



Kuchma's "Parallel Cabinet"

The center of President Kuchma's authoritarian rule based on the Melnychenko recordings

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PRESENTED AT THE
THIRD ANNUAL DANYLIW RESEARCH SEMINAR
ON CONTEMPORARY UKRAINE
12-13 OCTOBER 2007



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The sources

The recordings present the opportunity to discover how the office of the president of Ukraine worked in a post-Soviet state in transition. It is often assumed that such states are making a transition to democracy but it could equally be to a post-Soviet autocracy.

The available recordings begin with the first round of the 1999 presidential elections and end on September 26, 2000, just after the disappearance of the journalist Georgi Gongadze. The recordings in this study are part of a larger collection, which is not yet available for public scrutiny. The former presidential guard Mykola Melnychenko claims to have made recordings from 1998 until the end of September 2000.¹

1. *Nikolai Melnychenko dayet pokazaniya*, introduction by Yuriy Felshtinsky, tribuna.com.ua, March 27, 2006. This includes the text and recording of Roman Kupchinsky's interview with Mykola Melnychenko in London on Feb. 13, 2003. Note that the published recording of this interview had edited out Kupchinsky's voice. The author of this paper used the original recording of the interview that included his voice.

Available for this study were about 133 transcripts of President Kuchma's conversations with their recordings. There were about twenty other conversations without transcripts. The conversations are with about 55 individuals, who include presidential advisers, ministers, oblast governors, members of parliament, businessmen, and even the IMF head, Horst Koehler. They total well over 100 hours.² Compared to the quality of other sources available for modern Ukraine, they can be considered Ukraine's "crown jewels".

The conversations that defined how Ukraine was governed did not take place between President Kuchma and the Cabinet of Ministers headed by Prime Minister Viktor Yushchenko, but between Kuchma and members of what I have dubbed a "parallel Cabinet", composed of the SBU chief Leonid Derkach, the head of the Tax Office Mykola Azarov, the Minister of Interior Yuriy Kravchenko, the chief prosecutor of Ukraine Mykhailo Potebencko, the head of the presidential administration Volodymyr Lytvyn, the chairman of Naftohaz Ukrainy Bakay, the advisor Volkov, and a select number of oblast governors and city mayors. It was with the "parallel cabinet", that the president discussed and decided the important political events of the period under study – the 1999 presidential elections, the leadership of the new parliament in February 2000, the April 2000 referendum on the president's powers, the attack on the media and the physical attacks on his critics, like the journalist Georgi Gongadze and the legal-rights activist Oles Podolsk.

Most of the available conversations for this study come with transcripts, which vary in quality. Half of the transcripts, and the best, were done by a professional team headed by Yuriy Shvets, who used the pseudonym of Petro Lyutyi. Shvets is a former KGB officer who resides in the USA. The only criticism of his transcripts is that very nearly all of them are in Russian, though many conversations were in Ukrainian or a mixture of the two. Shvets' transcripts came from six CDs sent from Ukraine to Melnychenko, which he intercepted in 2001.³

Shvets placed the transcripts along with the recordings on a new web site registered in September 19, 2002 as 5element.net.⁴ The money for the transcripts and the web site came from the exiled tycoon Boris Berezovsky. After a transcript was published that revealed that the oligarch Viktor Medvedchuk worked for the KGB under the pseudonym "Sokolovsky", Melnychenko said his life was in danger and demanded that Shvets' web site be closed down. Berezovsky ordered Shvets to shut down the site because of assassination threats.⁵ In 2005 following the Orange Revolution, Shvets opened 5elementplus.com with some of the transcripts from the previous site and published many

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3. Lauer's interview with Shvets: Yevhen Lauer, *Yuriy Shvets: in Ukraine was a conspiracy with the aim of seizing political power*, tribuna.com.ua.

4. *Reportazh pervyi: my nachinayem*, 5element.net, Sept. 19, 2002.

5. Lauer's interview with Shvets

more new transcripts. It was suddenly shut down in the spring of 2007 for reasons yet to be explained.

Melnychenko used some of the transcripts made by Shvets' group in the booklet "Kto yest kto na divane presidenta Kuchmy [Who is who on Kuchma's sofa]", Kyiv, 2001. Shvets accused him of plagiarism for publishing excerpts from transcripts he gave him to review.⁶

In 2001, Radio Liberty's Ukrainian service, Radio Svoboda, published twenty-seven transcripts of Kuchma's conversations on their web site, radiosvoboda.org. Melnychenko provided the recordings, many without the dates of the conversations. Melnychenko has purposely released many recordings without dates for reasons only known to himself. But often the date of the recording could be discovered from the contents of the discussion on the recording. An employee of Radio Svoboda did the transcripts. They in turn were republished on one of Ukraine's most visited website, pravda.com.ua. The Radio Svoboda transcripts, with some exceptions, were of poorer quality than Shvets'. The transcripts had many words and paragraphs missing, making some of them incomprehensible. This is what happens when experts along with high quality equipment, like Shvets's crew, are not employed to do the transcripts.

Others have made and published transcripts but not in the volume of the team led by Shvets, or even Radio Svoboda. In 2001, an academic group created The Melnychenko Tapes Project (MTP) at Harvard University and placed 51 recordings and one transcript on the web site wcfa.harvard.edu/Melnychenko. MTP received the recordings from the International Press Institute in Vienna, which had been asked by Freedom House to authenticate them.⁷ Before shutting down its web site, the Harvard group transcribed and translated into English Kuchma's conversation with the IMF head Kohler.

There were other attempts to publicize the recordings. The web site censor.net.ua published excerpts from the recordings and their transcripts from about two dozen conversations. A number of journalists in Ukraine tried to transcribe the recordings provided by the International Press Institute. These were used extensively in my books on the murder of Georgi Gongadze⁸.

Melnychenko's total collection of recordings might not be in his possession. He left them for safe keeping in Czechoslovakia when he left for the United States in April 2001. The people holding them decided not to return them; however, they cannot open them because Melnychenko encoded them very thoroughly.

6. Ibid.

7. Prof. Johann P. Fritz, *IPI Director to Oleksandr Lavrynovych Chairman, Dr. Serhiy Holovaty, Secretary of the Investigative Commission of the Supreme Council (Rada)*, Vienna, Feb. 22, 2001.

8. J.V. Koshiw, *Beheaded, The killing of a journalist*, Reading, 2003; *Obezholovlenyi, ubyvstvo zhurnalista*, Kyiv, 2004; and *Gongadze, ubyvstvo kotoroye izmenilo Ukrainu*, Moskva, 2006

Melnychenko claims that 500 to 600 hours were recorded between 1998 and 2000. As only over 100 hours of recordings are currently in the public domain, there would be much scholarly work to be done on the recordings if they were to become available.

The unanswered questions about Melnychenko and the recordings

Melnychenko's recordings are not originals. They are copies, which he has tried to pass off as originals, but when caught he has refused to explain where the original recordings are. However, the segments of the copies that have been tested by Bruce Koenig of the American BEK-TEK Corp, an internationally recognized expert in audio and video recordings, have been found to be authentic.

Melnychenko gave BEK-TEK three sets of recordings to be tested, the first set on a CD, and the other two on smart media cards. He gave the first set to be tested on August 30, 2001. Koenig received two recordings on a CD and tested five designated areas. The five areas were from a July 3, 2000 conversation and match the moments when President Kuchma spoke with Lytvyn, Kravchenko and Derkach about Georgi Gongadze. BEK-TEK announced the results on Feb. 7, 2002: the copies tested from the CD were authentic because "there were no indications of alterations or edits to the audio date in the five designated portions."⁹

The second test was made on a file (on a 16MB smart media card) in which Kuchma and Derkach organized a physical attack on the MP Oleksandr Yelyashkevych. The test also showed that the recording was authentic.¹⁰ While BEK-TEK tested the audio on the recording for alterations or edits, it did not test what said on it. Melnychenko and Yelyashkevych published a transcript of the conversation in the mass media, without the recording. Melnychenko made a sworn statement that the transcript was accurate.¹¹ In 2002, on the basis of this transcript, Yelyashkevych came to the USA seeking asylum. In 2005, Shvets published a new transcript of the conversation along with the recording and proved that Melnychenko's and Yelyashkevych's transcript was a fabrication. Kuchma and Derkach in this conversation did not conspire to have Yelyashkevych beaten up.¹²

The third BEK-TEK test was completed on April 11, 2002 on a portion of a recording also on a 16MB smart media card. The test was on the part of the July 10, 2000 recording where President Kuchma gave permission to the head of Ukrainian military exports, Valeriy Maleyev, to sell the Kolchuga military radar to Iraq. It also passed the electronic tests.

