

The Fall of a Regime

by **Dominique Arel**

Chair of Ukrainian Studies
University of Ottawa

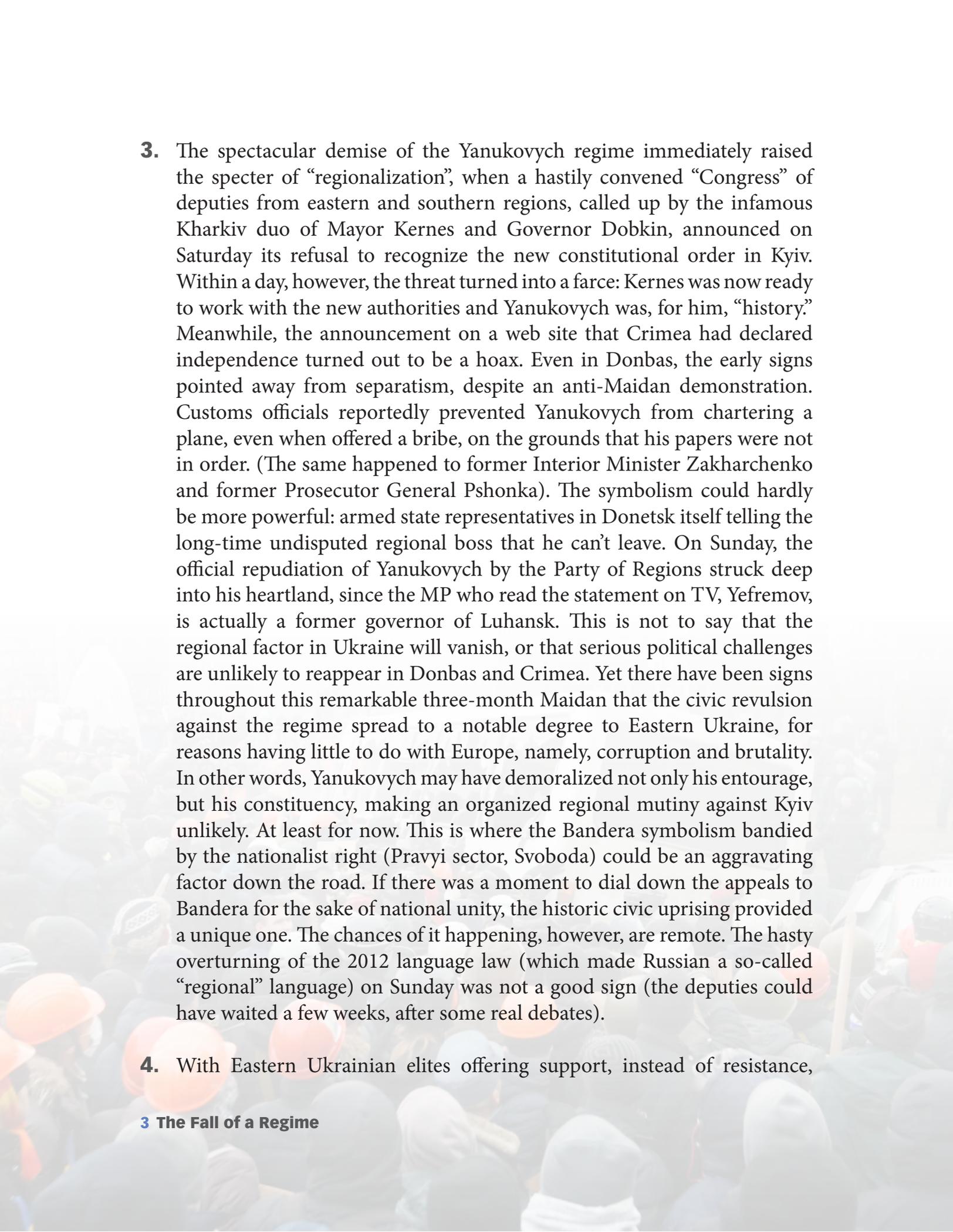
Prepared for
THE UKRAINE LIST
24 February 2014

My thoughts on the most dramatic events in modern Ukrainian history that have caught global attention:

1. It took the recklessness of (mostly) young radicals to tear the Yanukovych regime apart. Thursday morning, with thousands of police still encircling Maidan, and when many expected a state of emergency, official or effective, Maidan front-line activists went to the offensive, seeking to push back police forces to the positions that had been lost on Tuesday. The result was a blood bath, with nearly 60 deaths (in addition to the 25 who fell two days earlier), making Maidan the deadliest civic uprising in Europe since the crushing of Solidarity in Poland in 1981. The decision to engage in what could be called an act of mass killing in fact broke the spirit of the regime. In an all-night negotiation session with three European mediators, in the night of Thursday to Friday, Yanukovych had to concede just about everything, except his own position. A first contingent of deputies then defected from the Party of Regions. And, most crucially, the police, and eventually the army, abandoned him. By the evening, infuriated activists on Maidan were vowing to attack the Presidential Administration on Saturday morning if Yanukovych refused to resign. But there was no one left to attack, since the police had withdrawn. By the early hours of the night, all government buildings were under the control of the armed

