

## Hand-me-down cabinet

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*"Today there is no time for experiments in the composition of the government, and of the parliament  
either"*

*Anatoly Kinakh, UNIAN, May 29, 2001*

*"We'll live and see, but conclusions must be made"*

*Leonid Kuchma, UNIAN, May 29, 2001*

239 is one of the Ukrainian parliament's magic figures. Those who have followed Ukrainian politics for a relatively long time might recall the notorious "Group 239" in the 1st parliament (1990-1004), also known as a group "For a Soviet Sovereign Ukraine". The influential block consisted mainly of high-ranking Communist party apparatchiks and "red directors" that lobbied the election of former chief Ukrainian ideologist Leonid Kravchuk to replace Volodymyr Ivashko in July 1990. Among other possible candidates for the position was Ihor Yukhnovsky, MP, nominated by the democratic People's Council. At that time member of the parliament Anatoly Kinakh, 35, was not a member of the Group 239, but belonged to the oppositional People's Council - which was rather exotic for a politician from Southern Ukraine and an industrialist.

On May 29, 2001, 239 votes were cast in favor of approving Kinakh, member of the 3rd parliament and chairman of the Ukrainian Union of Industrialists and Entrepreneurs, in the position of Prime Minister of Ukraine. The new government is the tenth since Ukraine gained its independence in August 1991.

Having approved the nomination of Kinakh the Ukrainian parliament, apparently, passed a test for being "democratic", "pro-market" and "society-conscious". Noteworthy, at the height of debates about potential candidates to occupy the top executive position President Leonid Kuchma warned publicly that the voting would "let us see who is who in the parliament, whether those who declare market reforms are really democrats" and that "we will see who really stands on the basis of democracy and market reform and who is just a salesman who speculates on the situation, cares about his own interests and interests of his clan" (UNIAN, May 25, 2001).

As the Soviet-time social science course advised, "interest is an encouraging motivation for action". Yet, interests and motivations for approving the relevant decision by the purely situational majority were too different for the united action to last.

The critical role in the final round of the premiership contest was played by the Socialist party led by Oleksandr Moroz. An integral part of the moderate left-wingers' image has been "fighting against the cleptocratic regime" ". In that sense, following the SPU logic, their voting for Kinakh was a rather unusual action. All 17 members of the SPU faction in the parliament supported the nomination of Kinakh for the position of the Prime Minister of Ukraine "in order to stop speculations around the government", as Socialist leader Oleksandr Moroz put it. He argued that the move helped to neutralize Leonid Kuchma's plans who had "benefited from keeping the government suspended". "Vote as you have been told," Moroz urged MPs sarcastically - and they did, obviously, not due to Moroz's appeals who only "succeeded" in dealing a blow to the opposition's unification prospects. Leader of the Batkivshchyna parliamentary faction Oleksandr Turchynov publicly announced that the SPU had voted for Kinakh in order to "solve its own local tasks" (UNIAN, May 29, 2001) and criticized Moroz for putting the mere existence of the united opposition and the future of the state at risk. However, the theme of the opposition and its unification is large enough to deserve a special article...

Back to the developments in the parliament, we may note that other factions supported Anatoly Kinakh for some different reasons. In addition to hopes to have a Cabinet and a Prime Minister that would be loyal to some powerful personalities, a key matter of speculations was a possibility that a coalition government would be formed and some positions in it might be available for the parliamentary lobbyists and/or their nominees. For instance, member of the SDPU(o) Valery Cherep stressed that by

supporting Kinakh the parliament takes political responsibility for the future government's performance, and that the declaration of readiness to consider "the idea of forming a coalition government" by the candidate was a serious argument in his favor. Leader of the Solidarity Petro Poroshenko, while explaining motivations for supporting Kinakh, argued that the group had not make any demands as far as seats in the government are concerned, but had demonstrated that the Solidarity had "many worthy professionals who would be an asset for any government" and that "specific names will be a matter of consultations, including [consultations with] the president. Other politicians also contributed their interpretations of the situation. One of the most active participants of the process Oleksandr Volkov stressed that the future government should be formed as a coalition and noted that President Kuchma had confirmed that the Cabinet should have been shaped on the coalition basis. The right-wingers kept their promise not to take part in the process at all (UNIAN, May 29, 2001).

