right to appoint the government in the future. Yanukovich argues that the change is needed to bring political stability to Ukraine. But sceptics rightly point out that the concentration of power in the president's office, along with the disenfranchisement of BYuT, attacks on independent media, universities and Tymoshenko and her associates, look suspiciously like a concerted campaign to turn Ukraine into a one-party state.

Ukraine's polarised nature – with many oligarchs and political parties competing for power – used to serve as a barrier to authoritarianism: no single clique had enough influence to usurp power. That is now changing. Virtually all major Ukrainian oligarchs have lined up behind Viktor Yanukovich. And their influence on politics is as strong as ever: one person, Valeriy Khoroshkovsky, chairs the country's spy service, owns one of the largest media groups and sits on the council that nominates judges to Ukraine's courts. The president faces no substantive opposition, formal or informal.

He also seems determined to make sure that it remains that way. People familiar with Yanukovich's thinking

say that he talks about “power” fondly and frequently. Other senior government officials such as Foreign Minister Kostyantyn Gryshchenko speak admiringly of “China's ability to think and act strategically”.<sup>4</sup> The overall

impression is that the Kyiv government seems to equate ‘order’, of which, it rightly believes, Ukraine needs more, with ‘power’, in its political, total and almost Soviet sense. While Yanukovich says he believes in democracy, the president's understanding of it “is shallow and commitment to it questionable”, James Sherr of the London-based Chatham House observes.<sup>5</sup>

<sup>4</sup> *Presentation at Chatham House, London, September 6<sup>th</sup> 2010.*

<sup>5</sup> *James Sherr, ‘The mortgaging of Ukraine's independence’, Chatham House, August 2010.*

### Foreign policy as an afterthought

Foreign policy has been a second-order priority to Yanukovich in his first half year in power. The Ukrainians in general, including the elites, spend little time contemplating their country's place in the world. As one country expert, Anders Aslund, notes, Ukrainians even have a saying – “moia khata z kraju” (“my cottage is to the side”) – meaning they prefer to stay out of world affairs.<sup>6</sup> Those few who think about foreign policy disagree on what it should be. Ukrainians from the Russophone east and south, like Yanukovich, generally want to stay on good terms with Russia, while those from the west of the country prefer a close relationship with the West.

<sup>6</sup> *Anders Aslund, ‘How Ukraine became a market economy and democracy’, Petersen Institute for International Economics, February 2009.*

This makes it difficult for Ukrainian leaders to build broad support for anything but the most minimalist foreign policy. Most governments since independence have had limited diplomatic ambitions. With a few exceptions, they focused on getting along with neighbours and opening new markets for Ukrainian steel or cereals. Yanukovich's predecessor, Victor Yushchenko, went against the grain when he called for Ukraine to join NATO and sided with Georgia in its war against Russia in 2008. The east of the country disagreed strongly, and even those in the centre and west, who are not particularly pro-Russian, felt uncomfortable with the abrasiveness of Yushchenko's Russia policy.

Yanukovich capitalised on this anxiety: his decision to abandon the pursuit of NATO accession and to cosy up to Russia was popular. But he is not bidding to turn Ukraine into a satellite of Russia – he is seeking to restore Ukraine's long-standing policy of quasi-neutrality. There is no doubt that he has a special relationship with Russia: Yanukovich is a native Russian speaker and, like Vladimir Putin, the Ukrainian president seems to recall fondly the

country's Soviet past. During recent celebrations of the anniversary of Ukraine's independence, Yanukovich was at pains to find something positive to say about the break-up of the Soviet Union, even though the event gave Ukraine its independence. But there is a difference between 'Ostalgia' of the sort that Yanukovich exudes and a desire to restore the union with Russia. Most of the country's businessmen and politicians, including Yanukovich, believe that Ukraine should be friendly to, but independent from, Russia.

