

PERMANENT INSTABILITY OF UKRAINE'S POLITICAL REGIME

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Introduction

An unambiguous assessment of the results of changes in the post-Communist political regime of Ukraine is hardly possible. The political system of this country has experienced both periods of democratic expectations and democratic setbacks during the last fifteen years. For example, in 1990-1994, before the first competitive parliamentary elections, there was a clear fragmentation among the old (communist) political elite in Ukraine; the country's first democratic constitution was adopted in 1996. However, after Leonid Kuchma was elected President in 1994, authoritarian tendencies gradually recrudesced, "oligarchic" clans took hold of the country's political system, and the elections were increasingly blatantly manipulated and rigged to the advantage of the ruling elite.

This cycle of political development recurred ten years later. Manipulations of the results of the 2004 presidential election raised a massive protest among the inhabitants of Ukraine, which was symbolically dubbed the "Orange Revolution". A new influx of democratic expectations forced the ruling elite to concede to re-running the second round of Ukraine's presidential election, which was won by the opposition. However, the political crisis which struck the new government in September 2005 and the mutual accusations of corruption raised by the former "revolutionary" comrades-in-arms – President Viktor Yushchenko and former Prime Minister Yuliya Tymoshenko – raised new questions regarding the vitality of the democratic forces in Ukraine.

The question is therefore whether the vacillation of Ukraine's political regime is not a regular, permanent condition.

This article will test the hypothesis that Ukraine's political regime is characterised by a zero-sum game situation, where two mutually incompatible factions of the political elite are competing in the country's political system.

Consequently, a relative advantage gained by one of the faction results in the push of the political system towards democracy, while a relative gain by the other group results in the temporary retroversion of democracy and the preponderance of authoritarian tendencies in the political system. Therefore, it may be suggested that neither democracy nor authoritarianism have long-term prospects in Ukraine and that the current political system of Ukraine should be viewed as a consolidated instability, i.e. as a permanent zero-sum game.

Theoretical model for analysis of the political development of Ukraine

Political regime change theories receive perhaps most criticisms for generally viewing the transformation of an authoritarian system into a democratic one as a linear process. For example, G. Sørensen claims that the democratic transition period is over when free elections take place and a new government is formed on their basis¹. Other authors, such as J.J. Linz and A. Stepan, claim that a system becomes democratic when free elections are organised in a country and the government formed in their result escapes from the shade of the so-called “authoritarian enclaves” – the interest groups (the military, etc.) inherited from the past². Moreover, there are those who believe that democracy prevails when a new (democratic) constitution is adopted by the country³.

All of these approaches are based on the premise that there is a clear point of departure (an authoritarian regime) and a final result (a democratic

¹ Sørensen, G. (1993): *Democracy and Democratisation*. Boulder, Westview Press, p. 40.

² Linz, J.J. and Stepan, A. (1997): “Toward Consolidated Democracies”, in *Consolidating the Third Wave Democracies*, ed. by L. Diamond, M.F. Plattner. London, John Hopkins University Press, p. 14.

³ See Shin, D.Ch. (1994): *On the Third Wave of Democratisation: A Synthesis and Evaluation of Recent Theory and Research*, in *World Politics* (47), p. 144; as well as Linz, J. J. (1994): “Presidential or Parliamentary Democracy: Does It Makes a Difference?”, in *The Failure of Presidential Democracy*, ed. by J.J. Linz and A. Valenzuela. Baltimore, John Hopkins University Press, pp. 3-87; Power, T.J. and Gasiorowski, M.J. (1997): “Institutional Design and Democratic Consolidation in the Third World”, in *Comparative Political Studies* 30(2), pp. 123-155.

system). Thus, even a partial liberalisation of an authoritarian regime is considered to be a progressive process⁴.

However, the experiences of Ukraine and other CIS countries (Russia, Belarus, the South Caucasian countries) show that free elections and a formally democratic constitution do not necessarily create a viable democratic system. Even consistent adherence to democratic procedures does not indicate consolidation of the liberal democracy in those countries.

Secondly, traditional political regime change theories focus mostly on the analysis of the behaviour of the main political actors (the political elite) and their decisions (agreements). The historical and structural conditions which have an impact on the development of a new political system (e.g. the level of economic development, institutional background, ethnic composition, etc.) are not taken into account. The post-Communist democratisation process is often viewed as the opening “window of opportunity” in a certain geographic area, which merely needs to be filled with a properly constructed democratic regime⁵. Some authors (for example, T.L. Karl) even argue that democracy itself creates the conditions for its continuity⁶. This approach has often determined unreasonably optimistic findings about the prospects of democratic development in post-Communist countries.

Thirdly, the analysis of elites and their agreements is sufficiently developed in political transformation theories but the democratic consolidation stage is neglected. It remains unclear why and when democracy becomes (or doesn't become) a viable political process – “the only game in town”⁷. Theoreticians fail to provide arguments that would enable accurate determination of when the old political regime (or the political elite groups representing it) accepts the new political system and the reasons or conditions for this.

These “defects” must be corrected. First, political transformation theories should have a shared concept of democracy, irrespective of the number or type

⁴ See Carothers, T. (2002): “The End of Transition Paradigm?”, in *Journal of Democracy* 13(1), pp. 6-7.

⁵ See Sørensen, C. (1996): *Social Classes and Democracy: Different Trajectories*. Aarhus, Department of Political Science, University of Aarhus, p. 2.

⁶ Karl, T.L. (1990): “Dilemmas of Democratisation in Latin America”, in *Comparative Politics* 23(1), pp. 1-21.

⁷ Linz, J.J. and Stepan, A. (1997): *op. cit.*, p. 15.

of the stages of democratisation distinguished. The experience of post-Communist countries shows that formal procedural democratic criteria are insufficient in order to characterise a political system as democratic. For example, a self-proclaimed democracy may hold regular competitive elections open to all political forces but ignore or manipulate popular expectations. This illusion of a democracy may be created using very subtle methods, mostly by utilising the “administrative resources” of the ruling party (raising salaries, subsidising loss-making public enterprises, usurping the attention of the media, etc.).

Another example – the formal “rules of the game” in post-Communist countries are often accompanied by the unwritten (informal) ones (personal relations between politicians and businessmen, employees’ fear of resisting dubious instructions from managers, various corruption schemes, etc.).⁸ These unwritten rules are sometimes even more influential than the laws officially in place. Therefore, in examining political regime changes in post-Communist countries, the democratic achievements should not be evaluated only on the basis of the formal, procedural criteria.

It cannot be excluded that a political system may get “stuck” in the transitional stage (neither democratic, nor authoritarian) after holding the initial democratic elections and adopting a new constitution. In other words, the collapse of an authoritarian regime and the appearance of democratic procedures do not necessarily indicate a positive process. Instead of a liberal democracy, a “controlled” or some other version of “democracy” may be entrenched and this may not be a transitory phenomenon.

In order to explain the conditions of democratic consolidation, an assumption should probably be made that the behaviour of political elite factions competing in the political system is always rational and self-interested, i.e. that they are seeking to maximise their influence on political decisions in every way possible. Whether or not democracy will become “the only game in town” depends on whether the democratic “rules of the game” are acceptable to the political elite functioning in the political system⁹. Following this

⁸ See Gel'man, V. (2003): “Post-Soviet Transitions and Democratisation: Towards Theory Building”, in *Democratisation* 10(2), pp. 89-91.

⁹ See Clark, T.D. (2002): *Beyond Post-Communist Studies: Political Science and the New Democracies of Europe*. Armonk, New York, M.E. Sharpe, Inc., p. 67.

assumption, it may be argued that the democratic form of political regime may be replaced by any other (“transitional”) one as “the only game in town”, if it is advantageous for the political elite functioning in that system.

L.G. Field, J. Higley and M. Burton distinguish three ideal types of the political elite structure which, correspondingly, condition the final form of a political system¹⁰:

- 1) Consensually unified elite – a pluralist elite structure when there is no political elite faction dominating the system. Political groups communicate with each other, negotiate and agree upon the fundamental principles of state government (the rules of the political game). Political competition in such a system is understood as a positive-sum game and political decisions are made by means of compromises. According to the authors, this elite configuration determines the establishment of a stable democratic political regime.
- 2) Disunified elite – political elite structure when two elite factions of comparatively equal influence are competing against each other, communication between them is limited or absent, and mutual trust and common agreements are virtually impossible. Disagreeing about the “rules of the game” and the weight of institutions in the political system, competing groups use them as an instrument of political fight, while the political fight is perceived as a zero-sum game. According to the authors, this configuration facilitates the establishment of an unstable political regime, which may be democratic but very fragile. Even formal agreement regarding the “rules of the game” cannot ensure that the competing elite factions will follow them, which increases the risk of the failure of democracy.

