



Galyna Zelenko (ed.)

THE POLITICAL SYSTEM OF POST-SOVIET UKRAINE

*Constitutional Ramifications, Key Institutions, and Political
Practices of the Independent Ukrainian State, 1991-2023*

With a foreword by Oleg Rafalskiy

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Foreword

Conceptualizing the Ukrainian Political System

Oleg Rafalskiy

The problem of the quality of the Ukrainian political system is, without exaggeration, a key concern of scientists, politicians, foreign partners, and even foreign investors who want to put money into an understandable country, where their rights are guaranteed, and financial risks are minimized. Today, this topic is reaching a new level of discussion, because the full-scale Russian invasion, which has been going on for over 800 days, has radically changed Ukraine as a state and civil society. On the one hand, we have an incredible consolidation “around the flag,” when both politicians and citizens put aside political squabbles to win the Russian-Ukrainian war; on the other hand, the challenges of the country’s post-war recovery pose a different kind of task. We cannot rebuild the country, resolve the deepest demographic crisis since World War II, revive or even radically change the country’s economy, and integrate into the Euro-Atlantic political, economic, and security structures with a hybrid, inefficient political system.

Now it is obvious that Russia would hardly have dared to start armed aggression and unleash a big war if Ukraine had been a strong state with effective institutions, including the army. The weakness of state institutions, political strife, and sociopolitical schisms in society are definitely the reasons why the Russian Federation has been actively cultivating and promoting in its propaganda the idea of Ukraine as a failed state since 2014. Luckily, the confidence that Ukraine is an easy target turned out to be a misperception of reality, the Kremlin’s biggest illusion. Undoubtedly, the cost of this war for Ukraine would have been incomparably lower if the institutional capacity of our country had been better. Now Ukraine is offering worthy resistance to the aggressor. Ukraine has managed to form a pro-Ukrainian coalition, which includes the world’s most developed countries – from the USA, Canada, the UK,

and the EU to Japan and Australia, countries whose total GDP is about 60% of the world's GDP.

However, we should realize that, yes, the collective West can help with weapons, financially and technologically, but no one can build a strong Ukrainian state and state institutions except the Ukrainians themselves. These considerations on developing our own responsibility for the fate of the state inspired this study. It began shortly before the Russian Federation's full-scale invasion on February 24, 2022, and ended already at the height of the war. After martial law was introduced, the political process in Ukraine was put on hold for more than two years. However, these tragic circumstances create a certain "window of opportunity" to prudently assess the state of the country's political system as its basic institution, and, just as prudently, to determine the areas for change based on what is needed by the state and society, not by political forces.

The object of research in this book is the political system of Ukraine, including those institutional influences on which its further transformation depends most. The researchers focused on those institutions that are not political, but whose condition indicates the quality of the political system—institutions of civil society, media, financial and industrial groups, forms of political and public participation, etc. The study is based on the **hypothesis** that there is a wide gap between the political model enshrined in the Constitution of Ukraine and its actual state in Ukraine.

Hence, this monograph examines the political practices identified by the authors as they appear in the functioning of each component of the political system and in the actions of the actors that influence it: semi-presidentialism in its Ukrainian variant, formal and actual functions of parliament, other representative bodies, and executive authorities; real mechanisms of political class incorporation, actual functions of political parties and elections; institutional capacity of the non-governmental sector; the state of media and their role in political processes; political consequences of the current state of the judicial system. Finally, the activities of financial and industrial groups are examined because these groups are a phenomenon in Ukrainian politics that, to use the terminology of physicists, by the "law of refraction of light," significantly distorts the

theoretically quite high-quality democratic constitution by its very existence and influence. The research areas chosen by the authors' team made it possible to conduct a qualitative scholarly assessment of the consequences of introducing teleological constitutionalism and to reveal the domestic aspects of the *state capture phenomenon*. Of course, this study would be incomplete had we not attempted to analyze the nature of the challenges and tasks of post-war recovery.