9. *BEK-TEK Laboratory Report*, February 8, 2002, and the conclusions of the report published on Pravda.com.ua, Feb. 16, 2002.

10. *BEK-TEK Laboratory Report*, February 16, 2002.

11. *Sworn statement on the Yelyashkevych incident by Mykola Melnychenko to the Prosecutor General S.M. Piskun*, Aug. 27, 2002.

12. *Fabrication by Melnychenko, part 2*, 5Elementplus.com, Feb. 12, 2005.

However, none of the three tests were done on original recordings. The files found on a CD in the first test were obviously copies of the original. For the second and third tests Melnychenko provided what he said were the original 16MB smart media cards, with the Toshiba digital recorders he had used.

But when Shvets checked the serial numbers on the smart cards and the recorders, he discovered that they had all been made a year after the recordings took place.

“We (Melnychenko and Shvets) drive together to [Bruce] Koenig, Mykola tells him: well, tomorrow Yura will come and so on. And he leaves [for San Francisco to testify at the Grand Jury investigating money laundering by the former Prime Minister Lazarenko]. Next day I arrive at Koenig, to take everything, including the Smart Media card on ‘Kolchuga’. There is a serial number on it. I telephone to discover when it was made. The year was 2002!”

(Source: Yevhen Lauyer’s interview with Shvets: *Yuriy Shvets: v Ukraini byl zagovor z tselyu zakhvata gosudarstvennoi vlasti*, tribuna.com.ua. Shvets also found the two Toshiba DMR-SX1 recorders, which Melnychenko said he used to record the president, with the serial numbers 112622 and 112465, to be made after the year 2000. In an interview with the author in Feb. 2007, Shvets repeated the accusations that Melnychenko had purchased the Smart media cards and the Toshiba recorders after the recordings were made.)

On Dec. 10, 2002, BEK-TEK carried out one more test on Melnychenko recordings that also proved not to have been altered or edited. This time it was Kuchma’s conversation with Derkach about the evidence found by the SBU that President Vladimir Putin was involved in laundering drug money through the St.-Petersburg company SPAG. It is not clear who ordered the test.

After the Orange Revolution, everything that Melnychenko had given to BEK-TEK was handed over to Ukraine’s Prosecutor’s office. On April 7, 2005, Shvets turned over the BEK-TEK test results along with the various bits of hardware to the Berezovsky sponsored institution, The Fund for Citizens’ Freedom, headed by Alex Golfarb, because the fund had paid for the four tests – a total of about \$20,000. In less than a week, April 13, Golfarb and his associate, the historian Yuriy Felshtinsky, arrived in Ukraine’s capital and announced will give to the Prosecutor General’s Office everything they have from the BEK-TEK tests.¹³

Melnychenko attempted to stop the handover by writing an open letter to the head of the SBU, Turchynov, in which he stated that he could not guarantee that what was being handed over was not compromised. He also accused all those involved in the handover of being paid fabulous amounts of money by Berezovsky, who was hoping to gain influence in Ukraine from the handover.¹⁴

13. *Lyudy Berezovskoho pryvezly do Kyieva zapysy Melnychenko*, Pravda.com.ua, April 13, 2005.

14. *Statement from M.I. Melnychenko to the Chief of the SBU, O.V. Turchynov*, Pravda.com.ua, March 31, 2005.

Melnychenko so far has failed to provide Ukraine's prosecutor office with the original recordings in the Gongadze case,¹⁵ thus giving the prosecution service and President Yushchenko an excuse for not pressing charges against the former President Kuchma. This was despite the fact that the copies of the recordings on which Kuchma gave the orders to get rid of Gongadze had been shown by BEK-TEK not have been altered or edited.

Why has Melnychenko refused to explain why he does not have the original recordings? It may simply be because he copied his recordings from a stationary recorder in the president's office, or repeatedly used the same smart cards while downloading to a computer.

Shvets thinks the originals might be in the hands of the people who organized the recordings. His view is that Melnychenko, with others in the president's office, worked secretly probably for the former SBU head Marchuk. He claims that this whole affair was organized by the oligarch Victor Medvedchuk, along with Putin and the Russian secret service. They had hoped, according to him, which after the Gongadze and Kolchuga revelations, Kuchma would have been hounded from office, and Medvedchuk would replace him. However improbable this view is, Shvets has evidence apparently linking Melnychenko with Medvedchuk after the former's arrival in the USA.¹⁶

Conspiracy theories are many and hopefully, someday, we will discover who made the recordings and how, and what happened to the originals. At this point in time, the most important thing is what is on the available recordings.

The “parallel cabinet”

President Kuchma's character is a key factor in understanding how he ruled Ukraine. To the public, he presented himself as most politicians do, a man of principle, a defender of the constitution and an upholder of the law. Equally important, his public persona at first was taken at face value by the international community. The Melnychenko recordings shattered this image at home and abroad. For his last four years in office, he became a hated figure at home and persona non grata in western capitals.

The recordings revealed that among the people in his trusted inner circles, he acted like a criminal boss, swearing and calling for the punishment of this or that individual, group or business, as well as enjoying the bribes his admirers gave him. His conversations with his closest associates revealed him as petty, spiteful, foul-mouthed, xenophobic, anti-Semitic and above all, authoritarian, corrupt, and criminal, albeit with a sense of humour. Most importantly, the recordings revealed that he expressed his autocratic rule through an informal “parallel cabinet” consisting of his most trusted confidants.

15. Author's interview in May 2006 with Valentyna Telechenko, the lawyer for Myroslava Gongadze in the trial of the three policemen charged with the murder of Georgi Gongadze.

16. Lauer's interview and the author's interview with Shvets.

The inner circle, or the core of his “parallel cabinet”, consisted of four individuals: the inarticulate head of the SBU, Leonid Derkach; the handsome and tough Minister of Internal Affairs, Yuri Kravchenko; the brainy Head of the Tax Office, Mykola Azarov; and the unimaginative and boorish chief prosecutor, Mykhailo Potebenko.

He used this inner circle to do the most politically and legally sensitive work, like monitoring and collecting information of people of interest, often gained illegally through electronic eavesdropping. Not only did he have the SBU’s vast spy network at his disposal, but also those of the Ministry of Interior and the Tax Office. He used this inner circle to punish those who criticized or threatened him. He could count on the prosecutor general to order the arrest and the prosecution of anyone he wanted, regardless of the legal evidence. He also had the option of using extra-judicial methods by calling upon the SBU or the Minister of Interior to use secret hit squads to punish his critics. There were no institutional checks and balances on Kuchma’s activities, as for most of the year 2000 parliament was in the hands of oligarchs loyal to him, the judges were lackeys. The main limits on his behaviour internally were outspoken journalists - and they were few - and his own public pretence of being a democrat.

Azarov was an exceptional figure in the inner circle. He was smarter and shrewder than Kuchma. His tax inspectors and tax police provided him with in-depth knowledge of the personal and company finances of the elite, and he exploited this to the full in his relationship with Kuchma. He also had a spy network. With his sharp mind he manipulated Kuchma, as well as corrected him on the facts under discussion. Azarov often presented Kuchma with the financial indiscretions of the elite and asked the president to select who to punish. He gave Kuchma the impression that the president was making the decisions, when actually it was Azarov who controlled the agenda.

