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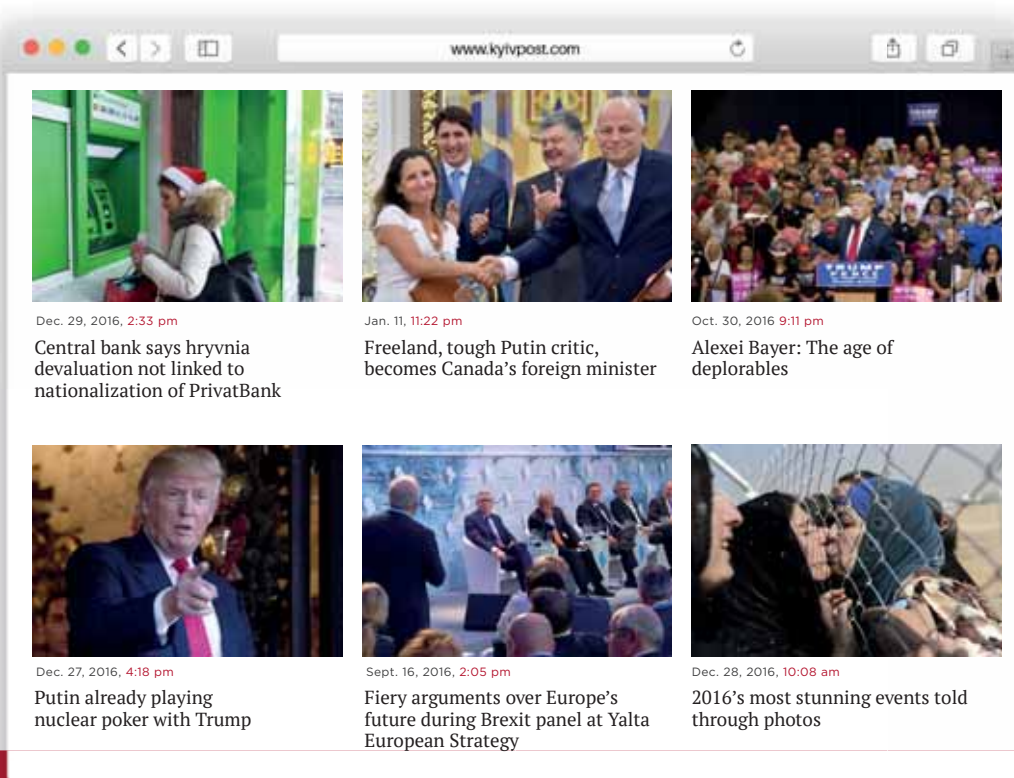
# LEGAL QUARTERLY

June 30, 2017

Vol. 4, Issue 2

## Interesting Lawyers: Part 2





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# Editor's Note

## Interesting (and cool) lawyers — Part 2

When the Kyiv Post hits upon a good idea, we stick with it. Such is the case with our second Legal Quarterly this year, devoted to lawyers who have bright ideas, are passionate about their causes and willing to share their thoughts with the public.

This is our 14th edition of the Legal Quarterly, a magazine started in the revolutionary year of 2014 with amazing success thanks to Ukraine's highly competitive legal sector. In this time, we have tackled such issues as prosecutorial and judicial reform, taxation, civil service, customs, the legal ramifications of Russia's war and annexation of Crimea, the banking sector (twice), parliamentary immunity and legal changes since the EuroMaidan Revolution drove President Viktor Yanukovich from power on Feb. 22, 2014.

But it is people who make the legal system work — or not work. And many of the interesting ones are private-sector lawyers. Their clients include "good guys" and "bad guys" because, whether right or wrong in a dispute, everyone deserves legal representation. Lawyers are often the canary in the coal mine — providing advanced warning of dangers ahead. And, more often than not, they also have ready solutions — or think they do.

The most admirable lawyers, in our view, are those who take the right side in cases and shun the big money of oligarchs and powerful special interests. They are those who take on human rights cases because it's the right thing to do. Or they are those who look above their selfish personal interests and focus on what's right for the nation and its people. In other words, these are lawyers with high personal character and altruistic aims.

There are 6,000 legal professionals in Ukraine. Space limits us to telling less than 1 percent of their stories. If you know somebody who deserves the public spotlight, please let us know and be patient — we'll be doing a Part 3 and likely a Part 4 as well. Best wishes to all readers, advertisers and subscribers from the entire Kyiv Post team

All of our contacts are available online at <http://www.kyivpost.com/contacts/>

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**On Cover:** This Kyiv Post Legal Quarterly - Interesting Lawyers: Part 2 focuses on lawyers with bright ideas. (Depositphotos)

# The man with the plan: Political risk insurance and legal ombudsman

(Pavlo Podufalov)



**Bate C. Toms**

**Position:** Owner of B. C. Toms & Co. law firm

**Key Point:** Three-point plan to spur investment: 1. political risk insurance; 2. legal ombudsman; 3. fix legal mistakes in land leases and other areas.

**Did you know?** Toms is the president of the British Ukrainian Chamber of Commerce and one of the first American lawyers to practice in Ukraine following the collapse of the Soviet Union in 1991

By **Brian Bonner**  
bonner@kyivpost.com

**I**t wouldn't be Bate C. Toms if he didn't have a plan for Ukraine's rescue that he promotes every chance he gets.

Toms, one of the most prominent lawyers in Kyiv for more than a quarter-century, says that if his plans are adopted, foreign investment will pour into Ukraine as never before.

With the nation needing tens of billions of dollars to build the economy in many sectors, it has received an average of \$2 billion or less annually since independence in 1991.

There are two principal reasons why Ukraine is not receiving large amounts of investment, said Toms, who is also the long-time president of the British Ukrainian Chamber of Commerce.

Those are: Russia's war in eastern Ukraine and lack of rule of law.

His solutions: A political risk insurance fund and creation of an independent legal ombudsman to ensure rule of law.

"The combination of a rule of law system and political risk insurance should open the floodgates to investment in this country as everyone knows Ukraine has enormous potential," Toms told the Kyiv Post in an interview this month. "Presently assets are for sale at very attractive prices. The U.S., China and most of the rest of the world was built on foreign investment. Ukraine should be as well."

### Russia's war

"As long as people are being shot on the front in eastern Ukraine, it scares foreign investors," Toms said. "We have no trouble in general finding foreign companies. We have no trouble finding individuals within major world class investors who see enormous opportunities in Ukraine. The problem comes when they present these opportunities at the board level. The board says 'wait a minute. There's a war going on. If the war expands and we take a total loss we will look pretty foolish.'"

### Rule of law

Toms said that "the second principal reason



# Encapsulated taxation of agricultural business



**Alexander Minin**  
Senior Partner, Attorney at Law

The agricultural sector is one of the most important in the Ukrainian economy. The taxation of the agricultural sector is respectively under special attention and quite often subject to specific regulations. In the past, one of the key elements was the special VAT regime when agricultural producers were entitled to keep all or substantial portions of the collected VAT as some kind of subsidy. Yet, this special VAT treatment ceased to exist at the end of past year. The most important remaining specific tax feature for agricultural producers is the entitlement to the uniform tax regime of the 4th category which is dedicated to the exemption from corporate income tax and fee for special use of water resources in lieu of which some kind of fixed fee is applied based on the volume and value of the land used in such agricultural production. However, benefits of this regime for foreign investors seems to have become more limited and the future destiny of this regime is also in doubt whether it will not follow the cancelled special VAT regime.

