

Ruling with Decrees: Presidential Decree Making in Russia and Ukraine

OLEH PROTSYK

THERE IS A GENERAL UNDERSTANDING IN THE LITERATURE on post-communist transition of the importance of presidential decree making for explaining the nature of the political process and policy-making outcomes both in Russia and Ukraine.¹ At the same time, there have been very few studies dealing specifically with this aspect of presidential activity. Remington *et al.*² and Parrish³ analysed how presidential decree-making powers were used in Russia during the first years of democratic transition and Mishler *et al.*⁴ discussed in great detail the patterns of use of one type of presidential decree, defined as normative decrees, during the 1991–98 period in Russia.

While these studies examined only certain types of presidential decrees, this article attempts to provide a detailed overview of the total decree output across six presidential terms in Russia and Ukraine between 1991 and 2002. It examines the temporal evolution of decree-making practices over time and analyses differences between countries in the patterns of use of decree powers by the presidents. It also discusses political factors that contributed to differences in the frequency of use of decree-making powers and to variation in the substantive focus of the presidential decrees across countries and over time. It contributes to the existing literature by addressing some of the major issues raised in these studies, such as the policy scope and policy relevance of presidential decrees, the evidence for the existence of a political business cycle in decree use, and the expectation of a gradual decrease in the use of policy-related decrees over time.

Expanding the scope of research on presidential decree making both thematically and temporally also allows me to draw attention to some aspects of decree authority use that have been overlooked, such as the effects of differences in presidential leadership style and the level of institutionalisation of the presidency, the increased salience of unpublished decrees in overall decree output that offsets some of the decline in numbers of policy-related decrees, the large magnitude of appointment decrees and their critical importance for maintaining huge patronage systems and securing the presidents' ability to shape political and policy processes.

Methodology and data

The data set on presidential decrees was created on the basis of a number of databases that contain a comprehensive list of presidential decrees: Sistema (Centre for Legal

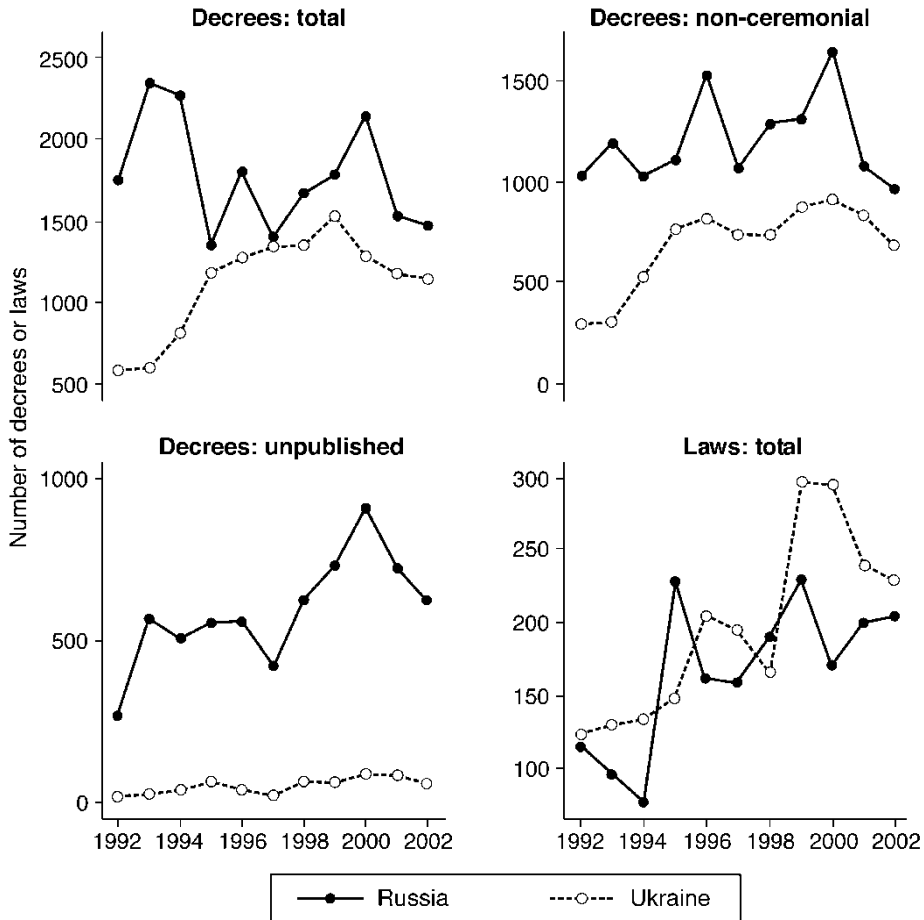
Information, Federal Agency of Government Communications, Russia), Spravochnye pravovye sistemy (Konsultant Plus, Russia) and Zakonodavstvo (Office of Computer Systems, Apparatus of Parliament of Ukraine, Ukraine). Every attempt was made to cover *all* presidential decrees issued between 1991 and 2002 in both countries.⁵ The decrees are classified according to broad policy area, substantive focus and time of issue. Appendix 1 provides the classification details. Additional parameters of classification were introduced in the course of analysis of specific research issues raised at different stages of this research project. These classification parameters are explained in the text during the discussion of the relevant research problems.⁶

The scope of presidential decree making

The number of presidential decrees issued in Russia and Ukraine is very large. The annual number exceeded 1,000 throughout the post-communist period in both countries, with the exception of 1992–94 in Ukraine. Even before the institutional frameworks enacted by the 1993 Russian and 1996 Ukrainian constitutions — which awarded the presidents very considerable decree powers — came into place, the presidents actively started to use this policy instrument to consolidate the powers of their newly created office and to implement policies for which they lacked both legislative and broad societal support. The interpretations of these presidential actions during the early years of democratic transition varied substantially — from seeing the presidents as trying to solve the problems of collective action (Parrish) and to champion unpopular but necessary reforms (Huskey) to explaining their behaviour as attempts to usurp power and create a delegative democracy (Kubicek).⁷ Under either interpretation the presidential decrees were instrumental in achieving the presidents' goals, which further underlines the importance of a systematic examination of the presidential decree output for developing a better understanding of the nature and extent of presidential involvement in the political process and policy making.

Similar to other presidential or semi-presidential democracies where the presidents have executive decree authority,⁸ a number of very different actions are initiated by presidential decree in Russia and Ukraine. Appendix 2 provides data on the share of policy-related, ceremonial, appointment and unpublished decrees in overall decree output. Only a fraction of total decree output explicitly deals with policy-related issues, which are the main focus of academic scholarship on presidential decrees. One part of policy-related decree output concerns the initiation of new policies by the president. The other part deals with what can be described as routine executive administration or rule making directed at implementing existing laws. A large portion of presidential decree output deals with so-called ceremonial issues and reflects presidential control of such inherent executive prerogatives as awarding medals, honorary titles and pardons. Two other substantial portions of decree output in the Russian and Ukrainian context deal with appointments at the various levels of government and with matters that constitute state secrets.

Figure 1 provides a summary of several major aspects of decree making in Russia and Ukraine. The total number of decrees is plotted in the upper left graph and indicates that the Russian presidents were issuing a much larger number of decrees than their Ukrainian counterparts. The difference in the numbers was especially



Source: Author's calculations: data from databases Sistema (Centre for Legal Information, Federal Agency of Government Communications, Russia) and Zakonodavstvo (Office of Computer Systems, Apparatus of Parliament of Ukraine).