The dullest personality in the “parallel cabinet” was the Prosecutor General, Mykhailo Potebenko. He had the legal power to prosecute anyone and exercised it on Kuchma’s behalf. His roots were in the former Soviet legal system where prosecutors acted as tools of the communist party bosses. He played the same role for President Kuchma.

Outside the innermost circle was a “middle circle”, where the president did not reveal his secret spying and punishing. Here, Kuchma had two advisers who stood out: the head of the presidential administration Volodymyr Lytvyn, an academic from Kyiv University, who guided him on how to deal with the public, and the MP Oleksandr Volkov, a “businessman” from a gangster background, who acted as his fundraiser in his presidential elections and as a political enforcer in and outside parliament.

Also in the middle circle was a person whose egregiously corrupt behaviour the president consistently forgave. Ihor Bakay was the youngest in this alternative cabinet and the most corrupt. He was the chairman of the state oil and gas company, Naftohaz Ukrainy. His claim to fame was that under his chairmanship, three oil companies - Respublika, Interhaz and Naftohaz Ukrainy – had gone bankrupt while he became a billionaire.

In the “outer circle” of the “parallel cabinet”, Kuchma shared an autocratic bond, often criminal, with some of the oblast governors, like Victor Yanukovych of Donetsk Oblast, Volodymyr Shcherban of Sumy Oblast, Serhyi Hrynevetsky of Odesa Oblast, and mayors, like Ruslan Bodelan of Odesa. They offered him money or shares in state privatizations, and talked freely about their unlawful actions.

In contrast, Kuchma had a very different relationship with the official cabinet of ministers headed by Prime Minister Viktor Yushchenko. On the surface it was formal and even polite, but in the “parallel cabinet” he raged against his prime minister and especially his first deputy Yuliya Tymoshenko. This began only a few weeks after Yushchenko took office on Dec. 22, 1999, when Tymoshenko accused Naftohaz Ukrayina of lying about gas debts to Russia. Kuchma took this personal and began to act against Yushchenko and Tymoshenko, as if they were members of an opposing and competing government.

He decided to destroy Yushchenko by exposing his American wife as a CIA agent. When no evidence was forthcoming from the SBU, he had his chief bodyguard organize an ad-hoc group to spy on them.

The president saved his strongest venom for Tymoshenko. Just a month after her appointment, he told Azarov to find a way to put her in prison. The head of the Tax Office struggle to discover evidence against her. Kuchma’s campaign to put her into prison succeeded in early 2001 with her dismissal and brief imprisonment. Meanwhile, he had the manager of Bank Slovyanskyy, where she kept her accounts, imprisoned in order to force him to give evidence against her. This led to the closing down of the bank, which was Ukraine’s most profitable bank. At the same time as he was crusading against Tymoshenko’s corruption, he covered up Bakay’s theft of hundreds of millions of dollars from Naftohaz Ukrayiny.

The 1999 presidential elections

The recordings covering the 1999 presidential election campaign provide many examples of the “parallel cabinet” at work; repressing the media, smearing Kuchma’s opponents and using illegal methods to pressurise voters.

Repression of the media

The private national TV station STB found itself under siege after announcing in early 1999 that it would provide airtime to all candidates taking part in the presidential elections scheduled for October 30. It also challenged Kuchma by announcing it would broadcast the daily parliamentary proceedings, which he had banned from state TV and radio. In addition, STB started a series of documentaries on sleazy operations by Kuchma’s oligarchs, focusing on how they had milked the state energy sector for private gain.

STB’s announcements proved fatal for the company and some of its staff. Unidentified hit squads carried out a series of ruthless measures against its person-

nel, including murder, arson, kidnapping, robber and assault. The terror against STB employees was accompanied by official attempts to prevent the station from broadcasting.¹⁷ After repeated tax inspections, on August 26, 1999, the Tax Office froze STB's bank accounts.¹⁸

To appease the presidential administration, beginning from September, STB became noticeably pro-Kuchma. By the time of the election, the STB station had been taken over by the Russian oil company Lucile, owned by Vigil Alekperov, a close acquaintance of Kuchma's as a conversation on the recordings showed.¹⁹ On Sept. 22, 1999, Lukoil appointed new management, and those employees who didn't leave worked for Kuchma's re-election.²⁰

In the sanctum of his office the president told the head of the Tax Office, Mykola Azarov, that he wanted the repression of STB to continue, while being advised that the STB management was "giving up" the fight.

[Kuchma] Now, we should decide about STB.

[Azarov] How?

[Kuchma] How? Take everything away from them, disconnect them, they are illegal – Though they have, how to put it.

[Azarov] Yes, giving up.

[Kuchma] Giving up! What they, the motherfuckers, so much filth – Syvkovych [STB's general-director]. Syvkovych must be exterminated by all means.

[Azarov] I told you about – about STB, he has asked ...

[Kuchma] Syvkovych saw [US Ambassador to Ukraine Stephen] Pifer and complained to him. Then they wrote a letter to the state [the US State Department] that we are persecuting the press here.

(Source: *Conversation with Azarov probably on Oct. 15, 1999*, Radio Liberty Episode 15, pravda.com.ua, March 13, 2001.)

In contrast, on October 17, 1999 on the national TV program 1+1, Kuchma denied that he was repressing STB or other TV stations that didn't support him. Instead he accused them of not paying taxes: "And it was revealed that all [TV] channels, almost without exception, did not even pay a penny into the budget and that all channels show documents that they are working at a loss. Please tell me, what morality can we talk about?"²¹

17. *Current Media Situation in Ukraine*, The Office of the OSCE Representative on Freedom of the Media in Ukraine, Fourth Report, July 2, 2001.

18. *Tax police blocks STB Channel's Bank Accounts*, Ukrainian STB TV, Kiev, in Ukrainian 1845 gmt 26 Aug. 26, 1999; *Letter from Ann K. Cooper, Executive Director, Committee to Protect Journalists, to President Kuchma*, Sept. 23, 1999.

19. *Conversation with the head of Lukoil, Alekperov*, July 14, 2000.

20. See the articles about the take over of STB by Lukoil: *Ukrainian private TV channel yields to official pressure 'Den'*, Kiev, in Russian Oct. 23, 1999; UNIAN news agency, Kiev, in Ukrainian 1700 gmt Oct. 22, 1999; Yuliya Mostova, *A different scene designer makes a different show*, Zerkalo Nedeli, Oct. 23, 1999.

21. *Ukrainian Television Second Programme*, Kiev, in Ukrainian 1900 gmt, Oct. 17, 1999, BBC Monitoring Kiev, October 19, 1999.

Similar treatment was handed out to another broadcaster, Radio Kontinent, where the journalist Georgi Gongadze presented a daily two-hour news programme with an anti-Kuchma platform. Its bank accounts were frozen and an attempt was made on the director's life.

Smearing his opponents

Ensuring favourable media coverage was one thing, but Kuchma also needed to make sure that he had as easy a ride as possible. He was up against 13 other candidates, and although many could be discounted, they included some serious opponents.

On August 24, 1999, Ukraine's Independence Day, four of them – former SBU head and Prime Minister Yevhen Marchuk, the socialist leader Oleksandr Moroz, the Cherkassy mayor, Volodymyr Oliynyk, and the parliamentary speaker and head of the peasant party Oleksandr Tkachenko – met in Kaniv at the burial mound of Taras Shevchenko, and made a dramatic announcement. Using Shevchenko's grave as a patriotic backdrop, the four candidates – dubbed by the media the Kaniv 4 – proclaimed their intention to choose a single candidate to stand against Kuchma. On Sept. 29, Marchuk announced that he would withdraw his candidacy in favour of Moroz. Oliynyk and Tkachenko were expected to do the same. The other major candidate was Petro Symonenko, the communist party leader. He expected to take a respectable share of the vote and refused an invitation to take part in the Kaniv arrangement. The possibility thus arose that – assuming that no single candidate won an outright majority in the first round – the second might end up as a contest between Kuchma and Moroz. Moroz was an inspiring speaker and personality; Kuchma would come off much better in a contest with the lacklustre Symonenko.