The methodological approaches used in the study are based on the neo-institutionalist vision of how the political system and its institutions function. Several alternative approaches have been developed in political science to analyze institutional changes within the framework of new institutionalism. In their well-known essay, P. Hall and R. Taylor showed that neo-institutionalists try to justify three different positions and advance the following views: a) institutions are changed by particular political actors if there is a direct benefit in terms of the means spent and the results obtained (rational choice neo-institutionalism); b) it is possible to introduce new institutional practices if they contribute to increasing the social legitimization of their participants (sociological neo-institutionalism); c) institutions are established collectively, with political ideals taken into account, and the individual choice of political actors is not decisive (historical neo-institutionalism) (Hall and Taylor 1996). As this shows, the first approach narrows analysis to the transaction costs of actors, while the second actually reaches the interdisciplinary border with sociology. Therefore, historical institutionalism has become the most appropriate methodological tool for researchers to address the problem of institutional change fully.

One of the most recent examples of applying this methodology is a collective study headed by W. Streeck and K. Thelen, which summarized extensive experience of institutional changes in developed Western countries. Instead of discrete and sudden changes, the researchers discovered mainly gradual and incremental changes, often endogenous and even, in some cases, determined by the only possible behavior generated by the institution itself (Streeck and Thelen 2005); the concept of "institution" is defined as "a set of rules stipulating expected behavior and ruling out behav-

ior" (Streeck and Thelen 2005, 14). Given the general public's involvement in 2014 in demanding institutional changes, and subsequently the 2019 "electoral revolution" and the unprecedented self-organization of Ukrainian society observed for a year and a half since the beginning of the full-scale Russian invasion of Ukraine, another feature of the neo-institutionalist model of W. Streeck and K. Thelen is useful for studying Ukrainian specifics. The scholars propose considering institutions as a kind of social regime for regulating behavior toward social ideals: "Defining institutions as regimes has the advantage for us that it directs attention to important sources of institutional change. They all have to do with the fact that the enactment of the social rule is never perfect and that there always is a gap between the ideal pattern of a rule and the real pattern of life under it." (Streeck and Thelen 2005, 14). Thus, in addition to addressing the ideological factors of institutional changes, historical institutionalism also accounts for informal institutions. E. Roller's monograph, which was published, like the above-mentioned work in 2005 and was done as part of the research program "Institutions and social changes," in our opinion, very clearly indicates the most characteristic features of informal structures (as E. Roller calls them) and the methodological side of their analysis: "Informal structures are guided by rules that emerge from the interaction between actors and can be recorded empirically. Informal structures differ from actions as such by being relatively durable groups of participants' ideas (ongoing interaction) to which individual actors can or must adapt when acting" (Roller 2005, 94). Based on this approach, the research focuses on the following three aspects: 1) informal institutions are not identical to reality, they, like formal institutions, are only sets of certain rules, ideas, schemes of interaction; 2) the emergence of informal institutions is produced by current interaction participants; 3) not all individual actors agree to such rules voluntarily, some of them, as E. Roller notes, have to accept them if they wish to participate in the interaction. Therefore, the presence and list of these informal rules depend on who exactly the dominant participants in interaction are: the acceptability of informal practices for them dictates the need for all other participants to accept them. This understanding of informal institutions leaves

room for considering ideals as drivers of institutional change. Another important characteristic is the “shadow” nature of informal institutions, since these are, as G. Helmke and S. Levitsky note, “usually unwritten rules” (Helmke and Levitsky 2004, 727). Instead, normative legal acts are public and recorded in material form (documents registered in the prescribed manner), which makes the creators of these rules accountable to society. In further analysis, and especially when interpreting the established facts, the authors were guided by the above ideas.

I would like to emphasize that the topic of the quality of the political system in Ukraine is a matter of regular attention at our institute – Kuras Institute of Political and Ethnic Studies of the National Academy of Sciences of Ukraine. Therefore, this book continues the scientific monitoring embodied in our previous studies, the most important of which are: “The political process in independent Ukraine: summaries and problems” (Rafalskiy 2021); “Crises of political development in Ukraine: causes, content, and ways of leveling” (Zelenko 2022); “The political field of Ukraine in a situation of social crisis: authority, opposition, political parties, non-governmental organizations” (Mayboroda 2020); “Thirty years of Ukrainian multipartyism (end of 1990–beginning of 2020)” (Karmazina 2020); “Democratization of political institutions and social development in Ukraine” (Rafalskiy 2019); “The policy of social reforms: strategy, mechanisms, resources” (Rafalskiy 2018); “Institutional changes of political system of Ukraine: assessment of the state, development trends” (Zelenko 2014); “National unity in a competitive society” (Mayboroda 2018); “State and political government and national unity” (Mayboroda 2017); “State and civil society in Ukraine: searching for the concept of cooperation” (Mayboroda 2013); “Political system for Ukraine: the historical practices and current challenges” (Arkusha 2008).