The key foreign policy decision of the new administration so far – the extension of the Black Sea fleet lease in Sevastopol – has deceived many in the West into thinking that Kyiv sought a new strategic alliance with Moscow. But the agreement was largely driven by domestic reasons. In exchange, Russia agreed to a 30 per cent discount on the price at which it sells gas to the country; the resulting savings are helping to bring Ukraine's budget deficit under control and qualify for further IMF aid. Yanukovich may also have been protecting the interests of the governing party's financial backers. Many of Ukraine's richest men are in the steel business and they compete with Russian steel barons, who benefit from cheap energy. The new discount on gas imports will help to level the playing field.

Indeed, there are signs that Ukraine's newly warm relations with Moscow are coming under strain. While Yanukovich simply wants Ukraine to enjoy better relations with Russia than it did under Yushchenko, Moscow appears to want a broader strategic alliance. The Kremlin has proposed a long list of industrial tie-ups to Kyiv, including the merger of the two countries' aeroplane manufacturers, as well as their key gas suppliers (Gazprom of Russia and Naftogaz of Ukraine), and other strategic industries. The proposed gas merger in particular seems to have surprised the Kyiv government, which initially denied that any such deal was in the offing (it is now talking about a joint venture rather than merger).

Some analysts believe that Moscow's bid for Ukrainian assets may yet prompt Kyiv to become friendlier to the EU. The rich businessmen behind the Party of Regions view Russian oligarchs as competition. "Eight out of the top ten richest Ukrainians are in the steel business", Andrew Wilson of the European Council on Foreign Relations points out, "and they do not take

kindly to the prospect of having their business taken over by their Russian rivals."<sup>7</sup> Wilson argues that Ukraine will soon seek to improve relations with the EU so

as to be in a stronger position to resist Russia. There is some evidence of this: for example, Yanukovich has

refused to hand over certain properties (such as former embassies) that were due to go to Russia, in exchange for Moscow assuming the former Soviet Union's debt.

However, this gesture does not necessarily mean that Ukraine will systematically play Russia off against the EU. The government is simply pushing back against Russia, warning it not to take advantage of Ukraine's 'reset' policy. Overall, there is little evidence of any consistent foreign policy strategy in Kyiv – neither a pro-Russian nor a 'balancing' one. Yanukovich appears to think that consolidation of domestic power, not diplomacy, is the main business of the government. This order of priorities will continue to befuddle Western observers and make Ukraine a difficult and unpredictable partner.

### EU aspirations take a back seat

Ukraine's turn inwards should prompt the EU to rethink its Ukraine strategy. The United States under Bill Clinton and George W Bush took a close interest in Ukraine but Eastern Europe has ranked low on Barack Obama's list of priorities. The EU does not have the luxury of being able to downplay Ukraine. It is a large country, a neighbour to four EU member-states and it transports 80 per cent of Russian gas destined for EU markets (though its share will drop when Russia completes the Nordstream pipeline, which bypasses Ukraine). Mutual trade reached a peak of €40 billion in 2008, before the crisis. The European Union has given Ukraine €2.5 billion in assistance since 1991, for programmes such as the training of government workers, and cleaning up after the Chernobyl nuclear disaster. The EU has also played a key role in encouraging the Kyiv government to reform the country's energy market: in 2009 the European Commission talked several financial institutions into offering Kyiv €3 billion in low-interest loans for modernisation of the country's ageing pipeline system – on condition that it raise gas prices and reform Naftogaz (which, in 2010, the Yanukovich government promised to do).

Even more importantly, Ukraine has served as a key test case for the EU's new 'eastern partnership' (EaP). The EaP aims to strengthen ties between the EU and its eastern neighbours by integrating their economies and encouraging East European countries to adopt EU norms and rules. A new 'association agreement' with Ukraine, which has been under negotiation since 2007, contains a novel 'deep free trade' clause: this would not only remove tariffs but non-tariff barriers too, for example by harmonising technical standards. The EU and Ukraine are also talking about introducing visa-free travel (EU citizens can already travel to Ukraine without visas), and the European Union has offered Ukraine €800 million in financial assistance to weather

<sup>7</sup> Unless otherwise cited, quotations come from personal interviews with the author.

the economic crisis. Some EU member-states, especially the newer ones, want the EU to say clearly that Ukraine is free to join if and when it meets criteria for accession. But others, like Germany and the Netherlands, want the EU to hold off enlarging for a while. The eastern partnership is a compromise of sorts; it seeks to enable countries to come very close to joining without actually crossing the line.

