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YEARS

Family ties that bind parliament

BY DENIS RAFALSKY
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The new lineup in the 450-seat Verkhovna Rada will be dotted with father-son, uncle-nephew, husband-wife and sibling combinations.

A charitable way to look at such a phenomenon is to say that superior talent runs in the gene pool.

A less charitable way is to call it nepotism, or "kumivstvo" in Ukrainian.

Wherever it flourishes, the practice dismantles societies where positions and privilege are awarded on merit rather than connections. Corruption, impunity and mutual protection flourish where nepotism reigns.

Ukraine is far from alone with this problem. In fact, the nation is in crowded company among nations plagued by nepotism and other forms of privilege. But while many countries have their family political dynasties – the Bushes in America and the Gandhis in India, Ukraine has deeply embedded blood ties throughout government and business.

One of the families to roam the corridors of parliament for the next five years will be the Kaletniks.

Ukraine's chief customs official, Ihor Kaletnik, was elected on the Communist Party ticket. His father, Hryhoriy, won as an independent in district 18 of Vinnytsia Oblast, although he is a lawmaker now with the ruling pro-presidential Party of Regions. His niece, Oksana, also won a race in Vinnytsia Oblast.

The Baloha family in Zakarpattya Oblast is another dynasty.

As head of the United Center Party, Viktor Baloha won in a Zakarpattya single-mandate district. The former chief of staff to President Viktor Yushchenko and current emergencies minister made it into the Rada with his younger brother Pavlo and cousin Vasyl Petyovka, who also won in →5

It's 2012 Not 2004



BY SVITLANA TUCHYNSKA
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Ukraine's political opposition failed to galvanize enough public support to pressure authorities to rectify alleged falsification of the Oct. 28 parliamentary election. After assessing the prospects, the opposition has switched tactics.

Under protest, they will take their 40 percent of seats in the 450-member parliament. Opposition leaders now say they will mount a →24

Demonstrators take part in a rally outside the Central Election Commission in Kyiv on Nov. 12. Opposition leaders failed in their bid to turn out large crowds to protest alleged falsification by the pro-presidential Party of Regions of the Oct. 28 parliamentary election. In the end, it appears that all but five of the 450 members of parliament will be seated for the first session of the new parliament on Dec. 16. Five re-run elections will be held in districts where the CEC said it could not determine the winner. Those elections will take place sometime early next year. (UNIAN)



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Political focus shifts to Cabinet makeup

BY KATYA GORCHINSKAYA
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With the noise around the Oct. 28 parliamentary election dying down, the political focus is shifting to possible changes in the Cabinet of Ministers. Half of the nation's 18 Cabinet members have been elected to parliament. Under the law, they will have to make a choice between their current job and a lawmaker's seat.

The most senior of these officials is Prime Minister Mykola Azarov, who topped the Party of Regions election list. Azarov is said to be mulling his options. The consensus view, however, is that he will stay put, ahead of a Dec. 3 legal deadline.

"I will take that decision together with the president," Azarov said on Nov. 13.

His attitude might depend on who he has to work with. In the past week, Azarov twice called for a broad coalition with all oppositional parties who made it into parliament. So far, his offer has been to no avail.

He said that the United Opposition-Batkivshchyna has "a certain circle of people with whom I can discuss these [economic] problems." He said Vitali Klitschko's Ukrainian Democratic Alliance for Reform has people with experience such as former Finance Minister Viktor Pynzenyk.

"If they [deputies in opposition] are elected by the people, why wouldn't I work with them?" Azarov asked.

However, Azarov has not made a noticeable effort to negotiate with leaders of the opposition, raising speculation that his statements about potential cooperation are meant to entice individual deputies from the opposition only, with ministerial chairs as the carrots.

Vitaliy Kovalchuk, a senior member of UDAR, said on Nov. 13, that sticks are being used as well.

Kovalchuk said that members of his party have received threats. Olesia Orobets, a member of Batkivshchyna, said her husband's business, Phoenix Capital, was raided by the tax police as a means of pressure. All three oppositional parties have said, however,

Will they stay or go?

| Name | Job | Key fact |
|-------------------------------|---|---|
| Mykola Azarov | Prime Minister | Elected #1 on Party of Regions ticket |
| Valeriy Khoroshkovskiy | First Deputy Prime Minister | Longstanding discontent |
| Sergiy Tigipko | Deputy Prime Minister, Minister for Social Policy | Elected #3 on Party of Regions ticket; job desired by Communist Party in case of alliance |
| Borys Kolesnikov | Deputy Prime Minister | Elected #8 on Party of Regions ticket |
| Yuriy Boyko | Energy Minister | Elected #7 on Party of Regions ticket |
| Petro Poroshenko | Economy Minister | Elected in majority race |
| Viktor Baloga | Emergencies Minister | Elected in majority race |
| Anatoliy Blyzniuk | Utilities Minister | Elected #15 on Party of Regions ticket |
| Oleksandr Lavrynovych | Justice Minister | Elected #12 on Party of Regions ticket |
| Dmytro Tabachnyk | Education and Science Minister | Elected #1 on Party of Regions ticket |

→ **Azarov expected to stay; at least three may be departing**

that they will not negotiate with the government.

Some of the rewards can be quite high, though. Three out of four deputy prime minister seats might become vacant since Sergiy Tigipko, the social minister, and Borys Kolesnikov, minister for infrastructure, have also been elected to the Rada, while First Prime Minister Valeriy Khoroshkovskiy has shown discontent with his lack of real powers in the Cabinet. They are all candidates for replacement.

One of the most visible signs of Khoroshkovskiy's unhappiness was a radical change in the editorial policy of his Inter TV channel, the nation's largest and most influential broadcaster. The channel more than doubled its objective coverage of the opposition's

election campaign in just over a month, to 38 percent of the news coverage, suggesting a possible shift in the owner's political allegiance.

Tigipko, on the other hand, heads the social ministry, which the Communist Party covets should its 32 members agree on a coalition or alliance with the pro-presidential Party of Regions in parliament. The Communist Party campaigned on populist social slogans, and political analyst Kostyantyn Bondarenko, notes that the ministry controls the accounts of four social funds. The pension fund is among them. In the first eight months of this year alone, the pension fund paid out Hr 152 billion and took in Hr 144 billion.

Kolesnikov, deputy prime minister for infrastructure, will also have to make up his mind, but is said to like his position. He leads many long-term projects in the government, ranging from introduction of a new type of electronic railway tickets at the end of December to handling the 2022 bid for the Winter Olympics.

In last week's interview to Korrespondent magazine, Kolesnikov said that the Party of Regions has a meeting planned with President Viktor Yanukovich, where many fates will be decided, including his own.

"I would like to point out that we're

strong and win elections only because we're a unified team. This means that everyone has a role of their own. That is why it's not so important who will stay and who will go. The main thing is to preserve the team," Kolesnikov said.

The pundits are edging to consensus that three cabinet members are on the way out.

Economics Minister Petro Poroshenko and Emergencies Minister Viktor Baloga have been elected to parliament through majority constituencies. They have both criticized the government lately, and even had very public spats with senior officials, including the president. Poroshenko has also indicated that he will leave the government if Azarov stays prime minister.

The third minister who often features on the list of candidates to leave for the Rada is highly controversial Education and Sciences Minister Dmytro Tabachnyk, a Russophile. "His behavior is insulting for [many] Ukrainians, so the government does not want those moods inflamed, combined with [the leadership of] Svoboda," said political consultant Viktor Nabozhenko.

Azarov stressed that the final decisions on composition of the government will be taken by the president. "But in any case, there will be continuity," he said.

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Items for sale will include used household appliances, furniture, rugs, office furniture, computers, construction materials and miscellaneous equipment. All items are for sale on an "as-is, where-is" basis.
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Protecting investors rights

Peter Nagle, Board Member, IDS Borjomi International

Last week news of a corporate raider attack broke from the largest mineral water plants in Ukraine - Morshynskiy mineral water plant OSKAR, and Mirgorodskiy mineral water plant. We decided to go to Peter Nagle, a member of the board of IDS Borjomi International, to discover the source of these problems.

Could you tell us about your company? How long have you been working in Ukraine? Who is the real owner of these assets?

The Mirgorodskiy, Morshynskiy and Truskavetskiy mineral water plants are part of a Ukrainian company, IDS Group Ukraine, which itself is a part of the international company IDS Borjomi International - a leading manufacturer and expert [producer of] quality natural mineral waters, which are produced in environmentally pure regions, and that have a quality matching the highest international standards. IDS Borjomi International started its activities in 1997, financed by the European Bank for Reconstruction and Development and the World Bank. The company is registered in the Netherlands, and has one major and a few minority shareholders.

Beside this, IDS Borjomi International is a member of European Business Association and the European Bottled Water Federation. Today, IDS Group Ukraine is one of the largest mineral water producers in Ukraine and the former Soviet Union, producing and offering the consumer a balanced portfolio of the most popular mineral waters (Mirgorodska, Morshynska, Truskavetska, Old Mirgorod, Sorochinska, Alaska, and Aqua Child), and it is the exclusive importer to Ukraine of the famous Georgian mineral water Borjomi.

The companies are well known not only for their high quality products, but also for their excellent and transparent business practices.

The companies are formally run by the international parent company, but have they been checked by EU accounting and auditing services?

Our company adheres to the highest accounting and tax standards, and has had several years of clean audits from international accounting firms - most recently Deloitte. By the way, in the summer of 2012 Prime Minister [Mykola Azarov] visited the plant in Myrgorod, as a key company in the region.

But what's happening now?

There is a raider attack on the company assets - the Mirgorodskiy, Morshynskiy and Truskavetskiy mineral water plants. Currently, work at the Mirgorodskiy plant

has already stopped, and raids are occurring at the business premises and top managers' homes.

What are the specific reasons for these attacks?

Looking at it in detail, there are attacks happening on two fronts. The first front is to do with the myth that the IDS Group is among [Russian exile businessman Boris] Berezovsky's assets. This was the excuse that a Russian court used when it asked its Ukrainian colleagues to assist, and they, in turn, took a decision to arrest our assets without first conducting a proper investigation. Had they done so, they would have found out that it wasn't true [that Berezovsky was a shareholder].

Is Borys Berezovsky in the shareholders list?

The major shareholder is [Georgian businessman Arkady] "Badri" Patarkatsishvili's family, and the minority shareholders are from France, the UK and the United States. Mr. Berezovsky is not, and has never been, a shareholder, and he has no interest in the company.

So, the attack on the first front is clear, but what about on the second? What's happening there?

The second front is to do with taxes. The Ukrainian tax police claim that our companies are evading tax. However, we can assume this is an action in support of the raid. In fact, IDS Group Ukraine is one of the largest and most responsible taxpayers in the country.

The company paid more than UAH 211 million in taxes and other fees in 2011, and over the first six months of 2012 our contributions totaled more than UAH 143 million. The Morshynskiy plant paid over UAH 100 million, and the Mirgorodskiy plant about UAH 50 million in 2011.

In the face of these figures, the false charge that we evaded the payment of about UAH 3 million in taxes is of a different order, and there's no justification for the actions that have been taken [by the tax police].

What are the economic consequences of this situation?

The first concern is the employees, as the plants are enterprises that support entire communities - about 700 families in Lviv and Poltava regions have lost stable, high-paying jobs and livelihoods.

The state and local budgets are also having to bear unjustified losses. And as for the company - each day of downtime at the Morshynskiy plant costs us about UAH 3 million.



"Our shareholders are ready to protect their assets in the international courts, and via international arbitration."

What is the reaction of shareholders to the prospect of the largest producer of bottled water, and a great Ukrainian company, being forced from the market?

They're very concerned. The company's shareholders are residents of Europe, the UK and the United States, and therefore the illegal actions taken against our company will be seen in a very negative light by the international business community, which will in turn do a lot of damage to the Ukrainian government's efforts to improve the investment climate in Ukraine.

Furthermore, our shareholders are ready to protect their assets in the international courts, and via international arbitration.

Have you asked for assistance from the Ukrainian state authorities?

Of course, we're going to the top levels of government to get this problem resolved properly. Our initiatives have gained the support of the international and local diplomatic communities, business associations such as the European Business Association, and the media.

We're confident that we're innocent of the [tax evasion] charges, and that the raider attack, and whoever is behind it, will not succeed.

What's your next step going to be?

If there are further illegal actions taken against the company, we will be forced to file lawsuits in the courts of the Netherlands, and other appropriate jurisdictions.

Our investors' rights are protected by international agreements between Ukraine and the Netherlands, and there are many precedents in which the courts have sided with international investors.

Editorials

No way

Interior Minister Vitaliy Zakharchenko this week asked President Viktor Yanukovich to increase the financing of his ministry next year by nearly a billion hryvnias.

We say: no way. The proposal is designed more to calm the nerves of an unpopular and increasingly authoritarian government than to solve crime or improve public safety. We believe that most problems with the police are nothing to do with lacking equipment for implementation of a new criminal procedural code, the justification the minister gave to the president.

Ukraine has close to 600,000 law enforcers of all guises – 1.3 percent of the population. The number of police officers is estimated to be between 350,000 and 450,000, depending on the source of information.

It seems the ministry has money to buy equipment, too. In September alone, Hr 27.8 million was spent on the purchase of water cannons and paddy wagons, as well as other items to equip riot police ahead of the Oct. 28 parliamentary election.

Thankfully, this particular equipment was never used. However, there were at least three reports of the use of tear gas by special police units during the vote count, and way too many reports of excessive and overly aggressive involvement of police in the election process. Those incidents happened at polling stations where massive violations and fraud occurred. Instead of protecting the freedom of vote, the police often protected fraudsters from observers, journalists and public.

Police are notoriously unprofessional and, aside from this, there is much waste in the ministry. Inside of dumping more taxpayer funds in this badly run outfit, the state can find savings by firing a considerable number of police officers and imposing strict professional standards for those who retain their posts.

Too harsh

The Jerusalem Post's editorial "Hatred in Ukraine" on Nov. 3 is off the mark with its assessment of anti-Semitism in Ukraine. "Historically, Ukrainian anti-Semitism is legend for its crudity, ferocity and intrinsicity," the editorial started out. "The (sic) Ukraine's reputation for ongoing racism and ever-virulent intolerance is equally well-earned."

It condemns the Oct. 28 parliamentary election success of the nationalist Svoboda Party, whose leader Oleh Tiahnybok has made anti-Semitic remarks in the past. He now commands 37 out of 450 seats in the Verkhovna Rada.

"Svoboda's ideological roots, however, are hardly out of sync with the country's mainstream," the editorial continued. "Ukraine, unfortunately, hadn't cleansed its citizenry of endemic anti-Semitism (it) is vulgar and in-your-face – as it was before the Soviets temporarily held the genie in the bottle."

Endemic anti-Semitism is not part of the country's mainstream ideology today, if it ever was, at least among most Ukrainians. And the Soviets didn't keep the genie in the bottle; rather, Josef Stalin fueled hatred and the Soviets downplayed atrocities against Jews during World War II.

And it's not just our opinion.

Hannah Rosenthal, a U.S. State Department special envoy to monitor and combat anti-Semitism in the former Soviet Union, said only last year: "Ukraine's performance has also improved over the past five years. The number of anti-Semitic acts of vandalism has decreased by more than half in 2010 ... we have witnessed a sharp decline in the publication of anti-Semitic articles, proving that we can succeed if we work together."

Still, anti-Semitism persists in isolated incidents of violence and more commonly with hatred and discrimination. It persists in the insensitivity of government officials and regular citizens. But Jewish culture and religion have been experiencing revivals. Some of the nation's wealthiest, most powerful and successful citizens are Jewish.

A much more insightful understanding of Jewish history in Ukraine from ex-Kyiv Post staff writer Natalia A. Feduschak's five-part series last year on "Ukraine's Vanquished Jews" <http://www.kyivpost.com/content/ukraine/ukraines-vanquished-jews-from-world-war-ii-107381.html>.

The part of the Holocaust that took place in Ukraine came under Nazi Germany's occupation. Some Ukrainians took part in the extermination of Jews. Others risked their lives saving them. Ukraine was the main battleground during World War II. No nation suffered a greater loss of life. Ukrainians fought on both sides. Some nationalists fought against both sides.

This bloodletting came only a decade after the 1932-33 Holodomor, Stalin's policy of starving to death millions of Ukrainians to kill nationalism. Ukraine was the biggest part of what Yale historian Timothy Snyder called the bloodlands, an area that bore the brunt of Hitler and Stalin's unspeakable savagery.

Ukraine has never done a good job confronting its past crimes, let alone recording its history. But Jews are not alone in this slight. Victims of atrocities in this nation rarely get their due.