FIGURE 1. PRESIDENTIAL DECREES AND PARLIAMENTARY LAWS IN RUSSIA AND UKRAINE, 1992–2002.

pronounced during the earlier years of democratic transition, reflecting differences in the style of political leadership adopted by the first post-communist presidents, El'tsin and Kravchuk. Leadership styles themselves were, to a large extent, a function of differences in the political charisma and degree of conservatism or reform-mindedness of the presidents and their immediate political entourage.⁹

President El'tsin, who established a reputation as a risk-taking and reform-oriented leader long before he became president, saw decree powers as an effective instrument for exercising his influence over the political process and policies. President Kravchuk, whom most analysts describe as a very cautious and risk-averse politician, enjoyed neither El'tsin's charisma nor his democratic credentials. Kravchuk was often hesitant to take the initiative and exercise his powers as president. These differences

were reflected in the use of decree powers and affected the way the process of institutionalisation of the presidency evolved in the two countries.¹⁰

The gap in the total annual number of presidential decrees decreased substantially after the arrival in office of the second Ukrainian president, Kuchma, in the second half of 1994. Two unrelated trends contributed to the narrowing of the gap. The first, which signified a real change in presidential behaviour, was the increased frequency with which Kuchma relied on decree authority to influence the political process and policy making in Ukraine. The second was partly due to a change in the practice of issuing ceremonial decrees by El'tsin.¹¹ Realising the high administrative costs involved in issuing a separate decree for each medal or title awarded, the Russian president started to rely increasingly on issuing ceremonial decrees that would cover a group of award recipients rather than a single individual. The change in the number of ceremonial decrees issued in Russia was also partly due to the fact that the variety of honorary titles awarded between 1993 and 1995 declined rapidly.¹² As a result, the total number of ceremonial decrees dropped from 1,300 in 1993 to less than 300 in 1995.

The upper right graph excludes ceremonial decrees from the total count, which includes ceremonial, policy-related, appointment and unpublished decrees, and provides a summary of the changes in decree numbers that more accurately reflects the general patterns of presidential involvement in the political process and policy making. The differences between Russia and Ukraine become even more pronounced in this graph. The magnitude of these differences varied from about 200 to 900 decrees per year. Similar to the first graph, the differences were most substantial during the early years of transition, 1992 and 1993. The differences in the numbers, however, increased sharply on two separate occasions later in the decade: 1996 and 2000, the years of presidential elections in Russia, saw spikes in the number of non-ceremonial decrees and a widening gap in decree issuance between Ukraine and Russia.

The graph also suggests that the most substantial differences in the frequency of use of decree authority in each of the countries are related to leadership changes in the presidential office. In Ukraine, the transfer of presidential power from Kravchuk to Kuchma in 1994 led to a dramatic increase in the number of decrees issued. The annual decree numbers during Kuchma's presidency, however, varied significantly less and remained on a much higher level than the annual numbers during Kravchuk's incumbency. In Russia, while the frequency of decree issuance fluctuated quite substantially during El'tsin's presidency, the year 2002 saw a fall in the number of decrees below the range of variation established during the El'tsin period. This graph suggests, as some scholars have already argued, that, after the initial year, Putin's presidency may indicate the emergence of a new pattern of less frequent use of decree authority in Russia.¹³

This observation, however, needs to be qualified in several important respects. One qualification is presented in the bottom left graph, which provides data on another important aspect of presidential decree making, unpublished decrees. A different methodology was used for collecting data on unpublished decrees in Russia and Ukraine. While neither the title nor any indication of the content of these decrees is published in Ukraine, the government information databases specify the number, the

date of issue and the ‘not for publication’ status of these decrees. In contrast, the Russian official sources do not contain any information on this type of decree. I followed Parrish’s approach to estimate the quantity of unpublished decrees. The numbers were calculated by subtracting the number of published decrees from the total annual number of decrees as indicated by the numbering of the last decree issued during the year (the decrees are issued in numerical order starting from number one for the first decree issued in January and continuing until the end of December).¹⁴

If my estimates are correct, the Russian presidents since 1993 routinely issued more than 500 unpublished decrees each year, with 1997 being the only exception. As the graph indicates, the number of unpublished decrees peaked in 2000 when Putin, first as acting and later as newly elected president, issued slightly more than 900 decrees. The annual average of unpublished decrees for Putin’s presidency is much higher than for the two consecutive El’tsin terms, which implies increased reliance on this type of decree by the president.

While most executives in the world have the power to issue so-called secret decrees, the graphs indicate that the Russian and Ukrainian presidents used this power with very different frequency. Between 1992 and 2002 the annual number of unpublished decrees in Ukraine never exceeded 100. Although the gap in the annual number of unpublished decrees between the two countries is probably partly a function of Russia’s ‘great power’ status and concomitant security, military and intelligence engagements, it is difficult to determine the scope of the issues dealt with by secret decrees. As the recent journalistic discovery of the content of one secret decree in Ukraine suggests, even relatively infrequent use of the practice of issuing secret decrees does not provide any guarantee that they are used only to deal with narrowly defined matters of state secrets.¹⁵

The legal norms that would specify the rules for classifying decrees as ‘not for publication’ remain vaguely defined in both countries. In the absence of such specific rules, the use of secret decrees provides grounds for serious concern about the transparency and accountability of post-communist executives. It should be of particular concern given that the share of unpublished decrees in the overall decree output, as Appendix 2 shows, increased in both countries over time. The increase was especially dramatic in Russia, where the share of unpublished decrees in the overall decree output grew from 13% in 1992 to 42% in 2002. The large number of unpublished decrees, especially in Russia, also creates a problem for the analyst trying to assess the extent and impact of presidential involvement in various areas of public policy. Much of the following discussion of the presidential practices of using decree authority should be taken with this caveat in mind.

Monthly data on the numbers of non-ceremonial and unpublished decrees, which are presented in Appendix 3, also indicate that the frequency with which the president relied on decree authority was affected by the presidential electoral cycle.¹⁶ The frequency charts for both non-ceremonial and unpublished decrees in Russia provide evidence of the existence of both beginning and end-of-term effects.¹⁷ There was a substantial rise in the decree numbers during the months that immediately preceded or followed the 1996 and 2000 presidential elections. While the same pattern can be detected in the frequency charts for the 1994 presidential election in Ukraine, the

overall evidence from the non-ceremonial and unpublished decrees graphs for the 1994 and 1999 presidential elections is not conclusive.

The bottom right graph in Figure 1 provides a summary of parliamentary activity that constitutes the legislative context in which presidents in Russia and Ukraine operate. As the lines capturing the changes in the annual passage of laws by the parliaments indicate, there have been upward trends in the numbers of laws passed in both countries.¹⁸ Although this trend is much more pronounced in Ukraine than in Russia, the data on law passage may suggest the growing assertiveness of parliaments in both countries. This trend remains intact even after excluding from the annual counts those laws that introduce only stylistic changes or amendments to the existing laws, without affecting in any significant way policies established by prior legislative acts.

The most noticeable feature of this graph, however, is the higher level of legislative activity in Ukraine, as measured by the number of laws passed, than in Russia. With the exception of two years, the Ukrainian parliament annually passed a larger number of laws than its Russian counterpart. The year 1998 was one of the exceptions when the number of laws passed by the Ukrainian parliament dropped behind the number passed in Russia. This drop can probably be attributed to the deputies' preoccupation with electoral politics due to the parliamentary elections held that year in Ukraine. Election year politics, however, do not seem to have affected legislative productivity negatively in any other year during which elections were held in either country. Parliamentary elections were held in Ukraine in 1994, 1998 and 2002 and in Russia in 1993, 1995 and 1999. Although the differences in the numbers lessen during the last two years, it is unclear at this point whether there is a converging trend in legislative productivity.

The overall differences in legislative output between the two countries give some support to the claims that a bicameral legislature slows law making by introducing another powerful institutional actor, an upper legislative chamber, into the legislative process. One interpretation of the burgeoning literature on veto powers is that the larger the number of institutional actors with veto powers over legislation, the slower the decision-making process will be. It is unclear, however, how such an interpretation relates to the findings of some leading scholars on the Russian legislature. Remington argues, for example, that bicameralism reduces the complexity of decision making in Russia in such a way that only one dimension of conflict is dealt with at a time.¹⁹

In order to assess the 'veto gates' argument fully, the roles of legislative committees, parliamentary rules of procedure and party factions in parliament have to be analysed comparatively. While there is a large amount of literature with a single country focus dealing with these issues — the literature on Russia is especially large — there have been few attempts at a genuinely comparative analysis of how the legislatures in Russia and Ukraine operate.²⁰

The predominantly competitive rather than submissive nature of the Ukrainian parliament's relationship with the president might be another factor behind higher levels of legislative output in Ukraine.²¹ While a systematic analysis of this relationship, similar to one conducted by Mishler *et al.* with regard to Russia, is outside the scope of this article, the effects of executive-legislative confrontation on the character

and quantity of the decree and law output in Ukraine constitute a promising research programme.²²

Presidential decrees and policy

Estimating the policy significance of presidential decrees involves significant methodological difficulties. On one hand, Carey & Shugart advocate a highly restrictive understanding of a decree that affects policy.²³ They differentiate between decrees that establish new policies or change the existing policies and decrees that are merely rule-making orders which are used for implementing policies set by the legislature and which inherently belong to the arsenal of tools available to the executive. They acknowledge that sometimes difficulties emerge in differentiating between these two types of decrees but claim that the difficulties are not major. On the other hand, Mayer, in his analysis of presidential orders in the United States, argues that even setting up a temporary commission in the presidential office can constitute a policy move because it makes a certain type of policy outcome more or less likely.²⁴ Classifying decrees according to their policy importance obviously introduces a degree of subjectivity on the part of the researcher. This is especially so in the context of our two post-Soviet republics, where a large portion of decree output falls in the conceptually grey zone of decrees whose scope and subject matter make them comparable in terms of policy effects to the laws and decrees that are merely instructions for civil servants regarding the implementation of statute norms.