However, the rise of Yanukovich spells trouble for several EU goals. EU officials say that talks on the new association agreement – particularly its deep free trade provisions – have run into trouble. When the EU team went to Kyiv in late May for scheduled talks, the chief Ukrainian negotiator failed to attend the first day of the meeting. Even though he did appear a day later, the Ukrainian team was badly prepared. At subsequent talks in July, negotiators made equally little headway. In an internal communication to EU governments in late September, the European Commission warned that it would suspend free trade talks with Ukraine unless Kyiv showed more flexibility soon. EU officials see the hand of certain Ukrainian oligarchs in the slowdown of the talks. “The previous government did not prepare the oligarchs for the costs that a free trade agreement would entail,” one Commission official complains. “The new Ukrainian government is now practically run by the oligarchs.”

Like his predecessor, Yanukovich has repeatedly stated that EU accession is a top priority. But in order to qualify for membership, Ukraine would have to rewrite many of its laws and restructure its economy. Accession is not a foreign policy decision; it requires a full commitment to key EU principles such as pluralist democracy, freedom of speech and judicial independence. Accession will never be a serious prospect unless there is both constant pressure from the highest levels of the government, and a concerted effort by a small army of committed bureaucrats within the system. There is little evidence that Viktor Yanukovich is willing to supply the necessary leadership or motivate his civil servants. Some of his actions, such as measures to restrict independent media reporting, seem designed to emulate Russia rather than the EU. Although the president has launched serious economic reforms he has done too little to comply with other EU demands, such as the adoption of measures against corruption. Despite his rhetoric on EU membership, Yanukovich does not seem to be taking that objective seriously.

### Phantom pains

Although EU-Ukraine relations seem to be heading for a stagnant and unproductive period, it should not be forgotten that the two sides were getting on badly

before Yanukovich’s election. Infighting between Tymoshenko and Yushchenko slowed down the negotiations of the association agreement with the EU. The previous government may have been more pro-western than the current one, but it failed to translate the desire for membership into significantly closer ties with the EU; the biggest reason is that the Yushchenko-Tymoshenko tandem, like Yanukovich, paid far more attention to domestic political considerations than to building closer ties with the EU.

This is probably inevitable for a country that only gained independence in 1991 and is still forming a political identity. Ukraine was always going to be more difficult to integrate with the EU than the countries that joined in 2004-2007, such as Poland and Hungary. The Ukrainians – and citizens of other former Soviet republics – spent far longer under communist rule, and have a more ambivalent attitude to the West, than the Poles or Hungarians. Ukraine’s top politicians, businessmen and bureaucrats do not wake up in the morning asking what they can do to prepare the country for EU membership, like many of their counterparts in Warsaw or Budapest did all through the 1990s.

However, the EU is partly to blame for Ukraine’s half-hearted pursuit of accession. Elsewhere in Central and Eastern Europe, the prospect of EU membership gave governments a reason to want to model their politics and economy on those of EU member-states. But the Union is not playing the same role with regard to Kyiv. Too many EU countries oppose further eastward enlargement. At a 2009 summit with Ukraine, several EU governments objected to the words ‘Ukraine’ and ‘European’ appearing in the same sentence of the communiqué, lest the link imply that the country should be allowed to join the EU one day. The recent European recession and the eurozone crisis have only strengthened the opposition of some EU governments to Ukraine’s accession.

The Ukrainians follow European debates closely, and they have found the EU’s vacillation hurtful. Most would still like to join the EU but they have grown cynical about the prospect of Ukraine ever being let in. They have also been irritated by the EU’s refusal to lift visa requirements – although EU citizens have been free to travel to Ukraine without visas since 2006. This sense of frustration has been growing for years but Yanukovich’s government has given it full voice.

