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# LEGAL

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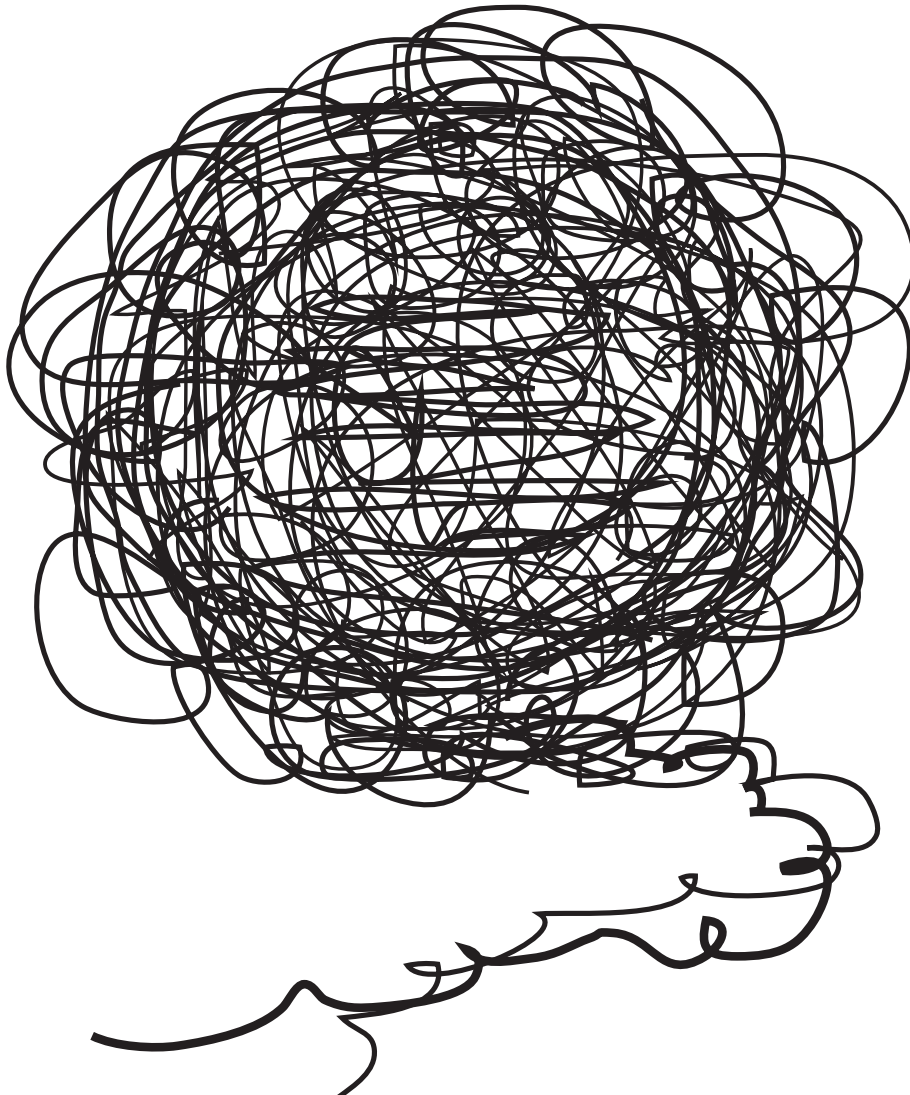


## \$100 billion question

Ukraine drags Russia to court for death, destruction and theft



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# Editors' Note

Dear readers,

We are privileged to present the third issue of the Legal Quarterly – 36 pages of news from a legal perspective. Inside the Kyiv Post's special supplement are stories about the hot issues affecting politics, the economy and society. After six months of war to defend its sovereignty from invading Russian forces and their proxies, Ukraine is suffering deeply from the human and economic toll.

Here are some of this issue's highlights:

- With Crimea and roughly one third of the Donbas occupied by Russian or Russian-backed forces, Kyiv's legal community shares what the new status in both of these territories means to people and the law.
- We have a breakdown of government benefits for war victims, including combatants and their family members.
- The nation's international lawsuits against Russia seek redress for death, destruction and loss of territory. There is also a drive under way internationally to get Russia branded a state sponsor of terrorism.
- Lawyers share their viewpoints on the upcoming Oct. 26 parliamentary elections; and
- The Ukrainian information technology sector is the focus of discussions into whether this part of the economy should receive special benefits.

Enjoy! We look forward to your feedback.



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On the cover: People visible through a bullet hole in a window wait in line to cross the border to Russia on Sept. 12 in Izvaryne near Krasnodon in Luhansk Oblast. (AFP)



President Petro Poroshenko (L) and Defense Minister Valery Heletey examine weapons and ammunition captured from Russian-backed militants during a visit to the army's headquarters near the Kharkiv Oblast city of Izyum on July 8. (Anastasia Vlasova)

## Ukraine piles lawsuits on Russia for damages

By **Evan Ostryzniuk**  
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*Ukraine is now fighting Russia in courtrooms, on a front where it has much better chances of winning than on the battlefield. More than \$100 billion is at stake as Kyiv pursues claims for damages, state-sponsored terrorism and unfair natural gas pricing.*

**T**he Ukrainian government is seeking judicial rulings to brand Russia as a rogue state that should pay massive compensation. However, any court decision could take years.

Kyiv has filed three separate international grievances seeking more than \$100 billion. One seeks to have Russia branded a state sponsor of terrorism, with a claim of \$80 billion.

Ukraine's lawsuit spree started in March when the Kremlin annexed Crimea. On June 3, the government that replaced ousted President Viktor Yanukovich first sought \$90 billion in compensation for theft and damage to property. The European Court of Human Rights in Strasbourg started reviewing the case last month, Justice Minister Pavlo Petrenko announced on Aug. 19.

Crimean Tatar leader and member of parliament Mustafa Dzhemilev is suing Moscow in the same court for not being allowed entry to his homeland, among other alleged human rights violations.

The drive to brand the Kremlin as a sponsor of terrorism began on June 13, when Ukraine filed another lawsuit in the European Court for Human Rights that claimed gunmen from an anti-Ukrainian militia kidnapped and carted to Russia a busload of children from Snizhne in Donetsk Oblast on June 12. The Ukrainian government considers these militias to be terrorist organizations. The court demanded an explanation from the Russian government. Russian President Vladimir Putin's spokespeople said the children left voluntarily and that the Kremlin has no relationship with the militia involved.

Perhaps the deepest knife thrust has been Prime Minister Arseniy Yatseniuk's Sept. 3 announcement that Ukraine will seek to have Russia labeled as a state sponsor of terrorism for the widespread

death and destruction caused in eastern Ukraine. The United Nation's International Court of Justice would hear the case.

Ukraine is demanding \$80 billion in compensation for losses sustained by terrorism committed in southeastern Ukraine. "Russia is a state-terrorist and aggressor state and shall be liable in accordance with international law," Yatsenyuk said.

If the UN and the U.S. brand Russia as a state sponsor of terrorism, member countries could invoke additional sanctions.

Experts disagree as to whether this step is likely to be taken. Rutgers University professor Alexander Motyl argues that Russia qual-

**Many people in Ukraine and elsewhere are trying to figure out how to make Russia pay for the death and destruction it has caused in Crimea and the Donbas.**

ifies as a state sponsor of terrorism, citing a section of the United States Code, as well as statements given by U.S. Ambassador to Ukraine Geoffrey Pyatt and former NATO Supreme Allied Commander Europe Wesley Clark and the European Union definition of terrorism.

However, Allen Weiner, a senior lecturer in law at Stanford University Law School, told the Kyiv Post that it was unlikely that the U.S. would go that far. Currently, only four countries are on the U.S. list of state sponsors of terrorism: Cuba, Syria, Iran and Sudan. →



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→ Branding a large state a sponsor of terrorism is not usually done, said Professor Markus Kounalakis of the Hoover Institution at Stanford University.

“It is unlikely that Russia will be designated a state sponsor of terror under current conditions and with the need for ongoing diplomatic relations, help and collaboration in other parts of the world and in the United Nations,” he told the Kyiv Post. Nonetheless, “it seems that the state in question has supplied the transnational means to affect a violent international incident involving non-combatant civilians from nations who are not a party to the current strife,” the academic stated.

### Gaz versus gaz

The Ukrainian-Russian gas war might end before winter, according to Naftogaz Ukraine chairman Yuriy Kobolev. On July 25, he said that he expected an interim ruling on the gas dispute between Kyiv’s state-run

Rescue workers survey the ruins of a house struck by a shell on July 3 in Mykolayivka in Donetsk Oblast. (Anastasia Vlasova)



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oil and gas monopoly and Russia's Gazprom from the Arbitration Institute of the Stockholm Chamber of Commerce.

An interim order or measures issued by the tribunal requires the respondent to undertake certain actions to secure that the final award is enforced.

Russia's natural gas giant cut off blue fuel to Ukraine on June 16. Then Naftogaz submitted a claim with the Stockholm arbitrator stating that Gazprom had overcharged Ukraine \$6 billion since 2010 for gas. Concurrently, Gazprom filed its own request that Ukraine was delinquent in the amount of \$4.5 billion for delivered gas. The price of future gas purchases is also in dispute. On July 23, Stockholm announced that it was combining the requests and initiating hearings.

Kobolev appears optimistic, according to legal experts. "I would say that an interim ruling before winter is unlikely because the hearings may take at least a year, which is too long," said managing partner Oleksiy Kot of Antika law firm.

Ukraine could get what it wants fairly soon, other lawyers said. "I would not exclude that the arbitral tribunal may issue an order to fix an interim price for gas for Ukraine before the final award is rendered," said Yaroslav



Petrov, counsel at Asters and secretary general of the Ukrainian Arbitration Association, who studied arbitration law in Sweden.

Gazprom suffered a legal loss on July 28 when The Hague's Permanent Court for Arbitration ruled that Russia owed more than \$50 billion to shareholders of former oil giant Yukos for legal manipulations that bankrupted the company.

"Without a doubt, the Yukos case can be used as a precedent and also can have an impact on Ukraine's lawsuit against Russia," argues Antika's Kot, "and gives an opportunity to predict the course of events if Naftogaz wins this case." ■

**A boy and a dog look out from a bus stopped to be checked at a checkpoint on a road between Kramatorsk and Slavyansk on August 7. (AFP)**

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Vitaliy Radchenko of  
CMS Cameron McKenna.  
(Anastasia Vlasova)

# Vitaliy Radchenko, energy dealmaker at a difficult time

By **Ian Bateson**  
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*Ukraine is heading into winter without access to Russian gas and much of Donbas coal. It's a perilous state of affairs for a financially ailing nation that guzzles energy inefficiently.*



**V**italiy Radchenko, 31, is a man with much-needed skills these days. He is a legal expert on Ukraine's energy market, a fluent English-language speaker and partner at the international law firm CMS Cameron McKenna. And he knows the energy challenges Ukraine is facing.

Since the Ukrainian crisis started last November, the nation has lost access to Russian gas, much of Donbas coal and Black Sea gas reserves off the coast of Crimea. With winter coming, Ukraine is struggling to balance its energy books. The effects of that balancing act are starting to hit home.