NEWS ITEM: Ukraine's legendary footballer and failed politician Andriy Shevchenko was offered the job of chief coach of the national football team on Nov. 12. The offer comes just two weeks after the political party he joined earlier this year lost a parliamentary election, receiving only 1.58 percent of the popular vote. The proposal to appoint Shevchenko, who has no coaching experience but an impressive portfolio of achievements as a forward, was met with mixed feelings by the team and lots of jokes by the blogging community, mostly speculating that Shevchenko brings bad luck, and his short-lived political career is proof of that.



NEWS ITEM: Ukraine's President Viktor Yanukovich and Prime Minister Mykola Azarov, leaders of the ruling Party of Regions, find themselves between a rock and a hard place because of a dirty parliamentary election on Oct. 28. Many top Western officials, most recently U.S. Vice President Joe Biden, have expressed their concerns about the state of Ukraine's democracy. In a Nov. 13 phone call to Yanukovich, Biden said the US has "a strong interest" in enhancing its relationship with Ukraine, but is concerned over Ukraine's recent election, according to a White House statement. The European Union has criticized Ukraine's imprisonment of ex-Prime Minister Yulia Tymoshenko, calling her case an example of selective justice. The EU has raised concerns about vote counting in the election that gave the largest share of seats to the Party of Regions. The relationship with Russia is not doing well, with Ukraine continuing to import Russian gas at the highest prices in Europe as Russia tries to entice the nation into a customs union, so far to no avail.

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Relatives line up positions

→ 1 Zakarpattia constituencies – the family's home region. But the family doesn't win everything. A third Baloha brother, Ivan, who lost in Zakarpattia's district 73.

The Party of Regions also has several brother duos.

Andriy Kliuyev, secretary of the National Security and Defense Council and close ally of President Viktor Yanukovich, won on the party ticket. He will be seated near his younger brother Serhiy, a single-mandate district winner.

Former Prosecutor General Hennadiy Vasilyev was re-elected on the party ticket while his older brother Oleksandr took the single-mandate track.

Then there are the cases of sons following in the footsteps of their powerful fathers.

The president's son, 31-year old Viktor Yanukovich Jr., comfortably won re-election to parliament on the party list.

Oleksiy Azarov, son of Prime Minister Mykola Azarov, breezed to election in a Donetsk Oblast constituency despite spending lots of time living abroad. His election district received millions of hryvnias in government infrastructure improvements before the elections. His father, meanwhile, resents questions about helping his son.

Artem Pshonka, son of Prosecutor General Viktor Pshonka, won as a party-promoted candidate in Zaporizhia Oblast.

Likewise, a Chernivtsi Oblast district went for Artem Semenyuk, the nephew and adopted son of the region's Governor Mikhail Papiev.

Yulia Lyovochkina, a current lawmaker and sister of Serhiy Lyovochkin, the head of the Presidential Administration, was elected in a Crimean district.

Her fiancé, Vitaly Chudnovsky, kept up by winning a seat as an independent in Kyiv Oblast.

The opposition fiercely criticizes cases of insider privilege and nepotism at higher levels, but doesn't always practice what it preaches.

The leader of the Svoboda (Freedom) Party Oleh Tyahnybok headed his party's list, while his brother Andriy, a deputy in the Lviv Oblast council, won in district 125 in Lviv Oblast.

In another instance, Iryna Lutsenko, the wife and defense lawyer of imprisoned former Interior Minister Yuriy Lutsenko, became a parliament deputy on the United Opposition ticket. Her appointment looked like a "thank you" to her husband who is a key figure of the nation's oppositional forces.

More examples of family ties in the Ukrainian parliament.

Andriy Pavelko heads the United Opposition headquarters in Dnipropetrovsk. He was 27th on the list while his father-in-law, local businessman Leonid Serhiyenko, was 44th;

Party of Regions lawmaker Artem Shcherban, 38, the son of former Donetsk Oblast and Sumy governor Volodymyr Shcherban, was re-elected once again as number 57 on the list.

Deputy board chairman of the state-owned oil and gas monopoly Naftogaz Ukraine Serhiy Katsuba won as a Party of Regions' candidate in district 92 in Kyiv Oblast while his father, Volodymyr, head of the Derhachi district administration in Kharkiv Oblast, won over voters in district 175;

Ruling party representative Iryna Horina triumphed in district 171 of Kharkiv Oblast, although Oles Dovhiy's loss in Kyiv makes this a bittersweet victory. She is the mother-in-law of the former top Kyiv city official who ran as an independent;

| | | | | | |
|---|--|---|---|--|--|
|  <p>Ihor Kaletnik Ukraine's chief customs official, elected lawmaker</p> |  <p>Hryhoriy Kaletnik current lawmaker</p> |  <p>Oksana Kaletnik elected lawmaker</p> |  <p>Andriy Kliuyev secretary of the National Security and Defense Council, elected lawmaker</p> |  <p>Hennadiy Vasilyev current lawmaker, former prosecutor general</p> |  <p>Viktor Yanukovich President</p> |
|  <p>Pavlo Baloha deputy of Zakarpattia Oblast council, elected lawmaker</p> |  <p>Viktor Baloha Ukraine's Emergencies Minister, elected lawmaker</p> |  <p>Vasyl Petyovka current lawmaker</p> |  <p>Serhiy Kliuyev current lawmaker</p> |  <p>Oleksandr Vasilyev current lawmaker</p> |  <p>Viktor Yanukovich Jr., current lawmaker</p> |
|  <p>Serhiy Lyovochkin head of the Presidential Administration</p> |  <p>Yulia Lyovochkina current lawmaker</p> |  <p>Vitaly Chudnovsky current lawmaker</p> |  <p>Yuriy Lutsenko former Interior Minister</p> |  <p>Leonid Serhiyenko businessman, elected lawmaker</p> |  <p>Oleh Tyahnybok leader of the Svoboda (Freedom) Party, elected lawmaker</p> |
|  <p>Yukhym Zvyahilsky current lawmaker</p> |  <p>Volodymyr Vecherko current lawmaker</p> |  <p>Iryna Lutsenko elected lawmaker</p> |  <p>Andriy Pavelko head of the United Opposition headquarters in Dnipropetrovsk, elected lawmaker</p> |  <p>Andriy Tyahnybok deputy of Lviv Oblast council, elected lawmaker</p> | |
|  <p>Mykola Azarov Prime Minister</p> |  <p>Oleksiy Azarov businessman, elected lawmaker</p> |  <p>Viktor Pshonka Prosecutor General</p> |  <p>Artem Pshonka current lawmaker</p> |  <p>Mikhail Papiev Chernivtsi Oblast governor</p> |  <p>Artem Semenyuk businessman, elected lawmaker</p> |
|  <p>Mykhailo Dobkin Kharkiv Oblast governor</p> |  <p>Dmytro Dobkin deputy of Kharkiv Oblast council, elected lawmaker</p> |  <p>Inna Bohoslovka current lawmaker</p> |  <p>Volodymyr Melnychenko businessman, elected lawmaker</p> |  <p>Halyna Gerega acting Kyiv Mayor and Kyiv City Council secretary</p> |  <p>Oleksandr Gerega businessman, elected lawmaker</p> |
|  <p>Volodymyr Shcherban former Donetsk and Sumy governor</p> |  <p>Artem Shcherban current lawmaker</p> |  <p>Volodymyr Katsuba Head of Derhachi district administration, elected lawmaker</p> |  <p>Serhiy Katsuba deputy board chairman of Naftogaz Ukraine, elected lawmaker</p> |  <p>Oles Dovhiy former top Kyiv city official</p> |  <p>Iryna Horina current lawmaker</p> |

Tariff rates seen as favoring oligarch class of business

BY JAKUB PARUSINSKI
PARUSINSKI@KYIVPOST.COM

Life in Ukraine is about to become more expensive for some importers and cheaper for others. Starting on Jan. 1, import tariffs on almost 100 products, from chemicals to construction materials, are set to increase to the maximum level allowed under World Trade Organization rules.

Ukraine has previously tried to renegotiate tariffs on some 350 goods – a move experts say could undermine the global trading club's legitimacy – with one eye on state coffers and the other on oligarch pockets.

According to a bill passed by parliament on Nov. 6, Ukraine will raise import tariffs on some 100 commodities starting next year. If signed by President Viktor Yanukovich, the bill could raise prices on rubber, metallurgical products, minerals and others. While the weighted average tariff level should not rise above 3.44 percent to comply with WTO rules, some tariffs are slated to increase manifold. Yet others – notably on key inputs used by oligarch-owned businesses – were reduced or scrapped altogether.

With Ukraine sliding into recession and state revenues taking a hit, the tariff hike could help raise the cash needed for the difficult months ahead. According to the law's authors, the increased tariffs are expected to bring in an additional Hr 500 million (\$60 million) in revenue in 2013.

The government also took steps to bring an additional \$100 million yearly when President Viktor Yanukovich signed a dual taxation avoidance agreement on Nov. 7 with Cyprus. And exporters recently were required by government to buy the local currency with a portion of their hard currency earnings, a measure that was in place in 1998 to 2005.

The decision comes against the background of Ukraine pushing a comprehensive review of its WTO deal. Back in October, international news agency Reuters revealed Ukraine was trying to renegotiate the maximum tariff ceiling for some 350 products – a move some



President Viktor Yanukovich during the signing ceremony of a dual taxation avoidance agreement on Nov. 7 with Cyprus. (Courtesy)

said could undermine the very basis of the trade body's existence.

Taking advantage of a loophole, Ukraine then argued that a clause allowing countries to temporarily increase tariff ceilings on individual products could in fact be applied to the whole treaty, and would thus allow to redress the injustices of the current deal, which strongly favors developed nations. The benefits allow wide access to emerging markets, Ukrainian officials said, but protect more developed economies.

But an in-depth look shows the new legislation seems designed to protect local players, either by making key inputs cheaper or protecting them from competition.

The bill was formally sponsored by the Federation of Employers of Ukraine, a lobbyist organization representing the interests of quite powerful people, notably in the chemical industry, said senior attorney Daniil Fedorchuk from leading German law firm Beiten Burkhardt.

The association is headed by billionaire Dmytro Firtash, who controls

much of Ukraine's chemical market. Interestingly, Fedorchuk pointed out, tariffs on magnesium and silicon – two key chemical inputs – would be reduced to zero. The employer grouping did not respond to Kyiv Post appeals to comment.

Meanwhile, Ukraine's policy is testing the limits of the WTO.

"(The new law) is formally within the WTO parameters, but this appears to be strongly against the accepted practices, because no one has ever tried to modify the tariffs for so many positions at the same time," Fedorchuk said. "Ukraine may be setting up a negative precedent. The current system was quite fargile but it worked."

WTO practice suggests tariffs be increased after consultation with other member states, the lawyer explained, but Ukraine stated the tariffs are simply subject to negotiations, but then passed the law, which would enter into force Jan. 1 2013. Given the bureaucratic procedures involved, Fedorchuk said, a WTO resolution on the issue could take up to five or six years.

→ Ukraine wants to raise some import tariffs, but lower others

According to Edward Mermelstein, a New York-based attorney best known for negotiating high-profile real estate deals for East European business magnates, Ukraine is trying to correct what was an unfair deal to begin with.

"The (current agreement) has definitely not benefited the developing countries, something Ukraine is trying to highlight," he argued. "It has shown the problems with the current agreement, something that is making a lot of the Western countries very nervous," he said.

Nonetheless, he said, internal politics were also a factor. Like many other developing nations Ukraine is also particularly sensitive to vested interests, he added.

This trend is confirmed by a recent report by Warsaw-based think tank

Center for Eastern Studies, which noted that Ukraine's international trade policy is often dictated by the needs of oligarchs to protect uncompetitive Soviet-era enterprises from superior Western competition. This is particularly true among the second-tier players, who lack the top dogs' export-oriented businesses.

"As regards the less powerful businessmen, the protection of the internal market from imports, especially from the West, with which they are unable to compete without support from the state, is the top priority," the report read.

This marks the latest surprising turn in Ukraine's relations with the trading club. Previous episodes include a lawsuit against Australian legislation that would remove branding from tobacco products and using its veto to block countries like Yemen or Laos from joining the WTO unless they lower tariffs. What makes both cases all the more unusual is the lack of meaningful trade ties with any of the countries involved.

Such efforts risk further deteriorating Ukraine's image as a reliable business partner. According to Ildar Gazizullin, senior expert at Kyiv-based think tank International Center for Policy Studies, Ukraine's recent efforts are winning the country no friends.

It is a lot of trouble for very little gain, he said. "It's counterproductive."

Kyiv Post editor Jakub Parusinski can be reached at parusinski@kyivpost.com

AUCHAN HYPERMARKET HAS BECOME THE FIRST ANCHOR TENANT IN RESPUBLIKA SHOPPING AND ENTERTAINMENT COMPLEX

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Megapoliszhilstroy LLC, the investor of construction of super-regional shopping and entertainment complex Respublika, and K.A.N. Development, the developer of the project, signed a preliminary lease agreement with a new anchor tenant, one of the leaders of the international retail market – Auchan chain of hypermarkets. The new Auchan hypermarket, whose area will be about 16,000 sq. m., is scheduled to open at the same time when the opening of Respublika SEC takes place as early as in 2014. Market experts express confidence that this partnership will be beneficial for all the parties.

"We have decided to participate in this project due to its strategic location, ambitious objectives of this shopping and entertainment complex, its regional significance and, finally, due to the long-term concept of the project, chosen by its team", Andre Paul Leclercq, Development Director of Auchan, shared his view on the future opening.

"This cooperation is interesting for both parties since the team of the investor of Respublika SEC and representatives of Auchan chain of hypermarkets share the same vision of the format of proper long-term running of the business", said Anna Popruga, Head of Marketing and Sales Department of K.A.N. Development, the developer and general contractor of the project, after the lease agreement was signed.

Earlier, the broker of the project, UTG Company, conducted negotiations with many international and Ukrainian food product chains and, as a result, Auchan chain of hypermarkets was chosen.

The representative of the developer is confident that the new flagship concept of Auchan hypermarket in Respublika SEC will allow to perform its anchor function ensuring one hundred percent success since it is unlikely that any other hypermarket in Ukraine will be able to attract such a large number of visitors.

Respublika SEC (gross building area – 295,000 sq. m., gross lease area – 135,000 sq. m.), where Auchan's eighth hypermarket in Ukraine will be located, is a part of a multi-functional complex of the same name – Respublika. Currently, its construction is being actively carried out at 1a, Ring Road in Kyiv. It is planned to construct a housing development of about 1,000,000 sq.m. of area near the shopping and entertainment complex.



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Experts: New Ukraine-Cyprus deal still leaves lots of loopholes for tax evasion

BY JAKUB PARUSINSKI
PARUSINSKI@KYIVPOST.COM

A new Ukraine-Cyprus tax treaty that President Viktor Yanukovich signed on Nov. 8 with his Cypriot counterpart seems set to put an end to the era of untaxed capital flows between the countries, and the tax evasion and unethical practices that took place. But experts forecast no major change for Cyprus's role in Ukraine's economy, leaving some of the biggest problems unresolved.

Ukraine's economic relations with Cyprus since independence were based on a Soviet-era treaty that took taxes out of the equation, making it a top destination for businesses seeking to repatriate capital in the post-Soviet republic. As a result, the small island nation - with a population of roughly one million people - became Ukraine's biggest foreign investor, ahead of Germany and the United States.

This treaty opened the floodgates for massive tax evasion, transfer pricing and even money laundering schemes, which operated under minimal scrutiny and with the tacit backing of officials who often benefited from the arrangement.

This continues to cost Ukraine billions of dollars in lost revenue, with some experts putting the figure as high as \$3 billion, or almost 10 percent of the government's annual budget. Ukraine's former World Bank country director Martin Raiser was a vocal critic of this arrangement, pointing to the case of Russia, where the elimination of

the double-taxation agreement raised revenues by nearly \$7.5 billion.

According to estimates by Kyiv-based think tank Razumkov Center, when the treaty enters into force it could bolster the budget by some \$100 million. When exactly this will happen depends on how quickly parliament ratifies the deal, with early 2013 as the most likely time frame. That would mean the treaty could come into force on Jan. 1, 2014.

While the final version of the treaty has not been disclosed, a leaked version shows that despite higher taxes, the treaty leaves considerable room for companies to optimize their books.

First comes a change to dividend taxation. Companies with investments of at least 100,000 euros (\$127,000) or 20 percent of share capital will pay 5 percent, while others will face a high rate of 15 percent. Businesses will be pleased to learn, however, that profits from the sales of shares in Ukrainian companies will continue to be untaxed by Ukraine's authorities.

Royalties are also set to go up, to 5 percent for copyrights on scientific work, patents, trademarks, company secrets and process or information concerning industrial or commercial experience.