Melnychenko claims that he provided Marchuk with information that Kuchma was preparing a provocation against Moroz, involving an attack on another candidate, Natalia Vitrenko. "During our last meeting with Marchuk ... I warned him that a provocation was being prepared against Moroz. I warned him. He didn't take any action."²²

The incident forecast by Melnychenko occurred at 8 pm on Saturday, October 2, 1999, when two grenades were thrown at Vitrenko and her supporters as they left an election rally in the small factory town of Inhulets near the city of Kryvyi-Rih. The explosions injured forty-five people, including Vitrenko, and two of her party's MPs – Volodymyr Marchenko and Nataliya Lymar.

The event shattered Moroz's presidential hopes, as within an hour of the explosions, Ukraine's state media began to bombard the public with the news that the attackers, "the terrorists", were linked to Moroz. "It has become known to Ukrainian Television News [UTN] that Serhiy Ivanchenko, an election agent of Oleksandr Moroz in constituency No 33, was the organizer of the attempt on the life of presidential candidate Nataliya Vitrenko."²³ The accusatory news coverage took place despite a law that forbids the publication of details of an ongoing investigation.

22. Roman Kupchinsky's interview with Mykola Melnychenko on Feb. 13, 2003.

23. UT1, Oct 3, 1999; note the TV news reader was Oksana Marchenko, soon to be wife of the oligarch Viktor Medvedchuk.

Even the president ignored the law and blamed Moroz's agent for the attack. On Oct. 6, Kuchma officially denied he or his government had anything to do with it: "the guilt of suspects has to be proved in court but it is an established fact that the organizer of the attempt, Serhiy Ivanchenko, is from the election headquarters of Oleksandr Moroz, the head of the Socialist Party of Ukraine, and he is Moroz's election agent."²⁴

Though Melnychenko has strenuously claimed that the president was behind the grenade attack, he has only produced three very poor quality recordings on the incident.²⁵ Only one transcript on the incident has been published, but it dates from months later. As usual, Melnychenko didn't provide a date for the conversation, except to say that it took place in the summer of 2000. In the transcript, the SBU chief Derkach tells Kuchma that "On the Ivanchenko affair, everything is going according to plan. There are no hitches." Kuchma replied that all the blame for the incident had to be directed towards Moroz.

Moroz released this excerpt on June 21, 2001, after the accused had been sentenced. On June 15, 2001, Serhiy Ivanchenko, his brother Volodymyr, and Andriy Smoilov, were each sentenced to 15 years imprisonment. All three claimed they had been framed by the authorities.

The attack on Vitrenko put Moroz out of the running but, according to Melnychenko, Kuchma did not stop there. Yevhen Marchuk, who had access to the recordings and could have used them against Kuchma during the election campaign if he chose, decided to call on his supporters to back Kuchma in the second round. Melnychenko says Marchuk told him three days before the first round to stop making recordings, but he didn't obey. He thus heard a conversation, which he has not published, between Marchuk and Oleksandr Volkov, Kuchma's election strategist and treasurer, who offered him the important position of Secretary for Security and Defense in return for support in the second round. Marchuk demanded a coal mine and an electricity company in return.²⁶

Illegal methods

In the first round of the election, on Oct. 30, Kuchma came first of the 14 candidates and the Communist Party leader, Petro Symonenko, second. As neither won a simple majority a second round between them was scheduled for Nov. 14. Kuchma now needed to use all the means at his disposal to ensure victory.

The president instructed his inner circle to threaten collective farm heads in all the rural areas of Ukraine where he had lost in the first round with losing their jobs and even imprisonment if they didn't get out the vote for him in the second round. In a conversation on 1 November he told Azarov, "I have some [tasks] for you. You should get together all of your fucking tax inspectors – from the districts, or, I don't know, if only from the oblasts. And warn them: those who lose the elections in the district will not work after the elections.

24. *President denies security service's connection to attempt on candidate*, Ukrainian Radio Second Programme, Kiev, in Ukrainian 1300 gmt, Oct. 6, 1999, BBC Monitoring Service Kiev, Oct. 7, 1999.

25. Excerpts 6, 7, and 8, on a CD of 26 excerpts presented at Mykola Melnychenko's press conference in Warsaw, Poland, on Nov. 17, 2004.

26. Roman Kupchinsky's interview with Mykola Melnychenko on Feb. 13, 2003.

[Azarov]?

[Kuchma] We won't even let a single [loser] remain. Well, you understand, to every last rural district. You should sit down with every head and fucking tell them: either you sit in the fucking jail – as I have more on you than on anyone else, or you produce votes. Right or wrong?

[Azarov] I understand – everything will be done.

[Kuchma] Now I'm going tell this to [interior minister] Kravchenko. And then you will say the same - that they should talk with each collective farm head.

[Azarov] OK. Starting from the district department heads, right?

[Kuchma] [Speaking by phone to Kravchenko] I have Azarov here. Well, there is this scheme. They pretty well have a case on every collective farm head. They should be gathered together in every district so that the police and tax service chiefs can tell them: guys, if you don't fucking give as much as is necessary, then tomorrow you will be where you should be – yes. ...

(Source: Conversation with Azarov and Kravchenko estimated to be on Nov. 1, 1999, Episode 2, pravda.com.ua, Feb. 11, 2001.)

A conversation on the same day with the governor of Odesa Oblast, Serhiy Hrynevetsky, gives an indication of the authorities' approach. Hrynevetsky was talking about how an officer had instructed a military unit to vote in the first round. Kuchma found the cheating hilarious:

[Hrynevetsky] Leonid Danylovych, a momentous event took place at Kotovsk's military unit of 4,500 officers, non-commissioned officers and soldiers. A major appeared who said: we are having an election so we need to practice. On the board he wrote "Kuchma" and drew a box. "I'll explain", he said. "You will receive a ballot paper, if you are for the president, place a plus, if you are against the president, place a minus in the box. Understood!"

(Kuchma and Hrynevetsky burst out laughing)

[Hrynevetsky] One smart guy asks: "won't there be others [on the ballot]?" He –the major replies: "I repeat, we are electing a president, our president is Kuchma, then if you are for him, put a plus, if you are against, put a minus. Understood? That there will be deputies [on the ballot], for us it is the president"

[more laughter by Kuchma]

[Kuchma] They voted correctly.

[Hrynevetsky] The major!

[laughter by Kuchma]

[Kuchma] We should make him a captain. How will the second round.

[Hrynevetsky interrupts] In law it is written; place a plus or some other mark.

[Kuchma] Well yes.

[Hrynevetsky] Yes, a plus or minus is a mark!

Source: *Conversation with Serhiy Hrynevetsky*, Nov. 1, 1999, censor.net.ua, Nov. 18, 2004; translated by the author.

Governor Hrynevetsky added that threats and force, “the prosecution and the police”, must be used against collective farms who didn’t vote for Kuchma in the next round. “Why should we lose power - the governor said to Kuchma.”²⁷

Kuchma wasn’t shy about using state funds to fuel his campaign. He asked Ihor Bakay, the head of the state oil and gas company Naftohaz, to stump up \$250 million from the company. But Bakay found it difficult not to take a large chunk of the money for himself. On October 11, twenty days before the elections, Kuchma confronted Bakay for failing to provide all of the money promised.²⁸ Only much later did the president discover that Bakay had pocketed the money.

The Kolchuga scandal

After his victory in the presidential election, Kuchma was riding high internationally. He paid a state visit to the USA and saw Ukraine developing close ties with NATO. But privately Kuchma – who had been incensed by what he saw as US meddling in the elections and who thought closer ties with NATO “gives Ukraine nothing except troubles with Russia,”²⁹ was busy approving arms deals that contravened international agreements.

