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SUB-COMMITTEE ON DEMOCRATIC GOVERNANCE

'POST-ORANGE UKRAINE': INTERNAL DYNAMICS AND FOREIGN POLICY PRIORITIES

REPORT

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I. INTRODUCTION

1. Due to its geographic location and its complex historical background, Ukraine finds itself an object of the tug-of-war between two great areas – Europe and Eurasia. The Ukrainian nation seemed to have made its ultimate strategic choice at Kyiv's Maidan Square in the "Orange Revolution" of December 2004 and January 2005, only to elect Viktor Yanukovich as president five years later, the very leader of the opposing camp whose 2004 election had been overturned as fraudulent. The 2003 law on the principles of Ukraine's national security, which envisaged closer co-operation with the EU and NATO possibly leading to eventual membership in both organisations, was counteracted in 2010 by a new law that proclaimed Ukraine as a "non-bloc" country. The identity conflict in Ukraine is understandable, given the fact that Ukraine was united within its present borders only in the 1950s. Prior to that, its various regions had been developing in different ways as parts of Polish, Russian, Austrian, Hungarian, Lithuanian, Romanian and Czechoslovak States, while Crimea has a legacy of ancient Greek, Tatar and Turkic cultures. That said, the tradition of statehood is deeply entrenched in the Ukrainian mentality, building upon the legacy of Kievan Rus, the Cossack Hetmanate and the brief period of Ukrainian independence in 1918-20.

2. This year, Ukraine celebrates the 20th anniversary of its independence. At the referendum of December 1991, more than 90% of Ukrainian voters voted in favour of independence. The referendum was the final blow to the attempts to salvage the crumbling Soviet Union. The first President, Leonid Kravchuk, proved a poor manager of the volatile transition economy. His successor Leonid Kuchma oversaw a stabilisation of the economy which had been struck by hyperinflation; however he had authoritarian leanings and was isolated from the West by alleged arms sales to rogue States¹ and a scandal which suggested that he ordered the murder of a journalist. A reformist period from 1999 to 2001, with former central banker Viktor Yushchenko as Prime Minister and Yulia Tymoshenko as Deputy Prime Minister for fuel and energy, was short-lived. The Orange Revolution of 2004 and 2005, in which citizen protests overturned the fraudulent election of Yanukovich, brought Yushchenko and Tymoshenko back into power respectively as President and Prime Minister. Ukraine's GDP grew at about 7.5% a year and attained WTO membership in 2008. But under the Orange leaders reform was not as successful as expected due to a political gridlock, gas disputes with Russia, economic crises, and limited enthusiasm in the West for integrating Ukraine. In many ways, the "Orange" period of Ukrainian history was one endless political crisis, and the resulting frustration of many Ukrainians, coupled with a deep economic recession in 2009, brought back a political leader to power with a very different foreign and domestic policy agenda.

3. The Euro-Atlantic community fully respects the right of the Ukrainian nation to make its own strategic choices. However, it is important to ensure that the internal strategic debate and the identity-building process take place in a democratic environment and in accordance with the principles of full freedom of expression and free and fair elections.

4. Discussing the developments in Ukraine is extremely timely. While it is the largest European country in terms of territory (save the European part of Russia), its changing foreign policy priorities under the new President merit closer examination and analysis, since they might have implications for the practical co-operation between the Alliance and Ukraine. So far, co-operation is proceeding in a constructive and productive manner. Initially the new leadership seemed to have given priority to the relationship with Russia, but with time it assumed a more balanced stance.

5. Internal developments also represent a valuable case study with the election of Mr Yanukovich in February 2010 in an election widely judged to be free and fair (including by the

¹ Ukrainian authorities vehemently deny the assertion of the US Department of State made in 2002 that Kyiv approved selling Kolchuga early-warning systems to Iraq ignoring the UN arms sales embargo.

NATO PA observers). The democratic and non-revolutionary transfer of power to the opposition is perhaps the greatest achievement of the Orange Revolution, something very rare in the post-Soviet world (with the exception naturally of the Baltic States). Democratic and pacific transfer of power is a critical step towards mature democracy, but the final test for a country in transition lies in the determination of a new government to maintain the democratic process and to refrain from changing the rules of the political game. This test has yet to be passed by Ukraine. Some of the new developments, particularly in the field of democratic rights and liberties, raise questions about the new administration's democratic credentials, and a number of observers note that the country is backsliding on some democratic achievements. Arrests of the leading opposition figures, including Tymoshenko, sparked a huge international and domestic outcry. The international community, including the nations of the Alliance, cannot stay mute at this critical time for Ukrainian democracy.

6. Apart from prosecution of prominent opposition figures, the report also addresses other points of concern, including the return to a super-presidential constitutional system, slightly deteriorating conditions for media and NGOs and the conduct of the local elections that did not meet the high electoral standards set during the 'Orange' period. While each of these points can be subject to discussion, taken in their entirety they provide sufficient ground for talking about a certain negative trend. The Rapporteur is basing his paper on the documents and statements of authoritative international bodies, including the European Parliament and other European Union institutions, the Council of Europe, the OSCE Representative on Freedom of the Media, the US State Department, Freedom House and others. The final version of this report benefited considerably from the visit by the Sub-Committee on Democratic Governance to Ukraine in July 2011.

II. UKRAINE'S NEW FOREIGN POLICY PRIORITIES

7. It was reasonable to expect that Mr Yanukovich, with his power base in the Russian-speaking East of the country, would revisit the balance of Ukraine's relations with Russia, NATO and the EU. The speed and strength of the initial Eastward thrust of Yanukovich's foreign policy, however, alarmed the pro-Western forces. With time, the administration seems to be assuming a more balanced and moderate stance in its relations with Russia and the West. There is no consensus in Ukraine whether maintaining a balanced approach between the West and Russia is possible in the long term. It can be argued that these two vectors are at least partly contradictory, and that Ukraine would eventually need to clearly choose its path.

8. Leaving this fundamental dilemma aside, one must recognise that the foreign policy record of independent Ukraine is quite impressive. It has contributed substantially to international and regional security, including by securing and eliminating former Soviet weapons of mass destruction and related materials deployed on its soil, establishing constructive relationships with its neighbours and participating in a wide range of international peace-keeping operations.

A. RELATIONS WITH RUSSIA

9. When it comes to Ukraine's foreign policy, Russia is certainly the elephant in the room. The Ukrainian society is divided in its views of its big neighbour. Ukrainian nationalism, anchored in the West of the country around Lviv (part of the Austro-Hungarian Empire only a century ago and part of interwar Poland), is Western-looking, perceiving Russia as a significant rival, while the Eastern and Southern parts of the country see themselves as more organically linked to Russia.

10. Since the collapse of the Soviet Union, Russian foreign policy has been largely driven by a desire to maintain a certain level of control over the foreign policy of countries in its near-abroad, within which Ukraine is by far the largest and most important. In Zbigniew Brzezinski's words from

The Grand Chessboard, “without Ukraine, Russia ceases to be a Eurasian empire”. While the Orange Revolution was a step forward for Ukrainian democracy, it did contribute to the deterioration of Russia’s relations with the United States and its allies.