Up until 2015, the special tax regime was known as a fixed agricultural tax which had been a nationwide tax. Since 2015, the fixed agricultural tax regime has been cancelled with simultaneous extension of uniform tax regime to the 4th category, which at first sight seems to be

similar to the former fixed agricultural tax. But, the shift is not entirely equal. One of the distinctive differences is that there is no clause under the uniform tax regime that the dividend distributions of such taxpayers are exempted from advance corporate profit tax payments as it were the case with the fixed agricultural tax (previous clause 153.3.2. of the Tax Code). The issue is that the Tax Code contains special provisions that corporate resident taxpayers when distributing dividends shall pay a corporate tax at the standard rate (currently 18%) in advance regardless of the status even as tax exempted entities or reliefs of the profits from taxation. The advance corporate profit tax (ACT) is paid out by the companies own funds who are paying the dividends, i.e., no withholding from the dividends. ACT when paid may be used by law only for offset of future corporate profit tax liabilities, i.e., is not subject to refund to the taxpayer or allowable for offset against other taxes. Therefore, such ACT becomes for agricultural taxpayers at the uniform tax regime of the 4th category just an extra tax expense because these taxpayers do not pay regular corporate profit tax and thus do not have the tax liabilities against which ACT may be used for offsetting that liabilities.

Theoretically, such regulation applies to any dividend distribution under this regime since the beginning of 2015. Yet, for the years until 2017, there have been at least technical arguments to challenge the application of the ACT charge as at that time the section on uniform tax contained incorrect reference to the procedure that shall be applied. This error has been adjusted by the law with effect since January 1, 2017. Therefore, for this year the above-said excuse is already not literally applicable. The current position of the tax authorities is that the distribution of dividends by agricultural producers at the uniform tax regime triggers an 18%

tax (ACT). Publicly known attempts of the taxpayers to overrule such position (expressed in the form of tax rulings) in judicial procedures have so far failed. As such, investors shall take into account this anticipated tax burden or at least its exposure.

Dividend distributions to individuals are explicitly exempted by the Tax Code from the ACT charge. I.e., only dividends paid to other legal entities are inherent with the ACT. For individuals, the extra benefit is also available of applying personal income tax to the dividends from such taxpayers exempted from corporate profit tax at the half of standard rate.

In case of dividend distributions to non-residents from agricultural taxpayers under the uniform tax regime, then the tax exempted entities reduction of withholding tax under the tax treaties may be also questionable.

Generally speaking, the future of the discussed special tax regime is uncertain. Introduced initially in 2009, in the form of a fixed agricultural tax planned for a limited period of time and then extended for a number of times, finally indefinitely, maybe de-facto stopped and even without legislative changes.

Since 2015, this tax regime was legally changed into a domestic tax. Domestic taxes are literally chargeable only within territories of local municipalities which currently by law are limited by boundaries of cities, towns, villages. Therefore, even now applying this tax regime in respect of agricultural business beyond official boundaries of human settlements which seems to be questionable from a pure legal perspective. The future of this regime may depend just on change of the tax implementation practice.

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**A gun lies propped on a firing position in the Avdiivka industrial zone on May 17 in Ukraine's disputed eastern Donbas. While Russia's war rages on, there are ways to mitigate risks and attract more investment, argues Kyiv-based lawyer Bate C. Toms. (Volodymyr Petrov)**

why investors won't invest in Ukraine are the problems associated with the rule of law and corporate raiding. Ukraine has a huge reputation in the West as being a lawless country, where local powerful people steal property from foreign investors as well as locals. And while there has been huge progress made by the current government in reforming the judicial system, this has had relatively little impact so far on the foreign investment community, since positive reputations take time to build."

As daunting as those problems are, the solutions are pretty simple, Toms said.

### **Risk insurance**

First, he said, Western governments should be financing political risk insurance to protect investment in Ukraine. The fund could start at \$2 billion, he said, with the United States, the United Kingdom, Japan and the European Union nations making the initial contributions.

He said that the World Bank's Multilateral Investment Guarantee Agency could administer the fund.

Most likely, Toms said, the fund would not have to pay anything out — especially if Russia's war ended.

He believes that Western governments owe it to Ukraine

to help spur private investment, particularly the United States and the United Kingdom, as signatories to the 1994 Budapest Memorandum.

The Budapest agreement, also signed by Russia, gave Ukraine assurances of territorial integrity and national sovereignty for giving up its Soviet-era nuclear weapons. Russia violated the agreement with its 2014 annexation of Crimea and instigation of war in eastern Ukraine.

"The political will should be there," Toms said. "Actually, the cost to these countries should be nothing assuming that the conflict is ended and it should be, certainly based on what President Donald J. Trump has proclaimed: That there would be no further aggression. If there is no further aggression, risk insurance provides guarantees to invest at essentially no cost."

### **How it works**

The insurance underwritten by the World Bank's MIGA program or the U.S. Overseas Private Investment Cooperation "is typically done at very, very low costs." Other areas in conflict zones, such as Israel's West Bank and Gaza Strip, offer risk insurance to businesses, he said.

"The insurance covers all the money you put in and

sometimes can cover some of your profits, depending on the nature of the policy," Toms said. "The main thing that it does is to reassure the investor that he is not going to suffer a total loss."

The risks of Russia's war and lack of rule of law are the reasons that so many investment projects have been put on hold.

Corporations "have simply suspended activity until the conflict is well and truly resolved and, even several years after the conflict has stopped, political risk insurance is available and they can insure that risk. If such a policy can be offered to the West Bank and Gaza, it is hard to understand why it could not be offered to Ukraine. Ukrainians need to push for this."

## Legal ombudsman

When it comes to the other main roadblock to investment — the lack of rule of law — Toms also has a magic bullet of sorts.

"We think there's a way to fast track the economic recovery and the investment recovery based on rule of law," Toms said. "That is the development of outside supervision of the judicial system. There's been a tendency since Soviet times for it to function as one system evaluating cases rather than layers of court. The rumors are that corruption spreads up and down, so appellate review is not what it should be."

What's needed is an independent legal ombudsman, with an adequate budget, staff and powers, to referee legal disputes.

"There are many different ways that a legal ombudsman could function," he said. It could be given statutory powers to make legally binding rulings or simply to have advisory judgments followed because of the "authority based on its reputation."

The idea was pioneered in Sweden in the early 1900s and helped transform the Nordic nation of 10 million people from one of the most corrupt to one of the least corrupt nations in Europe, he said.

The legal ombudsman's rulings could avoid lengthy and costly arbitration abroad, as well as help the government pinpoint bad judges and administrative agencies, he said, "especially in the area of re-registration of titles to land and real estate, where there are so many reported abuses presently."

Such disputes are "expensive for investors" and "seriously damage the reputation for Ukraine. We can greatly reduce the enormous cost to Ukraine's reputation and overnight create a story that can be spread in the press around the world as to how Ukraine solved the problem of corruption in its courts, once and for all."

## Land-lease overhaul

The third area for critical change, Bates said, is correction of the defects in a law that made "99 percent of land leases registered between 2008 and 2016 technically invalid. This is a ridiculous situation since millions and billions of dollars in investment have been based on these land leases."

The legal problems were introduced by corporate raiders, he said, and fixed in 2016. But, he said "it becomes very difficult to keep the investor at the table" to consider land leases during the problematic eight-year period.

"Over the next seven years, the problem will take care of itself," he said. "But Ukraine's economy needs to move quickly. There's no excuse not to redress the historical problem with existing land leases to make them all effectively valid." ■



**Yulia Stusenko**

Attorney,  
Associate partner of Skliarenko, Sydorenko  
and partners, Attorneys at Law

## KEY REGULATIONS OF SURROGACY IN UKRAINE

Ukrainian legislation is one of the most progressive in the world when it comes to regulating surrogacy issues and is aimed at protecting the rights of both the biological parents and the baby born via surrogacy.

In this article we will highlight the key provisions of the Ukrainian legislation regulating surrogacy issues and will focus on main questions which people ask about surrogacy.

Since 1991, assisted reproductive technologies have been used in Ukraine. Assisted reproductive technologies include methods of infertility treatment involving manipulations with reproductive cells, selected or all stages of the reproductive cells preparation, fertilization and development of embryos before transferring them into the uterus of the patient in vitro. One of such assisted reproductive technologies is surrogacy.

First of all, surrogacy can only be practiced by medical institutions duly licensed and equipped with the appropriate facilities.

