

European issues
n°214
26th september 2011

Ukraine-European Union Relations since the election of Viktor Yanukovich

by **Emmanuelle ARMANDON**

PhD in Political Science
from the IEP Paris

ABSTRACT

After Viktor Yanukovich's election as president of the Ukraine in February 2010 he distinguished himself immediately from his predecessor by taking up close links again with Russia. But the new Ukrainian president did not neglect his relations with the EU however. Bilateral relations have moved forwards and may lead, at the end of 2011, to the signature of an association agreement. The deepening of the partnership between Kyiv and Brussels may however now be in danger because of the authoritarian excesses of the Ukrainian regime.

On March 1st 2010, just a few weeks after his election as head of the Ukrainian State, Viktor Yanukovich travelled to Brussels on his first official trip abroad. Deemed by many as being pro-Russian and labelled "Moscow's man" since the Orange Revolution in 2004, the new president hoped to reassure his European partners, recalling that integration into the EU was still the Ukraine's main priority. But his initial steps in terms of foreign policy revealed a very different reality from the official discourse. During the first months of his mandate dialogue and cooperation with Moscow were privileged and very quickly grew in intensity. The Russo-Ukrainian rapprochement was then the source of a certain amount of doubt with regards the future of relations between Kiev and Brussels. However, in spite of appearances, the latter have not remained at a standstill since Viktor Yanukovich's election. There has been an increasing number of meetings, and the negotiations, ongoing since 2007 for the conclusion of an association agreement that should lead to a free trade area, have moved forwards. Some observers have not ruled out that this might be signed before the end of 2011. For Warsaw, which was principally behind the Eastern Partnership launched in 2009 and also for a long time Ukraine's best ally in the international arena, progress like this in relations between Kyiv and Brussels may be the high point of the Polish Presidency of the Council of Ministers of the European Union. And just as Member States are about to reform the European Neighbourhood Policy, it might also be used as a symbol of greater commitment by the EU with regard to its periphery. However a significant problem remains: developments in Ukraine's domestic politics. The decline in de-

mocracy witnessed when Viktor Yanukovich came to power may seriously compromise the country's goal of achieving European integration.

1. The position of Europe in Yanukovich's foreign policy: not a very promising start

Just after Viktor Yanukovich's election as President of Ukraine in February 2010 the new government seemed to back pedal in terms of its foreign policy. In this area, the newly elected president's leanings recalled those of Leonid Kuchma at the start of his first term in office. Although he advocated a balanced foreign policy with both his Western and Russian partners, Viktor Yanukovich gave first priority to cooperation with Russia.

From an international point of view Viktor Yanukovich wanted Ukraine to have balance and mutually beneficial relations with all of its partners[1]. "I intend to establish stable, strong partnerships with the European Union, Russia and the USA," he explained in a speech delivered to the Parliamentary Assembly of the Council of Europe in April 2010[2]. On setting this goal, which is included in the founding Law on Ukraine domestic and foreign policy, adopted on 1st July 2010 by the representatives in the Verkhovna Rada[3], the Ukrainian head of state seemed to be taking up the "multivectoral" foreign policy that was initially implemented by Leonid Kuchma and which aimed to achieve balance between firm establishment in Europe and good neighbourly relations with Russia[4]. With regard to the EU Viktor Yanukovich's approach comprised a reassertion of Ukraine's European aspirations. "We have a European future," he

1. See the interview that V. Yanukovich gave to the BBC on his visit to Brussels on March 1st 2010 "Viktor Yanukovich: I want to change the situation for the better", available on the site of the presidency of the Ukraine: <http://www.president.gov.ua/en/news/16630.html> [Last consultation: August 2011].

2. See transcript of the speech by de V. Yanukovich in the report of the 12th session of the Parliamentary Assembly of the Council of Europe on 27th April 2010, available on the PACE site: <http://assembly.coe.int/Mainf.asp?link=/Documents/Records/2010/F/1004271000F.htm> [Last consultation: August 2011].

3. The text is available in Ukrainian on the Parliament's site: <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2411-17> [Last consultation: August 2011].