11. Russia vehemently opposes Ukraine’s membership in NATO and rejoiced over the fact that the Alliance did not offer Ukraine a Membership Action Plan. Russia’s Permanent Representative to NATO, Dmitri Rogozin, stated in an interview with *Rossiyskaya Gazeta* that Russia’s main task within the framework of NATO-Russia co-operation was not to allow Ukraine and Georgia to join NATO.²

12. Russia officially does not object to Ukraine’s goal of becoming closer to or joining the European Union (indeed, then President Putin himself said several years ago that he would not have a problem with EU membership for Ukraine, as it could help the Russian economy).³ The content of the Deep and Comprehensive Free Trade Agreement (DCFTA) which is being negotiated between the EU and Ukraine is so benign and pragmatic that it is difficult for Moscow to object to it. However, the tone of some statements by Russian officials indicates that Moscow is rather suspicious with regard to Ukraine’s European integration. For instance, Russia’s Deputy Prime Minister, Igor Shuvalov, was clearly satisfied that Ukrainian-EU negotiations on free trade were not moving forward. “You will not succeed anyway, so you will have to go back to the idea of the Customs Union with Russia, Kazakhstan and Belarus”, Mr Shuvalov was quoted as saying. In addition, a reformed Ukraine within the EU appears a distant prospect.

13. Relations between Ukraine and Russia were quite bad from 2005 to 2009. President Yushchenko steered the country on a strongly pro-Western path. He was an outspoken supporter of Georgian President Mikhail Saakashvili in the Russia-Georgia war of August 2008. Ukraine and Russia had numerous disputes over Ukrainian gas debts to Gazprom and the gas was shut off in early 2006, early 2008 and early 2009, in the latter case leading to major shortages further West in Europe.

14. President Yushchenko had concerned himself greatly with history and its symbols, including ones that represented Moscow as an enemy. He controversially gave a posthumous “Hero of Ukraine” award to Stepan Bandera, a Ukrainian nationalist who fought both the Soviets and the Nazis in WWII and was assassinated by the KGB in Germany in 1959; the award was subsequently revoked under Yanukovych. Mr Yushchenko had promoted the memory of the *Holodomor*, a famine inflicted by Stalin’s agricultural policies that killed millions of Ukrainians in the early 1930s and which some consider as a genocide (several countries including the United States have called it so in parliamentary resolutions). The denial of the *Holodomor* was criminalised.

15. When it comes to dealing with the three major Ukrainian political figures of the last few years – Yushchenko, Yanukovych and Tymoshenko – Russia’s position was consistently anti-Yushchenko. However, while then President Putin intervened on behalf of Mr Yanukovych in the December 2004 presidential election, the Russian leadership behaved differently in the 2010 Ukrainian elections. It did not show a clear preference between Mr Yanukovych and Mrs Tymoshenko, the two leading candidates. Interestingly, by 2009 Mr Yanukovych and Mr Yushchenko were able to co-operate better than any other combination of Ukraine’s three leading politicians.

16. A rebalancing of Ukrainian foreign policy to repair relations with Russia should have been expected from either candidate, and was necessary given geographic and economic conditions and NATO and the EU’s reluctance to admit Ukraine as a member. Many commentators expected

² NIDC Weekly Media Report, 13-20 January 2011.

³ Stephen Caste, “EU, Kiev and Moscow Search For Friendly Ties”, *The New York Times*, 21 November 2010.

that, despite his pro-Russian image and power base in the Russian-speaking East of the country, the new president would strike a balance between Russia and the West and be driven to compromise politically with his domestic rivals. Mr Yanukovich was expected to protect the interests of the Ukrainian oligarchs who support him. Some analysts even thought that his rival Yulia Tymoshenko was Vladimir Putin's preferred candidate or that she might be the greater threat to democracy.⁴

17. However, the degree to which Mr Yanukovich initially accommodated Russia was surprising. Russia's lease on Sebastopol for the Black Sea Fleet was extended a full 25 years, to 2042 (with an additional five-year renewal option), in exchange for what was presented as a 30% reduction in the price of gas (the opposition argues that the "reduction" did not in fact lower prices by the agreed amount, while its form as a debt-relief mechanism gives Russia a new lever to influence the behaviour of Ukrainian governments). Mrs Tymoshenko and Mr Yushchenko's parties called the move unconstitutional, while the agreement passed narrowly in the *Verkhovna Rada* on 27 April 2010 in a bizarre atmosphere, in which eggs and smoke bombs were thrown as a giant Ukrainian flag passed over the crowd. While Mrs Tymoshenko as President would have been likely to strike a balance Russia and the West, in her current situation as persecuted opposition leader she has accused Mr Yanukovich of selling out the country to Russia. Her supporters were scathing in their criticism of the administration at the December 2010 Ukraine-NATO Interparliamentary Council (UNIC) meeting. While Ukraine's democratically elected leadership has every right to make strategic foreign policy decisions, it would be preferable that decisions of such long-term strategic importance be made after extensive and comprehensive public and parliamentary debate, rather than in haste and without any attempt to engage the opposition.

18. In its economic policy as well, the post-Orange government is more inclined than its predecessor to develop ties with Russia. The government has allowed for co-operation, particularly in the energy sector, letting Gazprom help modernise Ukraine's pipelines for instance. A joint nuclear power venture between Ukraine, Russia and Kazakhstan has been signed. Co-operation agreements have been signed in areas such as aerospace, banking, education and border demarcation.⁵

19. The new president has not fulfilled his electoral campaign promise to grant the Russian language, the native language of about one-third of Ukrainians (including Mr Yanukovich and Mrs Tymoshenko), official status, but some steps were taken to increase the role of the Russian language in the public sphere, such as allowing Russian in court proceedings by mutual consent of parties. Symbolically, Mr Yushchenko did not speak Russian in public but Mr Yanukovich does. Mr Yanukovich also appointed Dmytro Tabachnik as Minister of Education, a man hostile to the Ukrainian language and identity in the eyes of critics, a step that historian Alexander Motyl compared to installing "an anti-Semitic education minister in Israel". Many see the exceptional independence of pro-Western Kyiv-Mohyla University as being at stake.⁶ Mr Yanukovich's assessment of *Holodomor* is also similar to that prevailing in Russia, saying it was a tragedy common to the different peoples of the Soviet Union rather than a genocide against one nation.

20. On the other hand, Mr Yanukovich has not been as pro-Russian as Moscow would have liked – he has not recognised Georgia's breakaway territories of Abkhazia and South Ossetia as independent States, has not joined the Russia-Belarus-Kazakhstan Customs Union, or allowed the

⁴ Historian Timothy Snyder, writing in March 2010, gives an optimistic view that Yanukovich will grow into the office in a positive sense, see in: Timothy Snyder, "Gogol Haunts the New Ukraine", *The New York Review of Books*, 25 March 2010.

⁵ John Hewko, Ukraine's New Direction, Carnegie Europe Centre, 21 September 2010.