To measure the frequency and scope of presidential decree-based intervention in the various policy areas I proceeded by classifying policy-related decree output in two steps. First, following Mishler *et al.*, I categorised all decrees dealing with policy-related issues according to broadly defined policy areas: polity, economy and society. Appendix 1 provides details on what sub-categories were included in each category. All decrees dealing with issues in the specific policy area were included in the count, regardless of the scope and nature of the actions required by the decree. When a decree dealt with multiple issues or crossed policy boundaries, it was assigned to the category that best described the decree's primary focus.

Policy-related decrees

There were a large number of presidential decrees dealing with various policy-related issues in both countries during the first post-communist decade. As most of the literature suggests, the decrees were crucial for establishing policies in very diverse areas. Major recent studies of presidential decrees done by legal scholars in both countries are indicative of the scope of issues the decrees were trying to regulate. For example, Luchin & Mazurov chose to devote six separate chapters to the Russian president's involvement in setting norms in the following policy areas: government and administration, economy, finance, land reform, labour relations and crime prevention.²⁵

The policy-related decrees include decrees with broad normative or regulatory scope such as, for example, N. 1272, 'Issues of the Federal Tax Police Agency' (Russia, 25 September 1999), N. 62, 'On Measures for Protecting Property Rights of

Peasantry in the Process of Reforming the Agrarian Sector of the Economy' (Ukraine, 29 January 2001);²⁶ decrees with a much narrower scope such as N. 550, 'On Additional Powers and Responsibilities of the Plenipotentiary Representative of the President of the Russian Federation in Primorsky Region' (Russia, 4 June 1997) and N. 70, 'On Ensuring the Proper Functioning of the Local Government Authorities in the City of Yalta' (Ukraine, 30 January 1998); and decrees that are no more than administrative instructions on restructuring presidential offices or changing routine bureaucratic procedures such as N. 152, 'On the Department of the Administration of the President of the Russian Federation on Cooperation with the Executive Bodies of the Commonwealth of Independent States' (Russia, 1 March 1997) and N. 63, 'On Amendments to Appendix N. 1 of the Statute on Government Experts on State Secrets' (Ukraine, 27 January 1998).

Figure 2a summarises the data on policy-related decrees in Russia and Ukraine. The upper left graph provides data on the total numbers of policy-related decrees. These numbers are broken down according to the three broad categories — polity, economy and society — in three other graphs. As all of these graphs indicate, the differences between the two countries in terms of policy-related decrees are less pronounced than the differences in decree issuance patterns presented in Fig. 1. Although the Russian president started the first post-communist decade by issuing a larger number of decrees in all policy areas, the differences between the two countries started to narrow during the last years of Kravchuk's incumbency. The patterns in decree issuance became decidedly mixed after Kuchma assumed office.

The overall policy-related decree output was larger in Russia prior to 1999. Since 2000 the total numbers of policy-related decrees issued in Russia and Ukraine have been almost the same. A similar pattern characterised decree issuance in the polity area. The changes in decree numbers in the economy and society areas were somewhat different. Decree issuance in these categories exhibited a higher level of variation and the annual numbers of decrees in the two countries overlapped more frequently. Overall, the data on policy-related decree issuance in Russia suggest a downward trend, while no similar trend in the number of policy-related decrees in Ukraine can be detected.

This difference in the trajectories of policy decree issuance has its sources in the patterns of presidential leadership during the first years of post-communist transition. As was noted earlier, the starting points in practising decree making in Russia and Ukraine were very different. President El'tsin, who opted for a more activist leadership style and enjoyed a stronger popular mandate than his Ukrainian counterpart Kravchuk, started his presidency with a very enthusiastic embrace of decree powers. The Russian president's reliance on policy decrees began to diminish during the last years of the El'tsin presidency and, as Remington points out, gave place to a more co-operative and parliament-regarding style of decision making during the first years of Putin's administration.²⁷ It is the first years of El'tsin rule that allow us to interpret the Russian graph as a downward trend rather than just a drift.²⁸

Although the total number of policy decrees has steadily declined during the second term of Kuchma's presidency, this decline, when put in the perspective of presidential decree making in Ukraine over the whole period, cannot be described in terms of a trend. The decline in the number of policy decrees during Kuchma's second term has

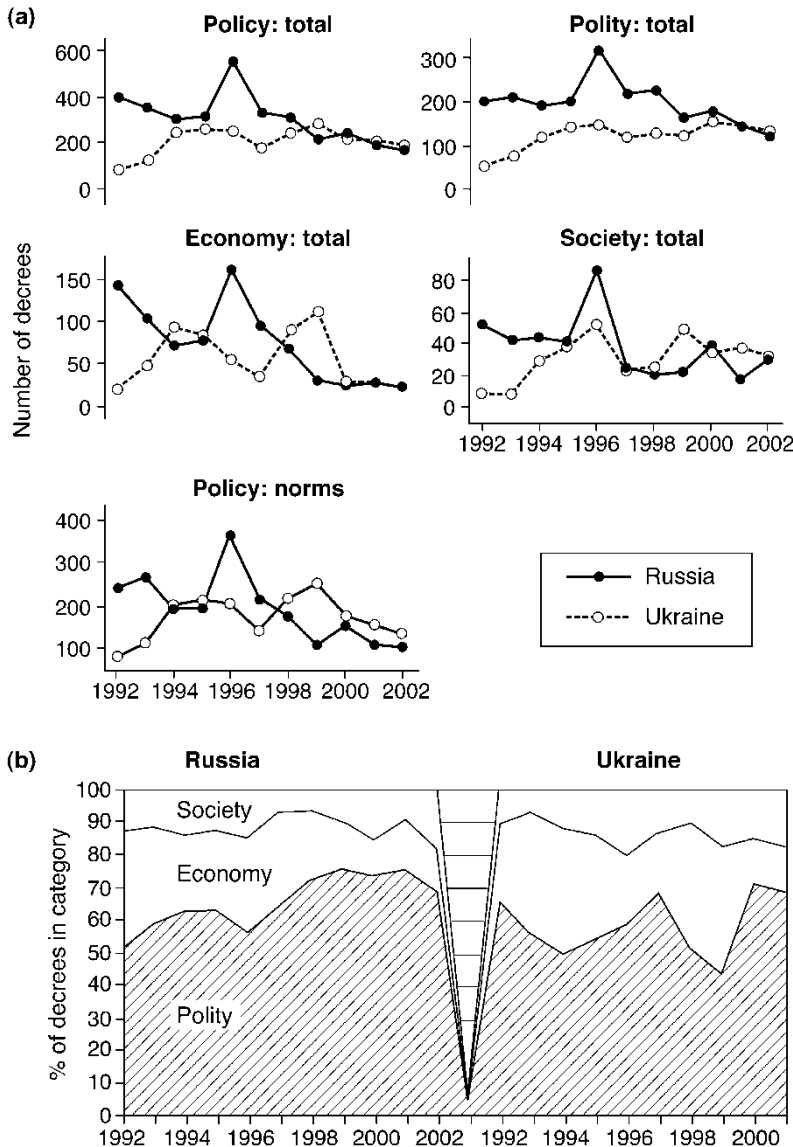


FIGURE 2(a) POLICY-RELATED DECREES IN RUSSIA AND UKRAINE, 1992–2002 (b) DISTRIBUTION OF POLICY-RELATED DECREES

different sources than the decline attributed to Putin's approach to policy making. There has been no noticeable increase in the degree of co-operation between the president and parliament during Kuchma's second term, even after a short-lived majority pledging co-operation with the executive was constructed in January 2000.²⁹ Political scandals, growing domestic and international opposition to his presidency, and resulting political weakness, rather than Kuchma's willingness to forego decrees

and to seek the implementation of his policies through the parliament, explain the decline in the number of policy decrees in recent years in Ukraine.