Like Turkey, which after years of difficult accession talks appears to be turning away from the EU, Ukraine is adopting a tougher, more nationalistic rhetoric. Ukraine’s ambassador, Konstantyn Yeliseyev, to the EU said in April 2010: “The EU does not know what

to do with Ukraine. It has no vision for where it sees us in the next ten years, or 20 years. It cannot clearly decide that, together with Ukraine, the EU would be more stable and more prosperous. When it finally decides this, it may be too late.”<sup>8</sup> He is right on

<sup>8</sup> Andrew Retman, ‘EU risks losing Ukraine, minister warns’, *EU Observer*, April 28<sup>th</sup> 2010.

substance but wrong to speak to EU governments in such a tone; Ukraine needs to cultivate them as friends, not alienate them. As an experienced diplomat, Yeliseyev will know that – which raises the question of whether the new government seriously believes that EU accession is possible and thus worth pursuing. ‘Enlargement fatigue’ in many EU countries has found a match in Kyiv’s new ambivalence towards the EU. Neither side seriously believes that accession is possible and desirable. Like a lost limb, however, the subject continues to cause phantom pains, with adverse effect on other parts of the EU-Ukrainian agenda such as energy and trade.

### What is the EU to do?

Yanukovich’s early actions have already prompted the EU to change course. The top official responsible for Ukraine – enlargement and neighbourhood commissioner Štefan Füle – has started to emphasise the immediate benefits that Ukraine stands to gain from co-operating with the EU. His office even produced a ‘matrix’ listing quid-pro-quo such as membership of the energy community (now a reality) if Ukraine adopted gas laws that comply with the EU’s legislation. Füle has rightly recognised that Yanukovich is a pragmatist who will pursue closer co-operation with the EU where he sees the potential for practical benefits.

But there are risks to the EU in developing a purely transactional relationship with Ukraine. The EU lacks the carrots to induce Kyiv to make serious reforms. The European Union offers far less in financial assistance than the IMF does. Unlike Russia, the EU cannot offer the Ukrainian oligarchs the cheap gas that they desire. While the EU has some things that Ukraine wants, such as the ability to offer visa-free travel, these are not enough to inspire the comprehensive political change of the sort that the EU’s new members from Central and East Europe underwent. A membership perspective for Ukraine could provide a sufficient impulse for deep reforms but many EU governments are unwilling to offer it.

Those EU governments that oppose further enlargement would be happy with a transactional relationship. But the debate on Ukraine’s membership has obscured a more important point: EU governments, regardless of whether they favour

Ukraine’s accession, have a collective interest in prodding the country to safeguard basic freedoms: nobody wants another Russia on the European Union’s eastern border. EU governments also have reasons to want to improve the country’s business environment: this would open new opportunities for western companies, while growing trade would lift living standards in those EU countries that border Ukraine. Were Ukraine to implement the reforms in its gas sector that it promised in 2010, EU companies and households would have fewer reasons to fear another halt in gas supplies.

To make progress on these goals, the EU needs to rethink its approach to Ukraine. Its strategy should consist of two baskets of measures. There are things that the EU can and should do in Ukraine today, even though Yanukovich’s arrival, coupled with the EU’s lukewarm attitude to enlargement, have reduced the bloc’s influence. These include, above all, steps to pressure Ukraine to preserve basic freedoms, but also measures to support reform of the country’s gas sector.

More broadly, the EU needs to think of new ways to give Ukraine more reasons to continue on the path of economic and political reforms. These are first and foremost the Kyiv government’s responsibility. But reforms require tough choices, which alienate entrenched constituencies. Elsewhere in Central Europe, the prospect of EU membership helped governments to make the case that unpopular reforms are necessary because they served a greater purpose. Without an agreement on whether to admit Ukraine, EU governments cannot credibly make such a case in Kyiv.