⁶ Alexander Motyl, "Ukraine's Orange Blues", *World Affairs*, 20 December 2010, <http://www.worldaffairsjournal.org/new/blogs/motyl/date/2010/12/20>.

merger of Ukrainian energy giant Naftogaz with Gazprom as Russia had hoped.⁷ Mr Yanukovich made an important deal with the United States, at the nuclear summit in April 2010, pledging to eliminate its stockpiles of highly enriched uranium. In Brussels, he spoke out against the Russian-led South Stream pipeline project, which would bypass Ukraine by transporting gas under the Black Sea from Russia to Bulgaria. Ukraine participation in the *Sea Breeze* exercise, conducted in the spirit of Partnership for Peace, which included the entry of the US “Monterey” cruiser equipped with an Aegis air defence system into the Black Sea, was condemned by Moscow. Even some leading opposition figures such as Mykola Tomenko, the Deputy Speaker of the Parliament and Co-Chairman of UNIC, admit that Ukraine’s foreign policy stance had become more balanced.

21. The question of Crimea continues to feature on the agenda of Russian-Ukrainian relations. Conquered from the Tatars by the Russian Empire several centuries ago, Crimea was only transferred to the Ukrainian Socialist Soviet Republic in the 1950s; Sebastopol has a deep historic resonance in Russia as the site of an 11-month siege by the British, the French and the Piedmontese in the Crimean War of the 1850s. Today the Crimea is autonomous from Kyiv and has local Russian politicians who support independence or transfer to Russia, though separatism was effectively countered in the 1990s. Nationalist politicians in Russia including former Moscow Mayor Yuri Luzhkov, have questioned Ukraine’s right to the Crimea. According to Ukrainian scholar Taras Kuzio, Russian passports were distributed there in the months after the Russian-Georgian war, which was considered by many as a potential flashpoint between Russia and Ukraine before the base deal was concluded by Mr Yanukovich. However, it is highly unlikely that Moscow could overtly challenge the region’s status as an integral part of Ukraine since it would unite all Ukrainians against Russia. A territorial dispute between Kyiv and Moscow over the ownership of a tiny Tuzla islet in 2003 showed how determined Ukrainian authorities are guarding their country’s territorial integrity. Some commentators note that the real issue to watch in Crimea is growing tension between the Tatar minority and the Russian-speaking majority, which could be exacerbated and exploited by outside actors in unpredictable ways.⁸

B. RELATIONS WITH NATO AND THE “NON-BLOC” STATUS

22. Proponents of NATO membership consider the latter not only as a way to strengthen Ukraine’s independence and security, but also as a symbol of Ukraine’s adherence to Western liberal democratic values, as well as a very practical tool to enhance the well-being of Ukrainian citizens through increased investor confidence and pressure to continue economic and judicial reforms.

23. At the 2008 Bucharest Summit, NATO member states “agreed” that Ukraine and Georgia “will become members of NATO” (while not offering a Membership Action Plan). However, the Russia-Georgia war of August 2008, the financial crisis and the election of Viktor Yanukovich, have all made NATO membership of Ukraine less likely in the foreseeable future.

24. Mr Yanukovich made it clear that Ukraine no longer seeks NATO membership. In April 2010, he abolished Ukraine’s National Centre for Euro-Atlantic Integration, the leading body responsible for assessing Ukraine’s progress in implementing the Annual Action Programme. The relevant Euro-Atlantic integration co-ordination body under the Cabinet of Ministers was also abolished. However, to make up for the resulting lack of proper co-ordination and control mechanisms, the President issued a decree on 18 November 2010 for the continuation of a “constructive partnership” with NATO establishing five National Co-ordinators for Ukraine’s

⁷ “It is clear now that the ruling elite in Ukraine, although viewed by many as pro-Russian, are tough negotiators for Moscow”, Pavel Korduban wrote for the Jamestown Foundation, in: “Putin Fails to resolve Trade Differences on Kyiv Visit”, *Eurasia Daily Monitor*, 11 November 2010.

⁸ William Varettoni, “Crimea’s Overlooked Instability”, *The Washington Quarterly*. Summer 2011.

Partnership with NATO in the following areas: 1) Foreign Policy and Economy; 2) Defence and Military; 3) Resources (Financial); 4) Security; and 5) Legal Issues.

25. In June 2010, the President signed a bill which commits Ukraine to “a non-bloc policy which means non-participation in military-political alliances”⁹, a decision which pleased Russia. However, the definition of the “non-bloc” status requires further clarification: the EU, for instance, can also be described as a “bloc”, particularly given its growing role in the field of security and defence policy. It is also widely suggested that the extension of the Russian military presence in Ukraine until 2042 significantly weakens Ukraine’s prospects to join the Alliance before that date. While there are no legal obstacles for countries with foreign bases on their soil to join NATO, the indirect influence of this factor cannot be underestimated.

26. Ukrainian policymakers should bear in mind, however, that if the “non-bloc” status means neutrality, Ukraine should be prepared to defend itself alone. This cannot but have implications for Ukraine’s military posture and defence budget. Nevertheless, as the Assembly delegation heard during the visit to Ukraine in July 2011, funding for the defence and security sector was relatively low in Ukraine, with 70% of the defence budget covering personnel costs. Substantial reforms are necessary to keep this sector relevant and capable of dealing with national security tasks in times of economic austerity.

27. NATO has taken note of Ukraine’s new foreign policy direction. The Alliance respects the sovereign right of any democratic country to choose its priorities, but the decisions of the Bucharest Summit remain valid and NATO’s doors remain open for Ukraine. The opposition does not have a united position on this issue: while some are confident that Ukraine will eventually return to the path of Euro-Atlantic integration, others believe that the “non-bloc” status is suitable for Ukraine at least in the foreseeable future. For instance, Mrs Tymoshenko did not mention NATO in her programme for the presidential election of early 2010 while Arseniy Yatsenyuk, another candidate and currently a leading opposition figure, withdrew his support for membership in favour of “non-bloc” status, which polls suggest has more support than membership in NATO or the Russian-led Collective Security Treaty Organisation (CSTO).¹⁰

28. On a practical level, a partnership between NATO and Ukraine has endured, regardless of Kyiv’s new policy. The NATO-Ukraine Commission was established in 1997. Co-operation in defence and security sector reforms is extensive, and Ukraine has contributed to NATO-led peacekeeping missions. The country increased its participation in the ISAF mission in Afghanistan, and contributed to the Kosovo Force, the counter-terrorist Operation Active Endeavour in the Mediterranean, and the NATO Training Mission in Iraq. Ukraine was also the first NATO partner to participate in the NATO Response Force. NATO also hopes that Ukraine will consider contributing to NATO’s Operation Ocean Shield off the coast of Somalia and the NATO Training Mission in Afghanistan. The most recent visit to Ukraine of NATO Secretary General Anders Fogh Rasmussen, took place in February 2011.