"These days when you have a war raging in eastern Ukraine you now understand how important the simple things are in the energy sector that we usually take for granted: hot water, electricity 24/7 and heating," Radchenko said.

With Ukrainians increasingly finding their centrally heated water lukewarm and with plans for rolling blackouts, how to maximize energy reserves and production is anything but an abstract prospect for Ukrainian officials.

"The war has done quite significant damage to infrastructure," he said, adding that the nation is scrambling to secure coal imports while saving on gas and electricity consumption.

Energy efficiency has never been a major tenet of the Ukrainian economy. The Soviet Union tried to make up for inefficient production by providing cheap energy. Those inefficiencies continued, initially through cheap gas from Russia with the burden of subsidizing energy increasingly being borne by the bankrupt Ukrainian state.

The immediate task for Ukraine is to increase and diversify energy imports, and in particular gas imports, from its western neighbors to make up for what it has lost in the east.

"Because Ukraine is being cut off from Russian gas, there is a lot of demand to import gas from the European Union. That's what we are now working on. (There are) a number of projects that would allow Ukraine to bring more gas into storage and be able to live through the winter," he said.

A major part of the challenge is finding companies that can transport gas to Ukraine, and connecting foreign companies with Ukraine's energy market is something in which Radchenko specializes.

Having worked to bring Shell into the Ukrainian energy market, he knows what it takes, but also thinks there is a lot more the government could do to alleviate the growing energy crisis.

He considers a recent hike of the extraction tax, in particular, counterproductive.

"If you increase the gas production tax two-fold, you either have to revisit your exploration program and cut something out, or you have to stop doing something else," he said, adding "you have a pile of cash allocated to drilling something and suddenly half of that cash will just go towards taxes. That is obviously not how stimulation of gas production should work."

The government is under pressure to raise funds to support its military as the economy contracts, but what really concerns Radchenko is a lack of communication between politicians and industry experts.

In seeking to reform the gas industry in Ukraine, however, he says there are three key reforms he would try to push through.

The first would be to create incentives for companies in Ukraine to increase production. As Ukraine struggles to meet its gas quotas needed for winter, Radchenko sees little being done to encourage greater

domestic production. That, he says, coupled with assurances that the tax code would not be suddenly changed could spur more Ukrainian gas going to Ukrainian homes.

The second would be to increase the money state-owned Ukrainian gas companies receive for their gas. He says that state-mandated prices have kept rates artificially low, which don't allow companies to spend money on modernization and exploration.

**'When you have a war raging in eastern Ukraine, you understand how important the simple things are in the energy sector...hot water, electricity 24/7 and heating'**

**— Vitaliy Radchenko**

Third, he would want firm structures put in place to make the price, volume and consumption of gas clear. The ownership of Ukraine's regional gas companies is often unclear. And their monopoly positions allow them to manipulate the market to their benefit. That situation hurts consumers and makes it difficult to attract outside investment. According to him, "everything to achieve transparency in the market would be better."

For now, both Ukraine's gas and wider energy market remain complex problems to solve, but Radchenko says that is what he likes about his work.

"It is (about) getting to the bottom of difficult or complex questions. It is the mystery and then the solution that drives me," he said. ■

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# Oct. 26 parliamentary elections won't be representative under current legislation, circumstances



By **Oleksandr Ruzhytskyi**  
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*Ukrainian voters go to the polls on Oct. 26 to elect a new parliament. But because of Russia's war, as many as 30 of the 450 seats may stay empty in districts. A 100 percent proportional system would solve this problem.*

**T**here is about a month left to the parliamentary elections in Ukraine. Snap elections were one of the campaign promises of President Petro Poroshenko. The artificial collapse of the legislature's coalition

paved the way for pre-term election, since the Constitution stipulates that if parliamentary factions fail to form within 30 days, the president is entitled to dissolve parliament. Poroshenko took advantage of this prerogative.



A makeshift voting station inside of a tent near the Security Service of Ukraine building in Luhansk occupied by Kremlin-backed separatists on May 11 that the group set up to hold a self-styled referendum to secede from Ukraine. (Ansastasia Vlasova)



Counting of votes at a polling station in a school in Kyiv on May 25. (Kostyantyn Chernichkin)

Society is longing for these elections. After the EuroMaidan Revolution, the public has demanded reforms and wants to see new faces in parliament. However, it is questionable if the snap elections will discover new politicians and bring fresh quality into the Verkhovna Rada. According to the current law on elections, half the legislature (225 members) are to be elected from political party lists on a proportional basis, and half (225 members) from single-mandate districts.

Up to now, the vote threshold for parties has been 5 percent. However, it might be changed during the election campaign. In fact, a common practice in Ukraine is to change the election rules even a few weeks before the election. For example, the vote threshold used to be 4 percent, later 3 percent, and now it is 5 percent. Unfortunately, the rules often depend on the interests of ruling parties and their leaders try to amend the law if it helps them win more seats.

Still, civic activists are calling for a radical, new approach to the parliamentary election process. Their concept foresees elections on a proportional basis, but with an open party list – currently only the first 10 candidates are listed. This means that the final position of a candidate in a party list will depend also on the number of votes the candidate personally received. Such a system might be optimal and open the door to politics for a younger generation. However, these initiatives were not supported either by the majority of lawmakers or by the president. To adopt such a law means

to lose influence in forming party lists. Party bosses are not interested.

Another concern is how to conduct the elections in the current unstable situation. There are some “technical problems” because of the Russian invasion. There are 225 constituencies all over Ukraine. The problem is how to organize elections in the regions no longer under government control. There are 12 constituencies in Crimea. Officially, the government recognizes that Crimea is a temporarily occupied territory; nevertheless, constituencies are not removed from “occupied territories” regardless of the fact that it will be impossible to hold parliamentary elections there. During the last presidential elections in May, the Central Election Commission proposed that Crimeans travel to Kherson Oblast and vote, but it will not work this time.

Similar problems might occur in Donetsk and Luhansk Oblasts. It will be not possible to guarantee safety during the elections until the war with Russia ends. Most likely, parliament will not be filled with 450 lawmakers. Up to 30 seats might stay empty if nothing changes. There is a way to avoid this problem – to switch to a 100-percent proportional system for elections.

To conclude, Ukraine needs an election code that will stipulate clear, transparent and predictable rules for elections. Probably, this will be the task of the new parliament.

*Oleksandr Ruzhyskyi is a lawyer with L.A. Group in Kyiv. He can be reached at office@la-group.com.ua. ■*



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## Ombudsman speaks of human rights violations by Russia-backed separatists

*The nation's human rights czar has never had much power. Additionally, the current ombudsman's ties to the disgraced regime of ex-President Viktor Yanukovich is harming her credibility in fighting violations.*

---

By **Ivan Verstyuk**  
verstyuk@kyivpost.com

**T**he nation's referee on human rights observance, Valeriya Lutkovska, believes Kremlin-backed fighters are guilty of human rights violations in Crimea and eastern Ukraine.

But proving that Russia committed crimes against humanity in an international court is difficult, she said.

Moreover, the self-proclaimed Donetsk People's Republic or Luhansk People's Republic – both terrorist organizations, according to Ukrainian legislation – can't be sued because “nobody recognizes them as sovereign political entities,” said the nation's ombudsman, who served as justice minister from 2006-2011.



Ukrainian Parliament Commissioner for Human Rights Valeriya Lutkovska. (Kostyantyn Chernichkin)

"We'll need strong arguments to prove they are controlled by the Russian Federation," added Lutkovska, 42, a former Lavrynovych & Partners attorney.

She recounted various violent deaths as well as torture in Russia-annexed Crimea and areas of the Donbas controlled by Kremlin-backed separatists. For example, in early August, separatists would not allow tuberculosis patients at a children's clinic in Alchevsk to leave the city when electricity and water supply were cut off. Facing a life-threatening situation, the head of the clinic tried to persuade the militants to let them be evacuated to Boyarka, a small town near Kyiv. Eventually the aggressors acquiesced.

However, combatants at one checkpoint outside Alchevsk would not acknowledge the Ukrainian-government issued documents that were presented to them. They insisted the "Russian" children be treated in Russia, according to Lutkovska, and sent the bus transporting the children back to Alchevsk. Their doctor was subsequently imprisoned and threatened.

"After we talked to the separatists in control of Alchevsk, they let her go," said Lutkovska of the doctor.

Meanwhile, in Crimea, the rights of local Crimean Tatars remain a key issue. They are deprived of freedom of assembly rights, according to the ombudsman. "We work closely with the Mejlis (a representative body of the Crimean Tatars) and its leader Refat Chubarov, while Mustafa Dzhemilev (presidential policy advisor on Crimean Tatars) also participates in this," said the human rights defender.

The international community doesn't fully understand the situation in Ukraine, she added. "When I gave a presentation to the United Nations' commissioner for human rights Navi Pillay and told (her) about the problems Ukraine faces, all she asked was what we're going to do with fascism in western Ukraine," Lutkovska said.

Meanwhile, Lutkovska believes Ukraine's human rights officer should have more functions. "The ombudsman doesn't participate in any court processes, though having the legal

possibility to file cases to the Supreme Court on behalf of aggrieved citizens would be an effective measure," she said.

Lutkovska was appointed to her office through a controversial show-of-hands vote in parliament on April 24, 2012. Then, the opposition, led by Yulia Tymoshenko's Batkivshchyna party, blocked the tribune while the majority, controlled by pro-Viktor Yanukovich Party of Regions, voted for the candidate.

