

Neither a miracle nor a disaster – President Zelensky's first year in office

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20th May marked the end of Volodymyr Zelensky first year as President of Ukraine. Thanks to the clear victory of his Servant of the People party in the snap parliamentary election held in July 2019 and the establishment of the government of Oleksiy Honcharuk the following month, Zelensky swiftly gained full power. The plan for the declared repair of the country and an end to the war in the Donbas involved the appointment of apolitical specialists for key positions in the government to immediately process legislation in the parliament and to conduct informal diplomacy. This strategy brought about certain successes. Partial organisational changes were introduced in the prosecutor's office and courts; the constitution was amended in the area of the rights of the members of the Verkhovna Rada and the president, and a meeting – the first in three years – in the Normandy Format was held in Paris. Already before the end of 2019 a new election law was passed, a key reform in the gas sector (the unbundling of Naftogaz) was completed and in March 2019, and a breakthrough law regarding the lifting of the moratorium on the sale of agricultural land was passed.

However, increasing conflicts of interests inside the parliamentary group of the Servant of the People limited the comfort of governing the country, exposing the most important weaknesses of Zelensky's bloc: its lack of ideological cohesion, the lack of a clear action plan and, above all, the lack of a professional and independent staff base. The remaining powerful influence of the oligarchs on the state has impeded the work on important laws and Ukraine's co-operation with the International Monetary Fund, which has also contributed to sustained negative phenomena in the electricity sector.

As a result, Zelensky's first year in office can be considered to be a time of tough learning about how politics, both domestic and international, functions in practice. The scope of power the president has gained thanks to the slogans of removing 'old' politicians has become a source of weakness in itself – the below-par effectiveness of ruling the country. It appears that Zelensky is beginning to understand this interdependency. He has entered his second year in office with approval rating in society still high (45% of support in the election survey, 57% of support in the confidence survey). Nevertheless, he will have to face a much more difficult economic situation due to the COVID-19 pandemic.



The failure of a great experiment

When taking power, Zelensky declared that he would remain in office for one term only and that his goal was to carry out fast and thorough reforms. In the beginning, his modus operandi consisted in transferring draft laws from the Presidential Office (as the former Presidential Administration had now been renamed) to the parliament, in which Zelensky's hastily formed Servant of the People party gained a majority following a snap election. The draft laws were immediately passed, often without appropriate assessment from the members of the parliament and in breach of the parliamentary regulations. The author of this mode, described as the 'Turbo-Regime', was Andriy Bohdan, the head of the Presidential Office and one of Zelensky's few aides who had experience in politics and administration.

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During the first few weeks of the work of the new Verkhovna Rada, a series of new laws was successfully passed, among them the laws which had traction in society but which were in fact difficult to implement. One example is the law regarding the lifting of immunity of the members of the Verkhovna Rada and the law on the procedure for impeaching the president. The new election law, which entered into force at the beginning of 2020, can also be counted as one of the greatest achievements of the Zelensky administration. Due to the new election law, the parliamentary and local elections will be held in a proportional system (many electoral districts were introduced to replace the nationwide district). The former mixed system, allowed for half of the members of parliament to be elected in single-member constituencies. This was, in the context of Ukraine, a source of abuse and political corruption for years.

At the same time, an interventionist governing of the parliament caused a negative reaction from a section of Servant of the People members who expressed their opposition to their lack of agency. Former internal divisions and different groups of influence within the pro-presidential faction also resurfaced, in particular with members of the parliament affiliated to the oligarch Ihor Kolomoysky. Even though Zelensky's relations with Kolomoysky did not turn into an open conflict (see below), they have deteriorated. The oligarch blocked the work on laws essential to the government: regarding the lifting of the moratorium on the sale of agricultural land and the ban on returning banks to their former owners¹.

The problems in the parliament also stemmed from the fact that in February 2020 Andriy Bohdan, who unceremoniously but effectively put together the president's diverse team in the government and in the parliament to form one functional mechanism, lost his position. His successor, Andriy Yermak, seems to have a much poorer understanding of the situation in the Servant of the People party and in internal politics than Bohdan. As a result of these tensions, the president lost the initial control of the parliament, and the pace of passing laws abated. It became more difficult to secure a majority of the vote for important laws and an increasing portion of them was passed thanks to members from opposition or independent factions.