The frequency of the issuance of policy-related decrees also seems to be affected differently by election year politics when compared with the frequency of the non-ceremonial decrees (which combined policy, appointment and secret decrees) presented in Fig. 1. While there was a spike in the numbers of all types of policy-related decrees during the year of the 1996 election in Russia, with the exception of society-related decrees there was no comparable rise in policy decree numbers during 2000. This means that the rise in number of non-ceremonial decrees in Russia during 2000, which was registered in the upper right graph of Fig. 1, is almost entirely due to the rise in the number of secret and appointment decrees. The monthly data on policy-related decrees in Appendix 3 also clearly indicate a large surge in the number of policy-related decrees during the months that surrounded the 1996 presidential election and a much lesser impact of the 2000 presidential election on the policy-related decree numbers in Russia.

The changes in numbers of all policy-related decrees in Ukraine more closely followed the general pattern established in the non-ceremonial decrees graph for Ukraine in Fig. 1. The numbers of policy-related decrees were on the rise during 1994, the year of one presidential election campaign, and peaked during 1999, the year of the second presidential campaign in the sample. The 1999 peak is explained by the rise in the numbers of decrees dealing with economic and social issues.

The fact that the highest number of economic decrees was issued during 1999 was a product of the expiry of the president's special economic decree powers rather than of beginning and end-of-term effects. A closer look at the monthly data on policy-related decrees for Ukraine in Appendix 3 reveals that the only significant spike in the number of policy-related decrees took place in June 1999. That was the month when a three-year term of special decree powers, which were awarded to the president by the 1996 constitution and which allowed him to issue economic decrees in areas unregulated by laws, expired. Monthly data on policy-related decrees for the 1994 presidential election in Appendix 3 suggest the existence of the end-of-term effect but not the beginning-of-term effect.

The finding that large increases in the number of policy-related decrees in both countries took place during the pre-election periods for the 1996 and 1994 presidential elections and not for the 2000 and 1999 elections is probably partly due to a higher degree of uncertainty about the outcomes surrounding the earlier presidential elections in Russia and Ukraine. Especially in Russia, as many observers noted at the time, the 1996 presidential election, owing to the seriousness of the challenge the communist candidate Zyuganov posed for the politically increasingly unpopular and physically ailing El'tsin, was of a highly contested and unpredictable nature. In contrast, Putin's very high approval ratings, first in the capacity of prime minister and later of acting president, provided little room for doubt about the outcome of the 2000 election.³⁰

The evidence that the frequencies of issuance of policy decrees were affected by the electoral cycle provides an indirect but very important source of support for the claim that presidential decrees matter. If they did not matter and were inconsequential in terms of affecting substantive policies and, ultimately, electoral outcomes, there

would be very little reason for the existence of the seasonal (political seasons) component detected in the data.

This reasoning should, however, take into account the unsustainable and often 'single intervention' approach of many policies initiated by such decrees. The very titles of some of the decrees issued during that period — N. 550, 'On Immediate Measures for Improving Pension Provision for the Citizens of the Russian Federation' (Russia, 15 April 1996), N. 819, 'On State Support for Gardeners and the Owners of Homestead Plots' (Russia, 7 June 1996), and N. 318, 'On Immediate Measures for Ensuring Legality of Retail Sales Operations and Strengthening the Fight against Retail Speculation' (Ukraine, 18 June 1994) — are indicative of their populist nature.

While Fig. 2a provides data on the absolute numbers of decrees in the different categories of policy-related decree output and summarises the changes in these numbers over time, Fig. 2b shows the relative weight of these categories in the overall policy-related decree output and traces the temporal changes in their relative weight. More than half of policy-related decree output throughout the years consisted of decrees dealing with various aspects of the polity. The share of polity-related decrees was slightly higher in Russia than in Ukraine. In both countries the share of polity decrees has further increased in recent years, largely at the expense of economic decrees. The relative weight of the latter declined very significantly in comparison with the early 1990s both in Russia and Ukraine. While in 1992 the shares of economic decrees in Russia and Ukraine were 36% and 24% respectively, economic decrees accounted for only 13% and 12% of policy-related output in these countries in 2002. The share of decrees dealing with society issues varied in the range of 6–20% during the entire period, averaging 12% for Russia and 14% for Ukraine.

Policy norms

In the second step of classifying policy-related decrees I attempt to estimate how often the president actually initiated new policies or introduced a major change to existing policy in any of three broadly defined policy arenas: polity, economy and society. For lack of a better term, I call these decrees 'policy norms'. Appendix 4 provides details on what type of decrees were included in this more restrictive count of policy-related decrees.

The results are presented in the 'Policy: norms' graph in Fig. 2a, which shows that the number of policy decrees that initiated new policies or introduced a major change to existing policy is quite substantial. It also indicates that changes in the number of policy norms followed the same patterns as changes in the total numbers of policy-related decrees. The decline in the number of these decrees over the years was more pronounced in Russia than in Ukraine.

While decrees introducing policy norms deserve separate and detailed treatment, which is outside of the scope of this article, the numbers in this graph provide important additional information with regard to the problem of estimating the direct effect of presidential decrees on initiating new policies. Parrish, following the official Russian collection of laws and executive acts, divided presidential decrees into two categories: 'normative' and 'non-normative'. He claimed that only 'normative' decrees, which in Russian legal usage establish a precedent of some sort, could be

regarded as genuine policy decrees. The Russian numbers from the graph support the present author's suspicion that even the number of normative decrees overstates the number of times the president in Russia makes new policies.

Yet in absolute terms the number of decrees initiating new policies remains large. For example, in Russia 106 out of 188 policy-related decrees in 2001 and 101 out of 174 in 2002 were classified as policy norms. Equally important is the fact that the share of policy norms in the total count of policy-related decrees has not changed much over the years. The average share of policy norms in the annually based count of policy-related decrees for the 1992–2002 period in Russia was 61%. The figures for 2001 and 2002 are respectively 56% and 58%. This means that presidential policy-related decrees continue to deal with major policy issues. There was little if any increase in the share of presidential decrees dealing with such routine executive functions as providing government officials with specific and relatively minor instructions and orders regarding the implementation of existing statutes and norms.

Presidential appointment decrees

The appointment decree powers of presidents in Russia and Ukraine have so far received very little attention in the literature. Yet the importance of such presidential decrees is difficult to overestimate. Appointments are an indirect but often very effective way of influencing policies. In many circumstances, choosing among the alternative candidates for key government positions implies making a choice between alternative courses of action. The significance of appointment powers becomes even more felt in highly personalised politics where rules, norms and procedures are weakly institutionalised and informal political mechanisms often substitute for formal political channels.

Appointment decrees are critically important for understanding how politics functions, not only because of their potential effect on policy outcomes but also because they provide important insights into political and bureaucratic elite recruitment and upward mobility. Appointment decrees are essential for the president's ability to build and maintain political support. They are a valuable patronage resource for presidents who always need to reward loyalists, attract the hesitant and co-opt rivals.

Both in Russia and Ukraine the presidents make hundreds of appointments each year. Figures 3a and 3b provide a summary of the numbers and character of presidential appointments and their relative importance in the overall decree output. The appointment decree numbers in both figures include both appointments and dismissals made by presidential decrees. In the following discussion whenever I use the term appointment decrees I refer to decrees that deal with either appointments or dismissals.

The graph 'Appointments: total' provides information on the annual number of presidential decrees in Russia and Ukraine. Starting from 1995 the Ukrainian president consistently made a substantially larger number of appointments than his Russian counterpart. The gap in the total output has grown especially large since 2001, largely owing to the drastic decline in the number of appointments made by President Putin. Like other types of decrees, the numbers of appointment decrees were



Source: Author's calculations; data from databases Sistema (Centre for Legal Information, Federal Agency of Government Communications, Russia) and Zakonodavstvo (Office of Computer Systems, Apparatus of Parliament of Ukraine)).

