

State and oligarchs: Towards a new social contract?

After the political change in Ukraine a new phase in the relationship between the oligarchs and the state started. The Maidan demanded to limit the power of oligarchs, and the international donor institutions, whose support Ukraine needs to cope with the current economic crisis, exercise additional pressure. The conflict in Eastern Ukraine, though, imposes a different logic – that of partnership between the state and big business. At the same time, the collapse of Yanukovich's rule altered the power equilibrium among various oligarchic groups, and forced them to redefine their relationship with the state and each other.

Against this new context, the Ukrainian authorities have launched the process of 'de-oligarchisation'. While they introduced an impressive number of legislative and institutional initiatives to limit the power of oligarchs, implementation met significant and sometimes violent resistance. Since Ukraine's independence oligarchs have become a constitutive part of the system of governance in Ukraine. Thus, the road towards a new social contract is going to be a long and thorny one.

Background

Aristotle once wrote that 'oligarchy is when the men of property have the government in their hands'. This is very much the story of Ukraine. The fortunes of Ukraine's one hundred richest businessmen are worth approximately USD 26.5 bn in 2015; this is half as much as in 2013, but still equals more than one fourth of Ukraine's GDP. Importantly, 60% of those assets belong to the 10 richest individuals. These very same rich men own influential TV channels, influence decision-making in the parliament, the government and judiciary, and preserve monopolistic control of entire sectors of the economy.

Ukrainian oligarchs emerged as public figures during the second term of President Leonid Kuchma at the end of the 1990s. Trade in cheap natural resources (mostly coal and iron ore); re-export of cheap energy resources (mostly from Russia and Turkmenistan), unfair and uncompetitive privatisation deals, and state subsidisation of some sectors of the economy were all means of accumulating wealth for the newly established entrepreneurs in the 1990s. In exchange for supporting the consolidation of the semi-authoritarian regime under Kuchma, oligarchs enjoyed access to the sources of political power and managed to acquire oligopolistic authority over the economic wealth of the country.

After the Orange Revolution, when there was no single center of power, and during Yanukovich's rule with concentrated power, oligarchs have remained equally strong and well-entrenched in political institutions, economic structures, and media. Ukraine has remained a 'captured state'.

The new authorities had to respond to the demand of the Maidan to limit the influence of oligarchs. The rhetoric of de-oligarchisation has become omnipresent and a number of relevant initiatives have been launched. Yet, the question of whether the current leadership is determined to change the rules of the game and whether the oligarchs will submit to the pressure remains open.

Between partnership and confrontation

The conflict in Eastern Ukraine posed an additional dilemma for the new authorities. Although the Maidan demanded to get rid of the influence of oligarchs, the still weak post-revolutionary authorities needed support from big business in the face of the rise of pro-Russian separatists.

The appointments of Ihor Kolomoisky - the third richest Ukrainian - and Serhiy Taruta as governors of Dnipropetrovsk and Donetsk respectively, had exactly the latter logic behind it. Kolomoisky succeeded in preventing separatists from destabilising the region. He took a firm grip of developments in the region and even supported voluntary battalions fighting on Kyiv's side. Rinat Akhmetov, the richest Ukrainian regarded as an informal patron of Donbas, and the governor Taruta turned out to be unable to prevent the separatists from taking control of Donetsk and fled to Kiev in May 2014.

Yet, both Kolomoisky and Akhmetov attempted to make use of the weakness of post-Maidan authorities and rejected, often violently, the initiatives of the authorities to introduce measures limiting their privileged access to public resources. The most prominent example was the conflict around the semi-state company **Ukrnafta**, where Kolomoisky owns 42% of shares. For years he blocked the possibility for the state (who owns 50% + 1 of shares) to extract its dividends, since a quorum of 60% for shareholder meetings was needed to enable this. The law that changed this situation was passed with many difficulties, while the replacement of the Kolomoisky-controlled management of the company resulted in a direct confrontation with the law-enforcement. Eventually, Kolomoisky had to resign from the post of governor.

Another example has to do with Akhmetov. He and his company DTEK are suspected to have been behind the protest of miners demanding the resignation of the minister of energy. Those followed the decision of the government to liberalise coal prices, which used to be controlled by Akhmetov.

De-oligarchisation?

President Poroshenko signaled his determination to weaken the oligarchs' stranglehold in politics. In his annual address to parliament in June this year he made it clear that it is not about personalities, but institutions.

Indeed, oligarchs are not just rich people, but those who use their wealth to influence the system of governance and decision-making for their interest. From this perspective, the key to de-oligarchisation is the elimination of the channels of this influence.

So far Ukrainian oligarchs have been able to maintain their power due to privileged access to public resources and decision-making, distortion of fair market competition, and hindering development of small and medium business. They have promoted a system, where there has been no level playing field and which has functioned for the benefit of a handful of economic tycoons. Dysfunctional law-enforcement system and judiciary have contributed too.

The past one year and a half have seen a number of initiatives aimed at changing this state of things. Public broadcasting was introduced. Institutions aimed at countering corruption were established and public procurement regulations made bidding more competitive and transparent. Initiatives aimed at ending monopolies in some sectors of the economy and revising state subsidies to businesses or cancelling some of them altogether were launched. There has been an attempt to remove oligarchic control over state enterprises: The plan is to bring the important enterprises together in a state-run consortium and privatise the others. Laws that make the information about media ownership and end beneficiaries of companies' public were passed. Also, a law on state funding to political parties was passed in the first reading.

This is an impressive list of initiatives, and the Association Agreement with the EU opens additional opportunities for the creation of a more competitive business environment in Ukraine. At the same time, it seems that these initiatives lack a coherent strategy and the question of political will remains open.

Conclusions

So far 'de-oligarchisation' has yielded little tangible results. Hardly any corruption scandal was followed up by a court case, while oligarchs seem to retain strong presence in decision-making. To what extent the current authorities can and want to challenge the system, of which they are a product, is a big question in itself.

But the context today is different. The Association Agreement serves as a legally-binding framework that imposes reforms. Pressure from civil society and international donor community is stronger than ever. New professionals from business and civil society became members of parliament and took positions in government. They are not many, but oligarchs are not a uniform actor: they represent competing interests and their influence is dispersed. These factors give hope for the future.

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German Advisory Group

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