

# Ambiguous anniversary

Four years on: How has the Orange Revolution shaped today's Ukraine?

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MIRACLE ON MAIDAN: HOWEVER, THE ORANGE OPTIMISM AND PEOPLE POWER EUPHORIA GENERATED IN LATE 2004 QUICKLY GAVE WAY TO HARSH REALITIES AND DEMOCRACY FATIGUE IN POST-REVOLUTIONARY UKRAINE. AS UKRAINE MARKED THE FOURTH ANNIVERSARY OF THE ORANGE REVOLUTION LAST WEEKEND, POLITICAL CHAOS REIGNED IN KYIV AND THE COUNTRY'S GEOPOLITICAL FUTURE REMAINED IN DOUBT, REFLECTING THE FAILURE OF UKRAINE'S ORANGE LEADERS TO BUILD ON THE MOMENTUM OF THEIR 2004 TRIUMPH

In the four years since the Orange Revolution Ukraine has emerged from international obscurity and recorded a series of gains including free elections, robust non-violent political competition and an increasingly free media sphere. The twin areas where domestic gains have been non-existent have been in improving the rule of law and in battling corruption, particularly high-level abuse of office. Nevertheless, while disappointment with the leaders of the Orange Revolution has long been the majority sentiment, their failures cannot obscure the far-reaching impact on the country's fortunes of the events surrounding

the country's dramatic 2004 struggle to overturn rigged presidential elections.

### Safeguarding Ukraine's democratic breakthrough gains

Since late 2004 Ukraine has experienced three free and fair elections in four years, counting the re-run second round of the presidential elections that Viktor Yushchenko won. One of these elections was unscheduled (September 2007) and a second unscheduled election could take place in the first quarter of 2009. If anything, Ukraine will have experienced too many free elections, not too few. Neverthe-

less, the fact that these elections have been able to take place at all in a manner which international observers have characterised as highly democratic is a tribute to the strength of a grass roots democratic culture which first came of age in 2004. While political disillusionment among the general population is near-universal, there is little to suggest that the Ukrainian people are ready to give up their hard-won electoral veto any time soon.

The Orange Revolution marked a watershed in popular participation in the political process. Since 2004 political competition in the country has been robust, probably too robust,

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▶▶ but despite sporadic fisticuffs in the national legislature this often tense stand-off has never actually spiraled into violence. This absence of bloodshed is probably one of the least-often cited but nonetheless laudable achievements of the past four years. However, the benefits of an increasingly pluralistic party political landscape have been counter-balanced by damage done to the credibility of Ukrainian democracy as a result of repeated infighting among Orange parties and the continued dominance of big business interests within parliament.

## **Losing the war against institutional corruption**

Perhaps the most heartfelt battle cry of the Orange Revolution was “Bandits to prison!” Many who participated in 2004’s mass protests were driven by a desire to show their support for a candidate who appeared unafraid to acknowledge that the country was run by a criminal ruling elite who had institutionalised corruption at every level of the state. In its essence the Orange wave which swept the country in late 2004 was a protest movement calling for an end to corruption. Sadly, this has proven the area where least progress has been made since 2004, with perhaps the most damaging consequences for the country’s European ambitions.

The reform of the law enforcement forces has simply failed to happen. The Security Service continues to be politicised and has been used against Orange dissidents. There has been no serious reform of the Interior Ministry, a process which should have included the transfer of the bulk of Interior Ministry troops (a Stalinist institution that should have no place in a democracy) to a National Guard, as had been the case in 1991-1999, while the remainder of the Interior Ministry troops could have been transferred to the Ministry of Justice and converted into prison guards.

## **Lawless law courts undermining Ukraine’s Euro-credibility**

The Prosecutor General’s office is another key institution which has not been reformed. The President’s choice of Prosecutor Generals since 2004 has included Kuchma-era dinosaurs Sviatoslav Piskun and Oleksandr Medvedko, suggesting a disinterest in reforming this most important of institutions. International lawyers with experience of dealing with the PG’s office in post-Orange Ukraine have stated that it remains so corrupt from top to bottom that it might be easier to disband it and start again

rather than attempting to reform it.

Despite the anti-corruption mandate with which Mr. Yushchenko entered office, his presidency has consistently failed to deliver on key anti-corruption measures in public life, with perceptions of the ruling elite as a corrupted members-only club still very much in place four years after he first came to power. The President’s approach continues to remain similar to that of the Kuchma era; namely, lots of fine sounding rhetoric without any concrete action. Instead of the justice for all promised during the Orange Revolution, the country’s law courts remain largely dependent on financial and political influence, preventing the evolution of the domestic business environment beyond its current capacities due to the debilitating and uncompetitive corruption which this fuels.

