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Oligarchs save the Yatseniuk government

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On 16 February the Verkhovna Rada, the parliament of Ukraine, rejected a vote of no confidence in the Government, as the result of a confidential agreement between President Petro Poroshenko, Prime Minister Arseniy Yatseniuk, and leading oligarchic groups. Another important factor behind the decision was the United States' clear support for Yatseniuk. However, this was a tactical step, aimed at gaining time and postponing the prospects for early elections. Almost all the participants in Ukraine's political manoeuvrings understand that these are inevitable, but almost no-one wants to see them happen in the near future. After the rejection of the vote, two of the four factions within the ruling coalition left it; nevertheless it will probably survive thanks to legal ambiguities, although it will be even weaker than before. We may expect some changes in the composition of the government, which will still lack stable support in parliament, and will become more dependent on the President. However, we should not expect either any substantial improvement in the quality of legislative work, or any revival in the process of reforming the state, which has become bogged down primarily due to the strong resistance from the oligarchs.

How Prime Minister Yatsenyuk kept his job

The annual report of Yatseniuk's government to Parliament, which had been postponed from last November, was rejected by 247 votes after excoriating criticism. Fifteen minutes later, 194 MPs voted in favour of the no-confidence motion (with 226 votes being the necessary majority, i.e. an absolute majority of the nominal number of deputies), 103 fewer deputies were present than for the previous vote. Another motion of no confidence can only be tabled during the next session of parliament, which can come no earlier than in September. Of key importance was the behaviour of deputies from two parties, the Petro Poroshenko Bloc (BPP, the main proponent of dismissing the government) and the Opposition Bloc (the main opposition party). Of the BPP's 136 MPs, only 97 voted for the proposal, and of the 43 deputies of the Opposition Bloc, only 8 did so (120 and 26 deputies respectively voted to reject the government's annual report). Volodymyr Hroysman, the speaker of parliament (formally an independent deputy) and a close associate of the President, also abstained.

This procedure, the result of which is the survival of the Yatseniuk government, could only have been the result of arrangements involving the President. Poroshenko, who for a long time has been striving to weaken Yatseniuk's position, tried to encourage him to resign; for unclear reasons however, he did not want parliament to remove him. It also seems that Poroshenko had no other candidate to replace Yatseniuk as Prime Minister; and it was clear,

in an otherwise ambiguous statement issued on 16 February, that the President is opposed to changing the composition of the current coalition. This then gave Poroshenko a basis for the claim that he had been in favour of the Prime Minister resigning; however, the behaviour of the BPP deputies linked to him suggests something else.

From an analysis of the two ballots, it appears that the government's collapse was opposed by all the Ukrainian oligarchs, who have great influence in Yatseniuk's circle, and who were most likely involved in the above-mentioned arrangements. This is further confirmation that the oligarchic system of Ukraine has been consolidated, and that it is impossible to govern the country in opposition to it. Just as after the Orange Revolution of 2004, the oligarchs quickly regained their confidence, and their actions in the world of politics regained their effect. The oligarchs, and the part of the bureaucracy linked to them, have effectively frustrated the process of reform, i.e. restricting opportunities for corruption and other forms of exploiting the state budget as a source of income for private enterprises. Recent events confirm that breaking the oligarchs' resistance will be extremely difficult, and the current government lacks the political will to do so.

An important reason for leaving Yatseniuk as head of the government was the support which he enjoys in Washington, especially in the International Monetary Fund, whose representatives have warned that the fall of the government will involve the suspension of financial aid for Ukraine.

The problem of the parliamentary coalition

When Yatseniuk's government was formed, it was supported by a coalition of five political parties: the BPP, Yatseniuk's Popular Front, *Samopomich* [Self-Reliance], *Batkivshchyna* [Fatherland] and the Oleh Lyashko Radical Party, together making up 303 out of a total of 421 deputies. For a long time, however, the internally quarrelsome coalition has failed to provide proper support to the cabinet, and many government proposals have only passed with the support of some of the opposition factions. After Lyashko's party left the coalition (in September 2015), and the departure or removal of a number of deputies from the remaining parties at the beginning of February 2016, only 252 deputies remained. After the no-confidence vote, *Batkivshchyna* and *Samopomich* left, and the number of deputies has thus fallen – or so it seemed – to 217, 9 fewer than the number required by the Constitution for an absolute majority in the parliament.

In this situation, 18 February should have marked the start of a 30-day period for the formation of a new coalition, after the expiration of which the President would have had the right solution to dissolve parliament and call early general elections. However, the leader of parliament did not officially announce the breakup of the coalition. Prime Minister Yatsenyuk was convinced that the coalition had ceased to exist; but a few hours after the announcement of *Samopomich*'s decision to leave, a move which seemed to be decisive for the fate of the coalition, the deputy speaker of parliament Andriy Parubiy reported that the coalition still had a majority, and there was no need to form a new one. Later it turned out that no-one knew exactly how large the coalition now is. On 22 February the parliament's administration stated that only the coalition possesses this kind of information. Independent calculations show that the coalition still has around 230 deputies, so there is no basis for its dissolution. The legal basis of this argument is presented in the Appendix.