I would like to note that the authors’ team conducted this study with a deep conviction that debasement and dilettantism, combined with the irresponsibility and elementary procrastination of many politicians and officials, are an impermissible luxury or even a crime against Ukrainian society, given the cost of our de-

mocracy and the challenges of post-war recovery. Ukraine desperately needs an inventory of the functions of public authorities and their rehabilitation, and in some institutional structures, their complete reboot. We hope that the “diagnosis” of the political system of Ukraine and its causes, as presented in this book, will contribute to its systemic recovery.

I

**The Structural-Functional
Dimension of the
Political System of Ukraine**

The Semi-Presidential Form of Government in Ukraine

Oleksandr Mayboroda

Scientific debates on the form of government that has been established and evolved in Ukraine since it declared its state independence until today have been conducted in both theoretical and applied formats. A considerable part of the bibliography on this issue concerns the institution of the presidency in Ukraine, its nature and evolution (Lytvak and Rybalka 2010; Lytvyn Vitaliy 2014–1 and 2014–2; Yakovlev 2017; Dmytrenko 2008; Demyanenko 2010, 24–38; Demyanenko B. and Demyanenko V. 2011, 82–97), the state of research as a political institution (Zelenko 2016), the legal status and constitutional powers of the head of the Ukrainian state (Todyka and Yavorsky 1999; Malyshko 2003; Seryogina 1998; Shatilo 2005; Kokhanovskyi 2011; Bernaziuk 2013), including his political and legal responsibility (Kresina, Kovalenko, and Balan 2004; Zelinska 2010; Malkina 2014). The conceptual political analysis of Ukrainian presidentialism is limited to one monograph (Karmazina 2007), a number of articles (Kasyanov 2007, 948–952; Karmazina 2010; Demyanenko 2011; Zelenko 2017; Yarema 2014) and a collection of materials of a special scientific conference (Huberskyi 2014). A rather large body of other publications on this topic mainly offers situational analyses of changes in the status of each successive head of state and assumptions about the political consequences of these changes.

Political science and legal studies debate over the terminological definition of Ukrainian presidentialism have resulted in defining the Ukrainian system of government as semi-presidentialism. The introduction of this term into Ukrainian academic discourse was rightly accompanied by warnings about the challenges of choosing criteria for characterizing Ukrainian semi-presidentialism – to base this characterization either on institutional provisions

or on the actual practice of exercising power by a particular president. Furthermore, the question arose about the extent to which the understanding of the term in the Ukrainian version coincides with its interpretations in foreign political science. Ukrainian researchers (Karmazina 2005 and 2007; Haponenko 2011) had to decide whose interpretation they should focus on – M. Duverger's or J. Sartori's. Duverger considered semi-presidentialism, or demi-presentation-ism, to be a regular alternation of parliamentary and presidential forms of government. The latter understood this form of government as a division of power between the president and the prime minister, i.e. as its dualism. Ukrainian political scientists adhere to J. Sartori's version of understanding semi-presidentialism: national presidential election, sharing power with prime minister, independence of the president from the parliament except for the absence of the right to sole rule, independence of the prime minister and the cabinet of ministers in matters in which they are dependent on the parliament, the existence of a system of checks and balances in the executive power (Karmazina 2007, 96–97; Vitaliy Lytvyn 2014–1 and 2014–2; Zelinska 2007).

The identification of Ukrainian presidentialism was conducted against the background of the country's overall political development – its political system and political regime. The form of presidentialism includes a list of features identifying the country's political system while the political system itself stems from the previous development trends, is historically objective and thereby creates the so-called “critical contingency”¹ for establishing a particular form of government.