Due to the model of governing with the Office of the President as the decision hub and the principle of basing the government on professionals from outside the realm of politics, the government has been reduced to the role of a contractor enacting the will of the president. This was the idea behind the appointment of Oleksiy Honcharuk as prime minister. He was a specialist in deregulation but did not have much experience in administration or any political support base. Even though the new government was composed of experts, its work was poorly coordinated and rather ineffec-

¹ In both cases the members of parliament affiliated to Kolomoysky proposed several thousand amendments. The aim of these actions was to obstruct the legislative process.

tive given the expectations of a president who demanded outcomes (too) fast. This has urged Zelensky to correct his concept of 'new faces' as a guarantee of effective reforms; it has not, however, encouraged him to empower the government. All this led to the resignation of Honcharuk and the appointment of a new cabinet of Denys Shmyhal in March this year. The new prime minister is a seasoned manager with (brief) experience in the local and national administration and his government combines the 'old' with the 'new'. However, in this case, the process of appointments for particular positions in the government was unprepared and chaotic. This is reflected in a shortage of qualified staff ready to work in the administration and Zelensky's lack of vision of the directions and priorities in reforming the country.

The rule of law – institutional challenges

A lack of determination in following through on the reforms of the legal system and the bodies of law enforcement, which were launched in 2014, is one of the greatest problems of successive presidential teams. Following the first decisions made by President Zelensky, one might think that the shifts in the institutions responsible for fighting corruption, the legal system and the internal security sector would be implemented fast. However, this was not the case since the implementation of the reforms is being hampered by different groups of interest within the ruling camp. In September 2019, the Verkhovna Rada adopted a law initiating a thorough reform of the Prosecutor General's office, on the initiative of the president. It was replaced by the Office of the Prosecutor General of Ukraine, with Ruslan Riaboshapka, a proponent of firm changes, at the helm. The law allowed for a substantial change in staff (according to the information of December 2019, 610 out of 1,083 prosecutors were vetted positively) and the establishment of a transparent system of recruitment of new staff. Organisational changes were also successfully implemented. The Prosecutor General oversees two separate bodies – the Specialised Anti-Corruption Prosecutor's Office and the Military Prosecutor's Office. The position

of the chief Military Prosecutor will be scrapped on 1st January 2021.

The reform was brought to a halt on 5th March this year when Riaboshapka was dismissed at the president's motion (officially, due to a lack of results in the form of convictions passed) and Iryna Venediktova was appointed Prosecutor General of Ukraine. She is thought to be subject to informal influences from politicians (a section of the Ukrainian media have suggested she is affiliated to Interior Minister Arsen Avakov) and to be uninterested in reforming the Prosecutor's General Office (for example, she reinstated several compromised prosecutors and removed international experts from the process of recruiting new staff).

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By unblocking additional budget funding, Zelensky's team made it possible for the State Bureau of Investigations to function after its activity had been hamstrung by President Poroshenko. The institution was set up in autumn 2018 and investigates crimes committed by high-ranking state officials and law enforcement officials (with the exclusion of corruption cases). However, as is the case in other institutions responsible for implementing the rule of law, the staff policy has been affecting the effectiveness of the State Bureau of Investigations since it makes appointments of officials contingent on their political connections².

The legal regulation of the functioning of the High Anti-Corruption Court (HACC) was another important step. Since this court was established in June 2018, its work has been paralysed because

² At the end of December 2019, the bureau's head, Roman Truba, was removed from office. He was accused of the lack of effective supervision of his subordinates (his deputy was charged with corruption). Truba was replaced with Venediktova and after she was moved to the Prosecutor General's Office, Oleksandr Sokolov was appointed acting director of the State Bureau of Investigations.

all corruption-related cases were submitted to it, regardless of their importance, and this made it impossible to effectively conduct proceedings. At present, the HACC deals exclusively with the cases brought before it by the National Anti-Corruption Bureau (NACB) and the Specialised Anti-Corruption Prosecutor's Office, and the cases must concern corruption among high-ranking state officials. The remaining corruption cases are handled by the general prosecutor's bodies.