4. On the multivectoral foreign policy established by Leonid Kuchma, see notably James Sherr, "L'Ukraine et sa sécurité", in Gilles Lepesant (Dir.), *L'Ukraine dans la nouvelle Europe*, Paris, CNRS Editions, 2005, p. 119-175.

declared in April 2010[5]. The goal of joining the EU is stipulated in the Law dated July 1st and the president repeated this some months later: "Ukraine continues to work towards integrating the European Union"[6]. During a visit to the Council of Europe in Strasbourg on 21st June 2011, Viktor Yanukovich repeated this commitment: "Integration into Europe is still an absolute priority in terms of Ukraine's domestic and foreign policy." [7] With regard to Russia the president's goal was to re-establish appeased relations. After five years of continuous tension under the presidency of Viktor Yushchenko, Mr Yanukovich wanted to foster dialogue and cooperation with Moscow, which in his opinion, would be vital and beneficial for the populations of both countries "and also for all of Europe and the world." [8] In his opinion links with Moscow were not incompatible with the goal of joining the EU: "Russia is not preventing us from implementing the reforms we are undertaking in terms of this goal. On the contrary Russia is helping towards the smooth development of these programmes," he explained in October 2010[9]. However in this quest to achieve balance it seems that the Ukrainian president is undertaking a policy which does not really match official discourse. Just a few months only after his election, it was primarily Russia that Viktor Yanukovich intended to draw closer to. This was achieved on 21st April 2010 when he signed the Kharkiv Agreement with his Russian counterpart Dmitri Medvedev, whereby Kyiv clinched a 30% reduction on the price of gas for the next ten years in exchange for an extension, until 2042, of Russia's rental of the naval base of Sebastopol. This compromise led to an appeasement in diplomatic tension that had emerged on several occasions during the Yushchenko presidency with regard to the presence of the Russian fleet in the Black Sea in Crimea[10]. It also intimated that the energy crisis that had poisoned bilateral relations during the years that followed the Orange Revolution now belonged to the past. The Russo-Ukrainian rapprochement which followed was facilitated by the fact that Kyiv turned its position towards that desired by Moscow with regard to most of the disputes that had been the cause of serious crisis between the two countries. The question of Ukraine's accession to NATO, which had been the source of great hostility in Russia, was no longer on the agenda; the partnership with the Atlantic Alliance continued but the law of July 1st 2010 stipulated Ukraine's non-aligned status. The Russian language was granted greater scope in the spheres of public life (administration, media, education). Viktor Yanukovich also brought the historiographical quarrels that had emerged over the grand famine of the 1930's to an end: unlike his predecessor who believed that the Holodomor was a genocide perpetrated against the

Ukrainian people, the new Head of State believes that it was "a tragedy that affected all populations who lived at that time in the Soviet Union" [11] The conclusion of the Kharkiv Agreement also opened the way to marked cooperation in many areas: economic, cultural, religious, etc. [12]

Given the speed and intensity with which the Russo-Ukrainian rapprochement occurred just after Viktor Yanukovich's election some observers cast doubt over the future of cooperation between Ukraine and the EU. [13] However in spite of appearances, dialogue does seem to have been maintained to the same degree as under the Yushchenko presidency.

2. EU-Ukraine cooperation greater than it seems

Viktor Yanukovich's arrival in office did not lead to a slowing in the meetings between Kyiv and Brussels. As a report by the French Senate highlights, "no less than 90 meetings between the EU and Ukraine were held between September 1st and mid-December 2010" [14]. On the eve of the EU-Ukraine Summit in November 2010 the President of the European Council, Herman Van Rompuy declared, "This is our first Summit since President Yanukovich was elected earlier this year but overall this is going to be my fourth meeting with the President in one year." [15]. During an official visit to Kyiv in January 2011, Štefan Füle, the European Commissioner for Enlargement and the European Neighbourhood Policy recalled that he was travelling to Ukraine for the fourth time in 10 months and that it was the country he had visited most since he had taken office [16]. A new forum for dialogue was created in the spring of 2011: the Ukraine-EU Parliamentary Club. This was the initiative of two MEPs, Aleksandr Mirskis (Latvia) and Boguslaw Liberadski (Poland) [17], comprising more than 20 MEPs and 33 Ukrainian MPs. Since the election of the new Ukrainian president dialogue between Kyiv and Brussels has led to a certain amount of progress. In September 2010 after four years of negotiation, and because Ukraine had brought its own national legislation in line with that of European standards in the gas sector, it was able to sign the membership protocol of the Energy Community [18]. Cooperation between Kyiv and Brussels regarding the modernisation of the Ukrainian gas transport network that was launched in 2009 and confirmed when Viktor Yanukovich met European Commission President, José Manuel Barroso in September 2010 [19], became a reality in July 2011: modernisation work to the gas pipeline Ourengöi-Pomary-Oujgorod started with the financial support of the European Investment Bank (EIB), amongst others [20].