The spouses who would like to use surrogacy procedure in Ukraine should have medical indications provided by law and necessary for participation in this procedure. Only in case of compliance with requirements on medical indications for using surrogacy the spouses can apply for surrogacy treatment.

### THE MEDICAL INDICATIONS FOR APPLYING TO SURROGACY TREATMENT ARE:

- absence of uterus (congenital or acquired);
- deformation of cavity or neck of uterus because of congenital malformations or surgical interventions, benign tumors which prevent the pregnancy;
- structural-morphological or anatomical changes of the endometrium, which results in the loss of receptionist, since the uterus is not curable;
- severe somatic disease, in which the pregnancy threatens the future health or life of the recipient, but which do not affect the health of the unborn child;
- repeated unsuccessful IVF attempts (4 and more times) with resulted in repeatedly obtaining high-quality embryos, however the transfer of embryos has not led to pregnancy.

### Besides the mentioned above medical indications the following conditions must be met for using surrogacy:

- documents required for using the surrogacy treatment as defined by the Ukrainian legislation;
- two intended parents (or one of the intended parents) in the interests of which the surrogacy is used, must have a genetic link with the child;
- a surrogate mother must not have a direct genetic link with the child.

### The intended parents should provide the following documents to use surrogacy treatment:

- statement of patient/patients on willing to use surrogacy treatment;
- copies of national passports;
- copy of the marriage certificate;
- notarized copy of the joint written agreement between the surrogate mother and the intended parents.

In accordance with the Ukrainian legislation a human embryo conceived by the spouses (man and woman) as a result of application of assisted reproductive technologies and transferred into the body of a surrogate mother, is considered the child of the couple which conceived the embryo.

The state registration of the child born by a surrogate mother is made upon the request of the child's biological parents.

### For state registration of the child born by a surrogate mother the biological parents should submit to the state authorities the following documents:

- the document which confirms the fact of the childbirth by the surrogate mother;
- surrogate mother's consent to record the biological parents as the parents of the child. The authenticity of the surrogate mother's signature on such consent shall be duly notarized.
- the statement of genetic relationship of the biological parents (mother or father) with the child in form determined by the Ukrainian law.

To protect the interests and rights of the intended parents who are going to use surrogacy treatment in Ukraine it is highly recommended to advise with local attorneys, who specialize on surrogacy issues, with respect to all legal documents, agreements and any other certificates, statements, etc. necessary during surrogacy treatment.



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# She likes rules: This lawyer goes from corporate world to activism



(Volodymyr Petrov)

**Olesia Kholopik**

**Position:** Senior project manager at the Center for Democracy and Rule of Law

**Key point:** Ukrainian roads need to become a safer place

**Did you know?** Former head of the Students League of Ukrainian Bar Association

By **Olga Rudenko**  
rudenko@kyivpost.com

**F**or some, rules and regulations are boring as hell. Olesia Kholopik is not among these people.

This young lawyer gets passionate when she talks about corporate policy, little-known laws and road regulations.

Two years ago she left Samsung Ukraine, her first job out of college, to join the Center for Democracy and Rule of Law, or CEDEM, a think tank in Kyiv.

Now Kholopik, 27, is coordinating the center's advocacy campaign for road safety.

Even though working in corporate sector was Kholopik's dream throughout her studies in the Academy of Advocacy of Ukraine, one of top 10 law schools in Ukraine, she says she never regretted leaving Samsung after two years for a think tank.

"Here I can really feel the change happening," she says.

But even prior to joining CEDEM, Kholopik wasn't a complete stranger to social activism. She got a taste of it when she joined, and then headed, the Students League of the Ukrainian Bar Association.

The youth organization of the Bar Association, the League organizes educational and social events and aims to integrate the students into the professional legal circles.

When she joined it in her second year of college, Kholopik's first job was to fundraise for the league's activities. It was 2009, and fundraising after the economic crisis was harder than ever.

Was she, a 19-year-old who just recently moved to Kyiv from a much smaller western city of Rivne, afraid to knock on the doors of the top law firms and ask for donations?

"No, not really," she says.

The youth league of the Bar Association, she explains, opened many doors. Thanks to it, she got acquainted with the whole market of legal services in Kyiv while still being a student.

When she finished college, Kholopik left activism behind and headed for a legal specialist position in Samsung Ukraine. It was perfect for



her: A stable well-paid job, a multinational company and a corporate environment where everything was regulated.

But three years later she was invited to join CEDEM, then known as the Media Law Institute, to lead an educational campaign for local activists in Ukraine's regions.

It was a tough decision: to leave behind stability and great career prospects for a fixed-term contract in a think tank. But Kholopik took the risk, and in 2015 traded her office desk for the on-the-road life of a coordinator of a regional program.

In the new role, she had to travel to 16 of Ukraine's 24 regions, organizing and sometimes teaching workshops for local changemakers.

A year later, as the program came to an end she switched to two new ones: road safety and monitoring court reform.

## Change on the road

When the protagonist in a legal drama makes a final statement in a murder case, his eyes don't sparkle half as much as Kholopik's do when she describes the legislative flaws that undermine road safety.

Small fines and lack of control from the patrol police make for reckless driving. Speeding is ubiquitous, while seat belt use is rare.

Only 14 percent of drivers in Ukraine and 34 percent in Kyiv use seat belts, CEDEM found out. Compared to 80-98 percent in the United States and most European Union countries, it shows just how little care for safety Ukrainian drivers have.

To trick the car mechanism that rings an alarm when the driver isn't using a belt, Ukrainian drivers use special alarm stoppers, dummy clips, or even clip the belt behind the seat.

"I've heard so many myths about using a seat belt," Kholopik sighs. "Some say it won't save them in an accident, others say it leaves wrinkles on their clothes."

If caught not using a seat belt, a Ukrainian driver would get a fine of just Hr 51 (\$2). A driver from Spain would have to pay 200 euros.

Speeding is another issue. While the speed limit within Ukrainian cities is set at 60 kilometers per hour, almost no one sticks to it. The first problem is the so-called "unpunishable 20 kilometers": Only by exceeding the speed limit by 20 kilometers or more might a driver face a fine.

And if a fine is imposed, it's a light one. Speeding brings a fine of Hr 255-510 (\$10-20). In the EU, the fines are several times higher, and speeding over a certain limit means drivers lose their license.

Throw in the fact that for the past two years there's been nearly no speed control on Ukrainian roads. After the old, corrupt traffic police were shut down and replaced with the new patrol police, there was very little police control on the roads. Traffic cameras are promised to be introduced sometime in the future.

As a result, impunity rules the roads.

"Speeding is considered almost a norm," says Kholopik, who is a newbie driver herself.

But there is a way to fight it, she believes. Traffic regulations need to be changed, and higher fines to be introduced. For example, Kholopik says, the fine for driving without a seat belt should be raised from Hr 51 to Hr 1,000 (\$38).

"The idea is not to get a lot of money through fines," she →23



Oleh Gromovyi  
Managing Partner at GENTLS law firm

## THEME: "PRIVATE ENFORCEMENT AGENTS IN THE NEW JUDICIAL ENFORCEMENT SYSTEM"

Until recently, only a third of all court decisions had been enforced in Ukraine, and the amounts collected in the process of enforcement made a minor percentage of those funds that were subject to forcible collection. As a result, the ultimate goal of justice was zeroed out by non-enforcement of court decisions.

If a system does not function effectively, it should be changed. Thus, in Ukraine a mixed system of judicial enforcement has been introduced, where court decisions will be executed not only by the state enforcement agency, but also by private enforcement agents.

The tendency of attracting private institutions to the process of judicial enforcement is becoming more and more noticeable abroad. Private enforcement agents operate in most European countries. In some countries, private enforcement agents act alongside state enforcement agents. Such a model, however, is more typical of a period of transition from the state to the private enforcement system.

This summer in Ukraine, the first private enforcement agents are getting their certificates and begin their activities. Statistics show that that it is advocates, arbitration managers, and former employees of the enforcement service who will become private enforcements agents.