Many international companies currently operating in Ukraine have stated that the lack of transparency and objectivity in the Ukrainian court system remains the largest single obstacle to international investment growth in the country. It also serves as a road block to a whole range of associated business and regulatory reforms that would have radically altered the economic climate in the country and allowed it to capitalise on the unprecedented investor interest in Ukraine generated by the Orange Revolution.

## **Failed constitutional experiment**

The political opposition has not been marginalised in Ukraine as it was in Georgia after the 2003 Rose Revolution, with Viktor Yanukovich’s Party of Regions finishing in first place in both the 2006 and 2007 elections. However, despite this new-found pluralism Ukraine has failed to overcome the Byzantine nature and non-transparency of its politics. The removal of Parliamentary Speaker Arseniy Yatseniuk on 12 November, with ten deputies controlled by Presidential Chief of Staff Viktor Baloga supporting the vote, demonstrated once more how deeply Byzantine Ukraine’s politics continue to be.

Ukraine also evolved differently to Georgia in the constitution it adopted following its colour revolution. After the Rose Revolution Georgia adopted a hyper-presidential constitution, while Ukraine moved in the other direction, adopting a parliamentary constitution. Although in adopting a parliamentary system Ukraine was following the example of their European neighbours, the actual changes were hastily drawn up during the 2004 revolution and have since been discredited as badly flawed. However,

it is overly simplistic to attribute the chaotic political landscape in today’s Kyiv exclusively to instability-inducing constitutional changes as President Yushchenko spent his first year in office enjoying the extended powers of the old constitution but even then failed to overcome the divisions and in-fighting which have characterised much of his presidency.

## **Lack of leadership for historical mission**

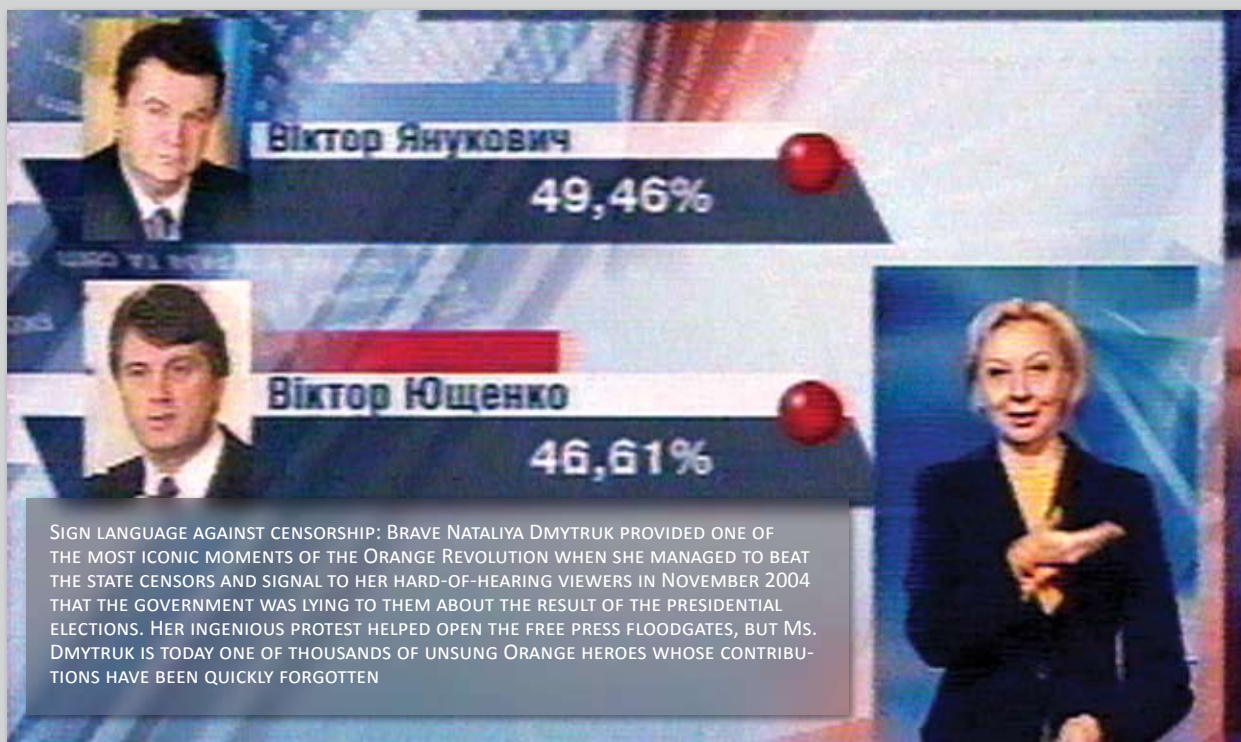
One of Mr. Yushchenko’s greatest triumphs during the Orange Revolution was undoubtedly his emergence as a national leader who appeared ready to take on the mantle of historic father figure. For many years prior to the 2004 campaign Mr. Yushchenko had been criticised for his failure to side against President Kuchma while in office and his ineffectual leadership.

