

Parliamentary "Test" for reformed cabinet

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"Olympic games" surrounding political reform and June activities of the Verkhovna Rada represented the major subject of a present parliamentary session. This time, the political reform got stuck with the so-called procedural issues being of paramount importance today and relating to presentation of the Constitutional Court with drafts on introduction of changes to the Ukrainian Constitution.

Ukraine's legislation does not provide for a clear procedure regulating presentation of drafts on introduction of changes to the Ukrainian Constitution. However, there were precedents, especially after efforts to make changes in the Constitution of Ukraine according to results of the April 16, 2000 referendum. That time, the Constitutional Court was presented with two drafts. Meanwhile, a current parliamentary "test" is very complex, for there were several alternative solutions entailing different results. Hence, it is the parliament that has to take the next step in the process of political reform, which is very difficult to do for both the Verkhovna Rada and the Presidential Administration. The point is that for the time being, MPs from the opposition and his parliamentary majority are not unanimous about format and terms of implementation of political reform initiated by the President of Ukraine. Some MPs from the parliamentary majority stand for presidential initiative, whereas some MPs from the opposition are against it and some even propose to freeze political reform up to the 2004 presidential elections. In their public statements, most politicians criticize some proposals of the Presidential Administration submitted to the parliament. Meanwhile, it is not the need for systemic redistribution of powers between the parliament and the President but hypothetical possibilities for extending the presidential term that come in for criticism. Incidentally, a proposal to introduce a common election cycle, when all elections should take place within the same year, may pose a serious danger.

Today, representatives of the opposition and the parliamentary majority discuss the matter of extension of presidential powers. Respective statements not only indicate loyalty of their authors to Leonid Kuchma but also perceived by the Ukrainian population as promulgated scenarios of Ukraine's political future. For instance, on July 2, 2002, Governor of the National Bank of Ukraine Serhiy Tihipko noted that extension of presidential powers was quite possible for the sake of the constitutional reform. The above statement was made on the eve of vote for presentation of the Constitutional Court with drafts on introducing changes to the Constitution. Article 159 of the Constitution of Ukraine reads, "The Verkhovna Rada shall consider a draft on introduction of changes to the Ukrainian Constitution if there is a conclusion of the Constitutional Court that a draft meets requirements indicated in Articles 157 and 158 of the Constitution of Ukraine."

Leader of the "Trudova Ukraina" Party Serhiy Tihipko said that he would welcome slippage of the term of the presidential elections subject to implementation of constitutional reform in Ukraine. He asserted, "Personally, I believe constitutional reform to be much more significant and fundamental than the presidential elections. Should we carry out a real constitutional reform that would make Ukraine a parliamentary-presidential republic, two additional years of presidential powers will not be a too high price for such changes." Earlier on, all issues relating to extension of presidential powers were discussed and interpreted only by representatives of the opposition. Leonid Kuchma flatly rejected all accusations in the context of prolongation of his presidency. He stated that from the legal viewpoint, his draft did not establish prolongation of presidential powers. Nevertheless, taking into account potentials laid by the presidential draft, the opposition holds a completely opposite opinion.

"Salt of the Earth"

Alternative parliamentary draft on introduction of changes to the Constitution of Ukraine worked out by a special parliamentary commission was registered in the Verkhovna Rada on June 27, a week later than the presidential one. The draft did not provide for holding of parliamentary, presidential and other elections within the same year.

Elaboration of the parliamentary draft was rather complicated, as work of the parliamentary commission was

constantly under the threat of disruption. Representatives of the opposition blamed members of the parliamentary majority for such state of affairs. They guessed that intentions of some representatives of the majority to prolong the commission's work could be explained by the fact that the commission voted against a common election cycle. Finally, things got moving: the draft was registered together with the resolution on previous approval of the draft and its presentation to the Constitutional Court of Ukraine for conclusion. The parliamentary draft dealt with a dire need for transition to parliamentary-presidential republic. The explanatory note to the draft emphasized, "The draft represents intentions to implement proposals for introduction of changes to the Constitution of Ukraine so as not to break its integrity. In this respect, certain alterations were introduced to provisions of the drafts that previously underwent examination by the Constitutional Court of Ukraine." Proposed changes included enhancement of the role of the parliament and the Cabinet of Ministers of Ukraine, responsibility of executive and legislative branches of power for their actions and improvement of local self-governance system.

Special attention was paid to the process of approval of a resolution on presentation of the Constitutional Court with drafts on introduction of changes in the Ukrainian Constitution. The above procedural issue was of paramount importance for all stakeholders in the context of possible development of political reform and extension of presidential powers.