Notably, the Ukrainian form of government cannot be identified according to the “matrix” criterion, i.e., according to its compliance with the most widespread and established models of state government in the world. This kind of analysis is quite productive

1 The term “critical contingency” is used by the American scientists D. Acemoglu and J. Robinson to describe a combination of circumstances that, at the bifurcation point, set the vector of further development, including political, for a transit society. (See: Acemoglu D., Robinson J. *Why nations fail. The origin of power, prosperity and poverty* / trans. from English. 2nd ed., reprint. Kyiv: Nash format, 2017. pp. 95–99.)

from an applied point of view as a basis for heuristic modeling of the domestic model of power organization. At the same time, for a scientific understanding of Ukrainian semi-presidentialism, it is important to establish the degree of its compliance with historical and political conditions and general public demands during its introduction into the political system of Ukraine.

We would like to remind you that one of the most authoritative concepts in international political and political science opinion about the patterns of democratic transitions is that of S. Huntington, which he formulated in the late 1960s by generalizing the modernization experience of the then Third World countries (Huntington 2020). The core idea of his concept was that the success of modernization depends on the strength of political institutions, on their ability to conduct a “strong” policy of ensuring social and political order, mobilization, and consolidation of the population to implement the national transit project. This concept brought about the idea of the expediency of introducing “authoritarian modernization” in changing societies under a strict control of institutions of political governance and state administration. The decisive role of these institutions has been especially emphasized since the early 1990s in connection with the collapse of the communist system (Acemoglu and Robinson 2016; Fukuyama 2019).

We must admit that the so-called “authoritarian transition” in the post-Soviet space was not only historically inevitable, but also in its general manifestations corresponded to public attitudes in choosing the form of government for independent Ukraine. After Ukraine gained independence, at the first stage of political modernization, it was characterized as a transitional society with an unconsolidated and unstable democracy (Kolodiy 1999), which was caused by a split in social consciousness.

Split consciousness, which means simultaneous alignment with completely opposite political models, is generally characteristic of all postcolonial countries, whose population seeks freedom from external influence and hopes for a “strong hand” capable of solving internal social and economic problems. The nature of split consciousness lies in the habit of constant subjugation, the lack of experience in solving everyday problems independently. Among

the population of postcolonial and post-totalitarian countries, the share of externals believing that their lives depend primarily on external factors traditionally exceeds the share of internals, who believe that their lives depend primarily on themselves. Sociological surveys confirm that Ukraine is no exception in this regard. A sociological study by E. Holovakha and N. Panina showed that in 1991, only 17% of respondents were ready to rely primarily on their own strengths. The next year, already in formally independent Ukraine, internality was characteristic of only 19% of the population, while externality was 55% (Holovakha and Panina 1994, 127–129). Within a decade and a half of establishing market relations requiring individual initiative, the ratio of internals and externals changed significantly – they accounted for 34% and 36%, respectively, with almost 29% of those with a dual position. Accordingly, when asked about their idea of the principle of subsistence in Ukrainian society, more than 54% answered that there should be a mutual complement of the principles of individual self-sufficiency and collective mutual assistance, while only 11.3% gave priority to the former and 15.4% to the latter (Vorona 2007, 472, 469). By 2020, the share of internals increased to only 40%, while the share of externals decreased, but to 39% (Vorona 2020, 487).

Changes in social psychology undoubtedly had a major impact on public attitudes toward the form of political governance in the country. The choice of the Ukrainian presidency format was critically influenced by the fact that the post of the head of state as an attribute of the country's independent status was introduced in the last phase of the totalitarian quasi-constitutional field of the Ukrainian SSR and in the first phase of gaining independence, before the national constitutional field was created. In this transitional situation, the need for a new institution in Ukraine was justified because in its absence, the republic would have to obey the decisions of the union president, whose position already existed, which could end hopes of gaining complete independence (Karmazina 2007, 111).

Another factor that influenced the choice of the presidency format was that to introduce the institution, the final decision was made by the parliament, elected in Soviet times, and the final choice

of format was made when power structures throughout the country were still in the hands of people from the Soviet Communist Party nomenclature and economic elite, concerned with the personalization of power and its rigid verticalization.

Yet, the general consciousness of the political elite at that time was no less split than the mass consciousness. It wanted a “ruling hand” strong enough to provide smooth dispossession of state property (privatization), and weak enough not to interfere with its activities as a newly established ruling class, especially in the course of privatization.

