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Corrupt judges entrench as judicial reform in Ukraine keeps getting stonewalled

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# Kyiv Post

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## 10 steps to make Ukraine a success now



Mikheil Saakashvili

Editor's Note: Former Georgian President and Odesa Oblast Governor Mikheil Saakashvili will be writing periodic columns for the Kyiv Post.

When President Volodymyr Zelensky invited me to head the National Reforms Council in May, I enthusiastically accepted the offer. The re-

sponsibility is enormous, but I am confident that Ukraine is not only prepared for a free-market revolution but, crucially, that the best time to undertake it is now. We will succeed if we make Ukraine more prosperous and freer.

Since the fall of the USSR, officials have been making futile attempts to solve complicated issues with even more complex solutions. This flawed

policymaking not only brings economic costs. Consistently high levels of corruption, investment lag, lack of certainty, and repressed economic freedom are reasons why, unlike the Baltics and Poland, we cannot proudly say that we freed ourselves from the Soviet past

Ukraine is overly dependent on International Monetary Fund loans, and a beggar for funds from world

organizations. To solve this problem, the Office of Simple Solutions and Results proposes reforms that could break this vicious circle.

Here are 10 steps that Ukraine should take:

### 1. Justice

According to the latest survey, over

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We will not let the old guard drag Ukraine backwards



Opinion

Dmytro Kuleba

Editor's Note: This column was originally published by the Atlantic Council.

On the evening of Oct. 29, I sat at a massive round table inside the Office of the Ukrainian President.

A meeting of the National Security and Defense Council was under way.

As President Volodymyr Zelensky, National Security and Defense Council Secretary Oleksiy Danilov and other ministers made their speeches, I could not help but be struck by a strange feeling. The topic of discussion was how to protect the country from its own Constitutional Court.

"This is surreal," I thought to myself.

Two days prior to our meeting, the Constitutional Court had dealt a heavy blow to Ukraine's anti-corruption reforms by practically canceling the requirement for government officials to file e-declarations of their assets.

The court's decision threatened

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# Enemies Within

## Critics are sounding alarms about the need to overhaul Ukraine's judiciary, particularly the distrusted Constitutional Court. What has to be done for Ukraine to get judges who actually deliver justice?

See editorial on page 4 and related story on page 5

It's time to start treating Ukraine's corrupt judiciary as a criminal syndicate



Opinion

Mykhailo Zhernakov

Editor's Note: This column was originally published by the Atlantic Council.

Consider Tony Soprano, the fictional leader of a New Jersey crime family. His mafia organization has a structure, a hierarchy, and an unwritten code of conduct. Its members are rewarded handsomely for service, and punished severely for disobedience. It penetrates state institutions while using bribery, threats, and other means to avoid justice. Finally, it engages in unlawful activity that harms society but generates money and privilege for its members.

Ironically enough, Ukraine's justice system shares many similarities with the hit TV show. While officially independent, in reality the Ukrainian judiciary has a number of unofficial kingpins and bosses who control it from behind the scenes. It is governed by unwritten rules. Bribery is routine.

According to critics, the rot starts at the very top. Ukraine's High

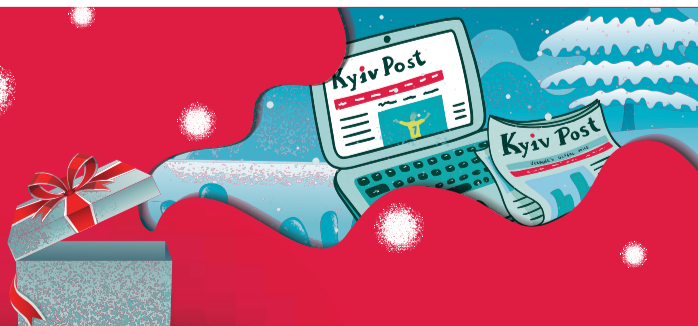
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# It's time to address corruption, not just talk about fighting it



Iryna Venediktova

Dec. 9 was International Anti-Corruption Day, but this is a daily duel for the Ukrainian law enforcement system.

The creation of a system of specially authorized entities in the field of countering corruption was not only the dictates of time, but also part of international obligations undertaken by Ukraine.

Therefore, six years ago, the state launched the process of building key institutions – the National Anti-Corruption Bureau of Ukraine and the Specialized Anti-Corruption Prosecutor's Office, whose primary objective is to counter large-scale corruption in the highest echelons of power.

Can we now assert that the anti-corruption system has the form and the efficiency that society expects from it? Of course not.

## Positive trends

But over the past eight months, the overall effectiveness of the fight against corruption of all law enforcement agencies is characterized by a number of positive trends.

In particular, there has been an increase of more than 10% in the number of exposed corruption offenses (7,748 against 7,031 last year) and a 50% increase in persons who were notified of suspicion (2,374 against 1606 in 2019).

The number of criminal proceedings with indictments filed to the court increased by almost 40% (1,764 against 1291).

The amount of the established losses sustained by the state increased by more than eight times, i.e. almost Hr 278 million (against Hr 34 million last year), and the reimbursed ones – by 40%.

For the purpose of ensuring reimbursement of losses, the amount in claims lodged increased by 17 times, i.e. almost 237 million hryvnias (against Hr 14 million), seized property – by 90%, i.e. almost Hr 63 million (against Hr 33 million last year).

The number of persons convicted of corruption also increased by almost 10%, i.e. 408 persons (against 376 last year).

In this fight, we pay particular attention to the self-cleaning of the system of law enforcement agencies, inasmuch as only honest law enforcement officers are able to efficiently counter corruption offenses. In the last eight months alone, 923 law enforcement officers were



Courtesy

Prosecutor General Iryna Venediktova took office on March 17, 2020. In taking over the discredited agency with 10,000 prosecutors, she needs to show progress in prosecuting high-level crime and corruption. In a July 16, 2020, photo, Venediktova chairs the coordination meeting of the heads of law enforcement agencies at the Office of the Prosecutor General.

prosecuted, which is in excess of 43% more than during the same period last year. More officers were exposed: 437 police officers, 88 border guards, 63 customs officers, 54 employees of the penal service.

We, as a matter of principle, do not turn the blind eye to the crimes that prosecutors commit. Thus, during the eight months of my tenure, 21 prosecutors were brought to responsibility, most of them – for committing criminal corruption offences. For comparison – in 2019, 15 prosecutors were revealed for the entire year.

## High-profile crimes

But society expects that "all high-profile corrupt officials" must bear responsibility and that stolen money must be returned to the treasury.

I fully share the attitude of citizens to this issue, therefore both the NABU and the SAPO must try to earn trust, so that the society has a feeling that those are successful institutions.

There is a perception that there is no political will for this. This is not true. I declare under full liability that we have such a will.

## Strong evidence needed

The SAPO and NABU must collect conclusive evidence for the court that can meet the "beyond reasonable doubt" standard and form the basis of a conviction. Certain procedural actions, such as institution

of criminal proceedings, serving a notification of suspicion of having committed a criminal offense, even referral of a case to court, will only be a PR campaign without ensuring the collection of a conclusive evidence base.

Public attention is especially focused on high-profile cases, which undoubtedly for me are also markers of the assessment of work of law enforcement agencies.

## Rotterdam+

For example, the Rotterdam+ case, where the former leadership of the SAPO, together with the NABU, conducted an investigation for more than 3.5 years, having first notified of suspicion four officials of the National Energy and Utilities Regulatory Commission and two officials of DTEK Energy LLC, and then closed this case.

The court reopened the case, but the investigation has only two days and a whole heap of unresolved issues, including nine conflicting examinations on the existence of damages and the need to identify specific victims, without which there would be no corpus delicti.

This is not an easy task for the investigation and for new leadership of the SAPO, who will soon appear, but I will demand from them to successfully resolve it.

Recently, I also reviewed other relevant criminal proceedings, in particular those related to PrivatBank. The investigation in them has been under way for almost four years and, while there is still a sufficient period of pre-trial investigation, I consider it important to strengthen the team of prosecutors in them.

As for the change in the team of prosecutors in four criminal proceedings on the activities of the Public Union "Football Federation of Ukraine," in which one of the people's deputies of Ukraine of the VIII convocation was involved, who since March 2015 had served as director and president of this union, the situation is quite simple.

At the end of May, the prosecutor general personally, in accordance with the procedure determined by Articles 37, 110 of the Criminal Procedure Code of Ukraine and paragraph 5 of Article 8, paragraph 5 of Article 8–1 of the Law of Ukraine "On Public Prosecution Service," appointed a team of prosecutors from among the prosecutors of the SAPO and the deputy prosecutor general in order to resolve the issue of eliminating a potential conflict of interest in the implementation of procedural guidance in these processes.

This is due to the fact that the then-head of the SAPO was directly related to the said Public Union: he had served as vice president of this union since June 2017.

## VAB Bank

In the nearest future, the cases of the beneficial owner of VAB Bank and the embezzlement of the funds of the Finance and Credit bank will also be considered. The investigation of these cases should be significantly intensified, because the losses caused by the crimes are very large-scale.

I would like to note that the Prosecutor General's Office has repeatedly applied to the Specialized Anti-Corruption Prosecutor's Office with a request to provide additional information to determine the possibility of sending a request for extradition to a foreign state. Also, on the initiative of the prosecutor general, a meeting was held with the heads of NABU and SAPO about the existing procedural violations and inconsistencies in this regard with the regulations of international law, which may jeopardize the final result in the form of legal criminal prosecution of the suspect.

After NABU eliminates procedural violations in the materials of the request for extradition, the Prosecutor General's Office will send them in the manner prescribed by

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# Iryna Venediktova: State must establish real rule of law to defeat corruption

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the current national and international legislation to the competent authorities of a foreign state for the detention of a person and his further extradition to Ukraine.

## Finance and Credit bank

In the proceedings on the embezzlement of the funds of the Finance and Credit bank in the amount of more than Hr 2.5 billion, on the basis of the decision of the Pechersky District Court of Kyiv, the prosecutors of the Prosecutor General's Office have transferred the management of seized corporate rights, funds and 26 real estate objects belonging to the ultimate beneficial owner of the bank to the Asset Recovery and Management Agency.

Among the transferred assets: health centers, hotels, residential and commercial premises located in the central parts of Kyiv, Kharkiv, Poltava and Kryvyi Rih with a total area of more than 22,000 square meters. In the event of a court decision on their confiscation is adopted, the assets and interest accumulated from the corresponding amount will be transferred to the state budget.

The investigation established that the offshore company, associated with the ultimate beneficial owner

of the bank, opened lines of credit in foreign banks in the period 2007–2014. Subsequently, the Ukrainian bank and foreign banks entered into pledge agreements in the amount of over \$113 million. By these agreements, the Ukrainian bank guaranteed the offshore company with its own funds placed on correspondent accounts with foreign creditor banks.

In 2015, due to non-fulfilment of obligations by an offshore company, under loan agreements, foreign banks collected from the accounts of the Ukrainian bank about \$113 million, which at that time was equivalent to Hr 2.5 billion. Such actions affected the liquidity of the bank, which, in the end, affected its solvency and contributed to the start of liquidation procedure for the financial institution.

## Notices of suspicion

Eight persons were notified of suspicion in the criminal proceedings: the ultimate beneficial owner, the chairman of the bank board and the management of the financial institution. The process of identifying and transferring the assets of other persons involved in a criminal offence to the Asset Recovery and Management Agency (ARMA) is under way.

On Dec. 7, at a meeting chaired

by the prosecutor general, the most relevant criminal proceedings were heard, which are being investigated by the detectives of the National Anti-Corruption Bureau of Ukraine (NABU), in particular, the proceedings over the fact of providing an improper advantage for ensuring the issuance of an inaccurate written opinion of a forensic expert in the case regarding appropriation of Hr 81 million of the National Guard of Ukraine, in which the actions of the current high-ranking official of the Office of the President of Ukraine are being examined.