While a considerable increase, this nonetheless leaves the door open to a widely used transfer pricing scheme, whereby Ukrainian subsidiaries purchase overpriced consulting services, for example, a Cyprus-based holding will still be able to move capital out of the country - bypassing capital movement restrictions at a minimal cost - to a lower tax jurisdiction.

Interest rates will have the lowest impact at 2 percent. "The 2 percent withholding tax under the new convention may be set off against the Cypriot domestic 10 percent tax. Thus, rather than a loss this is a temporary cash flow deficit, which is not tragic at all," said Svitlana Musienko, head of tax at the Kyiv office of global law firm DLA Piper.

Moreover, interest payments present a similar opportunity to royalties to move capital out, experts note. Parent companies can thus charge subsidiaries high rates, effectively transferring profits within a holding structure.

Meanwhile, the problem of poor transparency and tax information exchange between the two countries, which critics say facilitated fraudulent behavior, seems to have been curiously transformed rather than solved.

At present Ukrainian authorities requesting tax information will have to: identify the person or entity under investigation; specify the nature and form in which they need the information; explain the purpose of the information; produce a statement that the request is in conformity with the law, and state that the requesting country has exhausted all means except those that create excessive difficulties.

According to Vladimir Kotenko, head of tax at Big Four auditor E&Y's Ukraine office, this raises a number of questions about interpretation and how such documentation should be produced, leaving Cypriot officials a wide scope to deny unwanted tax queries.

Another problem concerns the

issue of beneficial ownership, which entitles an individual or entity to benefit from the treaty's conditions. In the leaked version the criteria to benefit from this condition are not specified, which experts believe will make the question dependent on an official's discretion.

"If applied by the authorities, this might indeed create additional troubles for taxpayers," Kotenko said.

Companies should pay particular attention to this issue. Indeed, the economic slowdown and budget deficit has led to more aggressive revenue-collecting policies as state officials step up their game.

"Ukrainian tax authorities are becoming more familiar with these international tax principles and are starting to use these concepts when challenging companies that have claimed treaty benefits," said Ron Barden, head of tax at Big Four auditor PwC's Ukraine office.

Other havens

At present, it seems unlikely Ukrainian businesses will leave Cyprus for other havens en masse, experts note.

"While the zero withholding tax rates under the current USSR-Cyprus Treaty were unique, and a major reason why over 60 percent of investment into Ukraine was routed through Cyprus, there are other advantages, and these will continue to apply," argued Barden.

These include a "relatively low corporate tax rate; no tax on dividends being paid from Cyprus; a strong, English-based legal system; a sound

infrastructure and banking system within the EU; and a cost efficient corporate maintenance program," he added.

Whether or not companies will move ultimately depends on their individual reasons for going offshore. The Netherlands have very attractive rates for the repatriation of profits, low requirements for holding companies, significant exemptions for patents and research costs and a very warm investment climate, said Mykola Stetsenko, managing partner at Avellum law firm.

Austria is a little more expensive, but also offers interesting exemptions and a solid business climate, he added. This makes both countries attractive locations for locating holding companies.

However, businesses should beware of the jurisdictions' high maintenance costs, Stetsenko warned.

Meanwhile, questions of tax information, beneficial ownership and real presence will also continue to favor Cyprus. "Dutch tax authorities are more demanding regarding the issues of substance, 'real presence,' in the countries to which dividends are paid out of Holland," said DLA Piper's Musienko, contrasting this situation to the laxer Cypriot approach.

"Cyprus has other advantages concerning corporate issues and structuring of transactions, which are familiar both to businesses and lawyers," she added. "The bottom line is that it is too early to say goodbye to Cyprus. It still can be of service."

Kyiv Post editor Jakub Parusinski can be reached at parusinski@kyivpost.com

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Tough road to legality for foreign managers

BY OKSANA FARYNA
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Have you just been appointed at a high position in Ukraine? Congratulations and beware – you're in for a legal roller-coaster that could take up to half a year.

"The life of a foreign manager is not sweet here," said Oleksandra Yevstafyeva, senior lawyer and head of labor law at the Kyiv office of Egorov Puginsky Afanasiev & Partners, an international law firm operating throughout the former Soviet Union. She cautions prospective managers they should not expect smooth procedures and minimal hassle, like in other countries, when coming to work in Ukraine.

Job titles are the first of many problems. In Ukraine, an expatriate cannot officially be a regional or country manager, the lawyer said, as these titles don't simply exist. According to the Ukrainian classification, the only top level jobs are director, general director or a chairman of the board. Not adhering to this classification will make obtaining a work permit more difficult, and can result in fines of Hr 510 – 1,700 (\$60-180).

Furthermore, employers should prepare a whole package of documents to secure their employee's work permit. It consists of over a dozen different papers, including a certificate of good conduct often

→ Work, residency permits can be taxing and troubling odyssey

issued by the home country. But while most Eastern European countries know what this strange-sounding certificate is (though Russia takes about a month to produce it), in the United States, for example, there is no governmental body or institution that can issue it.

Nor can companies in Ukraine simply hire a new top manager. First, they must inform the State Employment Center about the relevant vacancy. In practice, this means a current manager should be dismissed several months before the new one's arrival, or at least appointed as deputy manager.

This vacancy is needed to secure the future employee's work permit, a month-long process, which is valid for one year. Trying to get a copy of a lost permit is almost as tough.

"One should keep a work permit as the apple of an eye," Yevstafyeva warns.

If competent authorities learn about a company employing a worker without a permit, or that such an employee continued working after losing it and before getting a new one, they can levy a fine equal to 20 minimal wages, or Hr 22,360. The responsible officials could also face fines of up to Hr 3,400, while the employee could lose up to Hr 850.

On the bright side, foreigners who work at Ukrainian subsidiaries of foreign companies will no longer need such permits starting Jan. 1, 2013, only service cards issued by the Economy Ministry. Those lucky expats with permanent residency are also freed of this responsibility.

After getting the work permit, a type D visa application must be made in a Ukrainian consulate abroad. It usually takes two-three weeks and is valid for a single entry into Ukraine and a 45-day stay. With this document, the foreigner can apply for another important document, a temporary residence permit (also valid for one year). This takes around 25 days, during which leaving Ukraine is prohibited.

"For a person that is used to working



Oleksandra Yevstafyeva

and traveling a lot, this can be a shock," the lawyer said.

Staying at a hotel is not enough, though. The future expat manager should own or officially rent an apartment. This usually means a price hike of 15-17 percent to compensate for taxes that might otherwise go unpaid, as the owner has to register the foreigner in his apartment.

Losing a temporary residence permit is not as bad as a work permit, but it is still unpleasant. Being unable to produce one for relevant authorities can result in an Hr 3,400 fine for the employer, and Hr 850 for the foreigner.

"The director has to know all this ahead of time in order to be ready to adjust his business schedule for the next three to six months, given the bureaucracy of processes in Ukraine," Yevstafyeva said.

She said she has her hands full as companies became more careful with human resources issues since authorities started implementing legislation more aggressively in recent years.

Lina Nemchenko, a partner at the Kyiv office of Baker & McKenzie, an international law firm, added that many top managers have been replaced in the last six months.

"Change of management often relates to uneasy economic situation in Ukraine and in the world," Nemchenko said. "The question that is on the agenda now is whether there will be the second wave of the crisis or not. All companies make different decisions, including changing a top manager, in order to prepare to it."

So administrative barriers will be the first challenge newly come foreign managers have to face. But they won't be the last.

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Borjomi group claims raider attack while officials allege tax evasion

BY YURIY ONYSHKIV
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IDS Group Ukraine, a local subsidiary of the Netherlands-registered bottled water producer IDS Borjomi International, claims to be under a raider attack led by government tax officials on behalf of unknown people.

To defend itself, the company is threatening legal action internationally if it fails to find justice in Ukraine.

The tax administration denies any wrongdoing and dismisses the allegations. Authorities say they are investigating large-scale tax evasion by the company.

However, the case is viewed as yet another example of rough and uncivilized treatment that businesses working in Ukraine experience from tax authorities, underlining a hostile business climate.

The alleged attack took place some two months after the company, one of the biggest mineral water producers on the Ukrainian market, announced that it was for sale.

"Our company is under raider attack, which is directed with the hands of tax police and the prosecutor's office. Almost simultaneously criminal cases were launched against all the (top) managers of our production facilities," said Marko Tkachuk, general director of IDS Group Ukraine, during a press conference in Kyiv on Nov. 12.

After obtaining a court order in Lviv, tax authorities froze the company's assets in Ukraine. In its decision, the court referenced a Moscow court, which took a similar decision to freeze the Borjomi group assets in Russia on suspicion that Boris Berezovsky, a onetime Russian oligarch who fled to London more than a decade ago, might have a stake in it. The Lviv court's decision was made following a request for legal assistance by Russian law enforcement officials digging into Berezovsky's activities.

Separately, following a claim by the local tax authorities, a court in Poltava froze bank accounts of the Myrhorod mineral water plant, which is also part of the IDS Group, in Poltava Oblast. As a result the plant halted production.

The tax police accuse Myrhorod mineral water plant officials of failing to pay nearly Hr 3 million (\$375,000) in profit taxes by lowering the price of their mineral water and, thus, the plant's gross income. The company dismissed the charges as untrue and called the investigations "fabricated." Anna Derevyanko, execu- → 9

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Bottled water maker shuts down plant after raid by tax authorities

→ **8** tive director of the European Business Association, to which the IDS Group Ukraine belongs, said she doesn't know whether the incident is a raider attack or a legitimate investigation into tax cheating. But Derevyanko called it wrong "to drive the thing to the point of stopping the plant (from operating)."

"Conflicts like that should be solved in a more peaceful manner," Derevyanko added.

According to Tkachuk, the company is losing Hr 3 million (\$375,000) daily because of the stopped production at their Myrhorod plant. "We will not be surprised if tomorrow (our) Morshyn plant stops working (altogether)," he added.

Tkachuk points out that criminal cases against the plant's top managers were launched without the required pre-investigation measures and in violation of proper legal procedures. Numerous violations also took place during the searches in the offices and houses of the plant's managers, he added.

The company's management and shareholders deny any connection to Berezovsky and say he doesn't have and has never had any interest in the company.

Tkachuk instead said that speculation on the company's connection to Berezovsky was used as a pretext for an alleged attack on the company, con-

nected with the company's announced sale. Tkachuk added he doesn't know who could be behind it.

The company maintains that it is transparent and pays its fair share of taxes. It is owned by shareholders in Europe and the U.S. with a majority stake belonging to the Georgian family of the late Badri Patarkatsishvili who once was Berezovsky's business partner.

Berezovsky did not respond to the Kyiv Post's phone calls.

Peter Nagle, who represents the Patarkatsishvili family on the board of IDS Borjomi International, firmly stressed they "will find out who is (behind the attack)" to defend their interests."

IDS Group Ukraine also addressed President Viktor Yanukovich, Prime Minister Mykola Azarov, and head of the Tax Administration Oleksandr Klymenko in an open letter to help them sort out the issue. "We believe they will help (us)," said Tkachuk.

The company also is working through the European Business Association on the issue. The company board members are planning to meet the ambassadors of France, the UK, and U.S. in Ukraine and have already met with the EU Delegation in Kyiv to communicate their concerns regarding the situation.

Jacques Fleury, a minority share-

holder of the company, threatened the company will file lawsuits in European courts to defend itself.

While the IDS Group has yet to see whether such measures could help, lawyers have advised them to involve their respective embassies, maintain good business practices and a transparent ownership structure, and also go public to either minimize the risk of another attack or do proper damage control once it takes place.

However, one lawyer points that the ownership structure of the IDS Group hasn't helped its cause.

"It is hard to foresee a raider attack," said Bertrand Barrier, partner at Gide Loyrette Nouel law firm in Kyiv.

The lawyer believes that the company would be safer from any attempts of infringing on its property rights if its ownership structure was developed properly. Yet, Barrier remains cautiously optimistic regarding the prospects of a business experiencing an attack – either by authorities or competitors – in Ukraine.

"All hopes shall not be abandoned since there are examples in Ukraine, where companies obtained a favorable decision from the court," Barrier points out, but wouldn't disclose the names of these companies.

Kyiv Post staff writer Yuriy Onyshkiv can be reached at onyshkiv@kyivpost.com

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BUSINESS ADVISER

VALUE ADDED TAX REFUNDS: OUT-OF-COURT ENFORCEMENT

By investing money in the share capital of Ukrainian companies, national and foreign investors aim to derive profit. However, the effective production of goods is not itself sufficient to achieve this goal – debts also have to be recovered in time, and this can sometimes pose problems.



Artem Sulzhenko,
Golovan and Partners
Law firm

A case in point is that of a private limited liability company, registered in the Register of Companies for England and Wales, which made an investment on the territory of Ukraine according to the procedure established by law. It acquired a wholly-owned subsidiary in the form of a limited liability company, which makes goods and exports them. However, soon the company faced a problem – the subsidiary failed to receive budgetary compensation for value added tax in time, and in the manner required by the legislation of Ukraine.

The tax authorities conducted audits after receiving the subsidiary's applications for a value added tax refund, and then issued certificates confirming the reliability and accuracy of the value added tax credit for 2011, as calculated by the subsidiary. Nonetheless, the subsidiary did not receive its value added tax refund – a sum of about UAH 28 million – in the terms prescribed by the law.

As the Ukrainian government had more than once reported that it was now making value added tax refunds in time and in full in Ukraine, and that there were no remaining overdue value added tax refunds left to make, the subsidiary reasonably expected to receive the sum due to it in the terms set in the law. The failure to receive the refund in the expected term could have made it difficult for the company to settle accounts with contractors for delivered goods, labor and services, as well as delay the payment of other types of taxes and charges to the state budget.

To prevent this happening, the parent company was forced to grant loans to its subsidiary, increasing its actual investment on the territory of Ukraine, but having no guarantee of its protection and return.

Therefore delay with value added tax refund not only violated the property rights of subsidiary but also made inroads into the sphere of company's property.

Existing Ukrainian legislation contains provisions that allow a subsidiary to demand the sum of budgetary debt for value added tax through administrative court proceedings. However there are some particularities concerning proceedings in Ukrainian courts and the enforcement of court rulings, which meant that the company needed to find a different approach to protect its rights. Hence, another approach was proposed, which was not so obvious but seemed to be more effective – to submit the dispute to international arbitration.

This was done under the Ukrainian-UK agreement for the Promotion and Reciprocal Protection of Investments, which has provisions for protecting the investments of an investor of one Contracting Party on the territory of the other Contracting Party (as do a series of similar agreements between the government of Ukraine and the governments of other states).

Taking into account the numerous statements by the Ukrainian government that there are no remaining outstanding value added tax refunds to be made, the situation described made it reasonable to conclude that the investment of the company was being subjected to treatment less favourable than that which Ukraine accords to its own investors and to investors of any third State. If so, this was a violation of the abovementioned agreement, and solid grounds for a legal case.

Moreover, the agreement states that disputes between an investor of one Contracting Party and the other Contracting Party concerning an obligation of the latter under this Agreement in relation to an investment of the former which have not been amicably settled, shall, after a period of three months from written notification of a claim, be submitted to international arbitration if the investor concerned so wishes.

Accordingly, the company sent written notification of its claim to the Ukrainian government. It would be a mistake to believe that the notification itself compelled the government to refund the total sum without delay, but in combination with some other legal actions that were taken during the period prescribed for the amicable settlement of the dispute, it resulted in the Ukrainian government issuing a value added tax refund before the start of arbitration proceedings. Thus an extraordinary but completely legal way of protecting the company's rights was employed. This case proves that it is possible to defend oneself without litigation, when faced with difficulties in the enforcement of court rulings in Ukraine.

Unfortunately the actions described are not themselves sufficient to solve entirely the problems with value added tax refunds in Ukraine. But at the same time, it demonstrates that those who take the initiative have an additional way to defend themselves.

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BUSINESSADVISER

4 RECOMMENDATIONS TO EACH PARTY TO A PRIVATE EQUITY DEAL

Unlike Western economies, Ukraine has only recently started to unlock its potential in the area of investments from Private Equity Funds ("PEFs"). Therefore, on the one hand, every serious Ukrainian business ("Business") has a good chance to attract the attention of a PEF. On the other hand, owners of Business ("Owners") often know little of the nature and goals of PEFs. Therefore, in order for the deal to go smoothly, both the PEF and the Owner should follow the following recommendations.