The introduction of the presidency was accompanied by debates about the best option for Ukraine—pure presidentialism or semi-presidentialism, and regarding the second option, the choice between the parliamentary-presidential and presidential-parliamentary forms of government. The arguments for the presidential model were based on the dominant public opinion that the resolution of transition problems depended on personified power and its concentration in the hands of the head of its executive branch, and therefore the most acceptable form of governance in the country would be a presidential-parliamentary republic. The final choice was also influenced by the fact that “in the conditions of the transition period... mass consciousness has to... turn to searching for a messiah to come and restore ‘order to the country’” (Demyanenko 2011, 492, 464–465).

Reflecting on why Ukraine chose neither a purely presidential nor a purely parliamentary form of government, we should return to Huntington’s concept of the expediency of “authoritarian modernization” during democratic transitions. He backed his concept with examples of societies that began their transit while in an agrarian state. Ukraine’s peculiarity was that democratic modernization was initiated by a society that had undergone economic modernization and become industrial-agrarian, urbanized by two-thirds, and this modernization, with not only its terrible methods, but also indisputable successes, occurred under totalitarian rule. This circumstance became a key factor in the personification of presidential power.

Other factors of the public choice in favor of the personification of state power at the time were: 1) the crisis nature of economic changes; 2) exposure of contradictions between the branches of power and political trends; 3) general “weakness” of society; 4) growing social uncertainty; 5) preservation of positions by the party-state nomenclature accustomed to authoritarianism; 6) general social uncertainty; 7) inertia of patrimonial tradition; 8) disunity of democratic forces, their psychological and organizational unpreparedness to govern the country (Demyanenko 2011, 470–475).

Noteworthy is the fact that democratic forces never proposed their own strategy for the country’s development, including the development of the political system. Society as a whole was at the initial stage of civil self-organization and had to follow the established authorities (Kruhlashov and Rotar 2011, 165–166). As a result, state-building in Ukraine became, on the one hand, a reproduction of the Soviet statehood forms, and on the other hand, an accidental borrowing of foreign forms (Demyanenko 2011, 487).

We should also note that regardless of the change in the semi-presidentialism format during the functioning of this institution, society, by parochial inertia, continued to pin hopes for a positive outcome on the head of state. And regardless of the ups and downs in the socioeconomic situation, the level of trust in the president of Ukraine, although generally not very high, was always higher than in the Verkhovna Rada and the Government (Zelenko 2017a, 82). Value inertia, the predominance of the habit of political passivity in public psychology also played a role in choosing the form of government. Such a psychological background contributed to the establishment of a facade and rhetorical democracy, without mechanisms to prevent authoritarianism (Balaban 2012).

The inertia of parochial consciousness, reinforced by a broader climate of crisis and entropy, inspired chieftaincy images in public imagination. The public need for a national leader was also fostered by the fact that, apart from building democratic and market institutions, it was necessary to address the issues of national and state building (Matsievskyi 2012, 185). The general sociopolitical atmosphere in Ukraine was marked by the presence of many totalitarian

and colonial rudiments in people's psychology and in the organization of state administration. Most of the country's population still had little idea of a democratic model and preferred the model of the leader's personal responsibility for the realization of public aspirations (Havryliuk 2012, 282; Redkina 2012).

Ukraine chose the republican form of government during the tenure of President Leonid Kuchma, who represented the industrial sector of the country's economy and belonged to the stratum of the former party, Soviet, and economic nomenclature interested in a rigid power vertical and patrimonial relations between the government and citizens. Preservation of the patrimonial model legitimized their intentions to carry out privatization for their own benefit.

Another important factor was that there were no professional politicians in Ukraine at the time of choosing the form of political government, while those who entered politics were primarily concerned with either their own or oligarchic political interests (Ryabinin 2012). The ruling social stratum was recruited in the form of a conglomerate of "clans" infiltrated by people from the semi-criminal "shadow" sector of the Soviet era and even from an overtly criminal environment.