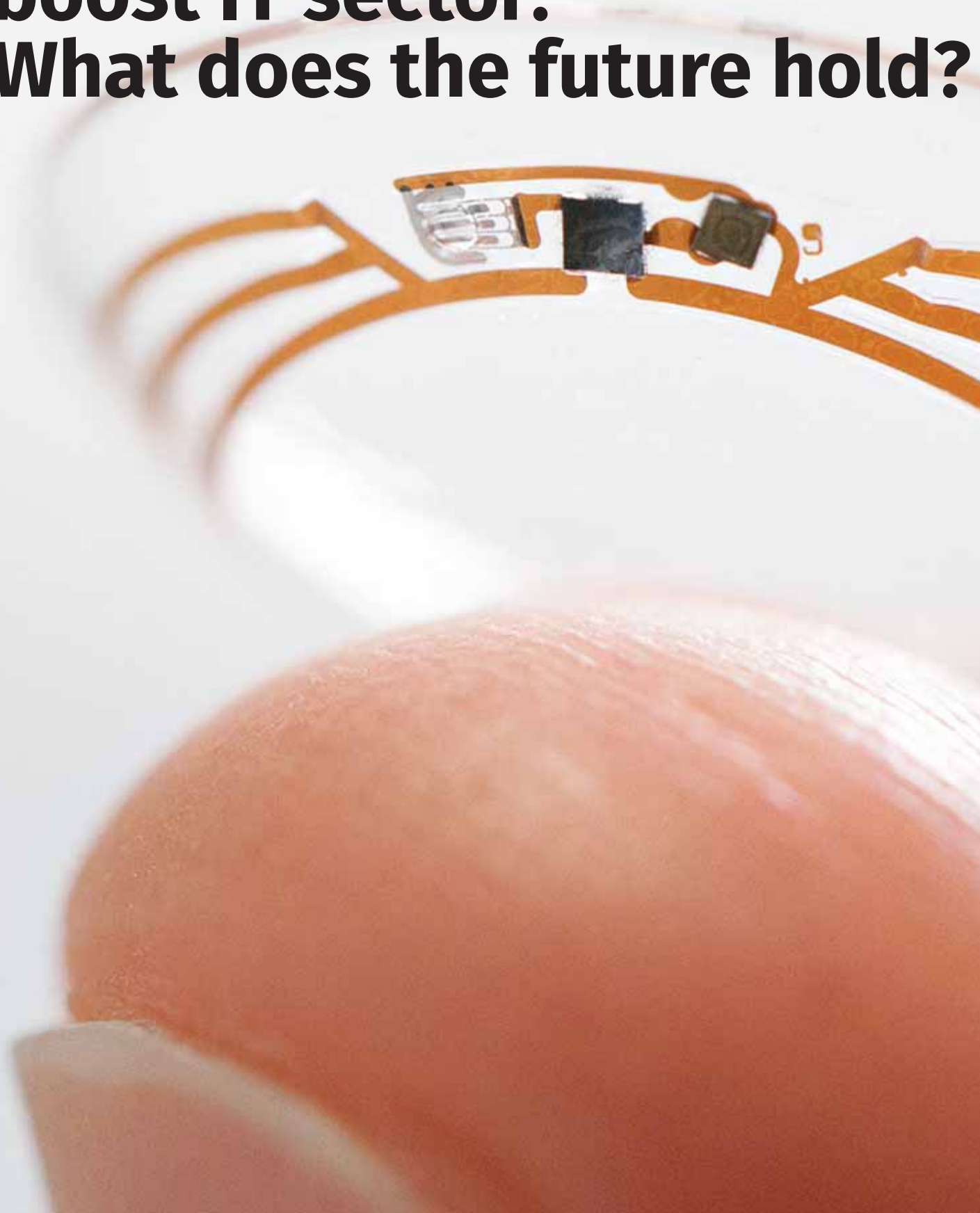
Lutkovska's cooperation with Yanukovich's government harms her effectiveness.

**Lutkovska was appointed to her office through a controversial show-of-hands vote in parliament on April 24, 2012. Then, the opposition, led by Yulia Tymoshenko's Batkivshchyna party, blocked the tribune while the majority controlled by ex-President Viktor Yanukovich voted for her.**

Pavlo Bilousov, counsel at Aequo law firm, says that human rights observance in Ukraine has not improved. "It seems that in these hard times of Ukraine's history, the ombudsman's office sees its main function in monitoring the problems in Ukraine, discussing them with foreign diplomats and international organizations and rarely speaking on these issues to the media. The Ukrainian ombudsman should finally grasp the importance of her role and obligations, and use the full powers vested in her," he added.

However, Arsen Milyutin, senior associate at Yegorov, Puginsky Afanasyev & Partners law firm, thinks Lutkovska has managed to stay fair. "At this point, from my point of view, the main focus of the ombudsman's activity should be directed at protecting human rights in the area of the anti-terrorist operation, regarding everyone – the local population, soldiers and representatives of separatist movements," he said. ■

# **Legislative initiatives to boost IT sector: What does the future hold?**



*Ukraine's information technology companies already have considerable benefits, including cheaper taxes, but the industry is looking for improvement from new faces in government who understand the IT world.*

---

By **Andrii Degeler**  
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**O**ne of the repeatedly stated goals of the new Ukrainian government — and of the new parliament, which will be elected on Oct. 26 — is to turn the country into an innovative state where the information technology business is acknowledged as an important part of the economy.

Several well-known people from this sector are making their way to the top — including ex-head of Microsoft Ukraine Dmytro Shymkiv, the deputy chief of staff to President Petro Poroshenko, and internet businessman Oleksandr Olshanskiy, who is running for parliament as an independent candidate in a single-mandate district.

In addition to them, Oleksiy Skrypnyk, the CEO and founder of outsourcing software developer ELEKS and Vlad Voskresensky, CEO and co-founder of successful startup InvisibleCRM, are both on the lists of the Samopomich party, holding the third and 24th positions respectively.

For the Ukrainian IT sector, new faces in politics mean a chance for significant deregulation and simplification of the laws governing its existence.

Uncertainty in the IT market “was a barrier to legislative initiatives,” commented Valentina Siletska, a lawyer at Syutkin and Partners.

Today's market players have identified a few particular spots where changes in laws may have a positive impact on different players, from outsourcing software developers, whose total revenue reached \$2 billion in 2013, to aspiring tech entrepreneurs.

### **For IT businesses**

Relatively large Ukrainian IT companies already enjoy a few benefits making their work easier — and a lot cheaper in terms of taxes. However, there is still room for improvement.

“Today IT companies have a lowered profit tax rate of 5 percent (used to be 15 to 17 percent), while their employees pay personal income tax of 5 percent instead of 15 percent,” Siletska said.

Most of the new pieces of legislation that IT companies might expect in the future are listed under the Easy Business initiative presented in the middle of August by Shymkiv and former Economy Minister Pavlo Sheremeta.

In particular, Shymkiv and his colleagues propose to simplify or even cancel altogether the licensing procedure for electronic money systems, adopt a law governing e-commerce that would further aid its development and “safeguard critical telecommunications infrastructure” — namely protecting businesses from having their servers seized by security agencies, something that has repeatedly happened in recent years.

Also, Shymkiv marked the necessity of guaranteeing equal opportunities to receive 3G communications licenses for all contenders, as well as simplifying the employment registration procedure for those foreigners who work in the IT sector. →

This photo obtained on Jan. 17, courtesy of Google, shows a smart contact lens. The Google lab is crafting a contact lens that could help diabetics manage blood sugar levels. It works “using a tiny wireless chip and miniaturized glucose sensor that are embedded between two layers of soft contact lens material,” project co-founders Brian Otis and Babak Parviz said in a blog post. (AFP)

Promoting brand Ukraine in the world has become a driving force for the country's economic development, according to presidential deputy chief of staff Dmytro Shymkiv during a Sept. 4 news conference. (Mykhailo Markiv/POOL)



### → For entrepreneurs

One of the most important legislative problems that entrepreneurs face is that Ukrainian citizens are not legally allowed to open bank accounts and found companies abroad. These restrictions complicate matters for teams that build products for global markets, explained BVU Group founder Denis Dovgopolyi.

In about 20 years since the respective decree was passed, Ukrainian entrepreneurs have had a choice of either registering a company abroad in breach of the law, or agreeing with a foreigner who would register an entity and then give it to the real founder — or sell for a symbolic \$1. Both ways, however, bear risks that affect Ukrainian startups' valuation. The Ukrainian government can, for instance, theoretically cancel the registration of the company in court (although it has never happened), while the initial founder could also file a lawsuit to dispute a transfer.

"These risks lower pre-money valuation of Ukrainian startups for investors abroad by approximately 10 percent," Dovgopolyi said.

This law, however, is incredibly difficult to cancel altogether, as it governs many other sectors and company types, not only startups. That's why Dovgopolyi says that a realistic solution would be to raise the threshold, allowing Ukrainians to found companies abroad with a statutory fund limited by €500,000. This problem is also mentioned in the Easy Business list and could be solved in the observable future.

Ukrainian entrepreneur Vlad Voskresenskiy cites other problems. Among them are labor regulations, including those

governing out-staffing, non-solicitation, non-competition and stock options as part of a compensation scheme, etc. Also Voskresenskiy lists clarification of questions regarding public-private partnerships and intellectual property as his priority in Verkhovna Rada.

### For government

There are also IT-related initiatives on the governmental level. The Easy Business list includes points such as introduction of electronic document flow that would be legally equal to traditional papers, as well as allowing access to the database of tender documentation to everyone who wants to process and mine it.

Oleksiy Skrypnyk also mentioned that one of his tasks in parliament will be to work on an all-levels e-government system.

"Our current e-government systems are chaotic; we're trying to build a house without a foundation. We, directors of IT companies, have a vision on this. We need about a year to build a new solution," Skrypnyk said.

In general, one of Skrypnyk's goals is to provide conditions for IT specialists to work not only as outsourced software developers, but also create products for the country. In his opinion, similar to that of businessman and political candidate Olshanskiy, greater success will only be possible when some of the key problems are solved involving the army, economy, and corruption.

*Andrii Degeler is the Kyiv Post's information technology reporting fellow. Degeler has been covering the IT business in Ukraine and internationally since 2009. His fellowship is sponsored by AVentures Capital, Ciklum, FISON and SoftServe. He can be reached on Twitter (@shlema) or shlema@gmail.com. ■*








Oleksandr Olshanskiy (Oleksandr Olshanskiy/facebook)





