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Between Russia and the EU: Lessons from the Orange Revolution in Ukraine

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Tunisian and Egyptian people have succeeded with non-violent uprisings and regime change. But where will revolutions lead these two countries? Seven years ago, a similar peaceful revolution took place in Ukraine – ‘the Orange Revolution’- when for more than two weeks, beginning on the 22 November 2004, Ukraine was in the spotlight of international attention. Previously, the post-Soviet space was viewed by many policy-makers as a sphere of Russian influence, where post-Soviet, anti-Western political culture dominates and prevents movement to Europe based on democratic values. However, hundreds of thousands of Ukrainians stood in freezing winter temperatures at Kyiv's central square - Maidan - displaying the fascinating people's collective power. It prevented authoritarian Ukrainian President Leonid Kuchma from bringing to office his chosen candidate and, in this way, to repeat the “Yeltsin–Putin scenario”. The revolution was non-violent, its participants demonstrated a high level of inter-ethnic and inter-confessional tolerance; hence, its importance as an example for divided societies. Many democratic movements made a reference to the Orange Revolution: from Belarus to Kenya, and from Taiwan to the 2005 Cedar Revolution in Lebanon.

However, the high hopes and expectations of the Orange revolution have been thwarted. Paradoxically, the process of democratic elections, which started with the Orange Revolution, led to the 2010 electoral victory of the candidate, who lost the 2004 election in disgrace and who is now trying to revert the country back in many ways to where it had been in terms of democracy. It is important to understand what went wrong to draw from the experiences and lessons learnt from the Orange

Revolution and apply them to the revolutionary forces in Tunisia and Egypt.

I. Factors of the Victory: Not a Western Plot!

On the eve of the 2002 parliamentary elections, the oppositional 'Our Ukraine' bloc was formed. It was headed by former Prime Minister Viktor Yushchenko, and included not only the traditional national-democratic opposition, but also former state executives who opposed Kuchma's crony capitalism. Thus, a broad front was created.

Among politicians loyal to Kuchma, Viktor Yanukovych, the Prime Minister since 2002, had the highest personal rating due to his administrative power. Kuchma's main strategy was to present Yushchenko as a radical nationalist, who would "oppress" the Russian-speaking population. Yanukovych's consultants started to wage an anti-Western, anti-American campaign. Russian authorities openly supported the Yanukovych campaign.¹

Contrary to this polarizing strategy, Yushchenko's team used slogans common to the whole country appealing to European values, social justice, rule of law, and struggle with corruption. Exit polls conducted by respectable Ukrainian sociological non-governmental institutes and sponsored by international donors, showed that Yushchenko won the elections by about 8% in the run-off, but the falsifications in favour of Yanukovych comprised almost 10%.² In the course of massive, non-violent protests, which came to be known as the Orange Revolution, the Supreme Court found a legal solution and ordered a new run-off where

¹ For more details see, for example, Aslund, Anders; McFaul, Michael (Eds.), 2006: *Revolution in Orange: The Origins of Ukraine's Democratic Breakthrough* (Washington DC: Carnegie Endowment); Kuzio, Taras, 2006: "The Orange Revolution at a Crossroads", in: *Demokratizatsiya*, 14,4 (Fall): 477–492; Wilson, Andrew, 2005: *Ukraine's Orange Revolution* (New Haven and London: Yale University Press).

² Fond "Demokratychni Initsiatyvy", 2005: *Natsionalnyj exit poll 2004* (Kyiv: Fond "Demokratychni Initsiatyvy").

Yushchenko won 52% of the votes.

This development is often described as ‘the Western plot’, which does not correspond to reality. The West’s continuous support of civil society during Ukrainian independence was extremely important for its development in the 1990s, but the dominant factors of the Orange Revolution were domestic. Even Yushchenko’s team did not expect such gigantic, continuous, non-violent rallies all over Ukraine, which combined the celebration of the “Orange” victory (the colour of Yushchenko’s campaign) with protests against falsifications.