Mykola Stetsenko,
Managing Partner

4 RECOMMENDATIONS TO PRIVATE EQUITY FUND

1. General recommendation

The general recommendation to a PEF is to raise all "unpleasant" issues at the outset. Despite non-binding nature of term sheet, many Owners will treat it as the summary of ALL key terms of the deal and will strongly resist any new key issues being raised by the PEF at a later stage. Therefore, all of the below should be covered (at least in general terms) in the term sheet.

2. Structure the transaction properly

It may well be that at the time when the deal begins the Business does not yet have a proper group corporate structure. If the Owner deals with it in-house, there are risks that the result will not coincide with the PEF's timing or other expectations.

Moreover, if there were violations in the formation of the group (e.g., anti-trust violations), if not addressed correctly, this may substantially delay the whole deal. Therefore, PEF's attention to this matter may help everyone.

3. Think of future corporate governance

While a PEF usually invests into a non-Ukrainian holding company, all operations of the Business are conducted in Ukraine. Therefore, in order to ensure the PEF's effective participation in corporate governance of the Business (including exercise of its veto rights), it is necessary to envisage such mechanisms, which will work both on the foreign and the Ukrainian levels.

What will be important for many Owners is retention of operational control over the Business after closing of the deal. Therefore, the Owners may be supersensitive to any potential right of the PEF to influence the process of appointment or removal of senior managers (e.g., CFOs). The Owners are likely to resist not only PEF's power to appoint/remove any of them, but even PEF's veto right in relation to such appointment/removal.

4. Discuss Owner's liability

While many Owners are already mentally prepared to give warranties and indemnities in principle, they may not be prepared to give personal guarantees. They are also likely to heavily negotiate as wide limitations of liability as possible and may strongly resist any retention from the purchase price. The Owners will also resist bearing costs of the bank guarantee.

In relation to the liability for breach of the shareholders' agreement, the Owners are usually much less sophisticated in these matters and may be very suspicious to any put/call options, mandatory sale or share pledge arrangements.

4 RECOMMENDATIONS TO OWNER

1. Check what the investment horizon and exit strategy of the PEF are

PEFs are not long-term strategic investors. Therefore, at the time of the "wedding" they already have a clear understanding of the timing and specifics of the "divorce", which the Owner must also clearly understand.

As PEFs' core aim is to maximise the return on their investment in the short term (3 to 7 years), the PEF will insist on its right to exit from the Business through the sale of its shares to third parties or, based on the put option, to other shareholders. PEFs will also prefer to have a drag along right in respect of other shareholders. While, in return, PEFs may agree to a call option and other shareholders' drag along rights, they will do so only, if the minimum level of return on their investment is guaranteed.

2. Clarify the role which the PEF will play in running Business

Apart from injecting money, PEF will try to increase the valuation of the Business by enhancing the efficiency of the day-to-day operation of the Business. All parties need to agree at the outset on the ways of achieving such efficiency. In particular, whether the PEF will have some responsibility over the operational activities of the Business (by nominating some of the Business's officers (e.g., a CFO)) is an important question.

In any event, every PEF will insist on:

- board-level representation in a holding company and, possibly, even in important Ukrainian companies
- the right to veto on key matters of the Business
- strong informational rights (access to information and regular financial reporting)

3. Understand what level of risk the PEF is willing to accept

To decrease the level of its risk PEFs will always insist on broad warranties and a long list of indemnities covering all significant deficiencies discovered during due diligence or from the disclosure letter provided by the Owner.

This is another good reason for the Owners to conduct their own due diligence prior to negotiating the deal, in order to identify all problematic areas, which, if not solved, may well influence the price of the deal with a PEF, delay completion of the deal due to additional conditions precedent or, at least, result in additional indemnities.

The reverse approach will apply to any future sale by a PEF of its stake in a Business when the PEF would be unwilling to give any warranties or indemnities other than capacity and title warranties.

4. Check if you are expected to give personal guarantees (or other type of security)

PEFs will always require some type of security: retention of some portion of the purchase price, pledge of some assets (including Owner's shares in the Business), bank guarantee, suretyship of a third party or personal guarantee of the Owner.

Such security will usually cover two areas:

- the PEF's losses from breach of warranties/indemnities
- due fulfilment of the Owner's ongoing obligations (usually contained in the shareholders' agreement)

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Paying top dollar for legal help can pay off

BY MARK RACHKEVYCH
RACHKEVYCH@KYIVPOST.COM

Upper-tier law firms are expensive, but sometimes they are the best bet for clients who need help in completing complex international transactions successfully.

This summer Activ Solar retained Egorov Puginsky Afanasiev & Partners for advice in connection with a multimillion-dollar credit from VTB Bank to construct a solar park in Crimea. The law firm has offices in Russia and Ukraine, as does VTB Bank, while Activ Solar has operations in Ukraine and a presence in Austria.

"On a very practical level, top law firms have the resources to ensure that complex, cross-border transactions are run as efficiently as possible," said Michael Cherevko, general director of Activ Solar. "They can often take advantage of time differences by using staff in offices in



Serhiy Chorny

different time zones...They can also deal with the large number of documents...as part of a complex transaction or case and they can manage

the process so the in-house legal and business teams have a single point of contact..."

And when Metinvest, the giant steel and mining unit of Rinat Akhmetov's System Capital Management, was getting ready to launch its \$1 billion euro medium-term note, it hired Baker & McKenzie.

"We always look for very experienced and highly qualified specialists who are familiar with our tough requirements, Metinvest's group structure and capable of providing legal services in all jurisdictions of Metinvest's presence," Tetyana Balynska told the Kyiv Post, Metinvest Holding's corporate finance legal adviser.

Serhiy Chorny, managing partner of Baker & McKenzie's CIS office in Kyiv, has worked on seven of the last eight initial public offerings held in Warsaw by Ukrainian companies. He said the firm's commercial knowledge combined with its geographical → 22

Lawyers offer safety tips when authorities raid companies

BY OKSANA GRYTSENKO
GRYTSENKO@KYIVPOST.COM

Tax police officers knocking on the door is a recurring nightmare that businesspeople have in Ukraine.

Employees of investment bank Phoenix Capital in Kyiv will remember Nov. 13 for the shards of shattered glass on the floor, and the frightened look in their eyes after the tax police broke into their place of work in search of documents.

Tax authorities suspect Phoenix's owner, Oleksandr Omelchuk, of illegally transferring foreign currency abroad and evading Hr 4 million in taxes (\$500,000). Omelchuk denied the charges. He claimed the criminal probe against him was a way to pressure his wife, opposition lawmaker Lesia Orobets, who was recently re-elected on the Batkivshchyna Party ticket.

Lawyers with whom the Kyiv Post spoke admit that unexpected tax service checks can happen to anyone. So it's best to prepare, experts advise.

Know your rights

Taxpayers should ask for identification from anyone claiming to be a civil servant, including tax officers and tax police. Original copies of primary accounting documents should be delivered only to criminal investigators and only "based on the respective court order," Hennadiy Voytsitskiy, partner at Baker & McKenzie law firm says. The firm's director and chief accountant have the right to be present during the tax audit, he adds. For scheduled on-site audits, the tax authorities should also always send a written notice at least 10 days before a visit.

Submit all documents

When the tax service doesn't receive timely responses to their questions they tend to carry out unscheduled audits, an owner's biggest fear. So companies should "give timely responses to the tax service's requests as well as timely submit the (tax) declaration together with all the additional explanations," advises Taras Koval, head of tax practice at Gide Loyrette Nouel law firm.

Choose best tax plan

Getting your payment regime right



Tax police raid the Nobody But Us non-governmental organization in October 2011. (kievs.news.wordpress.com)

is crucial to having successful talks with the tax authorities, and having a successful business in general, advises Oleksiy Khrystoforov, attorney at Ilyashev & Partners law firm. He also suggests paying special attention to human resource management, as discrepancies between reported and real staff members and salaries are the best way to get auditors to visit. Foreign companies often get into trouble when trying to apply labor systems from their main office in Ukraine, the lawyer warns.

Talking to auditors

The company's lawyers should be able to identify the firm's weaknesses and be ready to protect any sensitive information not related to tax issues from the auditor's eyes. That's why it's highly recommended to designate a special workplace for auditors coming to you, Baker & McKenzie's Voytsitskiy says.

Defend yourself

Experience over the last few years shows that this is precisely where you might end up, no matter what you do. So make sure you know who to contact for your defense before the going gets rough.

In addition to tax audits, customs audits have also appeared as a common practice since the adoption of

a new Customs Code in June 2012. These can be brought on by inaccurately completed customs declarations or if your business partner has been accused of wrongdoing. "Now we even see some kind of competition among customs and tax authorities," jokes Gide Loyrette Nouel's Koval, adding that this means extra care should be paid to customs documents.

Properly completed documents can also help protect companies against raider attacks. Koval suggested being especially careful in drawing up two kinds of documents:

Land ownership papers. "In the early 2000s companies were often brought to their knees by raiders who were claiming the land belonged to them," Koval said.

Bill of debts. This kind of document often allows dishonest creditors to demand a share of the business or start bankruptcy procedures, in which case courts can strip owners of their rights.

Despite the common belief that there are no legal ways to protect against illegal raider attacks, lawyers say it is not always so. "Practice shows that raiders usually act where they see legal incompleteness," Koval said.

Kyiv Post staff writer Oksana Grytsenko can be reached at grytsenko@kyivpost.com

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Going Out Guide

● – see address in the box below and on the pull-out map.

Comments and tips are welcome. Email the lifestyle team at ls@kyivpost.com

For tickets online, please visit kvytky.ua, parter.ua, freedomhall.com.ua, bilethouse.com.ua, karabas.com, or biletik.ua.

Pole Art Show



Nov.16-17

courtesy

This performance is going to be a breathtaking mixture of pole dance and acrobatic tricks accompanied by modern music and visual effects. So the visitors can expect to see anything from huge air balloons soaring above the stage to a virtual tour around the world in an hour and a half. The name of the show, "80 Days Before the End of the World," and its plot refer to a well-known story "Around the World in 80 days" by French writer Jules Verne.

Pole Art Show. Nov. 16-17. Kyiv National Academic Theatre of Operetta. 6:30 p.m. Hr 150 – 1,100

Friday, November 16

Classical music

Works of Caccini, Bach, Albinoni, San-Saens (organ, piano). House of Organ Music. 7:30 p.m. Hr 20-80
Mykola Lysenko 4th International Musical Competition. National Philharmonic. 7 p.m. Free
Mykola Lysenko 4th International Musical Competition. Live Audition of the Participants. National Tchaikovsky Academy of Music. 10 a.m. - 4 p.m. Free
Iberia Suite by Isaac Albéniz (piano). Master Klass. 8 p.m. Hr 50

Movies

Best Autumn Shorts (shorts festival). Zhovten. 3:40 p.m. Hr 35
Amour (Another Movie Festival). Kyiv. 2:40 p.m., 7:10 p.m. Hr 30-40
Wuthering Heights (New British Movie Festival). Kyiv. 7 p.m. Hr 50
Irvine Welsh's Ecstasy (Another Movie Festival). Kyiv. 9:30 p.m. Hr 40
Tyrannosaur. (New British Movie Festival) Kyiv. 9:30 p.m. Hr 50
Cloud Atlas (fantasy). Ukraine. 3:50 p.m., 9:40 p.m. Hr 30-60

Live music

Mad Heads XL & Crazy Train. Docker Club. 10 p.m. Hr 100
Vasya Club & Red Rocks (rock). Docker's ABC. 10 p.m. Hr 75
Some Like It Hot (female cover band). Art Club 44. 10 p.m. Hr 50
Pur:Pur. Divan. 8 p.m. Hr 100

Clubs

Absinthe Night. Saxon. 11 p.m. Hr 20-40 for females, Hr 25-50 for males
Low Party. Xlib. 11 p.m. Fee to be announced
Flirt Party. Bionica. 11 p.m. Hr 30-50 for females, Hr 60-80 for males

Theaters

Primadonnas (comedy). Koleso Theater. 7 p.m. Hr 100
Athens Nights (comedy). Molody Theater. 7 p.m. Hr 50-90
Corsicanian (historical anecdote). Drama & Comedy Theater on the left bank of Dnipro. 7 p.m. Hr 50-80

Shows

Transglobal Underground, DahaBraha & Port Mone. Stereo Plaza. 7 p.m. Hr 150-750
Delfin. Crystal Hall. 9 p.m. Hr 170-500
Garik Sukachev (rock). Palats Ukraina. 7 p.m. Hr 300-2500
Catharsis. Underground Music Hall. 8 p.m. Hr 130-160
Jamala. Tolstoy Restaurant-club. 10 p.m. Hr 200

Friday, November 16

Pole Art Show: 80 Days Before The End Of The World. Kyiv National Academic Theater of Operetta. 7 p.m. Hr 150-870
Telniuk Sisters. Chasopys. 7 p.m. Hr 150
Miscellaneous

Human Body Exhibition. NSC Olimpiyskiy. Hr 110-350
Winter Sport eXtreme 2012. Kyiv Expo Plaza. 10 a.m. Hr 15
Art Kyiv Contemporary 2012 (art forum). Mystetskyi Arsenal. 11 a.m. Hr 50
Dutch Design Bicycle. Domsfera Shopping Mall (101 Stolychne Highway). 10 a.m. Free

Damien Hirst. Pinchuk Art Center. 12:01 p.m. Free
Orchids Exhibition. Kyiv Municipal House of Nature (3 Rognedinskaya St.). 11 a.m. Hr 5-10
Astrid Kirzherr. The Beatles Photographer (photo exhibition). M17 Contemporary Art Center. 11 a.m.

Saturday, November 17

Classical music
Works of Bach (organ). House of Organ Music. 7:30 p.m. Hr 30-100
Mykola Lysenko 4th International Musical Competition. National Philharmonic. 7 p.m. Free
Mykola Lysenko 4th International Musical Competition. Live Audition of the Participants. National Tchaikovsky Academy of Music. 10 a.m. - 4 p.m. Free
Movies
Best Autumn Shorts (shorts festival). Zhovten. 12:45 p.m., 2:20 p.m. Hr 35
Britain (New British Movie Festival). Kyiv. 5 p.m. Hr 50
The Lodger (New British Movie Festival). Kyiv. 7 p.m. Hr 50
Amour (Another Movie Festival). Kyiv. 7:10 p.m. Hr 30-40
Albert Nobbs (New British Movie Festival). Kyiv. 9 p.m. Hr 50
Irvine Welsh's Ecstasy (Another Movie Festival). Kyiv. 9:30 p.m. Hr 40
Cloud Atlas (fantasy). Ukraine. 3:50 p.m., 9:40 p.m. Hr 30-60
Live music
Tribute to AC/DC. Docker Club. 10 p.m. Hr 75
Mad Heads XL & More Huana (cover bands). Docker's ABC. 10 p.m. Hr 100
Wake Up (sexy cover band). Art Club 44. 10 p.m. Free
Naka Piano. Divan. 8 p.m. Free
Clubs
Student's Day. Home. 10 p.m. Hr 120

Russian Mountains Dance Party. Art Club 44. 11 p.m. Hr 50 (free with balalaika or bayan)
Student's Day. Forsage. 11 p.m. Hr 30-60 for females, Hr 40-80 for males
Theaters
The Double Bass (based on Patrick Suskind's play). Ivan Franko Theater. 7 p.m. Hr 590-1,890
Woyzeck. Carnival Of Flesh (premiere). Drama & Comedy Theater on the left bank of Dnipro. 7 p.m. Hr 70-120
Fourth Sister (black comedy). Molody Theater. 7 p.m. Hr 50-90
Shows
Tricky. Crystal Hall. 8 p.m. Hr 350-900
Korol I Shut (punk rock). Stereo Plaza. 7 p.m. Hr 150-750
Todes (dance show). House of Officers. 7 p.m. Hr 150-800
Cruis (Valeriy Gain). Bochka. 8 p.m. Hr 170-200
Dislocados & Burn It Up. Tolstoy Restaurant-club. 8 p.m. Hr 65
Pole Art Show: 80 Days Before The End Of The World. Kyiv National Academic Theater of Operetta. 7 p.m. Hr 150-1100
Miscellaneous
Human Body Exhibition. NSC Olimpiyskiy. Hr 110-350
Winter Sport eXtreme 2012. Kyiv Expo Plaza. 10 a.m. Hr 15
Art Kyiv Contemporary 2012 (art forum). Mystetskyi Arsenal. 11 a.m. Hr 50
Dutch Design Bicycle. Domsfera Shopping Mall (101 Stolychne Highway). 10 a.m. Free
Steel Edge (knife show). Chamber of Commerce of Ukraine. 11 a.m. Free
Winter Is Knocking On The Door. Kyivska Rus Park. 10 a.m. Hr 40-80
Art Kyiv Contemporary 2012 (art forum). Mystetskyi Arsenal. 11 a.m. Hr 50
Damien Hirst. Pinchuk Art Center. 12:01 p.m. Free
Orchids Exhibition. Kyiv Municipal House of Nature (3 Rognedinskaya St.). 11 a.m. Hr 5-10
Steel Edge (knife show). Chamber of Commerce of Ukraine. 11 a.m. Free
Winter Is Knocking On The Door. Kyivska Rus Park. 10 a.m. Hr 40-80
Damien Hirst. Pinchuk Art Center. 12:01 p.m. Free
Orchids Exhibition. Kyiv Municipal House of Nature (3 Rognedinskaya St.). 11 a.m. Hr 5-10
Astrid Kirzherr. The Beatles Photographer (photo exhibition). M17 Contemporary Art Center. 11 a.m. Free