” The legal regulation of the functioning of the High Anti-Corruption Court (HACC) can be considered a success.

In autumn 2019, necessary changes were adopted in order to increase the effectiveness of anti-corruption measures. The legal status of corruption whistleblowers was regulated—whistleblowers who are involved in a corrupt practice and report it will be exempted from legal liability and those who report corruption will receive 10% of the financial resources retrieved by the state. The NACB was granted the right to independently use operational technologies (wiretapping, observation) without having to obtain assistance in these matters from the Security Service of Ukraine (SBU), which had been effectively blocked by former president Poroshenko's team. Nevertheless, the functioning of the NACB is hampered by conflicts which stemmed both from the ambitions of politicians and their fears of an independent institution. In September 2019, administrative action was taken against the head of the NACB, Artem Sytnyk, on the grounds of his financial offence of (accepting material gains in the form of a free of charge stay in a resort in Ukraine). The incriminating material was collected by the police, which may indicate that the case had been inspired by the head of the Ministry of Internal Affairs. Following this incident, a draft law regarding the amendment to the law on the NACB was submitted to the Verkhovna Rada; it would make it easier to dismiss its director (the regulations in force rule out the dismissal of the director on the grounds of administrative wrongdoings). The matter sparked controversy in the international arena. In May this

year, the International Monetary Fund and the G-7 warned Kyiv that the amendments to the law on the NACB might trigger a revision of the fund's financial policy towards Ukraine.

The unfinished reform of the Security Service of Ukraine (SBU) remains a burden for Zelensky's team. Since 2014 the planned changes to the institution have been delayed due to internal resistance from its staff and the reluctance of successive Ukrainian presidents towards an excessively radical limitation of the competences of this service which is subordinate to them. According to the premises of the reform, the SBU is set to become a counterintelligence service deprived of the functions to investigate economic crimes. This type of crime would be entirely transferred to a new body whose establishment is being planned – the Financial Investigation Service. On the other hand, the intensified activity against the Russian intelligence services should be deemed a positive manifestation of the SBU's work. Over the last year the SBU has become clearly more active in this area. The condition of the Ukrainian intelligence services remains an open question. A high rate of turnover in managerial positions proves that the Foreign Intelligence Service and the military Main Directorate of Intelligence have sustained difficulties in adjusting to new operational challenges.

The economy: from ambitious plans to crisis management

In line with the constitution, the president does not have competences in economic issues, which lie within the remit of the government. However, in a situation in which Zelensky has concentrated full power, he has taken the responsibility for economic policy. The Presidential Office has found candidates for ministers in the economic sector of the government and Zelensky has had a casting vote in their approval.

During the electoral campaign Zelensky avoided any specific points, limiting his statements to promises of fundamental changes in the economy and general prosperity (with the slogan: 'An end

of the era of poverty'). After the parliamentary election, the Verkhovna Rada swiftly adopted a series of laws which had been blocked in the term of the previous parliament, among them: the deregulation law (including the revoking of many regulations which had been in force since the USSR), the law increasing transparency of public finance (e.g. the establishment of an online platform 'E-Contact' which makes it possible to monitor ongoing budget spending), and the law regarding concessions which makes it easier for foreign companies to lease state-owned facilities. The Honcharuk government also adopted a very ambitious programme of actions which forecast a 40% increase in Ukraine's GDP over the next five years, an influx of US\$ 50 billion in foreign investment and permission to sell agricultural land³. Even though a part of these assumptions was unrealistic from the very beginning, the document proved there was the will to carry out a deep reform of Ukraine's economy.