¹⁰ Field, G.L., Higley, J., and Burton, M.G. (1997): “National Elite Configurations and Transition to Democracy” (excerpts from “A New Elite Framework for Political Sociology”, in *Revue Européenne des Sciences Sociales* 28 (1990): 149-182), in *Classes and Elites in Democracy and Democratization (A Collection of Readings)*, ed. by E. Etzioni-Halevy. New York and London, Garland Publishing, Inc., p. 176, 179.

- 3) Ideologically unified elite – ideological and systemic domination of a single elite faction. The ruling elite controls all government institutions and uses this influence to “reward” or “punish” the incomparably weaker political elite groups for their ideological (dis)loyalty. In this case, the formal “rules of the game” are usually ignored and, thereby, the conditions for the establishment of an undemocratic regime are created.

According to T. Clark, democratic consolidation requires two preconditions: clear formal “rules of the game” (the rule of law) and an abundance of competing political forces in the system, so that political outcomes are not known in advance¹¹. Thus, a system which lacks clear rules on how elites should compete against each other and in which the number of competing political groups is limited, may not be called democratic.

It must also be taken into account that political elite factions will seek to maximise political influence:

- by attempting to reduce the number of actual political competitors;
- by changing the “rules of the game” to their own advantage.

In this case, this includes both formal and informal “rules of the game” which are often tightly interrelated in post-Communist countries, as has already been mentioned.

In order to apply the said model with two variables (elite structure and the “rules of the game”) to the analysis of countries like Ukraine, it must be supplemented with some elements that are characteristic to the post-Communist space.

- 1) Two subtypes should be distinguished in the consensually unified political elite structure: one, in which the influence of all competing political elite groups is more or less equal, and another, in which there are more than two competing elite factions that agree upon the fundamental principles of the functioning of the system but in which one of them is comparatively stronger than the others. In the second case, there is a higher possibility that the dominant elite faction will seek to impose its own “rules of the game” but this threat may not necessarily materialise.

¹¹ Ibid.

- 2) The analysis of the development of post-Communist political systems may not be limited by the quantitative (the number of competing factions, etc.) or qualitative (the ability of elite groups to communicate and agree upon the “rules of the game”, etc.) studies of elite structures. It is also necessary to study elite “arrangements” regarding the distribution of influence in the political system. As mentioned, the informal “rules of the game” that exist alongside the formal ones in post-Communist systems significantly expand the choices of action available to elites and create additional incentives to maximise their influence.
- 3) The elite structure and “rules of the game” model should be supplemented with the third variable – the analysis of the external mobilisation strategies of elites seeking to increase their influence in the political system. As the experience of post-Communist countries indicates, elite configuration in transitional period systems is unstable. It may be fundamentally changed following one of two mobilisation strategies:
 - by making an alliance with business (for example, the “loans-for-shares” deal made with big business before the 1996 presidential election strengthened the positions of Russia’s “liberals” and enabled B. Yeltsin to remain in power);
 - by mobilising the society (actually, the “masses”) irrespective of its economic, ethnic or cultural structure for the fight against real or imagined flaws of the political system (for example, during the 2003 Lithuanian presidential election, R. Paksas mobilised the mass support in Lithuania to fight against the “corrupt elites” which had allegedly lost the confidence of the people).

It must be emphasised that successful implementation of a strategy of mobilisation may have crucial influence on further development of a political system: the consensually unified, pluralist elite structure may transform into a system dominated by one or two groups and characterised by a higher degree of pressure and mutual mistrust. This leads to more favourable conditions for non-democratic consolidation.

Business and (or) mass mobilisation strategies are also used in Western countries but in the post-Communist system they encounter an entirely different

social environment. For example, since political and economic reforms are concurrent in post-Communist countries, business structures often function not as autonomous power centres but as political influence agents related to politicians and dependent on their protection. This leads to the establishment of long-term relations between businesses and politicians (usually those who were in power when the reforms began). This in turn reduces other elite groups' chances of competing in the political arena.

Correspondingly, the level of political organisation of the working class determines the effectiveness of the mass mobilisation strategy. In Western democracies, the large working class capable of protecting its social and economic interests forms the structural foundations of a stable democratic system¹². However, while this class is particularly large in post-Communist countries due to the intensive industrialisation implemented during the Communist times, it is poorly organised, under-represented (because of the weak tradition of party representation) and often disenchanted with the results of democratic reforms. This creates good conditions for other (non-leftist) political groups to organise mass movements that are essentially incompatible with the establishment of a stable democracy.

Upon systematising these three variables – the political elite structure, the “rules of the game”, and the mobilisation strategies of elites – into one model, we obtain at least four possible outcomes of transition from an authoritarian to a democratic system: (1) democracy; (2) “democracy with adjectives”; (3) a zero-sum game; and (4) authoritarianism.

The first option – democracy – is understood as an evolution of a post-Communist regime into a real, i.e. not just procedural, democratic political system. The second one – “democracy with adjectives” (this term is used by D. Collier and S. Levitsky¹³) – includes all formally democratic regimes that nevertheless fall short of the full implementation of all the political rights and civic liberties. The third option – zero-sum game – is distinguished as an independent trajectory of the transformation of a post-Communist political regime in which there is constant balancing between a procedural democracy and an

¹² Rueschemeyer, D., Huber Stephens, E., and Stephens, J.D. (1992): *Capitalist Development and Democracy*. Chicago, IL, University of Chicago Press, pp. 58, 270-273.

¹³ *Ibid.*

authoritarian regime. This balancing may be “chronic”, long-term, and have its internal dynamics. The fourth option – authoritarianism – is understood as the evolution of a post-Communist political regime into a condition in which even the procedural requirements of a democracy are no longer followed.

All four post-Communist political regime change scenarios distinguished in Scheme 1 describe separate models of interrelations between three variables – the elite structure, the “rules of the game”, and the strategies of mobilisation. Thus, in contrast to the traditional political transformation theories, not only democracy and authoritarianism may be “consolidated” political regimes (i.e. relatively stable, unquestioned by either individual political forces or the society) but also “democracy with adjectives” and zero-sum game which were previously considered to be transitional (see Scheme 1).

On the other hand, none of the four above-mentioned scenarios may be considered fully completed because political regime change is a continuous process and the so-called “consolidation” denotes nothing more than a longer-term equilibrium in the political system, which may be upset as a result of changes in the elite structure and the “rules of the game” or upon implementing new strategies of external mobilisation.