On May 12, 2000, the SBU chief Derkach reported to Kuchma on the sale of missiles to Iran, reportedly a dozen Grad X55s:

[Derkach] ... Leonid Danilovich [Kuchma], the people who conducted this operation sold the Grad through Egypt.

[Kuchma] Yes, yes, yes.

[Derkach] Here, everything is in Iran. Here in Iran [probably showing a map]. The English and Americans have gripped Iran, here are their bases [again probably pointing to a map]. Here is where they [presumably the Iranians] placed their missiles. And we together are managing their equipment.

[Kuchma] OK!

(*Conversation with Derkach, May 12, 2000, 5Elementplus.com, August 2, 2005.*)

Not many weeks later, Kuchma approved another sale that greatly increased the risk of destroying his relations with the NATO leaders. On July 10, 2000, in contravention of UN Security Council resolutions, Kuchma gave permission to the Ukrspetseksport (Ukrainian-special-exports) director Valeriy Maleyev to sell the sophisticated Kolchuga anti-aircraft radar system to Iraq.

27. *Conversation with Serbiy Hrynevetsky on Nov. 1, 1999* from RL18 in Radio Svoboda, radiosvoboda.org

28. *Conversation with Bakay and Volkov, Oct. 11, 1999; www2.maidan.org.ua, August 29, 2001, and also in Mikola Melnichenko, Kto ye kto na divani prezidenta, Kiev, 2002, p. 32-33.*

29. *Conversation with unknown just after Nov. 14, 1999, Episode 14, radiosvoboda.org, pravda.com.ua, April 13, 2001.*

[Maleyev] We have been approached by Iraq through our Jordanian intermediary. They want to buy four Kolchuga stations and are offering 100 million dollars up front.

[Kuchma] What is Kolchuga?

[Maleyev] Kolchuga is a passive radar station manufactured by Topaz. Each system consists of four pieces.

[Kuchma] Can you sell it without the Jordanian?

[Maleyev] Well, Leonid Danylovych, I suggest Leonid Vasylevych [Derkach, the state security service chief] looks at the export structure to Iraq. Our KrAZ [Kremenchuk Avto Zavod] company ships its products in crates. We can use the crates marked by KrAZ. In other words, Kolchuga should be shipped to Iraq in KrAZ crates. Then we will send people with forged passports who will install the system.

[Kuchma] Just watch that the Jordanian keeps his mouth shut ... it will have to be checked that they do not detect it.

[Maleyev] Who is going to detect it? We do not sell much to them. I mean to Jordan.

[Kuchma] Okay. Go ahead.

[Maleyev] Thank you.

(Source: The English transcript appeared in an article by Phillip van Niekerk and André Verlöy, *Kuchma Approved Sale of Weapons System to Iraq*, Center for Public Integrity, www.publicintegrity.org, April 15, 2002; its Russian transcript and the recording of the conversation with Maleyev appeared on 5Element.net only on Sept. 27, 2002.)

The first people to hear about the Kolchuga recording were the two people who were giving Melnychenko sanctuary in the Czech Republic after helping him leave Ukraine, Volodymyr Tsvil and Volodymyr Boldyanyuk... After arriving in the Czech Republic, Melnychenko wanted to make public Maleyev's conversation with the president about Kolchuga.³⁰ His host, Boldanyuk initially persuaded him not to reveal Ukraine's secrets. But according to Tsvil, when interviewed about his request for asylum, Melnychenko told three CIA agents about Kolchuga.³¹ On April 15, 2001, Melnychenko with his wife and daughter left for the USA.

The impending release of the conversation on Kolchuga may have led to Maleyev's early death. According to Oleksandr Zhyr, the head of Ukraine's parliament committee investigating the disappearance of Gongadze, Kuchma had discovered on March 3, 2002 that the committee would soon release the recording. Three days later, at 10 am, on the road from Poltava to Kyiv, the Audi driven by the 63 year-old Maleyev smashed head-on into a Kamaz, a large heavy-duty truck, killing him. The police suggested that Maleyev might have fallen asleep at the wheel. His passenger, Serhiy Krasiyev, said it occurred so suddenly that he had no idea what happened.³²

30. Volodymyr Tsvil, *U tsentri kasetnobo shkandalu*, Munich, Ostrava, and Kyiv, 2004, p. 110.

31. Ibid.

32. Michael Wins, *A peculiar peril of politics: accident – prone cars*, NYTimes, Sept. 4, 2002.

The first public mention of the Kolchuga radar system appeared in an article in the Financial Times on March 28, 2002, with Zhyr stating that the recording would soon be published. Weeks earlier, Zhyr and Melnychenko had submitted the Kolchuga recording to BEK TEK be tested for authenticity.

Kuchma reacted angrily to the unfolding story. According to a Financial Times article he:

“refuted the allegations, calling them a ‘propagandistic campaign’ that deserves to be ‘flushed like filth into the sewer.’ A report suggesting Iraq had used a Ukrainian radar system to help shoot down a US aircraft was ‘dog shit’, according to Mr Kuchma. ‘Ukraine has not supplied any arms to Iraq,’ ... He said Ukraine had abided by UN restrictions on trade with Iraq and ‘religiously observes the ban on arms.’”

(Source: Tom Warner, *Kuchma faces new scandal on eve of election*, Financial Times, March 28, 2002.)

On April 11, 2000 Melnychenko provided the Kolchuga recording to the San Francisco Grand Jury investigating the money laundering charges against the former Prime Minister of Ukraine, Pavlo Lazarenko. Two days later, the transcript in English and the recording of Kuchma’s conversation with Maleyev appeared on the Internet site of the Center for Public Integrity.³³

It became a sensation because of the charged political atmosphere following 9/11. Though the CIA had probably known about Kolchuga since they interviewed Melnychenko in April 2001, it now resonated loudly. As Ukraine was supposedly a US ally, receiving millions of aid money, why was it supplying sophisticated military radar to a state bent on using its weapons of mass destruction?

Despite Kuchma’s denial, the general director of Topaz, the company that made the Kolchuga radar system did not deny the recording’s authenticity. Instead, he argued that the Kolchuga was not actually exported to Iraq. “This was a private conversation which did not result in any decisions”, Yuriy Ryabkin told parliament’s newspaper *Holos Ukrayiny* on April 19, 2002. He claimed that this military radar system had only been exported to Ethiopia and an order was being processed for China. This was echoed by the new SBU chief Radchenko in an interview with the *Financial Times*.³⁴

Tough words began to flow from America to Ukraine. On September 24, 2002, State Department spokesman Richard Boucher accused President Kuchma of approving the sale of military equipment that violated US and international law. As a consequence, he announced that the American government had ordered the suspension of \$54 million in aid to Ukraine. If the radar system’s presence in Iraq was verified, all aid would be suspended as required by US law.

33. Phillip van Niekerk and André Verlöy, *Kuchma Approved Sale of Weapons System to Iraq*, publicintegrity.org, April 15, 2002.

34. Tom Warner and Richard Wolffe, FT, Sept 24, 2002

In response, Kuchma invited American and British government experts to Ukraine to investigate whether a Kolchuga system had been exported to Iraq. The thirteen-strong group carried out their inspection in the second half of October 2002, and issued a highly critical seventeen-point report accusing the Ukrainian government of lack of transparency.³⁵

Kuchma's office rebutted the inspectors' report, and set tough conditions for future relations with USA and UK. On November 13, at a press conference, the new head of the president's office, Viktor Medvedchuk, blasted the report. He did not accept the FBI's verdict that the recorded discussion between Kuchma and Maleyev was authentic. He maintained that Ukrainian experts had proved the recording to be fabricated. However, he did confirm that Maleyev had been in Kuchma's office on July 10, 2000, the day of the recording. He could not deny it as NATO inspectors had confirmed it by checking the president's diary.