Possibilities of resolving the crisis

Regardless of how many members the coalition formally has, the government does not have the support of the parliamentary majority, and the parliament is not capable of conducting effective legislative activity. In this situation, the announcement of early elections would seem like the natural solution. However, the polls show that it would be even harder for the new parliament to form a stable majority. Therefore, all the main political forces are afraid of early elections, because they are not prepared for them either politically, organisationally or financially. Support for Yatseniuk's Popular Front has fallen to 1-2%, and it is unrealistic to imagine it recovering its former levels of support (over 20%). The BPP is on the verge of a split, due to the internal rivalry of four groups: (1) those linked personally to Poroshenko (mainly representatives of business); (2) those who belonged to the former *UDAR* party (associated with Serhiy Lovochkin, an oligarch and politician who used to belong to the Party of Regions); (3) the group based around Yuriy Lutsenko, a faction chief, one of the leaders of the Orange Revolution of 2004, and the former head of the Interior Ministry; and (4) the 'post-Maidan' group, under the informal leadership of Mustafa Nayyem and Serhiy Leshchenko, young, pro-Western deputies and opinion formers. Friction and internal controversy are also to be found within *Samopomich*. The Opposition Bloc (heirs to the Party of Regions), whose support is rising, have still not become a full-fledged political party; the Rebirth party – set up during the current term of parliament and controlled by Ihor Kolomoyskiy, which is also composed of former 'regionals' but which often supported the Yatseniuk government – is likewise not ready to fight the election. Another great unknown for the time being lies in several new political projects, the most important of which are: (1) the anti-corruption movement led by Mikheil Saakashvili, (2) *Nash Kray*, a party which comprises selfgovernment bureaucrats loyal to Poroshenko and (3) another party created by Kolomoyskiy, *Ukrop*. Only Yulia Tymoshenko has been calling for early elections, because she knows that her party will make gains.

In the current situation, most of the players are in favour of postponing the early elections until the spring of 2017, or as a last resort to this autumn, although they understand that such elections are ultimately unavoidable (the elections are constitutionally scheduled to take place in October 2019). Therefore, all the actions taken in the next few months will be tactical, and their purpose will be to prepare for the elections, and not to respond to the challenges facing the country.

The most likely option seems to be a 'reconstruction' of the existing coalition by bringing back Lyashko's Radical Party into it, and an reshuffle of Yatseniuk's government, primarily by appointing a first deputy Prime Minister and an economy minister (posts left vacant after the resignation of Aivaras Abromavičius). One may expect these positions to be filled by people linked to the President, and the influence of the Prime Minister on the government will weaken. We may also assume that none of these steps will lead to a reduction in the influence of the oligarchs, and will make more difficult, if not even prevent, any substantial progress in reforming the economy and the institutions of the state.

Appendix

The *Verkhovna Rada* (parliament) of Ukraine nominally has 450 deputies, and in accordance with the Constitution, any vote (except for certain procedural issues) requires an absolute constitutional majority of the house, i.e. 226 votes. Because half of the deputies elected represent single-mandate constituencies, and the most recent elections could not be carried out in some of these districts, the actual number of MPs in the current legislative term is 421.

The notion that the ruling coalition, despite the departure of *Batkivshchyna* and *Samopomich* from its ranks, still retains its majority, has a strong legal basis, although this in turn may be based on a linguistic error in the constitutional regulation , which has its roots in the amendments of December 2004, which were passed in a great hurry. Article 83, part 6 of the Constitution of Ukraine states that in the parliament "there must be created a coalition of factions, the composition of which includes a majority of the deputies" – wherein the 'which' (singular in Ukrainian) refers to the coalition as a whole, and not the factions which make it up (which would require the use of the plural). This point has twice been the subject of judgements by the Constitutional Court of Ukraine. In accordance with the first, in 2008, the coalition can only consist of members of the factions within it; in accordance with the second, in 2010, it is permissible for deputies from outside the composition of these factions to participate in the coalition. This second opinion, as the latest, must be considered the valid interpretation of the constitutional regulation.

The coalition agreement currently in force (like the previous one) was signed not only by the heads of the factions, but also by each member individually. It was also signed at least five deputies who were not members of any faction (in early February there were 51 such MPs). Under this interpretation, signatures from deputies excluded from factions, or who had left them for other reasons (such as the leader of Parliament and his deputies, who by law may not be faction members) did not have to be withdrawn. There are now 19 such deputies (12 from the BPP, 6 from *Samopomich* and 1 from Yatseniuk's Popular Front). In this way, the coalition turns out to be much larger than the numbers making up the various factions would make it appear.