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Experts at D.C. conference hail Ukraine's democratic development

by Yaro Bihun

Special to The Ukrainian Weekly

WASHINGTON – Viktor Yanukovich's victory in the February 7 presidential election is yet another indication that democracy is developing in Ukraine. It was not necessarily a victory for Moscow, which backed the victor, or a turning away from Europe and the United States, which were seen as backing his opponent Yulia Tymoshenko. And it does not spell an end to the Orange Revolution, whose political leadership went down in defeat.

Those were some of the assessments of the meaning of the election and its possible impact both domestically in Ukraine and on its relations with Russia and the West as expressed by two panels of experts participating in a post-election review conference organized by The Washington Group (TWG), an organization of Ukrainian American professionals.

The conference was held here on February 13, less than a week after the election, at the L'Enfant Plaza Hotel.

Among the discussants were current and former U.S. government officials, experts from Washington and research institutions, as well as representatives of leading Ukrainian American organizations long active in developing U.S.-Ukrainian ties. Some of them had just returned from Ukraine, where they served as official election monitors.

The first speaker, following the initial greetings by TWG President Andrew Bihun, was Ukraine's ambassador to the United States, Dr. Oleh Shamshur, who highlighted some aspects of the presidential election that



Yaro Bihun

Ukraine's ambassador to the U.S., Oleh Shamshur, addresses The Washington Group conference assessing Ukraine's presidential election.

subsequent speakers later expanded on.

Ambassador Shamshur said the election was proof that Ukraine was, if not a "mature" democracy, then at least a "maturing" democracy. Ukraine's new president faces some very important challenges, the first among them primarily domestic: overcoming the economic crisis and conducting constitutional, legal, energy sector and other structural reforms. And success in these reforms, he added, "holds the key to meeting adequately the foreign policy challenges."

Ukraine's domestic developments

Judge Bohdan Futey of the U.S. Court of Federal Claims who was a Ukrainian Congress Committee of America (UCCA) election observer during the second round of the election opened the first panel, which dealt with the domestic aspects of the elections results.

While there were some irregularities and violations, he said it was questionable whether they were sufficient to overturn the Yanukovich victory. He cited instances of "merry-go-round" (also known as "car-

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CEC declares Yanukovich winner, Tymoshenko claims election fraud



Official Website of Yulia Tymoshenko

Yulia Tymoshenko speaks with the press on February 16 as she launches a court battle to overturn the results of the presidential election.

by Zenon Zawada

Kyiv Press Bureau

KYIV – Prime Minister Yulia Tymoshenko launched a court battle on February 16 to overturn the results of the February 7 presidential runoff elections,

claiming her campaign had uncovered five forms of systemic falsifications that tipped the scales in favor of Viktor Yanukovich.

"We are convinced that there was a systemic, fundamental, wide-scale and all-encompassing falsification of elections in the second round," she told reporters after delivering the complaint to the Higher Administrative Court, which was surrounded by Mr. Yanukovich's supporters, who tried to stop her from entering.

The Tymoshenko campaign's appeal was filed two days after the Central Election Commission (CEC) established its official results declaring Mr. Yanukovich the winner by 3.5 percent, or about 888,000 votes.

Parliament voted on the same day her appeal was filed to set Mr. Yanukovich's inauguration for February 25.

Ms. Tymoshenko's appeal is unlikely to succeed, most observers said, citing reasons ranging from the intricacy of the election law to the alleged bias of the Higher Administrative Court, which is the final arbiter in the appeals process.

Chief Justice Oleksander Pasienuk has close ties to the Party of Regions, various Ukrainian media confirmed, and is unlikely to give Ms. Tymoshenko's appeal a fair ruling.

"The door is pretty much closed for Tymoshenko," said Ivan Lozowy, president of the Kyiv-based Institute of Statehood and Democracy. "A recount won't give her anything meaningful since the Donetsk clan has probably made sure that its falsifications are covered in all the election commission protocols."

The Tymoshenko campaign said it wants the Higher Administrative Court to

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Western leaders congratulate Yanukovich before official announcement of election results

by Zenon Zawada

Kyiv Press Bureau

KYIV – Vladimir Putin called to congratulate Viktor Yanukovich on his 2004 presidential election victory the same day the Orange Revolution erupted, and that became one of the more embarrassing chapters of the Putin presidency.

This time around, U.S. President Barack Obama congratulated Mr. Yanukovich on February 11, days before results were officially established and final court appeals reviewed. Recognition from EU President Herman Van Rompuy and NATO Secretary General Anders Fogh Rasmussen soon followed.

The gestures surprised the campaign of Yulia Tymoshenko, as well as some among Ukraine's diplomatic community, who expected Western governments to abstain until appeals were exhausted, or at minimum until official results were established by Ukraine's Central Election Commission.

"Why this was done is a big question for us all," said Dr. Grigoriy Perepelytsia, a professor of international relations at Shevchenko National University in Kyiv. "As tradition, presidents are congratulated after inauguration when they legally

assume presidential authority. Western leaders rushed to recognition when there was a result without the legal basis."

