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## YUSHCHENKO WILL BE MARGINALIZED BY CONSTITUTIONAL AND POLITICAL INSTABILITY IN UKRAINE

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The three holiday breaks (Easter, May Day and World War II Victory Day) gave only a short respite before the two main figures in Ukrainian politics, President Viktor Yushchenko and Prime Minister Yulia Tymoshenko, resumed their fight to the bitter end. Yushchenko and Tymoshenko are ostensibly members of the same democratic (i.e. "Orange") coalition established after the September 2007 pre-term elections. The conflict within the "Orange" camp was evident on May 13, when the Tymoshenko bloc blockaded parliament to protest what it described as "sabotage" of government policies. It prevented the president from giving his annual address, which was unprecedented in Ukraine's 17 years of independence.

The center of the conflict is the head of the presidential secretariat Viktor Baloha, little known until the 2002 elections except in his home border region of Trans-Carpathia. The majority of Western embassies, a large share of Ukrainian politicians (even from Our Ukraine-Peoples Self Defense [NU-NS] and the opposition Party of Regions), think tanks, journalists and the public are united in their view that Baloha's strident antagonism to Tymoshenko does more harm than good to the president and to the NU-NS, of which Baloha is honorary chairman. Most observers of Ukrainian politics cannot understand how the president can let his chief of staff make daily denunciations and demands to its government, without a moral or constitutional basis on which to do so. Yushchenko appears oblivious to the negative effect this has on his own and the NU-NS's ratings.

A May poll found that for the first time the hero of the Orange Revolution had higher negative approval ratings than positive. Only 13 percent trust Yushchenko, while 26.5 percent distrust him (the respective figures are 30 and 26 percent for Tymoshenko and 24 and 26 percent for Viktor Yanukovich). The same poll found that the Tymoshenko bloc (BYuT) continues to have greater support (25 percent) than the Party of Regions (23 percent) with NU-NS support collapsing from 14 percent in the 2007 elections to 5.4 percent (See EDM March 20).

In a May 6 statement Baloha continued to lambaste the government's policies. The major bone of contention remains privatization, but the roles have been reversed since the 2005 Tymoshenko government.

As Yushchenko and Baloha repeatedly stress, they do not agree that a portion of the proceeds from privatization should continue going toward the repayment of lost or stolen Soviet bank savings, the first tranche of which was paid in January. Baloha complained that the costs from the privatization of the Odessa Port Terminal, which the president is repeatedly attempting to halt, should go toward economic growth and societal needs and not for a "one-off PR ploy" for Tymoshenko.

The repayment of Soviet era savings lost in Russia's nationalization of Soviet banking assets in 1991 and Ukraine's 1993 hyperinflation has become hostage to the January 2010 presidential elections. President Yushchenko is threatened by Tymoshenko's high ratings, one reason for which is the popularity she has gained from fulfilling her 2007 electoral pledge to repay the lost savings.

The repeated non-fulfillment of election promises has had a negative impact on both Yushchenko's and the NU-NS's ratings. Yushchenko's 2004 election program supported the government's repayment of savings. If elected, Yushchenko promised to "make the oligarchs really pay all their taxes. I am against a re-division of property, but oligarchs will be made to pay a real price for the enterprises that they have grabbed during privatization (prykhvatizatsiya grab-ization) practically for nothing and the billions of hryvni from this will go toward repaying the stolen savings of citizens."

The continuing attacks by Yushchenko and Baloha on Tymoshenko have also had four important ramifications.

First, they have continued to demonstrate that Yushchenko does not comply with the rule of law. This was exemplified by his legally questionable April 2, 2007, decree disbanding parliament. A wide variety of commentaries have pointed to the lack of constitutionality for the majority of the president's interferences in the work of Tymoshenko's government. The president, let alone a state bureaucrat who heads his secretariat, has no legal right, for example, to intervene in economic affairs and privatization. BYuT Deputy Mykola Tomenko wondered on what grounds the secretariat "teaches the Ukrainian people and government how to work."

Second, the attacks and rivalry have eroded the president's support to such an extent that nearly all commentators agree that Yushchenko cannot be elected to a second term. His ferociously anti-Tymoshenko stance immediately following her confirmation as prime minister on December 18 of last year lost Yushchenko the opportunity to align himself with her electoral prowess and popularity to win a second term as an Orange president while she would remain prime minister.

Third, the attacks have pushed Tymoshenko and BYuT beyond tolerating interference and unrelenting criticism on a greater scale than from even the opposition's shadow cabinet.

The situation came to a head in mid April in a week that witnessed an anti-Tymoshenko pamphlet distributed at a meeting between the president and governors, Tymoshenko's speech to the Parliamentary Assembly of the Council of Europe, Yushchenko's two-hour diatribe against alleged corruption in the Tymoshenko government, threats by the presidential secretariat to launch criminal proceedings against the government and a harsh BYuT parliamentary response.

The outcome was again not to the president's advantage. Ukraine's most pro-presidential political force, the BYuT, which was the only faction to vote against constitutional reforms on December 8, 2004, is today in the

vanguard in drawing up a parliamentary constitution that severely reduces presidential powers. The Party of Regions, which feared a Tymoshenko victory under the 2006 constitution, cannot believe what luck it now has in finding in the BYuT an unlikely ally in parliament. Yushchenko's Constitutional Council, which he hoped would bring in constitutional reforms that would give him back powers, is for all purposes dead in the water.

Finally, Yushchenko's unwillingness to abide by the 2006 constitution that he himself negotiated in December 2004 has led to two near-violent incidents. In May 2007 and April 2008 the president illegally ordered the presidential guard to take control of the offices of the prosecutor-general and the State Property Fund. Government buildings are supposed to be protected by Interior Ministry's Special Forces, not the presidential guard.

The two months leading to the summer recess are likely to determine Yushchenko's fate. If a new constitutional process is set in motion in parliament, next year will see pre-term parliamentary and presidential elections, in which Yushchenko is likely to be eclipsed from Ukrainian politics (Ukrayinska Pravda, April 24-May 7, [www.president.gov.ua](http://www.president.gov.ua) May 5, [byut.com.ua](http://byut.com.ua), April 14, Viktor Yushchenko, *Viriu v Ukrayinu*, 2004).