On Dec. 1, the group of prosecutors was changed in this case, which was regarded by NABU as an attempt to prevent detectives from carrying out the planned investigative and procedural actions. I would like to note that such a procedure does not in any way affect the conduct of investigative search actions within the framework of the pre-trial investigation in the criminal proceedings by a law enforcement body.

The group of prosecutors was changed in accordance with the requirements of the criminal procedural law, due to extreme complexity, in order to ensure a prompt, complete, impartial and effective investigation.



A commission holds a meeting on Nov. 6, 2020 to choose the chief anti-corruption prosecutor.

## New head of SAPO

An appointment of a new head is now the most important thing for a successful work of the Specialized Anti-Corruption Prosecutor's Office, so we have started a transparent and fair competition. For these purposes, the internationally recognized anti-corruption leaders, as well as the Ukrainian lawyers have become members of the Commission for the selection of candidates, including the former European Court of Human Rights judge Nona Tsotsoria, the former GRECO Chairman and the Chairman of the Commission for the Prevention of Corruption in the Republic of Slovenia Drago Kos, the former U.S. attorney, partner at Baker and McKenzie Thomas Firestone, and the Deputy Chairman of the Board of the Centre of Political and Legal Reforms Roman Kuybida.

I'm sure that in the nearest future the new head of SAPO will be appointed, who will properly respond

to all the challenges this institution is facing at the moment.

A complex approach has to be ensured to eliminate the manifestations of corruption. Thus, the Prosecutor General's Office is drafting the specific package of legislative amendments to raise the efficiency of court proceedings in cases related to corruption offences. There are systematic elaborations of amendments to the Criminal Procedural Code of Ukraine.

The most important thing for our state is to establish the real rule of law, which implies both the observance of strictly determined legal provisions and the understanding of the whole legal system, taking into consideration the work of its institutions and mechanisms.

*Iryna Venediktova is the prosecutor general of Ukraine. She took office in March 2020. She is a former acting head of the State Investigation Bureau and ex-Chair of the Committee on Legal Policy of the Verkhovna Rada.*

## Extending success: A story of one diversification

Advertisement

*Energatom plans to continue mutually beneficial contracts with American companies with the support of the U.S. Department of Energy and the U.S. Department of State. This involves supplies of nuclear fuel, custom-developed technologies for Ukraine and prospects of nuclear energy development in the country for the next half a century*



I visited Washington in October, where I met with Ted Garrish, Assistant Secretary for International Affairs at the U.S. Department of Energy; representatives of the U.S. Department of State; officials of the Atlantic Council, including John Herbst, Eurasia Center Director; Maria Korsnick, President of the U.S. Nuclear Energy Institute; and Bud Albright, CEO of the U.S. Nuclear Industry Council. These kinds of meetings are truly inspiring. In the course of discussions with American colleagues, I received full support for our intentions regarding the corporatization of the company, achieving transparency and openness of management and the completion of construction on unfinished and new power units at nuclear power stations.

## The long path

To make Energatom a successful European company is our priority. U.S. officials and representatives of American expert organizations and commercial companies are eager to help us achieve our goal. As one would expect, these companies have a vested interest: by utilizing the colossal potential of Ukrainian nuclear energy and working with Energatom within mutually beneficial contracts, they aim to develop the European electricity market in general.

There is no need to seek out the latest example: On September 30, 2020, on Bankova Street at the Presidential Office of Ukraine and with the president in attendance, Energatom and Westinghouse signed another contract on the supply of VVER-440 nuclear fuel for the Rivne Nuclear Power Plant. We are planning to launch the stage of a trial run of American nuclear fuel for this type of reactor (there are 2 of them out of 15 in Ukraine) in 2024.

I am confident that this contract is the last step on the path of ultimate diversification of the nuclear fuel supply sources for Ukraine. It is beneficial not only for us, but also for Westinghouse, with its managers openly admitting to it. It will provide the American company with the conditions to develop the European nuclear fuel market for the VVER-440 in the Czech Republic, Slovakia, Hungary and Finland. That being said, Westinghouse chose Ukraine to be the flagship for the company's development of the East European market.

The relationship history between Ukraine and Westinghouse is nearly three decades long – from the first visit of the company's specialists to Khmelnytskyi NPP in 1992. July 1, 1998 became a historical date, as on that day the Memorandum on Provision of Assistance to Ukraine in Qualification of Nuclear Fuel Supplier for the Ukrainian NPPs was signed in the building of the Fuel and Energy Ministry on Khreshchatyk Street.

On that day, the Ukrainian nuclear industry set off on a difficult, two-decade long path. Today, having successfully reached its final point, the nuclear industry officials can say boldly that Ukraine is the only country in the world so far that has managed to diversify nuclear fuel suppliers for VVER-1000 reactors.

## Without any fanfare and orchestra

At the end of the 1990s, the United States Department of Energy launched the International Nuclear Safety Program. Specialists of Westinghouse were involved in the process from the very beginning, and now, thanks to them, all Ukrainian NPPs have training simulators, safety operator support systems, but, most importantly – Ukraine Nuclear Fuel Qualification Project. The U.S. government has allocated over \$70 million for the project's implementation.

The project aimed at ensuring the compatibility of Westinghouse nuclear fuel assemblies with fuel assemblies manufactured by the Russian company TVEL with a mixed load of the active zones of the VVER-100 was completed by 2000. The third power unit of the South-Ukraine NPP was chosen for the trial run.

In 2004, Pacific Northwest National Laboratory, acting on behalf of the U.S. Department of Energy, began supplying trial fuel assemblies manufactured by Westinghouse to power unit No. 3 of the South-Ukraine NPP. "Without fanfare, an orchestra or flowers, in an ordinary manner, the containers with six American fuel assemblies were delivered to the South-Ukraine NPP," recalls Heorhiy Raspopin, a former engineer of an international project by Ukraine and USA on nuclear fuel diversification. He was the head of the Nuclear Fuel and Radioactive Treatment Department at NNEGC Energatom in the period of 2003–2011.

"We loaded the active zone," says Raspopin. "And immediately, the media exploded with so-called 'professional' comments from the 'experts', who led discussions about the of an 'inevitable Chernobyl' close to Europe, which was not surprising, as TVEL categorically refused to give up its monopoly in the Ukrainian nuclear fuel market."

Nonetheless, the specialists managed to substantiate the

compatibility of the American assemblies with the Russian ones, and the first six were loaded into the active zones together with those of TVEL, where they went through a test run from 2005 until 2010. Today, 746 nuclear fuel assemblies manufactured by Westinghouse are operated in the active zones of six power units of the Ukrainian nuclear power plants. Seven more shipments of the American nuclear fuel are expected in 2021.

A year ago, the "trial" power unit No. 3 of the SU NPP obtained a license from the State Nuclear Regulatory Inspectorate of Ukraine for permanent industrial use of Westinghouse fuel. As of today, three power units – No. 2 and 3 at the SU NPP and No. 5 of the Zaporizhia NPP operate exclusively on the American fuel. Another three – No. 1, 3 and 4 of ZNPP are loaded simultaneously with the assemblies manufactured by TVEL and Westinghouse.

"When we started this project," Raspopin recalls, "an American colleague asked me why Ukraine needed it. I had a standard answer – we need to diversify nuclear fuel supplies. However, he corrected me – not to diversify, but to create possibilities, including the possibility of choice. That is the main condition of freedom."

## To be continued

This story could be considered a story with a happy ending, but it is still continuing. Atomenergromash, a separate subdivision of Energatom, is using its own capacities to manufacture components for all types of Westinghouse fuels. This was also discussed on September 30, with the President of Ukraine, and an additional protocol of intent was signed.

At the same time, USA's Holtec International together with Energatom are finally completing a large scale project – Ukraine signed a contract with Holtec International on the development, licensing, construction and commissioning of the Central Spent Fuel Storage Facility (CSFSF) 15 years ago. The construction will be completed by the end of the year. As a reminder, Holtec developed a double-barrier technology for dry spent fuel storage specifically for Ukraine.

Our partnership with this company is just as successful: Holtec specialists tested the technology developed for the CSFSF in the USA, Spain and the UK, and are currently implementing similar projects in Switzerland and China. The important factor is that the Holtec technology received the license of the U.S. Nuclear Regulatory Commission.

Also, in the process of preparing for the construction of the CSFSF, the Ukrainian specialists together with their colleagues from Argonne National Laboratory completed the extremely complex task of harmonization of the regulatory framework of the State Nuclear Regulatory Inspectorate of Ukraine with the regulatory framework of the U.S. Nuclear Regulatory Commission. Furthermore, in the process of harmonization, the regulations that were stricter were chosen from each piece of legislation. That is why, there is no doubt that the storage facility has been built in compliance with the toughest requirements of the nuclear laws of both countries.

EDITORIALS

# Judicial gang

The brazen cynicism with which Ukrainian judges are spurning the law and getting away with crimes has few parallels in the world. It acts more like a criminal gang (with some notable exceptions) that has taken a whole country hostage.

A good example is Judge Pavlo Vovk, who has been charged with corruption and obstruction of justice and is still keeping his job and ignoring summonses.

One reason is Ukrainian society's apathy and indifference towards such a seemingly abstract subject as the rule of law. In fact, there is nothing abstract about it – millions of people's lives depend on the integrity of the court system.

Another reason is that Ukraine's Western partners have been too lenient towards corrupt Ukrainian officials. When lawless judicial bodies rigged the selection of the current Supreme Court under ex-President Petro Poroshenko and appointed tainted judges and political loyalists, Western donors accepted it as "reform."

They argued that, although compromised, the Supreme Court was still better than the previous one. But time has shown that the Ukrainian judiciary has not improved at all since the Supreme Court's selection.

It could have even gotten worse.

After the EuroMaidan Revolution overthrew President Viktor Yanukovich in 2014, judges and other officials were still afraid that a popular rebellion could sweep them away if they misbehaved. Now, based on Vovk's behavior, they are afraid of nothing.

They have good reason to be fearless: very few judges have been punished for unlawful rulings against EuroMaidan protesters, other lawless decisions or corruption.

The complacency of both Ukrainian society and Ukraine's Western partners has resulted in judges becoming more and more shameless and out-of-touch.

Ukraine's Western donors should cut off funding until a genuine judicial reform begins. Otherwise, their money will sink into the bottomless abyss of Ukrainian corruption.

The West should also consider imposing sanctions on corrupt Ukrainian officials, including Vovk and members of the High Council of Justice, who are implicated in corrupt dealings with Vovk.

The front page of this edition includes opinion columns by three distinguished leaders – ex-Georgian President Mikheil Saakashvili, Foreign Minister Dmytro Kuleba and judicial expert Mykhailo Zhernakov. They all agree that the courts are working to Ukraine's detriment and are in need of a serious reboot.

It's time to call President Volodymyr Zelensky's bluff: he has been unable or unwilling to reform the judiciary during his one and a half years in office, coming up with various absurd excuses for his failures. Given his lack of action, it appears that Zelensky is not even trying to imitate judicial reform anymore.

Based on his past behavior, Zelensky is unlikely to reform anything until the end of his term unless pushed hard enough.

# Swift sanctions

A year has passed since the leaders of Ukraine, Germany, France and Russia met for a Normandy Format summit in Paris.

President Volodymyr Zelensky, who pronounced ending Russia's war against Ukraine in eastern Donbas his number one goal, was overly optimistic of a possible breakthrough.

It didn't happen. It couldn't have happened.

Despite Zelensky's efforts and Ukraine's steps toward the opposite side, it all comes down to one simple truth – Russia doesn't want peace. And Ukraine, alone, can't force the invader to back down.

Russia and its proxies bring forward new demands and backtrack on their previous agreements to indefinitely stall the ongoing peace talks.