Classical music
Mykola Lysenko 4th International Musical Competition. National Philharmonic. 7 p.m. Free
Mykola Lysenko 4th International Musical Competition. Live Audition of the Participants. National Tchaikovsky Academy of Music. 10 a.m. - 4 p.m. Free
Movies
Amour (Another Movie Festival). Kyiv. 2:40 p.m., 7:10 p.m. Hr 30-40
Albert Nobbs (New British Movie Festival). Kyiv. 7 p.m. Hr 50
The Imposter (New British Movie Festival). Kyiv. 9 p.m. Hr 50
Irvine Welsh's Ecstasy (Another Movie Festival). Kyiv. 9:30 p.m. Hr 40
Cloud Atlas (fantasy). Ukraine. 3:50 p.m., 9:40 p.m. Hr 30-60
Live music
Chill Out (disco rock). Docker Club. 9:30 p.m. Free
Rock Four (rock covers). Docker's ABC. 10 p.m. Free
Soyuz 44 (jazz jam session). Art Club 44. 10 p.m. Free
Clubs
Back to USSR Party. Ajour. 11 p.m. Free for females, Hr 100 for males
Party Time: Electro Lovers. Saxon. 11 p.m. Hr 15-30
R'n'B Boom. Forsage. 11 p.m. Hr 10-30
Theaters
In The Burning Darkness (premiere). Molody Theater, small stage. 7 p.m. Hr 50
Don Juan (based on Moliere's play). Molody Theater. 7 p.m. Hr 40-70
26 Rooms (based on Anton Chekhov's play 'The Wood Demon'). Drama & Comedy Theater on the left bank of Dnipro. 7 p.m. Hr 40-70
A Profitable Position (based on Nikolay Ostrovsky's novel). Lesya Ukrainka Theater. 7 p.m. Hr 15-120
Chasing Two Hares (operetta). Operetta Theater. 7 p.m. Hr 80-150
Miscellaneous
Human Body Exhibition. NSC Olimpiyskiy. Hr 110-350
Art Kyiv Contemporary 2012 (art forum). Mystetskyi Arsenal. 11 a.m. Hr 50
Dutch Design Bicycle. Domsfera Shopping Mall (101 Stolychne Highway). 10 a.m. Free
Steel Edge (knife show). Chamber of Commerce of Ukraine. 11 a.m. Free
Winter Is Knocking On The Door. Kyivska Rus Park. 10 a.m. Hr 40-80
Damien Hirst. Pinchuk Art Center. 12:01 p.m. Free
Orchids Exhibition. Kyiv Municipal House of Nature (3 Rognedinskaya St.). 11 a.m. Hr 5-10
Astrid Kirzherr. The Beatles Photographer (photo exhibition). M17 Contemporary Art Center. 11 a.m. Free
Movies
Best Autumn Shorts (shorts festival). Zhovten. 3:40 p.m. Hr 35
Amour (Another Movie Festival). Kyiv. 2:40 p.m., 7:10 p.m. Hr 30-40
Tyrannosaur (New British Movie Festival). Kyiv. 7 p.m. Hr 50
Albert Nobbs (New British Movie Festival). Kyiv. 9 p.m. Hr 50
Irvine Welsh's Ecstasy (Another Movie Festival). Kyiv. 9:30 p.m. Hr 40
Cloud Atlas (fantasy). Ukraine. 3:50 p.m., 9:40 p.m. Hr 30-60
Live music
Rockin' Wolves (rock). Docker Pub. 9:30 p.m. Free
The Magma (pop rock). Docker's ABC. 10 p.m. Hr 30
Jazz Wednesday with Alena Salova & Friends. Divan. 8 p.m. Free
R.O.O.M. & Dumb Surgeon (indie). Art Club 44. 10 p.m. Free
Theaters
The Imaginary Invalid (premiere, comedy). Lesya Ukrainka Theater. 7 p.m. Hr 20-200
The Marriage of Figaro (comedy). Ivan Franko Theater. 7 p.m. Hr 20-200
Ordinary Story (drama). Molody Theater. 7 p.m. Hr 40-70
Shows
Guests Are Coming At Midnight (comedy). Drama & Comedy Theater on the left bank of Dnipro. 7 p.m. Hr 40-70
Letter From An Unknown Woman (melodrama). Artist's House. 7 p.m. Hr 50-130

Movies

Best Autumn Shorts (shorts festival). Zhovten. 12:45 p.m., 2:20 p.m. Hr 35
Britain (New British Movie Festival). Kyiv. 12:30 p.m. Hr 25
Amour (Another Movie Festival). Kyiv. 2:40 p.m., 7:10 p.m. Hr 30-40
Tyrannosaur (New British Movie Festival). Kyiv. 9 p.m. Hr 50
Wuthering Heights (New British Movie Festival). Kyiv. 9 p.m. Hr 50
Irvine Welsh's Ecstasy (Another Movie Festival). Kyiv. 9:30 p.m. Hr 40
Cloud Atlas (fantasy). Ukraine. 3:50 p.m., 9:40 p.m. Hr 30-60

Live music

Chill Out (disco rock). Docker Club. 9:30 p.m. Free
Rock Four (rock covers). Docker's ABC. 10 p.m. Free
Soyuz 44 (jazz jam session). Art Club 44. 10 p.m. Free

Clubs

Back to USSR Party. Ajour. 11 p.m. Free for females, Hr 100 for males
Party Time: Electro Lovers. Saxon. 11 p.m. Hr 15-30
R'n'B Boom. Forsage. 11 p.m. Hr 10-30

Theaters

In The Burning Darkness (premiere). Molody Theater, small stage. 7 p.m. Hr 50
Don Juan (based on Moliere's play). Molody Theater. 7 p.m. Hr 40-70
26 Rooms (based on Anton Chekhov's play 'The Wood Demon'). Drama & Comedy Theater on the left bank of Dnipro. 7 p.m. Hr 40-70
A Profitable Position (based on Nikolay Ostrovsky's novel). Lesya Ukrainka Theater. 7 p.m. Hr 15-120
Chasing Two Hares (operetta). Operetta Theater. 7 p.m. Hr 80-150

Miscellaneous

Human Body Exhibition. NSC Olimpiyskiy. Hr 110-350
Art Kyiv Contemporary 2012 (art forum). Mystetskyi Arsenal. 11 a.m. Hr 50
Dutch Design Bicycle. Domsfera Shopping Mall (101 Stolychne Highway). 10 a.m. Free
Steel Edge (knife show). Chamber of Commerce of Ukraine. 11 a.m. Free
Winter Is Knocking On The Door. Kyivska Rus Park. 10 a.m. Hr 40-80
Damien Hirst. Pinchuk Art Center. 12:01 p.m. Free
Orchids Exhibition. Kyiv Municipal House of Nature (3 Rognedinskaya St.). 11 a.m. Hr 5-10
Astrid Kirzherr. The Beatles Photographer (photo exhibition). M17 Contemporary Art Center. 11 a.m. Free

Monday, November 19

Classical music

Works of Vivaldi. House of Organ Music. 7:30 p.m. Hr 20-80
Mykola Lysenko 4th International Musical Competition. National Philharmonic. 7 p.m. Free

Movies

Amour (Another Movie Festival). Kyiv. 2:40 p.m., 7:10 p.m. Hr 30-40
Albert Nobbs (New British Movie Festival). Kyiv. 7 p.m. Hr 50
The Imposter (New British Movie Festival). Kyiv. 9 p.m. Hr 50
Irvine Welsh's Ecstasy (Another Movie Festival). Kyiv. 9:30 p.m. Hr 40
Cloud Atlas (fantasy). Ukraine. 3:50 p.m., 9:40 p.m. Hr 30-60

p.m., 9:40 p.m. Hr 30-60

Live music

Dyadya Vasya. Docker Pub. 9:30 p.m. Free
Karnavalnaya Zhara. Docker's ABC. 10 p.m. Free
A Band (Brazil). Art Club 44. 10 p.m. Free

Theaters

Four Reasons To Get Married (comedy). Drama & Comedy Theater on the left bank of Dnipro. 7 p.m. Hr 70-120
Trees Die Standing (drama). Lesya Ukrainka Theater. 7 p.m. Hr 15-120

Miscellaneous

Human Body Exhibition. NSC Olimpiyskiy. Hr 110-350
Damien Hirst. Pinchuk Art Center. 12:01 p.m. Free
Astrid Kirzherr. The Beatles Photographer (photo exhibition). M17 Contemporary Art Center. 11 a.m. Free

Tuesday, November 20

Classical music

Ukrainian Music (organ, piano, trumpet). House of Organ Music. 7:30 p.m. Hr 20-80
Mykola Lysenko 4th International Musical Competition. National Philharmonic. 7 p.m. Free
Mykola Lysenko 4th International Musical Competition. Live Audition of the Participants. National Tchaikovsky Academy of Music. 10 a.m. - 4 p.m. Free

Movies

Best Autumn Shorts (shorts festival). Zhovten. 3:40 p.m. Hr 35
Amour (Another Movie Festival). Kyiv. 2:40 p.m., 7:10 p.m. Hr 30-40
The Imposter (New British Movie Festival). Kyiv. 9 p.m. Hr 50
The Best Exotic Marigold Hotel (New British Movie Festival). Kyiv. 9 p.m. Hr 50
Irvine Welsh's Ecstasy (Another Movie Festival). Kyiv. 9:30 p.m. Hr 40
Cloud Atlas (fantasy). Ukraine. 3:50 p.m., 9:40 p.m. Hr 30-60

Live music

Tres Deseos (latino party). Docker Pub. 9:30 p.m. Free
More Huana (cover band). Docker's ABC. 10 p.m. Hr 20
4Films. Divan. 8 p.m. Free

Theaters

Push Up 1-3 (drama). Koleso Theater. 7 p.m. Hr 70
The Bat (operetta). Operetta Theater. 7 p.m. Hr 80-100



Nov.24

British sound festival

Happening for the first time, British sound festival will bring together dozens of modern punk and rock bands from Britain, Sweden, France, Russia and Ukraine. While the bands are expected to perform

during the day time, a group of DJs headlined by French turntable guru The Toxic Avenger will entertain the guests of the fest at night. Apart from music, the organizers promise exciting entertainment program and food treats.
British sound festival. Nov. 24. Stereo Plaza. 6:30 p.m. Hr 250-600

Turetsky Choir & Soprano (jubilee concert). Palats Ukraina. 7 p.m. Hr 450-3,000

Miscellaneous

Human Body Exhibition. NSC Olimpiyskiy. Hr 110-350
Damien Hirst. Pinchuk Art Center. 12:01 p.m. Free
Astrid Kirchherr. The Beatles Photographer (photo exhibition). M17 Contemporary Art Center. 11 a.m. Free
Dutch Design Bicycle. Domosfera Shopping Mall (101 Stolychna Highway). 10 a.m. Free

Thursday, November 22

Classical music

Works of Vivaldi, Handel, Marcello, Walter (organ, violin). House of Organ Music. 7:30 p.m. Hr 20-80
Mykola Lysenko 4th International Musical Competition. National Philharmonic. 7 p.m. Free
Mykola Lysenko 4th International Musical Competition. Live Audition of the Participants. National Tchaikovsky Academy of Music. 10 a.m. - 2 p.m. Free

Movies

Muriel's Wedding (comedy). Master Klass. 7 p.m. Hr 40
Cloud Atlas (fantasy). Ukraine. 3:50 p.m., 9:40 p.m. Hr 30-60

Live music

Animals Session (classic rock). Docker Pub. 9:30 p.m. Free
Chill Out (disco rock). Docker's ABC. 10 p.m. Hr 30
Oasis Cover Party. Divan. 8 p.m. Hr 40
Vosmoy (pop rock). Art Club 44. 10 p.m. Hr 50

Theaters

Farewell To The Paper. Eugen Grishkovec. Lesya Ukrainka Theater. 7 p.m. Hr 100-2,500
The Dove (tragic comedy). Until Mother Did Not Come (comedy). Molody Theater. 7 p.m. Hr 50-90
This Jewish Happiness (musical). Operetta Theater. 7 p.m. Hr 30-80
Nazar Stodolya (premiere). Ivan

Franko Theater. 7 p.m. Hr 15-120

Shows

Oleksandr Serov. Palats Ukraina. 7 p.m. Hr 120-1,300
Artur Pirozhkov. Freedom Hall. 8 p.m. Hr 800-2,200

Miscellaneous

Human Body Exhibition. NSC Olimpiyskiy. Hr 110-350
Damien Hirst. Pinchuk Art Center. 12:01 p.m. Free
Astrid Kirchherr. The Beatles Photographer (photo exhibition). M17 Contemporary Art Center. 11 a.m. Free
Dutch Design Bicycle. Domosfera Shopping Mall (101 Stolychna Highway). 10 a.m. Free

Friday, November 23

Classical music

Works of Buxtehude, Cabanilles, Bach, Franck, Rheinberger (organ). House of Organ Music. 7:30 p.m. Hr 30-100
Mykola Lysenko 4th International Musical Competition. National Philharmonic. 7 p.m. Free
Mykola Lysenko 4th International Musical Competition. Live Audition of the Participants. National Tchaikovsky Academy of Music. 10 a.m. - 2 p.m. Free

Movies

Cloud Atlas (fantasy). Ukraine. 3:50 p.m., 9:40 p.m. Hr 30-60

Live music

Mad Heads UkrainSka & Red Rocks (rock). Docker Pub. 9:30 p.m. Hr 100
Motor'rola Chumaki & Crazy Train. Docker's ABC. 10 p.m. Hr 75
Prima Nota (rock, jazz). Divan. 8 p.m. Free
Irdorat (folk). Art Club 44. 10 p.m. Hr 50

Theaters

Under The Sky Of Paris (love story performance). Zhovtnevy Palats. 7 p.m. Hr 250-1,000
Farewell To The Paper. Eugen Grishkovec. Lesya Ukrainka Theater.

7 p.m. Hr 100-2,500

Empty Trash (comedy). Molody Theater. 7 p.m. Hr 40-60

Spectators Are Not Allowed On Performance! (comedy). Drama & Comedy Theater on the left bank of Dnipro. 7 p.m. Hr 70-120

Urus-Shaitan (the tale about Sirko - Cossack Ataman, Chevalier d'Artagnan and the Turkish Sultan). Ivan Franko Theater. 7 p.m. Hr 15-150

Shows

Seal. Palats Ukraina. 7 p.m. Hr 250-2,150
World Tango Stars. House of Officers. 7 p.m. Hr 100-550
Karandash. Forsage. 7 p.m. Hr 100
O.Torvald. Bingo. 7 p.m. Hr 80-150
Theodor Bastard. Underground Music Hall. 8 p.m. Hr 130
Pianoboy. Tolstoy Restaurant-club. 10 p.m. Hr 250

Miscellaneous

X-Planet. International Exhibition Center. 11 a.m. Free (you can fill the invitation form here dynamics-expo.com.ua)
Human Body Exhibition. NSC Olimpiyskiy. Hr 110-350
Damien Hirst. Pinchuk Art Center. 12:01 p.m. Free
Astrid Kirchherr. The Beatles Photographer (photo exhibition). M17 Contemporary Art Center. 11 a.m. Free
Dutch Design Bicycle. Domosfera Shopping Mall (101 Stolychna Highway). 10 a.m. Free
Fryday Afterwork (not the Fryday W with speaker). Vodka Bar. 6:30 p.m.-10 p.m.