The main factors leading to the success were:

- a. activity of civil society which, with international support, managed to monitor the election process; support from small and medium-sized businesses; creation of broad oppositional front which used non-violent tactics;
- b. accents on the issues of social justice helped to overcome anti-Western stereotypes and polarizing strategy of the regime (it could be of special interest for Arab countries, given strong anti-Western views of large segments of the population);
- c. split within large business groups dissatisfied with Kuchma’s growing authoritarianism, which was used by opposition and international community to weaken Kuchma’s regime;
- d. international condemnation of the falsifications and the West’s demand that Kuchma renounce the use of force; round table with the EU and OSCE mediation.

II. What Went Wrong?

The main accomplishments of the Orange Revolution were political freedoms, including freedom of the press, and free and fair elections. After the 2006 parliamentary elections, Ukraine was

recognised in the ratings of Freedom House as the only ‘free country’ in the CIS.³

The Orange Revolution ended in compromise, however. The run-off, or “third round”, resulted in Yushchenko’s victory in exchange for constitutional reform, which shifted power from the president to parliament.

The flip side of compromises, especially when they are not clear to the public, is that they cause gridlock and postpone radical reforms. To secure the support of the people, the victorious revolutionaries must demonstrate at least gradual successes. This is the common lesson for revolutions in different regions. But most aspirations of the Orange Revolution have not been realised, including strengthening the rule of law. This led to the frustration of the Orange electorate.

Broad opposition to the *ancien régime* after the victory differentiated and split. This referred not only to the continuous infighting within the Orange team, especially President Yushchenko and Prime Minister Yulia Tymoshenko, but also to the institutional competition between the presidency and the cabinet, that was caused by rushed and unbalanced constitutional reform in 2004. As more power moved to the parliament, the value of victory in the 2006 parliamentary elections increased dramatically. Politics in Ukraine became populist, and the Orange forces became hostages to electoral democracy.

The “timing issue” also contributed to failures of the Orange team. It is evident that some changes need to be done at the peak of popularity. When Yushchenko’s rating was up to 70%, it was possible to dissolve the parliament and have early elections in spring 2005 to create parliamentary majority for painful and unpopular reforms. In this case, it was not necessary to wait until elections of 2006 and play the populist games.

³ Freedom House, 2006: *Freedom in the World* (Washington DC). Available at: http://www.freedomhouse.org/template.cfm?page=15&year=2006_

When enforcing unpopular reforms, it is important to show that leaders in power are fighting corruption at the highest levels and within their own 'inner circle'. This gives them the moral authority to call on the people to "tighten their belts". The anti-corruption struggle, however, remained on paper.

If reforms are successful, it is then possible to raise other thorny issues, which otherwise do not receive enough support in the country. Not only did this not happen, but on the contrary, when in 2008 Yushchenko's ratings went down to 3-5%, raising the issue of receiving NATO's Membership Action Plan appeared counterproductive as it played into the hands of the opposition, which continued to use anti-Western rhetoric.

Victorious revolutionaries need to emphasize domestic transformations which would have a 'demonstrational effect' on other countries. But after the Orange Revolution, both the new Ukrainian authorities and the West put too much emphasis on the propaganda that Ukraine would bring democracy to other countries of the CIS, instead of concentrating on domestic transformations.⁴

To speak of importance of unity among democratic forces seems to be banal. But the Orange forces did not manage to postpone their quarrels until after the 2006 elections to win a parliamentary majority. In September 2005, President Yushchenko dismissed Prime Minister Tymoshenko. In order to secure parliamentary approval of the new prime minister, he signed a

⁴ For example, the new Ukrainian minister of interior appeared at a meeting with his CIS counterparts in Minsk, Belarus' capital, demonstratively wearing an orange tie.

memorandum with Yanukovych, his main rival and Party of Regions leader. In this way, Yanukovych's return to the political arena was legitimised.