Ukraine, at the same time, has been demonstrating its readiness to work to achieve peace. In 2019, it took a symbolic step and rebuilt a bridge connecting government-controlled territory with the occupied city of Luhansk.

Since July 27, Ukraine took on a responsibility to enact a ceasefire and abide by it even as militants continue to violate it.

And in November, Ukraine opened seven checkpoints between the government-controlled and occupied territories, as part of its commitments at the 2019 Normandy summit.

For its part, Russia has done nothing.

Ukraine has little influence over Russia's actions, yet the United States and the European Union have all means necessary to force Russia to withdraw its troops from Ukraine.

Russian politicians and oligarchs under sanction have been traveling to the West with no restraints, Ukraine's crucial ally Germany has been supporting Russia's gas pipeline project, Nord Stream 2, while many foreign companies have been bending sanctions and conducting business as usual in occupied Crimea.

For Russia to back down, it must face more serious sanctions.

After the Normandy Summit in December 2019, Zelensky said that in case the ongoing peace talks don't work out, in one year, Ukraine will move to an unspecified Plan B.

A year has passed. Ukraine isn't the only one who needs a Plan B with Russia – the West does, too.

Ukraine has long proposed cutting Russia off from the SWIFT code, torpedoing its largely government-controlled bank system.

Russia has to be held accountable for its actions and the U.S. and the European Union can make that happen. The one thing they currently lack is a desire to enact such means.

We hope that swift actions will begin after Jan. 20, when Joe Biden replaces Donald Trump in the White House. The Kremlin has given the Western world many reasons to act, not just in Ukraine. It must do so now.



**NEWS ITEM:** Someone has tried to bribe Dmytro Sennychenko, head of Ukraine's State Property Fund, for the third time. Sennychenko, the key person responsible for the privatization of state enterprises, said on Dec. 8 that he was offered a \$100,000 "birthday present" from an employee of Mykolayivoblenergo, a local energy enterprise. This "cunning gentleman" wanted to become director of the enterprise, but was caught while offering the bribe, Sennychenko said.



**NEWS ITEM:** On Dec. 4, Ukraine's parliament reinstated legal liability for public officials who provide deliberately false information in their mandatory assets declarations. According to the new legislation, if an official deliberately conceals assets worth over \$318,000, he can face a fine of up to \$3,000. However, the law does not allow for imprisoning officials who lie in their declarations. Anti-corruption activists say this makes it easy and inexpensive to conceal ill-gotten assets.



**NEWS ITEM:** Kharkiv Mayor Hennadiy Kernes has prepared a New Year's surprise: After four months incommunicado, he is expected to return to Ukraine on Dec. 30, oligarch Pavel Fuks, a friend of Kernes, said on Dec. 8. Kernes vanished from public sight earlier in August after he was diagnosed with COVID-19. It turned out that the Kharkiv mayor was hospitalized in one of the world's best medical facilities in Berlin. During his absence, he managed to win reelection as mayor of Kharkiv for the third time.

**NEWS ITEM:** Since his presidential campaign, President Volodymyr Zelensky has placed a high priority on ending the war in the Donbas. After the Normandy Four meeting in Paris on Dec. 9, 2019, he even set a one-year deadline for his Russian counterpart, Vladimir Putin, to make progress on peace. That year has passed, but peace is no closer. Now, Zelensky's goal of peace seems ever further off than before.

See these features online at [kyivpost.com](http://kyivpost.com)

## Ukraine's Friend & Foe Of The Week



**Antonio Guterres**  
United Nations Secretary General

The UN head gets credit for keeping the issue of the Kremlin occupation of Crimea alive with a Dec. 7 resolution calling on Russia to withdraw from Ukraine's peninsula. It passed on a 63 to 17 vote, with 62 abstentions.



**Coop Himmelb(l)au, Austria-based engineering company working in Crimea**

The European Union policy regarding the Russian-occupied Ukrainian peninsula is clear: Don't do business there until the peninsula is returned to Ukraine. But this company appears to be in flagrant violation of that rule.

### Feel strongly about an issue? Agree or disagree with editorial positions in this newspaper?

The Kyiv Post welcomes letters to the editors and opinion pieces, usually 800 to 1,000 words in length. Please email all correspondence to chief editor Brian Bonner, at [bonner@kyivpost.com](mailto:bonner@kyivpost.com). All correspondence must include an email address and contact phone number for verification.

# Corrupt judges entrench as judicial reform goes nowhere

By Oleg Sukhov  
sukhov@kyivpost.com

Since coming to power in May 2019, President Volodymyr Zelensky has made little headway in his pledge to thoroughly reform Ukraine's corrupt judiciary.

Corrupt judges appear to be so entrenched they are emboldened to destroy Ukraine's anti-corruption infrastructure.

In October the discredited Constitutional Court dealt a blow to anti-graft institutions by eliminating Ukraine's public asset declaration system.

Zelensky pledged to fire all of its judges but has yet to find any solution — the same with judicial reform.

In 2019, Zelensky signed into law a bill aimed at cleansing Ukraine's discredited judicial governing bodies — the High Council of Justice and the High Qualification Commission of Judges. Since then, no cleansing has taken place.

Nor has Zelensky reacted to the Kyiv District Administrative Court, which has become the epitome of Ukraine's corrupt judiciary. Its judges were charged with obstruction of justice and graft in 2019 and 2020, but still kept their jobs.

Experts and reform watchdogs are growing more pessimistic. "No real judicial reform will take place under Zelensky," ex-Public Integrity Council coordinator Vitaly Tytych told the Kyiv Post.

The President's Office did not respond to a request for comment.

## Constitutional Court

On Oct. 29, the Constitutional Court destroyed the entire asset declaration system for state officials by depriving the National Agency for Preventing Corruption of most of its powers. The court also canceled criminal penalties for lying in asset declarations.

The Verkhovna Rada on Dec. 4 ostensibly supported reinstating penalties for lying in declarations, but anti-corruption activists criticized it for its mild penalties. Nor does the bill restore the NAPC's authority to run the asset declaration system.

Moreover, the new bill does not resolve the underlying problem of the discredited and allegedly corrupt Constitutional Court, which can still cancel any new penalties and dismantle the rest of Ukraine's anti-corruption infrastructure.

"This is an attempt to deceive all Ukrainians," Oleksandra Ustinova, a lawmaker from the 20-member Holos faction, told the Kyiv Post. "When they say that they are reinstating criminal responsibility, this is a lie."

Vitaly Shabunin, head of the Anti-Corruption Action Center's executive board, argued on Facebook that "voting for the bill in this format is lawmakers' corrupt collusion against their country."

## No solution

On Oct. 30, Zelensky submitted to the Verkhovna Rada a bill seeking



A political poster designed to resemble a wanted notice for Judge Pavlo Vovk, a suspect in a graft case, in Kyiv on Dec. 1, 2020. Despite being caught on audiotape admitting to widespread corruption, Vovk remains as entrenched as ever in charge of the Kyiv District Administrative Court.

to fire all incumbent Constitutional Court judges and cancel their ruling on asset declarations. On Nov. 3, lawmakers from the Servant of the People and Holos factions also submitted a bill to temporarily block the Constitutional Court's work by increasing its quorum from 12 to 17 judges. Currently, three of the 18 Constitutional Court seats are vacant.

Neither bill has passed.

Four Constitutional Court judges who did not support the cancellation of the asset declaration system said on Nov. 5 that they would temporarily refuse to attend court hearings. This effectively blocked the court's work due to a lack of quorum.

However, the Constitutional Court announced that it would resume work on Dec. 8 because three of the judges had returned to work.

"Eleven stooges of Russia and (oligarch Ihor) Kolomoisky are currently destroying the remnants of the Ukrainian state with the full support of (Verkhovna Rada Speaker Dmytro) Razumkov and his working group," Mykhailo Zhernakov, head of legal think-tank DEJURE, wrote on

Facebook. "Congratulations, we are heading towards the abyss."

## Venice Commission

The authorities justified delays in solving the Constitutional Court crisis by saying they were waiting for a decision by the European Commission for Democracy Through Law, also known as the Venice Commission.

The commission issued its decision on Dec. 9. It said that the Constitutional Court ruling on asset declarations "lacks clear reasoning, has no firm basis in international law, and was possibly tainted with a major procedural flaw — an unresolved question of a conflict of interest of some judges."

The Venice Commission said that "criminal liability for the submission of knowingly false declaration/failure to submit declaration should be restored."

"As regards the powers of the National Agency for Corruption Prevention (the NAPC) to verify declarations, all of its powers in respect of public officials other than judges, may be restored as they are un-

affected by the reasoning used by the Constitutional Court in its judgment," the commission added. "...As regards the powers of the NAPC vis-à-vis judges, additional safeguards may be introduced in the law to protect them from potential abuses."

"In so far as the Ukrainian legislature would contemplate the introduction of an obligation for the NAPC to periodically submit a report of its activities vis-à-vis judges, the High Qualification Commission of Judges (the HQCJ) would appear to be the most appropriate body to play this role in the Ukrainian context, because of its existing powers to verify declarations of integrity of judges," the commission said. "However, this solution is possible only once the HQCJ is re-established and only if it is composed of professional, honest and independent members."

The commission also said that "a reform of the Constitutional Court is warranted" and that "parliament should consider making more explicit its presumed intention to limit the scope of Constitutional Court decisions to the specific questions raised by the parties before it."

The Venice Commission proposed that the Constitutional Court should be obliged to "provide specific reasons for each legal provision which it finds unconstitutional" and that "a screening body for candidates for the office of judge of the Constitutional Court should be established, with an international component, which could include international human rights experts and participation from civil society, to ensure the moral and professional qualities of the candidates."

## Botched judicial reform

Zelensky's first judicial reform bill was signed into law in 2019 with the ostensible aim of firing tainted judges and creating credible judicial institutions. However, two bodies

tasked with cleansing the judiciary had not been created by the deadline set under the law for February, and the attempt failed.

As a result of the first bill, the discredited High Qualification Commission of Judges was dissolved last year but a new commission has not been created. This means that the assessment of judges' integrity and professionalism has not been carried out all year.

In June 2020, Zelensky submitted another bill on judicial reform to the Verkhovna Rada. The bill has not been considered yet and is widely panned. The bill envisages giving the discredited High Council of Justice full control over the selection of the High Qualification Commission.

Zelensky's June bill also stipulates that a selection panel composed of three members of the Council of Judges, a judicial self-regulation body, and three foreign experts would choose new members of the High Qualification Commission of Judges. However, according to the legislation, foreign experts may be nominated by any international organizations that engage in anti-corruption efforts and judicial issues.

Mykhailo Novikov, a lawmaker from Zelensky's party and head of the subcommittee for the judiciary, on Dec. 8 proposed getting rid of foreign experts altogether and stipulating that delegates of the Council of Prosecutors, the Academy of Legal Sciences and the Council of Lawyers choose new members of the High Qualification Commission.

## High Council of Justice

According to Ukraine's memorandum with the International Monetary Fund, the Ukrainian government was also supposed to create a commission including foreign experts in order to fire tainted members of the High Council of Justice if they violate ethics and integrity standards. The October IMF deadline for passing legislation on the High Council of Justice has been missed.

A presidential draft bill on cleansing the High Council of Justice hasn't even been submitted to parliament. The current High Council of Justice has a toxic reputation among Ukraine's civil society. Many of its members face accusations of corruption and ethics violations, which they deny.

On Dec. 1–3, the High Council of Justice recommended appointing 10 judges who had not undergone vetting. Some of them had been earlier identified by the Public Integrity Council, the judiciary's civil society watchdog, as violating ethics and integrity standards.

One of the judges is Viktor Kitsyuk, who had been charged with unlawfully prosecuting activists of the EuroMaidan Revolution, which ended President Viktor Yanukovich's presidency. Kitsyuk was acquitted in November but the verdict was lambasted by anti-corruption activists as lawless.