Oddly, while claiming that the recording were fabricated, Medvedchuk acknowledged that Maleyev had had discussions with the "Jordanian" middleman for the Iraqis, but said these talks were unofficial and were broken off following the intervention of Ukraine's state security service.

As to the inspectors' conclusion, that Ukraine was not transparent about whether a Kolchuga system had been delivered to Iraq through a third party, Medvedchuk dismissed this as speculation. He accused the inspectors of not having any evidence, and said it wasn't up to Ukraine to prove its innocence. He claimed that the government had given the experts all the information they could without endangering national security or relations with other countries that had purchased the radar, like China.

He then listed two conditions on which further relations with US and NATO countries would depend. They had to drop their accusation that Ukraine had sold the military radar to Iraq. As for the inspectors, they would be allowed in again "only if they recognize our national interests and Ukraine as a sovereign state". Medvedchuk concluded the press conference by musing that the Kolchuga affair, the disappearance of Gongadze and "the spying by Melnychenko", were perhaps part of a chain of events created by western intelligence services to discredit President Kuchma and Ukraine. He hoped he was mistaken, he said.

The US Ambassador to Ukraine, Carlos Pascual, contradicted Ukrainian claims that the FBI test did not prove the authenticity of the Kuchma-Maleyev recording. "Experts at the FBI's Electronic Research Facility conducted a laboratory analysis of the original recording and the original recording device provided by Mykola Melnychenko. The recording was reviewed numerous times using a range of technical and audio techniques that together can determine if a digital recording has been manipulated or dis-

35. See the response by the Secretary of Security and Defense, Yevhen Marchuk, to the NATO experts report: *Ukrainian security chief reveals details of Iraq arms sale probe*, Interfax-Ukraine news agency, Nov. 6, 2002.

torted. The experts' findings are that the recording is genuine, has not been altered, and contains a discussion between President Kuchma and Mr. Maleyev.”³⁶

The NATO leaders' response to Kuchma was brutal by diplomatic standards. They purposely did not invite him to the NATO summit in Prague, on November 20-22, 2002. NATO was to use the occasion to invite seven additional East European states into its military alliance. Ukraine, though not scheduled for admission, was expected to be invited on account of its special treaty with NATO. Kuchma decided he would attend the summit anyway. In response a State Department spokesman told Reuters on November 18, that “the United States has no plans for any high-level meeting with Kuchma in Prague”, while a NATO spokesman said it would be “‘very unwise’ for Kuchma to go to Prague”.

At first it looked as if Kuchma wouldn't come. On November 20, the opening day, he extended his state visit to China. On that day, NATO issued its Prague Summit Declaration, in which it invited seven countries to join NATO. Point 9 of its declaration said that if Ukraine wanted to join NATO it would have “to implement all the reforms necessary, including as regards enforcement of export controls”. It also said that “continued progress in deepening and enhancing our relationship requires an unequivocal Ukrainian commitment to the values of the Euro-Atlantic community”. In other words, double games were not acceptable.

On the second day of the summit, Kuchma flew into Prague in the late afternoon, to the surprise of the other heads of state. He came uninvited to a dinner given by the Czech president, Vaclav Havel. On the third, the last day of the summit, Kuchma insisted on joining the heads of state at the conference. The NATO Secretary-General Lord Robertson agreed, but changed the alphabetical seating arrangements from English to French so that Ukraine would not sit next to Tony Blair, United Kingdom, and George Bush, United States. In French, Ukraine appeared in the end, after Turkey. News of this reseating arrangement, in which 48 heads of states searched for their seats in French alphabetical order, flashed around the world.

Putin

Kuchma felt more at ease with Putin than with NATO heads of state. While decrying crime and corruption in public, he secretly used state funds to support Putin's re-election and covered up his involvement in an international money laundering and drug trade scheme. Of course, his donation to Putin's presidential campaign didn't come out of his own pocket but from Ukraine's treasury. He would have got away with these actions if it had not been for the Melnychenko recordings.

36. *Letter from Ambassador Carlos Pascual to the newspaper 2000*, Nov. 22, 2002.

Kuchma's relationship with Boris Yeltsin's designated successor began with Yeltsin's announcement of his retirement. He made Putin, then prime minister, temporary head of state until presidential elections scheduled for March 2000. As a new candidate, Putin needed money to win.

"Putin telephoned, the fuck, during the election campaign: 'Leonid Danylovych [Kuchma], well, at least give us a bit of money'. We gave 50 million"³⁷, recalled Kuchma. The president scrambled to find the money in the state coffers. He asked Ihor Bakay, the head of Naftohaz Ukrainy, to take a total of \$56 million in cash from two Ukrainian state banks, the bankrupt Bank of Ukraine and Ukraine's Import-Export Bank, and to transfer it to Putin. Bakay must have said that Naftohaz Ukrainy needed the money. How else was he able to go to these banks and get \$56 million in cash?

Following his victory in March 2000, Putin graciously returned not only the donation but five times that sum - \$250 million. According to Kuchma³⁸, Putin had taken the money from the state company Gazprom and recommended that it be given to ITERA to cover Ukraine's gas debts to Gazprom. While this was a nice gesture it wasn't legal even under Russian law. But the donation didn't pay Ukraine's gas debts. Instead, it went into Bakay's pocket, according to a discussion Kuchma had with Azarov.³⁹

Kuchma again went to Putin's aid when in May 2000, a scandal broke out implicating him in a money laundering scheme involving the St. Petersburg Real Estate Holding Company, better known by its acronym as SPAG. It was a joint venture between Russian and German businessmen with the publicly stated goal of investing in the St Petersburg property market. Putin was involved with the company as a member of the board from the time he was the deputy mayor of St Petersburg in 1992 until he became Russia's president in 2000.

Articles on the scandal appeared across the international media. "U.S. and European intelligence officials suspect it [SPAG] is linked to the laundering operations of Russian mobsters and Colombian drug dealers", reported Newsweek on Sept. 3, 2001. The scandal began on May, 13, 2000 when the authorities in Lichtenstein arrested the lawyer Rudolf Ritter, one of the co-founders of SPAG, and charged him with money-laundering on the behalf of Russian and Colombian gangsters.

"Putin never commented on his role in SPAG. Various spokesmen on his behalf have denied he had anything to do with the real estate company or said he just held a non-paying honorary position. Russian president's press office claimed that Putin had never worked for SPAG as an adviser and had never been paid any salary."⁴⁰

No evidence had ever surfaced in public which linked Putin to the drug smuggling and money laundering, until the appearance of two Kuchma conversations on the subject. The first one took place on June 2, 2000.

37. *Conversation with Azarov on June 14, 2000*, 5elementplus.com, Oct. 10, 2005.

38. Ibid.

39. Ibid.

40. Mati English, *Russia's new president: More of the same, but worse*, The Guardian, June 7, 2000.

[Derkach] Leonid Danilovich [Kuchma]. We've got some interesting material here from the Germans. One of them has been arrested.

Kuchma (reading aloud): Ritter, Rudolf Ritter.

[Derkach] Yes, and about that affair, the drug smuggling. Here are the documents. They gave them all out. Here's Vova [diminutive for Vladimir] Putin, too.

[Kuchma] There's something about Putin there?

[Derkach] The Russians have already been buying everything up. Here are all the documents. We're the only ones that still have them now. I think that [FSB chief] Nikolai Patrushev is coming from the 15th to the 17th. This will give him something to work with. This is what we'll keep. They want to shove the whole affair under the carpet

(Source: *Conversation with Derkach on June 2, 2000* in preface of *Conversation with Derkach on June 12, 2000*, 5elementplus.com, Oct. 10, 2002.

Two days later, Kuchma and Derkach revisited the discussion on the documents linking Putin to SPAG. Kuchma decided that, after all, the documents should not be given to the FSB chief Patrushev because it was too valuable: [Kuchma] The handover should only take place with the signature of Patrushev. This really is valuable material, isn't it?