Maidan militia and Yanukovich had ignominiously fled the capital. On Saturday, he was removed by parliament. These dizzying events could only occur because young people, far right or not, paid dearly with their lives to change the realm of the politically possible. Mass violence is often applied to break the will of insurgents. In this case, it broke the will of those giving the orders to kill or, in the case of Party of Regions deputies and officials, of those distressed by what their political patrons were doing.

2. The puzzle is why did the police withdraw on Friday, leaving Yanukovich defenseless. In challenges to authoritarian rule, this is always the most significant question, and the least predictable (inasmuch as anything can be anticipated in such times of troubles): will the chain of command hold, or will security forces defect, or abstain (which is a variation of defection)? Defections had already occurred in Western Ukraine, but there were no indications as of Thursday evening of trends to that effect in Kyiv. So what happened? One explanation, offered by political scientist Serhiy Kudelia, is that the agreement signed Friday morning with the EU representatives contained a clause regarding an international commission on inquiry on the killing of civilians. Security officials may have interpreted this as evidence that Yanukovich was abandoning them to a possible international indictment, breaking their trust in him. A complementary explanation is that this trust was fragile to begin with. In a statement read on Sunday in the name of the Party of Regions, MP Oleksandr Yefremov said that “a party that was a million strong actually turned out to be a hostage to one corrupt family.” While this can plausibly be read as a desperate attempt to avoid responsibility, we knew from former Regions MP Inna Bohoslovksa, who defected in November after the first (non-lethal) violence against demonstrators, about the rising resentment within the party regarding the aloofness of the President and the gigantic looting of his “family”. In this fateful moment, security officials may have wondered whether, in the end, it was worth protecting the despised autocrat. A third explanation is that after the massacre of Thursday, security elites lost their nerves. For the activists at the receiving end of snipers, there was no way of knowing that these developments were under way. The massacre on Thursday could have turned into a even greater massacre on Friday.

- 
3. The spectacular demise of the Yanukovich regime immediately raised the specter of “regionalization”, when a hastily convened “Congress” of deputies from eastern and southern regions, called up by the infamous Kharkiv duo of Mayor Kernes and Governor Dobkin, announced on Saturday its refusal to recognize the new constitutional order in Kyiv. Within a day, however, the threat turned into a farce: Kernes was now ready to work with the new authorities and Yanukovich was, for him, “history.” Meanwhile, the announcement on a web site that Crimea had declared independence turned out to be a hoax. Even in Donbas, the early signs pointed away from separatism, despite an anti-Maidan demonstration. Customs officials reportedly prevented Yanukovich from chartering a plane, even when offered a bribe, on the grounds that his papers were not in order. (The same happened to former Interior Minister Zakharchenko and former Prosecutor General Pshonka). The symbolism could hardly be more powerful: armed state representatives in Donetsk itself telling the long-time undisputed regional boss that he can’t leave. On Sunday, the official repudiation of Yanukovich by the Party of Regions struck deep into his heartland, since the MP who read the statement on TV, Yefremov, is actually a former governor of Luhansk. This is not to say that the regional factor in Ukraine will vanish, or that serious political challenges are unlikely to reappear in Donbas and Crimea. Yet there have been signs throughout this remarkable three-month Maidan that the civic revulsion against the regime spread to a notable degree to Eastern Ukraine, for reasons having little to do with Europe, namely, corruption and brutality. In other words, Yanukovich may have demoralized not only his entourage, but his constituency, making an organized regional mutiny against Kyiv unlikely. At least for now. This is where the Bandera symbolism bandied by the nationalist right (Pravyi sector, Svoboda) could be an aggravating factor down the road. If there was a moment to dial down the appeals to Bandera for the sake of national unity, the historic civic uprising provided a unique one. The chances of it happening, however, are remote. The hasty overturning of the 2012 language law (which made Russian a so-called “regional” language) on Sunday was not a good sign (the deputies could have waited a few weeks, after some real debates).
 4. With Eastern Ukrainian elites offering support, instead of resistance,