FIGURE 3(a) APPOINTMENT DECREES IN RUSSIA AND UKRAINE, 1992–2002 (b) DISTRIBUTION OF DECREES TYPE.

election-sensitive, especially in Russia, where the two election years of 2000 and 1996 saw increases in the numbers of decrees.

In both countries the presidents appoint cabinet ministers, heads of the various central government agencies, top civil servants, military and security apparatus, top management of some state-owned industries, judges, diplomats and the countries' representatives to international organisations, and make a number of appointments at the regional level. The nature of appointments at the regional level varies owing to the differences between the federal and unitary design of the two countries. The Russian president appoints the presidential representative in the regions, special

representatives charged with specific tasks and, starting with the Putin presidency, presidential representatives in the federal districts.³¹ The Ukrainian presidents, with the exception of an approximately 12-month period during 1994–95, appointed first the presidential representatives in the *oblasti* and later the heads of the *oblast'* state administrations, who enjoyed substantially larger powers on the regional level than the presidential representatives in the regions in Russia.³² Prior to 1995 the Ukrainian presidents also actively used presidential decrees to appoint presidential representatives in *raiony*, a function that later became primarily reserved for presidential executive orders.

The substantially larger numbers of appointment decrees issued on a regular basis by the Ukrainian president is especially puzzling given the fact that the constitutional appointment powers of the presidents in Russia and Ukraine are roughly comparable and that the Russian president has to appoint several times as many diplomats, judges and presidential representatives in the regions. Although the Russian president makes more frequent use of the practice of issuing one decree for a number of appointments, for example, to appoint judges, than his Ukrainian counterpart, so-called multiple decrees constitute only a very small part of appointment decree output. The vast majority of appointment decrees concern the appointment or dismissal of a single person.

The right graph in Fig. 3a helps to identify some of the answers to this puzzle. It shows the number of decrees in a key appointment area, cabinet. As the graph indicates, the Ukrainian presidents since 1993 were issuing many more cabinet appointment decrees. Both ministerial and deputy ministerial appointments were included in calculating these numbers. The gap was especially large during the early years of the first Kuchma administration in Ukraine (1995–97): the Ukrainian president was issuing on average 200 cabinet appointment-related decrees during that period. The only year during which the gap between Russia and Ukraine almost closed was 1998, a year of financial meltdown in Russia that led to frequent cabinet changes. There was also a significant drop in the number of cabinet appointments during that year in Ukraine.

A higher degree of politicisation of bureaucratic appointments and a higher level of cabinet instability in Ukraine explain the differences presented in the graph. The president in Ukraine routinely made many more deputy ministerial appointments than his Russian counterpart. Presidents El'tsin and Putin chose to use presidential decrees to appoint deputy ministers almost exclusively in ministries that deal with the policy areas in which, according to the Russian constitution, the president has special control over the activity of government agencies: defence, security, internal affairs, foreign affairs and emergency situations (Article 32). In Ukraine president Kuchma has been appointing deputy ministers across the whole spectrum of cabinet ministries.

Neither the Russian nor Ukrainian constitutional clauses specify rules regarding deputy ministerial appointments. The fact that the presidents chose to interpret them differently is primarily a function of differences in their political and constitutional strength. President Kuchma, whose constitutional powers and political strength have been consistently lower than those of his Russian counterparts, fought hard with the cabinet and parliament over the control of appointments of deputy ministers and, more recently, state secretaries, in order to compensate for his political and

institutional weaknesses. A highly politicised upper echelon of the civil service, a recurrent problem in transitional and developing countries against which numerous World Bank publications warn repeatedly,³³ has been a by-product of actions taken by a politically insecure president trying to build a comprehensive patronage base and consolidate the powers of his relatively new office.

Many observers noted that the presidents in both countries tried to maintain control over the political elite by balancing rival factions.³⁴ In Ukraine, where economic reforms in general and privatisation in particular lag behind similar reforms in Russia, access to state resources continues to be exceptionally critical for different elite factions. Presidential appointments are one of the key mechanisms that regulate access to state resources. President Kuchma had to use different types of appointments more frequently than his Russian counterpart in order to balance rival factions and pre-empt challenges they could pose to his leadership. He rewarded weak factions and punished factions that were growing too strong by appointing or dismissing their members to or from key government positions.

Cabinet instability, the second reason behind the higher number of cabinet appointments in Ukraine, can also be traced to the lower degree of political strength and to more credible political threats to Kuchma's presidency on the part of the various political opposition forces. Kuchma's leadership over the executive has been routinely challenged by several prime ministers. His response to these challenges was to dismiss the prime ministers and their cabinets, thus generating more ministerial turnover.³⁵ There have been nine new prime ministers in Ukraine since 1991. In contrast, Russia saw only six new prime ministers during the same period and only one of them, Primakov, could be considered as contesting the presidential leadership over the executive.

The appointment frequency graphs in Appendix 3 provide some indication that the number of presidential appointments was sensitive to the stages of the electoral cycle, although in both countries the effects of presidential elections on the appointment numbers were smaller than, for example, the election effects on the numbers of policy decrees. A more detailed statistical analysis of monthly frequencies is needed in order to estimate properly the impact of elections on changes in the decree numbers.

To illustrate how frequently the presidents issued appointment decrees in comparison to decrees dealing with policy-related issues, Fig. 3b provides data on the average annual number of appointment and policy-related decrees for the 1992–2002 period and on the annual numbers for the last year in the sample, 2002. In both countries appointment decrees outnumbered decrees in any policy-related category but in Ukraine the difference between the numbers of appointment and policy-related decrees was especially large. Even after dividing the appointment numbers by two in order to account separately for decrees dealing with appointments and dismissals, each new category for Ukraine would include almost the same number of decrees as all policy-related categories combined. The appointment decrees, especially in Ukraine, constitute a very important instrument of presidential involvement in the political process and policy making.

Figure 3b also provides another way of comparing the most recent data on presidential decree making, with the averages for the entire period. The upper left and right bar graphs illustrate what was established earlier as a significant drop in

presidential decree making in Russia. A substantially smaller number of appointment decrees, as well as policy-related decrees, were issued during 2002 compared with the annual average. The lower left and right bar graphs indicate that the same indicators for Ukraine for 2002 differ very little, with the exception of economy-related decrees, from the averages for the entire 1992–2002 period. While the number of appointment decrees in Ukraine was dropping during the last two years of the period, these drops do not fall outside the range of variation in the number of appointment decrees established during Kuchma's two-term presidency. The president seems to be a firm adherent to the old dictum that cadres decide everything and continues to run the country, to a much larger extent than his Russian counterparts, through appointment decrees.

Implications and conclusion

Presidential decree making dominated the political process and the design of public policy in both Russia and Ukraine during the first post-communist decade. The presidents in both countries frequently tried and were often successful in shaping various political, economic and social outcomes by issuing policy-related decrees, making hundreds of key political appointments and giving secret executive orders. The presidential willingness to intervene in the political process and policy making with decrees was shaped by a number of factors. Perceived necessities of economic and social reforms, political imperatives and electoral concerns all played a role in determining the extent of the presidents' reliance on decree powers. The data analysed in this article also suggest that differences in the style of the presidential leadership were important in explaining differences in the frequencies and scope of presidential decree making. The most significant and lasting changes in the number of presidential decrees issued in both countries were associated with leadership changes in the presidential office.

The leadership factor cautions against overestimating the importance of institutional design in explaining the behaviour of post-communist executives during the first post-communist decade. It is indicative that neither the 1993 Russian nor the 1996 Ukrainian constitutions, which, especially in the case of the former, significantly increased presidential powers, led to radical changes in the frequency with which presidents relied on decree powers. Prior to the adoption of the respective constitutions, both El'tsin and Kuchma relied on decree powers as often as in the period of their incumbency that followed the adoption of the constitutions. The data on the very substantial differences between the two countries in the number of appointment decrees and on the huge differences in the number of secret decrees, neither of which can be explained with reference to variations in institutional design, further underline the limitations of the legal constraints on presidential behaviour. The weakness of legislative and judicial institutions undoubtedly contributed to the presidents' ability to choose how to interpret their constitutional powers both before and after the adoption of the constitutions.