Ideally, the EU would state clearly that Ukraine will be accepted when and if it meets the accession criteria; this would dramatically raise the opportunity cost to Yanukovich of not seriously pursuing membership in the European Union. But EU countries are not likely to do any such thing: the economic crisis has made the Europeans more reticent than ever about competition from cheap Eastern European workers. So as a minimum, EU capitals should not do more harm: they need to avoid a conflict with Kyiv over the wording of the association agreement. The Ukrainians say they want the document to contain a clear membership perspective but they will settle on a compromise. EU capitals should meet them halfway, while avoiding another destructive debate on whether Ukraine is a “European” country.

At the same time, the EU should start actively expanding existing people-to-people contacts with Ukraine. In doing so, it would strengthen the pro-EU constituency in the country, which could pressurise the country’s government to do the hard work to

adopt EU-compatible norms and regulations. This is a distinctly second best method for the EU to increase its influence in Ukraine – inferior to offering a membership perspective – but it is as far as EU governments seem ready to go at the moment.

In practical terms, the EU's new strategy should consist of the following steps:

★ *Measures to support democracy in Ukraine.* This should be the EU's top priority for the near future. Commission officials working on Ukraine say that they have a regular, behind-closed-doors dialogue on democracy and freedom of speech with the Kyiv government. Yanukovich has responded half-heartedly, making some changes to the law on elections, for example, without addressing the EU's main complaint – that the new law disenfranchises the main opposition bloc. EU officials should be ready to raise the stakes. If violations of civil and human rights continue, High Representative Ashton should speak out, ideally in Kyiv itself, like US Secretary of State Hillary Clinton did in August of 2010. And Baroness Ashton should do so accompanied by senior national leaders, such as German Chancellor Angela Merkel and Polish Prime Minister Donald Tusk. The Ukrainians know that most of the EU's foreign policy is set in the member-states' capitals, so the presence of senior national representatives would reinforce the high representative's message.

Senior EU representatives visiting Ukraine should also give interviews to the media most hounded by the state. And they should invite the key opposition leaders to meetings and public events in the EU to give them visibility. The more that Ukraine's opposition leaders are seen as isolated and forgotten, the more vulnerable they become to persecution.

★ *Support reforms in the gas sector.* The EU already has the right energy policy for Ukraine: it has offered to lend money to modernise Ukraine's gas pipelines, in exchange for greater transparency and reforms in the Ukrainian gas sector. It should continue to make the case that such reforms are in Ukraine's interest, and support Kyiv's plans to break up Naftogaz.

The Yanukovich government, under pressure from Moscow, seems set to engineer some sort of tie-up, either

<sup>9</sup> Andrew Retman, 'Ukraine seeks EU help in Russia gas talks', *EU Observer*, June 26<sup>th</sup> 2010.

<sup>10</sup> Michael Emerson, 'Time for a tripartite gas pipeline consortium for Ukraine,' *CEPS commentary*, June 8<sup>th</sup> 2010.

a partial merger or joint venture, between parts of Naftogaz and Russia's Gazprom. Ukrainian diplomats have on various occasions also called on European energy companies to buy a stake in such a future company,<sup>9</sup> and have received some support from Ukraine watchers in the EU.<sup>10</sup>

However, there is a risk that EU companies would only serve to legitimise a corrupt arrangement: Naftogaz is notorious for its opaque contracts, and its most controversial deals involve Gazprom as a partner.

The EU's interest lies in making Naftogaz into a transparent and commercially viable company. EU diplomats should not take sides in the debates on whether to merge Naftogaz with Gazprom, with or without European participation, and stay with their current policy: telling Ukraine to focus on reforming Naftogaz by separating its transit arm from its domestic sales arm, and by improving its business practices. Naftogaz's main problem is not who owns it, but how it is managed. As for EU gas companies' potential entry into a Gazprom-Naftogaz joint venture or merger: the EU companies are completely or mostly in private hands, so commercial interests rather than EU officials will determine what they do. The European Commission's energy experts say that few EU companies have expressed interest in joining such an enterprise.

★ *Expanding people-to-people contacts.* The EU needs more allies in Ukraine because those with most influence on the government – Ukraine's oligarchs – have turned out to be less interested in EU membership than many in the West had assumed. Some of the country's richest and most influential businessmen are rent-seekers, who rely on the government to facilitate, or at least close its eyes, to their dubious sources of income. They rightly fear that the EU's demand for more transparency would ruin their business model.