# Legal services

Listing is arranged in alphabetical order

| Phone number  | Top executives                            | In Ukr. | HQ                 | Main Specialization, services   | Major clients  | Languages  |
|---|---|---------|--------------------|---|--|--|
| <b>Alekseev, Boyarchukov and partners, Law Offices</b>     |   |         |                    |   |  |  |
| 11 Shota Rustaveli St., 3 <sup>rd</sup> floor, Kyiv 01001, Ukraine; office@abp.kiev.ua, www.abp.kiev.ua                                       |   |         |                    |   |  |  |
| +38 044 235 8877<br>+38 044 537 1828  | Sergey Alekseev,<br>Sergey<br>Boyarchukov | 2005    | Kyiv,<br>Ukraine   | Tax, Corporate and M&A; Dispute Resolution;<br>Criminal; Banking and Finance; Bankruptcy and<br>Debt restructuring; Competition and Anti-monopoly<br>law; Real Estate and Land Law; Labour Law  | Ukrsofsbank (Unicredit Group), Globus Mall<br>(London & Regional Properties), Platinum<br>Bank, Miskhitlobud Ltd., Prizma Beta Ltd.,<br>Ukrproduct Group Ltd, Forum Bank | English, Russian,<br>Ukrainian                       |
| <b>Asters</b>    |   |         |                    |   |  |  |
| Leonardo Business Center, 19-21 Bogdana Khmelnytskoho St., 14 <sup>th</sup> floor, Kyiv 01030, Ukraine; info@asterslaw.com, www.asterslaw.com |   |         |                    |   |  |  |
| +38 044 230 6000  | Oleksiy Didkovskiy,<br>Armen Khachatryan  | 1995    |                    | Full-Service Law Firm   | L'Oreal, Coca Cola, Nissan Motor Ukraine,<br>S.C. Johnson, EBRD, IFC   | English, Russian,<br>Ukrainian                       |
| <b>Arzinger</b>    |   |         |                    |   |  |  |
| Eurasia Business Centre, 75 Zhylyanska St., 5 <sup>th</sup> Floor, Kyiv 01032, Ukraine; mail@arzinger.ua, www.arzinger.ua                     |   |         |                    |   |  |  |
| +38 044 390 5533  | Timur<br>Bondaryev                        | 2002    | Kyiv,<br>Ukraine   | Litigation; Antitrust/Competition; Corporate/<br>M&A; Real estate; IP; Arbitration; Tax; Banking &<br>Finance; Bankruptcy; White Collar Defense   | Astelit, Bayer AG, Bunge, Citibank,<br>GlaxoSmithKline, Henkel, Lafarge, Porsche,<br>SHARP, SCM, UNIQA AG, Ukrtelecom  | English, German,<br>French, Ukrainian,<br>Russian    |
| <b>Baker &amp; McKenzie – CIS, Limited</b>               |   |         |                    |   |  |  |
| Renaissance Business Center, 24 Vorovskoho St., Kyiv 01054, Ukraine; kyiv@bakermckenzie.com, www.bakermckenzie.com                            |   |         |                    |   |  |  |
| +380 44 590 0101<br>+380 44 590 0110  | Serhiy<br>Piontkovsky,<br>Serhiy Chorny   | 1992    |                    | Antitrust & Competition; Banking & Finance;<br>Corporate; M&A; Securities; Dispute Resolution;<br>Employment; IP; International Trade; Real Estate<br>and Construction; Tax and Customs   | Arcelor Mittal, EastOne Group, Horizon<br>Capital, ING Bank Ukraine, Metinvest BV,<br>RaiffeisenBank, MasterCard, UkrSibbank<br>BNPP Paribas Group                       | English, Russian,<br>Ukrainian                       |
| <b>B.C. Toms &amp; Co</b>                                |   |         |                    |   |  |  |
| 18/1 Prorizna St., Suite 1, Kyiv 01001, Ukraine; kyiv@bctoms.net, www.bctoms.net  |   |         |                    |   |  |  |
| +38 044 490 6000<br>+38 044 278 1000  | Bate C. Toms                              | 1991    | Kyiv,<br>Ukraine   | Agricultural Investments; Oil, Gas and Electricity;<br>M&A; Banking; Finance and Capital Markets  | WND  | English, French,<br>Russian, Ukrainian<br>and Polish |
| <b>CMS Cameron McKenna LLC</b>                           |   |         |                    |   |  |  |
| 38 Volodymyrska St., 6 <sup>th</sup> floor, Kyiv 01030, Ukraine; kyivoffice@cms-cmck.com, www.cmslegal.com, www.cms-cmck.com                  |   |         |                    |   |  |  |
| +38 044 391 3377  | Daniel Bilak                              | 2007    | London,<br>UK      | Corporate and M&A; Energy; Lifesciences/<br>Pharmaceuticals; Technology, Media and<br>Communication; Tax; Banking and Finance; Commercial;<br>Competition; Dispute Resolution; Employment;<br>Intellectual Property and Real Estate & Construction. | WND  | English, German,<br>French, Ukrainian,<br>Russian    |
| <b>Dentons (LLC Salans FMC SNR Denton Europe)</b>        |   |         |                    |   |  |  |
| 49-A Volodymyrska St., Kyiv 01034, Ukraine; kyiv@dentons.com; www.dentons.com   |   |         |                    |   |  |  |
| +38 044 494 4774<br>+38 044 494 1991  | Oleg Batyuk                               | 1992    | Global<br>law firm | Banking and finance; Corporate/M&A; Dispute<br>resolution; Investments; IP&T; Real estate and<br>Construction; Restructuring; Tax   | Multinational corporations, commercial<br>and investment banks, energy companies,<br>developers, hotel chains, investment funds,<br>international organisations          | English, Russian,<br>Ukrainian                       |

| Phone number   | Top executives  | In Ukr. | HQ            | Main Specialization, services  | Major clients   | Languages  |
|--|---|---------|---------------|--|---|--|
| <b>DLA Piper Ukraine LLC</b>   |   |         |               |  |   |  |
| 77 A Chervonoarmiyska St., Kyiv 03150, Ukraine; ukraine@dlapiper.com, www.dlapiper.com                     |   |         |               |  |   |  |
| +38 044 490 9575   | Karpenko Margarita  | 2005    | London, UK    | Corporate and M&A; Antitrust / Competition and Regulatory; Finance&Projects; Real Estate; IP and Technology; Tax   | Slavutich Carlsberg Group, Pfizer, Boeing, EBRD, Toshiba, GlaxoSmithKline, Sanofi, Reckitt Benckiser, Damco, Leroy Merlin, Billa  | English, Russian, Ukrainian                                  |
| <b>Dmitrieva &amp; Partners</b>  |   |         |               |  |   |  |
| 3 Dneprovskaya Naberezhnaya St., Kyiv 02098, Ukraine; office@dmp.com.ua, skype: office_dmp, www.dmp.com.ua |   |         |               |  |   |  |
| +38 044 553 7660<br>+38 044 553 7439<br>+38 067 503 0108   | Dmitrieva Olga  | 1994    | Kyiv, Ukraine | Civil law; Corporate law; Taxation; M&A; Investments; Litigation; Family law; Real estate; Accounting  | Confidential information  | English, Russian, Ukrainian                                  |
| <b>FCLEX Law Firm</b>  |   |         |               |  |   |  |
| 14 D Bekhterivsky Lane, Kyiv 04053, Ukraine; inform@fclex.com, www.fclex.com                               |   |         |               |  |   |  |
| +38 044 238 6420   | Viktor Barsuk   | 2002    | Kyiv, Ukraine | Banking and Finance; Bankruptcy; Competition; Corporate and M&A; Dispute resolution; Intellectual property; Labor; Real Estate; Tax; White Collar Crimes   | Finance&Credit Bank, Terra Bank, Ferrexpo AG, NorYards AS, Arterium Corp., AutoKraz, IC "Omega", IC "Avesta Insurance", SOTA Cinema Group   | English, Russian, Ukrainian                                  |
| <b>EBS</b>   |   |         |               |  |   |  |
| 13 A Universytetska St., Kyiv 03110, Ukraine; info@ebskiv.com, www.ebskiv.com                              |   |         |               |  |   |  |
| +38 044 249 7905   | Helen Volska  | 1998    | Kyiv, Ukraine | Company: Establishment, Restructuring and Insolvency; Contractual relations: External and Internal trade; Employment and Migration; Dispute Resolution: Litigation, Mediation; Tax and Customs control; Management on temporary basis  | Florange, Yves Rocher, EBA, 3M, Michelin, Dragon Capital and others.  | English, German, French, Russian, Ukrainian                  |
| <b>Egorov Puginsky Afanasiev and Partners Ukraine</b>  |   |         |               |  |   |  |
| 38 Volodymyrska St., Kyiv 01030, Ukraine; kyiv_office@epap.ua, www.epap.ua                                 |   |         |               |  |   |  |
| +38 044 492 8282   | Serhii Sviriba, Oksana Ilchenko, Markijan Kliuchkovskiy, Ilona Zekely | 1997    | Kyiv, Ukraine | Banking & Finance; Capital Markets; Bankruptcy; Competition; Domestic Litigation; Employment; Family Law; IP/ TMT; International Arbitration & Cross-Border Litigation; International Trade & Customs; M&A and Corporate; Pharmaceuticals & Healthcare; Real Estate; Sports Law; Tax; White Collar Crime | BASF, Citi Bank, Credit Suisse, DCH, Erste Bank, IBRC, IDS, Intesa Sanpaolo, Johnson Controls, J.P. Morgan, Morgan Stanley, Regal Petroleum, Samsung, Unilever, Sodrugestvo Group, UEFA                                     | English, German, French, Polish, Spanish, Russian, Ukrainian |
| <b>EY</b>  |   |         |               |  |   |  |
| 19 A Khreschatyk St., Kyiv 01001, Ukraine; kyiv@ua.ey.com, www.ey.com/ua                                   |   |         |               |  |   |  |
| +38 044 490 3000   | Alexei Kredisov<br>Albert Sych  | 1991    | UK            | Corporate & Commercial Law; M&A; Banking & Finance; Real Estate; Labor Law; IP; Tax; Customs; Antitrust & Competition  | WND   | English, Russian, Ukrainian                                  |
| <b>International Legal Center EUCON</b>  |   |         |               |  |   |  |
| 33 Tarasa Shevchenka blvd. Off. 12, Kyiv 01032, Ukraine; office@eucon.ua, www.eucon.ua                     |   |         |               |  |   |  |
| +38 044 238 0944<br>+38 044 238 0413   | Yaroslav Romanchuk  | 2006    | Kyiv, Ukraine | Tax law; Transfer pricing; Corporate law; Mergers & acquisitions; Antimonopoly/competition law; Compliance; Electronic and mobile commerce; Intellectual property; Criminal law/business crime; Due diligence; Land law; Labour & Employment   | Kyivstar, Kulczyk Holding, Amica Wronki, HUAWEI TECH. INVESTMENT CO., Pipelife, Cersanit, Zepter International Ukraine, TNK-BP Commerce, Hotel complex Ukraine, PJSC LINYK, Mikogen Ukrain, Aviation Petrol Filling Station | English, Polish, German, Russian, Ukrainian                  |
| <b>GIDE LOYRETTE NOUËL</b>   |   |         |               |  |   |  |
| 4 Volodymyrska St. Kyiv 01001, Ukraine; ukraine@gide.com, gide.com   |   |         |               |  |   |  |
| +38 044 206 0980   | Bertrand Barrier, Dr Julian Ries                                      | 2006    | Paris, France | Corporate and M&A; Banking&Finance; Competition and General Commercial Law; Projects (Finance & Infrastructure), PPPs; Real Estate; Tax; Dispute Resolution; Employment; Intellectual Property   | Air Liquide, Bongrain, BNP Paribas, Briziums, EBRD, IFC, EIB, Societe Generale, VTB Bank (Austria) AG, UniCredit Bank Austria AG, Sony, LBBW, Porsche Finance Group, VA Intertrading  | English, French, German, Russian, Ukrainian                  |

Phone number    Top executives    In Ukr.    HQ    Main Specialization, services    Major clients    Languages

### Gramatskiy & Partners

16 Mykhailivska St., Suite 7, Kyiv 01001, Ukraine; office@gramatskiy.com, www.gramatskiy.com

**GRAMATSKIY & PARTNERS**  
ATTORNEYS AT LAW  
EST. 1998

|                  |                   |      |               |  |   |   |
|------------------|-------------------|------|---------------|--|---|---|
| +38 044 581 1551 | Ernest Gramatskiy | 1998 | Kyiv, Ukraine | Business-Advocacy; Foreign Investments; Foreign Trade; Real Estate; Agribusiness; IT Law; Litigation; Tax Law&Tax Disputes; Business Restructuring; Corporate Security; Due Diligence; Insolvency & Bankruptcy | City Capital Group, Seven Hills, Danfoss, TM De-vi, PlayTech, ClickMeln, Terra Bank, ULMA Ukraine, Celentano, Banka, Jeltok, Promkabel, Larsen, Graal | English, Italian, Greek, Polish, Russian, Ukrainian |
|------------------|-------------------|------|---------------|--|---|---|

### Lavrynovych & Partners

41 Saksaganskogo St., Kyiv 01033, Ukraine; office@lp.ua, www.lp.ua

**Lavrynovych & Partners**  
law firm

|                  |                    |      |               |  |   |                                      |
|------------------|--------------------|------|---------------|--|---|--------------------------------------|
| +38 044 494 2727 | Maksym Lavrynovych | 2004 | Kyiv, Ukraine | Banking & Finance; Tax; Corporate and M&A; Competition/Antitrust; Infrastructure; IP; Dispute Resolution | ArcelorMittal Kryvyi Rih, Danone, Dragon Capital, Hyundai, Kyivstar, Louis Dreyfus Commodities, Swissport International | English, Italian, Russian, Ukrainian |
|------------------|--------------------|------|---------------|--|---|--------------------------------------|