The article's findings provide only limited support for the prevailing expectation that the growing maturity of legislative institutions and the legal framework of post-communist societies will lead to a rapid decline in presidential ability to rely on

decrees as a key instrument for influencing policy. As the data on total numbers of decrees indicate, the numbers of non-ceremonial decrees in both countries peaked as late as 2000. While there was a steady decline in the total number of policy-related decrees in Russia after 1997, this decline was partly offset by a substantial increase in the number of unpublished decrees. In Ukraine, where the number of policy-related decrees was initially smaller than in Russia, to date no substantial drop below the established range of variation in the number of policy-related decrees has taken place during Kuchma's second term.

The attempt to single out the most important policy-related decrees, those that signal the initiation of a new policy or a major change in an existing one, led to somewhat similar conclusions. There was a more substantial decline over the years in the number of these decrees in Russia than in Ukraine. Even in 2002, however, the presidents of both Russia and Ukraine were issuing, on average, between eight and ten major policy decrees monthly. The increased willingness of President Putin to seek agreement and compromise with the Duma does not imply refusal to use decree powers in order to affect outcomes in the various policy areas. If judged by the frequency and scope of only the very slowly declining numbers of policy-related decrees, Kuchma remains an assertive president despite all the political scandals and controversies surrounding his second term. Overall, more detailed research on the content and implementation provisions of policy-related presidential decrees is required in order to develop a better understanding of the role presidential decrees play in planning, initiating and sustaining policies.

More detailed statistical research and a larger number of observations are also needed to judge the effects of the electoral cycle on presidential decree making. The coming rounds of presidential elections in both countries should help by generating more data. This article emphasised the necessity of distinguishing between beginning and end-of-terms effects. The data on presidential decree making during the 1996 and 2000 presidential elections in Russia and the 1994 and 1999 presidential elections in Ukraine provide mixed support for the expectation that the last and first months in office are associated with higher frequencies in presidential decree making. While the data, for example, on the issuance of policy-related decrees during the 1996 presidential election provide strong support for the electoral cycle hypothesis, there were no similar patterns in the numbers of policy-related decrees prior to and following the 1999 presidential election in Ukraine. The article suggests that both the uncertainty of electoral outcomes and variation in categories and types of presidential decrees should be taken into account when judging the effects of electoral politics on presidential decree making.

The new institutionalism literature on presidentialism emphasises the importance of viewing the presidency from the perspective of presidential ambitions to increase control over institutions and processes.³⁶ This article argued that two types of presidential decrees, which have been largely outside the focus of scholarship on the post-communist presidencies, unpublished decrees and appointment decrees, are essential for the presidential ability to exercise such control. Scholars cannot say much about unpublished decrees, except to analyse how their monthly and annual frequencies are correlated with political and other types of events, and to attempt to estimate the importance of these decrees from occasional revelations about the nature

of specific decrees in the press. Yet the very large numbers of these decrees, especially in Russia, should be of concern to those who study ways of increasing the transparency and accountability of post-communist executives.

Appointment decrees, on the other hand, provide a wealth of information for those interested in presidential politics, elite recruitment and mobility, and political patronage. Although presidential appointment decrees directly answer only the question of who was appointed or dismissed, they provide a starting point for answering questions concerning the reasons and circumstances of appointments and, subsequently, the patterns of change and stability in the political elite. The article found that presidents in Ukraine routinely made a much larger number of political appointments than their Russian counterparts. This finding is especially startling given the approximately similar appointment powers awarded to them by their respective constitutions and the much larger size of the Russian political elite and bureaucratic apparatus. Finding additional answers for this puzzle, besides those already discussed here, would provide important insight into how the political process is organised and how elite recruitment is structured.

Presidential decree making in both countries has been challenged in several ways. On one hand, the presidents increasingly realise the limitations of ruling by decree. The growing willingness to search for ways of implementing presidential initiative through the parliament is one manifestation of attempts to build broader societal support for the policies of the executive. On the other hand, presidential authority in general, and decree powers in particular, remain politically and legally frequently contested. Especially in Ukraine, where the constitutional debates are as strong today as ever and the design of the entire semi-presidential constitutional framework is under a great deal of scrutiny, the presidential ability to issue decrees has been increasingly questioned. Nevertheless, presidential decrees in both Russia and Ukraine are likely to continue to constitute not only a significant information source for studying the politics of the first post-communist decade but also a very important instrument of presidential involvement in policy making.

University of Ottawa

¹ Eugene Huskey, *Presidential Power in Russia* (Armonk, NY: M.E. Sharpe, 1999); Stephen White, 'Russia', in Robert Elgie (ed.), *Semi-Presidentialism in Europe* (Oxford, Oxford University Press, 1999), pp. 216–232; Bohdan Harasymiw, *Post-Communist Ukraine* (Toronto, Canadian Institute of Ukrainian Studies Press, 2002); Andrew Wilson, 'Ukraine', in Elgie (ed.), *Semi-Presidentialism in Europe*, pp. 260–281.

² Thomas F. Remington, S. S. Smith & M. Haspel, 'Decrees, Laws, and Inter-branch Relations in the Russian Federation', *Post-Soviet Affairs*, 14, 4, 1998, pp. 287–322.

³ Scott Parrish, 'Presidential Decree Authority in Russia, 1991–1995', in John M. Carey & Matthew S. Shugart (eds), *Executive Decree Authority* (Cambridge, Cambridge University Press, 1998), pp. 62–103.

⁴ William Mishler, John P. Willerton & Gordon B. Smith, 'Hegemony or Rivalry? Laws, Decrees and the Dynamics of Legislative–Executive Relations in the Russian Federation', revised version of a paper presented at the 1998 Annual Meeting of the American Association for the Advancement of Slavic Studies, June 2001.

⁵ Owing to an especially large volume of both published and unpublished presidential decrees in Russia, a number of proprietary databases provide incomplete information on the number of decrees issued by the president. Several Russian legislative databases were compared to create the most comprehensive list of published decrees.

⁶ Students of Russian politics familiar with the work on executive-legislative relations done by Mishler, Willerton & Smith will find some of the classifications used in this research highly compatible with the ones developed by these authors. While I introduced a number of new classification categories to address some additional aspects of presidential and legislative decision making, I adopted most of the general categories they proposed. This should allow a broader cross-national comparison, which is one of the goals of this project; see Mishler *et al.*, 'Hegemony or Rivalry?.'

⁷ Parrish, 'Presidential Decree Authority ...'; Huskey, *Presidential Power in Russia*; Paul Kubicek, 'Delegative Democracy in Russia and Ukraine', *Communist and Post-Communist Studies*, 27, 4, 1994, pp. 423–439.

⁸ Carey & Shugart (eds), *Executive Decree Authority*.

⁹ Anders Aslund, *How Russia Became a Market Economy* (Washington, DC, Brookings Institution, 1995); Richard Sakwa, *Russian Politics and Society* (London, Routledge, 1996); Taras Kuzio, *Ukraine: Perestroika to Independence* (New York, St. Martin's Press, 2000); Anders Aslund & George De Menil, *Economic Reform in Ukraine: The Unfinished Agenda* (Armonk, NY, M.E. Sharpe, 2000).

¹⁰ The literature on political elites is important in this respect. It acknowledges multiple constraints that the public's predispositions and orientations impose on the political leadership, yet it allows significant room for the leaders' initiative and discretion. In this line of thinking, choosing leaders is critical, more so than choosing policies; see for example John Higley, Jan Pakulski & Włodzimierz Wesolowski, *Postcommunist Elites and Democracy in Eastern Europe* (Basingstoke, Macmillan, 1998).

¹¹ The following categories of decrees were classified as ceremonial: awarding honorary titles, diplomas and medals; awarding military, diplomatic and civil service ranks; granting or revoking citizenship rights; granting pardons; commemorating events and important historical dates; establishing professional days (e.g. Teachers' Day).