Saturday, November 24

Classical music

Works of Giordano, Handel, Mozart, Verdi, Franck, Puccini, Gounod, Leoncavallo (organ). House of Organ Music. 7:30 p.m. Hr 50-200
Mykola Lysenko 4th International Musical Competition. Gala Concert. National Philharmonic. 7 p.m. Hr 40-80

Live music

Motor'rola & More Huana (cover

bands). Docker Pub. 9:30 p.m. Hr 75
Mad Heads UkrainSka & Mama Mia (rock, Italian disco). Docker's ABC. 10 p.m. Hr 100
Riffmaster (rock). Divan. 8 p.m. Hr 50
Wake Up (sexy cover band). Art Club 44. 10 p.m. Hr 50

Theaters

Simultaneously. Eugen Grishkovec. Lesya Ukrainka Theater. 7 p.m. Hr 100-1,500
Frederick Or Crime Boulevard (premiere). Ivan Franko Theater. 7 p.m. Hr 15-120
Tango Of Life (dance performance). Operetta Theater. 7 p.m. Hr 50-100
Inlays (premiere). Molody Theater. 7 p.m. Hr 40-70

Shows

Liube. Palats Ukraina. 7 p.m. Hr 200-2,250
Morandi. Crystal Hall. 10 p.m. Hr 350-950

Miscellaneous

British Sound Fest. Stereo Plaza. 6:30 p.m. Hr 250-600
Big Bul-Bul Show. Artist's House. 11 a.m., 1 p.m. Hr 60-120
X-Planet. International Exhibition Center. 11 a.m. Free (you can fill the invitation form here dynamics-expo.com.ua)
Human Body Exhibition. NSC Olimpiyskiy. Hr 110-350
Damien Hirst. Pinchuk Art Center. 12:01 p.m. Free
Astrid Kirchherr. The Beatles Photographer (photo exhibition). M17 Contemporary Art Center. 11 a.m. Free
Dutch Design Bicycle. Domosfera Shopping Mall (101 Stolychna Highway). 10 a.m. Free

Sunday, November 25

Classical music

Subscription No.6. Violin Music. Works of Suter, Dunki, Karmanov, Glinka (piano, cello, viola, violin). National Philharmonic. 7 p.m. Hr

Transformation of Andriivsky Uzviz in photos

Through Dec.31



A collection of black-and-white photos by Ukrainian photographer Valery Leshchynsky will give you a glimpse into the look of Kyiv's most charming cobbled street Andriivsky Uzviz at different periods of time on display at Mikhail Bulgakov museum. The author aims to revive the old and long forgotten uzviz landscapes and buildings.

Opening on Nov. 24, shortly after the recent reconstruction of the street the exhibition is worth paying a visit. Transformation of Andriivsky uzviz. Photo exhibition. Through Dec.31. Mikhail Bulgakov Museum. 10 a.m - 6 p.m. Free (closed on Wednesday)

45-110

Live music

Rock Four (best world hits). Docker Pub. 9:30 p.m. Free
Docker's ABC 6th Birthday with 7B & Crazy Train. Docker's ABC. 9 p.m. Fee to be announced
SBPCH (hip hop). Art Club 44. 10 p.m. Hr 100

Theaters

Middle-aged Men Conversations (performance by Quartet I). Zhovtnevy Palats. 7 p.m. Hr 200-2,200
Quartet For Two (premiere). Molody Theater. 7 p.m. Hr 50-90
Dreams Of Vasilisa Yegorovna (performance by Les' Poderev'yans'ky). Kinopanorama. 7 p.m. Hr 150-400
Zorba The Greek (premiere). Ivan Franko Theater. 7 p.m. Hr 20-200

Shows

Pelageya. Palats Ukraina. 7 p.m. Hr 120-950

Billy Talent. Stereo Plaza. 8 p.m. Hr 240-400
Brazil Bossa Nova Quartet. National Tchaikovsky Academy of Music. 7 p.m. Hr 100-300
Botanic Project. Underground Music Hall. 8 p.m. Hr 80

Miscellaneous

X-Planet. International Exhibition Center. 11 a.m. Free (you can fill the invitation form here dynamics-expo.com.ua)
Slavic Rock (music festival). Bingo. 12:01 p.m. Free
Human Body Exhibition. NSC Olimpiyskiy. Hr 110-350
Damien Hirst. Pinchuk Art Center. 12:01 p.m. Free
Astrid Kirchherr. The Beatles Photographer (photo exhibition). M17 Contemporary Art Center. 11 a.m. Free
Dutch Design Bicycle. Domosfera Shopping Mall (101 Stolychna Highway). 10 a.m. Free

Addresses of venues

Classical Music
National Philharmonic of Ukraine
House of Organ Music
School of Jazz and Pop Art
National Tchaikovsky Academy of Music
Clubs
Movies
Outdoor cinema
Live Music

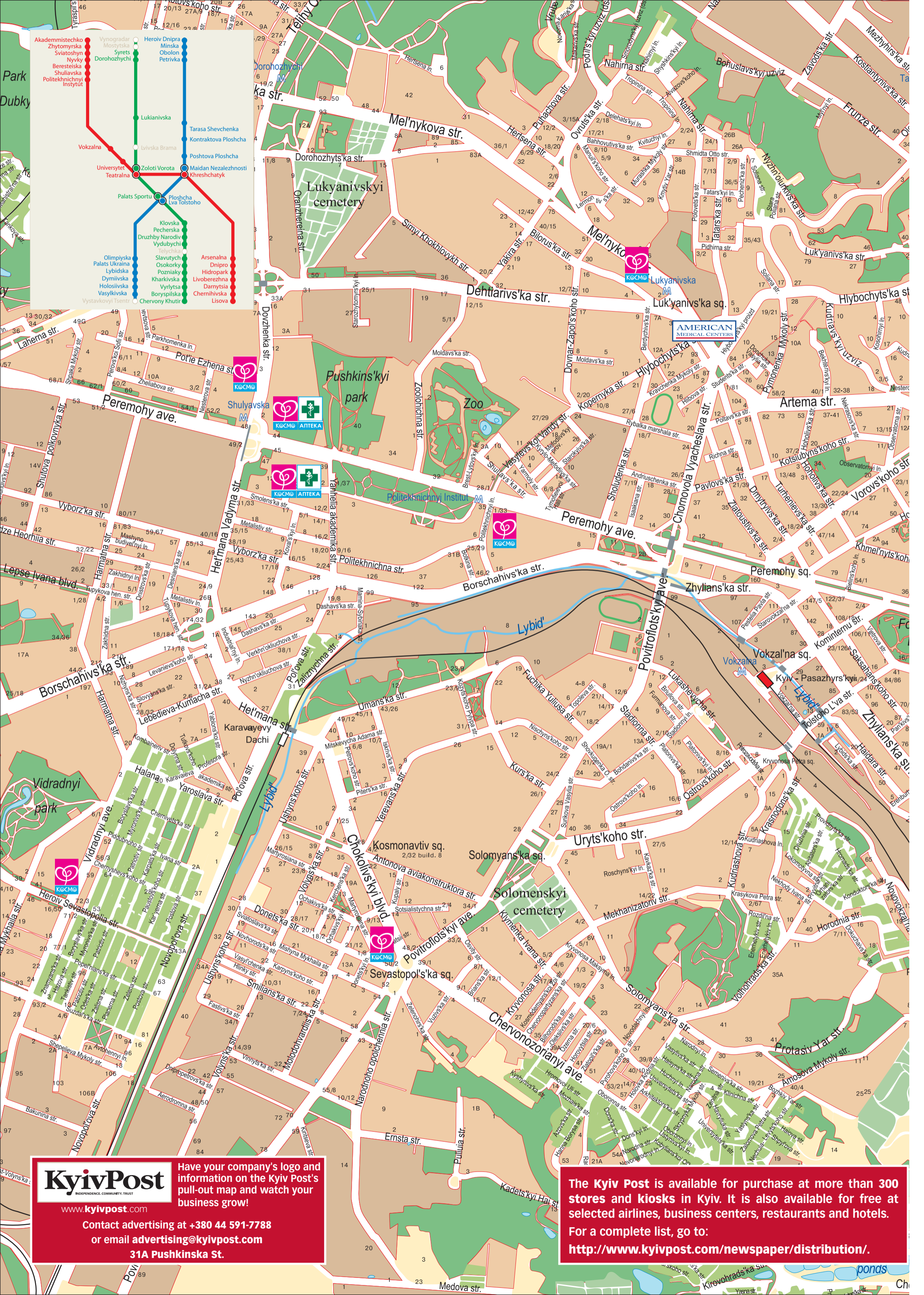
forsageclub.com.ua
Prime Club
Crystal Hall
Divan
Arena Entertainment
Mantra
Route 66
Golden Gate pub.
Fiesta
Allegro Hall
Saxon Club
Sullivan Room

greentheatre.com.ua
Ajour
Molody Theater
Kyiv National Academic Theater of Operetta
Vodka Bar
TransForce
Kiev Opera and Ballet Theater for Children and Youth
Dakh Modern Art Theatre
Ivan Franko Ukrainian Drama Theater
Lesya Ukrainka Russian Drama Theater
Koleso Theater
Freedom Hall
Stereopiazza
Palats Sportu

538-0827 iec-expo.com.ua
Lavra Gallery
Underground Music Hall
Zhovtnevy Palats
INAU Center of Culture and Arts
ExpoCenter of Ukraine
House of Officers
Kyiv Children and Youth palace
Art support fund
Kult Ra
Sky Mall
Miscellaneous
Kyiv Expo Plaza
Master Klass cultural center
Mamajeva Sloboda
Ostrich farm

Kyivska Rus park
National Writers Unity of Ukraine
Chulan
Triptych Gallery
Gryshko national botanic garden
Kyiv National Museum of Russian art
Anti-Art Center
Wunjo-Art gallery
Camera photo gallery
Pinchuk Art Center
Olmace Plage
Greter art-center
Atmosfera 360
Kyiv Pechersk Lavra
Pyrohovo Folk Open-Air Museum
Modern Art Museum
National Art Museum of Ukraine

Borshchagivka village
Kyiv Children Academy of Art
National University of Physical Training and Sports
National Museum of Taras Shevchenko
Kyiv National Museum of Ukrainian Art
Anti-Art Center
Wunjo-Art gallery
Camera photo gallery
Pinchuk Art Center
Olmace Plage
Greter art-center
Atmosfera 360
Kyiv Pechersk Lavra
Pyrohovo Folk Open-Air Museum
Modern Art Museum
National Art Museum of Ukraine



Map Legend:

- Red Line:** Akademistichko, Zhytomirskaya, Sviatoshyr, Nyvky, Beresteiska, Shulivska, Politekhnychny Institut, Vokzalna, Universytet, Teatralna, Palats Sportu, Ploshcha Lva Tolstoho, Arsenalna, Dnipro, Hidropark, Livoberezhna, Chernivska, Lisova.
- Green Line:** Vynogradar, Mostytska, Syrets, Dorohozhychi, Lukyanivska, Lvivska Brama, Klovska, Pecherska, Druzhby Narodiv, Vydubychi, Slavutych, Osokorky, Pozniaky, Kharkivska, Vyrlytsa, Boryspilska, Chervonyi Khutir.
- Blue Line:** Heroiv Dnipro, Minska, Obolon, Petrivka, Tarasa Shevchenka, Kontraktova Ploshcha, Poshtova Ploshcha, Maidan Nezalezhnosti, Khreshchatyk, Olimpiyska, Palats Ukraina, Lybid'ska, Dymyivska, Holosiivska, Vasylivska, Vystavkovyi Tsentr.

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Republic of Georgia President Mikheil Saakashvili

Will Ukraine move to the East, the West, or will it maintain a balance between the two? What will it take for Ukraine to fulfill the promise of independence? Does Ukraine have the potential to be a 'Leaping Tiger' economy, or will it remain a sleeping tiger?

Hear Georgian President Mikheil Saakashvili discuss what some call the Georgian Miracle and how it can relate to Ukraine's future, as well as the steps he is taking to ensure an orderly transition in his own country after recent elections.

Join guests from as far away as Malaysia to local business leaders in the know in learning how to resolve Ukraine's financial situation and to unlock agricultural promise, energy hopes and IT outsourcing potential.

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Ukraine First Vice Prime Minister Valeriy Khoroshkovsky

Ending the Slumber

Ukraine: Finding its Place in the World

Moderator: Daniel Bilak, CMS Cameron McKenna

Vitali Klitschko, Ukrainian politician
Steven Pifer, Brookings Institution
Walery Marciniowicz, Hay Group
Sulaiman Mahbob, Prime Minister's Economic Planning Unit, Malaysia
Valerii Muntian, Government Plenipotentiary for cooperation with the Russian Federation

Leaning East or West: Does it Matter to Business?

Moderator: Armen Khachaturyan, Asters

Pavlo Sheremeta, Kyiv School of Economics
Adam Jędrzejewski, Polish Institute for PPP
Max Alier, International Monetary Fund
Representatives of EBRD

Agriculture and Food Security

Moderator: Morgan Williams, US-Ukraine Business Council

Sergii Mazin, KSG Agro S.A.
Volodymyr Lavrenchuk, Raiffeisen Bank Aval
Jean-Jacques Hervé, Credit Agricole Bank
John Shmorhun, Harmelia Holdings
Leonid Kozachenko, Ukrainian Agrarian Confederation
Mykola Prisyazhnyuk, Minister of Agrarian Policy of Ukraine

Energy and Energy Efficiency

Moderator: Daniel Bilak, CMS Cameron McKenna

Graham Tiley, Shell Ukraine
Cornelius Granig, Siemens
Volodymyr Ignaschenko, Ministry of Ecology and Natural Resources of Ukraine
Representatives of DTEK

Ukraine's IT Outsourcing Boom

Moderator: Brian Bonner, Kyiv Post

Torben Majgaard, Ciklum
Yegor Anchishkin, Zakaz.ua, Viewdle
Karl Robb, EPAM

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Moderator: Jakub Parusinski, Kyiv Post

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Natalie Jaresko, Horizon Capital
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World in Ukraine

Editor's Note: World in Ukraine takes a look at Ukraine's bilateral relations with different nations. To sponsor this news feature, please contact the Kyiv Post's sales team at advertising@kyivpost.com or call 591-7788.

In partnership with Noerr

Ukraine-Germany trade rises, but not investment

BY MARYNA IRKLIYENKO
IRKLIYENKO@KYIVPOST.COM

As Europe's economic heavyweight, Germany's influence extends far and wide – including to Ukraine. After the sharp downturn in the wake of the global economic crisis that started in 2008, bilateral relations with Ukraine's second biggest investor and trade partner are slowly climbing back.

Whether they will exceed pre-crisis levels, however, depends on Ukraine's efforts.

Trade between Ukraine and Germany is on track to top \$10 billion this year, a level not seen since 2008. Yet relations are far from even. Ukraine has historically been a consumer of German technology and equipment, a situation that persists today. Ukraine, in fact, buys almost four times more goods from Germany than it sells.

Investments are even more lopsided. As of mid-2012 Germany has poured \$7.4 billion into Ukraine, according to the State Statistics Service, while Ukraine has only invested \$9 million in Germany since independence.

After being strained by the financial crisis, ties are reviving. "Maybe this year we will come back to the pre-crisis level," says Alexander Markus, delegate of German Economy in Ukraine.

About 400 German companies are



Siemens produces integrated solutions for mining and metallurgy at Voest Alpine plant, an Austrian steel company. In Ukraine, Siemens provides leading edge technologies for big metallurgical plants such as Azovstal, Donetskstal and Kryvorizhstal. (Courtesy)



Alexander Markus, delegate of German Economy in Ukraine



Mansur Rafsendsjani, managing partner of Noerr law firm.

steel mills and coal mines at such companies as Metinvest's Azovstal and ArcelorMittal's Kryvorizhstal plant, according to Granig.

The company is also big on health care, producing medical equipment, from tomographs to hearing devices. "Everything that you see in hospitals that is modeling equipment can come from Siemens," adds Granig.

While Siemens' Ukraine operations are profitable, their turnover of \$155.7 million in the latest fiscal year is still below pre-crisis levels.

Where business moved, legal experts followed. These

include German law firm Noerr, which opened its Kyiv office in 2007.

"We were one of the first law firms which opened a business in Central and Eastern Europe shortly after the fall of the (Berlin) Wall," says Mansur Rafsendsjani, managing partner of the firm. "We started in Prague, Moscow, Budapest, Bucharest and so

Kyiv was a logic step." Since then Noerr advised many other international clients, including Ukrainian companies. One of their recent deals was a purchase of a wind power plant producer in Germany by a Ukrainian company.

But the big companies are not always the engines of economic growth. "My guess is that some 85 percent of (German companies in Ukraine) are small and medium companies," estimates Markus.

At present, however, these do not seem hasty to invest. "Large transactions have not been seen in Ukraine by us, because after the financial crisis and now with the political crisis, the German Mittelstand (the country's economic backbone, composed of small and medium manufacturers) that are

you have to ask how your business is going."

Taking advantage of Ukraine's location and low labor costs, some German businesses have production here, becoming among the nation's top employers.

Leoni, a German producer of cable harnesses for the automotive industry, celebrated this year its first decade of operations in western Ukraine. Leoni employs 5,700 workers in Ukraine.