The intensified emotions generated by the Orange Revolution, together with the theatrical effect of Mr. Yushchenko’s alleged September 2004 dioxin poisoning, seemed to combine to secure the Orange leader’s place among the greatest figures in the country’s history. However, four years on one of the most disappointing legacies of the revolution has been that of a near-complete absence of leadership on the part of the President. This is reflected in damning polls that give him less than 5% support while 82% of the population have no confidence in him. Three-quarters of Ukrainians do not believe he should run for a second term, a figure that requires little comment.

This tangible sense of disappointment is a direct result of the fall from grace Mr. Yushchenko has experienced since the reality of his presidency began to diverge from the high hopes of the Orange Revolution. Since coming to power the President has effectively ignored many of his 2004 election promises (encapsulated in such documents as the “Ten Steps” and in his draft decrees). Worse still, whenever Prime Minister Yulia Tymoshenko has sought to fulfil Mr. Yushchenko’s 2004 election promises she has been accused of populism by the very same President who propounded the policies as a candidate. Each of the social programmes supported by the two Orange Tymoshenko governments, including the repayment of Soviet-era bank deposits, was supported by Mr. Yushchenko in his 2004 election campaign.

## **Eyeing integration as Russia looms increasingly large**

Despite the huge boost to Ukraine’s profile and Euro credentials provided by the ▶▶



## Forgotten heroes and unpunished villains

The past four years of post-Orange Ukrainian history have seen the country's competing political camps engaged in a scramble to venerate historical figures associated with rival interpretations of Ukrainian history, but while streets have been renamed and monuments erected in honour of Russian Empresses and Ukrainian partisan leaders, the heroes and villains of the 2004 uprising itself have been largely overlooked. In the immediate aftermath of the revolution many of the leading figures connected to the Viktor Yanukovich candidacy departed Ukraine amid a series of suspicious suicides. However, once it became apparent that there would be no effort to bring vote-riggers to justice these temporarily exiled Party of Regions and Kuchma-era figures gradually begin drifting back to the country.

The chief villain of the revolution, Viktor Yanukovich, was never thought likely to face prosecution for his role in attempted vote rigging, but few would have believed in 2004 that nobody would ever be prosecuted for the mass falsification campaign that sparked the Orange Revolution. President Yushchenko sparked fury in late 2005 when he agreed to an amnesty for all local officials as part of a compromise bill negotiated to secure Party of Regions support for Yuriy

Yekhanorov, who was Mr. Yushchenko's choice as technocrat PM to replace the ousted Yulia Tymoshenko. Other figures implicated in the vote-rigging schemes of the 2004 campaign including Central Election Committee head Serhiy Kivalov have since found a political sanctuary within the ranks of the Party of Regions.

President Yushchenko has further upset his 2004 supporters by failing to push ahead with investigations into celebrated injustices which helped spark opposition to the Kuchma regime. Mr. Yushchenko appeared to add insult to injury in early 2007 when he announced the decision to award former Prosecutor General Mykhailo Potabenko with a top state honour despite his close ties to the alleged cover-up following the murder of journalist Georgiy Gongadze in 2000.

With the leader of the Orange Revolution apparently uninterested in pursuing justice for the perpetrators of the 2004 election fraud and unwilling to confront the high-ranking figures tied to some of the worst excesses of the Kuchma era, it is little wonder that the Yushchenko Presidency has also been marked by an absence of official recognition for the everyday heroes who helped make the Orange Revolution happen.

The real heroes of the revolution were

the thousands of ordinary Ukrainians who volunteered to work as election observers in rural locations or worked round the clock to man facilities for the millions of demonstrators who poured into Kyiv as the revolution reached a crescendo in late 2004. These forgotten heroes have been recognised in the Ukrainian capital's sole monument to the revolution – a section of wall at Kyiv's Central Post Office featuring scribbled personal messages from protestors which has been placed behind protective glass.