29. During the Assembly meetings in Kyiv in 2010 and 2011, many interlocutors pointed out that with the membership issue being taken off the agenda, NATO-Ukrainian relations have become less politically charged, paving the way for productive co-operation. No other NATO partner has such a comprehensive co-operation programme as Ukraine. The Alliance assists Ukraine in enhancing civilian control of its armed forces, in preparing defence policy reviews and other documents, in training personnel, facilitating the involvement of civil society in the defence and

⁹ Valentina Pop, “Ukraine Drops NATO Membership Bid”, *EU Observer*, 4 June 2010, <http://euobserver.com/9/30212>.

¹⁰ Taras Kuzio, “Ukrainian Presidential Candidate Yulia Tymoshenko’s Foreign Policy”, *Eurasia Daily Monitor*, 16 November 2009.

security field, destroying redundant munitions and landmines, modernising armed forces and making them more interoperable and more capable of participating in international missions.

30. The assessment of Ukraine's implementation of its 2010 Annual National Programme (ANP) with NATO by NATO officials is, overall, positive. NATO considered the ANP to be an adequate basis for comprehensive co-operation with Ukraine, the Assembly delegation heard at the last meeting of the UNIC, and this co-operation was also likely to be extended to the disposal of radioactive materials and assistance in civil emergency measures for the upcoming European football championship in 2012. The ANP for 2011 was adopted on 13 April 2011, and it gave a lot of attention to the rule of law and the protection of rights and freedom. Priorities included the continuation of the Partnership for Peace Trust Fund for the disposal of surplus weapons and ammunitions, and for the retraining of personnel, the Science for Peace Programmes, and a better inclusion of civil society in defence and security discussions. However, NATO officials regretted delays in the adoption of the 2011 ANP and called for further progress on the democratic reform agenda – including in particular anti-corruption efforts and electoral reform.

31. An interesting new aspect of NATO-Ukrainian relations that came up as a result of the Lisbon Summit is a possible role for Ukraine in the continent-wide missile defence system. This idea is supported both by the current government of Ukraine and the opposition. Secretary of National Security and Defence, Raisa Bogatyrova, suggested using Ukraine's radars¹¹ for the NATO-led missile defence system. NATO Secretary General Rasmussen has taken Ukraine's proposal into consideration and agreed with the Ukrainian officials to begin expert consultation on how Ukraine could participate in the missile defence system. Your Rapporteur is convinced that establishing co-operation with Ukraine in the field of missile defence will contribute significantly to the European security landscape, particularly given Ukraine's geographic location on a hypothetical ballistic missile pathway between the Middle East and North America.

32. The greatest challenge for Ukrainian-NATO relations lies in the perception of NATO among the Ukrainian people. NATO membership is not widely supported in the country, with some polls suggesting that popular support of it is less than 20%. NATO's bombing of Belgrade in 1999 was particularly unpopular in Ukraine.

33. Through NATO Information and Documentation Centre (NIDC) and other mechanisms, NATO is trying to change the perception that NATO is nothing more than a purely military organisation. Unfortunately, for many Ukrainians the image of NATO still evokes a sense of fear. NATO needs to promote another image of itself. On the positive side, NIDC notes a substantial drop in negative reporting on NATO in Ukrainian media. Nevertheless, a majority of Ukrainians supports neither membership in NATO nor even closer co-operation with the Alliance.

C. RELATIONS WITH THE EU

34. As Alyona Hetmanchuk, Director of the Institute of World Policy, put it, while 2010 was "the year of Russia", for Ukraine, 2011 will – hopefully – be "the year of the EU". However, more widespread support for Ukrainian membership of the EU is tempered by realism, given the EU's lack of enthusiasm. Ukraine has not been offered an EU accession prospect, despite pushing for one for years.

35. Ukraine is covered as part of the Neighbourhood Policy, which includes North African, Middle Eastern and Eastern European neighbours of the EU. It is also the largest country covered in the Eastern Partnership, a Polish-Swedish EU initiative set up in 2009 including six countries (Belarus, Moldova, Ukraine, Azerbaijan, Armenia and Georgia) which have not been given potential enlargement candidate status; however, these countries are geographically and/or

¹¹ Ukraine has missile warning systems, deployed in Sebastopol and Mukachevo.

politically considered as part of Europe and could conceivably become EU member states as “any European State” may apply for membership according to the Maastricht Treaty. Ukraine interacts with the EU on a bilateral level with annual EU-Ukraine summits. It also receives significant aid: in November 2010, the EU announced €600 million, or US\$837 million, worth of aid; in comparison, the United States will give Ukraine US\$124 million this year.¹²

36. A major test for Ukraine’s EU integration is to come at the end of 2011 as Kyiv is hoping to conclude DCFTA, which is part of an Association Agreement with the EU. The DCFTA is supported by the overwhelming majority of political forces in Ukraine due to the positive effect that Ukraine’s adaptation to EU trading standards could have on the domestic reform agenda, the business climate and the fight against corruption.

37. Some concerns are being raised about the compatibility of the DCFTA with parallel plans for a rapprochement with the Customs Union between Russia, Belarus and Kazakhstan. Some members of the opposition do not believe President Yanukovich’s proposed “3+1” agreement with the Customs Union – i.e. co-operation with the Customs Union short of membership – would be effective. However, during the recent NATO PA meeting in Kyiv, the majority of speakers were confident that “3+1” would be fully compatible with the DCFTA. One should also note that direct comparisons between the EU and the Customs Union are pointless since the latter lags far behind in terms of rules and standards.

38. Negotiations on DCFTA have been ongoing since 2008, but at recent press conferences the EU leaders have expressed hope that with stepped-up Ukrainian efforts, they might be completed by the end of 2011. However, the EU Neighbourhood Commissioner Stefan Fuele warned Kyiv in January 2011 that a prosecution of Mrs Tymoshenko for political reasons could threaten the Association Agreement prospects. Ukrainian Vice-Premier Sergiy Tigipko has also admitted that the “Tymoshenko trial complicates the negotiations [on a free trade zone between Ukraine and the EU]”.¹³ However, when members of the NATO PA met with Yulia Tymoshenko in July 2011, she pleaded that EU and NATO partners should not let apparent signs of an “erosion of democracy” derail negotiations over the Association Agreement and DCFTA with the EU. The conclusion and ratification of these agreements with the EU would help anchor Ukraine firmly in the European family of democracies.

39. President Yanukovich has thus far maintained decent relations with Brussels, visiting it several times including on his first foreign trip as President, and pressing for euro-integration with popular support. According to Mr Yanukovich, European integration remains Ukraine’s top foreign policy priority although strategic partnerships with Russia and the United States are also important.¹⁴ It is widely perceived that the Ukrainian nation is united in the idea of EU integration. However, during the July 2011 meeting in Kyiv members of the Assembly also heard that some opinion surveys showed that while the EU is generally regarded positively, many would oppose European integration if that meant taking distance from Russia.

¹² “US to Give \$124.4 Million in Aid to Ukraine in 2011”, *RIA Novosti*, 24 January 2011, <http://en.rian.ru/world/20110124/162275229.html>.