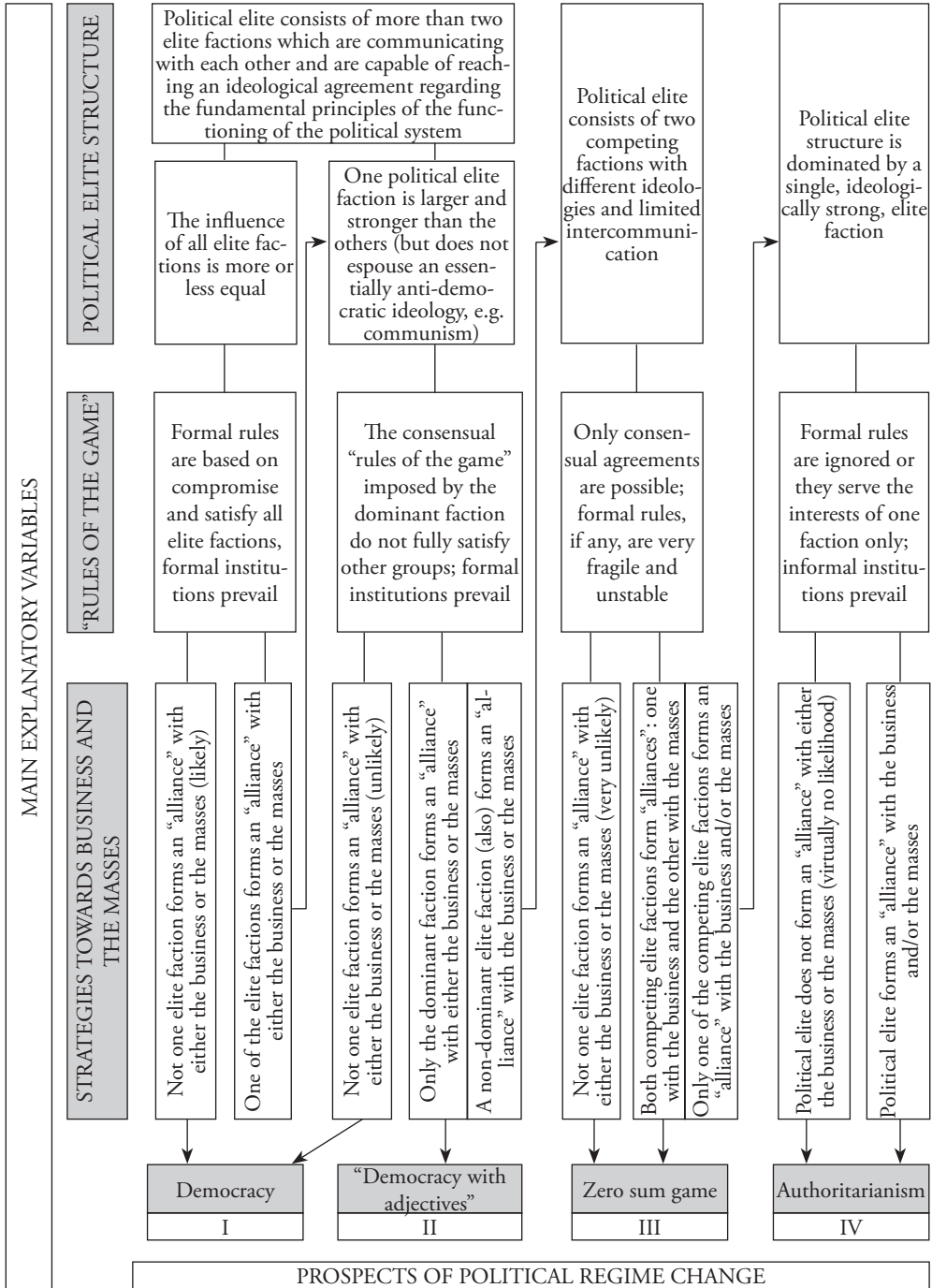
The following variables must be distinguished in seeking to apply this model to the Ukrainian case:

- 1) The structure of Ukraine’s political elite¹⁴ in the early post-Communist period (the number of effective political elite groups, i.e. those organised groups that are realistically competing for political influence, their ideological differences, etc.)¹⁵ and changes in this structure after each parliamentary election;

¹⁴ This article takes a formalised approach to the “political elite”, i.e. its members are individuals or their groups that control state government organisations (the organisational resources of the state government and public support (political resources) – see Etzioni-Halevy, E. (1997): *op. cit.*, p. xxv.

¹⁵ It should be noted that, according to the elite structure concept of L.G. Field, J. Higley and M. Burton, which is basically accepted in this article (with certain additions), the structure of the political elite is not and should not be considered to be identical with the party system. The structure of the political elite is conceived as consisting of relatively independent, unique ideological factions, which may be represented by one or more ideologically similar parties.

Scheme 1. Prospects of post-Communist political regime change



- 2) The “rules of the game” which were agreed upon by political elites for the distribution of influence in the political system. It is considered that the formal rules are set by the Constitution and other laws regulating the access to power and its distribution, while the informal rules are tentatively defined by the political elites’ opportunities to exercise indirect power (government share in the economy, government control of the media, the course of public service reforms, etc.);
- 3) The incentive created by the “rules of the game” for the competing political elite groups to seek “external” support of business or the masses (the instances of the use of such mobilisation strategies and their effectiveness).

Other parts of this article will also examine the structural characteristics of Ukraine which limit (facilitate) political elites’ opportunities to gather business and mass support and influence the establishment of one or another type of political regime.

Political elite of Ukraine and its changes

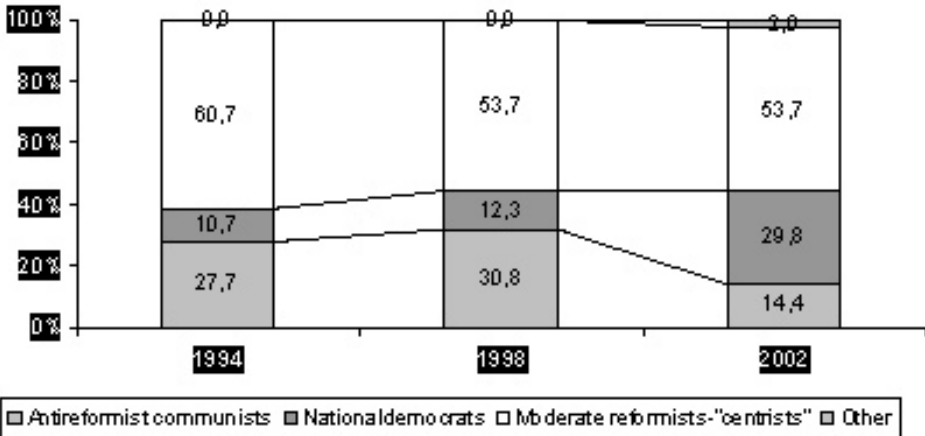
Although Ukraine formally declared its independence only on August 24, 1991, i.e. after the failed Soviet Putsch, the Communist Party lost its power monopoly much earlier. The reforms initiated by the General Secretary of the CPSU M. Gorbachev in 1985 prompted the creation of various informal groups and movements aiming at political changes, greater autonomy of the Soviet Union’s republics, partial liberalisation of the economy, etc. These so-called “democrats” received approximately 25-30 per cent of seats in the first partially competitive parliamentary elections in 1990¹⁶. Thus, already in 1990 there emerged a somewhat chaotic but essentially bipolar political elite structure of “democrats” and Communists. The exact identification of individual political factions and their relative weight in the political elite structure of Ukraine in 1990-1994 (before the first parliamentary elections after the declaration of independence) is difficult for several reasons:

¹⁶ Wolczuk, K. (2001): *The Moulding of Ukraine: The Constitutional Politics of State Formation*. Budapest, CEU Press, p. 67.

- 1) Most of the so-called “democrats” did not discontinue formal membership in the Communist Party. Prior to the 1994 parliamentary election, eighty-five per cent of all elected deputies of the Supreme Council were formally members of the Communist Party, even though approximately one-third of them identified themselves as “democrats”¹⁷;
- 2) When Ukraine became an independent state, the Communist Party was fragmented and its former members joined not only the “democrats” but also the emerging “camp” of the political forces of the centre;
- 3) With the collapse of the Soviet Union, the so-called “democrats” of Ukraine gradually transformed into several rather radical nationalist movements that gave priority to securing independence from Russia, rather than the development of the democratic political system in Ukraine¹⁸.

Thus, prior to the election of the Verkhovna Rada in 1994, three relatively independent ideological segments may be distinguished in the structure of Ukraine’s political elite: 1) the Communists, who were speaking out against reforms and against the independence of Ukraine; 2) the “centrists”, who were seeking limited economic and political reforms; and 3) the nationalists, who considered themselves to be “democrats”.

Diagram 1. Changes in the political elite structure of post-Communist Ukraine



¹⁷ Ibid.

¹⁸ For more on this see *ibid.*, pp. 105-107.

Diagram 1 (see also Appendix 1) presents the changes in the relative influence of the said factions in the political system of Ukraine after the declaration of independence, i.e. after the Verkhovna Rada elections of 1994, 1998 and 2002:

Perhaps the most problematic in terms of political integrity and the affinity of views is the ideological faction of moderate reformists-“centrists” distinguished in Diagram 1. This group includes not only those Ukrainian political parties that promoted moderate reforms (for example, the Labour Party and the Social-Democratic Party) but also all the independent deputies of the Verkhovna Rada, as well as political parties that are called “oligarchic” (the Green Party, Ukraine’s Social Democratic Party (United), the Labour Ukraine, the Regional Revival Party, and others)¹⁹. Although this faction has always been very diverse and divided, it consciously avoided identifying with the left-wing (Communists) or the right-wing (nationalists). The “centrists” showed their power in 1996 when only the active mediation of the leader of the Socialist Party O. Moroz managed to reconcile the radically divergent views regarding the Constitution of Ukraine²⁰. True, the role of the Socialists in the centre faction was significantly reduced as the centre of the political spectrum was occupied by the so-called oligarchic parties – political structures founded and financed by big businessmen of the country which were very successful in the 1998 election of the Verkhovna Rada.