Private enforcement agents have the authority to enforce almost all kinds of court decisions, in particular, decisions on collection of funds, foreclosure of the security interest in movables and immovables, seizure of property and restraining orders. Private enforcement agents are not allowed by law, however, to collect funds in excess of UAH 6 million (*until 01.01.2018*), to enforce decisions against state authorities, to collect funds from state and municipal enterprises, and to carry out eviction from housing.

GENTLS law firm specializes in litigation. GENTLS lawyers work at all stages of dispute resolution, ranging from legal support in negotiations, through administrative appeals, to representation of clients in courts and at the stage of judicial enforcement. We understand that it is important for our clients to get a positive outcome. When it comes to court proceedings, such an outcome will not only be a court decision in itself, but its enforcement, such as the collection of funds, transfer of property, etc. Therefore, GENTLS law firm has launched a detached practice of judicial enforcement, which is aimed at an effective interaction with private enforcement agents.

In my opinion, a truly effective law firm should be prepared to take on responsibility for the organization and implementation of a set of procedures aimed at solving the client's problem. You hope you agree that it is convenient that a law firm has developed business links with a notary public, an arbitration manager or an auditor, and that such a law firm is responsible to the client for the outcome. Thus, the responsibility is concentrated on the law firm, and the client does not need to personally interact with different subjects in the process. The same refers to private enforcement agents. Some of them will prove to be better and more effective. Choosing a private enforcement agent on their own, clients, so to speak, buy a cat in a bag, since it is unknown whether the agent will ensure effective collection or, on the contrary, will make mistakes that will enable the debtor to successfully contest the agent's actions.

A law firm practicing in the field of judicial enforcement knows those private enforcement agents who have a high professional level and are most effective. Entrusting the question of choice of and interaction with a private enforcement agent to a law firm, the client will receive a foreseeable situation with minimal risks, save time, optimize costs, which will ultimately have a positive impact on the ultimate result.

It should be noted that the activity of a private enforcement agent should be carried out in strict compliance with law and subject to the rights of the debtor. In addition to a law firm, the legality of the actions of a private enforcement agent will be supervised by the Ministry of Justice of Ukraine, the bodies of professional self-government, as well as by a court in case of a respective claim. Thus, business receives an additional tool for collecting overdue debts. We sincerely hope that the European experience of attracting private enforcement agents will improve the situation in the field of judicial enforcement in Ukraine.



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# This lawyer helps foreign investors navigate Ukraine's energy sector

(Oleg Petراسiuk)



**Oleh Malskyy**

- Position:** Partner at Eterna Law, head of corporate law and M&A practice
- Key point:** Corporate laws improve but bureaucracy remains a roadblock to foreign investment
- Did you know?** Malskyy is the co-founder of Show4Me, a crowdfunding platform for musicians

By **Bermet Talant**  
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**O**leh Malskyy, a partner at Kyiv-based Eterna Law firm, has worked on a good many deals. But his favorite area is energy, and specifically, oil and gas.

It's a rich and old-fashioned industry, more sophisticated and less voluminous in terms of paperwork than, for example, agriculture. But unfortunately, the last two years have been turbulent ones for the oil and gas industry in Ukraine.

There's a high tax burden on oil and gas extraction and not enough incentives to drill new wells. Consequently, foreign investment has exited.

In 2016, Ukrainian energy holding Burisma bought 70 percent of KUB-Gas LLC from Canadian public company Serinus Energy Inc.

And U.K.-listed oil and gas producer JKK, which owns Poltava Petroleum Company, is in a legal dispute with the Ukrainian government over allegedly unpaid taxes and police raids.

"The industry is now transitioning from foreign to national capital. We see more national tycoons buying foreign-owned companies," Malskyy says. "I think it's just a phase and, in a couple of years, foreign investors will return."

While oil and gas may be suffering, more foreign investors are looking into Ukraine's alternative energy potential since higher green tariffs on electricity generated from renewable sources are still in place. Solar appears to have the edge in cost over hydropower and wind power.

Generally, his experience, foreign investors are interested in semi-developed enterprises with a license, several solar batteries and connection to networks.

Another big deal coming up for Ukraine's energy market, estimated to be worth \$120 million, is the privatization of Centreenergo, a major state-owned electric and thermal energy producer. Malskyy was legal counsel to a potential buyer.

## Investment promotion

Malskyy says that the overall quality of

corporate law in Ukraine has improved, but the deals have become more complicated due to debt issues.

“Little by little Ukraine has introduced very common international mechanisms into Ukrainian law. A huge breakthrough was the adoption of shareholders’ agreements,” Malsky says.

Half of his clientele are foreign investors, most of whom come from Germany, Poland, and France.

Malsky said attracting foreign investors in Ukraine remains difficult.

“The main problem isn’t even corruption. It’s bureaucracy and instability,” Malsky says. “If there’s an investor who wants to sign an agreement as soon as possible, will they be able to do it? No. It’ll take them at least eight months of drifting from one ministry to another. And it’s unknown who’s going to be in power here in eight months.”

**“The main problem isn't even corruption. It's bureaucracy and instability.”**

### Rule of law

Given the lack of trust in the judicial system, Malsky noted that Ukrainian people aren’t used to seeking justice in courts.

“If rule of law means being protected by the legal system and have your rights secured by the law, then Ukraine isn’t in a bad place,” he says. “But to me, the real rule of law starts with people going to courts and creating precedents. Have you ever heard of anyone in Ukraine not being happy with a product and suing a manufacturer? Or someone suing a neighbor for a barking dog? Not really.”

Judicial reform, which Ukraine embarked on last year, may take two decades to bring results, he says. In the meantime, the promotion of the culture of seeking justice in courts might be just as important. ■



One problem with the Ukrainian justice system, says lawyer Oleh Malsky, is that people don’t trust it, and so don’t use it. Promoting a culture of seeking justice is thus vital. (Courtesy)



**Vasyl Cherednichenko**  
Partner at EXPATPRO  
Law Firm



**Tetiana Yashchenko**  
Lawyer at EXPATPRO  
Law Firm, PhD student  
at Kyiv Taras Shevchenko  
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## MORE TRANSPARENCY, BUT CHANGES IN THE OBTAINING PROCEDURE.

On May 23, 2017, the Ukrainian Parliament voted for the Law of Ukraine “On making changes to some legal acts regarding removing barriers for foreign investments”. According to the provisions of that legal act, the whole procedure on the legalization of foreigners will be considerably changed. Currently this act is awaiting the President’s signature. The new rules are aimed at making the whole procedure of acquiring legal status for foreigners in Ukraine easier and transparent for the purpose of protecting the interests of investors and making it less bureaucratic and at the same time more strict limitations will be introduced.

### NEW RULES FOR THE EMPLOYMENT OF FOREIGNERS

The first significant change in the sphere of labor regulation for foreigners will be for private entrepreneurs (so called “FOP”, “SPD”) to be included in the list of employers. This means that only legal entities will have the right to employ a foreign citizen.

It is worth noting that the list of documents required for a work permit will be reduced and will consist of general documents such as translation of passport and photos. The requirements of new documents to submit for a Work Permit will consist of the employment contract draft. Criminal records, university degree and medical documents will no longer be needed.

The new validity terms of work permits will be established as such: a draft of the law says, the work permit could be issued for the term of the employment contract but not more than for **3 years** (for IT sector employees, **the owners of the business**, creative sphere employees and highly paid foreign professionals) and up to one year for other foreigners. The work permit may be prolonged with an unlimited number of times. These changes are positive and will secure interests from both employers and employees and will guarantee a more stable position that will reduce the number of employer’s communication and burdensome procedures with state authorities.

Changes to the term for consideration of documents will be strictly limited to 7 business days – for the issue of a work permit and 3 business days for considering the extension of a work permit validity term.

One of the most positive changes will be the new mechanism that will be implemented in the sphere of work permit issue – if the authorized body finds mistakes within the documents submitted, the issuing (or prolongation) of work permit will not be **refused but will be ‘frozen’** from consideration and the employer will be given 7 business days to correct the mistake or discrepancy.