"Today's decision of the High



Deputy Presidential Chief of Staff Andriy Smyrnov



Deputy Presidential Chief of Staff Oleg Tatarov

# Rotterdam+ prosecutor refuses to take investigation to court

By Anna Myroniuk  
myroniuk@kyivpost.com

**A** Ukrainian prosecutor has refused to bring an investigation into one of the largest energy schemes in modern Ukrainian history to court, despite clear evidence of corruption, detectives say.

The Rotterdam+ coal pricing formula allegedly cost Ukrainian consumers Hr 39 billion, or \$1.4 billion. Despite that, on Dec. 9, prosecutor Vitaliy Ponomarenko argued before the Verkhovna Rada's committee on anti-corruption policy that the case into the scheme cannot be taken to court.

"In my opinion, we have no right to go to court with the materials we have," he said, according to the Slovo i Dilo media outlet.

Detectives of the National Anti-Corruption Bureau of Ukraine (NABU) have been investigating the case for three years.

Named Rotterdam+ after the coal hub in the Netherlands, the infamous formula made Ukrainian energy consumers pay extra for coal, according to NABU.

After Russia invaded and occupied Ukraine's coal-rich Donbas region, the country sought to import more coal from abroad. However, the vast majority of coal still came from domestic producers.

Despite that, Rotterdam+ set energy prices based on the coal index in European hubs "plus" the cost of the coal's delivery to Ukraine. The formula ran from 2016 until July 2019.

In his address to the parliamentary committee, Ponomarenko said



A drone picture shows an aerial view of the DTEK tower and N°1 Kyivenerho heat supply station in Kyiv on Dec. 7, 2020. DTEK has been accused of creating a lucrative scheme known as Rotterdam+, which made Ukrainians overpay for electricity by Hr 39 billions (\$1.4 billion), according to detectives.

that he did not have enough clear information on the effects of the formula and who it had harmed to bring the case to court.

"First of all, we do not have the losses estimated. Second of all, we do not have the victims identified. So, we cannot even say that there is

a certain amount of losses and that there is someone who suffered from it," he said.

NABU detective Denys Gulmagomedov told the Kyiv Post that Ponomarenko was "manipulating the facts."

NABU obtained as many as three expert analyses that estimate the losses, he said. According to one of them, the formula cost public energy consumers Hr 39 billions (\$1.4 billion).

This money became additional profit for DTEK Group, a company owned by Ukraine's wealthiest oligarch, Rinat Akhmetov. The NABU found evidence that DTEK, which controls 70% of the country's coal energy, created the formula and colluded with the regulator to make it law.

DTEK denied the accusations.

The energy company also acquired three expert analyses. According to them, the formula caused no losses.

Such contradictory claims are normal in a competitive court case, Gulmagomedov said, but, as a prosecutor, Ponomarenko should have taken the side of the detectives.

Addressing Ponomarenko's claim that there were no victims in the case, Gulmagomedov said that the victims of the scheme were Ukrainian customers.

"If we put it simply, the victim is the one who paid extra money under the tariff of the state's regulated price," the detective said.

The criminal code of Ukraine does not oblige every single energy customer in the country to go to court and sue DTEK, the detective argued.

"The prosecutor is trying to manipulate (the case by raising) the absence of specific victims, although he knows for sure that their presence or absence is not significant for this criminal proceeding," Gulmagomedov said.

The Cabinet of Ministers is supposed to represent Ukrainian energy consumers in the court, he added.

This is not the first time that Ponomarenko has halted the investigation.

In August, he partly suspended the case because he believed there was a lack of evidence against the six suspects, who included DTEK employees, and that it was impossible to establish the size of the losses.

Since late October, Gulmagomedov and his colleagues have been asking Prosecutor General Iryna Venedikova to replace Ponomarenko with a different prosecutor. She has declined.

In response to the Kyiv Post's request for comment, the Special Anti-Corruption Prosecutor's Office refused to address the allegations against Ponomarenko and only said that it is an independent body that closed the case for a reason.

On Oct. 27, the High Anti-Corruption Court ordered that the Rotterdam+ investigation be reopened.

Ponomarenko has the power to do this, but he has chosen not to.

"If we pose the question of what reasons the prosecutor in the case has for such behavior, the short answer would be: political will," Gulmagomedov said. ☺



## Scoreless draw for Shakhtar Donetsk

Inter Milan's Argentine striker Lautaro Martinez (C) shoots a header on goal despite competition from Shakhtar Donetsk's Ukrainian defender Valeriy Bondar (R) during the UEFA Champions League soccer match between Inter Milan and Shakhtar Donetsk at the Giuseppe-Meazza (San Siro) Stadium in Milan, on Dec. 9, 2020. The game ended in a scoreless draw, which allowed Shakhtar Donetsk to secure third place in a group of four and qualify for the upcoming UEFA Europa League playoffs, scheduled to begin in February. Inter Milan settled for fourth place and has ended its European soccer season. The first two places, in the UEFA Champions League Group B, were won by Spanish Real Madrid and German Borussia Mönchengladbach, who advanced to the UEFA Champions League playoffs.

# Zelensky's embrace of Tatarov, Smyrnov seen as killing reform

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Council of Justice is a crime," Halyna Chyzhyk, a judicial expert at the Anti-Corruption Action Center, wrote on Facebook. "And all 15 (council members) must be held responsible for it."

The council did not respond to a request for comment.

### Vovk unpunished

Meanwhile, Pavlo Vovk, head of the Kyiv District Administrative Court, has become the symbol of judicial lawlessness and corruption. Despite being charged twice with large-scale crimes, Vovk and other judges of his court are still ignoring summonses, escaping prosecution and keeping their jobs.

They were charged with obstruction of justice in July 2019 and with organized crime, usurpation of power and bribery in August 2019. Half a year after the second charges were brought, the case is still being blocked by Prosecutor General Iryna Venediktova, a Zelensky loyalist, and other officials.

The Prosecutor General's Office did not respond to a request for comment.

In November, the National Anti-Corruption Bureau of Ukraine (NABU) applied for Venediktova's permission to arrest Vovk, but she has so far failed to approve the request.

In August Serhiy Vovk, a judge at Kyiv's Pechersk Court who is not related to Pavlo Vovk, helped his colleague escape prosecution by ruling that the Vovk case must be taken away from the NABU.

The President's Office said on Nov. 25 that it had sent a letter to the High Council of Justice to initiate consultations on the Kyiv District Administrative Court's liquidation. The council denied receiving the letter.

In November, Pavlo Vovk scored yet another victory when the NABU had to close a case into allegedly incorrect information in his asset declaration due to the Constitutional Court ruling that eliminated criminal penalties for lying in asset disclosures.

### Tolerance for corruption

There are cases inside the administration itself that indicate that the president and his closest circle have a high tolerance for tainted officials. The latest manifestation was



A man holds a sign that reads "Constitutional Court = corruption court" on Nov. 7, 2020, outside the home of the mother-in-law of the head of Ukraine's Constitutional Court, Oleksandr Tupitskiy, near Kyiv.

the case of Oleg Tatarov, a deputy chief of staff for President Volodymyr Zelensky.

Not only was Tatarov appointed despite the fact that he served as a police official under Yanukovich and, in this role, justified attacks against EuroMaidan activists by riot police, but he also turned out to be a suspect in an embezzlement case.

The NABU is investigating alleged embezzlement conducted through a housing development contract for Ukraine's National Guard and carried out by real estate company UkrBud, which is owned by Maksym Mykytas, a former lawmaker. Investigators suspect that Tatarov, formerly a top lawyer for UkrBud, bribed a forensic expert to get false

evaluation results that helped the company.

In response, Tatarov publicly attacked the NABU — contradicting the president's promises that NABU will remain intact. Then, on Dec. 2, Venediktova blocked the case against him by taking it away from four prosecutors who were in charge of it. Her office denied any wrongdoing. Tatarov, ironically, is in charge of law enforcement in the administration of Zelensky, including solving the Constitutional Court crisis.

Another top official in Zelensky's administration whom activists accuse of failing judicial reform is Deputy Chief of Staff Andriy Smyrnov.

"As long as Smyrnov is responsible for judicial reform at the President's Office, no reform will take place," Chyzhyk told the Kyiv Post. "Why is there no bill on the liquidation of the Kyiv District Administrative Court and no bill on re-launching the High Council of Justice?"

"It's not sufficient for Zelensky just to make statements on judicial reform," she adds. "He must demonstrate this through his actions and decisions." The Kyiv Post requested but did not receive a response from Smyrnov.



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# Mikheil Saakashvili: 10 steps to a better nation

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70% of Ukrainians have no trust in the justice system. A fundamental, decisive, and fast justice reform should be prioritized. Changing judges won't help — we have to overhaul the system.

We have to drastically reduce the number of courts, eradicate specialized courts, and introduce a new court control system. In order to digitalize the field of justice, the Office of Simple Solutions and Results has suggested moving key procedures such as filing lawsuits and paying court fees online. The Constitutional Court is an otiose institution that has disgraced itself many times, and we need to come together as a nation to collectively decide on the verdict for its actions.

In order to unload the courts, we also suggest using alternative dispute resolution tools such as arbitration courts and mediation. Additionally, if we could introduce jury practice in categories with special important and socially dangerous crimes and use English common law to solve investment disputes, this reform could be a mind-blowing success.

## 2. Privatization

Ukraine could earn \$10 billion if privatization was upheld quickly and in a smart way. The annual losses of state-owned enterprises are Hr 184 billion, or 6.5 billion, according to an analytical note published by the Security Service of Ukraine. During the first meeting of the National Reforms Council, we presented the concept of accelerating and simplifying rapid privatization. State enterprises are an economic resource that has been neglected, and the longer we continue to turn blind eye to the potential ways of utilizing it — such as privatization — the more we lose in economic terms. Behind every state-owned enterprise there is a deeply-rooted corruption interest. Transparent and clear rules of game that we are proposing can bring Ukraine billions of dollars. In order to help the economy, we need to take the risks.

## 3. Exit capital tax

Income tax is entirely corrupt, and fighting corruption is our main pursuit. Exit capital tax — a concept supported by Zelensky — is the innovative solution our country needs that would allow us to attract investment and elevate economic growth.

Such a tax was introduced in Estonia in 2000, a post-Soviet country known as the most attractive country for business activities. Under the exit capital tax, businesses will be exempt from paying 20% of their revenue to the state. Instead, they will be able to invest the money into their companies. Exit capital tax will also reduce tax pressure on business, make it easier to keep official records thereby opening access to credit resources. By abolishing the income tax and opting for exit capital tax, we will attract \$4–6 billion of additional investment per year.

The draft law should be registered in parliament.

## 4. Subsoil use

Currently, mining is carried out only



A drone picture shows an aerial view of Khreshchatyk Street and the Monument of Independence on Oct. 15, 2020, at Maidan Nezalezhnosti Square in Kyiv.

Volodymyr Petrov

on 35% of all explored deposits of industrial significance in Ukraine. The subsoil user's path to the immediate start of mining is a complex and bureaucratic process that takes 1–2 years and involves obtaining several permits from 8 bodies. Trillions of hryvnias are buried in the rich lands of Ukraine, and we need to let businesses extract minerals and pay taxes, and that would be a win-win situation for all.

Together with the Ministry of Environment and the Environmental Committee of the Parliament, the Office of Simple Solutions and Results has developed a comprehensive reform in the form of a draft law that would enable miners to obtain a special permit in a 2–4 month period through one government body under a single permit. Additionally, we believe we should digitalize the relationship between the state and subsoil users. All available geological information of the state should be placed on the Interactive map of minerals, and all documents will ideally be submitted through the electronic office of the subsoil user in electronic form.