As indicated in Diagram 1, until 1998 Ukraine’s political elite structure could be characterised as pluralistic, with one dominant (centrist) faction, which at that time controlled approximately 3/5 of the seats in the Verkhovna Rada. This political elite structure was favourable for the establishment of the second option of post-Communist political regime changes – “democracy with adjectives” (see Scheme 1).

¹⁹ For more about “oligarchic” political parties in Ukraine and the attempts of business clans to participate in the political decision-making process directly, especially after the 1998 election of the Verkhovna Rada, see Puglisi, R. (2003): “The Rise of the Ukrainian Oligarchs”, in *Democratisation* 10(3), pp. 108-115; see also Åslund, A. (2003): “Left Behind: Ukraine’s Uncertain Transformation”, in *National Interest* (73), pp. 109-110.

²⁰ For more on this, see Wolczuk, K. (2001): *Op. cit.*, pp. 204-206.

It must be noted that, although the Communist ideology is essentially incompatible with the principles of the functioning of a democratic political system, this party could not yet be viewed as anti-systemic in 1994 because the rules defining the system (the Constitution) were approved only in 1996. There could have not been any anti-systemic forces before the creation of the system. However, after the Constitution was adopted, Ukraine's Communists who promoted the restoration of the USSR and state (or collective) property became an anti-systemic group, with which it was not possible to reach an agreement regarding the basic principles of the functioning of the state government and political system. Therefore, after the 1998 parliamentary election, the structure of Ukraine's political elites transformed from a pluralistic system with one dominant faction to a competitive system of two elite groups – nationaldemocrats and “centrists”, in which the former had a much stronger position (53.7 per cent and 12.3 per cent of votes respectively). This structure is favourable for the zero-sum game option (see Scheme 1). Even if we excluded the Socialists or distinguished them as a separate group, their votes (7.6 per cent) would not be sufficient for a significant change of the established equilibrium of political power.

As indicated in Diagram 1, the situation in the Ukrainian parliament remained essentially the same after the 2002 elections, only the power of the nationaldemocratic wing was further strengthened (from 12.3 per cent to 29.8 per cent of seats in the Verkhovna Rada). This indicates a clear tendency of Ukraine's political system to follow the scenario of the zero-sum game.

Formal “rules of the game”: permanent instability

In comparison to other post-Communist countries, the process of the creation of basic formal rules was rather protracted in Ukraine: the new Constitution was adopted only in 1996. The influence of political elite groups prior to this was determined by a host of random factors (the political conjuncture, the ambitions of leaders, etc.). In 1991-1996 five drafts of Ukrainian Constitution were discussed which included various modifications of the semi-presidential or presidential system²¹. Compromise versions of the distribution of political influence were not discussed at all. From the formal point of view, the institutional framework established in the 1996 Constitution may

be described as a semi-presidential system with quite extensive presidential powers²². The President appoints the Prime Minister with the consent of the Verkhovna Rada, decides on the candidacies of other ministers, has the sole right to dismiss the Cabinet of Ministers, and possesses wide rights in legislation and the appointment of other officials²³.

However, despite the long process of the adoption of the Constitution, the strength of its provisions remains questionable. Individual political elite factions were initiating constitutional amendments in practically every term of the Verkhovna Rada and attempted to evade the agreed rules. For example, in late 1999, when the Verkhovna Rada rejected the candidacy of the Prime Minister put forward by President L. Kuchma, who was representing the “centrist” faction, Kuchma declared that “a parliament that is not capable of forming a majority has no use at all”²⁴. Supported by oligarchic parties, the President initiated a referendum on the expansion of the presidential powers²⁵. However, in summer 2002, after the parliamentary elections, Kuchma began proposing entirely different constitutional amendments which would significantly limit the presidential powers and strengthen the Prime Minister’s authority²⁶.

The position of the nationaldemocrats – the competing political elite faction – regarding the basic “rules of the game” defining the principles of the separation of powers was equally inconsistent. For example, in spring 2004, Y. Tymoshenko’s party “Fatherland” and V. Yushchenko’s “Our Ukraine” boycotted the second vote in the Verkhovna Rada regarding the constitutional amendments proposed by Kuchma (limiting the presidential powers) because

²¹ See Matsuzato, K. (2005): “Semipresidentialism in Ukraine: Institutional Centrist in Rampant Clan Politics”, http://www.findarticles.com/p/articles/mi_qa3996/is_200501/ai_n13640822

²² See Elgie, R. (2004): “Semi Presidentialism: Concepts, Consequences and Contesting Explanations”, in *Political Studies Review* (2), p. 317, 325.

²³ Constitution of Ukraine (1996), <http://www.rada.kiev.ua/const/conengl.htm>

²⁴ Wolczuk, K. (2001): *op. cit.*, p. 272.

²⁵ *Ibid*, pp. 272-277.

²⁶ More on this in Protsyk, O. (2003): “Troubled Semi-Presidentialism: Stability of the Constitutional System and Cabinet in Ukraine”, in *Europe-Asia Studies* 55(7), pp. 1087, 1090-1091; Matsuzato, K. (2005): *op. cit.*

they expected Yushchenko's victory in the 2004 election²⁷. However, during the political crisis at the end of 2004 the nationaldemocrats agreed to the constitutional amendments proposed by Kuchma in exchange for the re-run of the second round of the presidential elections²⁸. In mid-2005, opinions were split inside the nationaldemocratic camp: "Our Ukraine", which supported Yushchenko, who had become the president, decided to initiate the suspension of the said constitutional amendments²⁹, and the former political comrade Tymoshenko, who was seeking the Prime Minister's post, became a very active proponent of constitutional reform.

The inability of Ukraine's political elites to agree upon the permanent formal "rules of the game" is also manifested in the area of the regulation of the election system, i.e. access to power. In this regard, the rules were also constantly changing. In 1994, the Supreme Council was still elected according to the Soviet system – all 450 members were elected in single mandate districts, where they had to collect at least 50 per cent of all the votes at the attendance of at least 50 per cent of all voters. In 1998, the Verkhovna Rada was already elected according to a mixed election system, applying a four per cent barrier to the political parties. Later, the nationaldemocrats negotiated, in exchange for their support for the constitutional amendments proposed by Kuchma, that beginning in 2006 the Verkhovna Rada would be elected

²⁷ See Ukraine: Verkhovna Rada Fails to Pass Constitutional-Reform Bill (RFE/RL Reports), <http://www.rferl.org/reports/pbureport/2004/04/13-130404.asp>; Pogrebinsky, M. (2004): "Constitutional Reform and Presidential Elections in Ukraine", <http://www.analitik.org.ua/eng/publications/pogrebinsky/40a0d3719795d/>.

²⁸ See European Commission for Democracy through Law (Venice Commission). Opinion on the Amendments to the Constitution of Ukraine Adopted on 8.12.2004, Adopted by the Commission at its 63rd Plenary Session (Venice, 10-11 June 2005), [http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)015-e.pdf](http://www.venice.coe.int/docs/2005/CDL-AD(2005)015-e.pdf)

²⁹ Sidorenko, S., Strokan, S. (2005): "Yushchenko Has Nothing to Change", in *Komersant* (137), p. 9, <http://www6.lexisnexis.com/publisher/EndUser?Action=UserDisplayFullDocument&orgId=574&topicId=100009214&docId=1:310757648&start=34>; Ukrainian Ex-Premier Breaks up with President, <http://eng.maidanua.org/node/397>

according to the proportional election system, applying a three per cent barrier of minimal representation³⁰. However, after the “Orange Revolution”, the nationaldemocrats (and especially “Our Ukraine”) began proposing to raise the minimum representation barrier up to seven per cent. True, these proposals were dropped with the political crisis inside this elite faction.