The government has succeeded in implementing several important changes, among them: the unbundling Naftogaz⁴, a five-year contract signed with Gazprom regarding the transit of Russian gas and the adopted law which lifted the moratorium on the sale of agricultural land, which had been an object of political dispute for nearly two decades⁵. It was with difficulty that the banking law, which will make it more difficult to regain the banks nationalized in 2014-2016 by their former owners, was adopted. This concerns, above all, PrivatBank which is owned by the two oligarchs Ihor Kolomoysky and Hennadiy Boholyubov. This was the main obstacle to signing a new assistance programme between Kyiv and the International Monetary Fund and one of the examples that a behind-the-scenes influence of the oligarchs on decision-making in Ukraine has not waned.

³ S. Matuszak, 'Polityka gospodarcza ekipy Zefenskiego – ambitne zapowiedzi, niepokojące sygnały', OSW, 30 October 2019, www.osw.waw.pl.

⁴ A. Łoskot-Strachota, S. Matuszak, 'Zakończenie procesu unbundlingu Naftohazu', OSW, 15 January 2020, www.osw.waw.pl.

⁵ S. Matuszak, 'The moratorium on the sale of agricultural land is lifted in Ukraine', OSW, 1 April 2019, www.osw.waw.pl.

The recruitment choices have proved to be the essential weakness of Ukraine's economic policy. Almost all ministries were staffed with experts who have very limited experience in management. Not only was this the case with Prime Minister Honcharuk, but also with ministries such as the Ministry of Economic Development, Trade and Agriculture and the Ministry of Energy and Environmental Policy. Even though this is the first government in Ukraine which has not been accused of corruption, it quickly turned out that the

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new ministers had great difficulties in developing and implementing changes in the economy. This was particularly visible in the energy sector, where the measures undertaken by the government led to the destabilisation of the market (among other factors, due to the fact that imports of electricity from Russia were allowed) and in heavy industry, which remains one of vital branches of Ukraine's economy.

The poor effectiveness of the economic policy was one of the main reasons for the resignation of the Honcharuk government. However, the composition of the new government of Denys Shmyhal can hardly be seen as an improvement in terms of its professionalism. Initially, four positions in his government (linked with the economy), including that of the deputy prime minister, were left vacant, and certain candidacies shifted even on the day of voting. This can be seen as a sign of difficulty in finding the appropriate staff.

The government reshuffles, which were difficult to understand, also continued in the following weeks and the need to respond to ongoing crises in different segments of the economy took precedence over systemic reforms. A clear example of the weakness of the new ministers were the

incorrect assumptions in the section of the budget law regarding revenues. Combined with a high exchange rate of the Ukrainian hryvnia, they contributed to a higher budget deficit. The problem intensified in the first months of 2020, meaning that the previous government could not be blamed for it. The attempts to make privatisation more dynamic and to improve the investment climate in Ukraine also failed, and this was not strictly due to economic issues but, above all, to corruption and the lack of the reform of the legal system.

Nor were measures taken in order to deoligarchise (de-monopolise) Ukraine's economy. Even though Zelensky has never explicitly promised this, he has so far tried to act as an arbiter towards the oligarchs. However, the increased importance of the role of Rinat Akhmetov, Ukraine's richest citizen, has been observed in recent weeks. This can be inferred from the fact that Olha Buslavets, the acting energy minister, was said to have made

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decisions which were favourable for the oligarch, when she was working in the ministry⁶. Once she took the position of acting energy minister, a change in the energy mix of the country, which would in fact favour Akhmetov, was announced⁷. It is however difficult to assess whether it is only a tactical alliance or Zelensky's long-term attempt to find alternative support in the face of

⁶ 'Коломойский VS Ахметов. Ольга Буславец – новая глава Минэнерго. Что о ней известно? Досье', Ліга.Бізнес, 17 April 2020, biz.liga.net.

⁷ The change was caused by an 8% year-on-year decline in the demand for electricity in April this year which led to the need to reduce the production of energy. In the new energy mix, the limits in the production of energy affected electricity produced in heating plants (75% owned by Akhmetov) and renewable sources of energy (25% controlled by Akhmetov) to a lesser extent than state-owned nuclear power plants.

an escalating dispute with Kolomoysky over the banking law.