Another problem is the heritage that lots of valuable deposits have been obtained through corruption schemes in an unfair way by interest groups. These are so-called sleeping permits, and in order to incentive tax measures based, we propose to opt for the "use-or-drop" principle.

As part of the mining reform, we are also helping the president with the Ukrainian economic passport reform.

Zelensky previously proposed introducing a Ukrainian economic passport, and we have been helping him bring that noble idea to life. The concept goes as follows: every child should have the right to accumulate in his account part of the state's sale of natural resources (subsoil, land, etc.). And after reaching adulthood, the child will receive these savings as start-up capital. This would allow children to have some certainty about the future. We have closely examined the foreign experience of similar direct payment and have met

with the respective stakeholders to discuss our vision of the reform. We will brief the President on our concept shortly.

## 5. Construction

The construction sector has been crippled by corruption for years. In order to overcome it and attract investment, we have to transfer control to third parties. The new system should eliminate the government's monopoly in the construction control field, and it will function in a similar manner to the system of private notaries, where there is transparent and fair competition, and therefore there will be no incentive to accept bribes. We also need to fight against illegal settlements and solve the problem of unfinished construction and protect the rights of investors.

The initiative is actively supported by all major stakeholders — the National Reforms Council chaired by Zelensky and Prime Minister Denys Shmyhal — and we expect it the law to be passed by the end of this year.

## 6. Electricity

Getting access to electricity in Ukraine is complex and very time-consuming. In some cases, it may take years. At the same time, the connection costs borne by businesses are among the highest in the world. Ukraine is lagging behind many prosperous countries — even Russia and Belarus have opted for a more liberal approach — and the need to find the most efficient solution is urgent. As of 2019, Ukraine ranks 128th out of 189 countries in the World Bank's Doing Business ranking in terms of ease of connection to electricity networks. We haven't moved up since 2014 mainly due to the ignorance of previous Ukrainian governments.

One of our top priorities in this field should be to ensure that electricity services are provided in the shortest possible time and in the most convenient and simple way. We propose to reduce the time needed to get electricity from 270 days to 97 days and cancel unnecessary bureaucratic procedures. A draft law prepared by the Office of Simple

Solutions and Results is the first step towards getting electricity reform.

## 7. Labor

The Office of Simple Solutions and Results is also working on a comprehensive labor code reform. As of now, Ukrainian labor regulations are excessively bureaucratic and overly intrusive. The existing labor code is outdated and fails to meet the changing working environment. It is a reminder of our painful Soviet past.

For example, companies need to sign off around 20 documents per employee which is burdensome time and resource-wise for big and small enterprises. We propose deregulating labor relationships according to the principles of voluntary agreement and limited state intervention, and a draft law is being prepared. It should be completely up to employers and employees to decide on the details of their labor arrangements. Plus, the nature of work is changing, and we need to ensure our legislation can keep up.

## 8. Health-care reform

Our health-care system has been hardly prepared for the pandemic. But even without the coronavirus, Ukraine's health care is hardly a matter of national pride. Some of the reforms initiated in the past haven't yielded many positive results. The health and wellbeing of Ukrainians are of the highest value and so we need to act now and ensure they have access to the best health-care services. Private insurance and public-private partnerships that have proved to be successful globally could help us go out of the healthcare gridlock. Together with the Ukrainian parliamentarians Ministry of Health we will be working closely to examine the latest trends and will soon present a viable strategy in these two major directions.

## 9. Land reform

Since regaining independence, Ukraine hasn't managed to finalize a smart land reform. Multiple attempts have been made, and, finally, starting from 2021, we will open our land market and restric-

tions on purchasing of agricultural lands will be relieved. However, in order for the reform to be successful, we need to deregulate the purchasing process by implementing electronic auctions, guarantee transparency, and limit the number of steps potential buyers need to take before they can dispose of their land. Additionally, it is also important to ensure local communities are able to make decisions about how to use the land since managing and utilizing the land will be their responsibility which will help enhance their local budgets.

## 10. Deregulation

As a democracy, Ukraine has made significant steps towards enhancing the relationship between its electorate and officials. And yet, the Ukrainian government has not been very responsive to ideas and concerns expressed by the business.

Ukraine is in dire need of business-friendly reforms, and the Office of Simple Solutions and Results has been working closely with Ukrainian businesses to identify black holes in our business climate and develop feasible solutions.

For example, Ukrainian small wine producers face unreasonable difficulties. Unjustified increased state interventions, the bureaucratization of basic processes and outdated existing standards make it impossibly difficult to produce and sell wine for small wine producers. The Ukrainian wine market is dominated by imported products and wine produced by large producers. Although there are hundreds of potential producers in Ukraine, they cannot enter the market due to the existing regulations. Moreover, the ban on the purchase of grapes for small producers contradicts the laws of the free market and blocks their development in Ukraine.

If we cancel licences for small wine producers as well as excise taxes and stamps for the industry as such, we will reduce market entry barriers and make it easier to produce wine in Ukraine. I will be presenting our concept at the upcoming National Reforms Council meeting.

There are many other examples of the flawed policies, and we are working hard to identify and tackle them.

Ukraine's ranking in international indexes of economic freedom is depressing. We are the 134th freest in the Heritage Foundation's Index of Economic Freedom, and, according to the Doing Business Index 2020, we are the 64th business-friendly economy in the world. However, if we follow the easy steps outlined above, I am confident we can break the chains of corruption, bureaucracy, and overregulation and make Ukraine a success.

I would like to encourage businesses to reach out to our team with ideas of how we can make Ukraine better, and our experts will gladly work together with you and ensure the president, the Cabinet of Ministers, and parliament hear you.

Mikheil Saakashvili is chair of the executive committee of the National Reform Council. ☺



# Mykhailo Zhernakov: Ukraine's courts are incapable of self-reform; we must start over

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Council of Justice, which is tasked with protecting the independence of judges and disciplining them for wrongdoing, is instead accused of prosecuting whistleblowers while keeping corrupt people and structures intact.

## Vovk tapes

This summer, the National Anti-Corruption Bureau of Ukraine (NABU) released tapes allegedly recorded in the office of Pavlo Vovk, the president of Kyiv's District Administrative Court. The recordings appear to capture Vovk and other judges plotting to influence other courts and judicial governance bodies, while boasting that they "own two courts – the District Court and the Constitutional Court." Despite public outrage and an ensuing criminal investigation, the High Council of Justice unanimously refused to suspend these judges.

Things took a turn for the worse this fall.

## Horrible rulings

In October, the Constitutional Court of Ukraine dismantled a key element of Ukraine's anti-corruption infrastructure. It ruled that those who provide false information in asset declarations will no longer face criminal liability. The court stripped the National Agency for Corruption Prevention (NACP) of nearly all of its authority and removed the asset declarations system from public scrutiny. These

moves contradicted the law. The decision was not well-grounded. The Court exceeded the scope of the constitutional submission and even canceled some anti-corruption rules that the court was not asked to consider.

## Attack on Western ties

It is widely believed that Ukraine's anti-corruption architecture was not the ultimate target of the 47 pro-Russian and oligarch-controlled members of the Ukrainian parliament who first signed the submission to the Constitutional Court. Instead, the MPs who pushed for the Constitutional Court ruling were actually aiming to harm the relationship between Ukraine and the country's Western partners, who see the fight against corruption as a key condition for continued cooperation and support for Ukraine's Euro-Atlantic integration.

## Kremlin sabotages state

The recent Constitutional Court decision has sparked a political crisis in Ukraine and underlined the scale of the challenge posed by the country's unreformed judiciary. This is more than a matter of Ukraine's old elites fighting back against a reform agenda that threatens to undermine their dominance. The oligarch groups behind this courtroom counter-revolution are actively working in partnership with Kremlin interests to undermine Ukrainian statehood.

This requires immediate action not only from the Ukrainian government, but also from the country's Western partners.



Oleksandr Tupytsky, chairman of the Constitutional Court of Ukraine (C), arrives at a hearing on the constitutionality of the country's lustration law on June 23, 2020 in Kyiv.

## How to fix problem

First, Ukraine must fix the Constitutional Court. The number of votes required from individual judges in order to adopt any Constitutional Court decision should be raised in order to reduce the potential for corrupt officials to influence the workings of the court. The composition of the court also needs to change. Crucially, this must be done via a competitive and transparent selection that is subject to outside scrutiny.

A complete overhaul of the Constitutional Court would be the first of many necessary steps. The Constitutional Court is just the tip of a vast iceberg that threatens to sink Ukraine's anti-corruption efforts and currently allows the country's oligarch elite to act with impunity.

The roots of the problem go deep inside the Ukrainian justice system and can only be dealt with by full-scale, comprehensive judicial reform. Ukraine has attempted this on several occasions but has never come close to succeeding. Indeed, some would claim that all previous efforts have been little more than cosmetic in character.

This time, however, Ukraine can no longer afford to repeat the mistakes of the past. The Ukrainian authorities should not pretend that

the judicial system is capable of cleansing itself. Instead, we should treat it as a criminal syndicate controlled by the enemy.

## Investigate the judges

Constitutional Court judges who issued recent decisions undermining Ukraine's anti-corruption efforts should be subjected to a thorough investigation, with the prospect of sanctions and international asset freezes. The rest of the Ukrainian judiciary must face similar levels of scrutiny, along with the possibility of legal consequences up to and including imprisonment.

Ukraine's judicial governance bodies, such as the High Council of Justice and the High Qualifications Commission of Judges, need to be relaunched with the help of independent international experts. In fact, this is something Ukraine is already obliged to do in line with its commitments to the IMF and the EU. Enforcing this obligation for international oversight could mean the difference between the success and failure of judicial reform.

## Fire corrupt judges

Once they have been reloaded and relaunched, these institutions will have to address the herculean task of dismissing corrupt judges and hiring replacements with the necessary credentials. Ukrainian civil society

should be given a say in the process and granted powers to prevent corrupt judges from remaining in position.

The sheer size of the undertaking facing Ukraine should not be underestimated. However, there is unlikely to be a better chance. The current crisis sparked by the recent Constitutional Court rulings has helped to open a window of opportunity to address the need for fundamental change within Ukraine's dysfunctional and corrupted judiciary. There are also currently still enough votes in parliament to form a pro-reform majority, at least in theory.

If Ukraine fails to act now, similar opportunities may prove elusive. This would be disastrous for the future of the country. Unless the court system is cleansed of chronic corruption, any future attempts to pursue reform and Euro-Atlantic integration will be hostage to the kind of legal sabotage we have seen in recent months from the Constitutional Court. Ukrainians will remain trapped in a society controlled from behind the scenes by a flawed justice system that operates in the interests of oligarch clans and the Kremlin.

*Mykhailo Zhernakov is chair of the board at the DEJURE Foundation. He formerly served as a judge of the Vinnytsia District Administrative Court (2012–2015). He tweets @DEJURE\_UA*

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# Dmytro Kuleba: Sabotage is designed to cut Western ties

page 1 →

to undermine our relations with the European Union and other international partners. I was fuming with anger over how perfect this outcome was for all those who dream of derailing Ukraine's integration with the West. The ruling's consequences were ideal for an unholy coalition of those with vested interests in the old system, Ukraine's pro-Russian politicians, and the Kremlin itself.

The atmosphere at the NSDC meeting was heated. The president initiated immediate action to restore confidence in Ukraine's reforms and the fight against corruption. The Cabinet of Ministers held an urgent meeting within just a few hours, ordering the National Agency for the Prevention of Corruption to immediately restore public access to the register of asset declarations. Over five million declarations swiftly reappeared online.

## Wide-ranging threats

Unfortunately, the ruling's consequences are more far-reaching. The Constitutional Court decision has undermined the legality of dozens of ongoing trials. This has already led to some being closed.

Furthermore, the threat posed by the Constitutional Court goes far beyond the e-declarations system.