[Derkach] About Putin?

[Kuchma] About Putin.

[Derkach] Yes. There is some really valuable stuff. This really is a firm, which...

[Kuchma] No, tell me, should we give this to Putin, or should we just tell him that we have this material?

[Derkach] Yes, we could. But he's going to be able to tell where we got the material from.

[Kuchma] I will say the security services; I will say that our security service has some interesting material.

[Derkach] And we should say that we got it from Germany, and that everything that exists is now in our hands. Otherwise, no one else has it, yes? Now, I got all the documents about Putin prepared to give them to you [Putin].

[Kuchma] Probably, if that's necessary. I'm not saying that I will personally hand them over. Maybe you'll give them to Patrushev [FSB chief]?

[Derkach] No. I'll just... when we make a decision we'll have to hand them over anyhow because they've bought up all these documents throughout Europe and only the remaining ones are in our hands.

[Kuchma] Or perhaps I will say that we have documents, genuine facts from Germany. I won't go into details.

[Derkach] Hum.

[Kuchma] I will say, "Give your people the order to connect with our security service." And when they get in touch with you, you say, "I gave it to the president, damn it. And I can't get it from him now."

[Derkach] Good.

[Kuchma] We need to play with this one.

(Source: *Conversation with Derkach on June 4, 2000*, found in the preface of *Conversation with Derkach on June 12, 2000*, 5elementplus.com, Oct. 10, 2002.

However, Kuchma changed his mind again. He told Derkach that he had told Putin about the documents at the Russia-Ukraine summit:

“I said that ‘our [security] service has some materials taken from the Germans; they could of interest to your country. If you do not object, we will hand them over to Patrushev; my service chief will give them to Patrushev’. I said: ‘I do not know the value of what is there.’ So I spoke very correctly.”

(Source: *Conversation with Derkach on June 12, 2000.*)

Ihor Bakay

The Melnychenko recordings revealed some of the schemes used by Ihor Bakay, the chairman of Naftohaz Ukrainy to get rich quickly at the taxpayers’ expense, while protected from prosecution by Kuchma. His mismanagement and diversion of state funds contributed enormously to Ukraine’s energy debts. The available recordings show at least four large-scale schemes involving Bakay taking state funds for himself:

- 1) \$250 million from Naftohaz during the 1999 presidential campaign, of which Bakay kept \$184 million for himself and gave the rest to Kuchma’s re-election campaign;
- 2) \$250 million given by Putin as a thank you for the campaign donation of \$56 million given by Kuchma; Bakay returned some of the \$56 million owed to two state banks, and kept the rest for himself.
- 3) \$258 million worth of transfers from Naftohaz to his bank account in Moscow;
- 4) and \$61 million from Naftohaz to his and his friends’ accounts.

Bakay’s scheme of taking \$250 million from Naftohaz for Kuchma’s 1999 presidential campaign has been mentioned in connection with the 1999 elections.⁴¹ It was illegal for President Kuchma to take this money for his presidential campaign. Bakay handed over only about \$66 million, and kept \$184 million for himself. Both Kuchma and Azarov were well aware of this – Azarov even described the scheme, involving the purchase of companies at inflated prices, to Kuchma as “stupid”.⁴²

Kuchma and Azarov also knew about the second scheme. In a discussion of it, Kuchma described Bakay as a “scoundrel”.⁴³ It prompted him to ask for Bakay’s resignation but he did nothing to call him to account.

The third scheme Kuchma discovered months after Bakay left office. On September 19, 2000, in conversation with an unidentified person, Kuchma said the new head of Naftohaz, Vadim Kopylov, had come to see him the day before to inform him

41. *Conversation with Bakay and Volkov on Oct. 11, 1999,*

42. *Conversation with Azarov on May 24, 2000.*

43. *Conversation with Azarov, Part III, on June 14, 2000, 5Elementplus.com, Oct. 23, 2005.*

that Bakay had transferred a total of \$258 million to his accounts from Naftohaz: “besides those 150 million, an additional 108 million in May”. Kuchma added that Bakay had been supposed to hand over this money to the Ministry of Defence as part of the \$350 million promised for airplanes:

[Kuchma]: Yesterday Naftohaz Ukrainy came to see me.

[Unknown]: Kopylov?

[Kuchma]: Kopylov.

[Unknown]: Yes.

[Kuchma]: In addition, besides those 150 million, an additional 108 million in May –108 million - through TsSKA [Kyiv soccer club], through Georgia, and turn them over to Moscow, the fucker, and there to Bakay’s account.

[Unknown]: Of course.

[Kuchma]: I will not curse.

[Unknown]: Ha!

[Kuchma]: I would leave it if the affair did not have something to do with the Ministry of Defence. He [Bakay], says [Kopylov], did not pay with this money, which is written into the budget, the 350 million for airplanes, not a penny.

(Source: *Conversation with Lytvyn and unknown on September 19, 2000*; 5Elementplus.com, Nov. 4, 2005.)

It is not clear from the recordings how much Kuchma knew about the fourth scheme, which operated through a front company, Fahr European Ltd, registered in the US state of Oregon with a bank account in Latvia.⁴⁴ Under it, in June-July 2000, \$61 million dollars was transferred from Naftohaz and the TsSKA Kyiv soccer club (the same soccer club as in Scheme 4) to the company, which then disbursed \$19 million to ITERA, \$31 million to accounts held by companies and individuals outside of Ukraine and \$11 million to ten company and four personal accounts held at UkrGazBank in Kyiv.

An attempt by Kyiv city investigators in 2002 to bring charges against those involved in the scheme was frustrated. The Prosecutor General’s Office simply fired them. One of the investigators, Aleksey Donskiy, wrote an open letter to President Victor Yushchenko accusing the Prosecutor-General’s Office of covering up the case.⁴⁵

Fearing a scandal over Bakay’s pocketing of the large amounts of government money, Kuchma asked him to submit his resignation as head of Naftohaz Ukrainy on

44. Fahr European Ltd was registered in 2000 by Michael Wise, then and now a law professor at Willamette Law School in Salem, Oregon. In a telephone interview with Michael Wise by the author of this article on February 2, 2007, Wise said he had worked as a company registrar from 2000 until Feb. 2002. He was being paid \$50 for each company registration and had no information on who was behind these companies and what they were involved in. In June 2002, he said the FBI, on the behalf of investigators in Ukraine, had interviewed him about , Fahr European Ltd and other companies, and he told them the same story as to the author of this article.

45. Oleksiy Donsky, *Prokuratura v obiyimakh koruptsii*, Ukrayina Moloda, Dec. 11, 2006

March 24, 2000. Bakay put himself out of reach of the law by getting into parliament in a by-election the following July. This gave him immunity from prosecution.

On June 25, 2000, he met with Kuchma, to complain about Deputy Prime Minister Tymoshenko's investigations into Naftohaz. Bakay asked Kuchma to be allowed to appoint his own man to Naftohaz's trading house, so its financial records could be altered. Tymoshenko had asked the Prosecutor General's office to investigate the trading house for the mis-selling of gas and oil.

[Kuchma]: Don't fight with Didenko [Bakay's replacement at Naftohaz] because she [Tymoshenko] has issued a complaint against you (rustling of papers are heard). Also there is one against Zherdytsky⁴⁶. The prosecutor came to me: "My employee has asked me to formulate the request. I know, but I haven't given the OK." This is what the problem is.

[Bakay] I need a couple of days to close [words not heard]. And then we can forget about this for the rest of our lives.

[Kuchma] What do you need for this?

[Bakay] I need my director to be there [at Naftohaz's trading house] for three months.

[Kuchma] Well, at this time who?

[Bakay] At this time as many four people are giving me all the documents. Yuliya there

[Kuchma interrupts]: Yes, yes, yes.

[Bakay] Yuliya put in her own person and the situation there, honestly, has put me on the edge.