The Central Election Commission declared on February 14 that Mr. Yanukovich won the February 7 presidential runoff by a 3.5 percent margin against Prime Minister Tymoshenko. The difference was about 888,000 votes.

The night of President Obama's announcement, former Foreign Affairs Minister and lifelong diplomat Borys Tarasyuk, a firm supporter of Ms. Tymoshenko's campaign, said the gesture was "unethical," since official results hadn't yet been established. "In the majority of cases, leaders avoid congratulations on election victories and congratulate 'success,' as demonstrated by [Russian] President Dmitry Medvedev, who was careful in these elections."

Indeed, Mr. Medvedev on February 9 became one of the first leaders to congratulate Mr. Yanukovich, limiting his praise to the "completion of the election campaign, which received a high evaluation from international observers, and with success, achieved at presidential elections."

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Experts at D.C. ...

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ousel”) and non-resident voting, more votes reported from a hospital than there were patients, the disappearance of ballots in Ivano-Frankivsk after the killing of an election commission member there, among others. He also cited the surprising amendment of the election law three days before the second round dealing with the number of election commission representatives that had to be present at voting stations. He likened this to changing the rules of the game during the intermission of a soccer or football game.

“Judicial reform should be a priority because without a judicial reform in Ukraine you cannot have the applicability of the rule of law,” he underscored.

As for what contributed to the “victory or alleged victory” of Mr. Yanukovich, Judge Futey suggested that it was the combination of those who did not vote and those who cast their ballots for neither of the candidates. He added, though, that many Ukrainians attributed “the alleged victory” of Mr. Yanukovich to the policies of President Viktor Yushchenko.

David Kramer of the German Marshall Fund who was at the State Department during the administration of President George W. Bush and the director of the International Republican Institute study mission to Ukraine, was impressed by the voter turnout – 67 percent – which he characterized as high despite the cold and snowy winter weather. He suggested that Ukraine should change the date of its elections to a milder season of the year.

There were no systemic abuses or fraud, he said. Yulia Tymoshenko lost because she was the prime minister when the economy shrank by 15 percent and because of what he called the “Yushchenko effect” – the president’s “nasty attacks” against his former ally. “The president, ironically, was doing Yanukovich’s dirty work for him,” Mr. Kramer commented.

As for criticisms of President Barack Obama telephoning to congratulate Mr. Yanukovich before the official announcement of his victory, Mr. Kramer said, “It would have been a mistake, in fact, had the president not placed a phone call and had he been the last one to congratulate Yanukovich.”

Orest Deychakiwsky, a senior advisor with the U.S. Helsinki Commission who was an election observer for the Organization for Security and Cooperation in Europe, noted that 95 percent of the OSCE observers called the election process “good” or “very good.”

“You really can’t do much better than that,” he said, adding that the fact that the election results were not predictable is a success in itself – “a relatively rare concept in

that part of the world.” And while Prime Minister Tymoshenko has every right to ask for a recount, he expressed his doubt that it would change the final outcome.

As for Ukraine’s future course under the new administration, he said that as president Mr. Yanukovich may not turn out to be as pro-Moscow as many expect him to be. Also, the oligarchs who backed him may well see their interests more in a European future for Ukraine.

Regarding U.S.-Ukraine relations, he said, “The U.S. has a solid record of standing with the Ukrainian people over the decades in their support for freedom and democracy that crosses party lines. It’s in Congress, it’s in the executive branch. And now certainly is not the time to give up on them.”

Another election observer – for the UCCA in Sevastopol – James Greene, who had been a NATO representative in Ukraine, said that the voters of eastern Ukraine, who felt dispossessed after the 2004 election, now feel empowered as stakeholders in a politically balanced Ukraine. He sees the next battle as being between those who are only seeking patronage benefits in the incoming Yanukovich administration and those who recognize the need for institutional reform.

Samuel Charap of the Center for American Progress debunked what he saw as the four myths spread in the U.S. media headlines about the Ukrainian elections:

- Ukraine is not heading back “into the arms of Mother Russia,” as some headlines suggest, he said. Yanukovich’s cultural background will not necessarily dominate his political and economic preferences.
- The election was not “the death of the Orange Revolution.” The real 2004 revolutionaries were not Viktor Yushchenko and Yulia Tymoshenko, but the people – the voters who wanted to reform the system of governance in Ukraine.

- Free and fair elections in Ukraine do not prove that it is a democracy. One must also consider the way the country is run between elections – democratically or elite-dominated and corrupt.

- Ukraine is not hopelessly divided between the East and West. While that may be true about its historical development, Mr. Charap said, socioeconomic considerations of the people play a role as well.

Nadia McConnell, the founder and president of the U.S.-Ukraine Foundation, also took issue with the interpretation of Ukraine’s election in the East-West context as a Moscow-backed victory over the U.S.-backed Orange Revolution.