Kuchma used the changes in the ruling elite structure to introduce the priority of the presidency, which would allow curbing both extreme left and extreme right political forces (Demyanenko 2011, 501; Karmazina 2010, 62–63). During 1994–1997, the need to strengthen the presidential vertical was explained by the need to curb criminal clans that exploited state resources and distributed state orders among themselves. Indeed, at that time, Ukraine adopted a model of economy that could be described as "pre-bendable"². Even with their subsequent economic and financial strengthening, most clans did not seek to weaken presidential power but chose the tactics of competing among themselves for access to the president. Only in the early 2000s, counter-elite groups

2 In modern social science, the term "pre-bendable economy" refers to the distribution of funds obtained from exploiting natural resources among "big people" with their subsequent distribution among their clientele.

united by a common problem—the lack of power levers to increase their financial and economic resources—began to assert themselves. Such groups were opposed to a particular president, but not to “pre-bendability” itself, although they had to criticize it for populist purposes. The newly emerged opposition did not advocate weakening the presidential vertical; its criticism of the government was personified rather than systemic, which reflected its ambivalence in relations with the government (Demyanenko 2011, 503).

Democracy that could prevent the strengthening of presidential power was not adequately prepared for such a mission. It had vague ideas about the democratic model of power, did not clearly outline its own vision of the national perspective, and was personified not only with the Soviet-era ideological dissidents—committed democrats—but also with political opportunists (Karmazina 2009, 479). Notably, political forces criticized the government not by emphasizing the weakening of presidentialism in principle, but by expecting the president to be a person with a different ideology than that of the then government—national-democratic and center-right (Holovatyi 2003, 72).

We could talk about the peculiarities of semi-presidentialism in Ukraine in terms of its compliance or non-compliance with a certain universal matrix. However, even within the framework of general constitutional law, such a matrix had not been created, which is why most jurisprudential analyses of the Ukrainian version of this institution are only accompanied by illustrations of various national examples, which also attest to variations in the functioning of this model in democratic states. Variability is quite natural, since in no state does the political system function purely in the “design” mode specified by the constitution; it always deviates from it in the “working” state under the influence of circumstances. If the “working” mode of functioning of Ukrainian semi-presidentialism is an exception in this respect, it is not in principle, but in the style of government. If we can consider the peculiarities of its Ukrainian version, it is only by the criterion of the degree of deviation of its “working” mode from the “design” mode compared not to the universal, but to the national constitutional matrix.

Deviations of the institution of presidentialism are always caused by political circumstances. In this sense, the peculiarities of Ukrainian semi-presidentialism should be considered as case-studies – when and to what extent the constitutional format of semi-presidentialism, its “design” mode, was subordinated to the political interests of the ruling political force. In this regard, if we proceed from Huntington’s concept of “authoritarian transition,” the desire of those who held the position of president in Ukraine to maximize the concentration of executive power in their hands was natural. The withdrawal from the all-Union economic complex posed the country with the problem of economic restructuring and amortization of the social crisis. Solving this problem in a situation where market relations were just beginning to take shape depended on the concentration of resources in the hands of the central government, and even more so on who would personally be in charge of these resources, i.e., on who would have executive powers.

In political relations, power is generally a key substance, important both in terms of resources and psychology (Beyme 2008), and the shuffling of power channels in independent Ukraine became inevitable from the standpoint of both resource interests and personal ambitions. Even during the short tenure of the first president of Ukraine, Leonid Kravchuk, there were cases of confrontation between him and Prime Minister Kuchma (Lytvyn Volodymyr 1997, 272–297; Karmazina 2007, 197–212), when the parliament did not view the “ideological president” as a convincing figure compared to the “enterprising prime minister.” The presidential initiative itself to concentrate maximum power in one hand was intercepted by the prime minister and continued after he defeated the first president in early presidential elections in 1994. However, for some time the president’s performance of the executive function was hampered by the lack of a constitution that would regulate the distribution of powers between the government branches: until 1996, the constitution of Soviet Ukraine remained in force, with only some democratic innovations.

The Ukrainian version of presidentialism was generally outlined only in 1995 in the form of a Constitutional Agreement be-

tween the parliament and the head of state, which was to be in effect until the new Constitution of Ukraine was adopted. Provisions of the Agreement – such as the president’s right to appoint cabinet ministers and dismiss its members without parliamentary consent, direct accountability of the government to the president, the head of state’s authority to issue decrees with the force of law, his effective ability to determine economic policy in the state – showed signs of establishing a *de facto* presidential republic (Demyanenko 2011, 499; Zelinska 2010, 69–70; Lytvyn Vitaliy 2014a).