[Later in the conversation, Bakay returns to the issue of appointing his man to Naftohaz's trading house.]

[Bakay] Leonid Danylovych, the general director of Ukgazdobychi. He is 54 years old, 30 years in the oil-gas division, a medallist. In my view, he is the best person in the field. Today he is a general director involved in extracting, extracting 18 billion [of cubic gas]. He completely pays his debts.

....

[Bakay] Leonid Danylovych, I need him only for three months, so he will be there – that is all. We liquidate the [Naftohaz] trading house, and then they can do whatever they want.

[Kuchma] We have come to an agreement.

(Source: *Conversation with Bakay and Volkov on July 7, 2000*, 5Element.net, Sept. 30, 2002)

46. Viktor Zherdytsky, director of GradoBank, "lost" the compensation money given by the German government to Ukraine's citizens who worked as forced laborers in Nazi Germany. GradoBank went bankrupt and all the depositors, including the fund for Nazi forced labours, lost their money. In October 2000, the German authorities arrested Zherdytsky while he was visiting Germany, where he served five years in prison. In the following year, Didenko, the former Naftohaz deputy, also on a visit to Germany, was arrested. The German government accused him of putting the compensation money into his Khorda company. He served more than four years in prison. In 2006 Didenko and Zherdytsky were freed, after a German court ruled that the judgements against Zherdytsky and Didenko were incorrect, as the money went missing because companies went bankrupt..

On July 11, 2000, Vitalyi Boyko, the head of the Supreme Court of Ukraine, came to President Kuchma to discuss a number of topics, including the need to prosecute Bakay for stealing state funds.

[Boyko] ... two matters have re-appeared. I will say, and you will receive about Bakay and Schiller (Rostyslav Illych Schiller - new parliamentary deputy from Ternopil Oblast), Ternopil. As for Bakay, I will make the decision.

[Kuchma interrupts] They have registered [Bakay and Schiller had taken the parliamentary oath on July 5, 2000, thus giving them immunity from prosecution]. You will not be able to do anything.

[Boyko] I said yesterday: "Well, this is the time to wave with fists."

[Kuchma]: Ha, ha [laughs], of course!

[Boyko] A person takes the oath, and this [the case] is closed.

(Source: *Conversation with Vitalyi Boyko*, 5Elementplus.com, Oct. 26, 2005.)

Bakay was never brought to court. In 2002, Kuchma brought him back into government and gave him another position where he could indulge in more corruption. He appointed Bakay to take charge of the state property company, the State Administration of Affairs (Derzhavny upravlinnya sprav or DUS), directly controlled by the president. The newly-appointed Prosecutor-General, Syatoslav Piskun, closed all outstanding investigations into Bakay.

At DUS, Bakay, keeping to his track record, left a trail of illegal sales of prime state property, especially in the Crimea, to well-placed politicians, including President Putin⁴⁷. Immediately following the Orange Revolution, he fled to Russia. He settled in Moscow, where Putin gave him refuge from prosecution and Russian citizenship.

Maybe Bakay didn't need to flee Ukraine. In the two years after the Orange Revolution, not a single member of Ukraine's elite, starting from President Kuchma, was prosecuted for corruption or any other serious crimes committed before the revolution.

The prime minister's wife

Kuchma went to great trouble to collect material which might be used against Prime Minister Yushchenko. On May 6, 2000, he asked the head of the presidential guards, Volodymyr Shepel, to organise a network to spy on him:

[Kuchma] It is necessary to watch Viktor Andriyevych [Yushchenko].

[Shepel] Viktor?

47. See the details of Bakay's DUS corruption schemes in the transcript of TV documentary by Volodymyr Ar'yev, *Zakryta Zona-Marodery*, Channel 5, November 12, 2004; and the interview with head of Control-revision administration investigating DUS: Serhiy Leshchenko, *Kerivnyk bolovKRU Syuksky: Zavdyaka Bakayu dachu Brezhn'yeva nezakonno prodaly za 78 miliyoniv*, Pravda.com.ua, May 14, 2005.

[Kuchma] Yes, think how you could do this. [Look at] His network that he meets regularly with. There is a lot of information from all directions. Instead of working, the bastard, he has energetically engaged in politics, the bastard.

[Shepel] I have, well, I wanted say this to you, earlier, remember, I created the criminal investigation network in the Ministry of Interior of Ukraine.

(Source: Conversation with Shepel, May 16, 2000, 5Elementplus.com)

Shepel suggested that he could use people who had retired from SBU as well as two trusted government guards who were protecting Yushchenko and his family. Kuchma told him that Yushchenko's wife, Katya Chumachenko, had to be watched particularly closely as she was an American agent.

Derkach had reported to Kuchma that the new CIA resident in Ukraine was a former university classmate from Washington DC and, like Chumachenko, a Ukrainian-American⁴⁸.

The prime minister complained to the president about the rumours in the mass media about his wife being a spy. On September 19, 2000, after presenting a report on the state of the economy to Kuchma, he brought up the allegations published in the Russian and Ukrainian media that his wife was an agent. He placed a newspaper article in front of the president and asked him if he had read it.

On the recordings nervous laughter can be heard from Kuchma and the others present. Instead of answering the question, Kuchma went into a diatribe on how he too was a victim of the media but didn't respond to their attacks.

[Kuchma] ... Don't ask what they write about me. ... [I tell them], don't write about me, I don't read it. Through the Internet they spread it to Russia. ... Such vile things are written about me. ... (MP Hryhoriy) Omelchenko wrote such awful things on the impeachment of the president ...

[Unknown] [Omelchenko] he is a sick person

[Kuchma] Through Russia they throw this. Who stands behind this? ... They grind this about the president across Russia and spread it not only through the Internet, but also in [the Russian newspapers] *Nezavisimaya Gazeta*, *Izvestiya*

[Yushchenko] Why do they bother you? I don't know

[Kuchma] The newspapers are full of this.

[Unknown] Brodsky Mykhailo

[Kuchma] Brodsky – he is the main person behind this ... Brodsky

[Yushchenko] ... you should issue a statement ...

[Kuchma] ... I don't take revenge; I keep silent and don't say anything to anyone and just accept it as I accept the parliamentary opposition

(Source: IPI, ZL1909)

48. *Conversation with Derkach on April 4, 2000*, 5Elementplus.com

Kuchma's "I don't take revenge" against the media was ironic in the extreme. As it was, he had just taken his revenge against Georgi Gongadze. In a signed affidavit given to the Prosecutor's Office in August 2002, Melnychenko said Kuchma had ordered Derkach to feed this disinformation on Yushchenko's wife to the newspaper *Kievskie vedomosti*.

Charles Clover, the Financial Times correspondent in Ukraine, repeated this allegation.⁴⁹ Yushchenko's wife denied it in a letter to the newspaper⁵⁰. Clover reiterated the claim in his documentary film, *PR* (public relations) on the Gongadze affair. It was screened in Ukraine on the eve of the March 2002 parliamentary elections. Clover refused to say who had paid for the making of the film, which claimed that Kuchma was innocent of Gongadze's murder because the Melnychenko recordings were fabricated.⁵¹

The president finally found a way to dismiss the prime minister. A very violent demonstration, calling for Kuchma's resignation over the Gongadze affair, took place in front of the president's office on March 9, 2001. On April 19, the president's supporters in parliament called for a vote of no-confidence vote in Yushchenko. It was carried by 283 to 65. Ironically, the exposure of the Melnychenko recordings on Kuchma's role in the disappearance of Gongadze brought not his ouster, but that of Yushchenko and Tymoshenk

49. Charles Clover, "Ukraine's popular PM faces a storm", FT, April 18, 2001.

50. Katherine Chumachenko, *Misunderstandings of US work history must be cleared up*, FT, April 24, 2001

51. Maryna Melnyk, *All the truth about the film "PR"*, pravda.com.ua, March 27, 2002.