¹³ “Tigipko: Tymoshenko trial complicates Ukraine's negotiations with EU”, *Interfax-Ukraine*, 11 August 2011.

¹⁴ “European Integration Remains Ukraine’s Top Priority – Yanukovich”, *Ria Novosti*, 1 June 2010, <http://en.rian.ru/world/20100601/159248225.html>.

III. INTERNAL CHALLENGES

A. PRESIDENTIAL ELECTION AND THE POST-ELECTION POLITICAL ENVIRONMENT

40. As noted above, a peaceful transfer of power in 2010 highlighted the good health of Ukrainian democracy. NATO PA observers who monitored the presidential election in January-February 2010 assessed the election as largely free and fair, although regretted the fact that the Parliament – the *Verkhovna Rada* – tampered with election legislation during the election campaign. Mrs Tymoshenko's side did not take the loss easily and filed a number of complaints, but the legitimacy of the new President was not seriously disputed.

41. That said, the electoral and post-electoral processes also showed some deficiencies and fragility in Ukraine's democracy. First and foremost, it became evident that the political process was overly focused on personalities and the Parliament failed to play an independent role. The victory of Mr Yanukovich alone did not automatically imply that the "Orange" period was over. According to the Constitution of Ukraine, the composition of the government must reflect the majority in the Parliament, which was elected in 2007 giving the "Orange" forces a fragile majority.¹⁵ An unlikely pairing of President Yanukovich and Prime Minister Tymoshenko seemed inevitable to some observers.

42. Yet, almost overnight the new President was able to forge a new majority in the *Verkhovna Rada*. In early 2010, observers believed early parliamentary elections might be called. Instead, Mr Yanukovich was able to oust Mrs Tymoshenko by forming a coalition between his Party of Regions, the Communists, the Lytvyn Bloc, and individual deputies who defected from Mrs Tymoshenko and Mr Yushchenko's blocs – something which had been against the rules but was later approved by a compliant Constitutional Court. Mr Yanukovich's close ally Mykola Azarov became Prime Minister. It did not take long before Mr Yanukovich was being accused of authoritarian leanings and before his Ukraine was earning comparisons to that of Leonid Kuchma, President from 1994 to January 2005.

43. The dependence of the judicial system on the political landscape is yet another major deficiency of the Ukrainian political system. While President Yushchenko was also accused by his adversaries for influencing the Constitutional Court (appointing or firing judges in a manner that was legally questionable), the situation did not improve under President Yanukovich. In addition to the above-mentioned decision on the principles of forming a parliamentary majority, the Constitutional Court further empowered Mr Yanukovich in October 2010 to reverse a reform which had moved some power from the President to the Parliament.¹⁶ With this decision, the Cabinet of Ministers was directly subjugated to the Presidency. It has to be noted, however, that the Tymoshenko party has also been in favour of returning to the president-centric political system. The decision returned the Constitution to its 1996 version, which would bring the next parliamentary election forward to 2011 as parliamentary terms had been set at four years then. However, the *Verkhovna Rada* subsequently restored the five-year term, setting the election for

¹⁵ By the September 2007 election results, Yanukovich's Party of Regions is the largest party in the 450-seat *Verkhovna Rada* with 175 seats, while the supporters of pro-Western leaders are divided into coalitions and blocs (Yulia Tymoshenko Bloc with 156 seats and Our Ukraine-People's Defence Block, led by Yushchenko, with 72 seats). The Communist Party and Lytvyn Bloc, led by the centrist parliamentary Speaker, Volodymyr Lytvyn, are the smaller of the five forces in the Parliament, with 27 and 20 seats respectively.

¹⁶ The reform had been a compromise introduced in December 2004 during the Orange Revolution and it indeed helped cause gridlock during the Yushchenko administration as the President quarreled with Prime Minister Tymoshenko especially. So the reversal does make government more efficient and may in all honesty be a positive development.

October 2012, when politicians could benefit from having hosted the Euro 2012 football tournament in the summer. Such juggling with the rules of political game for temporary political benefits would not be appreciated in mature democracies. In addition to the Constitutional Court, the opposition suspects that the prosecution of the daughter and son-in-law of Vasyl Onopenko, head of Ukraine's Supreme Court, represent an attempt by the authorities to force him to step down. The opposition is also highly suspicious of the growing role of the Supreme Council of Justice, seeing it as a channel for political influence over the judiciary.

44. Local elections held in autumn 2010 further complicated the scenario. They were judged to be less fair than prior ones. Electoral blocs were not allowed to run, a rule clearly aimed at Mrs Tymoshenko. The Batkivshchyna ("Fatherland") party, the largest group within Bloc Yulia Tymoshenko, did run candidates in many regions, but not in Lviv and Kyiv oblasts, traditional Batkivshchyna strongholds, where its candidates were not registered by territorial election commissions.¹⁷

45. In this environment, Oleh Tiahnybok's nationalist party Svoboda ("Freedom") performed well in the Western oblasts of Lviv, Ternopil, and Ivano-Frankivsk, taking the leadership of local governments in the areas most hostile to Mr Yanukovych's Party of Regions. Svoboda in its programme promotes "European Ukrainocentrism as a strategic course for the State, in accordance to which Ukraine must strive to be not only geographical, but also the geopolitical centre of Europe", a notion that obviously contrasts with the EU integration route taken by other EU candidates. Tiahnybok also calls his party "anti-liberal" and "anti-communist" and affirms strong opposition to "new imperial encroachments by Russia". With regard to NATO, Svoboda believes that Ukraine must "demand from NATO member countries such accession conditions that would be advantageous for Ukraine as well as clear guarantees and concrete dates of a possible accession of Ukraine to the Alliance". Polls show that currently Svoboda's nationwide support rating is around 5% (and much higher in Western Ukraine). The possibility of Svoboda becoming a leading opposition force could have consequences for the nationalist cause in Ukraine that are difficult to foretell.¹⁸

46. On a national level, concerns were raised with regard to the proposed electoral reform which would introduce a mixed electoral system for the next parliamentary elections. The combination of closed party lists and very large single-mandate constituencies would make it very difficult for politicians without substantial financial resources and backing from big business to perform well at the elections. The reform process is not sufficiently inclusive either, causing representatives of the US International Republican Institute and the National Democratic Institute to suspend their participation in the election reform working group. US experts based this decision on concerns that major opposition parties and nonpartisan civic groups have not been allowed to participate fully in the group's deliberations and the election reform drafting process.

B. PROSECUTION OF THE OPPOSITION FIGURES

47. Perhaps the most disquieting development on "post-Orange" Ukraine's political agenda is the opening of criminal cases against a number of opposition figures, including against Mrs Tymoshenko, the leader of the opposition, and several members of her government. They are being prosecuted for abuse of office and misappropriation of public finances. Mrs Tymoshenko is accused of several charges, including for misusing environmental ministry funds to pay pensions,

¹⁷ Nations in Transition 2011, Freedom House Report, 27 June 2011.