The oligarchs' influence has only increased with Yanukovich's arrival so the EU governments and institutions need to cultivate those who favour accession. But they should also start looking beyond the oligarchs. Students and other Ukrainians with personal ties to the EU are the West's natural friends in Ukraine: they have the most reason to pressurise the Kyiv government to adopt the EU's norms. To expand their ranks, EU governments should accelerate plans to remove visa requirements for Ukrainians. Visas deter students, businessmen and researchers from travelling to Europe and building friendships and partnerships. The EU hopes to adopt an 'action plan' on visas before the end of this year; this would spell out what steps Ukraine needs to take for the EU to abolish visa requirements altogether. Until that happens, the EU should also consider partial relaxation, such as lifting visa requirements for students accepted to study at EU universities, or waiving fees for student visas. The EU should also offer more scholarships to Ukrainians (and other East Europeans) and encourage universities to charge Ukrainians the 'home' fees that universities reserve for

students from EU countries, as Jana Kobzova of the European Council on Foreign Relations has proposed.

Ukrainian students and researchers often fail to win EU scholarships or research grants because their poor language skills and the sheer complexity of the EU's application forms prevent them from lodging a successful bid. The barriers to success are so high that numerous non-governmental organisations, often American, specialise in helping Ukrainian (and other East European) students and researchers to fill out EU application forms. The EU should simplify the application procedures for research grants and scholarships – a task which has proven difficult in the past because it required the EU's external relations bodies, most of which resided in the Council, to lean on the notoriously territorial European Commission (which awards most grants). But the Lisbon treaty has narrowed the divide between the EU's institutions, and the high representative for foreign and security policy, Catherine Ashton, now also serves as vice-president of the Commission. She should use her new powers to study the ways in which the EU's paperwork thwarts people-to-people ties with neighbours, and suggest remedies, including intensified language training for Ukrainians and other neighbourhood states. The European Union should also use its new diplomatic representation, which it set up under the Lisbon treaty in Ukraine and many other countries, to manage more of the grant-making process. Diplomats on the ground in Ukraine are best-placed to assess the country's needs and identify suitable partners. They should have the ability to disburse small grants to NGOs, students and researchers using easy application procedures.

None of these proposed steps are revolutionary; they mostly expand or simplify existing avenues for people-to-people contacts with Ukraine. But if adopted, they could have an important cumulative effect in the long run. They would strengthen the constituency in Ukraine that will pressurise the Kyiv government to stay on the path towards EU integration. Measures that expand people-to-people contacts with Ukraine

should henceforth become a priority for the EU on a par with reforming the country's energy or protecting its democracy.

## Conclusion

The EU's objectives in Ukraine will be harder to achieve now that its credibility and influence in the country have declined. Some US observers have claimed that the EU has 'lost' Ukraine. That is unfair: Ukraine was never Europe's to lose. The country is big and self-absorbed, and its elites are primarily focused on political power and personal enrichment. But the EU should have done more to change their political calculus: it should have clearly offered the perspective of accession, thus putting pressure on the government to reform the country's politics and economy in order to qualify. The EU's failure to do so is detrimental to its own interest: that of turning Ukraine into a stable and prosperous neighbour. The EU, too, has helped create the Yanukovich government, with its cynical and defensive attitude to EU membership.

While pressure from Russia does shape Kyiv's choices, Moscow has less influence on what the Ukrainians think of the EU than some in Western Europe imagine. The main reasons for the cooling-off in the EU-Ukrainian relationship lie with the insular nature of the political elites in Kyiv, and with the EU's reluctance to offer Ukraine a clear prospect of membership. Neither of these two factors will change overnight, and relations between the two sides are bound to remain tricky under the new president no matter what the EU does. But with patience and sensible policies, the European Union can retain some of its existing influence and gradually expand it, thus preparing the ground for more active co-operation if and when circumstances in Ukraine change.

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