the transitional authorities have a rare opportunity to bring together a coalition government, representatives of all regions. Ukraine never had one before, not under Kuchma (except for the culture and education ministries going to the opposition and a brief Yushchenko interlude), not under Yushchenko (the confrontation between the Prime Minister and the President when Yanukovych came back as Prime Minister in 2006-2007 was anything but a coalition), and certainly not under Yanukovych, when the great majority of key posts in Kyiv were actually captured by officials from a single town, namely Donetsk. The Party of Regions has atrophied, but 90 percent of the first wave of defections as of Friday evening (36 of 41) were deputies from Central and Western Ukraine, reinforcing the regional divide (a half dozen of these deputies were former Tymoshenko Bloc deputies who had defected the other way as soon as the Court annulled the 2004 Constitution in 2010). A first step in the direction of regional inclusion may have been the nomination of Arsen Avakov, a former governor of Kharkiv, as interim Interior Minister (and member of Batkivshchyna, the Tymoshenko-Yatsenyuk formation). The real challenge will be to include officials from the East who were affiliated at some level with the Party of Regions (pretty much everyone who wanted to make a political career had to be, with Eastern Ukraine acting as a one-party state, except for the satellite Communist Party). Moreover, with Russia giving no indication that it will abandon its hard line regarding Ukraine (recalling its ambassador and alluding to the physical safety of its citizens in Ukraine are ominous signs), the inclusion of Eastern Ukrainian elites in the new government could be seen as a matter of national security. The problem is that Maidan activists, such as Pravyi sector and Svoboda, are most unlikely to see it that way (Pravyi sector Yarosh called for the banning of the Party of Regions) and their role in the interim process remains volatile – in Kyiv and Western Ukraine.

5. The 2004 Constitution is thus back in force. We should not forget, however, that it did not fare very well in the maelstrom of Ukrainian politics. While we learned that it could have been worse (i.e., the 1996 Constitution under Yanukovych, September 2010-February 2014), the 2004 Constitution was a disaster in its attempt to distribute power between the President and the Prime Minister. The prolonged conflict between Tymoshenko and

Yushchenko after 2008 paralyzed the government and directly led to the election of Yanukovich in 2010, since Tymoshenko lost a part of her disheartened electorate (who decided to stay home instead of voting). In the short term, the paralysis will not reoccur, since the interim President, Oleksandr Turchynov, is also the Parliamentary speaker, and with the new/old Constitution, parliament can remove the Prime Minister. Yet finding a workable and durable constitutional solution will be the tall order facing Ukrainian political elites in the coming year. A litmus test of the seriousness to substantially alter how politics is conducted (the key demand of Maidan) will be the office of the Prosecutor, which has always been – going back to Stalin, and surviving all governments of the post-1991 period, including the Yushchenko period — an arm of the executive branch. Selective justice, the foundation of the authoritarian post-Soviet order, whether in Russia or Ukraine, starts with the Prosecutor General, and selective justice is the intimidating weapon that the executive has been yielding against political and economic competition (including internal competition, this is how officials within the ruling structure are kept in line – the principle of the blackmail state). Orange elites lost the trust of civil society precisely over their failure to address these systemic issues of justice and corruption. In terms of political perception, that the new Prosecutor General is a deputy from Svoboda may not appear to be a wise selection, but only time will tell.

6. In spite of the extraordinary developments on the ground – the uprising, the fall of the regime, the swift convergence of elite support – the broader picture is bleak. Ukraine is on the verge of bankruptcy – as Yatsenyuk reminded us this morning – and Russian discourse remains confrontational. When this all began, Europe was not interested in subsidizing a regime that had squandered and pilfered its own economy (Anders Aslund estimates that the billions of dollars lost by the Yanukovich government virtually equalled the amount that Russia was willing to commit in December – at a steep political price down the road). The conditions have now drastically changed. Politically, if Eastern Ukrainians, it seems to me, have to be included in the transformation process, despite the bad blood of the past few years, Russia, at the geopolitical level, has to be included in negotiations with the EU, as it was in the all-night negotiation session a few days ago

that led to a stillborn agreement (that Russia, incidentally, refused to sign). Exclusion only breeds resentment and Russia has a number of destabilizing cards to play, beginning with an economic blockade (rehearsed last August) and Crimea. The question is how to restore trust between the two states, under conditions where one party (Ukraine) knows that its counterpart questions its right to exercise self-determination in the original meaning of the term (the right to choose not only its own government, but its own rules to govern), while the other party (Russia) sees a common heritage (among ethnic Russians and Russophones of Ukraine, the distinction rarely holds in Russian narratives) threatened by developments that appear as “foreign.” Overcoming the mistrust based in these clashing conceptions of identity – couched in the language of state and economic interest -- will be the most difficult, and most dangerous, challenge facing Ukraine in the coming weeks and months.