Factions that voted against the appointment of Kinakh to the position of the Prime Minister of Ukraine included the Batkivshchyna, the Reforms-Congress (only 2 members of the faction voted "yes"), the Rukh (Udoenko) (2 MPs voted "yes") and the Rukh (Kostenko) (one member of the faction who had voted for Kinakh was excluded from the faction immediately). The positive result of the voting was achieved also due to the votes of 27 non-faction MPs. Noteworthy, the fact that the approval was achieved regardless of the determination of the Communists to block it suggests that the CPU faction may be seen as a less critical element in securing positive interaction between the government and the parliament.

Speaking to the parliament immediately after being approved as the Prime Minister, Anatoly Kinakh was not original at all. Like several Prime Ministers before him, he stressed the need to promote cooperation with the Verkhovna Rada and the need to unite efforts of different political forces in order to form a professional and capable government. A key provision for that, according to Kinakh, would be to restore the political majority in the parliament that would create conditions for approaching the "goal under which the government will be formed in the parliament" (UNIAN, May 29, 2001). While the claims appeared to lure the MPs into support of the President's nominee, the joy of success was not long.

Later in May 29 some of the activists of the events in the parliament got an unexpected and rather controversial surprise. Almost immediately after signing the decree appointing Kinakh as the Prime Minister, President Kuchma signed another decree, "On New Measures for Further Implementation of the Administrative Reform in Ukraine". Administrative and political innovations, introduced by the decree may be described as unprecedented, but it is hardly possible to estimate what their impact on further division of power in the state will be. The decree introduces new positions to the top level of the executive branch: those of State Secretary of the Cabinet of Ministers and State Secretaries of ministries. As the text of the decree suggests, the "secretaries" (not to be confused with secretaries of the Soviet-time Central Committee of the Communist Party or heads of Communist party organizations at every institution or enterprise) will receive certain political immunity and broad powers ministers never had. The "secretaries" may be dismissed from their positions only if they fail to perform their functions duly (while no criteria of performing "duly" are specified), if found guilty by the court, due to the reasons of poor health and in other cases specified in the law "On Civil Service".

The State Secretary of the Cabinet of Ministers, his first deputy and other deputy Secretaries, State Secretaries and their deputies are to be appointed by the President for the whole term of his service (i.e., 5 years). The decree also stipulates that State Secretaries are not supposed to go should the government or its individual members be dismissed or resign - the idea is that they are supposed to ensure the consistency of power. The decree also liquidates positions of first deputy ministers and deputy ministers, and the positions of the Governmental Secretary and his deputies.

While State Secretaries are to be civil servants, the Prime Minister, Vice Prime Ministers and Ministers are declared to be "political figures", i.e., not covered by the law "On Civil Service". Their mission is reduced to that of providing for organizational and political leadership, while other tasks are supposed to be performed by State Secretaries and their staffs.

According to the decree, the State Secretary leads the Secretariat of the Cabinet of Ministers of Ukraine, organizes provisions for activities of the Prime Minister and Vice Prime Ministers. Noteworthy, the State Secretary of the government approves, upon the agreement of the Prime Minister and the Minister of Finance, the staffing and budget of the Secretariat, appoints and dismisses all

officers of the Cabinet's Secretariat. Similarly, State Secretaries of the ministries organize provisions for operation of ministers and run the ministries' daily routines. Their tasks are varied: approve (by agreement with the minister) the structure of the ministry, lead the ministry's staff, make proposals to the Minister regarding the allocation and distribution of budget funds, coordinate activities of the ministry's territorial bodies, enterprises, institutions and organizations that are within the sphere of authority of the ministry, and lead the ministry staff. While State Secretaries are definitely going to be busy, it is unclear what the "political figures" - ministers - are supposed to do in addition to signing papers prepared and submitted by State Secretaries.