Activists throw smoke bombs during a rally in Kyiv outside the Constitutional Court, demanding the resignation of the judges after their ruling nixed anti-graft laws on Oct. 30, 2020.

A number of other requests are currently pending the Court's consideration. The list includes Ukraine's groundbreaking 2020 land reform, banking sector reform, and other milestones in the country's reform

progress of recent years. Given what the court has done to e-declarations, the prospects for other major reforms now appear equally ominous.

The scale of the threat helps to explain why the Ukrainian govern-

ment is so determined to take further urgent steps. The legal framework of Ukraine's anti-corruption efforts has to be restored as soon as possible. It is now up to Ukraine's parliament to decide the optimal way out. I hope parliamentarians will be able to find systemic solutions as soon as possible.

## Nightmarish court

Unfortunately, the founding fathers of the Ukrainian Constitution could not have predicted the nightmare of the country's own Constitutional Court attacking the very foundations of the social contract. Therefore, finding a solution to the current crisis is no easy task.

Zelensky is in regular contact with the Venice Commission, the European body dedicated to promoting democracy through law. In a Nov. 25 letter, the president asked the Venice Commission to assess the constitutional crisis and to provide an opinion on the current state of anti-corruption legislation. He has offered reassurances that Ukraine is determined to find a balanced solution to overcome the crisis and restore the legislative mechanisms to prevent and combat corruption, as well as to safeguard reforms.

## Progress threatened

Ukraine has gone a long way towards rooting out corruption since 2014, especially in the energy and public procurement sectors. The fight against corruption already saves Ukraine's budget billions of US dollars annually. An entire anti-corruption infrastructure has been set in place, including three independent branches: the investigative National Anti-Corruption Bureau, the Specialized Anti-Corruption Prosecution Service, and the High Anti-Corruption Court. Ukraine is the only country in the region which has been able to establish such a full-fledged anti-corruption system.

Polls consistently demonstrate that the fight against corruption remains one of the top priorities for Ukrainians. It has been at the core of the post-revolutionary social contract, and was the main driver behind Zelensky's landslide victory in the country's 2019 presidential election.

Over the past six years, there have been many ups and downs along the road in Ukraine's struggle against corruption. Progress was often followed by setbacks and new breakthroughs. The current situation is no exception. The opponents of change will not succeed in dismantling Ukraine's anti-corruption reforms, however hard they may try.

## Old guard senses danger

Nevertheless, the arrogance of this latest attack is telling. The reason is quite clear to me. The corrupt old guard wasn't happy with e-declarations from the very beginning.

But as long as no punishment followed, they did not perceive e-declarations as posing any real danger.

This changed with Zelensky's presidency. Soon after he was elected and his party gained a majority in the parliament, real powers were finally given to anti-corruption bodies. The article on illicit enrichment was restored to the Criminal Code. The National Anti-Corruption Bureau of Ukraine finally received the right to wiretap officials, something only traditional law enforcement bodies were previously allowed to do. The High Anti-Corruption Court began functioning, focused solely on high-level corruption cases. The first convictions soon followed.

At this point, vested interests did strike back against national interests. The old guard wants to drag Ukraine back to the times when they could siphon public money off with impunity and play Russian-style politics. We will not let them succeed.

As I remember the surreal feeling I had at the National Security and Defense Council a few weeks ago, I am surprisingly optimistic about the prospects for the future. Ukraine's judiciary has been the biggest obstacle to reforms since 2014. Efforts to reform it have had limited success. It is now clear this must change. The latest Constitutional Court attack leaves no more room for negotiations and no time for weak decisions. Any talk of compromise solutions is firmly in the past.

Ukraine has no other choice than to fundamentally reform the judiciary, even when it requires tough political decisions and political will.

Zelensky's determination to do this is now backed by even stronger public demands. Ukraine's judiciary needs a complete reboot, and the country's international partners should also be engaged in the process to ensure tangible results and soothe any possible fears of mismanagement. Having the new US administration weigh in and support these efforts would be most welcome and helpful.

*Dmytro Kuleba is Ukraine's minister of foreign affairs.*

## TOP 10 KYIV POST exclusives online this week

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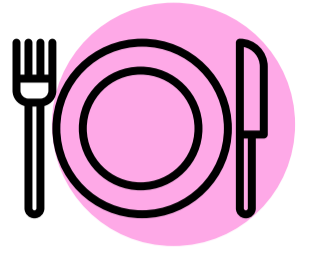


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# Lifestyle

Play | Food | Entertainment | Sports | Culture | Music | Movies | Art | Community Events

Time is running out to dine in a favorite restaurant. Because of the spreading coronavirus, Ukraine's government has decided on a new lockdown starting Jan. 8.



## Balbek Bureau wins global fame for offbeat design

### City Life

With Daria Shulzhenko  
shulzhenko@kyivpost.com

### Ukrainian-made goods to brighten up the winter holidays & the next lockdown

By mid-December, a festive mood has usually enveloped the entire world, as people in different countries prepare for the upcoming holiday season.

But "the most wonderful time of the year" in 2020 has been overshadowed by the COVID-19 pandemic. Not only is the atmosphere far from celebratory, but also the essential holiday elements, like family gatherings and shopping for presents, can now be dangerous and require extra precautions.

Ukraine was a whisper away from making the holidays even gloomier by imposing a strict lockdown in late December, but the government abandoned the initial plan because of a slight decline in the infection rate. Instead, Ukraine will have a lockdown on Jan. 8–24, right after Orthodox Christmas, celebrated on Jan. 7.

Since the measures require restaurants, cinemas, galleries, nightclubs and other venues to close, locals will have to spend much of their leisure time at home. So it may be well worth it to prepare in advance. Besides numerous options for food delivery from grocery stores and restaurants in Kyiv, people can also brighten up the time indoors with treats like sweets and wine, as well as goods that make home cozier.

Local producers offer a variety of items that will help make the lockdown enjoyable. Shopping for them is also a chance to support businesses in Ukraine that have struggled throughout the crisis caused by the pandemic.

#### Wine

There is nothing better than savoring Christmas and New Year's with a warm mug of mulled wine, especially if the drink is made of decent wine from a local producer.

In Kyiv, one can find plenty of good local wine to stock up on. The capital's Goodwine and Wine Time stores offer a great selection of options from Ukrainian wineries, including Shabo, Kolonist, Prince Trubetskoi and more.

Apart from that, Kolonist winery has opened a store in Kyiv where, besides wine, one can also purchase their grape seed oil, grape vinegar and wine-flavored cosmetics. As for the wine itself, Kolonist offers a great variety of their white, red and sparkling options along with Ukraine's famous Odesa Black, a dry red wine made from a grape variety of the



One of Ukraine's star architecture Balbek Bureau most famous projects is Kyiv Food Market, transformed from a former 18th-century-built military arsenal. For developing a design for the venue that brought together dozens of bars and restaurants under one roof, the bureau received an award in the commercial interior design category from the Architecture MasterPrize 2020.

By Liza Semko  
semko@kyivpost.com

A 19th century church in San Francisco had stood semi-abandoned for nearly 30 years before it recently reopened as an event hall. It was neglected and now it stuns with its beauty: a pipe organ under a high ceiling, massive arches and sofas in the aisles.

Such a transformation wouldn't be possible without Ukrainian architecture and interior design studio Balbek Bureau, which redesigned the Our Lady of Guadalupe Church into a modern venue.

The church had been a place of worship since 1880, but the number of attendants was decreasing year after year and the church eventually closed in 1990. For the last 20 years, its semi-basement was used as school premises.

Now the church has been transformed into a modern event hall with a co-living and an educational center in a single complex.

Slava Balbek, founder of the bureau, says the main condition was to preserve the historical value of the place while making something new out of the church building.

"We can scrap it on request, remove (our design) and the church will be restored as a historical monument," Balbek told the Kyiv Post.

The church has become the most famous project of Balbek Bureau, but it's only one out of over 50 that the company has designed globally.

Apart from the U.S., the company works in Ukraine, China, Britain and Russia, designing restaurants, bars, offices, hotels, stores, apartments and other spaces. Over 13 years, their designs have won or been shortlisted for 13 international awards.

Recently, they received a prestigious accolade from U.S. Interior Design Magazine in the Beauty category for their work on the Say No Mo nail bar in Kyiv.

In Ukraine, they have also designed offices for Grammarly, Banda Agency, Molodist restaurant, the Bursa Hotel, as well as their most well-known projects, the Odesa Food Market and Kyiv Food Market.

#### Advancing design

Kyiv Food Market is a signature project of the bureau in Ukraine — Balbek Bureau converted an 18th-century military arsenal into a big market that brings together over 20 bars and restaurants under its roof.

The place got so popular with locals that the President's Office even chose it to hold Volodymyr Zelensky's press marathon in 2019. Later, Balbek Bureau got an award for it in the commercial interior design category at the Architecture MasterPrize 2020.

Balbek, however, says his main criteria for a successful design is positive reactions from visitors.

"I don't take comments from clients who ordered the object as seriously as feedback from visitors, because the objects are made for visitors," Balbek said, adding that he comes to places he designs to see where exactly people like to hang out.

Another locally popular project the bureau has worked on is the design of a flat in a khrushchovka, a type of a low-cost, concrete-paneled, five-story apartment building named after Soviet leader Nikita Khrushchev.

The bureau combined an atrocious, Soviet-reality style interior with bare greenish walls, a minimalist loft design and high-tech home appliances. Balbek called it "KhrushchLoftka."

Many have criticized the apartment, but both the bureau and the client were satisfied with the result.

Balbek says that, although it wasn't their highest-level work, the bureau enjoyed working on it a great deal, since it served as a distraction.

"We made it simultaneously with projects in the U.S.," Balbek said. It was such an (emotional) outlet."

The bureau often comes up with offbeat decisions. In one of their designs for creative agency Banda, they installed a swimming pool (without water in it) inside the office, so that the employees could change their setting and recharge.

The company's ability to experiment is limited by the client's flexibility. Luckily, with Banda the sky was the limit.

"They said, 'Of course, let's do it. We will wear flip flops and hold meetings in flip flops,'" Balbek said.

Later this office design won the Annual Office Space Award at the International Design Media Awards 2019.

Balbek said his bureau doesn't compete with other Ukrainian architecture and design studios because there are enough clients for each of them.

"If we all together make Ukrainian design better and of higher quality,

# ‘Ukrainian design is world class,’ says Slava Balbek

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then we aren't competitors, we are partners," he said.

## Impact over income

Balbek Bureau creates architecture and interior design projects both for big and small spaces, but the company doesn't charge their clients based solely on the area.

"We form the price based on a number of factors: the workload of our team, our interest, what we get from the point of view of aesthetics, output," Balbek said. "We don't design for money — we design for the result."

One of the bureau's main features is that its work is always minimalistic. "I'm for minimalism that verges on emptiness," Balbek said.

Another one is that the bureau doesn't pick projects that violate any security and inclusivity standards, as well as projects surrounded by scandals or politics.

The bureau does its best to turn all its designs into reality. "We don't do projects on paper," Balbek said. The only exception is their redesign of a Soviet-era building called Tarilka, or Flying Saucer.

Balbek is such a fan of Soviet modernism that his bureau, along with other specialists, including creator of the Flying Saucer Florian Yuriev, volunteered to draft the restoration plan for this Kyiv building.

According to the project, they propose to establish an exhibition space in the building, modernize its concert



Slava Balbek, founder of award-winning architecture Balbek Bureau, talks to the Kyiv Post in the company's Kyiv office on Oct. 23, 2020. Aside from Ukraine, the bureau developed projects abroad including in the United States, the United Kingdom and China.

hall and install illumination on the facade. The restoration is estimated at \$836,000. The project has never been brought to life though, because nobody wanted to invest in it.

Simultaneously, Vagif Aliyev,

owner of the Mandarin Plaza Group that rented this building for some 20 years, promised to reconstruct the Flying Saucer and create a science museum there.