¹⁸ Andreas Umland, "Kiev's Next Image Problem: the Rise of the Far Right", *The Globalist*, 22 October 2010, <http://www.theglobalist.com/storyid.aspx?StoryId=8768>. Paul Johnson, "Ukraine Nationalist Leader Thriving in Hard Times", *Business Ukraine*, 12 December 2010, http://www.bunews.com.ua/index.php?option=com_content&view=article&id=526:ukrainian-nationalist-leader-thriving-in-hard-times-&catid=6:politics&Itemid=2.

but the most notable accusation is that of signing an agreement with the Russian Federation on gas supply in 2009, allegedly without the proper authorisation by the government and on conditions unfavourable for Ukraine. While the utility of decisions Mrs Tymoshenko took in her capacity as Prime Minister might be questioned, it seems that her prosecution could hardly be considered as part of an anti-corruption campaign because charges brought against her are not linked to bribery or personal enrichment. Former Minister of Interior Yuriy Lutsenko is held in prison based on charges that include him promoting his driver to the rank of officer and allocating money for the annual Militia Day festivities. In protest, Mr Lutsenko, at some point, went on hunger strike. Bohdan Danylyshyn, the Economics Minister in Mrs Tymoshenko's government, has been granted political asylum by the Czech Republic after being charged with abuse of office. The Former Minister of the Environment, the former acting Minister of Defence and several lower ranking members of Mrs Tymoshenko's Cabinet are also under criminal investigation. The criminal case is still open against the leader of the Ukrainian delegation to the NATO PA Andriy Shkil, who was detained in 2001 for participating in the political event "Ukraine without Kuchma". Mr Shkil is currently protected by parliamentary immunity, but the charges have not been dropped.

48. The report 'Legal Monitoring in Ukraine II' by the Danish Helsinki Committee for Human Rights observed that the "charges are criminalising normal political decisions with which the present government disagrees" and that "most of the charges are of a character which would never be considered a criminal offense in countries with a different legal tradition." Some observers also fear that Mrs Tymoshenko's prosecution might open a "Pandora's Box", whereby Mr Yanukovich's successors might initiate criminal prosecution against the leading members of the current administration, for instance for signing the "gas-for-fleet" agreement with Russia.

49. Mrs Tymoshenko was imprisoned in the middle of her trial on 5 August 2011, causing a strong reaction both internationally and domestically. Concerns over possible political motivation behind the process and the disproportion of the incarceration measure were expressed by countries like the United States, Italy, France, Germany, the UK, Poland, Hungary, the Czech Republic and Slovakia as well as by Catherine Ashton, EU High Representative for Foreign Affairs and Security Policy, Stefan Füle, EU Commissioner for Enlargement and European Neighbourhood Policy, President of the European Parliament Jerzy Buzek, the current OSCE Chairman and Lithuanian Foreign Minister Audronius Azubalis, and Mailis Reps of Estonia and Marietta de Pourbaix-Lundin of Sweden, Co-rapporteurs for the monitoring of Ukraine by the Parliamentary Assembly of the Council of Europe (PACE). Carl Bildt, Foreign Minister of Sweden, said that "the trial against Yulia Tymoshenko in Ukraine was an embarrassing spectacle. [It] does great damage to a great country." Even Russia urged Ukraine to ensure an impartial trial against the ex-Prime Minister. Your Rapporteur wholeheartedly joins those voices hoping that Yulia Tymoshenko and other members of her cabinet will be treated in accordance with the democratic norms and principles.

50. The administration argues that it has no leverage on the independent judicial proceedings, pointing out that roughly 400 current officials are on trial on corruption charges. The most notable cases include the former Speaker of the Crimean Parliament Anatoly Hrytsenko and the former Deputy Minister of Environment Bohdan Presner,¹⁹ neither of whom however, could be considered to be a national politician of Mrs Tymoshenko's or Mr Lutsenko's calibre.

51. Rather unexpectedly, a criminal investigation of former President Leonid Kuchma was also opened over the murder of journalist Georgiy Gongadze in 2000. Mr Kuchma was recorded telling the security service to "get rid of" the critical reporter and the case represented a pivotal moment in Ukraine's relationship with the West.²⁰ The new investigation was widely welcomed by

¹⁹ Sounding the Alarm: Protecting Democracy in Ukraine, Freedom House Report, April 2011.

²⁰ Gongadze's widow Myroslava Gongadze received political asylum in the United States and is now a reporter for Voice of America, she says the new authorities in Kyiv "can and will be even more brutal

international organisations in the field of media freedom. However, observers speculate whether this represents a genuine desire of the authorities to get to the bottom of this notorious case, or is simply the result of a rift between former allies of Mr Yanukovych and Mr Kuchma.

52. The arrest of Mrs Tymoshenko has facilitated stronger co-operation among the opposition parties. In August 2011, several oppositional parties and non-governmental organisations united in a “Committee for Resistance to Dictatorship in Ukraine”. The joint statement was signed by leaders of the European Party of Ukraine, Defendants of the Fatherland party, People's Self-Defence, Mrs Tymoshenko's Batkivschyna, Reforms and Order party, Civil Position, Mr Yushchenko's Our Ukraine,²¹ Popular Ruh of Ukraine, and the Yatsenyuk's Front for Changes party.

C. DETERIORATING MEDIA AND NGO SITUATION

53. Ukraine's achievements in the field of media freedom stand out in the context of the post-Soviet space. Of the non-Baltic countries of the former Soviet Union, Ukraine was the only one named “free” in Freedom House's annual Freedom in the World survey, during the “Orange” period between 2006 and 2010. This achievement was preceded by more than a decade of being in the category of “partly free” or even “not free” under Presidents Kravchuk and Kuchma. The majority of international officials and NGO representatives that the Assembly delegation met with during the July 2011 visit to Kyiv noted that the media environment in Ukraine remains open and vibrant and that there is no real evidence of censorship. To a large extent, TV viewers in Ukraine still enjoy a plurality of views.

54. Unfortunately, despite the assurances and strong statements by President Yanukovych, the media freedom environment in the country somewhat declined in 2010. Freedom House downgraded Ukraine from a “free” country to a “partly free” one in the Freedom in the World report released in January 2011. The pro-Yanukovych Head of the Security Services, Valeriy Khoroshkovsky, owns a television empire and has increased his power. According to the Council of Europe report, managers from Khoroshkovsky's TV Inter Channel are reportedly being appointed to run the state-owned TV channels. What is most worrying are the legal actions that were taken to limit the broadcasting abilities of two independent TV channels, TVi and 5 Kanal. According to the Telekritika media watchdog, TVi and 5 Kanal were the only remaining “unbiased” channels.²²

55. Another disquieting trend is the growing number of physical attacks upon journalists. Dunja Mijatovic, the OSCE Representative on Freedom of the Media, said this has a chilling effect on the media climate in Ukraine. The most prominent case is the disappearance of reporter Vasyl Klymentyev who vanished in August 2010, a case which recalls the 2000 murder of Georgiy Gongadze.