Making a presentation of the know-how, its mastermind - presidential chief of staff Volodymyr Lytvyn - stressed that the decree is the first in a series of decisions designed to make structural changes to the system of power. Arguing in favor of the changes and the introduction of the positions of State Secretaries, Volodymyr Lytvyn claimed they were needed because "in conditions of the transition period and the period of political restructuring constant changes in the composition of the government occur", causing the problem of "de-organization of the executive power" (Interfax-Ukraine, May 29, 2001). Meanwhile, judging from the claims, the new order is designed to help avoid the gaps.

However, there are serious questions regarding the compliance of the decree with the rest of the Ukrainian legal environment. The decree has been signed in the absence of a law "On the Cabinet of Ministers of Ukraine" (adopted by the parliament but vetoed by the President before) that would provide natural solutions to the problem of "de-organization of power" and regulate relations between the government and the parliament. The decree is seen as a strong impediment to the prospects of approval of the law. Instead, it may have an opposite effect by provoking the paralysis of the Cabinet's work. As specified in the decree, the system of State Secretaries looks like a parallel Cabinet given remarkably significant functions. The arrangements may result in increasing lack of public control over activities of the executive branch, further reduction of already minimal transparency of power and increasing role of political brokerage. Special attention should be given to paragraph 7 of the decree, which authorizes the head of the Presidential Administration to draft, with the assistance of the State Secretary of the Cabinet of Ministers, proposals for creating an effective model of cooperation between the Presidential Administration, the Cabinet's Secretariat and State Secretaries of the Ministries. Noteworthy, the process is not supposed to include yet another key participant of state-building - the Ukrainian parliament.

Naturally, the decree has already caused questions about its compliance with the Constitution. The matter does not only reflect emotional analogies. As one of the critics of the establishment Victor Shyshkin puts it, the new institution of state secretaries resembles "commissars in the 1918 workers' and peasants' army" and argues that the new arrangements contradict the Constitution. "Functions of the President are specified by the Constitution and it does not envisage introduction of additional positions in the government by the head of the state," he argues (UNAIN, June 1, 2001). The opinion is shared by leader of the Party of Reforms and Order Victor Pynzenyk: "The introduction of the positions of state secretary of the government and state secretaries of ministries de facto liquidates the Cabinet of Ministers which deteriorates into a mock institution." Therefore, he says, the decree is being studied by experts and an appeal is being prepared for submission to the Constitutional Court. Socialists are planning to take the same step.

The President's decree has effectively removed the political slogan of the past months and one of the key intrigues of the "Premieriada" - the issue of a coalition government - to the sidewalk of political developments. Ministers - politicians who may solve almost none of important issues are not going to have a role as important decision-making figures on the political chess-board.

When the discussions with the factions were held, Anatoly Kinakh and the factions seemed to have different ideas about a "coalition government". On May 22 Kinakh publicly argued that "given the current lack of political structuring of the Ukrainian society and the parliament, the future government needs to be close to a coalition, though not in political, but in professional terms." (UNIAN, May 22, 2001). However, it appears that such interpretation did not find understanding of the parliamentary factions that stressed different aspects of a would-be "coalition". For instance, leader of the Democratic Union Oleksandr Volkov stated bluntly that the would-be government would include "from 30 to 40 percent of representatives of certain parliamentary factions" (UNIAN, May 29, 2001). Hence, there is an obvious difference in the parliamentary majority's and Kinakh's "methodological" approaches to shaping a future government.

The fact that the influential factions would not get the positions in the parliament they desired is obvious from the recent appointments to the Cabinet made by Leonid Kuchma. Most of the "new" Cabinet are the same officials who served in the Yushchenko government, which itself raises a question: what was wrong with the previous Cabinet if almost all of its ministers got re-appointed? The answer to that question is not a puzzle.