Wholesale giant Metro Cash & Carry provides 7,400 jobs. Having expanded its network to 28 stores in big cities, the German firm invested \$673 million. The next target for the Metro Group is Ukraine's retail market, which they plan to enter with their supermarket brand Real.

Unlike Metro, with 46 million potential customers, Leoni depends on European demand for auto wiring and cables. And that market is not strong at the moment, with automobile production going down.

German exports to Ukraine – par-

ticularly machinery and equipment – drive bilateral trade relations. "We are very good machine builders, (producers of) instruments (and) any kind of specialized

machines," Markus says.

The relationship has long traditions.

Siemens built the first telegraph line from Sevastopol in southern Ukraine to czarist Russia's capital Saint Petersburg in 1853. "Maybe it's the German company that has been in Ukraine for the longest time," says Cornelius Granig, head of Siemens in Ukraine.

Siemens has since continued to play a leading role in Ukraine's technological development, producing Kyiv's first tramline, Lviv's first power plant and bringing street lighting to Odesa. Nowadays, Siemens has a portfolio of companies operating in industry, energy, infrastructure and healthcare sectors, primarily in the business-to-business segment.

Among others, the company provides technologies for wind energy projects and modernizing factories,



German organizations in Ukraine

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active in Ukraine. Markus said nearly half of those polled reported 10 percent growth in turnover in the last year, while another quarter of respondents experienced from 3 to 10 percent growth.

"If you ask (German) companies about the investment framework in the country, it is understandable that most of them will say it's difficult," says Markus. "But at the same time



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A BMW Z4 sDrive20i is displayed at an auto show in China on Sept. 8. BMW car sales are relatively strong in Ukraine this year, with some 2,100 cars sold. The most popular BMW models with Ukrainians are 5 series and X5 SUV. (AFP)



Yaroslav Prygara, general manager of AutoCapital, importer and distributor of Mercedes-Benz in Ukraine. (Kostyantyn Chernichkin)



Oleksandr Timofeev, general director of AWT Bavaria, the official importer and dealer of BMW in Ukraine. (Kostyantyn Chernichkin)

Automobile pioneers still lead way, especially among premium class

BY MARYNA IRKLIYENKO
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Germany has left its mark on technological advances as the birthplace of the automobile in the late 1870s. The place for the invention was no coincidence, since one of the country's strengths is in building all sorts of machines, from blenders to tractors to airplanes, and of course, vehicles.

Germany remains the biggest producer of cars in Europe, hosting six automobile giant manufacturers – Audi, BMW, Mercedes-Benz, Opel, Porsche and Volkswagen. For some of these companies, Ukraine is the

region's most important market, outside of Russia, with 2012 set to become the best year on record.

"Germans are born with a screwdriver in their hand," says Oleksandr Timofeev, general director of AWT Bavaria, the official importer and dealer of BMW in Ukraine. "Indeed, Germans are probably the best mechanics in the world."

In addition to technical proficiency, another distinctive feature of the German automotive sector is its premium section, which includes Audi, BMW, Porsche and industry pioneer Mercedes-Benz.

"There are certain characteristics,

→ Ukraine's richest like German engineering

by which German cars had always differed from other cars regardless of where they were produced – first of all with their reliability and quality, as well as its premium, because the majority of the premium segment cars are produced in Germany," says Yaroslav Prygara, general manager of AutoCapital, importer and distributor of Mercedes-Benz in Ukraine.

Even though most German automobile producers began importing their cars to Ukraine shortly after independence, major sales only came in the past decade when disposable income took off in Ukraine's biggest cities. "When I first came to BMW in 2000, no more than 100 cars were sold," says BMW's Timofeev. "This year we will sell more than 2,100 cars."

"Active development of the Ukrainian market began in 2000 because, before that, it was a market incomparable with the figures we have now," agrees Mercedes' Prygara.

When BMW came to the Ukrainian market 20 years ago, their first office was "on Mykhailivska Street, somewhere in the backyard, a very small place, probably like everything else in the 90s,"

recalls Timofeev. By contrast, today there are 15 full-blown dealerships throughout Ukraine, employing some 700 people, with a main office located in the upscale Parus business center.

But like any business, car sales plunged in the wake of the 2008 crisis. Importers had to face an overstock of very expensive cars. "2009 was the most difficult year for all operators on the market, because after dynamic growth of the automobile market and then such a steep downturn, many operators ended up with huge warehouses which were inadequate to the market volume," says Prygara.

Under such circumstances, cost cutting and discounts were inevitable. "Among many things that we have done, we also had warehouse sales (special offers of discounted prices for cars)." On the bright side, this year was marked by recovery and further growth for German automobiles in Ukraine.

With BMW car sales reaching 100 million euros (\$127 million), AWT Bavaria anticipates 2012 will be their best year in Ukraine ever. The same holds for Mercedes, with some estimated 15 percent increase car sales in 2012 over 2008 figures, making the Ukrainian market especially important for the German producer. "We are in the Central and Eastern European segment of Daimler concern (which produces Mercedes) and within this segment we have the highest sales, excluding Russia," notes Prygara. "This year will most probably be the best year in terms of car sales in the history of our dealership."

With sales booming, AWT Bavaria is investing. Their latest plans include building a large sales and service center outside Kyiv worth some 12 million euros. Existing dealerships cost AWT Bavaria and its partners some 45 million euros while another 15 million euros was invested into new stock.

With BMWs, the most popular models in terms of sales in Ukraine are the 5 series, making up a quarter of total sales, and X5 SUV. Prices for BMWs range from 22,000 euros and up to 163,000 euros.

Meanwhile, the S-class and ML SUV hit the popularity charts for those who prefer Mercedes. Prices for their vehicles start at around 15,500 euros for the two-seat Smart and can go as high as 254,000 euros for a fully loaded Mercedes SLS 63 AMG Roadster GT.

While both brands come from the same premium category and competes with other German premium-class vehicles, each claims to offer advantages of its own.

"BMW's main motto is pleasure behind the wheel. Indeed this car is designed primarily for the driver," explained Timofeev.

Prygara praises the brand's long history: "Mercedes-Benz history equals history of car building altogether. We're proud that we invented the automobile. During those 125 years (since then), Mercedes-Benz has been a role model of quality, reliability as well as premium."

Kyiv Post staff writer Maryna Irklyienko can be reached at irklyienko@kyivpost.com.

Germany at a glance

- **Territory:** 357,022 square kilometers.
- **Population:** 81.3 million people.
- **Government type:** federal republic.
- **Head of government:** Chancellor Angela Merkel (since 2005).
- **GDP (purchasing power parity):** \$3.139 trillion.
- **GDP per capita (PPP):** \$38,400.
- **Main industries:** among the world's largest and most technologically advanced producers of iron, steel, coal, cement, chemicals, machinery, vehicles, machine tools, electronics, food and beverages, shipbuilding, textiles.

Ukrainian-German economic relations

Trade: \$9.5 billion in 2011. Germany is Ukraine's second largest trade partner after Russia.

Exports from Germany to Ukraine: machinery, transport equipment, chemical and electrical products.

Exports from Ukraine to Germany: textiles, clothing, metals, alloys, hardware and chemicals

Germany's investment in Ukraine: \$7.4 billion as of July 2012. Germany is Ukraine's second largest investor after Cyprus.

Ukraine's investment in Germany: \$8.8 million as of July 2011.

Sources: CIA World Factbook, State Statistics Committee

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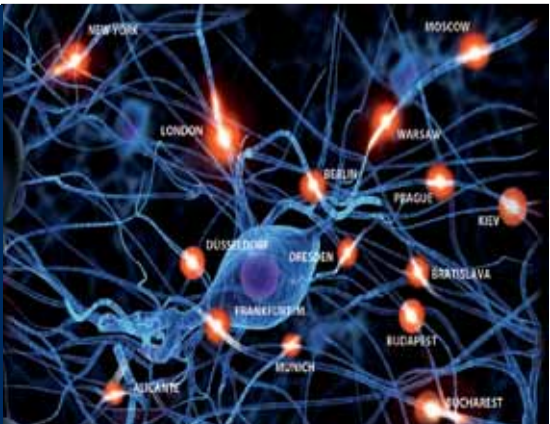
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Kyiv's Chinese food: Is it the real thing?



How Kyiv nightlife compares to Moscow

As well as being big on entertainment, the Kyiv club scene is big business – more than 25 established clubs in the city limits easily generate more than \$10 million annually and provide direct employment to around 1,000 people.

But in Eastern Europe, Moscow remains the club scene king. With scores of nightlife establishments and top-name venues, such as Fabrique and Pacha, Russia's capital is the indisputable champion.

However, Kyiv is gaining fast, building up its own nightlife industry. This summer was the biggest yet, with Kyiv's clubs playing host to huge names in world deejaying, from Moscow's DJ Smash to France's DJ Pierre Sarkozy and Germany's DJ Phonique.

So, the question is, can friendlier and warmer Kyiv overtake Moscow as the Eastern European nightlife king?

Kyiv has its own superstar DJ, DJ Lutique (Vladislav Chekhovich), its own celebrity face control, Aleks Face Control (Aleks Smushkov), and a superhot MC, Andrew MC (Andrei Kolesnikov). The Kyiv Post had a chat with all three of them to see whether Kyiv really has what it takes to be the best at night.

The DJ

Kyiv native Vladislav Chekhovich, better known as DJ Lutique, has been working the Kyiv scene for more than a decade, going from spinning decks in friends' bars to collaborating with Svetlana Loboda, Alloise and more. He can be found playing at Kyiv's top clubs. His YouTube videos have attracted countless thousands of hits and he's a regular on Ukrainian television and radio.

Kyiv Post: Is there a connection between Kyiv and Moscow clubbing?

Lutique: "Of course, the two have some similarities, but there are also key differences. In Moscow, you will find the scene is very Russia-centric, whereas in Kyiv, we are more European leaning. Naturally, you hear Russian beats here, but you'll hear as much or more European or American music. Kyiv's strength as a night-club city is that it's very diverse – you have everything from micro-clubs to super clubs, clubs for VIPs and those with just a few hryvnia. I'm not sure even Moscow can boast quite the same diversity."

KP: At the moment, you are the top DJ in Kyiv, are you tempted to try to emulate that in Moscow?

Lutique: "Well, being →21

Some of the dishes served at Kharbin Restaurant, 33a Artema St., one of Kyiv's Chinese restaurants. (Kostyantyn Chernichkin)



BY DENIS RAFALSKY
RAFALSKY@KYIVPOST.COM

It takes nine hours to fly from Kyiv to Beijing. Getting a taste of Chinese food, which the world knows as fast, fresh and inexpensive, is much faster.

But how Chinese is the local Chinese cuisine?

Yulia Tischenko, a 28-year-old college professor and a regular visitor of Kyiv's uptown Chinese cafes, takes great interest in the Middle Kingdom and its food. "(The original) tastes quite different compared to what I get to eat here, in Ukraine," Tischenko says, between bites of kung pao chicken (fried chicken mixed with sweet peppers, chili and roasted peanuts) and

fried rice. "I never forget how I was shocked by the taste of the meat served up in a sweet and sour sauce."

Exotic tastes and flavors are what attract Ukrainians to Chinese eateries. The rich cuisine, which includes thousands of recipes, prides itself on the vast variety of ingredients and using every conceivable method of cooking and food preservation.

While Ukrainian restaurants offer limited menus, some argue Chinese cuisine is as flexible as it is diverse, meaning it can easily be adapted to local tastes and conditions.

Olexiy Koval, a 39-year old journalist, says the same dish in China can taste different in each restaurant because chefs want to put their own stamp on

the food. "But here, in Ukraine, kung pao chicken tastes roughly the same," he says.

Viktor Kiktenko, 41, a department head in Asian studies at the National Academy of Ukraine, is categorical about Chinese food in Ukraine. "As soon as chefs deviate from the rules of the cuisine, it is no longer authentic Chinese," he says. "So my preference is to eat in China."

Koval is more forgiving. He says most original recipes need a variety of ingredients and sauces, notably certain vegetables, that simply can't be found in Ukraine. Trying to import them from Asia would send prices through the roof, defying the philosophy of cheap, people's cuisine. So what do the chefs

do? The same as everywhere else: they go for local ingredients.

Svetlana Bezukh, owner of Chinese cafe Panda on Saksaganskogo Street, says she long tried to substitute the meaty Peking duck breed highly appreciated by Chinese chefs with local ones. But it just wasn't the same. "Ducks from China would be worth their weight in gold for a customer," she says. She solved the problem eventually by finding a supplier of Peking ducks in Ukraine.

Panda's chef, Chzan Chen Guan, a native of Daqing city in northern China, is punctilious about ingredients and doesn't like to change recipes on the customer's request. "Why must I make the dish less spicy or leave the chili out if the recipe →20

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November 27, 2012

KYIV POST TIGER CONFERENCE

Fairmont Grand Hotel In Kyiv

Giant Ocean Plaza to open on Nov. 19

BY ANASTASIA FORINA
FORINA@KYIVPOST.COM

Ocean Plaza, a giant entertainment and shopping complex, is opening on Nov. 19 in one of this year's most anticipated events for Kyiv's retail world. A grand opening celebration is set to take place on Dec. 9.

Occupying 165,000 square meters, Ocean Plaza will be the second largest shopping mall in Kyiv, after Dream Town in the Obolon neighborhood. Moreover, it is also set to bring 20 new brand stores that haven't entered Ukraine yet. The complex is also expected to employ 4,000 people at more than 300 shops, 30 cafes, three department stores and a 10,000 square-meter supermarket.

"We see great opportunities in this project. Its unique central location and architectural concept will attract a huge flow of visitors," said Aleksandr Nikitin, head of TPS Nedvizhmost, through the press service of the Russian investment and development company that manages Ocean Plaza mall.

TPS Nedvizhmost co-owns the mall with Ukrainian investment and development companies UDP and K.A.N. Development, which have invested about \$200 million in the project.

Ocean Plaza is also the first big mall in Kyiv's city center. It is close to Lybidska metro stop in the Holosiivsky district, a neighborhood that is underserved in retail, according to a recent report by Jones Lang LaSalle.

"It offers what is most possible for this particular place (in the) amount of shops, brands and res-

taurants," says Natalya Mykolaichuk, head of the commercial real estate department at DTZ, a leading global integrated corporate real estate solutions and facilities management company.

New brand chains will include Michael Kors, Marina Rinaldi, Max Mara Weekend, Stefanel, Reiss, Caterina Leman, Chouette, Blanco, Suvani, and Cinque.

A 350,000-liter aquarium offering a 16-meter long panoramic view of more than 1,000 sea creatures is another attraction at the mall.

A 2,400 square-meter entertainment center filled with a four-level labyrinth, autodrome and other attractions is aimed at children. The first in Ukraine, a 7D cinema that involves viewers in scenes, will be also housed in the mall.

Kyivans await the opening eagerly.

"I and my friends used to hang out in Dream Town but now we are very much looking forward to visiting Ocean Plaza," says Iryna Nesterenko, a freelance interpreter, who lives not far from the mall.

As of July, Kyiv has 179 square meters of trading space per 1,000 residents, among the lowest in Europe, according to a Jones Lang LaSalle survey. However, with Ocean Plaza as well as other new malls, trading space could increase to 220 square meters, stated the report.

Ocean Plaza has plans to build additional space, which is scheduled to open in 2014, offering 100,000 square meters of commercial space.

Kyiv Post staff writer Anastasia Forina can be reached at forina@kyivpost.com.

Jamala to perform in Kyiv club

Crimean Tatar jazzy pop diva Jamala will perform in Kyiv's Tolstoy Restaurant Club on Nov. 16. This time she will present the brightest compositions of her new album For Every Heart, so the concert is expected to draw full audiences. Currently Jamala is working on her next record to be released in spring. **Jamala. Concert. Nov. 16. Tolstoy Restaurant Club, 19 Krasnoarmeeska St. 200-3838. 10 p.m. Hr 200.**



courtesy

Nov. 16

Food Critic: Kyivans warm up to taste of Chinese cuisine

"→19 calls for it?" he exclaims with passion. With a sigh, Bezukh says it takes a long time to persuade the chef to cook to a customer's demand. "Then the meal loses its zest and I regret that," she says.

Ukrainians are conservative and tend to stick to the Chinese dishes they already know. What falls out of the usual range is rarely ordered, says Koval.

This further encourages restaurateurs to stick to mainstream dishes, offering chicken, beef or pork. "You are unlikely to order dog or cat meat in Kyiv, though this is a common meal in Beijing," Koval admits. "No chance to taste something very exotic like bird's nest soup, which is a delicacy." The soup is made of a real nest of a particular type of swallows.