Informal “rules of the game”: an enviable stability

The following main areas may be distinguished in examining the possibilities for the flourishing of informal “rules of the game” in Ukraine:

1) the dynamics of government intervention in the economy (the less property is owned by the state and the less the government consumes the goods and services created by the private sector, the fewer the opportunities for political elites to take advantage of the resources of public enterprises and seek the support of private business in exchange for government contracts). Privatisation was launched comparatively late in Ukraine (around 1994) and proceeded at a much slower pace than in most other post-Communist countries (Russia, Lithuania, and elsewhere). Thus, the government’s role in the economy (income from property directly owned by the government) remained rather significant even a decade after the declaration of independence. For example, in 2004 the Ukrainian government’s income from privatisation of property was larger than at any other time during the country’s independence³¹. The intention of the nationaldemocrats to review the privatisation deals made during the period of Kuchma’s rule suggests that the government’s withdrawal from the economy will remain slow in Ukraine in the future as well. According to the *World Heritage Foundation*, the government was most actively involved in the economic processes in 1999-2002 (when the “centrist” faction was clearly dominant) and later its role was constantly decreasing (see Table 1). However, even in 2005, government income from

³⁰ See Maksymiuk, J. (2004): “Analysis: Verkhovna Rada Moves Proportional Election Law”, in *The Ukrainian Weekly* 11(LXXII), <http://www.ukrweekly.com/Archive/2004/110405.shtml>

³¹ Martynenko, D. (2005): “Privatisation Programme for 2004-2006: What to Expect in the Coming Years.”, <http://www.pwcglobal.com/extweb/pwcpublications.nsf/docid/B854A29C76A0D72080256F6D004CB0E0>

property owned and other state property remained comparatively large and still comprises approximately eight per cent of the GDP.

Table 1. Government Intervention in the Economy: Ukraine, 1995-2005

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Ukraine	4.0	4.0	4.0	4.0	5.0	5.0	5.0	5.0	3.0	3.0	2.5
In comparison to:											
Lithuania	-	2.5	2.0	2.5	2.0	2.0	2.5	2.5	2.0	2.5	2.0
Latvia	-	3.0	2.5	2.5	2.5	2.5	2.5	2.0	2.0	2.5	2.5
Estonia	3.0	2.0	2.5	4.0	3.0	2.5	2.5	2.5	2.5	2.0	2.0
Poland	4.0	4.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0

Source: prepared according to the assessment of the *World Heritage Foundation* – see World Heritage Foundation, Index of Economic Freedom, <http://www.heritage.org/research/features/index/search.cfm>

Notes: *World Heritage Foundation* determines the economic freedom in any country of the world on the basis of 10 factors, one of which is the Government Intervention in the Economy presented in this table (see W.W. Beach, M.A. Miles, “Explaining the Factors of the Index of Economic Freedom”, *World Heritage Foundation*, <http://www.heritage.org/research/features/index/search.cfm>). The grading scale of each factor may run from 1 to 5, where 1 signifies the best situation according to a certain indicator, while 5 signifies the worst. The factor Government Intervention in the Economy is determined with regard to two objective criteria: 1) the level of government consumption (as a percentage of the GDP), and 2) government revenues from state-owned enterprises and other property owned by the government (as a percentage of the GDP). Possible values of this factor (Government Intervention in the Economy): 1 – government revenues from public enterprises and other government-owned property comprise less than five per cent of the GDP; 2 – 5%-10% of the GDP; 3 – 10%-20% of the GDP; 4 – 20%-40% of the GDP; 5 – more than 40% of the GDP.

2) The reduction of government monopoly of the media and the tendencies in the area of media control (the less media outlets are owned by the government and the less the government controls it, the fewer opportunities for the political elites to manipulate the information provided by the media and thereby increase its influence in the political system). Laws that prohibit censorship and guarantee freedom of speech, etc. were passed during the first

years of independence and there seems to be an agreement that they fully meet the requirements posed for a democratic country³². During the first years of independence in Ukraine, as in other post-Communist countries, there was a noticeable spread of periodicals that were not controlled by the state. However, most of them did not withstand competition and only a few kept a regular large circulation. In 1996-1998, the publication of virtually all national daily newspapers was taken over by the so-called “oligarchs” – leaders of the big business clans of Ukraine occupying the leading posts in the political parties established by them, as well as in some government institutions³³.

The privatisation of the main TV channels in Ukraine was launched only in 1996; however, three out of the four national channels (“Studio 1+1”, “Inter” and ICTV) became private in 1998. On the other hand, although the government formally withdrew from the media, TV channels (as well as largest newspapers) were acquired by “oligarchs” that were closely related to Kuchma³⁴.

Therefore, the government’s ability to control the media in Ukraine is directly dependent on which political elite faction dominates the political system in any given period. For example, during Kuchma’s rule (1994-2004), the national media of the country was totally controlled either directly or through the owners of the media who belonged to his political group. Moreover, the journalists or media outlets criticising the regime were often subject to various repressions (inspections, seizures of accounts, physical attacks against journalists, impediments of normal activities, etc.)³⁵. The case of journalist

³² Wächter, E. (2001): ‘Truth’ and ‘Politics’ – The Mass Media in Independent Ukraine 1991-2001, <http://www.ferkel.co.uk/pub/dissertation.html#Developments>

³³ Ibid.

³⁴ Ibid.

³⁵ For example, during the presidential election crisis in 2004, journalists of the Channel 5, which broadcast for the audiences of Kiev and other larger cities of the Ukraine and was the only channel that did not support the political elite faction of “oligarchs”-“centrists”, were beaten several times, their cameras were taken, the TV headquarters were set on fire, accounts were arrested, etc. See Press Freedom Barometer for October 2004, <http://eng.imi.org.ua/barometr/october.html>, as well as Diuk, N. and Gongadze, M. (2002): “Post-Election Blues in Ukraine”, in *Journal of Democracy* 13(4), p. 165.

G. Gongadze, who was murdered in 2000, allegedly for the constant criticisms of Kuchma in the internet newspaper “Ukrainska Pravda”, had a particularly wide resonance.

When the nationaldemocratic faction acquired relative superiority in the political system of Ukraine in 2004, the government lost control over the main media outlets. However, the media did not become either independent or unbiased – there were simply more criticisms towards the authorities, which had been virtually absent during Kuchma’s rule. Moreover, the public declarations concerning the work of the media, direct addresses and a certain political pressure on the national television of the nationaldemocrats demonstrated that their understanding of the relations between the government and the media were hardly different from those of the previous regime³⁶. For example, in 2005 the Channel 5 conveniently became the property of a representative of the nationaldemocratic faction and a close associate of Yushchenko – P. Poroshenko.

According to Freedomhouse, Ukraine had a “partly free” media in 1994-2002 but experienced consistent degradation in this area between 1997 and 2004 and was even assigned to the group of “non-free” countries in 2003-2004. The situation somewhat improved in 2005 but the country still balances on the verge of “non-free” media (see Table 2).

Table 2. Freedom of the Press in Ukraine, 1994-2005

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Ukraine	44	42	39	49	49	50	60	60	60	67	68	59
In comparison to:												
Lithuania	30	29	25	20	17	18	20	20	19	18	18	18
Latvia	29	29	21	21	21	21	24	24	19	18	17	17
Estonia	28	25	24	22	20	20	20	20	18	17	17	17
Poland	30	29	21	27	25	25	19	19	18	18	19	20

³⁶ Maksymiuk, J. (2005): “Ukrainian Government Sends Mixed Signals over Media”, Radio Free Europe/Radio Liberty 17/03/05, http://www.coe.int/T/E/Human_Rights/media/1_Intergovernmental_Co-operation/Min_Conf/MediaCoverage_en.asp

Sources: Freedomhouse (2005): Freedom of the Press 2005: A Global Survey of Media Independence, p. 12-13, <http://www.freedomhouse.org/research/pressurvey/fop05.pdf>; Freedomhouse (2004): Press Freedom Rankings 1994-2004 in Excel Format, <http://www.freedomhouse.org/research/pfsratings.xls>

Notes: Following the methodology of *Freedomhouse*, the opportunities for the functioning of independent media in every country are graded on the scale of 1 to 100. Countries that score 1-30 are considered to have “free” media, 31-60 – “partly free”, and 61-100 – do not have free media. See Freedomhouse (2005): Freedom of the Press, Survey Methodology, <http://www.freedomhouse.org/research/pressurvey/methodology2005.pdf>.

3) The civil service reform and local self-government (political elites have more informal opportunities to accumulate power in the system in those post-Communist countries that did not carry out civil service reforms and did not ensure the local self-government). The civil service reform has been and continues to be the most “neglected” area of state government in Ukraine. In 1994-1999, the administrative apparatus of the state swelled from 146,000 to 181,000 employees, and its maintenance cost – from 1.5 per cent of the GDP in 1996 to 3.1 per cent of the GDP in 1999. However, the social welfare of the inhabitants deteriorated in the same period, and potential investors usually point out that the biggest handicap of Ukraine is the exceedingly complex tax system, a multitude of controlling institutions, the corruption of bureaucrats, etc.³⁷ This reveals the huge problems of the unreformed civil service.