### “BENEFITS” AND “POSITIVES” OF THE NEW REGULATIONS.

The new law establishes the minimum amount for a foreign employees’ salaries equating to 10X the amount of the minimum salary in Ukraine (2017 = 32000 UAH). This requirement is not used for special categories of employees, such as **founders and/or shareholders of Ukrainian legal entity**, graduates from universities that are among world top 100 universities in the world rankings, foreign employees of artistic professions and IT-professionals whose salary may be established at any level but now less than minimal salary (3200 UAH).

One of the amendments of the payment for the issue of a work permit will be increased. In the case of issuing a 3 year permit, 6X the amount of subsistence minimum for able persons (2017 = 9600 UAH). The same payments will be required for the prolongation of a work permit which is also not a positive change (according to the acting procedure, the extension of a term validity for a work permit is free of charge).

### CHANGES IN THE SPHERE OF RESIDENCE.

The new ground for obtaining temporary residence permit will be added to the list – the investors to the Ukrainian economy in the form of making a contribution to the authorized capital of a Ukrainian legal entity will be able to enjoy the right to obtain **temporary residence permit with no need to be employed in a company**. The only restriction is the amount of the investment in the company – not less than 100 000 EUR.

Generally, the temporary residence permit shall be issued within 10 calendar days (now the term is 15 calendar days) and the administrative fee will be increased – up to the amount of 20X non-taxed citizens’ income minimum (both for issue and prolongation, in 2017 the amount = 340 UAH).

There is one more added **substantial requirement** for an employed foreigner: it will be required to prove that your employer has also 3 Ukrainian employees (who started to work at the company not later than in 6 months before prolongation of temporary residence permit) OR that he has paid taxes for the amount not less than 50X the minimum salaries within the last full financial year (2017 = 160 000 UAH) in order **to extend** the residency permit of the foreign employee.

To sum up, the changes in legislation in the sphere of employment and residency of foreigners in Ukraine provide a more clear, transparent and less bureaucratic procedure but with a substantially more expensive price tag.

The law will come into effect within 3 months time from the moment of its signing by the President and official promulgation. It is important to note that during the transition period while the law is not implemented, that it must be clarified in terms of specifics for documents obtained by foreigners prior to the date and effect of the new law.



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# Lawyer bets technology will make legal services cheaper for clients



**Valentin Pivovarov**

**Position:** Co-founder and CEO at lexnet.io  
**Key point:** Technologies can automate legal activities and make legal services more affordable for people  
**Did you know?** Studied to be in the military, but instead went into law.

By **Denys Krasnikov**  
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**N**ot happy with prospects for law school graduates in Ukraine, Valentin Pivovarov, 25, has chosen a specialty that he thinks has promise — shaking up the legal profession with the aid of technology.

Pivovarov wasn't interested in a standard legal career path, so he found inspiration in information technologies. Before long, he had linked up with Rocket Lawyer, one of the first legal companies to offer services online.

"Legal services provided online can significantly simplify people's access to justice," Pivovarov said. It can also save on the labor, rent and travel expenses for law firms. All the same, most firms still have "just simple websites" and standard, expensive services, he says.

So in 2014, Pivovarov launched Bitlex, "a startup among law firms" that offered online solutions. The owners sold their shares two years later and most of the 12 employees joined Pivovarov in his new venture, lexnet.io, which focuses on cyberlaw and cryptocurrency.

The company was spotted by Juscutum, an attorneys association that specializes in IT and media law. It proposed that lexnet.io operate under its umbrella. Today it has become a laboratory of tech innovations for the legal sector.

## Digital money and law

In April, Ukraine partnered with global technology company Bitfury to put government data on a secure platform. The same technology is used to encrypt bitcoins.

Ukraine is advanced in this area, he said, ranking "among top 10 countries with the biggest development of cryptocurrency."

Juscutum is now one of the first and few companies that accept bitcoins as payment.

## Tech and law

Technology is already changing the legal industry in Ukraine. "On the one hand, Ukraine has plenty of problems; on the other hand, it has a well-developed IT sphere," Pivovarov said.

Some projects include chatbots and



A woman sits in the session hall of the Supreme Court of Ukraine in Kyiv on April 5. (Volodymyr Petrov)

applications that automate legal work. One is Legal Alarm, a smartphone application that summons a lawyer at the click of a button. It first charges 150 euros and then dispatches a lawyer for those needing emergency legal assistance.

It's already available for iOS and Android devices. It was partially developed by Juscutum, but now it's being developed by Pivovarov and his innovations lab. Pivovarov says the idea hit after the EuroMaidan Revolution that drove President Viktor Yanukovich from power on Feb. 22, 2014, when there were searches and raider attacks on business.

"There were cases when someone was just breaking doors, and the companies had no emergency communication with lawyers to protect their rights," Pivovarov said.

The app won a prize at HiIL Justice Accelerator, launched by Hague Institute for the Internationalization of Law, when it was presented in September 2016. "Now the world knows about Ukraine, and they have high hopes for it," Pivovarov said.

Another recent development is a computer bot to automate legal services, such as setting up legal entities or filing divorce documents.

"Thousands of Ukrainians register businesses monthly. These services are available on the market for some Hr 1,500, while we can do the same for about Hr 200," he said. Cutting costs improves access to legal help. Most people "don't go to a lawyer, because they think it's expensive," he said.

His team is also working on a plugin for Microsoft Word to create templates for common legal documents.

### Hackathons and law

Apart from being an entrepreneur and a lawyer, Pivovarov takes part in organizing hackathons for lawyers, events in which computer programmers and others thrash out tech ideas.

He joined Legal Hackers, a global community from 52 countries. He has already organized a hackathon in Europe, inviting more than 150 people. The turnout showed him that people are hungry for innovation.

"Our people are zealous, they long to see changes," Pivovarov said. "And technologies can make them happen." ■

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# Ukraine's government 'repels those who try to bring changes' for better

(Courtesy)



**Oleksiy Stolyarenko**

- Position:** Senior associate at Baker McKenzie
- Key point:** Qualified tech lawyers do not want to work for the Ukrainian civil service — it is difficult to change the system, and it pays no money
- Did you know?** Is a fan of Japanese film and television animations, or anime.

By **Denys Krasnikov**  
krasnikov@kyivpost.com

In the era of compact discs and local internet networks some 10 years ago, Oleksiy Stolyarenko was one of the originators of Ukrainian copyright and information technology law.

Today Stolyarenko is a senior associate at the Ukrainian branch of international law firm Baker McKenzie, advising the most famous IT brands on how to operate legally on the Ukrainian market.

"It's a blessing," Stolyarenko says, describing his job. He says most famous world brands, including top tech companies, partner with Baker McKenzie. "It's truly a mind-blowing (experience) when companies like these come to you for a piece of advice," Stolyarenko says.

Tech companies come for help in protecting intellectual property rights, including technology-related transactions and the licensing of software.

Some companies ask about language adjustments of their product to the local market, trademarks and copyrights. Others seek legal help when acquiring other particular tech products or entire startups.

"I provide information about all these things," Stolyarenko says.

The lawyer has been specializing in the area for nine years. In 2015, he was awarded Best Lawyer in Intellectual Property by Ukrainian legal newspaper Yuridichna Gazeta. He was listed as a notable practitioner in intellectual property in 2015 and 2016 in the annual report by the Ukrainian Journal of Business Law. Legal 500 also honored him in 2017.