Immediately after the no-confidence vote in the parliament on April 26, Victor Yushchenko announced that the Cabinet would leave the government building proudly through the front entrance. However, given the recent appointments to the Cabinet - described by Kinakh as "result of an optimal compromise between President of Ukraine Leonid Kuchma, the Prime Minister, and the parliament's factions and groups that took part in approving the Prime Minister's nomination for the position" (UNIAN, May 31, 2001), most of the ministers did not leave the Cabinet at all. Those who have kept their ministerial offices include Foreign Minister Anatoly Zlenko, "politicians" - Minister of Defense Oleksandr Kuzmuk and Minister of the Interior Yuri Smirnov, Minister of Economy Vasyl Rohovyi, Minister of Finance Ihor Mitiukov, Minister of Justice Suzanna Stanik, Minister of Agrarian Policy Ivan Kyrylenko, Minister of Labor and Social Affairs Ivan Sakhan, Minister of Health Care Vitaly Moskalenko, and Minister of the Emergencies Vasyl Durdynets. Previously Minister of Fuel and Energy Complex Oleg Dubina got a political promotion to the First Vice Prime Minister. Volodymyr Semnozhenko returned to the position of Vice Prime Minister he had occupied in the Pustovoitenko government, having replaced Mykola Zhulynsky. Observers also noted that the list of "old-new" appointees did not include ex-First Vice Prime Minister Yuri Yekhanurov whom many had seen as a probable candidate for serving as the acting prime minister.

As the bargaining process suggests, the factions that supported Kinakh expected a different outcome. For instance, the Trudova Ukraina faction leader Ihor Sharov announced the faction was ready to propose its members Oleksiy Kostusiev, Dmytro Tabachnyk, Yuri Spizhenko, Valery Horbatov and Anatoly Bilyk, and also party members Oleksandra Kuzhel and Serhiy Hoshovsky as candidates for ministerial positions. Dmytro Tabachnyk was proposed by the faction to replace the "unsinkable" Minister of the Emergencies Vasyl Durdynets. Speaking to the press on the day of his triumph, Oleksandr Volkov announced that the Democratic Union "claimed the seat of the Minister of Health Care of Ukraine", nominating Oleksandr Bilovol, MP, previously the president of the "Medicine of Ukraine" corporation. Instead, Minister Moskalenko kept the job.

While examples of failed expectations are many, the situation is not as unequivocal as it seems to be. On the surface it looks like "the re-appointment of former ministers to the new government is a violation of agreements between Prime Minister Anatoly Kinakh and the factions that had supported him, that's why they may deny the parliament's support to the government" (UNIAN, May 31, 2001). This opinion was expressed by Yuri Karmazin, MP, who believes that talks about forming a coalition government were in vain. True, it is hard to take the new Prime Minister's claim that he intended to do "maximally all" to meet the agreements reached through consultations with the Rada factions.

Meanwhile, most of strategically important positions of the head of the key Ministry of Energy and Environment and two new ministries that are supposed to be established: the Ministry of Administrative Reform and the Ministry of European Integration, and two Vice Prime Ministers. Hence, the "cheated" parliamentary factions still may have their slices of the governmental cake. However, the question is "what for?", as the bulk of the authority and decision-making will rest with State Secretaries. Hence, those positions will be the most attractive ones. Isn't that a ground for a coalition?

The current situation - the relatively easy approval of Anatoly Kinakh in the position of the Prime Minister, multiplied by the timing of the new decree, demonstrates strengthening of the role of President Kuchma and power-brokers in his administration. This will have a direct impact on the parliament, particularly on some of its "heavyweights", and may result in a new round of confrontation between the parliamentary majority and the presidential administration. Hence, the new development endangers prospects for the solution of a notorious problem of interaction between the government, the parliament and the president - provided someone does want to solve that problem at all.

Hence, while the process has started dynamically, the intrigue around the access to the cabinet decision-making is not over. Now Ukrainian political "heavyweights" will start competing for positions

of State Secretaries. The decree gives two months for playing the game. Yet, one thing is already clear:  
the change in the distribution of power moves Ukraine even further from the time when politics  
becomes transparent and public, and important decisions affecting interests of "small ordinary citizens"  
will not be made exclusively in a few top offices.