### Lexwell&Partners

Sophia Business Centre, Office 502, 6 Rylsky Lane, Kyiv 01601, Ukraine; lexwell@lexwell.com.ua, lexwell.com.ua

**LEXWELL PARTNERS**

|                   |                 |      |               |  |   |                             |
|-------------------|-----------------|------|---------------|--|---|-----------------------------|
| +38 044 228 60 80 | Kolupaev Andriy | 2005 | Kyiv, Ukraine | Corporate Law; M&A; Antimonopoly Law; Competition Law; Dispute resolution; International Arbitration; Real Estate & Construction; Taxation; Labour Law | AET, Bridgestone, CRH, DuPont, East Metals, Evraz, Honda Trading, Marubeni, Schenker, Sojitz, Subaru, Sumitomo, Toyota, VS Energy, Naftogaz of Ukraine, Stiroil, Dniprospeksstal, Podilsky Cement, Mykolaivcement, Odesaoblenergo | English, Russian, Ukrainian |
|-------------------|-----------------|------|---------------|--|---|-----------------------------|

### Moris Group

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**MORIS GROUP**  
ОФІСНА ФІРМА

|                  |                  |      |               |   |   |                                     |
|------------------|------------------|------|---------------|---|---|-------------------------------------|
| +38 044 359 0305 | Andriy Romanchuk | 2004 | Kyiv, Ukraine | Investments; Tax law; Litigation; International arbitration; Antitrust law; Corporate and M&A; Banking & finance; Real estate | UkrLandFarming PLC, AVANGARDCO IPL, Karpatnaftokhim LLC, Societe Generale Equipment Finance, VAB Bank, Financial Initiative Bank PJSC | English, German, Russian, Ukrainian |
|------------------|------------------|------|---------------|---|---|-------------------------------------|

### LCF Law Group

47, Volodymyrska St., office 3 Kyiv, 01001, Ukraine; info@lcfgroup.com.ua, www.lcfgroup.com.ua

**LCF LAW GROUP**  
litigation corporate finance

|                  |                                |      |               |  |  |                                     |
|------------------|--------------------------------|------|---------------|--|--|-------------------------------------|
| +38 044 455 8887 | Anna Ogrenchuk, Artem Stoianov | 2009 | Kyiv, Ukraine | Legal services: Litigation, Corporate, Finance | Alfa-Bank, Bank of Cyprus, Universal Bank, Zlatobank, QBE Ukraine, Allianz Ukraine, Arab Energy Alliance UA, Vikoil Ltd., Ukrenergy Coal Ltd | English, German, Russian, Ukrainian |
|------------------|--------------------------------|------|---------------|--|--|-------------------------------------|

### Oleg Mazur & Partners

13 Kutuzova St., Kyiv 01133, Ukraine; om@mp-law.com.ua, www.mp-law.com.ua

**OLEG MAZUR & PARTNERS, LLC**

|                  |            |      |               |   |   |                                     |
|------------------|------------|------|---------------|---|---|-------------------------------------|
| +38 044 285 6431 | Oleg Mazur | 2013 | Kyiv, Ukraine | Banking & Finance; Financial Restructurings; Capital Markets; Corporate; M&A and Litigation | Major international and Ukrainian banks, financial institutions and companies | English, German, Russian, Ukrainian |
|------------------|------------|------|---------------|---|---|-------------------------------------|

### Syutkin and Partners

10 Redutnaya St., office 2, Kyiv 01015, Ukraine; office@syutkin-partners.com, www.syutkin-partners.com

**SYUTKIN & PARTNERS**  
firm of attorneys

|                  |                                  |      |               |  |  |                             |
|------------------|----------------------------------|------|---------------|--|--|-----------------------------|
| +38 044 383 0000 | Mykola Syutkin, Nataliya Osadcha | 2006 | Kyiv, Ukraine | M&A; Bankruptcy and Debt; Real Estate; Assets Securitization; Litigation; Corporate Law; Tax | Noble Resources Ukraine, Carlo Pazolini Trading, IFD Kapital, Satellit | English, Russian, Ukrainian |
|------------------|----------------------------------|------|---------------|--|--|-----------------------------|

### Vasil Kisil&Partners

Leonardo Business Center, 17/52 A Bogdana Khmel'nitskogo St., Kyiv 01030, Ukraine; cs@vkp.kiev.ua, www.kisilandpartners.com

**VASIL KISIL & PARTNERS**  
ATTORNEYS & COUNSELLORS AT LAW

|                  |              |      |               |   |  |   |
|------------------|--------------|------|---------------|---|--|---|
| +38 044 581 7777 | Oleg Makarov | 1992 | Kyiv, Ukraine | Agricultural Business; Antitrust & Competition; Capital Markets; Corporate / M&A; Energy & Natural Resources; Finance & Securities; Intellectual Property; International Trade, Project and Trade Finance; Labour & Employment; Litigation & Arbitration; Private Clients; Public Private Partnership, Concessions & Infrastructure; Real Estate & Construction; Taxation | Alfa Bank (Ukraine), BASF, BNP Paribas, British American Tobacco, Central European Media Enterprises, Coca Cola, Danone, DuPont, Google, Inditex Group, Kraft Foods, Samsung, Seven Hills, Shell, YouTube. | English, French, German, Polish, Russian, Ukrainian |
|------------------|--------------|------|---------------|---|--|---|

# Ukraine gets to sanction R



An anti-war protester holds a Ukrainian flag in the center of Moscow on Sept. 21. Thousands of Russians marched to protest against the Kremlin's involvement in the Ukraine crisis, in the first major anti-war rally since fighting erupted in April. (AFP)

By **Oleg Naumenko**  
legacy@me.com

*President Petro Poroshenko on Sept. 10 signed into law a bill that allows for restrictive measures to be imposed on Russian companies and individuals for encroaching on the nation's sovereignty.*

**On** Aug. 14, Ukraine's parliament legally set the stage for punishing Russia over its annexation of Crimea and invasion of eastern Ukraine. The bill lets the government impose 29 types of sanctions on foreign states, legal entities and individuals that threaten Ukraine's national security, and the rights and freedoms of its citizens. A list of 65 firms and 176 individuals has already been compiled that are likely to be targeted.

President Petro Poroshenko signed the bill on Sept. 10.

The government's National Security and Defense Council oversees sanctions. Its members include the president, who can propose and approve them, as well as the Justice Ministry, central bank, Cabinet of Ministers and Security Service of Ukraine.

Sector-wide sanctions need approval by parliament.

Whereas Prime Minister Arseniy Yatsenyuk called the bill's adoption an "historic step," some are skeptical and believe that sanctions against Russia will backfire, considering that Ukraine depends on Russia for many things,

# ready Russia



including critical natural gas supplies.

Some lawyers with whom the Kyiv Post spoke, furthermore, believe the bill is unconstitutional.

Russia invaded Crimea in February and annexed the peninsula in March. Russian military units, mercenaries and proxies subsequently invaded the two easternmost oblasts of Luhansk and Donetsk. Meanwhile, many Western nations and others, such as Japan, have imposed their own set of measures against Russia. The sanctions include cutting access for companies to capital debt markets, export-import limitations of sensitive technologies and travel bans for individuals deemed responsible for military aggression in Ukraine.

Russia, in return, banned European and American imports of agriculture products.

Russia also stopped supplying Ukraine with natural gas over a price dispute and has gradually banned imports of agricultural and food products.

## Setting up a legal framework

Included in Ukraine's bill are restrictions on business and trade operations, revocation of licenses and other permits, a ban on financial transactions and a bar to participation in privatization of Ukrainian state property for companies with a considerable share of Russian capital. Support of terrorism in eastern Ukraine and the annexation of Crimea makes a company or an individual subject to sanctions. However, the document does not refer to Russia as the aggressor-state directly, applying more general definitions instead.

Oleksandr Zadorozhny, head of the Ukrainian Association on International Law, the president's pro bono arm on legal matters, says the law needs more specifications on the types of restrictions that could be applied as sanctions, as well as a timeline of implementation. He believes the nation still needs legal architecture for applying restricting measures.

SayenkoKharenko's legal expert Oleksandra Brovko emphasizes that any sanction policy should be coordinated with the international community. Regarding Ukraine's current situation, "(it should go) hand in hand with the actions of the United States and the European Union – Ukraine has to show that it can protect itself."

## Temptation of power abuse

Roman Leshchenko of UNK Partners law firm voiced concerns that the new sanctions bill might violate the constitution. "This bill poses several risks. Firstly, Ukrainian authorities do not need any court rulings to introduce sanctions against legal entities and individuals," he says.

Another problem is that a single institution, the NSDC, can introduce and approve sanctions. Constitutionally, the NSDC is defined as a consultative body, whereas sanctions policy should be a part of the executive branch. "A possible solution might be to...include the NSDC's new functions in the forthcoming constitutional reform," Leshchenko said.

Zadorozhny of the Ukrainian Association on International Law disagrees with Leshchenko. "The primary function of the NSDC is national security – this is why it was chosen for introducing the sanctions." Moreover, he doesn't

see anything unconstitutional because the NSDC's status is subject to a special law.

## A double-edged sword

During a news briefing on Aug. 22, Pavlo Petrenko, Ukraine's minister of justice, mentioned a list of unspecified 65 companies with Russian capital and 176 individuals to be penalized under the sanctions bill. Although no sanctions have been introduced yet, experts are concerned about the fallout.

Sanctioning Russian banks, which have 13 percent of the Ukrainian savings and loan market, can backfire, says UNK Partners' Leshchenko. "Any major restrictions can cause panic and tremendous damage to the economy. They should be applied carefully, since banks guarantee financial stability," he said.

Valeriya Gontareva, head of the National Bank of Ukraine, similarly argued that if Russian banks are expelled from the country, ordinary Ukrainians will suffer substantially.

Russia-owned VTB bank said it doesn't feel pressure from Ukrainian regulators. "The NBU's financial monitoring and its preliminary conclusions showed that there are no serious violations of Ukrainian legislation in our activity," said Valeriya Seleznyova, spokesperson at VTB.

