

## **EURASIA DAILY MONITOR**

**Volume 2 Issue 8 (January 12, 2005)**

### **VIKTOR YUSHCHENKO DECLARED UKRAINE'S PRESIDENT**

**By Taras Kuzio**

On January 10, Ukraine's Central Election Commission (CEC) officially declared opposition candidate Viktor Yushchenko to be Ukraine's third president. The final vote count stood at 51.99% for Yushchenko compared to Viktor Yanukovich's 44.20%. Thirteen CEC members voted in favor of the ruling while two abstained.

Yushchenko's official inauguration will take place this coming week and likely be attended by representatives of the international community. Outgoing U.S. Secretary of State Colin Powell will attend if the ceremony is held no later than January 16.

Despite numerous failed legal challenges in the CEC and the Supreme Court, outgoing Prime Minister Yanukovich still refuses to recognize the official results. Yanukovich and Taras Chornovil, the head of his campaign, have continued to argue that the second round (November 21) results -- giving him the win -- were correct. The Yanukovich camp has continued to argue against "insinuations about the so-called mass falsifications that took place in round two of the elections" (Ukrayinska pravda, January 11).

The Yanukovich camp's next steps will be to initiate impeachment proceedings against Yushchenko, to hire a Swiss law firm to represent their case, and to appeal to the European Court of Human Rights (ECHR). However, the threat of impeachment has been ridiculed, as Yushchenko is not even yet in office (razom.org.ua, January 10). But while the ECHR has investigated parliamentary election legislation, it has never dealt with presidential elections (Ukrayinska pravda, January 11).

In reality, the Yanukovich-Chornovil show has reached a dead end. Ukraine's ruling elite, state institutions, and the international community all would like to end the election contest as quickly as possible and move on. Parliamentary Speaker Volodymyr Lytvyn has called upon the Rada to not adjourn on January 14 and extend the session several days for the presidential inauguration and a vote on Yushchenko's candidate for prime minister.

Yanukovich's failed legal challenges have raised questions as to his real motives. There is little doubt that Yanukovich feels personally betrayed by Kyiv's ruling elites and by outgoing President Leonid Kuchma. Yanukovich and the then head of the presidential administration, Viktor Medvedchuk, both lobbied Kuchma to deploy troops to suppress the Orange Revolution. Russian political advisors working for Yanukovich-Medvedchuk also could not fathom why Kuchma backed off from crushing the Orange Revolution.

Yanukovych's protests allow his team more time to privatize and steal state resources. Although parliament voted no confidence in the Yanukovych government on November 27, he waited until New Year's Eve to resign, and Kuchma only released him on January 5. The Yushchenko camp has received numerous complaints about improprieties occurring during the last days of the Yanukovych government. Examples include barter deals in the energy sector, reimbursing VAT to businesses linked to Kuchma, issuing licenses, establishing fake joint ventures, and authorizing questionable financial transactions (UNIAN, December 30). The Yushchenko camp reported that a chemical factory in Luhansk was privatized over the New Year "for next to nothing" (maidan.org.ua, January 10). In addition, Yanukovych may be buying time to allow for the destruction of evidence pertaining to high-level corruption, evidence that would be important for future criminal cases.

Yanukovych's delay tactics could also serve to distract attention from two sets of criminal cases that will be launched after Yushchenko's inauguration. The first will deal with election fraud and the conduct of Ukraine's dirtiest election. Charges are likely against Andriy Kluyev, head of Yanukovych's "shadow campaign," Medvedchuk, former CEC chairman Sergei Kivalov, and possibly Yanukovych himself (Ukrayinska pravda, January 10).

No one doubts that Kuchma was aware of what was taking place in recent months. But since parliament has yet to vote on legislation on presidential immunity, Kuchma will leave office with no immunity deal to protect him. Yushchenko has promised to finish the investigation implicating Kuchma in the murder of opposition journalist Heorhiy Gongadze in fall 2000.

Another potential criminal case would pertain to Yushchenko's poisoning and the failed plot to assassinate him with a bomb. Former deputy chairman of the Security Service Volodymyr Satsiuk, Kluyev, Medvedchuk, and the Russian advisors would figure prominently in these charges. Satsiuk and Kluyev have already returned to parliament and its immunity, while Yanukovych is pressing his Regions of Ukraine colleague Volodymyr Zubanov to relinquish his parliamentary seat.

Regardless of whether a criminal case is brought against him, Yanukovych faces an uncertain future. In December he promised to organize a "tough" opposition against Yushchenko, but when asked after the CEC announced the official results if he would now go into opposition Yanukovych replied "I will advise you later" (Ukrayinska pravda, January 11). His opposition allies remain confined to the Communists and the Social Democratic United Party (SDPUo). The latter's future depends on whether criminal charges are brought against its leader, Medvedchuk.

Yanukovych is having second thoughts about going into opposition because, after the repeat December 26 vote, his "boss," Donetsk oligarch Renat Akhmetov, advised him to not protest the results and go into opposition.

Yanukovych's refusal to do so has reportedly led to an altercation between the two men.

Attempts to show an "opposition face" have been ridiculed as simply copying the Yushchenko camp (Ukrayinska pravda, December 23, January 10). An attempt to mimic Kyiv's Orange Revolution by creating a tent city in Donetsk to support Yanukovych has been declared illegal by the city council. No such decision would have been made without Akhmetov's approval, showing how even his financial and political sponsor has now ditched Yanukovych.