The 14th bilateral summit in November 2010 concluded

5. Cf. note n°2.

6. Cf. "Yanukovitch: 'L'objectif de l'Ukraine reste l'Europe'" [Interview], in *Le Figaro*, 6th October 2010.

7. Cf. the transcript of the speech by V. Yanukovich on 21st June 2011 to the Parliamentary Assembly of the Council of Europe: <http://www.coe.int/portals/web/coe-portals/speech-yanukovich> [Last consultation: August 2011]. See also "Yanukovitch

: 'L'Ukraine se perfectionne, se modernise. C'est une partie de l'Europe'" [Interview], in *Le Monde*, 24th June 2011.

8. *Ibid.*

9. Cf. "Yanukovitch: 'L'objectif de l'Ukraine reste l'Europe'" op. cit.

10. Cf. Emmanuelle Armandon, "La Crimée dans les relations ukraino-russes: une controverse du passé", in *Questions Internationales*, no. 50, July-August 2011, p. 97-104.

11. See the speech by V. Yanukovich to the Parliamentary Assembly of the Council of Europe on 27th April 2010.

12. Cf. Anne de Tinguy, Emmanuelle Armandon, "Ukraine: la présidence Yanukovitch, retour en arrière ou nouvelle étape du processus de transition", in *Questions Internationales*, no. 45, September-October 2010, p. 90-99.

13. See interview of James Sherr by Yurii Onytskiv, "James Sherr: 'Yanukovich has miscalculated'", in *Kyiv Post*, 30th May 2010; "100 dneprovoytasi: kakai model pravlidnomyetast" [Les 100 jours du nouveau pouvoir: quel modèle de gouvernement est en train de se former?], in *ZerkaloNedeli*, n° 22, 12th-18th June 2010; Owen Matthews, "How Europe Lost Ukraine", in *Newsweek*, 1st February 2010.

14. Simon SUTOUR, *Vers une nouvelle étape dans les relations entre l'Union européenne et l'Ukraine. Rapport d'information fait au nom de la commission des affaires européennes sur les relations entre l'Union européenne et l'Ukraine*, no. 692 (2010-2011), 29th June 2011, p. 22.

15. Press release "EU-Ukraine Summit in Brussels", no. IP/10/1534 19th November 2010. Except if mentioned to the contrary all press release quoted in this paper are available on: http://europa.eu/press_room/ [Last consultation: August 2011].

16. See the speech by Štefan Füle during his joint press conference with the Ukrainian Foreign Minister, Konstantin Grigorchenko, on 18th January 2011 (no. SPRECH/11/25). Available on: http://europa.eu/press_room/ [Last consultation: August 2011].

17. Cf. "European Parliament Forms Ukraine-EU Parliamentary Club", Ukrainian News Agency, 25th May 2011.

18. Press release "La Commission se félicite de l'adhésion de l'Ukraine à la Communauté de l'énergie", no. IP/10/173 26th September 2010.

19. "Brussels and Kyiv speak of modernising the Ukrainian gas pipelines", *RIA Novosti*, 13th September 2010.

20. Cf. UNGAN, 19th July 2011. See also Maria Dobroszta, "Sécurité énergétique de l'UE, réforme du marché gazier en Ukraine", 17th May 2011, available on: <http://www.nouvelles-europe.eu/geographie/ce/securite-energetique-de-l-ue-reforme-du-marche-gazier-en-ukraine.html> [Last consultation: August 2011].

with the adoption of an action plan for the suppression – in the long run – of short stay visas for Ukrainian citizens who want to travel in the EU. It led to the signature of a protocol that offers Ukraine the opportunity of taking part in the work undertaken by community agencies (including EUROJUST and FRONTEX) and in specific EU programmes involving businesses and entrepreneurial activities, energy and ITC's[21].

Moreover the European Union has continued to provide major financial support to Ukraine in many areas. In November 2010 Kyiv was granted 66 million € in aid to modernise its land and maritime border infrastructures and to improve monitoring and surveillance capabilities on its borders[22]. In May 2011 the EIB granted Ukraine the highest loan ever made to an EU Eastern neighbour, i.e. 450 million € to renovate its road network[23]. In July 2011, Kyiv was granted further aid to a total of 30 million € to support its work in implementing institutional reform[24].

The European Union has also paid more attention to the development of the situation in the Crimean peninsula. Until now its presence in the region was negligible but in May 2010 the EU launched "the joint cooperation initiative in Crimea" the aim of which is to support social and economic development there; more specifically in the sectors of tourism and social infrastructures and to promote foreign direct investment. In February 2011 Brussels partly funded the opening of a Regional Development Agency in Simferopol and 12 million € were granted some months later to the Joint Cooperation Initiative[25].