The paradox is that the 'Party of Regions' also benefitted from democratic freedoms, especially free access to media. Yanukovych strengthened his position by exploiting the populist opposition niche, which was particularly convenient at a time of economic crisis in 2008-2009. Prime Minister Tymoshenko suffered attacks from both the oppositional Party of Regions and President Yushchenko, who viewed her as the main competitor in the future 2009-2010 presidential election.

III. The Gains of the Revolution Were Not Institutionalised

There are steps that every country, which is in the process of democratic transformation is required to address, among which are the prevention of the monopolisation of power, administrative reform, judicial reform, anti-corruption campaign, local government, and the creation of public broadcaster.

The 2004 constitutional reform in Ukraine, laid down that the President could not dismiss the Prime Minister if he/she enjoyed a parliamentary majority. This had happened before and the change had been a key demand of democratic forces for many years. The reform however appeared to be hectic and inconsistent. The President and Prime Minister, whether it was Yanukovych or Tymoshenko, were trying to secure separate, and sometimes parallel, structures of power.

There was a debate as to whether the 2004 reform should be cancelled, since the Constitutional Court (CC) had not approved several constitutional changes in advance. Although, there were formal grounds to cancel the 2004 reform, Yushchenko did not go ahead with it. He also lost time to introduce his own plan for reforming the Constitution.

Contrary to Georgia, the struggle against corruption never started; neither did judicial reform. The judges of the CC were appointed, not on the basis of professional criteria, but on presidential and parliamentary quotas depending on their political affiliation. Instead of suggested balance, it led to extreme politicisation and splits within the CC, even causing the work of the Court to come to a halt.⁵⁵

Under Yushchenko, elections were free and fair, but the electoral system was left unmodernised. Until 1998, Ukraine had an electoral system with single-mandate districts. Because the country's political parties were weak, 50% of MPs were non-party deputies. This led to unstable parliamentary factions. Deputies were subject to pressure from the president and could easily move from one faction to another, so by the end of every term there were about a dozen factions. In 2003, Ukraine switched to a purely proportional system with a 3% threshold. It resulted in five political forces represented in parliament. This outcome structured the Ukrainian parliament more along party lines.

Voters were made to choose between *closed all-national party lists*. This system also concentrated power in the hands of party leaders who compose the list. Most analysts agree that the best way to support party development is to introduce *open and regional* party slates. This would help to create European-style political parties, based not on one leader (like BYuT – Yulia Tymoshenko Bloc), but rather on a specific set of programs and values.

The chance for all these reforms to be implemented under the Orange governments was lost. It had dramatic consequences after the Orange forces lost the 2010 presidential elections, as explained above.

⁵ For proposals on judicial reform, see: Koliushko, Ihor; Yulia Kyrychenko (Eds.), 2007: *Green book of Ukrainian constitutional reform* (Kyiv: Lyceum), prepared by coalition of independent think tanks.

IV. External Factor: Russian Pressure, Western Reservations

Domestic reforms require a favourable international environment. This was absent in the case of Ukraine. In 1994, Ukraine disposed of its arsenal of nuclear weapons, the third largest in the world. But the 1994 Budapest Memorandum provided only “security assurances,” not “guarantees” to Ukraine,⁶ and ongoing territorial claims and provocative statements by Russian politicians did not contribute to Ukraine’s sense of security.⁷ Ukraine appeared in the so called “grey zone of (in-) security” or “vacuum zone”. Compared to most of its neighbours, who first joined NATO and subsequently joined the EU more easily, Ukraine has not even received NATO’s Membership Action Plan following its application in 2008.

President Obama’s ‘reset policy’, proclaimed at the July 2009 Moscow summit, was misread in Moscow as a possibility for Russia to regain its sphere of influence in the CIS. In August 2009, President Medvedev made his notorious video statement to the Ukrainian people accusing Ukrainian authorities of ‘anti-Russian’ actions.⁸ This was direct interference in Ukrainian domestic affairs, but most of the Western countries remained silent.