The first initiatives to begin the civil service reform in Ukraine appeared in 1997, when the concept of administrative reform was approved. However, as the 1998 election of the Verkhovna Rada and the 1999 presidential election approached there was a lack of political will and other resources to implement this reform. True, President Kuchma subsequently issued several

³⁷ See The Ukrainian Centre for Economic and Political Studies Named after Olexander Razumkov (2000): Administrative Reform in Ukraine: Will the Closed Circle Be Broken? (Analytical Report), pp. 4-5, 10, http://www.uceps.org/additional/analytical_report_NSD5_eng.pdf; see also Krawchenko, B. (1997): Administrative Reform in Ukraine: Setting the Agenda (Discussion Papers, No. 3). Budapest, Local Government and Public Service Reform Initiative, pp. 5-7, 14.

decrees aimed at rationalising the work of the executive and the structure of administrative institutions of the state but these initiatives contradicted what is considered as a model of unbiased, competent bureaucracy in the West. For example, the positions of deputy ministers were abolished in the ministries in 2001 and state secretaries were appointed in their place, which were supposedly entrusted with the co-ordination of the entire technical administrative work of each ministry. However, since these officials were appointed directly by the President, this innovation only further increased the subordination of the civil service to the ruling political elite³⁸.

The resolve to depoliticise the civil service and create local self-government at the communal and the regional levels was demonstrated by the nationaldemocrats after the 2004 presidential elections – the position of extraordinary Deputy Prime Minister for the civil service and territorial-administrative reform was created within the Cabinet of Ministers³⁹. However, these reforms are opposed by many political forces of Ukraine (including Tymoshenko's "Fatherland") who are afraid of losing the support of the inhabitants of the regions and the local authorities, which was up to now earned to a large extent by the specially awarded government subsidies and other measures. Thus, the future of the civil service reform and local self-government remains uncertain in Ukraine.

4) The reform of the court system and the resilience of the court system to the pressure of other branches of the government (the more reformed and relatively independent the court system, the fewer opportunities for the political elites to abuse the judicial process in order to increase their influence in the political system). The implementation of the court system reform in Ukraine was started in 2001-2002 when the Verkhovna Rada passed several laws (the "minor court reform" package) which aimed at increasing the independence of courts from the executive branch, creating courts with different competences for the examination of different cases, changing the procedures

³⁸ More on this in Kutuev, P. (2003): "Administrative Reform and Presidential Power in Ukraine", in *Russia and Eurasia Review* 2(13), http://www.jamestown.org/publications_details.php?volume_id=16&issue_id=625&article_id=4537

³⁹ Lyman, Y. (2005): "Special Vice-Premier or 100 Days of Roman Bezsmertnyi", <http://www.razom.org.ua/en/news/6488/>

for the appointment of court chairmen, etc.⁴⁰ However, although the judges of local courts were granted the right to elect their own court chairmen, their appointment remained with the Ministry of Justice (in 2004). International human rights organisations criticise Ukraine for the expansive rights accorded to the Prosecutor's Office⁴¹.

According to the assessment of international experts, Ukraine's court system is particularly corrupt and non-resistant to outside influences, including government institutions⁴². In comparing property rights protection and the resistance of courts to corruption in individual countries, the *World Heritage Foundation* found that there was no progress in Ukraine even after the "minor reform" in 2001-2002 (see Table 3):

Table 3. Assessment of the Effectiveness of Property Rights Protection: Ukraine, 1995-2005

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Ukraine	4.0	4.0	3.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
In comparison to:											
Lithuania	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Latvia	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Estonia	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Poland	3.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	3.0	3.0

Source: prepared according to the assessment of the *World Heritage Foundation* – see World Heritage Foundation, Index of Economic Freedom, <http://www.heritage.org/research/features/index/search.cfm>

⁴⁰ Commission of the European Communities (2004): Country Report: Ukraine (Commission Staff Working Paper, European Neighbourhood Policy), p. 7, http://europa.eu.int/comm/world/enp/pdf/country/Ukraine_11_May_EN.pdf

⁴¹ Ibid.

⁴² See Central and East European Law Initiative (2002): Judicial Reform Index for Ukraine, p. 26-27, <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN017578.pdf>; Freedomhouse (2005): Nations in Transit: Ukraine, pp. 19-22, <http://www.freedomhouse.org/research/nattransit/2005/ukraine2005.pdf>

Notes: Following the methodology of the *World Heritage Foundation*, for the purposes of the property rights situation assessment, grade 2.0 means that private property is guaranteed by the government, the court system may suffer delays, corruption is possible but rare, and expropriation is unlikely. Grade 3.0 means that the court system is inefficient and subject to delays, corruption may be present, the judiciary may be influenced by other branches of government, and expropriation is possible but rare. Grade 4.0 means that property ownership is weakly protected, the court system is inefficient, corruption is present, the judiciary is influenced by other branches of government, and expropriation is possible.

In summarising the “rules of the game” and their transformation in post-Communist Ukraine, it may be stated that Ukraine has developed a system in which the political faction that wins the President’s post simultaneously obtains a substantial “additional” influence in the system (the right to issue decrees, real opportunities to directly control the work of the Cabinet of Ministers, etc.). Regardless of these formal rules, the withdrawal of the government from the economy and the media was minimal in 1994-1998 and the problems of the reform of the civil service, local self-government and courts did not even make their way into the official agenda; therefore, the political elite had almost unlimited opportunities to take advantage of informal means for the accumulation of influence.

In 1998, when the Communists became a clearly anti-systemic force, the confrontation of two ideological factions emerged in the Verkhovna Rada and instances of ignoring the formal “rules of the game” began occurring, as well as attempts to unilaterally change these rules or their interpretations to the advantage of one of the competing elite groups (for example, the referendum organised by Kuchma in 2000). Therefore, the informal “rules of the game” acquired special importance for the accumulation of power in the system. Formally, the government monopoly in the economy and the media decreased in 1998-2002 because a large part of property that was previously owned by the government was transferred to private owners. However, taking into account that most of the new owners were directly involved in politics as representatives of parties established by them, the potential for the government to manipulate these resources was not reduced at all. Moreover, an unreformed and subservient administrative system of the state (including

all coercive institutions), as well as a court system non-resistant to political pressure, “helped” the ruling elite to garner influence on the basis of the media and the economic resources controlled.

This structure of disunified, ideologically heterogeneous political elite was preserved after the 2002 election of the Verkhovna Rada as well. During this term, as before, the competing political factions more than once attempted to alter the formal “rules of the game” to their own advantage; however, even if agreements were sometimes reached, they were often transitory. In other words, in 2002-2005 the competing elite groups were obviously seeking to reach an exact formal agreement on the rules for entering the political elite and the distribution of power but neither group was prepared to provide guarantees that they would honour these agreements.

In this situation, which is particularly typical to the scenario of the zero-sum game (see Scheme 1), it should not be surprising that all the main reforms in the state are frozen – neither of the competing groups wants to forsake the possibility of making use of the informal opportunities for the accumulation of influence (by means of controlling the media, the courts, the bureaucracy, etc.).

Business and government: an irreplaceable duet

Examination of the relationship between the political elites and business in Ukraine is awkward for methodological reasons alone, since some authors claim that such a relationship cannot be found at all: politics and business is one and the same thing in Ukraine⁴³. If, for example, in Russia the political and the economic elites were separated (albeit not entirely) in the course of privatisation, in Ukraine this separation never took place. The business class in this country was not only formed at the initiative of the state (“sanctioned” and controlled by the political elite), it was also allowed to directly participate in the government of the country from the very beginning of independence.

⁴³ See, for example, Kalman, A.G. (2001): “Organised Economic Crime and Corruption in Ukraine: The Problem of Countermeasures”, in *Trends in Organised Crime* 6(3/4), pp. 69-72.