Significant progress seems to have been made in terms of bilateral negotiations in view of the signature of a deep, comprehensive free-trade agreement (DCFTA). Although complicated and still on-going in the summer of 2011, negotiations seemed to be on the verge of concluding. This is what emerges in the conclusions of a report published by the French Senate in June: "Whilst negotiations had slowed by the end of the Yushchenko era, they have gathered pace since the election of President Yanukovich; the pace might even be said to be high since the start of 2011. Whilst until now, the Ukrainians had announced the conclusion of negotiations without giving themselves the means to do so, they now seem to have understood what is required. This is why the European Commission negotiators optimistically believe that the agreement could be signed before the end of the year." [26]. Visiting Kyiv in April, José Manuel Barroso indeed intimated that 2011 could well be a decisive year for relations between Kyiv and Brussels: 2011 marks the 20th anniversary of the Ukrainian declaration of independence. I also want it to be the year in which Ukraine and the EU come closer together". "Now is the time to open a new

chapter in our relationship" he said[27]. The creation of a free-trade area may open the way to the signature of a further association agreement, on the table since 2007 and which should replace the partnership and cooperation agreement concluded in 1994 and that entered into force in 1998. Kyiv would like to see this new agreement signed by the end of the year. On this issue the Ukrainian president appears to be confident: "We are one step away from an association agreement that includes the creation of a free-trade area," he declared in April[28]. Apart from the progress achieved in negotiations, two other factors are the source of Viktor Yanukovich's optimism: the Polish Presidency of the EU and the renewed attention Member States intend to pay to their neighbourhood which makes European conditions right for the start of a new phase in Kyiv-Brussels relations.

3. EU-Ukraine Relations: what is the outlook under the Polish Presidency?

At the start of the summer 2011 the European context seemed favourable to Ukraine's desire to finalise discussions over the signature of an association and free-trade agreement with the EU. Kyiv's ambitions be seriously compromised however by developments in the country's domestic political situation.

Since 1st July 2011 Poland has held the six month presidency of the Council of the European Union. This seemed to come at the right moment for Ukraine. Firstly because Warsaw had said that the development of relations with the EU's eastern partners would be one of the priorities of its presidency[29]. The attention paid by the Polish government to its neighbours in the East is not new. Poland, due to both geographical and historical reasons, has made this a constant of its foreign policy since the fall of the Berlin Wall[30]. Integration into Euro-Atlantic structures and the EU was of course the main goal of Polish diplomacy in the 1990's, but all of the governments since 1989 have shown their determination to deepen Warsaw's relations with the States on its eastern periphery. The country's accession to the EU in 2004 did not change this: since then Poland has intended to act as a bridge between its neighbours in the east and the EU member states, as well as between the European institutions. In 2009 Warsaw sought to promote a more pro-active approach by the EU with regard to its eastern neighbours: with Sweden it launched the Eastern Partnership which aimed to foster the European integration of six former Soviet republics (Armenia, Azerbaijan, Georgia, Moldova, Ukraine and Belarus).

Although Ukraine hopes to benefit from the Polish presidency of the EU in order to start a new phase

21. Cf. "14th EU-Ukraine Summit joint press statement", no. MEMO/10/600, 22nd November 2010, available: http://europa.eu/press_room/ [Last consultation: August 2011].

22. Press release "La Commission européenne soutient la gestion des frontières en Ukraine grâce à une aide de 66 millions d'euros", no. IP/10/1608, 26th November 2010.

23. Cf. Press release by the European Investment Bank, "Ukraine: 450 million € for the modernisation of the road network", 27th May 2011, available on the EIB's site: <http://www.eib.org/projects/press/2011/2011-071-eib-supports-with-eur-450-million-upgrade-of-roads-in-ukraine.htm>. Note also that an EIB office was opened in Kyiv in March 2011; it is the first EIB office to have opened on the EU's eastern periphery. Press release by the EIB "Resident Representation of the EIB Group in Ukraine opened" 25th March 2011, available on <http://www.eib.org/about/press/2011/2011-043-resident-representation-of-the-eib-group-in-ukraine-opened.htm> [Last consultation: August 2011].

24. Press release "L'Union européenne octroie 30 millions € en faveur de réformes institutionnelles en Ukraine", no. IP/11/881, 13 juillet 2011.