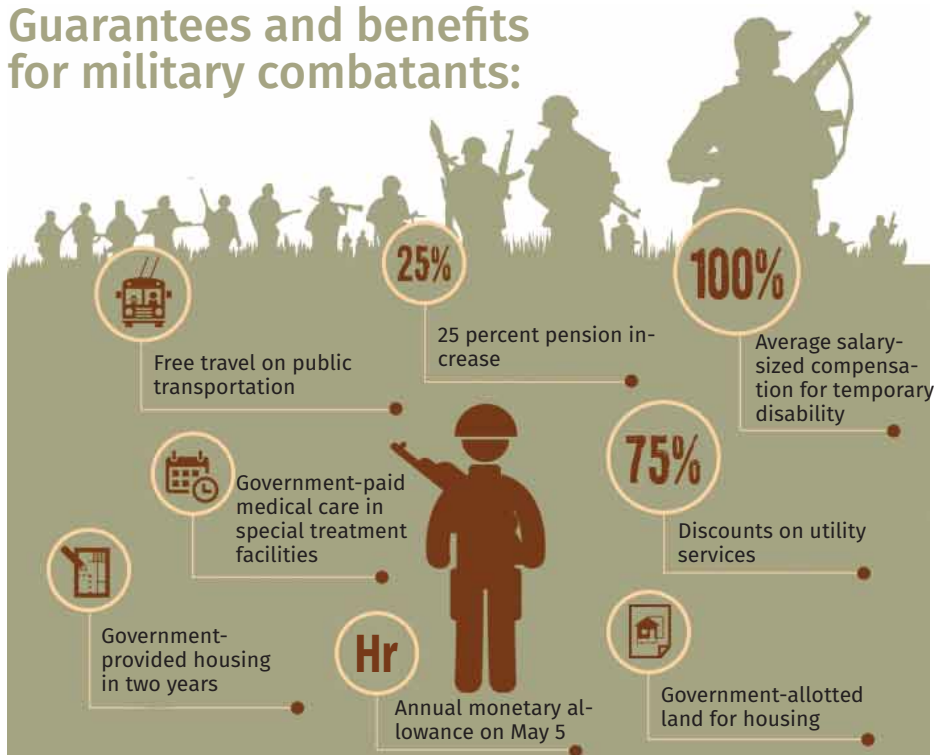
Ukraine's major mobile phone operators, such as Kyivstar and MTS with Russian parent companies, may encounter difficulties, said Nataliya Ulyanova, an expert on international tax planning at ICF Legal Service. She said Russian companies might start entering the Ukrainian market through offshore entities registered in Cyprus, for example, to avoid potential sanctions.

Another question is how far Ukraine can go without harming itself. Yatseniuk estimates Ukraine will lose \$7 billion, while experts think the figure may be much bigger – all the way to \$14 billion. Russia is likely to introduce the counter-sanctions in reply to any aggressive economic policy that hits its interests.

## International acceptance of Ukraine's sanctions

Ukraine has good chances of protecting its interests and have its measures accepted by the global community. Nataliya Chonok, an expert on World Trade Organization policy, said the WTO would accept Ukraine's unwillingness to do business with Russia under the circumstances. "Ukraine can prove its actions are justified as they are necessary to protect its national security," she said. ■

## Guarantees and benefits for military combatants:



# Veterans face mounds of paperwork to get combatant status and war benefits

*More than 935 soldiers have been killed in Russia's war against Ukraine, while more than 3,000 people have been injured. The cost of caring for survivors and wounded will be high.*

By **Iana Koretska**  
koretska@kyivpost.com

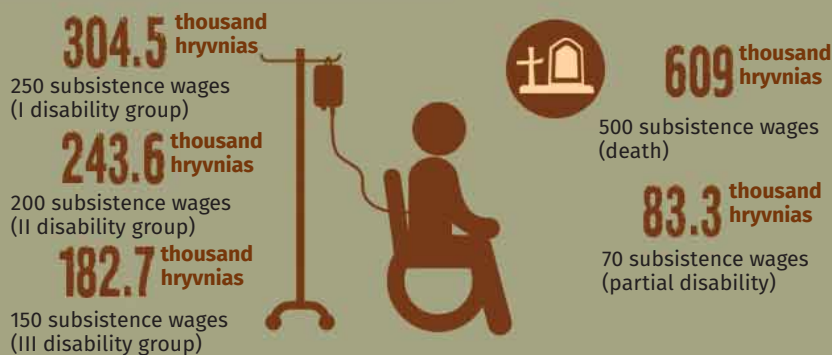
**W**hile Ukraine's government gives special benefits to the families of soldiers killed and to fighters injured in Russia's war, it still takes persistence and documents to collect them from the bureaucracy.

Thus far, more than 935 Ukrainian servicemen have been killed in fighting since mid-April. At least an additional 3,215 people were wounded, and their numbers keep growing, despite a ceasefire that has been in place since Sept. 5.

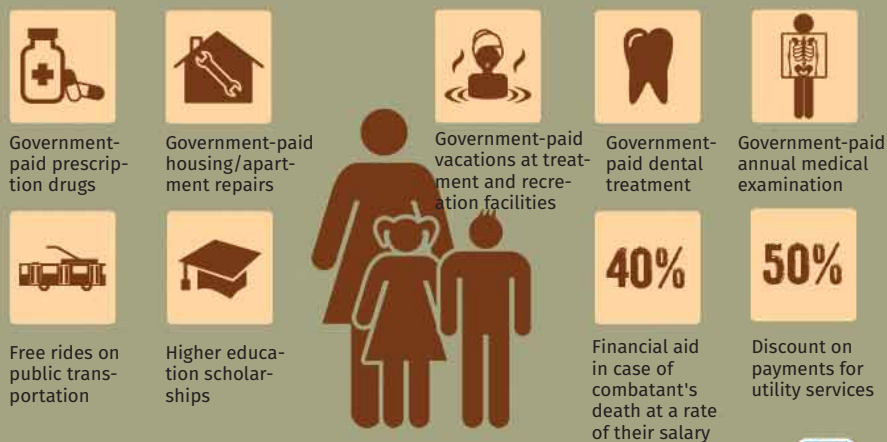
The list of those who will not be home includes Mykola Berezovy, the husband of journalist and activist Tetyana Chornovol, Ukrinform journalist Oleh Zadoyanchuk and Mark Paslawsky, an American investment banker who said he became a Ukrainian citizen before volunteering for the Donbas Battalion.

Ukrainians have donated as much as Hr 150 million for the needs of those fighting against Russian elements in Donetsk and Luhansk oblasts, according to the Verkhovna Rada's analytical department. Life-saving medical kits, protective gear and other essentials have been supplied by local and foreign volunteer groups over the months. →

### One-time financial assistance to military combatants



### Benefits for families of military combatants



Ukraine's government offers many benefits to soldiers and their relatives. But taking advantage of them is not always easy. (Ukrinform)



→ Parliament passed laws providing guarantees and benefits for soldiers.

“First of all, the legislators have clarified who may be identified as a military operation participant...Parliament has amended the law on the status of war veterans and guarantees of their social protection,” said Sergiy Shapov, an expert at Alekseev, Boyarchukov and Partners.

Currently, all fighters have the legal status of being a war veteran. This qualifies them for financial assistance, government-paid medical care and housing. The list includes members of the Ukrainian Armed Forces, National Guard, Security Service, Foreign Intelligence Service, Border Guards Service, Interior Ministry and volunteer battalions that act in accordance with the law and are recognized as those which defend the country’s independence and territorial integrity.

However, there is no guarantee that the bureaucratic machine will work correctly.

“A soldier won’t be recognized as a military combatant without the requisite documents, such as an army order and officially stamped military identification card, etc.,” said Volga Sheyko, a lawyer at Asters.

Even having all the documents doesn’t guarantee that attaining the status will be easy. “You’ll have to go to the (office of) General Staff of the Ukraine’s Armed Forces or, if you’re a reservist - to the regional military commission (to submit the documents personally in a paper form),” Sheyko explains.



But those who’ll overcome the bureaucratic obstacles are entitled to receive privileges such as free health care, a monetary allowance or compensation for their disability.

A one-time financial payment to disabled military combatants ranges Hr 182,000-304,000, said Shapov of Alekseev, Boyarchukov and Partners. “Benefits have also been established for family members of ATO participants who have died,” he added. ■

**Approximately 150 members of the volunteer Azov Battalion arrived in Kyiv on Sept. 15 from the war front in Ukraine’s eastern regions as part of a troop rotation. (Volodymyr Petrov)**



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Two employees work on a helicopter on March 14, 2013 at the Motor Sich airplane and helicopter manufacturing company in Zaporizhya. (Ukrainian News)

# Ukrainian goods need makeover to sell well on European market

*Ukraine first needs to bring its legislation and production quality in line with a variety of European standards before it could start benefiting from a landmark free-trade deal that will go into effect on Jan. 1, 2016.*

By **Iana Koretska**  
koretska@kyivpost.com

**E**verything from certification, quality control and traceable food is required or needs upgrading even for companies that don't do business with the European Union.

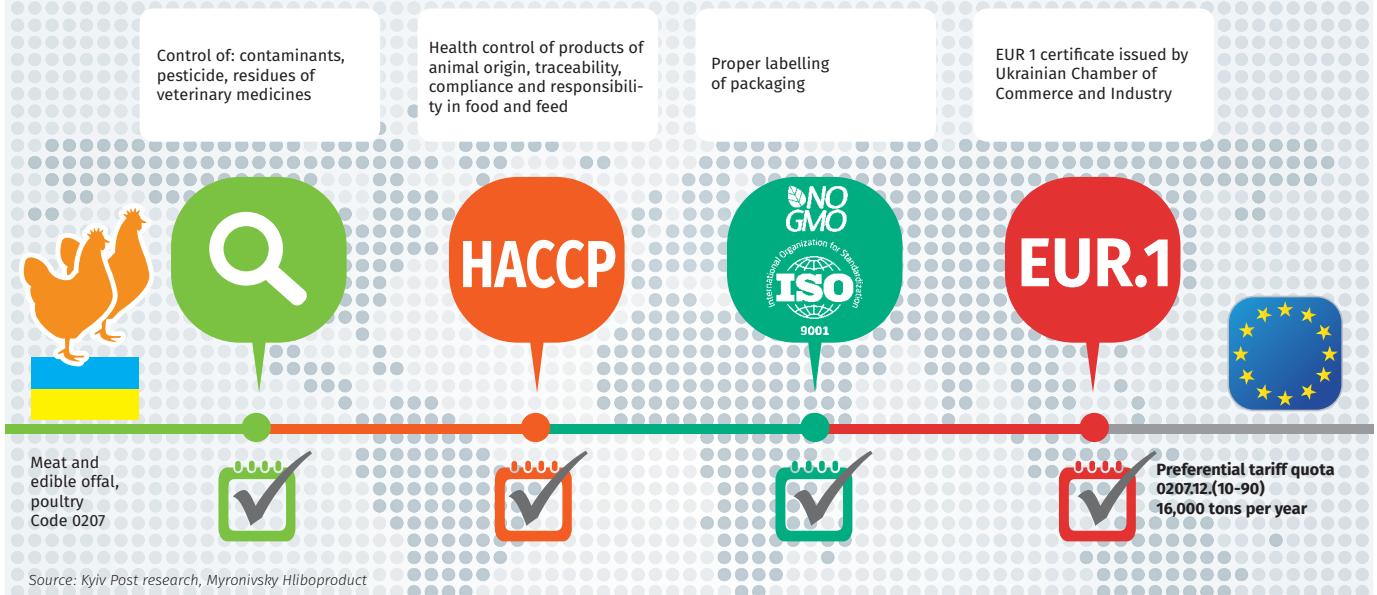
Having the free-trade pact with the EU delayed until the start of 2016 might be a good thing. Not only do the majority of Ukrainian products not meet European standards, legislation in areas such as food safety, sanitation, labeling and technical requirements hasn't caught up as well.

Under a compromise reached on Sept. 12 with Russia, which opposes the deal, the postponement means that Ukraine will not have to cut its duties on EU imports for 15 months. In turn, the EU will keep in place for Ukraine quotas for certain imports under preferential terms through the end of next year.