Stolyarenko studied in National Yaroslav the Wise Law Academy of Ukraine and then in Louisiana State University in the United States. Afterward, Stolyarenko went to work for the government as a senior specialist of copyright and related rights. Stolyarenko says people didn't know much about the issues at the time. At the Department of Intellectual Property, Stolyarenko worked on issues around registering and licensing ownership → **23**



# Ukrainian National Bar Association: HEADING FOR DEVELOPMENT

*"We have set the goal of combining the best of traditions of the Ukrainian Bar, its intellectual and managerial potential, and borrowing new practices from our foreign colleagues." – Valentyn Gvozdiy, Vice President of the Ukrainian National Bar Association*

Bar self-regulation has been operating in Ukraine since 2012. This is a completely new system of regional and national bodies for our country, with clearly defined powers and authorities that regulate the profession, which is responsible for maintaining high standards. At the same time, this is not a Ukrainian, but an international practice, which in countries like Germany has a history of more than 150 years. The development of this model was accelerated by the recommendations of the European Union and the PACE, since these institutions considered the establishment of an independent, unified professional bar association in Ukraine to be one of the key components of a democratic and rule-based state. We have the Ukrainian National Bar Association, which according to the law includes absolutely all advocates that have the right to practice law in our country.

Obviously enough, we felt our first task was to realize the principle of the independence of the legal profession. We have the authority delegated by the state to create and to administer the Unified Register of Advocates. We have created the Unified Register of Advocates of Ukraine as an innovative UNBA project, adhering to all information security requirements, and now it's publicly accessible. The URAU maintenance procedure is being constantly improved. Special filters were developed to find an advocate by his/her main and job addresses. In addition, we have technical capabilities that allow us to promptly respond to external changes and threats. For example, the Bar Council of Ukraine, as the URAU's second level administrator, took over the functions of the first level administrator for the temporarily occupied regions and the annexed Crimea. When we encountered a large number of illegal searches and seizures of advocates' property, we began to develop new functions for our website. Now we plan to make a more informative profile for each advocate.

**It is only the UNBA, as a regulator of the profession, which conducts procedures for access to the profession and implements disciplinary procedures in relation to the advocates. Personnel rotations in the managerial staff of the bar take place through conferences and congresses of advocates of Ukraine. The current UNBA leadership has won the trust of their colleagues, and starting from Nov. 17 we will continue working for our second term.**

## International partnership and support

Since its founding in 2012, the UNBA has successfully established a broad network of international relations with key partners, forming the agenda for the legal profession as such. This work is conducted by the Committee on International Relations.

At the committee's initiative, we have already established 15 UNBA representative offices abroad, helping us to present the Ukrainian bar

to foreigners, to study their foreign practices, to improve our own skills, to help Ukrainian citizens, and to work on the image of Ukraine. Recently, according to a decision of the Ukrainian government, a Ukrainian Institute was established to spread information about Ukraine throughout the world. Our representative offices aim to cooperate with similar institutions abroad.

The international activity of the Ukrainian bar is ensured in three main directions. The first one is cooperation with national regulators of the legal profession. The second one is cooperation with international organizations, bringing together representatives of the legal profession. And the third one is cooperation with the officials and authorities of other states.

## Membership of international organizations

In 2015, the UNBA became a member of the IBA (International Bar Association). The membership in this organization offers wide opportunities for Ukrainian advocates as related to the protection of advocates' professional rights and guarantees, support from bar associations around the world, and gaining the best international experience in the legal profession. The UNBA became a member of the Council of Bars and Law Societies of Europe (CCBE) in 2016. The CCBE is a recognized representative of the bar in relations with the EU institutions, Council of Europe and international organizations worldwide. Through its cooperation with the European Parliament and European Commission, the organization has influence on the development of legislation on the bar, criminal and corporate legislation; it provides information on changes in procedures for the European Court of Justice and the European Court of Human Rights. Shortly after joining this organization, the UNBA concluded with the CCBE a Memorandum of Mutual Recognition of the Continuing Professional Development of Advocates, with the bars 40 European countries. In 2015, the UNBA signed



**Valentyn Gvozdiy**

Vice President of the Ukrainian National Bar Association

a Memorandum with the Ukrainian American Bar Association (UABA) and a Memorandum of Cooperation with the Bar Association of Georgia. We have an understanding with the German Federal Bar Association to recognize the right of Ukrainian advocates to practice in Germany. The Law Society of England and Wales granted Ukrainian advocates with the right to take exams and practice as the solicitors.

## Revolutionary changes to the Rules of advocates' ethics

The Reporting and Election Attorney's Congress has approved amendments to the Rules of advocates' ethics (Code of conduct). It was necessary to eliminate legal gaps related to the protection of the attorney-client privilege and their relations with colleagues, providing legal aid, in cases with clients that were distributed through the Legal Aid centers. The most revolutionary proposal for amendments to the Code of conduct is the introduction of separate chapter regulating the ethical rules for communications between advocates in social networks and on the Internet. New Code of conduct for Ukrainian advocates was adapted by the Attorney's Congress on the basis of international practice, namely the standards of the International Bar Association (IBA). These draft amendments have since been approved by the Congress of advocates, and as of today the new rules have entered into force.

## Bar and reforms

The Bar is an active participant in judicial reform. Although international standards provide for the

mandatory inclusion of bar representatives into any and all discussion of changes in the relevant legislation, we do not always succeed in defending the voice of the legal profession in a rather complicated reform process. We have, on the one hand, successful examples, when we forced the introduction of the exclusive advocates' right to represent clients in courts, and this already enshrined in the Ukrainian Constitution. The Ukrainian National Bar Association gave a positive expert assessment to the Constitutional Court regarding the said reform as an implementation of relevant European practices, ensuring the observance of the rights of citizens to judicial protection.

It is these productive efforts that strengthen our reputation in Europe as an effective professional organization with a rich history.

On the other hand, quite a lot of our efforts go into combating the unjustified state interference with the work of the bar, both at the level of legislation and at the level of the current activities of the law enforcement bodies. The bar believes that judicial reform is needed; we support the goals of strategic documents on judicial reform, but we will never agree to merely cosmetic change.

The Ukrainian bar, as an institution and a unified organization, consistently holds a transparent, independent, principled stand on the issues of the legal profession, human rights and freedoms, and, therefore, we will continue to defend these values from any infringements.



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# Serving Ukraine's lawless service sector of restaurants, clubs, bars



**Mikhail Nosalyk**

**Position:** Partner at Global Law  
**Key Point:** Buyer beware  
**Did you know?** He once had a case in which an unwashed bar glass led to a Hepatitis outbreak

By **Josh Kovensky**  
Kovensky@kyivpost.com

**A** bartender who doesn't wash glasses, causing hepatitis to spread among customers.

A waiter who spills a scorching dish on a customer, causing severe burns.

An extortionist who poisons a restaurant's soup, causing patrons to fall ill.

In Ukraine, perhaps more than other nations, people need to be careful about the restaurants, nightclubs and bars they frequent.

Not many people know more about the problems, perhaps, than Mikhail Nosalyk, a partner at Global Law. Nosalyk has encountered a lot of disturbing incidents in his practice, which involves constant work with governmental fire, food and consumer safety regulators.

Many of these problems take place in a loosely regulated environment.

## **New regulator**

Ukraine has been trying to consolidate all of the agencies that run checks into one single regulator: the State Service of Ukraine for Food Safety and Consumer Regulation.

Although the body legally came into existence in February 2016, Nosalyk said that it's still being formed. "They will be the main regulator," Nosalyk said.

The new consumer protection agency, established by former Agriculture Minister Oleksiy Pavlenko, united the state inspection services for agricultural products, livestock, plants and quarantine issues.

But Nosalyk said that many "illegal verifications" continue. "There's a list of state organs that have the right to conduct checks, but some will come who don't have the right to come, or who have the right, but it's the wrong administration to be conducting it."

Many of the laws that government enforces date to the Soviet era.

Ukraine still uses the 1970s Soviet labor code, while other requirements regulating the "adjacency of food products" mean



that “storing products within our Soviet norms is impossible, because you need 40 refrigerators to keep everything.”

Part of the solution is to enact modern legislation.

One idea is replacing Ukraine’s 1970s labor code. Legislation has been kicking around the Verkhovna Rada, Ukraine’s parliament, since 2015. Labor lawyers expected action in the 2016 session, but that has not yet happened.