In the 2010 presidential campaign Yanukovych propaganda played on the West’s passivity: “If the EU does not want us, let us look to Russia”. Yanukovych profited from Yushchenko’s mistake of eloquently discussing European and Euroatlantic integration,

⁶ On December 5, 1994, the Budapest memorandum was signed by Russia, the United Kingdom and the USA (France and China joined later). The parties agreed to respect Ukraine’s borders, to abstain from the use or threat of force against Ukraine, to support Ukraine where an attempt is made to place pressure on it by economic coercion and to bring any incident of aggression by a nuclear power before the UN Security Council.

⁷ Engelbrekt, Kjell; Bertil Nygren (Eds.), 2010: *Russia and Europe. Building Bridges, Digging Trenches* (London; New York: Routledge): 220-221.

⁸ Medvedev, Dmitrii, 2009: “V otnosheniakh Rossii i Ukrainy dolzhny nastupit novye vremena”, *Videoblog Dmitriia Medvedeva*, 18 August, 2009. Available at: <http://blog.kremlin.ru/post/30>.

but whose policies turned out to be counterproductive. Contrary to the lessons of the 2004 campaign when Yushchenko avoided polarizing issues, in the 2010 presidential campaign he divided society.⁹

Under Yushchenko, agreement on Ukraine's access to WTO was finalised and ratified in 2008. But as there were no economic successes within the country, this step was used by the opposition to blame the Orange forces "for selling Ukraine to the West".

The most critical issue remained Ukraine's dependency on Russia for energy, primarily gas, which resulted in the Russia-Ukraine "gas war" in the winter of 2009. At first, EU countries portrayed it as a commercial dispute between two countries and were reluctant to intervene. Some Ukrainian analysts likened this position to a "new Munich". Only when Europe faced a serious energy threat, did the EU come in to mediate. But the time was lost, and the new gas agreement with Russia appeared to be very unfavourable to Ukraine.

The agreement on association which Ukraine and the EU started to negotiate, will not resemble "European association agreements" that the EU signed with many Central and East European states (from Poland to Romania in the first half of the 1990s, to the Western Balkans by the end of the 1990s), and failed to offer the prospect of membership. Romania and Bulgaria at that stage, not to mention the turbulent Western Balkans, were in no better shape than Ukraine after the Orange Revolution. But the EU limited itself to declarations that it "hails Ukraine's European choice". Therefore, the EU did not utilise its most powerful

⁹ Paradoxically, support for Ukrainian membership in NATO was higher under Kuchma than under Yushchenko. Polls by the Kyiv-based Razumkov Centre showed that in June 2002 the numbers of those who supported joining NATO and those against were nearly equal – approximately 32 percent each. In July 2009, at the end of Yushchenko's term, only 20 percent supported NATO membership, while 59 percent rejected it. See, The Razumkov Center, 2010: *Sociological polls of the Razumkov Center, 2002-2010*. Available at: http://www.razumkov.org.ua/eng/poll.php?poll_id=46.

foreign policy instrument to influence developments in Ukraine, namely the conditionality of the accession process.

It is interesting to compare the EU's attitude towards Ukraine and Romania. The start of post-Communist transformation in Romania was, to a certain extent, even more difficult than that in Ukraine, as the Ceaușescu regime was more repressive than the Soviet regime. Notwithstanding, Romania is now a member of both NATO and the EU because of: 1) the geopolitical consistency of Romanian elites in power, whether it was post-Communist Iliesku or anti-Communist Constantinesku; 2) even under communism, the West considered Romania as part of Europe, while even for independent Ukraine it is still necessary to explain that "it is not Russia",¹⁰ but historically and civilizationally part of Europe.

One of the tests of the EU's good will is the visa issue. After the Orange Revolution, visa requirements for EU citizens to enter Ukraine were waived. At the same time, Hungary, Slovakia and Poland joined the Schengen zone and introduced Schengen entry requirements for Ukrainian citizens in December 2007, which made it more difficult for Ukrainians to gain entry into those countries.