As a result, Ukraine is expected to export €13.8 billion worth of products to the 28-nation bloc by year's end, according to the European Parliament, an increase of 9 percent over the previous year.



## Exporting poultry meat to the Netherlands (EU member)



There are four main stages that Ukrainian poultry makers go through to export poultry to the European.

Given that the EU is the final destination of 33 percent of the nation's exports, much "homework" needs to be done to create a legal framework for trade under the new deal, said Nataliya Mykolska, head of international trade expertise at Sayenko Kharenko law firm.

The new standards will affect every business regardless if they do business with the EU.

This is a timely move since Russian retailers increasingly refuse to do business with Ukrainian companies since additional restrictions could be enforced any day by hostile Russian regulators in the Kremlin's ongoing trade war.

"Ninety eight out of 100 Russian retailers sent us a rejection," Oleg Tushkevych, sales director at package producer Ergopack, told hubs.com.ua, a business news website.

Moreover, Russia's ban on Ukrainian confectionery, dairy and meat products have forced many companies to look for markets in Asia and the EU. Kryukiv Railcar Works, a major publicly traded company, cut wagon production by 66 percent this year since orders stopped coming from Russia, its principal client.

Machinery is highly dependent on exporting to Russia, said Sergiy Svystil, vice president of the Ukrainian Chamber of Commerce and Industry. "But this market is limited for Ukrainian producers now and the situation is becoming worse by the day, so producers have to seek new markets now and the European market is one of the options."

Motor Sich, a Zaporizhya-based aircraft engine maker, has already started looking for clientele in the EU. After Russia canceled an order for MS-500V helicopter engines, a type used only in Russia, management started looking at the Polish market.

Capital, a business daily, reported that Motor Sich is considering joint production with an EU partner. Poland's PZL Swidnik, an aircraft producer, is considering using Motor Sich's engines for its Mi-2 and Sokol helicopters, reported Capital and Polish media.

EU certification is required for this to happen, however. This is problematic for Motor Sich and other Ukrainian producers, said Svystil of

the Ukrainian Chamber of Commerce and Industry. They need to modernize Soviet-era production to meet the EU's technical requirements.

One company that has met requirements is Ukraine's largest poultry producer, Myronivsky Hliboproduct. The London-listed company plans to supply as much as 15,000 tons of chicken meat this year to the EU.

On a national level it took Ukraine five years to alter its standards and obtain permission to sell poultry to the EU in October 2013. Internally, MHP had to pass through a number of EU inspections during the process, said company spokesperson Zoya Shevchuk.

Once a company meets all the technical requirements set by the Brussels-led political and economic bloc, it still needs permission from the EU to export a specific type of product. A Ukrainian producer should have the Eur-1 certificate of origin to enter the EU market, according to Igor Dankov, customs law expert at EY, an accounting and consulting company. It's a requirement for all exports that exceed €6,000.

Certificates of origin currently are issued by the Ukrainian Chamber of Commerce and Industry. In the future, traders will most likely apply for the certificate with the nation's customs policy, according to Dankov of EY. This still needs to be legally set though. Currently the customs service lacks qualified experts for this kind of work, he added, while the Chamber of Commerce employs 610 specialists of this type.

Preparations for exporting goods to the EU may take between two months and two years. It depends on the type of product and whether it meets the bloc's requirements, said Hanna Shtepa, a lawyer with Baker & McKenzie.

European requirements include proper health control, labeling, marketing and veterinary issues. Each product is categorized in respect to its quality and safety standards, said EY's Dankov.

Food standards include restrictions on contaminants, such as pesticides, while control over veterinary medicine residue in meat is mandatory. Traceability of food products is crucial since Ukraine may export only locally produced goods. All packaging should be marked with the international standard stamps. ■

# David Vaughn: 'Judicial reform is not for the short-winded'

*The ousted Yanukovich administration used Ukraine's malleable and corrupt courts as weapons against his political opponents. The same scenario can happen again, since judges and others in the legal system still lack accountability and independence.*

By **Oleg Naumenko**  
legasy@me.com

**U**krainian courts were instrumental during former President Viktor Yanukovich's four-year rule to lock up political opponents or anyone deemed a threat to his corrupt government. But since he fled the country in late February, not much has been done to make Ukraine's judiciary independent and accountable to the public.

The Kyiv Post sat down with David Vaughn, head of the U.S. government-funded FAIR Justice project, to hear what progress has been made and what obstacles are in the way to have justice administered fairly.

Vaughn is no stranger to post-Soviet judicial systems. Having studied Russian at the University of Vermont, he first arrived to work in Kharkiv in the late 1980s. "It was a one-year pro-bono trip to work on reforming the judicial system of the USSR. Back then I never thought that I will come back later and see a democratic country replacing an old Soviet system," he said.

**Kyiv Post: How much progress did the new Ukrainian authorities make in the last six months?**

David Vaughn: There were some significant changes implemented thanks to the law on restoring public trust in the judiciary approved in April. The law increased the number of members in the Council of Judges from 11 to 40, which makes the council less prone to manipulation and more independent. Moreover, prior to this law, Ukraine had four institutions to govern the judiciary – the law has finally empowered the National Commission with decisive authority over the other three bodies. Ultimately, Ukraine needs to have just one national body that would govern the judiciary. I would like to emphasize the importance of unifying various judiciary bodies in Ukraine with overlapping functions.

**KP: What should be done to enhance the reputation of the courts?**

More than a half-year after the overthrow of President Viktor Yanukovich, Ukraine's corrupt judicial system remains largely unchanged. (UNIAN)

David Vaughn heads the U.S. government-funded FAIR Justice project. (Courtesy)



**DV:** The constitution should be changed to clearly outline the authority of the courts and grant more independence to the judiciary. Today, courts can be liquidated by the president, which reduces their independence and makes judges overly reliant on the executive branch.

The issue of de-politicizing the judiciary is critical. According to European Union standards, the majority of the High Council of Justice's members should be judges elected by peers. Currently, there are only three such judges in the body out of 13 members. French legislation, for example, allows even ordinary citizens to take part... this diversification creates more links between the judiciary and civil society that, once again, is beneficial for the system's transparency.

We also advised on the lustration bill. This bill can become a useful tool to sanction judges who have made unlawful decisions and prevent them from occupying this post for a particular period of time. It also holds judges accountable if their income statements reveal inconsistencies with their official income, as well as if the income of their children and spouses show similar contradictions. On the other hand, there should be safeguards so judges can appeal decisions if they think that sanctions against them were unjust.

**KP: How can the performance of courts be raised?**

**DV:** Firstly, de-politicization grants higher effectiveness because such a system is governed by law and not by other political considerations; both claimant and defendant can rely on the strength of their legal arguments and not on hidden factors. Secondly, we are working intensively to improve court practices...Digitalizing judicial work plays a crucial role. We had a pilot project in 2007-2010. For example, judges could

spend up to a week compiling statistical reports, but a new computer algorithm helps them to do the same task within an hour. It saves lots of money and time that can be used to fulfill the judge's main functions.

As I stated earlier, the unification of bodies with overlapping functions is key. Creating only one national commission for selecting judges would reduce the potential for corruption. Meanwhile, cutting the number of bureaucrats engaged in the process allows salary increases, providing National Commission members with more incentives to work honestly. Similarly, there are still two bodies responsible for disciplining judges should be merged. Finally,

**Courts today are overly dependant on the executive branch**

in our view, Ukraine's four-tier court system can be cut to a three-tier system in which the authority of the Supreme Court of Ukraine would be expanded, reducing corruption and increasing the efficiency of the court system further.

**KP: When will we be able to see significant changes in the judiciary?**

**DV:** I like to quote one U.S. judge who worked in the 1930s who said, "judicial reform is not a sprint but a marathon". Such a process is not for the short-winded, especially given that currently the authorities have more pressing matters of preserving the territorial integrity of Ukraine. ■

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\* - according to a survey by Moscow-based AGT Communications Agency carried out over the six month period to May 21.

# Lawyers dissect law on Donbas region's new status

By **Oksana Grytsenko**  
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*A law granting special status to Donetsk and Luhansk oblasts is widely perceived as granting Russian forces and proxies de facto control over one third of the Donbas, home to 15 percent of Ukraine's population.*

**A**fter severe battlefield losses in September, bringing Ukraine's military losses to nearly 1,000 soldiers, Ukrainian President Petro Poroshenko on Sept. 16 pushed through a law to give self-rule to separatist-held territories in the eastern Ukrainian oblasts of Donetsk and Luhansk.

Some lawmakers who were present during the vote, including Batkivshchyna faction member Andriy Shevchenko, tweeted that the bill was adopted with egregious procedural violations. They said it was passed in a dubious vote during a closed-door session.

Its detractors said the law is a concession to Russia, which is backing the separatists, and legitimizes the breakaway Donetsk People's Republic and Luhansk People's Republic that Ukraine has branded as terrorist organizations.

But for millions of the region's residents, the law poses a big question mark over their lives. Serhiy Taruta, the governor of Donetsk Oblast, said he had a sleepless night after he saw this bill and realized that it left him no less than 50 questions unanswered.

"How is this possible to divide Donbas in two parts?" Taruta asked journalists in Mariupol after the vote.

Among his unanswered questions are the geographic boundaries of the territories that gain special self-rule status.

Taruta also complained that it would be impossible to lure investors to the war-torn area. He said the law, moreover, didn't clarify how

A boy touches the machine gun of a serviceman of Azov Battalion in Mariupol on Sept. 20, during celebrations marking the city day. (AFP)





the border with Russian will be sealed off, which is crucial to stop the shipment of Russian arms and militants to Ukraine's east.

The Kyiv Post asked three lawyers to analyze the new bill and outline the main changes it foresees. Many of its clauses still need to be clarified, lawyers said.

"It is rather a framework, a statement of intentions rather than full-blown and detailed piece of legislation," Serhii Uvarov, associate at Egorov Puginsky Afanasiev & Partners Ukraine, said.

Firstly, the law doesn't specify the exact territories where a special order would be applied. These territories will be designated by the anti-terrorist center chief and could be also changed the same way, said Igor Gavrilov, head of the corporate practice department Alekseev, Boyarchukov and Partners law firm.

Even though Ukraine has no control over the occupied areas, state bodies will keep most of their powers and responsibilities, including financing from the state budget.

Locally elected authorities will be involved in appointing the heads of local courts and prosecutor offices. But the actual appointment of judges, prosecutors, officers of other law enforcement agencies will be subordinated to Kyiv, according to Uvarov.

The central government will keep control over the regional governments. "The system of local state administrations in the respective districts will formally remain in place, although it's currently unclear how they will function in reality," Gavrilov said.

Therefore, the government will cover budget costs and collect taxes unless other procedures are established by subsequent laws, the lawyers said.

But the lawyers disagree on who is responsible for rebuilding Donbas.

Dmytro Nabugornov, a lawyer at Goldblum and Partners, said private and foreign investors predominantly will cover the expenses. "The Ukrainian state will only assist in fundraising but not subsidizing," he said. Gavrilov, however, pointed out that the law specified that the Cabinet of Ministers should draw up the government program for rebuilding infrastructure.