### Clubbing

The cutthroat restaurant industry lends itself to attacks ranging from legal complaints to “titushki,” or hired thugs, coming over and breaking the windows of a competitor’s eating establishment.

Nosalyk told the story of a restaurant in Kyiv’s Pechersk district that was accused of playing music too loudly. But the people who filed the complaint were in Obolon, many kilometers away. “The police still tried to verify it,” Nosalyk said.

In another case that Nosalyk described as extortion, a man who was threatening a restaurant poisoned the establishment’s soup in a bid to exert pressure. “Everyone got poisoned,” he said.

Representing Kyiv’s nightclubs comes with its own set of legal challenges. Fights occasionally break out among patrons. So part of Nosalyk’s job is to review video footage to send to the police.

“We had a case where they just stole the camera,” Nosalyk said, adding that many club managers train video surveillance on their employees to prevent theft and not on revelers.

The lack of effective financial crime investigators makes it difficult to press theft charges against employees. “It’s difficult to prove,” Nosalyk said, adding that in one case, an employee was routinely saying he had given 10 percent discounts on items, but was actually pocketing the difference.



### Comply or forfeit

But in general, government regulators still wield a heavy baton of civil forfeiture in cases where restaurants and clubs do not comply with the law.

Entrepreneurs in Ukraine have personal liability for their operations. A big fine could lead to the repossession of homes.

Nosalyk recounted the case of one bartender who was fined Hr 350,000 (\$13,400) for ripping the excise label on a liquor bottle. “The bartender came, saw the fine, and said, ‘I don’t have the money, my salary is Hr 10,000 (\$384),’” Nosalyk recalled. “And then he left.”

Nosalyk’s advice: “It’s better to just do everything as it should be done, then you’ll sleep soundly.” ■

**Though Ukrainian food and health regulations are often quite strict, enforcement is piecemeal and the rules often self-contradictory, says Mikhail Nosalyk, a partner at Global Law who specializes in consumer protection issues. (Courtesy)**

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Phone number	Top executives	HQ	Est.	Main Specialization, services	Major clients	Languages
<b>Belotsky Pukalo</b> 11/11 Serhiya Husovs'kogo St., Kyiv, 01011; hello@belotsky.ua belotsky.ua 						
+38 044 466 9946	Vladislav Belotsky, Rostyslav Pukalo	Kyiv, Ukraine	2014	Corporate and Commercial; Criminal Law; Dispute Resolution; Intellectual Property; Labour and Employment; Trademarks and Patents; Tax and Customs, Private Clients	Aldobarkers Barbershop, Citrus Farm, Cooper Family, Danone Nutricia, EcoSnack, Hockey Club "Kryvbass", SS «Dynamo», Science Media Group, Soft-Logic Ukraine, Molodost', Izodrom, Valeriy Gromov Jewellery, SE3, KaTimo	Russian, Ukrainian, English, Arabic
<b>CMS Cameron McKenna LLC</b> 38 Volodymyrska St., 6th floor, Kyiv 01030, Ukraine; KyivOffice@cms-cmno.com cms.law, cms-lawnow.com 						
+38 044 391 3377	Graham Conlon	London, UK	2007	Infrastructure; Corporate and M&A; Banking and Finance; Commercial; Tax&Customs; Competition; Dispute Resolution; Compliance; Employment; Property; Technology Media and Communication; Agribusiness; Lifesciences/Pharmaceuticals; Intellectual Property; Energy; Private Equity	WND	English, French, Ukrainian, Russian
<b>CMS Reich-Rohrwig Hainz</b> 19B Instytutska St., Kyiv 01021, Ukraine; kyiv@cms-rrh.com www.cmslegal.com 						
+38 044 500 1718	Johannes Trenkwalder	Vienna, Austria	2006	Agribusiness, Antitrust, Banking & Finance, Commercial, Compliance, Corporate/M&A, Dispute Resolution, Employment, Energy, Infrastructure, IP, Public Procurement, Real Estate, Restructuring, Tax, TMT	WND	Russian, Ukrainian, English, German
<b>Dentons (LLC Dentons Europe)</b> 49A Volodymyrska St., Kyiv 01034, Ukraine; kyiv@dentons.com www.dentons.com 						
+38 044 494 4774 +38 044 494 1991	Oleg Batyuk	Global law firm	1992	Banking and finance; Corporate/M&A; Dispute resolution; Investments; IP&T; Real estate and Construction; Restructuring; Tax	Multinational corporations, commercial and investment banks, energy companies, developers, hotel chains, investment funds, international organisations	English, Russian, Ukrainian
<b>ECOVIS Bondar &amp; Bondar</b> 3 Rognidynska St., Office 10, Kyiv 01004, Ukraine; kyiv-law@ecovis.ua www.ecovis.com 						
+38 044 537 0910	Oleg Bondar	Kyiv, Ukraine	1998	Corporate & M&A, Antimonopoly & Competition, Dispute Resolution, Air Law and Transportation, PPP, Privatization, Insurance Law, Real Estate & Construction, Taxation, Energy, Banking & Finance	Ukraine International Airlines, Interavia, Aerohandling, RESO Group, Danske Commodities, Europcar Ukraine, Bionorica SE (Germany), OPower Inc (USA), Advent International, construction company GEOS	Russian, Ukrainian, English, German
<b>ePravo</b> 28/9 Pushkinska St., 2nd floor, office 24, Kyiv 01004, Ukraine; welcome@epravo.ua www.epravo.ua 						
+38 044 235 0444	Vitalii Vlasniuk, Vlad Vlasniuk	Kyiv, Ukraine	2012	IT: E-commerce, SaaS, Mining; Startups; Intellectual Property; Energy; Corporate and Litigation; International Tax; Criminal	Acronym, Allta, Astrafit, Hedi Group, Khimfarminvest, MMI Group, MyDutyFree, VMC Water Queen	English, Russian, Spanish, Ukrainian, German
<b>EQUITY Law Firm</b> 14D Bekhterivsky Lane, Kyiv 04053, Ukraine; info@equity.com.ua equity.com.ua 						
+38 044 238 6420	Viktor Barsuk	Kyiv, Ukraine	2002	Litigation; Restructuring & Bankruptcy; Banking and Finance; Real Estate; White Collar Crimes; Corporate and M&A; Tax; Intellectual property	Azovmash, Ferrexpo AG, National Bank of Ukraine, Ukrainian Business Group, Vernum Bank, AIS Group, Concorde Capital, NEST Corp., Arterium Corp., Crystal Bank, AutoKraz, Helen Marlen Group and others	English, Russian, Ukrainian
<b>ESQUIRES</b> 40-X, Hlybochytska St., Kyiv, 04050, Ukraine; info@esquires.legal www.esquires.legal 						
+38 044 337 70 07	Oleksandr Shkelebe, Opanas Karlin, Artem Saprykin, Viktoriya Kovalchuk	Kyiv, Ukraine	2016	Dispute Resolution; Corporate and Tax; Banking, Finance and Capital markets; Business Protection, White Collar Defense and Investigations	ICU, Nemiroff, SG, Group of Companies Nyva Pereyaslavschyn, Slavyanka, Solum LLC, Vyfar, Logistic company Fresh-line, Dialog Diagnostics LLC, Market Stolychnyi, Montgolfiere AG	English, German, Ukrainian, Russian
<b>Eterna Law</b> Sophia Business Centre, Rylskiy lane 6, 01001, Kyiv, Ukraine; pr@eterna.law eterna.law 						
+38 044 490 7001	Andrey Astapov, Oleh Malsky, Oleh Beketov, Eugene Bilinov, Oksana Kneychuk, Maksym Uslysty	Kyiv, Ukraine	2002	Dispute resolution, corporate, M&A, tax, international finance, compliance, regulatory enforcement, IP, insolvency, construction, real estate acquisitions, oil and gas, infrastructure	Baxter, Bayer, Bioton, Bunge, CDMA, Huawei, China National Oil Corporation, EBRD, Energoatom, FHI 360, EFKO, Mriya, United Grain Company, Nemiroff, MasterCard, Mechel, Metagenics, Nutricia	English, Russian, Ukrainian, German, Polish, Latvian