Kuchma’s reasons for seeking maximum executive powers were not just his personal ambitions, but also the inability of the parliament elected in 1994 to set a clear direction for the country’s sociopolitical and socioeconomic development. While still prime minister, Kuchma asked the parliament to “say what kind of society we must build,”³ but did not receive a clear answer. The parliament, elected under a purely majoritarian system, was not ideologically structured enough to reach an agreement on this issue.

The majoritarian election system brought a large number of people to the parliament who quickly realized that the “power-gives-money” era was coming, and that the executive power was the one that managed the country’s resources. Accordingly, political rent could only be obtained by preserving control over the executive power. Furthermore, MPs were bearers of the same split consciousness as most of the population: they wanted both a “national messiah” and a guarantee against authoritarianism.

The combination of these factors led to a situation in which, during the adoption of the Constitution of Ukraine (1996), neither the parliament nor the president could fully overpower the other in competing for a larger package of powers, and had to agree to enshrine in the Fundamental Law a list of mutual powers that would correspond to neither a purely presidential nor a purely parliamentary form of government. In this way, semi-presidentialism was

3 The sarcasm that this natural question from the head of the executive power to the highest legislative body aroused among most intellectuals showed that even at the elite level, there was a lack of complete understanding of the nature of distribution of power in the state.

constituted as a compromise formula, called a kind of mutual “security guarantee,” because under it neither party could be removed through a referendum, and the subordination of the power vertical to the president was balanced by the parliament’s right to approve candidates for a number of key government positions and to declare no confidence in the Cabinet of Ministers (Demyanenko 2011, 498).

The constitution actually introduced a system of duumvirate within executive power – the institution of the Cabinet of Ministers, which is a classic embodiment of this branch, was supplemented by the institution of the presidency, and Ukrainian theorists of constitutionalism recognized the assignment of the executive power to the latter as fully justified (Yakovlev 2017). Nevertheless, the constitution did not formally recognize the president as the holder of executive power and, moreover, significantly limited his powers regarding the formation and accountability of the Cabinet of Ministers. On the other hand, the president was vested with a number of key powers, in particular, the authority to appoint and dismiss the prime minister with the consent of the parliament, to appoint and dismiss members of the Cabinet of Ministers, heads of other executive bodies, including the armed forces. The president was given the right to suspend the powers of the Verkhovna Rada in certain cases, veto the laws it passed and put forward his own legislative initiatives, change the structure of the executive power, cancel government decisions, represent the state in foreign relations, announce general or partial mobilization, and introduce a state of emergency (Dmytrenko 2008, 361–363).

In the area of executive power, the president retained the right for three years after the adoption of the constitution to issue decrees on some economic issues, to appoint heads of local state administrations and to grant them some functions of local authorities, which strengthened the presidential power vertical (Yarema 2014, 96–97, 104–105). This regime, on the one hand, facilitated decision-making in conditions of a crisis economy, and on the other hand, encouraged presidential arbitrariness and parliamentary passivity.

Moreover, the president was actually authorized to manage the filling of key positions in the executive branch, and was empowered to cancel government acts (Zelinska, 2006, 71).

L. Kuchma continued to consider the 1996 package of presidential powers insufficient for the executive power to lead the country out of the crisis. He and his team considered themselves "limited in maneuverability." But the Cabinet of Ministers was equally limited. The Verkhovna Rada was mostly satisfied with the contradictions between the government and the presidential administration, which protected it from direct responsibility for the state of affairs in the country. Kuchma tried to establish control over the parliament by holding a referendum in 2000 on reforming the Verkhovna Rada and people's trust in it. By establishing control over it, he would be able to constitutionally increase his powers through a new constitutional amendment procedure he hoped for if he gained control of the parliament. The referendum that took place gave positive answers to the questions asked in it, but they did not include those important for Kuchma, which related to the procedure for amending the Fundamental Law.