In January 2008, two EU-Ukraine agreements, one on visa facilitation and one on readmission, took effect. This was a kind of "package deal". Ukrainian critics of the readmission agreement blamed the Orange leadership for turning Ukraine into a "dumping ground for illegal migrants"; although the agreement provided for special financial assistance and a two-year postponement for the return of third-country nationals. As for the visa facilitation agreement, it was intended to make it easier for Ukrainian citizens to get short-stay visas and simplify the criteria for multiple-entry visas for students, businessmen, journalists, and close relatives.

¹⁰ Kuchma, Leonid, 2003: *Ukraina – ne Rossija* (Moscow: Vremia).

However, common people continue to feel the West is still discriminating Ukraine.¹¹

The paradox is that negotiations for an association agreement and a visa-free regime were boosted *after* Orange forces lost the 2010 presidential elections and Ukraine under Yanukovych started to backslide from democracy. Therefore, if they end successfully, it would be the new anti-Orange regime, which capitalises on these successes in its propaganda campaign within Ukraine.

V. In the Aftermath of the Revolution: Disunited Opposition to Emerging Authoritarianism

In Ukraine's run-off to the presidential election in February 2010, Yanukovych defeated Tymoshenko by a slim margin of 49 to 45.5%. The position of Yushchenko and that of other candidates, who called on voters to say "no" in the run-off to both candidates, disoriented the Orange electorate and played into the hands of Yanukovych.

Subsequent developments showed how fragile the gains of a young democracy could be, if the positive changes enacted after the revolution are not institutionalised. Under the new presidency, the Constitutional Court appeared under pressure. In September 2010, it restored the 1996 version of the Constitution, giving Yanukovych all the powers Kuchma enjoyed.

¹¹ According to the monitoring by the Center for Peace, Conversion and Foreign Policy of Ukraine in 2009, 55% of respondents have the potential right to obtain long-term visas, but only 20% received visas for more than 5 months. Only 0.5% of respondents received visas with a term of more than one year (for 2-3 years), and most of them were issued by Poland. About 15% of the respondents waited for a consular decision for more than 10 days (as defined by the agreement). See Sushko, Oleksandr, 2010: "Ukraina na 'vizovoj karte' Evropejskogo Sojuza", in: *Zerkalo nedeli* (18 September): 3.

The opposition appeared not to be prepared for open violations of the rules of the game. Tymoshenko suffered greatly from her 2010 defeat. One of the reasons for this defeat was that whilst fighting with Yushchenko, Tymoshenko was quite comfortable negotiating with oligarchs behind closed doors, to the frustration of her electorate. Yushchenko's 'Our Ukraine' was totally discredited and split. Other small national-democratic parties continue to compete with each other in centre-right niche.

In a situation where opposition parties are split, the role of civil society could become greater. Journalists have already organised a visible campaign 'Stop to Censorship'. In the fall of 2010, a number of small entrepreneurs organised effective protests against the new tax code in Maidan, the main square in Kyiv associated with the Orange Revolution. Civil society organisations have started to talk about the necessity of a more united approach among the opposition, to find new faces and new ideas. The question is when, how, and who will lead the process. The changes in the Middle East stimulated wide discussion in the Ukrainian media about the prospect of social protests in Ukraine or some kind of "Maidan-2", even in the absence of a united opposition. The danger is that these protests can become violent and uncontrolled. For this reason, the opposition and civil society are presently thinking of how to create coordinating bodies, comprised of authorities and intellectuals who can make national cross-party appeal to the public, while maintaining a peaceful protest.

VI. Conclusion: How the West Can Help

The importance of the Orange Revolution for the Arab world stems from the fact that it managed to overcome anti-Western propaganda and authoritarian values imposed by Russia which had dominated the post-Soviet space. Ukrainian opposition in 2004 demonstrated ethnic and inter-confessional tolerance using non-violent, peaceful methods. Leaders of democratic forces were united, which unfortunately was not the case after 2005 when they started to fight with each other for power, keeping in mind the

next presidential election five years later.