¹² For example, in January 1993, which is the year that saw the largest number of ceremonial decrees awarded, the president signed decrees awarding to groups of individuals the following honorary titles of the Russian Federation: Honoured Doctor, Honoured Builder, Honoured Lawyer, Honoured Geologist, Honoured Engineer, Honoured Miner, Honoured Transport Industry Worker, Honoured Technologist, Honoured Teacher, Honoured Professional Education Worker, Honoured Housing Industry Worker, Honoured Forestry Worker, Honoured Fishery Worker, Honoured Machinery Construction Worker, Honoured Scientist, People's Artist, Honoured Physical Education Worker, Honoured Art Worker, Honoured Chemist, Honoured Consumer Services Worker, Honoured Architect, Honoured Power Engineering Worker, Honoured Textile Industry Worker, Honoured Inventor, Honoured Oil and Natural Gas Industry Worker, Honoured Communication Service Worker, Honoured Metallurgy Worker, Honoured Commerce Industry Worker, Honoured Textile Industry Worker. During the same month a number of decrees awarding medals to individuals were signed, including such medals as 'For Saving the Drowning' and 'For Courage during Fire' (source: Spravochnye pravovye sistemy (Konsultant Plus, Russia)). Ceremonial decrees undoubtedly deserve to be further analysed by students of sociology and anthropology.

¹³ Thomas F. Remington, 'Putin and the Duma', *Post-Soviet Affairs*, 17, 4, 2001, pp. 285–308.

¹⁴ Parrish, 'Presidential Decree Authority ...'. Parrish calculates that during the period he analyses (1994–96) there were 526 and 548 unpublished presidential decrees issued in Russia during two full years for which he collected data, 1994 and 1995 respectively. My estimates of the number of unpublished decrees for those years were 524 and 553, which indicates that our independent counts produced almost identical results.

¹⁵ Ukraine's strategy of joining NATO, according to one journalistic investigation based on information from NATO's headquarters, was the subject matter of one secret decree issued during 2002; see Yulia Mostova, 'Syurplyas po-ukrains'ky', *Dzerkalo tyzhdnia*, 18–24 January 2003.

¹⁶ Thomas D. Willett, *Political Business Cycles: The Political Economy of Money, Inflation, and Unemployment* (Durham NC, Duke University Press, 1988); Jeffrey E. Cohen, *Presidential Responsiveness and Public Policy-making: The Public and the Policies that Presidents Choose* (Ann Arbor, University of Michigan Press, 1997).

¹⁷ Monthly numbers of unpublished decrees for Russia were estimated according to the same logic used to estimate the annual numbers: by subtracting the number of published decrees from the total monthly number of decrees as indicated by the numerical order of the last decree issued in that month.

¹⁸ While the number of laws passed does not tell us much about the effectiveness of the legislative process or the quality of laws, these numbers are important in light of the current debates

about the advantages and drawbacks of the different types of legislative institutions because they summarise one type of variation in the outcome of legislative activity.

¹⁹ Thomas F. Remington, *The Russian Parliament: Institutional Evolution in a Transitional Regime, 1989–1999* (New Haven, CT, Yale University Press, 2001), pp. 157–158.

²⁰ Legislative studies on Russia include Jeffrey W. Hahn, *Democratization in Russia: The Development of Legislative Institutions* (Armonk, NY, M.E. Sharpe, 1996); Joel M. Ostrow, *Comparing Post-Soviet Legislatures: A Theory of Institutional Design and Political Conflict* (Columbus, Ohio State University Press, 2000); Steven S. Smith & Thomas F. Remington, *The Politics of Institutional Choice* (Princeton, Princeton University Press, 2001); Remington, *The Russian Parliament*; Josephine T. Andrews, *When Majorities Fail: The Russian Parliament, 1990–1993* (Cambridge, Cambridge University Press, 2002). On Ukraine see Paul D'Anieri, Robert Kravchuk, & Taras Kuzio, *Politics and Society in Ukraine* (Boulder, CO, Westview Press, 1999); Paul D'Anieri, Robert Kravchuk & Taras Kuzio (eds), *State and Institution Building in Ukraine* (New York, St. Martin's Press, 1999); Sarah Whitmore, 'Faction Institutionalisation and Parliamentary Development in Ukraine', *Journal of Communist Studies and Transition Politics*, 10, 4, 2003, pp. 41–64.

²¹ Wilson, 'Ukraine'.

²² Mishler *et al.*, 'Hegemony or Rivalry?' Their paper invites, however, a number of questions regarding the validity of measures used. Country specialists, for example, question the authors' assumption that the rival president and parliament, when challenged in one specific policy area and when choosing to compete rather than to acquiesce, will tend to compete by issuing laws and decrees in other policy areas rather than resorting to other means of affecting the results in the initial policy area.

²³ Carey & Shugart (eds), *Executive Decree Authority*.

²⁴ Kenneth R. Mayer, *With the Stroke of a Pen: Executive Orders and Presidential Power* (Princeton, Princeton University Press, 2001).

²⁵ Viktor Luchin & Aleksei Mazurov, *Ukazy Prezidenta RF: Osnovnye sotsial'nye i pravovye kharakteristiki* (Moscow, Unity, 2000).

²⁶ Although the decrees that were issued in the first half of the 1990s, especially in Russia in such areas as privatisation or government restructuring, were the most resonant, the examples of policy decrees that are cited here are chosen to reflect the continuing importance of presidential decrees for policy making later in the decade.

²⁷ Remington, 'Putin and the Duma'.

²⁸ For a not very technical discussion of these time series concepts see Richard McCleary & Richard Hay, *Applied Time Series Analysis for the Social Sciences* (Beverly Hills, CA, Sage Publications, 1980).

²⁹ Harasymiw, *Post-Communist Ukraine*, pp. 294–295.

³⁰ Richard Rose, 'How Floating Parties Frustrate Democratic Accountability: A Supply-Side View of Russia's Elections', *East European Constitutional Review*, 9, 1/2, 2000, pp. 53–61.

³¹ For a description of Putin's use of appointment powers on the regional level see C. Ross, 'Putin's Federal Reforms and the Consolidation of Federalism in Russia: One Step Forward, Two Steps Back', *Communist and Post-Communist Studies*, 36, 2003, pp. 29–47. Presidents in Russia appoint presidential representatives not only to the regions but also to selected government institutions. For a description of this practice see Luchin & Mazurov, *Ukazy Prezidenta RF*.

³² O. Haran', V. Kulyk & J. Maiboroda, *Stanovlennya vladnyh struktur v Ukraini* (Kiev, Den', 1997).

³³ The World Bank, *The State in the Changing World* (Washington, DC, The World Bank, 1997); The World Bank, 'Ukraine Public Sector Reform Loan', Washington, DC, The World Bank, 1997.

³⁴ Mikhail Afanasiev, *Klientelizm i Rossiiskaya gosudarstvennost'* (Moscow, Moskovskii obshchestvennyi nauchnyi fond, 2000); Kost Bondarenko, *Atlanty i kariatydy z-pid "dakhu" Prezidenta* (Lviv, Kalvariya, 2000).

³⁵ Wilson, 'Ukraine'.

³⁶ Mayer, *With the Stroke of a Pen*; Terry M. Moe & Scott A. Wilson, 'Presidents and the Politics of Structure', *Law & Contemporary Problems*, 57, 1/2, 1994, pp. 1–44.

Acknowledgement

The author thanks Theofil Kis and John P. Willerton for their suggestions and Vitaliy Zamnius and Irina Mayevskaya for their assistance in collecting and coding data. This project was supported by a grant funded by the Foundation Open Society Institute.