56. The media legislation needs to be further improved. While on the positive side a comprehensive access-to-information law was adopted by the Ukrainian Parliament in January 2011, more needs to be done to increase transparency of ownership and privatisation of state print media. According to Mijatovic, “lack of transparency of media ownership raises questions about affiliation of media with political or business groups. State-owned media are [an]

than Kuchma's regime”, see in: Miroslava Gongadze, “Yanokovich Team May Be More Brutal than Kuchma”, *Kyiv Post*, 21 January 2011, <http://www.kyivpost.com/news/nation/detail/95325/>.

²¹ Curiously, former President Yushchenko testified at the court proceedings criticising the 2009 gas deal with Russia and thereby effectively supporting the prosecutor's case against Tymoshenko. On the other hand, Yushchenko condemned the court's decision to arrest Tymoshenko.

²² NIDC Weekly Media Report, 21-27 January 2011.

inheritance of the past and should be privatised or liquidated.”²³ An increasing concern is that pro-government oligarchs subject some media outlets such as *Kyiv Post* to a complex and expensive series of court proceedings on the basis of the protection of reputation against “libel”, which, combined with questionable impartiality of the justice system, can be a real limitation to freedom of speech.

57. The opposition also fears that the government does nothing to curb the increased interest of Russia in Ukraine’s media sector. Member of the Ukrainian delegation to NATO PA, Ivan Zayets stated at the Assembly meeting in Kyiv in July 2010 that the increasing influence of Russia on Ukraine’s culture and public opinion is a result of concerted Russian policy to gradually take over the Ukrainian media and information infrastructure and thereby impose “informational occupation” of Ukraine.

58. In terms of civil society, NGOs remain a vibrant and noticeable sector that has grown considerably in recent years, doubling in numbers between 2004 and 2009. However, Freedom House notes that respective legislation remains outdated, particularly since an ambiguous concept of “non-profit activity” effectively prohibits NGOs from generating income necessary for legitimate aims. As a result, NGOs depend disproportionately on foreign funding. In addition, to be able to act nation-wide, NGOs must be registered in every region of Ukraine. Furthermore, despite the administration’s democratic rhetoric, an increasing number of NGO activists are being harassed by the authorities, and the police force is used disproportionately against peaceful protest actions on some occasions, such as in the case of the felling of trees in a city park in Kharkiv in May 2010.²⁴

59. A symptomatic event that needs to be recalled here is the case of Nico Lange, an analyst for the *Konrad Adenauer Stiftung*, a think tank affiliated with Germany’s Christian Democratic Union. Lange was detained for 10 hours at the airport in Kyiv in June 2010 while trying to re-enter the country soon after the publication of a report detailing Mr Yanukovych’s swift consolidation of power.²⁵

D. DOMESTIC REFORM PACKAGE

60. One of the main justifications for Mr Yanukovych’s consolidation of power provided by his supporters and even by some of his critics is the necessity to swiftly carry out a number of unpopular but necessary structural reforms. Upon arrival in office the new government announced an ambitious reform plan, designed to improve Ukraine’s business environment, fiscal sustainability and competitiveness, and to tackle corruption. So far, the achievements are not impressive, although some progress must be noted and commended.

61. Even those who believe that Prime Minister Yulia Tymoshenko handled the economic crisis fairly well,²⁶ would have to admit that Mr Yanukovych inherited a country in terrible fiscal shape, and that stabilising the situation and improving the budget to avoid default was a priority. Under Mr Yanukovych, many macroeconomic indicators have improved: the annual GDP growth is over 4%, industrial production and tax revenues have also grown remarkably and the balance of payment improved tangibly in 2010. However, experts point out that the economy started from a very low point as a result of a serious economic recession in 2009. Ukraine was also fortunate that

²³ “OSCE media freedom representative: Ukraine should take swift and resolute measures to entrench its exemplary record in media pluralism”, *OSCE Press Release*, 13 October 2010.

²⁴ Renate Wohlewend (Liechtenstein) and Mailis Reps (Estonia), “The Functioning of Democratic Institutions in Ukraine”, Parliamentary Assembly of Council of Europe Report, 20 September 2010.

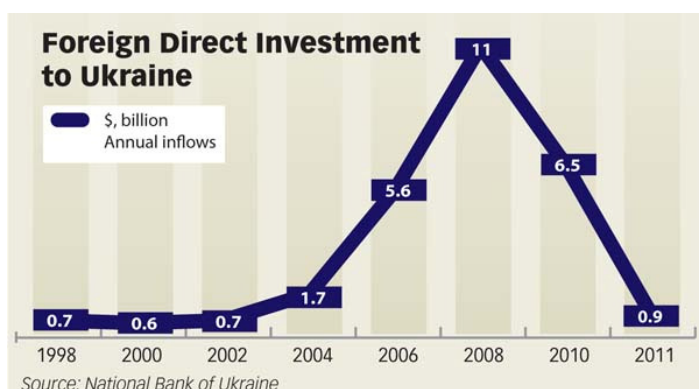
²⁵ Nico Lange, “The First 100 Days After Change of Power in Ukraine, Country Report”, Konrad Adenauer-Stiftung, Ukraine Office, 27 May 2010, <http://www.kas.de/ukraine/en/publications/19723/>.

²⁶ Anders Aslund, a prominent expert on the country’s economy, is of this opinion; Viktor Pynzenyk, Yulia Tymochenko’s former Finance Minister, is decidedly not.

the prices of some key commodities produced by the Ukrainian economy increased, the Assembly delegation heard in Kyiv in July 2011.

62. While governments in Ukraine have made improving the investment climate an economic policy priority since 2004, the overall investment climate remains poor, with foreign investors finding the Ukrainian legal system unreliable, the US State Department noted in the 2011 Investment Climate Statement.

Foreign Direct Investment to Ukraine



63. The government made changes to the tax code, widely considered to be flawed, in late 2010, attempting to crack down on the grey economy. The new tax code will lower the corporate income tax rate from 25% to 16% by 2014 and limits the number of self-employed people who could qualify for flat income tax. Following massive protests by self-employed workers, the President proposed not to change the code for small businesses and the compromise legislation was passed, allowing for a 2011 budget.²⁷ Economists that NATO Parliamentarians met in Kyiv in July 2011 regretted that the new tax code essentially boiled down to increasing tax revenues and did not tackle key challenges such as simplifying the system of taxation, alleviating the tax burden and curbing the shadow economy.

64. The Yanukovich administration has succeeded in pushing through major pension reforms – a politically difficult move but one necessary to unfreeze a US\$15 billion International Monetary Fund (IMF) loan programme (Kyiv will also have to raise gas prices for consumers or lower the costs of gas imports from Russia to regain access to loans). Ukraine spent 18% of GDP on pensions in 2009, the highest share in the world. While 35% of gross salaries in Ukraine go to pensions, the pension system still ran a 7% deficit of GDP in 2010, according to the World Bank. However, during the meetings in Kyiv, the Assembly delegation heard views that apart from raising the retirement age the new law did not bring substantial changes to the existing system.