The outcome of the revolutions which bring about freedoms should be institutionalised. Instead of talking about the values of democracy as an example for neighbouring countries, new authorities should aim at developing clear and consistent reform plans to demonstrate to the electorate at least small successes in everyday life. Not only economic success, but also social justice is key in making an effective appeal to the public. In Ukraine, however, judicial reform and an anti-corruption campaign were not implemented.

Ukraine's experience has also demonstrated that revolutionary change could be a complicated and long-term process. In this situation, the role of outside actors takes on more significance. Compared to its Western neighbours, Ukraine has not received clear signals from the EU about its European perspective. As in many other cases, Western policy-makers did not take into account, that there was a gap between a nation's democratic instinct and its capacity to build and achieve democracy. Support for democratic transformations necessitates of the West commitment and long-term strategies.

In the case of Ukraine, the West was mistaken in considering that Yanukovych and his 'Party of Regions' had become a democratic player. It reflected natural frustration with chaos created by the incompetence of Orange leaders. But contrary to predictions of most Western analysts, after the 2010 presidential election, which the international community recognised as democratic, Ukraine under President Yanukovych is backsliding to 'soft' authoritarianism.

In such cases, the EU and the US usually try to involve the new leaders in dialogue. For a certain time, the conformist trend vis-à-

vis Ukraine's new president prevailed.¹² However, Western soothing messages were interpreted by Yanukovych in the wrong way. As a result, Freedom House had to move Ukraine in 2010 from the category of 'free' country into 'partially free'.¹³ Conditionality from the EU and the United States in their relationship with the emerging authoritarianisms is necessary. Along with direct, high-level interaction, international support to local civil society organisations could play a critical role in preserving the fragile democracies.

At the same time, the carrots must remain an option. Criticism may only stimulate isolationism, anti-Western rhetoric or even actions, as had happened with Belarusian President Lukashenka, who tried to rely on authoritarian Russia. Intra-elite splits in emerging authoritarian regimes can also be used, although it is not clear when and in what form they would appear on the surface. Even influential figures in the ruling coalitions are often unenthusiastic about concentrating power in the hands of one leader or one group. Moreover, other groups could use the deepening of relations with the EU as a counterbalance, if it brings certain benefits to them. In the case of Ukraine, these carrots include the prospect of an association agreement (which would include a free trade zone with the EU) and a free visa short travel regime. Whatever the nature of the Yanukovych regime, this would imply a boost to Ukraine's European integration and would

¹² The West was happy that new Ukrainian authorities started to speak with one voice, relations with Russia improved, and the issue of joining NATO was put aside by Yanukovych as Ukraine adopted a new "non-aligned status."

¹³ See the ratings of Freedom House, available at: <http://www.freedomhouse.org/template.cfm?page=594>. In Economist Intelligence Unit's Democracy Index 2010, Ukraine moved down to 67th from 53^d seat in 2008, available at: http://graphics.eiu.com/PDF/Democracy_Index_2010_web.pdf. See also resolutions on Ukraine of the European Parliament, 24 November 2010, available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=P7-RC-2010-0650&language=EN>; and of Parliamentary Assembly of the Council of Europe, 4 October 2010, available at: <http://assembly.coe.int/Documents/WorkingDocs/doc10/edoc12357Add.htm>.

have a positive effect on democratic transformations within the country.

Political scientists believe that such massive upheavals, such as the Orange Revolution, exert a profound long-term impact on a society by forming a generation with a particular view of themselves and their country (e.g. the mass movements in 1968, or Polish Solidarity movement in the 1980s). The ultimate impact and significance of the Orange Revolution is therefore yet to be seen, as remains to be seen in post-revolutionary Egypt and Tunisia. One can only hope, that leaders and civil society in Cairo and Tunis can learn from the experience of their counterparts in Ukraine.