25. Cf. "EU to present 'Joint cooperation initiative in Crimea' program", Interfax-Ukraine, 18th May 2010.

See also the press release "L'Union européenne affecte 12 millions € au soutien de l'initiative de coopération conjointe en Crimée", no. IP/11/563, 13th May 2011.

26. Simon SUTOUR, Vers une nouvelle étape dans les relations entre l'Union européenne et l'Ukraine... op. cit., p. 28.

27. See the declaration made to the press by José Manuel Barroso on 18th April 2001 (SPEECH/11/282). See also the speech he delivered at the Taras Shevchenko University of Kyiv on 18th April 2011 (SPEECH/11/284). Documents available on: http://europa.eu/press_room/ [Last consultation: August 2011].

28. Cf. "Ukraine-Eu: Kyiv one step away from signing an association agreement", RIA Novosti, 18th April 2011.

29. Cf. Programme of the Polish Presidency of the Council of the European Union – 1st July – 31st December 2011, Ministry for Foreign Affairs of Poland, 2011, p. 11, available on the Polish presidency's official site: http://pl2011.eu/sites/default/files/users/shared/ro-prezydencja/programme_of_the_polish_presidency_of_the_council_of_the_eu.pdf [Last consultation: August 2011].

30. Cf. Alexandre Smolart, "Pologne. La politique orientale d'un nouveau pays membre de l'UE", in Le Courrier des Pays de l'Est, no. 2 (1042), 2004, p. 20-26 ; Jean-Yves Potel, "La politique orientale polonaise", in Pouvoirs, no. 3 (118), 2006, p. 113-123.

in its partnership with Brussels, it is also because it occupies a specific place in Warsaw's eastern policy, since both countries have entertained privileged relations for a long time. Poland, which was the first state in the world to acknowledge Ukrainian independence in 1991 and it has constantly worked towards developing its links with Ukraine. Cooperation between the two States has increased in various areas: economic, military, cultural, cross-border trade etc. As of 1995 the two countries also demonstrated that they were ready to support each other mutually in their work towards integration into European and Euro-Atlantic structures. Initially reticent about NATO's enlargement in the east, Ukraine changed its position and facilitated Poland's accession to the Atlantic Alliance. In 1996, Kyiv declared for the very first time that its strategic aim was to integrate European structures and to establish an in-depth partnership with NATO. Since then Poland has been a fervent defender of Ukraine's Euro-Atlantic aspirations: it supported its accession to the Council of Europe that occurred in 1995 and supported its rapprochement with the Atlantic Alliance that led to the signature of the Ukraine-NATO Partnership Charter in July 1997[31]. The key role played by Polish President Kwasniewski in the settlement of the political crisis that opposed the supporters of Viktor Yushchenko and those of Viktor Yanukovich during the Orange Revolution gave new impetus to Ukrainian-Polish dialogue. After the electoral victory of the "Orange camp" in 2004, relations between the two countries were at their highest point and Poland again supported the Ukrainian cause in the international arena: it actively supported Viktor Yushchenko's European project as well as his desire to develop close links with NATO[32]. Of course Warsaw, as in other places, deemed the results of the Orange Revolution disappointing and the rise to power in 2010 of Viktor Yanukovich was the source of doubt. It remained however that Poland intended to continue supporting Ukraine's European ambitions. In particular, this was the message delivered in its programme for the presidency of the Council of the EU: the aim will be "to conclude Association Agreements and create deep and comprehensive free trade areas (by finalising or making substantial progress in its negotiations with Ukraine and Moldova)"[33].

If the Ukrainian authorities are optimistic about achieving significant progress in terms of the signature of the association agreement and the free-trade area with the EU in the second half of 2011, it is because the priority the Polish presidency intends to give to its relations with its eastern partners, is part of a wider plan to review the European Neighbourhood Policy. After the uprisings in the Maghreb and the Middle East in the "Arab Spring", the Member States now seem to