It became entirely “normal” after the 1994 elections that the businessmen who helped a certain politician or political party win the elections were appointed to top positions in the institutions controlled by their political “clients”, so that they could pass decisions beneficial for their companies. For example, Kuchma became the President of Ukraine in 1994 after he secured the support of business in his native Dnipropetrovsk region (where he managed the world’s largest rocket factory “Juzmash” until 1992) by promising speedier privatisation of state property, the implementation of the necessary restructuring of the economy, etc.⁴⁴ More than 200 persons moved to Kiev from Dnipropetrovsk to take up various positions in the executive institutions after Kuchma’s victory⁴⁵. Twenty-five businessmen from the region were appointed to the top political trust positions in the President’s administration and the Government of Ukraine – for example, the former deputy director of Dnepr Commercial Bank S. Tyhypko became the First Deputy Prime Minister responsible for economic reforms⁴⁶. In the subsequent years of Kuchma’s presidency, the personal entourage of the President would change as one business clan or another gained more strength and the President had to manoeuvre between various business clans. However, in any case, the direct participation of the representatives of the business in the activities of the President and the government has remained a stable tendency during the entire period of Ukraine’s independence.

The specific characteristic of the relations between business and the government in Ukraine is that big businessmen not only seek to acquire control of the executive power but also participate directly or through the parties controlled by them in parliamentary life. At the outset of the 1998 election of the Verkhovna Rada, big businessmen of Ukraine became very active in founding their own parties and putting forward their candidacies in the elections. Former businessmen comprised as much as 28 per cent of the newly elected Rada (in total – 127 members of the Rada)⁴⁷. According to R. Puglisi,

⁴⁴ Before moving into politics, L.Kuchma was managing one of the enterprises of Ukraine’s military industry which is concentrated in Dnipropetrovsk Region. This region was therefore traditionally considered to be his base region.

⁴⁵ Puglisi, R. (2003): *Op. cit.*, p. 111.

⁴⁶ See *ibid*, pp. 108, 111-112.

⁴⁷ *Ibid*, p. 109.

49 bankers took part in the 1998 election of the Verkhovna Rada under the banners of various political parties, 14 were elected, and one of the then largest banks of Ukraine – “Privatbank” – even established its own political party⁴⁸. The foundation of “personal” oligarchic political parties further intensified before the 2002 parliamentary elections. Each of the three largest business clans of Ukraine – Dnipropetrovsk, Donetsk and Kiev – founded their own political parties, while nine parties considered to be “oligarchic” won 220 seats (out of 450) in the 2002 elections and, together with several “independent” deputies formed the majority in the parliament and controlled the government until Kuchma left the President’s post.⁴⁹

Thus, as in many other post-Communist countries, the privatisation process in Ukraine became the basis for the formation of clientelist relations between the then ruling elite (the “centrist” faction that dominated the system) and the business community. From 1994 until the “Orange Revolution” in 2004, Ukrainian business had the whole institutional structure of the country’s government involved in the fulfilment of their interests. Although the new government of Tymoshenko, formed after the “Orange Revolution”, publicly declared its anti-oligarchic attitude and promised to review around three thousand privatisation deals of Ukrainian public enterprises in the nearest future⁵⁰, the possibilities of the emergence of the political elites independent of business remain limited in Ukraine.

State and society

There have been few noteworthy attempts to mobilise the support of the masses in post-Communist Ukraine. The “centrist” (“oligarchic”) camp that dominated the political system for almost a decade since 1994 did not

⁴⁸ Ibid.

⁴⁹ See Åslund, A. (2003): *op. cit.*, p. 110.

⁵⁰ See Re-privatization Needs to Be Carefully Thought (ICPS Newsletter 6(265), 21 February 2005), a Publication of the International Centre of Policy Studies, http://www.icps.com.ua/doc/nl_eng_20050221_0265.pdf; see also Kiselyov, S. (2005): “Orange Crash”, <http://eng.globalaffairs.ru/engsmi/883.html>. True, later, as a result of the negative international reaction, President V.Yushchenko declared that only 30 Ukrainian enterprises will be re-privatised – Ibid.

actually require the support of the masses – it was simulated by rigging election results, presenting tendentious information through the media outlets controlled by the “oligarchs” close to the regime, etc.⁵¹ Considering that the space for the use of informal “rules of the game” has not significantly decreased during the entire period of Ukraine’s independence, the “centrist” faction had good opportunities to remain in power even without the support of a substantial part of the society.

Only the so-called “nationaldemocratic” faction managed to win mass support at the end of 2004 after the results of the presidential election were particularly blatantly falsified. Thousands of Ukrainian inhabitants responded to the call of the nationaldemocrats to take part in a peaceful protest action against the licentiousness of the regime of Kuchma and the oligarchs. A similar protest action had already taken place in 2001 after the death of journalist Gongadze, who had criticised Kuchma’s politics, but did not yield the expected results due to insufficient political and organisational co-ordination. Meanwhile, the so-called “Orange Revolution” in Ukraine possessed all the characteristics of mass mobilisation: a well-developed organisational structure, charismatic leaders (Yushchenko and, particularly, Tymoshenko), slogans of the fight against the system, speaking and acting “in the name of the nation” (for example, the symbolic swearing in of Yushchenko as President of Ukraine in the Verkhovna Rada even before the re-run of the second round of elections), etc.⁵² The “Orange Revolution” did not transform the political elite structure in Ukraine – the same competing and ideologically incompatible elite camps remain (oligarchs-“centrists” vs. nationaldemocrats). However, the nationaldemocrats have gained a certain advantage over the “centrists” for the first time: they obtained the President’s post, the right to form the government, and unstable support of the majority in the parliament.

⁵¹ See, for example, Karatnycky, A. (2005): “Ukraine’s Orange Revolution”, in *Foreign Affairs* 84(2), <http://www.foreignaffairs.org/20050301faessay84205/adrian-karatnycky/ukraine-s-orange-revolution.html>

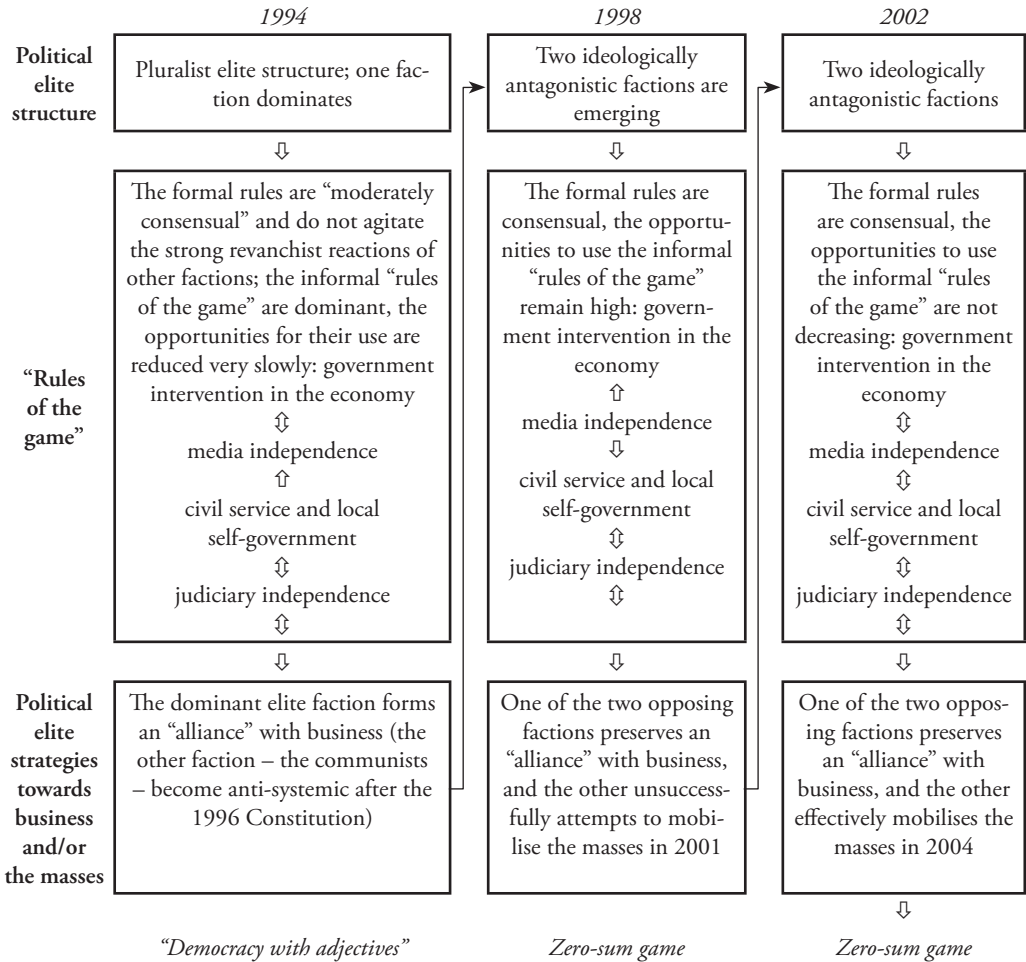
⁵² See Kuzio, T. (2005): “Kuchma to Yushchenko: Ukraine’s 2004 Elections and ‘Orange Revolution’”, in *Problems of Post-Communism* 52(2), p. 39-40; Rubchak, M.J. (2005): “Yulia Tymoshenko: Goddess of the Orange Revolution”, in *Transitions online*, <http://web19.epnet.com>