However, there has never been any official recognition for the people who risked their jobs and more by voicing their opposition to the government in the dark days leading up to the Orange Revolution itself. Nataliya Dmytruk, who famously used a sign language broadcast on national TV to inform her deaf viewers that they were being systematically lied to by the government, provided the Orange Revolution with one of its most iconic moments. Her display of personal bravery on national TV at a time of enormous fear and nervous tension helped break down the government's wall of censorship and saw her awarded at the 2005 European Freedom of the Press awards, but she has never received the same recognition in Ukraine itself.

» pro-democracy 2004 protest movement, Ukraine's geopolitical position has become more precarious in recent years as a consequence of external factors beyond its control and internal mistakes rooted in internal political rivalries within the Orange coalition of parties. Externally, in the last four years Russia has evolved into an assertive power intoxicated by high energy prices. Russia is bent on restoring its Great Power status, ignores Western criticism and is willing to use military force in pursuit of its objectives within the CIS, as seen in Georgia in August. President Yushchenko has to deal with a very different Russia to the that which Mr. Kuchma faced in the 1990s and even during Vladimir Putin's first term in office.

### **Confronting Ukraine's united pro-Russian front**

To compound this external problem, Mr. Yushchenko is also faced by the Party of Regions monopolisation of the so-called "centrist" political camp and its domination of eastern Ukraine. This domination has only relatively recently been challenged in the 2007 elections when Yulia Tymoshenko made inroads into the electorate across the south and east of the country.

Nevertheless, Mr. Yushchenko has been attempting to steer the country out of the Russian orbit at exactly the moment when the Kremlin felt more empowered than it had in many years and with a pro-Russian faction inside Ukraine that was bolstered by the experience of their humiliating Orange Revolution defeat. The Party of Regions, which was only established in late 2001, is the most pro-Russian of the centrist forces that emerged from the pro-Kuchma camp and it has consistently been the single most popular party throughout the four years since its leader found himself cast as pantomime villain in the country's Orange Revolution epiphany.

The Party of Regions has only managed to achieve this dominance of the centrist camp since the Orange Revolution. President Kuchma had previously been careful to divide and rule his supporters in such a way that no unified political force could come out on top, thereby preventing monopolisation by the Party of Regions. Mr. Yushchenko's victory in 2004 also initiated a process of consolidation among those who opposed the Orange victory and has led to the growth of a party which seemed destined for political extinction amid the euphoria of late 2004.

### **Geopolitical realities: Lost opportunities and new threats**

Under President Yushchenko the emergence of a powerful pro-Russian opposition to Ukraine's Euro-Atlantic integration has been an additional internal constraint on Ukraine's westward integration. However, many of the main barriers the country has encountered have appeared as a result of the President's own failure to prioritise Euro-Atlantic integration over his personal conflicts with Mrs. Tymoshenko and other Orange leaders. Despite the overriding European theme which underpinned the protest movement of 2004, integration has been slow. Ukrainians may well have demonstrated during the Orange Revolution that they see themselves as part of the European family of nations, but few outside the country have rushed to embrace this seemingly fickle and unstable colossus of the east. Concrete progress in Ukraine's Euro-Atlantic integration has been small, most noticeably in being recognised as a free market and joining the WTO. A free trade agreement with the EU is also under negotiation.

These gains are welcome but they still represent a depressingly small return on the enormous expectations of 2004, while the real prizes of EU and NATO membership are still as far off as ever.

### **Failure to build on early NATO overtures**

NATO actually offered Orange Ukraine membership prospects in return for maintaining the unity of pro-western reform forces and political stability, two seemingly innocuous requirements that the President has nevertheless failed to meet. There is much to suggest that Ukraine would have gained the Membership Action Plan (MAP) they were denied in April 2008 as early as summer 2006 if President Yushchenko had managed to form an Orange coalition following spring parliamentary elections. His failure to do so cost the country a chance to make an integrationist breakthrough which might have helped maintain the momentum generated by the revolution, but the opportunity was passed over owing to political considerations in Kyiv.

The constant turnover of governments since 2004 has not only put the country's foreign partners off but has also prevented the launch of a vigorous information campaign promoting awareness of NATO among the Ukrainian population, leaving the information field open to a well-financed anti-NATO campaign led by the Party of Regions.

### **The EU's failure to engage Ukraine**

Although European Union chiefs took a lead role in roundtables during the Orange Revolution, the EU has failed to rise to the challenge over the intervening four years, with differences of opinion among the 27 EU member states along with fear of Russian ramifications have produced a policy of what can only be described as overwhelming caution.

Ukraine remains the only country classified as "Free" by the Freedom House NGO that has received no offer of EU membership. Meanwhile, Turkey and the western Balkans, which are classified as "Partly Free," already have EU membership prospects.