But Panda owner Bezukh thinks Chinese food in Kyiv is becoming more sophisticated, following the same trend as sushi. "I watch ordinary customers get fascinated by tastes and become regulars, then they bring friends, then they become gourmets," she says.

Today there are about 30 Chinese eateries all around Kyiv. Prices vary significantly. Vostok (East), on Naberezhno-Khreshchatytska, is a high end restaurant where dinners can easily cost over



Fresh, tasty and reasonably priced. (Kostyantyn Chernichkin)

mean you will eat expired or badly prepared food," he says.

He knows of a case when chefs from Mandarin, an upscale restaurant that was towed away from the Dnipro River embankment, were left jobless and went to cook in Chinese Express, selling almost the same food at a fraction of the price.

Kyiv Post staff writer Denis Rafalsky can be reached at rafalsky@kyivpost.com.

Olexiy Koval recommends

Jiu Long restaurant, 46V Taras Shevchenko Blvd. The food is consistently good, the interior is authentically Chinese and the prices are reasonable.

Kharbin restaurant, 33A Artema St. It's a low-key basement, but he says that the fried carp with sweet and sour sauce is wonderful there.

Cafe Beijing, 47 Vasylykivska St. The closest to authentic Chinese cuisine, in his opinion.

Chef Chzan Chen Guan recommends:

Riverside eatery Mandarin, near 32 Moskovsky Ave., and restaurant **China White** on 24 Lesya Ukrainka Blvd. They offer good cuisine and are beautiful inside, but come with steep prices. **Jiu Long** restaurant is also worth visiting.

Famed ballet stars on Kyiv's stage

Ukrainian and Russian ballet stars will shine here. The National Opera of Ukraine will feature its prime ballet dancer Denys Matviyenko, his Russian colleague Semen Chudin and Boshoi's prima Yevgeniya Obratsova who will perform classical and modern compositions accompanied by leading dancers of National Opera.

Ballet stars gala concert. Nov. 18. National Opera of Ukraine. 7 p.m. Hr 100-1,500 ©



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Nov. 18



PARTY FOR THE REAL MEN



In Tandyr restaurant celebrated the Day for the real men, which was supported by the General Partner of Kozyrna Karta Restaurant Family - NEMIROFF International Brand.

All the guests were really outstanding warriors, who are ready to defend everyone under any circumstances. In numerous competitions and quizzes were no losers, but only winners. Of course, there were delicious dishes from the hospitable Tandyr restaurant and many toasts for real men.

Kozin, 29 km of Staroobuhivska road, Kyivska st., 11-D (044) 520-87-70

Recipe from chef Chzan Chen Guan

Chinese salad with rice noodles

Slice a cabbage into strips (80 grams), a carrot and a cucumber into matchsticks, a tomato and black mushrooms into pieces (50 grams each). Add handful of boiled rice noodles. Add a little sugar and salt. Dress the salad with sesame and sunflower oil.

Hr 400. Cafe Panda is mid-range, with large meals going for Hr 150. Chinese Express in shopping center Globus under Independence Square is fast-food joint offering stir fries, noodles and fried rice for Hr 20 -30.

Koval, a frequent visitor of Chinese eateries, says cheap doesn't necessarily mean poor quality. "It's clear some dishes are pre-cooked but that doesn't

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Night Owl: Kyiv vs. Moscow

→ **19** number 1 in Kyiv, if I can say I'm that, is something which requires a lot of work in itself – there are a lot of guys behind me, jostling for contention, who themselves would like to be the top DJ in town. Unquestionably, I wouldn't say no to being number 1 in Moscow, but I don't see that as my main aim – Kyiv is already the big leagues in terms of nightlife, perhaps more to be said for staying here and being part of this growing scene."

KP: And what could be done to improve the Kyiv nightlife scene?

Lutique: "The issue is perhaps more of society in general. Many Ukrainians want to go clubbing more, but can't afford it. And some can do it, but barely – so they can stretch to the admittance price of the club, then have hardly any money for drinks when they're inside. In Moscow, you have more money in general, and that spills into the discos and bars. On the plus side, Kyiv clubbing is generally more affordable for most than its Moscow equivalent."

Face control

Face control as a club concept is one which first took off in Moscow, with Pasha Face Control attaining legendary status, and billing sometimes above the DJ.

Clubgoers have been known to go to clubs where Pasha is in charge of face control just to see if they can get past his evaluative eyes. Pasha, with his every item sponsored, is noted for his exacting standards and harsh rejections. But love or loathe, he is as established a fixture on the Moscow nightlife scene as pricey cocktails and 6 foot-plus blondes.

Kyiv has acquired its own celebrity face control, Aleks Face Control, real name Aleks Smushko, a Kyiv-born former male model. He is quick to point out he's not nearly as brutal as his Moscow counterpart can be.

"I believe in giving people a chance, and taking more into account than God-given, aesthetic beauty. If you've put a look together, got something going on, I'll give you as much credit as if you look like you've just strutted off a catwalk."

KP: **And what about Kyiv and Moscow, what's the difference?**

Aleks: "Well, Moscow has around 10



Vladislav Chekhovich, better known as DJ Lutique,

million more in terms of population, so that means in Moscow, you can find a proper club going on every night. Kyiv is still pretty Wednesday-Sunday-based, however, we're doing what we can to become a seven-night club city. If you go back five years, you'll see how much Kyiv has come on."

KP: **What are your plans in Kyiv, and could you see yourself moving to Moscow in the future?**

Aleks: "Right now, I'm totally focused on my club, the Boom Boom Room, and getting into the World Top 100 Clubs. Perhaps someday I'd like to try myself in Europe, though I don't see myself in Moscow, my heart is Kyiv. I'm a club guy, and here I get all the action I need, as well as being part of building the scene."

The emcee

Any self-respecting night club has to have at least one MC. They serve many roles – moving around the club, creating a party atmosphere; introducing new DJs and compering competitions. Kyiv has more than 100.

One of them is Kharkiv-born MC Andrew, known to his parents as Andrei Kolesnikov, who sometimes works as part of troupe 2 M.A.C.H.O.S.

He is Kyiv's biggest and most recognizable face among MCs, with his signature look (Michael Caine glasses and Mohawk) and style, and brand of wacky charisma lighting up club nights and TV screens alike.



Fans of SkyBar in Kyiv enjoy the scene. (Courtesy)



Andrei Kolesnikov, better known as MC Andrew.



Aleks Smushko, better known as Aleks Face Control.

Kyiv Post: **How do you compare Kyiv and Moscow?**

MC Andrew: "Well, firstly, you have to note how many Muscovites come to Kyiv to club. That surely tells you something in itself. A lot of them have passed onto me that they like the more laid-back vibe of Kyiv, comparing it favorably to the frenetic cut-and-

thrust of Moscow."

KP: **How do you rate Kyiv as a club city?**

MC Andrew: "Well, I'm from Kharkiv, and can say that Kyiv is far better than there, or anywhere else in Ukraine, as a club city (though Odesa during summer is something quite special, with the beach clubs). The superiority of Kyiv

is out of proportion in terms of sheer population – what Kyiv has is a capital city buzz, vibrancy and energy. So, in that regard, it's similar to Moscow, in that it has that magic."

The moral of the story: Look out Moscow, Kyiv is gaining on you.

Graham Phillips is a freelance writer living in Kyiv.

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"IPOs never come cheap. There's a minimum amount of work required that can only be done by qualified lawyers... they cost something and you can't go lower," Chorny said.

The legal industry is a highly competitive one. Choosing a less experienced, cheaper firm might work out just fine for many clients. But getting the wrong legal advice could also expose a company to risk and liability, leading to a huge monetary losses.

"The cheaper law firms sometimes don't know what they're doing. They'll take chances, which translates into time loss, additional expenses for the

client as well as additional lawyers," said Chorny.

The best lawyers – cheap or expensive – can spot red flags, risks and exposure to certain liabilities where others don't. "You could win a case with an experienced lawyer (who charges more) and lose a case with a cheap one," said Dmytro Marchukov, senior associate with Egorov Puginsky Afanasiev & Partners.

Even when a case on the surface seems clear-cut and favors one side, a good lawyer can still tip the outcome the right way for the client.

Marchukov explained how Egorov Puginsky Afanasiev & Partners was hired by a respondent in a multimillion-dollar arbitration case to mitigate

impending losses in what seemed like a hopeless situation. Supremely confident on their end, the claimant proceeded with an in-house lawyer that had limited arbitration experience.

"We ended up winning without our client having to pay one cent," said Marchukov.

The same applies to initial public offerings and other banking and finance deals, which on the surface seem standard.

"An IPO happens once in a company's lifetime, so it's important for it be the right type of transaction. It's expensive and complex," said Glib Bondar, partner at Avellum Partners. "These issues aren't purely legal... Ukrainian companies have skeletons

in their closet so you've got to do proper disclosure so that you don't expose them to liability or scare away investors."

In one IPO deal that Bondar worked on, an additional law firm had to be hired because the first was much lower on the learning curve and ultimately couldn't handle the deal.

In the end, after a company loses a case in a lower court or gets poor service in a real estate deal, the bigger and better firms get retained to clean up the mess.

"I've seen prospectuses drafted by other law firms and on other issues like debt... where many risks were missing or not described," Chorny said. "This is because the law firm took chances

and placed the client under the risk of liability, which if they materialize could cost the company millions of dollars. It's quite painful for the new law firm to work then. It takes a lot of effort and the work is very sensitive."

And for the company manager under the spotlight who hires the law firm, a top lawyer means added insurance if the desired outcome isn't achieved.

"This covers the back of the manager on the client's side. If a legal matter takes an unexpected turn, nobody can blame the manager who chose the wrong firm," said Yuriy Delikatny, head of tax at Noerr TOV.

Kyiv Post staff writer Mark Rachkevych can be reached at rachkevych@kyivpost.com.

Employment

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- Minimum two (2) years marketing experience, preferably within the animal feed or agri-business industry.
- Exceptional organizational skills and ability to multi task.
- Excellent communication skills both verbal and written.
- Good computer skills, preferably with knowledge and experience of graphic design packages.
- Fluent English essential. French or other European language is an advantage.
- The ideal candidate will be confident and have experience working under pressure and to deadlines.

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Opposition fails to ignite protests over Oct. 28 vote

→ **1** campaign to impeach President Viktor Yanukovich, but analysts called such a prospect unlikely.

Speaking before a thin crowd of a few hundred supporters in front of the Central Election Commission in Kyiv on Nov. 12, the leaders of United Opposition-Batkivshchyna, Svoboda and Ukrainian Democratic Alliance for Reform parties said they don't recognize the elections as fair or valid.

Their shifting strategy is a far cry from the initial firebrand proclamations, voiced with much bravado days after the election. First the opposition called for the election to be cancelled because, they say, it was rigged. Then they vowed not to take their seats in parliament in protest.

Yanukovich, Prime Minister Mykola Azarov and their ruling Party of Regions have, meanwhile, dismissed international and national criticism that the elections were undemocratic.

"The opposition thought that it is 2004 now. Unfortunately, it is 2012," Volodymyr Fesenko, head of Penta think tank in Kyiv, said, referring to the 2004 Orange Revolution when massive peaceful demonstrations broke out after the rigged presidential election that declared Yanukovich the victor. The protests and a Ukrainian Supreme Court decision led to a re-vote that Viktor Yushchenko won handily on Dec. 26, 2004.

"The atmosphere is very different now, with a lack of trust both for the ruling party and the opposition," said Volodymyr Fesenko, head of Penta think tank in Kyiv. "The [lack] of people outside the CEC was the main reason

the opposition backed down."

While crowds gathered in the thousands in the first days of the protest near the election body's building, the numbers dwindled quickly with each vague and contradictory pronouncement from opposition leaders.

The opposition was also not able to prove in courts and to the CEC that election fraud took place in 11 election districts, particularly in Vinnytsya and Kyiv oblasts, let alone the nationwide fraud alleged by opposition leader Vitali Klitschko.

While those cases hit a dead end in the courts, the CEC has ruled that it is unable to establish the result of the vote only in five out of 11 disputed districts. Re-run elections are expected in these districts in anytime between January and March with no specific date being set up to date.

Moving on

As they enter parliament the three opposition parties vow to act as a united front to impeach Yanukovich and oust Prime Minister Mykola Azarov and Prosecutor General Viktor Pshonka.

But, given the alignment of forces in the new parliament, it is unlikely the opposition will be strong enough.

Together, the three opposition parties will have about 180 out of 450 seats. But the legislature will be controlled by the ruling pro-presidential Party of Regions and its allies.

The Party of Regions and their likely Communist allies together will get 217 seats. Independents will occupy 43 additional seats, many of whom are believed to be close to the Party of

→ Yanukovich, Azarov dismiss criticism of parliamentary election by international and domestic observers

Regions and are expected to cooperate with them in parliament.

"It is hard to say how solid the majority of Party of Regions will be. Both them and the opposition have possibilities of luring in independents," says Yuriy Yakymenko, political expert at Razumkov Center, a think tank.

Klitschko's UDAR headquarters chief Vitali Kovalchuk said that the Party of Regions has started a campaign to lure the newly elected lawmakers. "Pressure and threats have already begun. We know about these facts," said Kovalchuk, speaking to Liga business information website.

Half of Ukraine's parliament was elected via closed party lists, while another was elected in single-mandate constituencies throughout the country.

"Ukraine without Yanukovich' has been central for the opposition campaign for a while now. And it would be strange if they would have abandoned the idea in parliament. What they will definitely do is register a draft law on impeachment in parliament," says Yakymenko.

But the law's adoption is unlikely,

since it requires a simple majority and the president's signature. If Yanukovich vetoes the law, it takes at least 300 votes to override the veto, an ever more unlikely option. Yet, such a law is a necessary prerequisite if the opposition hopes to follow through on its impeachment rhetoric. Even though the basics of the impeachment procedure are in the Constitution, it lacks many essential technicalities. Experts say separate law on impeachment has to be passed.

Currently, Ukraine's Constitution requires a simple majority, then a constitutional majority and finally 338 deputies voting in favor of impeachment. Between the votes, the grounds for impeaching the president should be endorsed by a parliamentary investigative commission and the Constitutional Court.

"What the opposition is trying to do is to cover up their backing off with radical slogans and ideas like impeachment," says Fesenko.

Meanwhile, leading opposition figure, jailed ex-Prime Minister Yuliya Tymoshenko is in the 17th day of her hunger strike. Serving a seven-

year prison term for abuse of office, Tymoshenko went on hunger strike on Oct. 30, two days after the elections, after she issued a statement that said this was the only way she "could protest against the rigged elections" in prison. She has also reportedly demanded that the opposition refuse to enter parliament in protest.

As the opposition changed its course of action, they also have called on Tymoshenko to stop her hunger strike.

"Yulia, they don't deserve your health!" shouted Tymoshenko's right-hand man Oleksandr Turchynov of the Batkivshchyna party, followed by cheers from the crowd outside the CEC on Nov. 12.

Experts agree that Tymoshenko would have no choice but to end her hunger strike in order to not cause tension inside the opposition camp.

Despite criticism from disappointed protesters, experts say pragmatism prevailed in the opposition camp.

"Smart people in the opposition have known from the very beginning that too many risks are involved in refusing to enter parliament. Also, it was irresponsible to voters," says Fesenko.

In parliament, the opposition is involved in political process and can have its say, including the boycott of legislation they oppose, experts said.

Another thing to focus on, experts warn, is to push for a new election law, so that the troubles of the parliamentary elections do not repeat in the 2015 presidential election.

Kyiv Post staff writer Svitlana Turchynska can be reached at turchynska@kyivpost.com

In Ukraine, governing is often a family affair

→ **5** Dmytro Dobkin, the younger brother of Kharkiv Oblast Governor Mykhailo Dobkin, won in a constituency in his native region;

Volodymyr Melnychenko, husband of outspoken Party of Regions law-

maker Inna Bohoslovka, won as an independent in Khmelnytskyi Oblast; his wife was re-elected as number 60 on the party list;

Yukhym Zvyahilsky, born in 1933, will be the oldest lawmaker in the

new Rada. Zvyahilsky who is reportedly an owner of Zasyadko mine in the eastern city of Donetsk has been actually re-elected for the seventh time. And he is, probably, happy to see his daughter Stella's husband, businessman

Volodymyr Vecherko, in Rada who had number 31 on the Party of Regions list.

Independent Oleksandr Gerega was luckier than his wife Halyna. Acting Kyiv Mayor and Kyiv City Council Secretary Halyna was defeated by a

25-year-old Svoboda Party activist while Oleksandr won in Khmelnytskyi Oblast.

Kyiv Post staff writer Denis Rafalsky can be reached at rafalsky@kyivpost.com

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