Meanwhile, the excessive concentration of power in Kuchma's hands during his second term of office in 1999–2004 strengthened the conspiratorial nature of his activities—he made decisions secretly, which discredited him and significantly undermined his political reputation after they were made public. He saw a way out of the situation in initiating changes to the Constitution aimed at limiting the powers of the president. In this way, he could reject accusations of attempted power usurpation made against him. The relevant draft law was submitted to the Verkhovna Rada and approved in December 2004, but at that time the events caused by Kuchma's previous tenure as president of Ukraine were unfolding in the country. The broad executive powers in the economic sphere granted to him by the Constitutional Agreement of 1995 and the transitional provisions of the 1996 Constitution, as well as the general dependence of government institutions on him, meant that Kuchma's presidency became a period of oligarchization of the country and the formation of financial and economic groups that, in the process of privatizing state property, acquired vast fortunes,

the size of which outraged the population amid the decline in industrial production. The counter-elite took advantage of the public moods and national-democratic slogans and succeeded in electing Viktor Yushchenko president in the 2004 presidential elections.

Yushchenko's tenure was marked by controversial changes in Ukrainian semi-presidentialism. Yushchenko ran for the presidency under the slogans of democratizing the country, eliminating authoritarian methods of governance, and combating the most pernicious effects of the oligarchic regime. However, like his predecessor, he also fell into a "time trap" — the fastest possible fulfillment of pre-election promises, especially social ones, required consolidation of power and social mobilization, i.e. following the same "authoritarian transition" in practice. But the amendments to the Constitution initiated by Kuchma, which entered into force on January 1, 2006, did not fit this governing style. They provided for the deprivation of the president of direct control over the government and its responsibility only to the parliament, an increase of the prime minister's powers in terms of appointments to key positions, as well as additional powers to the Verkhovna Rada. Semi-presidentialism thereby changed from a presidential-parliamentary to a parliamentary-presidential form.

To preserve his reputation as the leader of a democracy, Yushchenko had no choice but to declare his approval of the constitutional changes adopted by the parliament. However, he did not consider the new version of the Constitution to be ideal either, and therefore announced his intention to establish a joint working group with equal representation from the president and the parliament to develop proposals for harmonizing relations between the branches of power (Zelinska 2007, 71). That was a rather telling statement, given that the public atmosphere was dominated by condemnations of the previous governing style and opinions about the impossibility of returning to the presidential system (Vyshniak 2007, 15). On the other hand, attention was also drawn to the probable risks of a legal and political nature posed by the constitutional changes (Demianenko 2007, 112; Zelinska 2010, 72).

The new constitutional order promised a significant strengthening of the democratic foundations of social and political life, but

equally significant were the assumptions about the possibility of people's general disappointment in democracy if it turned out to be dysfunctional. Such assumptions were reinforced by the fact that the changes in the system of political governance were made without extensive discussion, with low public awareness (Demyanenko 2007, 114–115).

Although the enhancement of the “window of opportunity” for the Cabinet of Ministers undoubtedly meant greater democratization in the exercise of executive power, it created a possibility of conflict with the presidential branch, which was dangerous for a society with prevailing patrimonial sentiments that still associated the country's recovery from the crisis with presidential personal rule. Yushchenko reacted to these expectations by removing the Prime Minister Yulia Tymoshenko, who played a special role in his victory in the presidential elections. Yushchenko replaced Yulia Tymoshenko with Viktor Yanukovych, a “strong business executive” whom he defeated in the elections, and who represented the political forces on which Kuchma had relied. With this reshuffling, Yushchenko sent a signal about his intention to unite disparate political and regional groups or, at least, to reach a compromise between them, but he failed to maintain his rating in that way – the population continued to understand the presidential role of the “arbitrator of the nation” in purely socioeconomic terms, and to consider him a “parish priest” capable of leading the people to a more prosperous life.

Despite patrimonial expectations of presidential power, the population, under conditions of general democratization, became more aware of their right to hold the head of state accountable for his decisions and actions, which can be considered a positive effect of the functioning of “semi-presidentialism” in its 2004 version. Such changes in public consciousness were to be manifested in the future in new actions in defense of their right to decide the fate of the country. However, at the end of Yushchenko's tenure, the patrimonial component still dominated the mass consciousness.

In the wake of these sentiments, in 2010, Yanukovych became president of Ukraine under the slogan of “bringing order.” The inertia of the patrimonial psychology of most of the population made