And polling results showed that their top three concerns in this election were jobs (71 percent), inflation (56 percent) and corruption (48 percent), and not the East-West issues, such as the gas dispute with Russia (17 percent), the status of the Russian language (9 percent), European Union relations



Yaro Bihun

Federal Claims Court Judge Bohdan Futey responds to a question during The Washington Group’s post-election review conference. Seated next to him on the panel are Orest Deychakiwsky (left) of the U.S. Helsinki Commission and David Kramer of the German Marshall Fund. TWG President Andrew Bihun is at the podium.

(3 percent) and NATO (1 percent).

“The evidence is clear and consistent: the people of Ukraine have once again demonstrated that they are seeking democracy,” that they are making the transition “from tyranny to freedom,” she said.

“[Mikhail] Gorbachev and President [George] Bush misunderstood what was happening in Ukraine in 1991,” she said, and Vladimir Putin and the West today do not understand what is motivating Ukrainian society. When and if President Yanukovich visits Washington, he will surely pay his respects to the poet Taras Shevchenko at his monument here. Inscribed on its base, she said, are the poet’s words longing for Ukraine to someday get its own George Washington “with his new and righteous law” (“Yurodyvyi,” 1857). “This is something that the people of Ukraine have wanted for centuries, not just since the Orange Revolution,” she said.

Still, Ms. McConnell noted later in response to a question, the Orange Revolution is continuing. And why were its leaders ousted – “because they failed their promises and commitments... and the new president of Ukraine will be held accountable by the people,” she added.

Foreign relations panel

Steven Pifer, former ambassador to Ukraine now associated with The Brookings Institution in Washington, was the first speaker of the second panel discussion, dealing with the election results’ impact on Ukraine’s foreign relations.

He mentioned these among his expectations: less tension between Moscow and Kyiv, but Moscow will not get all it wants from Ukraine; while the new government will not seek full NATO membership, it will continue its cooperation with the alliance and deepen its relationship with the European Union; the majority of Ukraine’s foreign policy elite and its people see their future within Europe, and this will be “somewhat disconcerting” to Moscow.

Ambassador Pifer said that the United States and the European Union should welcome Mr. Yanukovich as the democratically elected president of Ukraine and stress the need for its further democratic development; stress that the doors to the European Union and NATO remain open and that it is up to Ukraine to determine how far and how fast it wants to go in that direction; and advise the new Kyiv government that it should not postpone its hard domestic challenges but make the hard decisions and tackle those problems – with energy sector reforms on top of the list – as early in the administration as possible.

If Ukraine does not take on this agenda, the West should make clear that it will hold back its assistance through the International Monetary Fund and other channels, Ambassador Pifer said. “We can’t be in a

position where we want Ukraine to succeed more than the Ukrainian leadership.”

The second session of the conference also heard from Lawrence R. Silverman, director for Ukraine, Moldova and Belarus Affairs at the Department of State. His remarks, however, were delivered “off the record” and, thus, not for publication.

Speaking on the record, Damon Wilson, vice-president and director of the international security program of the Atlantic Council said that the election of Mr. Yanukovich was not so much the result of Russia’s strategy as a result of the Yushchenko-Tymoshenko infighting.

To those who had a vision of Ukraine firmly anchored in the West it was, of course, disappointing. “We all have had to, in some sense, downgrade the aspirations we had for Ukraine in the wake of the Orange Revolution,” he said, noting that now it seems like “we’re going to muddle along” in further developing Ukraine’s relationship with the West.

From a geopolitical perspective, in some respects, Ukraine is now untethered, uncertain and in the process of being decided, Mr. Wilson said. “It is a reality that we just can’t ignore.” Still, he added, Ukraine “is now and can become a powerful example in a region that needs an example of a success of a democracy and a free-market economy.”

Mr. Wilson said he is looking to see how President Yanukovich will handle Ukraine’s relationship with Georgia, the issue of extending Russia’s Black Sea Fleet arrangement in Crimea, energy security, and its economic relations with Russia and Europe. It’s a heavy agenda for the new president, he added, and much of how he handles Ukraine’s domestic affairs will influence how he is perceived in foreign capitals.

Michael Sawkiw, the former president of the Ukrainian Congress Committee of America and director of its Ukrainian National Information Service in Washington, indicated that he, too, will be looking at how Mr. Yanukovich handles these issues.

He called on Ukrainian Americans to engage with members of Congress and the Obama administration to develop a policy of full engagement with Ukraine. “Because a non-vector policy in Ukraine right now – neither West nor East – is going to be detrimental not just for the United States, not just for the region, [but] obviously for Europe as a whole,” he said.

Tribute to Roman Kupchinsky

Between the two sessions, the conference paid tribute to Roman Kupchinsky (1949-2010), who was buried the day before with military honors at Arlington National Cemetery. Myron Smorodsky, an old friend of his, recalled his many years of work in behalf of the United States and Ukraine, and the development of their bilateral relationship.



Nadia McConnell, U.S.-Ukraine Foundation president, makes the point that the Ukrainian people’s yearning for freedom and independence dates back centuries and is inscribed – in Taras Shevchenko’s words – on the base of his monument in Washington.