65. Other problematic features of Ukraine's economic policy included the excessive weight of the central government in the economy; the absence of long-term economic planning; the lack of transparency in some large privatisation projects; monopolisation of certain industries; worsening condition for private initiative in the agricultural sector. Certain interlocutors also told NATO Parliamentarians visiting Kyiv that a significant increase in Russian influence over segments of the Ukrainian economy risked undermining the country's economic independence. They also warned that the authorities had not fully learnt the lessons of the previous recession and that the possibility of a new economic crisis could not be ruled out.

²⁷ Kateryna Choursina and Daryna Krasnolutska, "Ukraine's Parliament Approves Changes to Tax Code", *Bloomberg*, 2 December 2010.

66. Experts noted some progress towards the Europeanisation of Ukraine's energy sector but Ukraine continued to depend heavily on Russian energy supplies and minimal progress had been achieved in reforming the energy sector. Experts told NATO Parliamentarians visiting Kyiv that the government continued to prioritise the development of natural gas and of the nuclear energy infrastructure over energy efficiency.

67. Ukraine has entered into very difficult negotiations with Russia on natural gas supply. The rising prices for gas are hitting the Ukrainian economy hard: while the country paid US\$264 per 1,000 m³ for imported gas in the first quarter of this year, the price could reach as much as US\$400 in the fourth quarter.²⁸ Moscow indicates that it could lower the price tangibly if Ukraine's energy giant Naftogaz Ukrainy merged with Gazprom, something Kyiv is unwilling to agree to. On the other hand, the IMF is putting pressure on Kyiv to further liberalise the domestic energy market as a precondition for receiving the IMF loan. Liberalisation and the subsequent increase of communal charges for Ukrainian households would come at great political cost for Mr Yanukovich and his government. Some observers believe that the prosecution of Mrs Tymoshenko for the 2009 gas deal with Russia represents an attempt by the current administration to place the blame for rising domestic retail prices for gas on the shoulders of the previous government.

68. One of the key elements of President Yanukovich's electoral agenda was the fight against corruption. Indeed, pervasive corruption is one of the principal problems in Ukraine, which severely undermines the reputation of democracy and increases frustration and disappointment amongst the public.

69. Two useful but different measures of the business climate show Ukraine's disappointing record (although Mr Yanukovich has probably not been in power long enough to make a serious impact on the rankings, indications are that the corruption and business situation is not changing much). The World Bank's Doing Business index tracks ease of doing business in a country. In 2011 Ukraine ranked 145th out of 183 economies. This was a slight improvement from 2010, when it ranked 147th. It scored worse in several categories: 164th in registering property, 179th in dealing with construction permits, and 181st in paying taxes. For the sake of comparison, on overall ease of doing business, the Russian Federation ranks 123rd, Moldova is 90th, Poland is 70th, Belarus is 68th, Romania is 56th and Georgia is 12th.

70. Transparency International's Corruption Perceptions Index tracked 178 economies in 2010 and Ukraine came in 134th with a score of 2.4 on a ten point scale (a higher score meaning less of a corruption problem), tied with Azerbaijan, Bangladesh, Honduras, Nigeria, the Philippines, Sierra Leone, Togo and Zimbabwe. This was an improvement from 2009, when Ukraine scored 2.2 and was in a tie with Russia, now considered more corrupt. For the comparison, in 2010, the Russian Federation was 154th, Belarus 127th, Moldova 105th, Romania 69th, Georgia is 68th and Poland 41st.

71. The new administration is attempting to streamline the governance system of Ukraine and the Parliament has adopted a package of anti-corruption laws, but the result of these efforts is yet to be seen.

IV. CONCLUSIONS

72. 'Post-Orange' Ukraine cannot be depicted in black-or-white terms. The new government continues to protect Ukraine's sovereignty, and the alarmist predictions that the country would instantly become an authoritarian semi-protectorate of Russia have proved to be false. From the

²⁸ "Ukraine Halves Imports of Russian Gas", *Interfax-Ukraine*, 6 July 2011.

Alliance's perspective, co-operation continues, even if the focus is now on the process itself rather than on the final result.

73. Although given its size and diversity, it is unlikely that anybody will ever be able to exert dictatorial power over this country, democracy cannot be taken for granted in Ukraine. The Freedom House report reduced Ukraine's status from "free" to "partially free" based on the developments of 2010. On the other hand, the country's *Freedom House's* rating slipped only by one point (from five to six). According to the British ambassador to Ukraine Leigh Turner, these two facts mean that while the trend of the democratic development is disquieting, "there is everything still to play for and – I hope – that Ukraine can restore its position in the "free" category next year."²⁹ It is a critical time, and the Euro-Atlantic community must redouble its efforts to support democratic processes in Ukraine, particularly since there is a strong connection between internal and foreign policies: it is worth recalling that President Kuchma sought European integration but was left internationally isolated with nowhere to turn but Moscow because of a bad human rights record and the alleged weapon sales. Not even mature democracies have flawless political systems so nobody should blame Ukraine for not meeting the highest standards of democracy. However, the democratic community should react when the trend is downward, not upward. Your Rapporteur would like to reiterate his hope that Yulia Tymoshenko and other members of her cabinet who are facing criminal charges will be treated in accordance with the democratic norms and principles.

74. It is true that Viktor Yanukovich is the fairly chosen president of the Ukrainian people. It is also true that pluralistic "Orange" Ukraine was messy, a failure at reform, and frustrating for both its European partners and many of its citizens. Nicu Popescu contrasts "Orange" Ukraine's democratic success and reform failures with the reform success but democratic failures of Mikheil Saakashvili's Georgia.³⁰ However, political and economic difficulties should not deter the Ukrainian nation from the European way of development, regardless of whether the actual membership in the EU and NATO remains on the agenda.

75. Engagement with Yanukovich's Ukraine, not isolation, is wise policy. Ukraine's participation in negotiation with the EU and co-operation with NATO in the framework of the Annual National Programme represents powerful incentives for Ukrainian authorities to continue to uphold their commitment to democratic principles. Ukraine will be in the spotlight at the Euro 2012 football tournament and Mr Yanukovich may be most susceptible to foreign pressure to look good in the months leading up to the event – the Euro-Atlantic community should use this opportunity to stand up for democracy in Ukraine.

76. Although supported by the international community, the democratisation process in Ukraine must remain driven by the people of Ukraine. Political forces and civil society organisation should engage in dialogue in order to shape an optimal and enduring framework of rules and practices that would, on the one hand, make the decision-making process more efficient and avoid the deadlocks of the "Orange" era, and, on the other hand, would not lead to the excessive concentration of power in a few hands. Coupled with full respect for human rights and liberties and a fair election process, this framework would lay the foundation for a strong, European and successful Ukraine. Opinion surveys in Ukraine show that the younger and more educated respondents are, the more they support a democratic and independent path for Ukraine – statistics that bode well for the European future of the country.

²⁹ Leigh Turner, "Is Ukraine Free?", *Kyiv Post*, 27 January 2011.

³⁰ Nicu Popescu, "Democracy and Reformism in EU's Neighbourhood", *EU Observer*, 11 January 2011.