However, Yuriev and the activ-

ists are concerned that the building could be reconstructed as the entrance to the new Ocean Mall looming behind it.

Recently, the Flying Saucer received the status of an architectural monument and cultural heritage object, and activists hope it will protect the Saucer from reconstruction.

Balbek says he hopes that the restoration project that his bureau made in cooperation with other activists will be brought to life. "If someone is ever able to carry on restoring this project — no matter for political or commercial reasons — we will be happy to keep working on it," Balbek said, adding that his bureau would do it for free.

In fact, the bureau wants to do more projects for free if they see their work can impact people's lives.

## International expansion

Though advancing design in Ukraine is one of the primary goals for Balbek Bureau, the company has proved itself to be a strong player on the international arena. This year, despite the economic crisis caused by the COVID-19 pandemic, was no exception for them.

The company created a concept for a 1,000-square-meter Darron Marketing Center in China, their first architecture project in the East Asian country, which they were developing for five months.

Darron is an environmental science and technology park in Qingdao, Shandong Province in China, and the marketing center is part of it. The bureau is continuing to work on another building in the park — Darron Incubation Center.

The company is also developing designs for a private club, hotel, motel and residential house in San Francisco, a city they have been doing business in for over three years.

According to Balbek, the process of designing is always different depending on the country. In Ukraine, for example, the work is faster and 10 times cheaper than in the U.S.

The bureau prefers to craft its own sofas, tables and other furniture to fit the design and keep it authentic, rather than buy ready-made products. In Ukraine, they craft 50% of the items they need. But in the U.S., such services would cost dearly for the bureau's clients.

"When we tried to do projects in the U.S. with the same approach, we were told: 'Guys, you are overspending.'"

Nevertheless, the Ukrainians enjoy working in the U.S. market and plan to open a branch there in 2021. It will most likely be a sales office, while the core team will remain in Kyiv.

The bureau aims to continue expanding the international market and developing designs for spaces all over the globe. And Balbek says it's no surprise that there's demand for a Ukrainian architectural company's services abroad.

"Ukrainian design is already world-class design," he said. 🇺🇦



## St. Andrew's Church on high

A drone photo shows an aerial view during heavy fog and air pollution of the St. Andrew's Church and Andriivsky descent in downtown Kyiv on Dec. 5, 2020. One of the main churches in Ukraine, St. Andrew's Church is once again accessible to believers and all interested tourists. The monument has been under restoration for almost five years. On Dec. 13, the first service will be held here. On the eve of the first service, the cathedral will officially open, an event that will be broadcast online. While the doors of the church were closed to visitors, specialists replaced the engineering networks under the foundation and the restorers took care of the ancient icons and paintings inside.



The star architecture Balbek Bureau designed an office for the creative Banda Agency in Kyiv. One of the design's unusual decisions was installing a swimming pool (without water) inside the office, so that the employees can change the setting and recharge.

# Ukraine's new lockdown starts on Jan. 8 and ends on Jan. 25

By Bermet Talant  
talant@kyivpost.com

Thousands of Belarusian tech specialists move to Ukraine to escape crackdown 24 COVID-19 in Ukraine: 11,590 new cases, 167 new deaths, 381,137 active cases 14 Kolomoisky's Cleveland office manager defaulted on \$18.5 million loan 14

Ukraine will go into a nationwide lockdown starting on Jan. 8 until Jan. 24 to curb the spread of COVID-19, Prime Minister Denys Shmyhal announced on Dec. 9.

The government abandoned an earlier plan to introduce a strict lockdown over the New Year and Christmas holidays in the wake of a slight decline in the infection rate. Shmyhal attributed the positive trend to better mask enforcement as well as "the weekend lockdown" — restrictions on some businesses that were in place for three weekends in



A woman wearing a face mask walks on Khreshchatyk Street in downtown Kyiv on Nov. 26, 2020.

## What will be closed?

- Cafes, bars, restaurants (delivery and takeout only)
- Non-grocery stores and bazaars (delivery only)
- Cinemas, theaters, art galleries, museums
- Gyms, fitness centers, swimming pools
- Shopping malls, except for stores selling essential goods (defined as groceries, hygienic and household goods, medicines)
- Night clubs, concert venues
- Hostels, but not hotels
- Schools and universities, but not kindergartens

## What will be open?

- Grocery stores, pharmacies, banks, post offices, petrol stations without food zones
- Hotels (with restrictions on dining)
- Hairdressers' and beauty salons (by appointment only)

November — despite earlier claims by top officials that it had not been effective because the public did not comply.

"The situation is difficult but we see a positive trend," Shmyhal said.

Ukraine has registered 845,343 confirmed cases of COVID-19 and 14,204 deaths since the start of the pandemic. Currently, there are over 380,000 active cases, and over 930,000 suspected cases of the coronavirus disease.

Health Minister Maksym Stepanov explained the choice of dates for the 16-day lockdown by the seasonal peak in flu infections at the end of January and the beginning of

February. Influenza shares many symptoms with COVID-19 and its overlapping with the pandemic poses additional challenges for the medical system.

The final version of the government decree is yet to be published. Deputy Health Minister Viktor Lyashko said on Dec. 5 that ski resorts and churches will be open, too.

Public transport will not be halted during the January lockdown, but the requirement that the number of passengers should not exceed the number of available seats remains.

All mass events are banned.

Professional sports competitions are allowed without spectators.

Cross-border and intercity travel will be open.

Staffers of state and communal bodies will work remotely. Companies and organizations are recommended to allow employees to work from home.

Shmyhal also announced on Dec. 9 a Hr 12 billion (over \$427 million) support package for businesses and citizens affected by the lockdown. Individual entrepreneurs and hired employees are eligible for compensation of Hr 8,000 (\$285). The government also promised tax exemptions.

## Holidays

While the government spared Ukrainians from spending the holiday period in lockdown, officials still have not issued holiday guidance for citizens or additional restrictions on social gatherings on the New Year and Christmas holidays (in Ukraine, both Catholic and Orthodox Christmas are celebrated, on Dec. 25 and Jan. 7).

According to the latest government decree passed on Dec. 9, Christmas fairs and concerts are banned, but only during the lockdown, which will start on Jan. 8.

At the same time, the health ministry proposed to prolong the working hours of eateries on Dec. 31 from 10 p.m. until 1 a.m.

So far, the authorities of several bigger cities have canceled traditional New Year celebrations such as concerts and traditional Christmas fairs. But some decided to go ahead with Christmas fairs with mandatory masks, temperature screenings and a limited number of visitors. 📌

## Ukrainian beauty market gets makeover during pandemic

By Alexander Query  
query@kyivpost.com

When everybody works from home and cameras are off in half of Zoom meetings, many cosmetic products seem pointless — especially when offline social interactions increase one's risk of contracting COVID-19.

Due to lockdown earlier this year and quarantine measures, sales of make-up products shrank by 15% in Ukraine to a total of Hr 7 billion (\$249 million) in 2020, according to data from Euromonitor International, a market research provider.

That was a blow to cosmetics companies. But the pandemic has also led to new trends.

With consumers afraid to frequent beauty salons, many are turning to online retailers for self-care and do-it-yourself products, according to Daria Kulaha, CEO of Happy Bunny, an online retailer based in Kyiv and dedicated to cruelty-free products.

"The biggest trend is achieving professional results at home without visiting a salon," she told the Kyiv Post.

## Social cosmetics

Kulaha said social distancing has affected sales of makeup this year, especially lip products — after all, masks cover the lips and smudge lipstick and lip gloss.

Nadejda Krec, a senior analyst at Euromonitor International, says the data backs Kulaha's observation. Lipstick sales decreased by 18% in 2020, reaching Hr 2.1 billion (\$74 million), while general face makeup sales decreased by 16%, the equivalent of Hr 1.7 billion (\$60 million).

According to Krec, the economic consequences of the coronavirus pandemic mean consumers are less disposed to spend money on beauty products, as household income is expected to continue to fall in the coming months.

The ongoing COVID-19 crisis, lockdowns and closures had a strong negative impact on color cosmetics and perfumes, as these are usually related to going-out, she told the Kyiv Post.

"Given the fact that most people are working from home, facing phys-

ical distancing and mask-wearing, it has become much less important to wear makeup and perfumes," Krec said.

Retailers like Brocard, Ukraine's largest cosmetics retailer, had to adapt quickly. It entirely switched to online purchases.

The retailer used to operate 100 shops in 26 Ukrainian cities but had to close 98 of them and suspended the purchase of new storage points for goods, according to retail analysis website UAretail.

"It will take more than a year before we return to pre-crisis indicators," the company's press service told the website.

The fall in perfume sales is not only due to lifestyle changes, but also linked to travel restrictions, Yulia Romanenko-Kopczynski, communications director at L'Oreal Ukraine told the Kyiv Post.

Before the European Union closed its borders to Ukrainians in March to stop the spread of the COVID-19, around 40% of Ukrainian luxury consumers were buying products abroad and 20% of them were pur-

chased in duty-free areas of airports, where it is less expensive than in Ukraine, she said.

When the borders closed down, the vast majority of young cosmetics buyers turned to online platforms to buy expensive cosmetics and perfumes of their choice, a positive trend for online retailers.

## Buying online

Big online retailers were largely spared by the crisis, especially Makeup, the leading online cosmetics retailer in Ukraine, which covers over 170 Ukrainian cities with its own delivery service.

Customers stay loyal to their brands and repurchase the same products, especially in festive times such as Christmas, Makeup's chief marketing officer, Lyubov Kalyuzhna, told the Kyiv Post.

In the first months of the quarantine, online shopping became the primary and often safest way to shop for many customers, she said.

However, the main problem with online shopping is the difficulty of testing a product before buying it, a

risky practice during the pandemic, and an impossible task during a full lockdown, when non-essential shops are closed.

That's why the brand launched the so-called "Try if First" project, where fragrance brands add a mini sample of the fragrance to the order, so customers can test it home and return the unopened order if they don't like it.

Such a strategy proved helpful for the retailer, which increased staffing and expanded its warehouses despite the crisis.

"For a long time, online stores have been in the shadow of large offline retail shops," Kalyuzhna said. Now, there is a chance for online stores to catch up using high-tech.

And it is easier for small businesses to adapt, as Ann Sokolova, head of SKLVA perfumes, a small perfume producer, told the Kyiv Post.

Her business model is geared toward online sales. That helped SKLVA not only maintain its previous sales but boost them with the launch of new fragrances. 📌

# Sweets, wine, blankets & other goods to buy before the Jan. 8-24 lockdown

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same name, internationally known as Alibernet. A bottle of decent local wine at these stores can cost around Hr 200–600 (\$7–21).

Another spot to shop for Ukrainian wine is the capital's famous Like a Local's wine bar chain with locations on Spaska and Lva Tolstoho Street. As the name hints, the bars serve only made-in-Ukraine wines. Visitors can not only enjoy a glass inside, but also purchase a bottle or two to go. The bar usually offers 10 wines by the glass, while others are sold by the bottle. A bottle of wine here will cost around Hr 300–500 (\$10–17).

**Goodwine.** 9 Mechnykova St. Mon-Fri. 9 a.m. – 9 p.m. Sat. 10 a.m. – 6 p.m. 38 Khreshchatyk St. 10 a.m. – 10 p.m. 16B Heroiv Stalinhrada Ave. 9 a.m. – 10 p.m. [www.goodwine.com.ua](http://www.goodwine.com.ua)

**Wine Time.** There are over 10 stores in Kyiv, check addresses at [www.wine-time.ua](http://www.wine-time.ua). Mon-Sun. 10 a.m. – 10 p.m.