be aware of the shortcomings of the EU's policy with regard to its southern periphery. Criticism has also emerged about the mixed results of the partnership set up with the EU's eastern neighbours[34]. This had led the EU to review its relations with all of the countries on its borders. This resulted in a joint Communication by the European Commission and the High Representative for Foreign Affairs and the Security Policy on 25th May 2011, "A new strategy with regard to a changing neighbourhood," which highlights the need for "to strengthen the partnership between the EU and the countries and societies of the neighbourhood" The "new approach" supposes amongst others "a much higher level of differentiation allowing each partner country to develop its links with the EU as far as its own aspirations, needs and capacities allow". With regard to Ukraine it says that "the encouraging progress" it has made "in the negotiations of the Association Agreement [...] need also to be supported"[35]. From this point of view, and of all of the EU's eastern partners, Ukraine is the one with whom negotiations have progressed the most. They started four years ago, whilst negotiations on an association agreement were only launched in January 2010 with Moldova and in July 2010 with Armenia, Azerbaijan and Georgia. Apart from Ukraine, no other country involved in the Eastern Partnership has launched official negotiations for the creation of a free-trade area with the EU. Given this the 2nd Eastern Partnership Summit that will take place at the end of September 2011 and the 15th Ukraine-EU Summit that will take place in December 2011 may provide an opportunity to open a new page in the relations between Kyiv and Brussels.

4. From an opening on all fronts, to authoritarian decline?

A dark shadow now clouds the picture: developments in the country's domestic policy may now endanger any deepening in the links between the Ukraine and the EU. Initiatives taken by the new authorities in terms of domestic policy hardly correspond with the Union's renewed efforts to establish the universal values of Human Rights, democracy and the rule of law in the countries on its periphery.

On October 1st 2010 the Supreme Court decided to annul the constitutional reform that was adopted in December 2004 at the time of the Orange Revolution whereby Parliament's powers were strengthened to the detriment of those of the President. In the eyes of Viktor Yanukovich's entourage, this return to a presidential regime is a guarantee of political stability. In the eyes of the opposition, it means, above all, a setback for democracy and even an authoritarian trend on

31. Cf. PAVLIOUK (Oleksandr), "Relations Ukraine-Pologne : un pilier de la stabilité régionale?", in *Les Cahiers de Chaillot*, no. 26, June 1997, p. 46-66 ; STEPIEN (Stanislaw), "Les relations polono-ukrainiennes depuis la Seconde guerre mondiale", in *Matériaux pour l'histoire de notre temps*, n° 61-62, Jan-June 2001, p. 32-39 ; WOLCZUK (Kataryna), WOLCZUK (Roman), *Poland and Ukraine: a strategic partnership in a changing Europe?*, Londres, Royal Institute of International Affairs / Wantage, University Presses Marketing, 2002, 134 pages.

32. Cf. LONGHURST (Kerry), ZABOROWSKI (Marcin), *The New Atlanticist - Poland's Foreign and Security Policy Priorities*, London, Chatham House - Blackwell, 2007, p. 58-73.

33. Cf. *Programme of the Polish Presidency of the Council of the European Union ...*, op. cit., p. 11. See also "The Polish Prime Minister declared: "The Ukraine has shown that it wants to follow the European model""', *PR Newswire*, 3rd June 2011.

34. Cf. NicuPopescu, Andrew Wilson, "Turning Presence into Power: Europe in its eastern neighbourhood", in *European Council on Foreign Relations - Policy Brief*, no. 31, May 2011, 12 pages. See also the European Parliament's Resolution on 7th April 2011 on the review of the European Neighbourhood Policy - Eastern aspect (B7-0198/2011), available on the European Parliament's site: <http://www.europarl.europa.eu/> [Last consultation: August 2011].

35. Cf. *A new response to a changing neighbourhood, a joint Communication by the European Commission and the EU's High Representative for Foreign Affairs and Security Policy*, COM(2011) 303, Brussels, 25th May 2011, 24 pages. Document available on the Commission's site: http://ec.europa.eu/world/enp/pdf/com_11_303_fr.pdf [Last consultation: August 2011].

the part of the regime. These fears are fed by regular infringements to the freedom of the press, discrimination against some ethnic minorities (Roms and Tatars from the Crimea notably), high levels of corruption and even shortfalls in the local elections at the end of October 2010[36]. To these excesses, which are contrary to the fundamental values on which the partnership between Kyiv and Brussels is supposed to be founded, we should add the fate that has been reserved to members of the opposition. Since the new president came to power, the Ukrainian prosecutor's office has launched a great number of legal suits against some of them (about fifteen in all) for abuse of power, corruption or the embezzlement of public funds. These proceedings are targeted not only against former Prime Minister and main opposition leader, Yulia Tymoshenko, but also against several former government leaders such as, amongst others, the former Interior, Economy, Environment and even the former deputy Justice Minister[37]. In May 2011, Catherine Ashton, European Union's High Representative for Foreign Affairs and the Security Policy and Vice-President of the Commission, declared that the EU was concerned about "political motivation behind these cases" and because of the "the danger of provoking any perception that judicial measures are used selectively"[38].