Trajectory of transformations in Ukraine

When the above-discussed transformations of post-Communist Ukraine's political elite structure and the "rules of the game", as well as the strategies used by the political elites for the mobilisation of the support of business and the masses are placed in one scheme (see Scheme 2), we obtain a rather comprehensive picture of how and why the political regime has been changing in independent Ukraine. In 1998, the political regime moved from the second perspective ("democracy with adjectives") to the third one – the situation of the zero-sum game – and remains there until now. The zero-sum game in Ukraine was particularly lucidly manifested in the 2004 "Orange Revolution" and afterwards.

The transition from the second perspective of political change – "democracy with adjectives" – to the zero-sum game was conditioned by the fact that the dominant political elite group (the "centrists") formed a clientelist "alliance" with business in 1994-1996, while the Communist camp, which occupied an important, although not the most important place in the political elite structure in 1994-1998, became an anti-systemic political force after the adoption of the 1996 Constitution. For these reasons, only two opposing elite factions (oligarchs-"centrists" and nationaldemocrats) remained in the political system of Ukraine after the 1998 elections of the Verkhovna Rada, the ideological confrontation of which was constantly increasing and became particularly acute at the outset of the "Orange Revolution" in 2004. At the end of 2004, the nationaldemocrats gathered mass support and became virtually equal or even more influential than the so-called "centrists", who traditionally draw support from business structures.

Scheme 2. Trajectory of political regime change in post-Communist Ukraine



Notes: In summarising the tendencies in the area of the possible use of informal “rules of the game”, the sign “⇕” means that the situation in a certain area during the term improved or changed in an increasing manner (e. g. state intervention in the economy increased, media independence increased, etc.), “⇓” – decreased, “⇔” – remained unchanged.

Zero-sum game – a permanent condition of the political system of Ukraine?

As has already been mentioned, the possibilities of the political elite to form an “alliance” with business and (or) to mobilise the masses and maintain their support for a longer time are mostly determined by the structural characteristics of the country. For example, the fact that the business class was forming in Ukraine with the “assistance” of politicians allowed the political elite to maintain relations with this class even after the privatisation period was over. The issues of state protection and the safety of the property acquired in dubious ways remained topical for business. Since the dominant political elite group skilfully used this opportunity, it may be suggested that in all those years the political system of Ukraine never really had any chances for consolidation as a liberal democratic regime.

The heterogeneity of the Ukrainian business class, its peculiar structure (large competing business clans) and the direct involvement into the political decision-making process, which was prompted by the internal competition and realised through personal political organisations, also had an important role. The aggressive desire to control public opinion through the media owned by business groups only accentuated the oligarchic features of the political system of Ukraine. They did not disappear with the change of government either: during the political crisis in the nationaldemocratic faction in autumn 2005, Yushchenko and Tymoshenko did not shun mutual accusations regarding the use of political positions for the protection of the interests of certain business clans.

In more than ten years of independence, the business groups of Ukraine have consolidated their positions in the Verkhovna Rada and accumulated control over almost all national TV channels and other media outlets, as well as separate industrial regions. Even anti-oligarchically disposed government cannot ignore this power. And the ruling elite that cares about its survival and political success is forced to co-ordinate its decisions with the interests of various business clans.

On the other hand, since Ukraine’s business class consists of several competing clans, any government decisions that seek to limit the political influence of business groups immediately affect the interests of competing business

clans. The government cannot remain neutral in principal. This was merely confirmed by the former Prime Minister Tymoshenko's plans to review many of the previous privatisation deals. Such initiatives will not achieve "deoligarchisation" but will only result in provoking sharper disagreements between business groups because the curtailment of the positions of one clan will open new prospects for the strengthening of the influence of its competitors.

It may be argued that for these reasons there will always be at least one (and, most likely, the strongest one) oligarchic political camp supported by an "alliance" with business. In other words, Ukraine's political regime does not have any chance to be consolidated in the liberal democracy perspective (see Scheme 1).

Another structural characteristic of Ukraine is the politically unorganised working class. At least several competing political forces claim to represent the workers' interests – the Communist Party of Ukraine, the Socialist Party of Ukraine, and the Progressive Socialist Party of Ukraine⁵³. The internal competition among the left-wing forces encourages at least one of them (the Communist Party of Ukraine, the Progressive Socialist Party) to take a radical, anti-systemic position in order that potential supporters may distinguish it from other leftist parties. Therefore, it is likely that the political system of Ukraine will preserve a left-wing segment that will not wield much power but will propagate an anti-systemic ideology without "communicating" with other political forces. Due to its anti-systemic nature it will not be able to participate in the government of the state and the votes of the left-wing voters (comprising the basis for mass support) will probably be collected by the nationaldemocrats. This circumstance enables predicting that the zero-sum game will remain very intensive in Ukraine in the future as well. This situation (the zero-sum game) may actually be considered to be the consolidated post-Communist political regime form of Ukraine.

⁵³ For example, during the 1998 election to the Verkhovna Rada, the CPU was competing against the PSU in 111 out of 225 districts – see Wilson, A. (2003): "The Communist Party of Ukraine: From Soviet Man to East Slavic Brotherhood", in *The Left Transformed in Post-Communist Societies: The Cases of East-Central Europe, Russia, and Ukraine*, ed. by J.Leftwich Curry and J.B.Urban. Oxford, Rowman and Littlefield Publisher, Inc., p. 220.

APPENDIX 1. The influence of different ideological factions of the political elites of post-Communist Ukraine in the country's parliament (percentage of seats)

<i>Faction</i>	Election	1994	1998	2002
Political parties				
<i>Antireformist communists</i>		27.7	30.8	14.4
Communist Party		22.5	27.3	14.4
Peasant Party		5.2	-	-
Progressive Socialist Party		-	3.1	-
"Soyuz" Party		-	0.4	-
<i>Nationaldemocrats</i>		10.7	12.3	29.8
Rukh		5.4	10.2	-
Republican Party		2.5	-	-
Christian-Democratic Party		0.5	0.7	-
Democratic Party		0.7	-	-
Conservative-Republican Party		0.2	-	-
Ukrainian National Congress		0.7	-	-
National Assembly		0.7	-	-
National Front		-	0.7	-
"Reforms and Order" Party		-	0.7	-
V. Yushchenko bloc "Our Ukraine"		-	-	24.9
J. Tymoshenko election bloc		-	-	4.9
<i>Moderate reformists – "centrists"</i>		60.7	53.7	53.7
<i>Socialist Party</i>		3.5	-	5.1
<i>Bloc of the Socialist Party and the Peasant Party of Ukraine</i>		-	7.6	-
Labour Party		1.2	-	-
Democratic Revival Party		1.0	-	-
Citizens' congress		0.5	-	-
Social-Democratic Party		0.5	-	-
Party for the Democratic Revival of Crimea		0.2	-	-
Green Party		-	4.2	-
People's Democratic Party		-	6.2	-
Hromada		-	5.1	-
Social-Democratic Party (United)		-	3.1	5.3
Agrarian Party		-	1.8	-
Party of Regions		-	0.4	-
Election bloc "For One Ukraine!"		-	-	22.4
<i>Self-nominated deputies</i>		53.8	25.3	20.9
<i>Other parties</i>		-	-	2.0

Sources: see Wolczuk, K. (2001): The Moulding of Ukraine: The Constitutional Politics of State Formation. Budapest, CEU Press, p. 131, 263; Central Election Commission of Ukraine. Voting Results for Parties (Blocs) in the Multi-Mandate Constituency and Voting in Single-Mandate Constituencies, <http://www.cvk.gov.ua/pls/vd2002/webporc0e>; as well as Elections Around the World: Elections in Ukraine, <http://www.electionworld.org/ukraine.htm>