Key point of the parliamentary confrontation was rejection of members of the parliamentary majority to present the Constitutional Court with parliamentary and presidential draft simultaneously. In case of separate voting, there was a risk that the parliamentary draft would be rejected. Hence, representatives of the parliamentary majority took a pro-presidential position. On June 8, 2003, the President Leonid Kuchma insisted that the Verkhovna Rada had submitted his draft to the Constitutional Court for consideration and informed leaders of parliamentary factions about his intentions. He said that he was against voting on his draft together with that prepared by the special commission of the Verkhovna Rada. Though, in case of failure to meet the above requirement, the President will withdraw his draft to prevent a violation. On the contrary, leader of Our Ukraine Victor Yushchenko emphasized readiness of the opposition to take every possible precaution so that not to let the presidential draft be the only document under consideration. "Should only the presidential draft be approved, the rest will have to do nothing but block up work of the parliament", said Victor Yushchenko.

Respective actions of representatives of the opposition are focused on elaboration of possible scenarios of the course of developments relating to extension of presidential powers. MP Serhiy Holovatyi pointed out that presentation of the Constitutional Court exclusively with the presidential draft would ensure its certain legitimization enabling Leonid Kuchma to state that the Verkhovna Rada supposedly approved only his draft and put that document for national referendum.

Chronology of the Process

In the Verkhovna Rada, several votes were held within recent two weeks but they gave no results. On July 3, the opposition factions blocked up work of the parliament. MPs from the parliamentary majority and the opposition had several collisions not as to political reform but apropos of the so-called agrarian laws that should smooth the situation in the grain market. In early July, Leonid Kuchma stated his readiness to withdraw his political reform draft if the document is viewed as a corner stone in the Verkhovna Rada. In reply, Our Ukraine called the President to withdraw his draft "On Introduction of Changes to the Constitution of Ukraine" from the parliament. However, the issue remained unsettled.

Other votes produced no impact as well. Decision on the Speaker's right to send drafts on political reform to the Constitutional Court was not approved, for members of the parliamentary majority voted against it. Members of the opposition gave no support to ballot voting used at the 2003 winter elections of the Governor of the National Bank of Ukraine. Such a situation agitated strong passions. According to Coordinator of the parliamentary majority Anatoly Tolstoukhov, in case of blocking up work of the Verkhovna Rada by the opposition, the parliamentary majority will be able to demonstrate its strength de-facto and de-jure. Though, there were certain doubts that the parliamentary majority would be able to support sending the presidential draft to the Constitutional Court by vote of full members. Meanwhile, the opposition viewed its blocking of votes in the Verkhovna Rada as disruption of coup disguised under political reform.

Only the July 11 voting produced results. That day, 400 (!) MPs voted for approval of the amendment to the

resolution No. 3754 reading that subject of the legislative initiative (the President or 150 MPs) should register a draft o-n introduction of changes to the Constitution of Ukraine in the parliament and individually pass that draft to the Constitutional Court. Also, under the above resolution, the Verkhovna Rada Committee o-n Policy of Law is ordered to work out, till October 15, 2003, a bill regulating procedure for consideration of drafts o-n introduction of changes to the Constitution of Ukraine. So, either authors of presidential and parliamentary drafts or the Head of the Verkhovna Rada shall send those documents to the Constitutional Court for conclusions without voting in the parliament.

"From now o-n, further development of political reform will depend o-n the Constitutional Court of Ukraine", said Coordinator of the parliamentary majority Anatoly Tolstoukhov (the newspaper "Den", July 12, 2003).

What Is Next...

In theory, key events directly relating to implementation of drafts' provisions should take place not at the next session but in March-April 2004, during the second parliamentary reading of the draft o-n introduction of changes to the Constitution of Ukraine. Representatives of Our Ukraine made it clear that they did not intend to play political reform as it was. o-n July 11, MP Yuri Kostenko noticed that in fall, the issue of political reform would lose its topicality because of the election campaign. He added that should it be the case, new authorities enjoying confidence of voters would implement political reform. Intentions of the Presidential Administration and some MPs representing the parliamentary majority are still unclear. Though, most observers are unanimous that the July 11 voting and position of MP Lytvyn, who rejected to hold session out of the parliament, could damage "extension" mechanisms. The opposition interprets the above event as defeat of Head of the Presidential Administration Victor Medvedchuk. Incidentally, the SDPU (U) was the o-nly party that withheld from voting for consolidated parliamentary decision (31 out of 37 members of the SDPU (U) did not give support to that decision).

Hence, provided quick return of verdict by the Constitutional Court followed by elaboration of an adequate procedure for consideration of drafts o-n constitutional changes, another stage of the process of introducing changes to the Constitution of Ukraine will be over. Meanwhile, the law o-n presidential elections expects its second reading. Should the law be not enacted, presidential elections will be held in compliance with the previous regulation. The Verkhovna Rada shall announce the date of presidential elections, which may take place at the height of discussion of the draft at the second reading, i.e. in late winter 2004. Time will show the results, while events will demonstrate the extent of interest of reforms' initiators.

For the time being, there is a possibility that the summer referendum long discussed by the opposition will not take place, since the Constitutional Court is presented with two drafts and the presidential bill did not receive additional legitimization.