This is not the first time that European leaders have warned the Ukrainian authorities about the development of their country's domestic political situation[39]. However, since the election of Viktor Yanukovich, this criticism has manifestly not prevented the continuation of dialogue and cooperation between Kyiv and Brussels. The imprisonment of Yulia Tymoshenko in August 2011 may herald a change. Under house arrest in Kyiv since December 2010 and on trial since the end of June 2011, the former Prime Minister is notably under prosecution for having gone beyond her remit in 2009, when she concluded a contract with Russia, without referring either to the government or to the president, on the import of gas at a price deemed too high, and therefore, detrimental to the Ukraine. Under prosecution in two other suits Yulia Tymoshenko denies all of the accusations brought against her and claims to be the victim of political repression by those in power[40]. In all events her remand in custody, officially for the obstruction of the smooth running of the trial, was the cause of fervent response in the USA (who demanded her "immediate release") likewise in most of the capitals of Europe[41]. In a joint declaration published on 5th August, for the very first time Catherine Ashton and the European Commissioner Štefan Füle indicated that this affair might compromise the signature of an association agreement: "Today's events are [...] therefore a cause for concern about the state of the rule

of law in Ukraine. We reiterate previous statements that we and other colleagues have made on the high standards we expect from a country aspiring to political association with the EU"[42]. In September 2011 after a meeting with Viktor Yanukovich in Yalta, Štefan Füle recalled that the "Tymoshenko affair" may have detrimental effects on the development of relations between the Ukraine and the EU. "If this problem is not solved and if she is sentenced to prison based on legislation that dates back to the Soviet era, it may be difficult, (...) Even if Kyiv and Brussels manage to conclude negotiations on the association agreement as planned in December, it will be difficult for the Parliament and the Member States to ratify this document," he insisted[43]. Even in Russia the authorities gave their support to Yulia Tymoshenko in a press release on the part of the Foreign Ministry, which indicated that the gas contract of 2009 had been concluded "strictly in line with the national legislation of both States and international law"[44]. Moscow particularly fears that the trial with the former Prime Minister might serve as a pretext for Kyiv's rejection of the 2009 gas agreements and this declaration was made when the Russo-Ukrainian rapprochement, noted since 2010, was showing its limits. Kyiv's repeated refusal to join the customs union formed by Russia, Kazakhstan and Belarus (in spite of the pressure exercised by Moscow), the Ukrainian authorities' insistence on Moscow's re-assessment of gas tariffs, the constant problems over the delimitation of borders and even Ukraine's continued dialogue with NATO over issues that are of a sensitive nature to Russia, such as the stationing of its fleet in the Black Sea in Crimea, are all sources of irritation for Moscow. The meeting between President Yanukovich and his Russian counterpart on 11th August 2011 in Sochi did not lead to a calming in the tension between the two States. These were growing again at the start of September. Kyiv's announcement that it intended to restructure the Ukrainian energy group Naftogas, which according to the Ukrainian Prime Minister, would lead to the cancellation of the gas contracts concluded with Russia, is deemed "unacceptable" by Moscow[45]. The same applies to Viktor Yanukovich's attitude, who, in an interview granted to the Russian daily *Kommerstant* on 6th September, threatened to challenge the gas contracts before the courts of Stockholm and The Hague[46]. Some Russian observers not only believe that the "honeymoon" between Kyiv and Moscow is now over but that a further gas crisis may occur in the winter of 2011-2012[47].

To conclude, 18 months only after Viktor Yanukovich's rise to power it seems that the balanced policy that he intended to undertake with regard to his international partners is running into difficulty. Whether this involves