Ukraine's level of democratic development, rule of law and corruption is no worse than that of the slower reformers of central-eastern Europe in the late 1990s. These slow reformers (Romania, Bulgaria, Slovakia) only progressed after the incentive of EU membership was provided in 1999-2000.

Progress in Ukraine's Euro-Atlantic integration could have looked better after four years of an Orange president if the Orange camp had remained united and the EU had shown greater vision. Ukraine would have been invited to join a Membership Action Plan at NATO's November 2006 Riga summit, putting it on a path to NATO membership between 2010-2012. The EU would have been in a position to demand radical reforms if it had offered future membership, thereby putting the ball in the President's court.

### **Four years later: Still stuck in geopolitical no man's land**

As the country marks the fourth anniversary of the Orange Revolution, Ukraine remains stuck in a geopolitical no man's land awaiting the next presidential elections. After being given a popular mandate that most politicians would give their right arm for, Mr. Yushchenko appears to have lost any chance of being re-elected, while the forces he led in 2004 are now divided and their energies consumed by internal battles.

The events of 2004 may well have ushered in a new era in Ukrainian history, but many of the country's historical complaints have continued to exert a debilitating influence, while internal instability and international caution have combined to leave the country well short of the lofty integration plans that attracted so many optimistic supporters to the Orange Revolution in the first place. ●

# Opportunity **lost**

All too easy to see why bitterness and cynicism have replaced the euphoria of late 2004

Martin Nunn

Looking back to the tumultuous events of November and December 2004 I can still vividly remember a time when people were enthused by the vision of a bright new future. The orange glow literally dazzled the population: all were brothers and sisters, whether young or old, able-bodied or handicapped, rich or poor. It didn't matter who they knew or who they were anymore because everyone seems to realise that a new future was possible and that Ukraine could finally emerge as a truly free and democratic country.

## Caught up in historic events

Right from the first day of mass demonstrations against the rigged elections I found myself close to the centre of events because my office overlooked Khreshshatik Street, which was the focal point of the national protest movement. Despite the fact that our office balcony was tiny, my staff nevertheless piled out onto the small space or crowded the windows in order to wave anything they could that was orange. All my translator could find was the orange dish cloth from the kitchen but even this was waved in support of the Ukrainian people.

At first I felt that as a foreigner I should endeavour to keep out of what was a wholly Ukrainian revolution. However, I was so fired up by the enthusiasm and the outpouring of hope that I was witnessing that I eventually took my Union Jack flag from its office stand and joined in the celebration. The response from crowd was totally unexpected - they looked up at the fluttering British flag and erupted into cheers and applause (see photo). The Ministry of Foreign Affairs later cited our office as the first demonstration of British support for the Orange Revolution, so you could argue that our mark was made on Ukrainian history!

Looking down onto the crowd as it formed up outside Besarabska market for an early protest march was a simply amazing experience. First there were just a few hundred people with orange flags but in a space of 30 minutes the entire street had filled up with people as far as the eye could see in every direction. All of my staff wanted to join the protests but with the temperature hovering at -10C we agreed that they should go in pairs for half an hour each. Every day I watched as my staff went to show their support or simply offer help to fellow Ukrainians. They stood in picket lines or took deliveries of food to those camped out in the streets, made donations of warm clothes and waved their flags in solidarity. Every day they had the same sparkle in their eyes. When the result of the rerun third round of the presidential election was declared they were ecstatic. It was as if they had just won a war. Sadly, they have since been badly let down.

## Orange nostalgia out of fashion

With the benefit of hindsight it is easy now to see that the leaders of the Orange Revolution made promises which they could not keep. They had neither the vision nor the desire to change anything. The orange camp simply assumed the mantle of government and continued to run the country with the same self-interest and corruption. Hopes of a fast track to the EU and European integration have also turned to harsh realities as chances have been wasted and diplomatic



Photo courtesy of **Michel Zayet**

relationships compromised by Ukraine's incessant post-revolutionary political instability. This failure has meant that today few even talk about what should have been Ukraine's finest hour, preferring to keep quiet and get on with their lives as if nothing ever happened. The colour orange no longer possesses the almost magical aura it seems to hold in the heady days of late 2004.

How will the Orange Revolution be remembered by history? Thanks to Ukraine's moment in the global limelight back in 2004, the colour orange has come to internationally signify people's resistance to those who seek to manipulate the processes of democracy. Despite deep disillusionment here in Ukraine, that association will probably remain for some years to come. For most Ukrainians, however, the Orange Revolution is likely to be viewed as the greatest missed opportunity in the country's history. ●

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