No breakthrough in the case of the Donbas

Putting an end to the war in the Donbas was one of Zelensky's most important electoral slogans. After he took office, he successfully revived international negotiations to end the conflict. The appointment of Andriy Yermak, first as an aide and then the head of the Presidential Office (he is also responsible for the peace talks) has led to Ukraine resuming official and non-official consultations with Russia. Due to this, three stages of an exchange of prisoners of war were organised and one meeting in the Normandy Format (at the level of the heads of state) was held in December 2019 in Paris. The organisation of the summit was facilitated by the positions held by several states of Western Europe which had been calling for a revision of the EU policy on Russia and Zelensky's agreement to the Russian demand to adopt the Steinmeier formula that regulates the parameters of the future local elections in the occupied areas.

Zelensky is seeking new initiatives which would allow him to break the ongoing impasse in the process of regulating the conflict in the Donbas. Some of them (such as the proposal to establish a Consultation Council, which would in fact legitimise representatives of the separatist republics) have caused justified controversy not only in a part of Ukrainian society but also among a large group of the members of the pro-presidential Servant of the People party. They also provide an argument for Zelensky's opponents who accuse him of undertaking actions with the calculated aim of generating short-term political gains. The first exchange of prisoners of war, held on 7th September 2019, contributed to an increase in the support for the president by a staggering 13%⁸. However, the two subsequent ones did not produce such a spectacular effect. The new initiatives launched by Zelensky indicate he is honestly willing to deli-

⁸ Моніторинг суспільних настроїв українців (6-10 вересня 2019), Рейтинг, 12 September 2019, ratinggroup.ua.

ver on his electoral promise and bring an end to the war. Nevertheless, they point to the fact that the president has not abandoned the hope that a breakthrough in the negotiations is possible without far-reaching concessions to Russia and without a crisis in political circles. Despite that, Zelensky's efforts have brought about certain achievements, for example: the bridge at the border in Stanytsia Luhanska was rebuilt; voting in local elections was made possible for people who had been temporarily displaced; and a TV channel 'Dom' (Home) was set up to broadcast in areas not under Kyiv's control.

Outlook

In the first year of his presidency Zelensky has proved to his critics that he is neither Kolomoysky's puppet, which some of his opponents initially suggested, nor is he inclined to betray national interests for the sake of Russia. Several key laws have been adopted, such as the new election law, the unbundling of Naftogaz and the lifting of the moratorium on the sale of agricultural land (which may positively and permanently change Ukraine's political and economic life). Even though the adopted model of governing the country has proved rather ineffective given the opportunities offered by the scope of power secured, it appears that a gradual shift from the concept of 'new faces' in the staffing policy will be continued. Deoligarchisation should not be expected but rather further attempts to involve the oligarchs in the state's actions, which would consequently lead to an enhanced role for several of them, above all Akhmetov. Maintaining the unity of the ruling party in the parliament and the local elec-

tions scheduled for October this year will present a challenge for Zelensky and his allies. To date, the Servant of the People party has not made efforts to develop its structures in the regions and the governors of oblasts appointed by the president have a weak position, particularly in the wealthy oblasts of Kharkiv and Odessa and this may further exacerbate tensions in their relations with Kyiv.

As for the institutions responsible for the country's security and the rule of law, their stability will depend on the president's ability to limit his own ambitions and to move away from frequent reshuffles and attempts to use them instrumentally in the ongoing political fight. Countering Russia's destructive activity remains a challenge of key importance. Moscow will continue to undertake military and non-military destabilising actions with the long-term goal of forcing Ukraine's elites to recognise its political and economic interests. This will result in the political domination of the country. Kyiv will continue to seek a breakthrough in the talks on the Donbas, thus confirming Zelensky's genuine desire to bring about peace, even though it cannot be ruled out that he will switch to a contingency (albeit enigmatic) plan.

The economic implications of the COVID-19 pandemic will constitute the main challenge for the president. At present it is difficult to foresee how deeply Ukraine will be affected. The International Monetary Fund forecasts that Ukraine's GDP will fall by 7.7% this year. However, past experience compels us to expect a larger decline, in particular given that the economy contracted by 1.5% in the first quarter of this year, before the lockdown was introduced.