36. Cf. Jean-François Julliard, Elsa Vidié, *La liberté de la presse en Ukraine : la tentation du contrôle, mission report on the freedom of the press in Ukraine*, Paris, Reporters sans frontières, August 2010, 14 pages. Also see the progress report on the implementation of the European Neighbourhood Policy in Ukraine, published on 25th May 2011 on the Commission's site: http://ec.europa.eu/world/engpdocs/progress2011/sec_11_646_en.pdf (Last consultation: August 2011).
37. Some were imprisoned as of 2010; the former Economy Minister fled Ukraine asking for asylum in the Czech Republic.
38. Cf. Statement by the spokesperson of EU High Representative Catherine Ashton on the case of Yulia Tymoshenko, 26th May 2011, available on: http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/122218.pdf (Last consultation: August 2011). The European Parliament adopted a similar resolution on 9th June 2011. The USA also denounced "disproportionate", "politically motivated" legal action, see the declaration by Victoria Nuland, the State department's spokesperson, 24th June 2011, available on the internet site of the Embassy of the USA in Ukraine: <http://ukraine.usembassy.gov/statement-ruland-opposition.html> (Last consultation: August 2011).
39. See in particular the declaration made by Catherine Ashton and Stefan Füle at the European Parliament on 20th October 2010 (SPEECH/10/574), available on: http://europa.eu/press_room/ (Last consultation: August 2011).
40. Cf. Interview with Yulia Tymoshenko in *Le Figaro*, 15th July 2011. An initial legal inquiry was launched against her in May 2010 for attempting to corrupt judges from whom she is said to have tried to achieve the liberation in 2002 of two of her former colleagues in the gas company, Unified Energy Systems of Ukraine, that she managed in the 1990's. A second inquiry was opened in December 2010 for the abuse of power and illit use of public funds: this time round Yulia Tymoshenko was accused of having embezzled several hundreds of millions of dollars (from the sale of Ukrainian greenhouse gas emission quotas in the Kyoto Protocol) so that she could pay retirement pensions on the eve of the presidential election in 2010 and of having purchased (via the government) nearly one thousand vehicles (supposedly destined to be turned into ambulances) at a price higher than that of the market.
41. Cf. Arielle Theuret, "L'UE dénonce l'incarcération de Ioulia Tymochenko", in *Le Figaro*, 8th August 2011; "La cour d'appel de Kiev refuse de libérer Tymochenko", in *Le Monde*, 12th August 2011. See also the article by Sweden's Foreign Affairs Minister, Carl Bildt, "Tymoshenko's Trial and Ukraine's Future", in *The Moscow Times*, 9th August 2011.
42. Cf. Joint statement by EU High Representative Catherine Ashton and Commissioner Stefan Füle on the arrest of Yulia Tymoshenko in Ukraine, Brussels, 5th August 2011, available on the Internet: http://consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/124193.pdf (Most recent consultation: August 2011). See also TarasKulic, "Ukrainian Foreign Policy Moves Towards a Crisis", in *Eurasia Daily Monitor*, vol. 8, no. 151, 5th August 2011.
43. AFP, *Affaire Tymochenko : l'Union européenne met en garde Kiev* (EU Commissioner), 16th September 2011.
44. The press release is available in Russian Information Bulletin published by the Ministry for Foreign Affairs of Russia on 8th August 2011, available on the Internet: <http://www.mid.ru/binsd/plnvn> (Most recent consultation: August 2011). See also *Kommerstant*, 8th August 2011 and *NevzvisimkaGazeta*, 9th August 2011.
45. RIA Novosti, *Gas: Moscow demands that Kyiv honour the contracts signed*, 3rd September 2011.
46. Cf. *Kommerstant*, 6th September 2011.
47. Cf. *NevzvisimkaGazeta*, 9th August 2011 and *Kommerstant*, 21st June and 12th August 2011.

the domestic or foreign policy, recent action on the part of the Head of State does not seem to be in line with the establishment of stable partnerships, either with Brussels or with Moscow. This is what happened at the end of Leonid Kuchma's first term in office. At the time the delays seen in the country's democratisation and the weaknesses in its multivectoral foreign policy led to Ukraine's isolation in the international arena. In a bid to prevent history repeating itself within the next few months, the Ukrainian authorities have issued conciliatory signs towards its European and Russian partners. On 12th September the Court of Kyiv decided to suspend the trial against Yulia Tymoshenko for two weeks. Although officially this is to allow the former Prime Minister to ensure a better defence in her next appearance in court, this decision seems in fact to have been taken for diplomatic reasons, notably in view of the Eastern Partnership Summit on 29th and 30th September.[48] It was with the aim of appeasing tension with Moscow that some Ukrainian leaders spoke of the

Cf. Yuriy Onyshkiv, "Free soon? ", in the Kyiv Post, 15th September 2011.
Cf. RIA Novosti, 17th September 2011.

possibility of offering Russia part control of the Ukrainian gas pipeline network on 16th as part of a tripartite consortium that would also include the EU[49]. Events over the weeks to come will reveal if this u-turn by Kyiv succeeds in convincing its international partners.



Author : Emmanuelle ARMANDON

PhD in Political Science from the IEP Paris, is a lecturer at the National Institute of Oriental Languages and Civilizations (INALCO-Paris) and since 2008, she has been the Director of Studies for the Department of Higher International Studies at the INALCO.

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