But the most debated and ambiguous part is a provision calling for a "civil militia" to be created and controlled by local authorities with vaguely defined powers. A militia could function as a "neighborhood watch" or as a "people's militia with light firearms" if it is created according to the law on militia, Gavrilov said.

While the new law protects the use of "Russian and any other languages" on the specified territories, it doesn't limit use of Ukrainian language in education and public life.

But the law doesn't define the status of Russian or other foreign fighters operating in Donbas areas or how to compensate families of war victims, Nabugornov said

The lawyers say the law will function for three years, but could undergo amendments. It could also be ruled unconstitutional by the Constitutional Court. ■

**Pro-Russian insurgents who had been captured by Ukrainian forces react after being freed under the terms of a ceasefire deal between Kyiv and the separatist forces on a road near Donetsk on Sept. 20. (AFP)**



Many companies located in the country's east, including a number of hog enterprises, had their supply and shipping chains cut off because of warfare. (UNIAN)

# Party of Regions makes laws to save their businesses

*It appears that some lawmakers are using war as an excuse to get taxpayers to compensate for their companies' weak performance.*

By **Olena Goncharova**  
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**T**he once dominant and former ruling Party of Regions may not be contesting seats in the snap Oct. 26 parliamentary elections, but it does not mean that its members are not trying to use their incumbent status to their advantage until the end. Some are drafting legislation to seek monetary compensation from the government for damaged business located in the war zone in eastern Ukraine.

Several such bills were registered in the Verkhovna Rada in mid-August. One was filed by former Party of Regions lawmaker Serhiy Dunaev that suggests writing off the debt of the Lysychansk glass-making factory in an area of Luhansk Oblast held by Ukrainian forces.

Its explanatory note states that the factory is unique because it produces energy-saving glass, laminated and tempered glass, and employs more than 2,000 local residents in a city that used to have 100,000

residents before Russia's unprovoked war against Ukraine.

And because its assets were badly damaged during air strikes in late July, Dunaev is claiming compensation for damages sustained during the anti-terrorist operation. Dunaev owns 66 percent of the business.

The glass-making plant, it seems, is steeped in debt. As of Aug. 21, it owed Hr 770 million to creditors, mostly for gas supplies for its kilns, according to Nashi Groshi, a watchdog specializing in public procurement and corruption-related issues. It also owed money to banks for loans taken out in previous years.

Now the company wants to write off its bad debts.

Oleksiy Khmara, head of corruption watchdog Transparency International Ukraine, says this is how some people take advantage of the war.

"It's one thing if they seek facilitation, but they want to write off the debts with a long track record that were not caused by the anti-terrorist operation. It means they just want to make hay during the war," Khmara said, adding that this is something that all political parties have in common.

Dunaev controls his share of the business via Cyprus-registered FG Plant Holdings Limited. He failed to respond to multiple requests for a comment for this story.

Another Party of Regions lawmaker is seeking redress for his problems in agribusiness.

Denys Omelianovych, who heads the Verkhovna Rada's committee on agribusiness, registered a bill that aims to minimize the negative impact of war on farmers in the east.

The bill proposes to extend preferential treatment to farmers in the war zone, and to restructure and prolong bank loans to such businesses.

Omelianovych is president of APK-Invest company, owned by a Party of Regions leader Borys Kolesnikov. It operates in the war zone. APK-Invest specializes in the production of chilled pork. It runs a chain of meat stores and warehouses located mostly in eastern Ukraine and has an 18 percent share of industrial pork production in Ukraine.

Sales dropped by Hr 13 million in eastern Ukraine this year due to the war. The company has assets located in Ukraine-held Chervonoarmiysky, Konstantinovskiy and Aleksandrovskiy districts of Donetsk Oblast, home to 300,000 citizens.

In numerous statements starting in July, APK-Invest said that it has a water shortage, which makes it difficult to resume production of pork and pay back loans. It has about Hr 1 billion in loans, according to *Economichna Pravda* website. Omelianovych's office did not respond to numerous phone calls for comments.

As many companies get cut off their supply and shipping chains, Ukraine might lose up to 9 percent of its gross domestic product this year, mostly due to warfare in the east, according to the government's estimates.

If Omelianovych's law is backed by parliament, agricultural companies registered in the east can expect restructuring of their debt, a moratorium on enforcement of pledges, and a general "softening of the regulatory tax



environment," says Oleh Malskyy, a partner at Astapov Lawyers.

But it's not the general welfare they are concerned with, some critics say. Daryna Kaleniuk, an expert at Kyiv-based Anti-Corruption Action Center, says the lawmakers "just want to shift responsibility from themselves to Ukrainian taxpayers." Kaleniuk says, "it is clear that APK-Invest will benefit the most if the law is passed."

Malskyy also says that artificial support of business under any circumstances is a bad idea. "It is often the case that many companies or branches get so used to governmental support, that it creates a huge incentive for them to further lobby extension of such subsidies," he explains.

Volga Sheiko, a lawyer for Kyiv-based Asters law firm, says that although it's important to protect agricultural business in principle, this particular law "does not clearly define which enterprises fall under it."

Khmara of Transparency International fears that the law might even get support if it comes up for a vote ahead of the election because "in times of war people rely on emotions and their own profit rather than common sense." ■

**Party of Regions lawmaker Borys Kolesnikov inspects equipment at his APK-Invest hog enterprise in eastern Ukraine. (apk-invest.com.ua)**

**APK-Invest company, owned by Party of Regions Borys Kolesnikov, specializes in the production of pork. (apk-invest.com.ua)**





A delegate at the 13th Batkivshchyna party congress in Kyiv on Sept. 14. (UNIAN)

## How and why party financing is hidden



By **Oleksii Khmara**  
khmara@ti-ukraine.org

*In Ukraine, oligarchs and other wealthy backers sustain political parties with hidden cash, making it impossible for voters to learn who is backing parties and candidates, much less what has been promised in return for the cash. While laws require political parties to disclose their finances, penalties are non-existent.*

**T**he election campaign is in full steam now and very soon it will be time for the Central Election Commission to verify information about candidates and register them. This will be followed by a month of promises of everything to everyone, generously sponsored by the parties' and candidates' benefactors.

So, where does this money come from? Who are the sponsors? And is the money dirty?

In Ukraine, it's impossible to really check party financing. There are several reasons for it. There is no limit to how much money any contributor can donate in Ukraine. At the same time, most European countries do have limits. Typically a person cannot donate more than €1,000-€5,000 yearly.

In Ukraine, one or two oligarchs sustain each party. This is the way of life for both the government and the opposition. But it's not the biggest problem with party financing.



Because of contradictory laws on elections and the law on political parties, companies can make contributions to political parties without any restrictions as well.

This is how it works: technically, legal entities cannot make contributions to election funds. But it's easy enough to fool the system. Local party organizations do not fall under the law regulating the conduct of elections, and sets no such limitation.

**Even in cases when political parties publish financial reports, they are made up of two lines: total income and expenses for a particular year. No information about donors or sponsors is released.**

For example, a business controlled by oligarch K makes a Hr 1 million contribution to party S. The party moves this money to its election fund, and it's counted as the party's own contribution, which does not count towards any legal limits of value and number of contributions to the election fund. Thus, money from the business goes around the system.

There is an official limit to the size of an election fund a party or a candidate can have. It's 90,000 minimum wages (over Hr 100 million at the moment) and 4,000 minimum wages for candidates running in majority constituencies (Hr 5 million).

But there are two more laws that govern elections that do not support the restrictions. Basically, they allow all the

money available to candidates to be spent on their campaign. This is why voters are bombarded with advertisements and showered with gifts of food and other goodies from candidates.

Most European countries have the following restrictions on pre-election campaigns: limitations on the size of election funds (violations lead to loss of financing from the state); or ban on political advertising on TV and radio.

In Ukraine, legal prohibitions for oligarchs to finance parties and candidates don't exist. Thus, there is little surprise that those who used to sponsor the Party of Regions and Communists have moved on to support post-Euro-Maidan parties.

What about transparency?

According to legislation, parties need to publicize their income and expense reports, as well as asset reports in the national media annually. It's not detailed out how it should be done, or in what media. There are no consequences if parties fail to oblige.

As a result, even in cases when parties publish reports, they are made up of two lines: total income and expenses for a particular year. Of course, no information about donors or sponsors is released. There is a requirement to publish reports during election times. Nevertheless, donors are not disclosed in this report. They only contain general information about contributions from the party itself and the general public.

As a result, voters have no idea who donates money during elections, to whom and how much.

Moreover, there is no satisfactory legal definition of the term "contribution" in Ukraine. Direct cash →



Prime Minister Arseniy Yatsenyuk during the National Front party congress in Kyiv on Sept. 10. (UNIAN)

→ contributions or indirect (in-kind) donations, such as discounts on goods and services, all fall under the term “donations” in developed countries.

In Ukraine, most contributions are cash. Discounts in media during elections are prohibited, but there are no restrictions on discounts for other goods or services. Since it is not considered to be a contribution, it is not reflected in the reports.

## Ukraine does not have an independent body controlling campaign finance. Voters have to be alert. They should ask political parties and candidates money-related questions.

One reason for the flaws is that there is no independent controlling body. In most countries, an independent anti-corruption body or an entity similar to the Central Election Committee or Auditing Chamber controls political financing.

In Ukraine, income and expenses of political parties are only controlled by the tax administration. Parties report to the tax administration as all nonprofit organizations do.

The tax administration only checks whether the book-keeping is done correctly and if all the taxes are paid, for example. Given their non-profit status, tax collectors are not interested in them too much. The CEC control of campaigns is just a formality. Also, there are no sanctions for failure to report cash flows or filing a false report.

What should we do?

The new, post-revolution parliamentary majority that existed from May until August 2014 failed to address any of these issues. Although there was more than enough time to do something, other people will have to correct their mistakes.

Voters have to be alert. They should ask parties and candidates money-related questions. It's worth remembering that we are not choosing just candidates or parties, but also

their sponsors.

The new parliament has to adopt real changes to electoral legislation. Including:

- Defining “contribution.” Contribution should be defined as clearly as possible; indirect contributions should be included into the definition. The prices of indirect contributions should be linked to market prices. For accepting an illegal contribution the fine should be equal to the size of contribution.
- Imposing limits on campaign expenses. We should not be afraid to prohibit radio and TV advertisement at election time. A major part of election-related expenses is spent on this type of advertisement.
- A requirement of detailed reports should be introduced. Party reports should be publicized in official nationwide media and on party websites if they exist. Information about major donors and sponsors (for instance, those who donated more than Hr 10,000 in one year) should be disclosed. Effective and proportional fines should be rolled out for failure to comply.
- Sanctions are needed. All violations should either carry consequences or not be considered violations at all. Sanctions have to be proportional, effective, and preventative – there should be no desire to violate.

The country has to allow state financing of parties that have crossed the electoral threshold or almost reached it (for example, reached 4 percent while the threshold is 5 percent). This type of financing should be limited and controlled.

Absence of state financing leads to dependence on private contributions. This dependence, in turn, encourages keeping party lists closed and limits internal democracy in the party.

*Oleksii Khmara is executive director of Transparency International Ukraine. He can be reached at [khmara@ti-ukraine.org](mailto:khmara@ti-ukraine.org).* ■

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