**Kolonist.** 36B Yevhena Konovaltsia St. Mon-Sun. 10 a.m. – 6 p.m. [www.kolonist.com.ua](http://www.kolonist.com.ua)

**Like a Local's.** 5 Spaska St. 5 Lva Tolstoho St. Mon-Sun. 12–10 p.m. [www.likealocals.com.ua](http://www.likealocals.com.ua)

## Sweets

Delicious sweets can brighten up even the gloomiest day.

One of the most popular confectionery producers in Ukraine, Lviv Handmade Chocolate, offers over 60 kinds of candies for any taste, including ones with marzipan, various nuts, coconut flakes, truffles, chocolate, fruit and caramel. Each candy costs Hr 10–20 (under \$1).

The 13 Beans confectionery offers chocolate bars with various fillings and flavors, as well as fruit and berries covered with chocolate. They sell over 20 types of chocolate bars – some classic flavors such as milk chocolate with almond and other nuts, dark chocolate, or sugar-free chocolate for those who stick to the healthy diet. 13 Beans also manufactures some unusual flavors such as white chocolate with matcha



Ukraine will go into a nationwide lockdown starting on Jan. 8 until Jan. 25, with all restaurants, cinemas, galleries, nightclubs and other venues closing for over two weeks. It's time to prepare for the lockdown in advance and stock up on goods from local producers that can brighten up the time indoors.

tea, one with salt and pepper and more. 13 Beans sells pricier chocolate for Hr 110–450 (\$3–16) per bar, depending on the weight.

Those wanting to savor some gingerbread biscuits during the lockdown can order them from Kyiv's Baker Street bakery. They offer cookies made of gingerbread in various shapes and sizes for Hr 50–250 (\$1.80 to \$9) per piece. Apart from that, the bakery also sells candies, cookies and cakes.

**Lviv Handmade Chocolate.** 2B Andriivskiy Uzviz St. 45 Antonovycha St. 36 Tarasa Shevchenka Blvd. Mon-Sun. 10 a.m. – 10 p.m. [www.chocolate.lviv.ua](http://www.chocolate.lviv.ua)

**13 Beans.** Order at [www.13beans.com.ua](http://www.13beans.com.ua).

**Baker Street Bakery.** Order at [www.bakerstreetbakery.com.ua](http://www.bakerstreetbakery.com.ua).

## Home apparel

There's no need to purchase trendy

new outdoor or office outfits this winter, since quarantine restrictions are likely to restrain people from going outside much. However, this does not mean that dressing up is no longer an option – home apparel can also be fashionable and fancy, especially if it's produced by the Ukrainian brand Sleeper, known and praised worldwide.

The brand sells in stores across North America, Europe, Australia and Asia. In Kyiv, one can find garments from Sleeper at the TsUM department store and Marque Space store.

Garments from Sleeper are unlike any other home apparel: These elegant pieces can be easily worn not only at home, but for any occasion. Sleeper offers a selection of pajamas for adults and some items for children. There are some festive pieces, adorned with feathers or polka dot print. But the brand's calling card is classy garments such as silk or linen pajamas, which

cost Hr 5,000–6,000 (\$178–213).

Cheaper but also stylish home apparel can be purchased from another local brand, Balcony Garment. The manufacturer offers minimalist garments and pajamas made of cotton, linen and warmer options made from fleece fabric for about Hr 2,000 (\$71). They use mostly pastel colors and, besides classic options consisting of sweatpants and hoodies, Balcony Garment also features outfits with corduroy shirts, crop tops and denim kimonos.

Another option to get some cozy home clothes is to visit the Vsi Svoi store on Khreshchatyk Street, which sells a variety of Ukrainian-made goods from different brands for all tastes and budgets.

**Sleeper.** TsUM (38 Khreshchatyk St.) **Marque Space** (3 Saperne Pole St.) Mon-Sun. 10 a.m. – 10 p.m. [www.the-sleeper.com](http://www.the-sleeper.com)

**Balcony Garment.** 45 Zhylianska

St. Mon-Fri. 11 a.m. – 8 p.m. Sat-Sun. 11 a.m. – 6 p.m.

**Vsi Svoi Store.** 27 Khreshchatyk St. Mon-Sun. 10 a.m. – 10 p.m. [www.vsisvoi.ua](http://www.vsisvoi.ua)

## 'Hygge'

The Christmas classic song "There's No Place Like Home For the Holidays" by the Carpenters is relevant this year like never before. There will be little reason to leave home during the winter lockdown, so one should take care of the indoor space in advance, and make it "hygge," which means comfortable and cozy in Danish.

Fortunately, it is easy to find enough goods from local producers in Kyiv to make one's home a serene place with a warm atmosphere.

It's important to find a perfect cozy blanket to wrap up in and change the mood after a long and exhausting "work from home" day.

Vsi Svoi Store 34 offers a wide choice of soft warm blankets made of wool, linen, cotton and other fabrics. There are Christmas-themed options like ones with ornaments from Ukrainian brand Osha for Hr 2,100 (\$74) or chunky knit blankets by Alike Home for Hr 7,920 (\$282). The cheaper options include soft and colorful blankets by Wollkrafts, all for Hr 1,200–3,000 (\$42–106).

Apart from blankets, Vsi Svoi Store 34 sells everything needed for a "hygge" home such as rugs, pillows, bedclothes, ceramics, kitchen supplies, Christmas tree decorations and candles of different shapes, sizes, colors and scents, all for Hr 80–1,500 (\$3–53).

Dim and warm candlelight is believed to relieve stress, which is an especially useful thing during the pandemic. Light some candles, wrap up in a cozy blanket after pouring a glass of tasty wine and enjoy the time at home. Lockdown will not last forever and better times are yet to come.

**Vsi Svoi Store 34.** 34 Khreshchatyk St. Mon-Sun. 10 a.m. – 10 p.m. [www.vsisvoi.ua](http://www.vsisvoi.ua)



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**Kyiv Post**  
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The Kyiv Post is looking for a **Head of video department**  
We are seeking a talented professional to lead our video unit and create videos for the Kyiv Post's website and social media. The ideal candidate is an experienced videographer with excellent English, strong news judgment, an understanding of video trends and broad competencies across all aspects of the video production process.

**Responsibilities:**

- creating a content plan for the video unit, defining the visual style of the unit's videos
- creating various types of videos — that often includes looking for stories, shooting, and editing videos
- tracking the progress of the team
- fact-checking videos, editing scripts
- hiring videographers/motion designers if necessary
- collaborating on promotion strategies for the video unit with our marketing specialists and social media manager
- managing communication between the video unit, the newsroom and the Kyiv Post's commercial department
- overseeing the Kyiv Post's video equipment

**Requirements:**

- A proven track record of successfully creating videos and managing the video production process
- Broad knowledge of every aspect of video journalism: reporting, filming, cutting and editing, publication.
- Excellent English — both spoken and written

**Would be a plus:**

- Advanced Russian, Ukrainian or both
- Knowledge about Ukraine, its politics and its cultural life

For consideration, please send CV and letter of interest  
at [bonner@kyivpost.com](mailto:bonner@kyivpost.com)

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**Agriteam Canada** is one of Canada's leading international development firms, providing management and technical expertise to developing and transitional country partners on projects that promote sustainable growth and meaningful opportunities for people to improve their lives.

In October 2019, Agriteam Canada launched a new five-year project in Ukraine: Support to Ukraine's Reforms for Governance (SURGe). SURGe is a technical assistance project in Ukraine, funded by Global Affairs Canada and implemented by Agriteam Canada Consulting Ltd.

**Within the Corrections Reform implemented by the Ministry of Justice in cooperation with SURGe Project**, we are looking for:

- **Data Analyst.**

Please, send your applications till December 18, 2020  
to: [valerias@alineainternational.com](mailto:valerias@alineainternational.com).

For more detailed information about preferred qualifications and skills, indicative duties and responsibilities, as well as applying procedure, please visit web-site: <https://edge.in.ua/vacancies/>

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The deadline for applications is  
28 December 2020.

**Kyiv Post**  
UKRAINE'S GLOBAL VOICE

**Lifestyle reporter**

The Lifestyle team of the Kyiv Post is looking for a reporter.

**We seek a journalist who:**

- 1) is fluent in English and Ukrainian or Russian
- 2) knows and loves Kyiv
- 3) has a strong desire to write about places, tastes, events and people of the capital
- 4) is excited to cover culture, art, human rights, entertainment and fashion
- 5) is good at communication and teamwork.
- 6) preferably has a degree in journalism or experience of working in media

For more details, email Lifestyle editor **Toma Istomina** at [istomina@kyivpost.com](mailto:istomina@kyivpost.com) and send a CV, motivational letter, three story ideas and writing samples if available.

**Kyiv Post**  
UKRAINE'S GLOBAL VOICE

The Kyiv Post is looking for a **political reporter** to complement its team of journalists covering Ukraine's political life, government and reforms; the coronavirus pandemic; and Russia's war in the Donbas. It's a full-time job in the newspaper's office in Kyiv.

**Responsibilities:**  
Pitching and writing stories for the Kyiv Post newspaper and website.

Breaking exclusive stories. Discovering the underlying trends driving Ukraine's political life and reporting on them.

Developing and maintaining a network of contacts in Ukraine's parliament, government and expert community.

**Requirements:**  
Excellent command of written and spoken English. Fluency in Ukrainian and/or Russian languages.  
Deep understanding of Ukraine's political life; background knowledge in Ukrainian politics.  
Ability to write journalistic stories in English. Commitment to Western journalism standards and democratic values.  
Experience in media or English-language writing is preferable.

For consideration, send a CV, three story ideas and a cover letter to deputy chief editor Olga Rudenko at [rudenko@kyivpost.com](mailto:rudenko@kyivpost.com).

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United Nations calls for Russian withdrawal from Ukraine's Crimean peninsula



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## CORONAVIRUS

Ukraine to impose new lockdown after holidays, from Jan. 8-24



## TECH

Thousands of Belarusian tech specialists move to Ukraine to escape crackdown



## LIFESTYLE

Where to celebrate socially distanced winter holidays in Kyiv



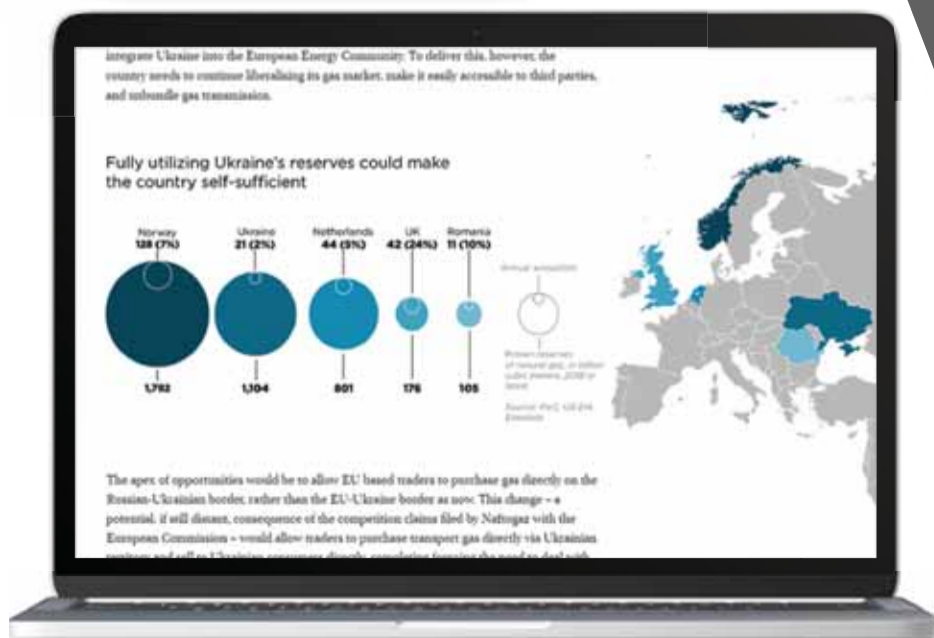
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