Appendix 1

TABLE A1

PRESIDENTIAL DECREES: SAMPLE CODING SHEET

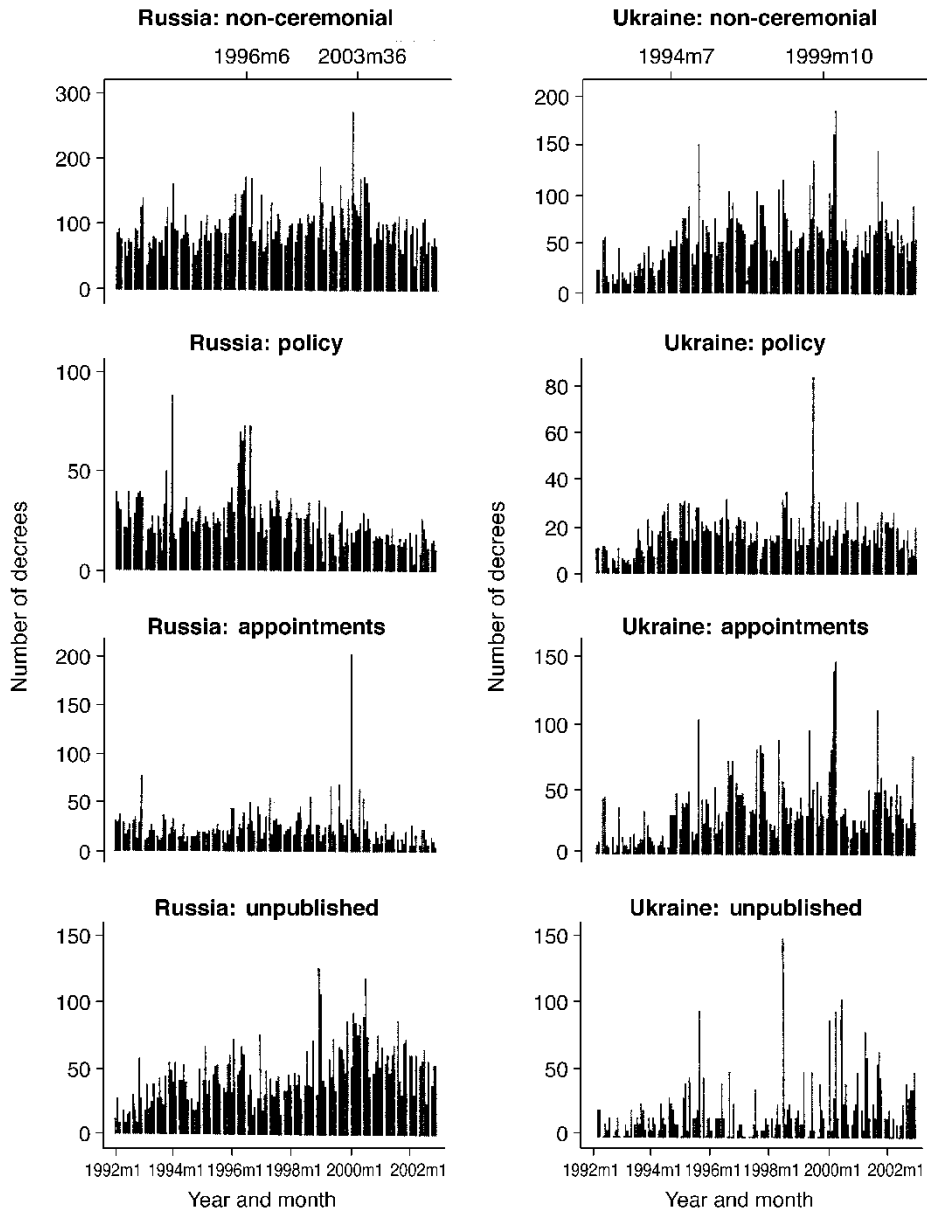
		<i>Year</i>												<i>Total</i>
<i>Month</i>		<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>11</i>	<i>12</i>	
<i>Appointments</i>	Cabinet ministers	2	0	2	6	35	2	4	36	3	3	2	2	97
	Central government agencies	0	1	2	1	4	0	0	2	0	1	0	0	11
	Military and police	0	0	1	1	0	0	1	0	0	1	0	0	4
	Judges	1	0	0	2	1	0	0	0	1	0	0	0	5
	Presidential representatives in regions	0	1	7	1	2	5	3	0	3	2	4	3	31
	State enterprise managers	0	0	0	0	0	0	0	2	2	1	0	0	5
	Others	4	11	11	15	17	8	8	19	16	16	6	8	139
<i>Ceremonial</i>		35	12	55	38	26	45	29	30	61	39	44	53	467
<i>Policy</i>														
<i>Polity</i>														
	Government and administration	7	3	9	4	6	10	3	10	13	6	8	11	90
	Military and police	1	0	3	1	1	1	0	0	5	2	0	0	14
	Non-governmental organisations	0	0	0	0	0	0	0	0	0	0	0	0	0
	Citizenship and democratic norms	1	0	12	11	7	4	3	4	5	0	3	5	55
	<i>Economy</i>													
	Economic issues	3	0	2	3	1	0	0	1	3	1	0	0	14
	Natural resources	1	0	0	0	0	0	0	2	0	0	0	1	4
	Budget and finance	2	0	1	0	0	0	0	3	0	0	1	0	7
	State enterprises	0	0	1	0	1	0	0	1	1	1	0	1	6
	<i>Society</i>													
	Social services	0	0	0	0	0	0	0	0	0	0	0	0	0
	Demographics and nationalities	0	0	0	0	0	0	0	1	0	0	0	0	1
	Social problems	0	0	0	0	0	0	0	0	0	0	0	0	0
	Arts and sciences	1	0	3	0	1	3	1	2	2	1	2	3	19
<i>Unpublished</i>			0	1	0	1	0	0	0	2	1	0	0	5
Total		107	41	35	58	44	73	33	67	65	57	47	87	741

Appendix 2
TABLE A2
DISTRIBUTION OF PRESIDENTIAL DECREES, 1992-2002 (% OF TOTAL)

	Overall	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<i>Russia</i>												
Appointments	17.45	21.31	10.32	9.63	17.55	22.79	22.95	21.77	20.44	23.06	11.38	10.74
Ceremonial	32.00	42.96	57.27	57.65	17.85	15.34	23.46	22.69	26.65	22.96	29.14	36.05
Policy	18.09	22.27	15.31	13.73	23.93	31.75	24.33	19.33	12.36	11.62	12.51	11.90
Unpublished	32.45	13.46	17.50	19.71	41.56	31.19	30.05	37.55	42.20	42.79	47.50	42.13
<i>Ukraine</i>												
Appointments	36.65	31.74	24.58	29.59	37.00	40.74	39.91	31.91	34.47	46.91	45.53	40.76
Ceremonial	39.40	50.00	49.00	35.64	35.29	35.93	45.24	45.39	42.89	28.80	28.79	36.40
Policy	19.36	14.85	21.57	30.09	22.34	20.17	13.35	18.05	18.82	17.48	18.47	17.73
Unpublished	4.60	3.41	4.85	4.69	5.37	3.15	1.50	4.64	3.82	6.80	7.20	5.12

N = 19,303 (Russia).
N = 12,097 (Ukraine).
Source: as Fig. 1.

Appendix 3



Source: as Figure 1.

Note: 1996m6 and 2003m3—presidential elections in Russia; 1994m7 and 1999m10—presidential elections in Ukraine.

FIGURE A1. PRESIDENTIAL DECREES: MONTHLY FREQUENCIES, 1992–2002.

Appendix 4

Policy Norms: Types of Presidential Decrees Included in or Excluded from the Count

Polity	Included	Decrees that: established the various types of central government agencies; determined the structure of the military; regulated the activity of non-government organisations; specified the norms of behaviour for the civil service, police and military; dealt in general ways with democratic norms and citizenship rights. Example: N. 42, 'On Establishing the Ministry of Security of the Russian Federation' (24 January 1992).
	Excluded	Decrees that dealt with organisational issues surrounding the establishment and functioning of the presidential administration and temporary commissions and committees established under the auspices of the president. Example: N. 27, 'On the Protocol Services Department of the Administration of the President of the Russian Federation' (20 January 1992).
Economy	Included	Decrees that: established norms of economic activity addressed issues of budget and finance; regulated the use of natural resources; provided various types of benefits for territorial constituencies.
	Excluded	Decrees that addressed the problems of functioning, restructuring or ownership of individual state enterprises.
Society	Included	Decrees that: established social services; raised salaries and pensions; provided material assistance to different categories of citizens; addressed problems of nationalities and demographics; dealt with the issues of arts and sciences.
	Excluded	Decrees that provided benefits to the staff of individual government departments, individual citizens and individual families.

Note: From the count in all three spheres (polity, economy and society) decrees were also excluded that: cancelled previous presidential decrees when the stated reason for the cancellation was the passage of a law in the sphere that was previously regulated by the presidential decree; regularly issued decrees that were the product of established procedure and did not imply initiative on the part of the president, such as decrees about the regular military draft and dismissal; a very small number of presidential decrees giving specific instructions regarding the implementation of statutes and norms, a domain that is primarily reserved both in Russia and Ukraine for presidential executive orders.