Phone number	Top executives	HQ	Est.	Main Specialization, services	Major clients	Languages
<b>International Legal Center EUCON</b> 33 Tarasa Shevchenko blvd, office 12, Kyiv, 01032, Ukraine; office@eucon.ua www.eucon.ua 						
+380 44 238 0944 +48 226 581 025	Yaroslav Romanchuk – Managing partner, attorney at law, head of Kyiv office; Ihor Yatsenko – Senior partner, attorney at law, head of Warsaw office	Kyiv, Ukraine	2006	Corporate and M&A, Tax Law, Transfer Pricing, Criminal Law, Accounting and Tax, Labour & Migration Law, Investments and Business Structuring, Dispute Resolution, Agrarian, Compliance, Intellectual Property	Louis Dreyfus Commodities Ukraine; Zepter International Ukraine; Savik Shuster Studio; Ukrrichflot PJSC; TNK-BP Commerce, LLC; Plastics-Ukraine, LLC; Kyivstar, JSC; Consulate General of Poland in Lviv	Ukrainian, English, Poland, Russian
<b>EXPATPRO Law Firm</b> 18 Vasylia Lypkivskoho St., 3 floor, Kyiv, 03035, Ukraine; office@expatpro.co www.expatpro.co 						
+38 044 339 98 81	Liubomyr Kuziutkin, Vasyl Cherednichenko	Kyiv, Ukraine	2016	Immigration law, Private clients, Launching Business in Ukraine, Corporate law, Real Estate	WND	Russian, Ukrainian, English
<b>GENTLS law firm</b> 17/52 A Bohdan Khmelnytsky St., BC LEONARDO, 5th floor, Kyiv, Ukraine; go@gentls.com www.gentls.com 						
+38 044 339 99 10	Oleh Gromovyi	Kyiv, Ukraine	2016	Litigation & Arbitration	British American Tobacco, OschadBank, Alfa Bank, TDM- Electronics, Kreston GCG, high-ranked officials – Prime Minister, parliamentaries	Russian, Ukrainian, English
<b>GOLAW</b> 19B Instytutska St., office 29, Kyiv 01021, Ukraine; info@golaw.ua www.golaw.ua 						
+38 044 581 1220	Valentyn Gvozdy, Sergiy Oberkovich	Kyiv, Ukraine	2003	Litigation; Taxation; Banking and Finance; Corporate Law and M&A; Criminal Law and White Collar Crimes; Business Defense; Corporate Governance & Compliance; Government Relations; Labor and Employment Law; Private Clients; Real Estate Law; Land Law; Insolvency; Energy and natural resources	Ceska Exportni Banka, EGAP, Expobank, Enkom BNP Paribas, Bank Gutmann AG, Noosphere, Marks & Spencer, GAP, Red Bull, Zara, Stradivarius, Bershka, Donegal, Syngenta, Reckitt Benckiser, Azelis, Omya, Printec, Merkator Medical, Oriflame, Ubisoft, ProCredit Bank, Red Head Family Corporation, Evyap Trading, Bogomolets National Medical University, Amic, Atlantic Group, Agro Core, Lacoste, New Balance	Russian, Ukrainian, English, German
<b>Golovan &amp; Partners Law Firm</b> 33B Bulvarno-Kudriavska (Vorovskoho) St., Kyiv 01054, Ukraine; info@golovan.ua www.golovan.ua 						
+38 044 486 0047	Igor Golovan	Kyiv, Ukraine	1996	Complex Business Protection; Crime & ATO Zone Issues; White Collar Crimes; Litigation & International Arbitration; Investment Disputes; Copyright & Related Rights	Privileged	English, Russian, Ukrainian
<b>GP Advisors</b> 143/2 Velyka Vasylivska St., 5 floor, office 16, Kyiv 03150, Ukraine; office@gpa.ua www.gpa.ua 						
+38 044 585 3801	Anatoliy Gasyuk	Kyiv, Ukraine	2008	Full legal support for international companies/NGO: registration, legal advice on tax, labour and migration issues, accounting outsourcing and HR support. Trademarks. Business registration in Poland	Benetton, Horizon Capital, Nuscience Cehave Korm, METRO, WNISEF, MercyCorps, Patriot Defence, World Congress of Ukrainians	Russian, Ukrainian, English, Polish
<b>Gramatskiy &amp; Partners</b> 16 Mykhailivska St., Floor 2-3, Kyiv 01001, Ukraine; office@gramatskiy.com www.gramatskiy.com 						
+38 044 581 1551	Ernest Gramatskiy	Kyiv, Ukraine	1998	Business-Advocacy; Foreign Investments; Foreign Trade; Business Protection; Real Estate&Construction; Agribusiness; IT; Litigation; Taxation; Business Restructuring; Due Diligence; Debts&Bankruptcy	City Capital Group, Seven Hills, Danfoss, De-vi, PlayTech, ClickMeln, Keystone Trading Technologies, Skywind Tech UA, ULMA Ukraine, Celentano, Banka, Jeltok, Promkabel, Larsen, Graal, All-Ukrainian Advertising Coalition	English, Italian, Polish, Russian, Ukrainian
<b>Gryphon Legal</b> 36-D Eugene Konovaltsia St., Kyiv 01133, Ukraine; office@gryphoninvest.com.ua gryphongroup.com.ua 						
+38 044 227 9212	Helen Lynnyk, Igor Lynnyk	Kyiv, Ukraine	2011	Corporate Finance & Strategy, Compliance, Banking&Finance, M&A, Tax, Due Diligence, Forensic, Debts Restructuring, Litigation, White Collar Crime	Alfa-Bank Ukraine, Alfa Insurance Ukraine, Privat Bank, Diamant Bank, PKO Bank Polski, Kredobank, Allianz Group, Aesthetic Consilium Clinic, Leogaming Pay, Pernod Ricard, Furshet, Eco-Market, Atoll Holding, Karbon Invest, AIS Group, Astelit, Federation of Trade Unions of Ukraine	English, Russian, Ukrainian



Phone number	Top executives	HQ	Est.	Main Specialization, services	Major clients	Languages
<b>ICF legal service</b>						
10 Muzeinyi Lane, 1st floor, Kyiv 01001, Ukraine; info@icf.ua www.icf.ua						
+38 044 255 5767	Natalya Ulyanova	Kyiv, Ukraine	2005	Comprehensive consulting and full-spectrum assistance in international tax restructuring of your business	WND	Russian, Ukrainian
<b>Jeantet</b>						
4, Volodymyrska St., 3 floor, Kyiv, 01001, Ukraine; bbarrier@jeantet.org www.jeantet.fr						
+38 044 206 0980	Karl Hepp de Sevelinges, Bertrand Barrier	Paris, France	2015	Corporate and M&A, Banking & Finance, Capital Markets, Dispute Resolution, Competition and Antimonopoly issues, Distribution agreements, Real Estate	Multinational corporations, international financial institutions, foreign and Ukrainian banks, European and Ukrainian companies	Russian, Ukrainian, English, French, German
<b>Jurimex Law Firm</b>						
9/2 Velyka Vasylkivska St., office 67, Kyiv 01004, Ukraine; reception@jurimex.ua www.jurimex.ua						
+38 044 500 7971	Danylo Getmantsev	Kyiv, Ukraine	2003	Taxation; Banking and Finance; Media Law; Intellectual Property; Administrative Law and Licensing; Land Law and Real Estate; Litigation and Arbitration; International Trade and Investment; Pharmaceutical and Medical Law	MSL, ModnaKasta, Viasat, Bontrup Ukraine, Travel Professional Group, NEFCO, Espresso.TV, Watsons, High-Point Rendel LTD, Ukrainian Pay Card, Med Expert, Bokyoung International Co.,LTD	English, German, French, Russian, Ukrainian
<b>KM Partners</b>						
5 Pankivska St., 5 floor, Kyiv 01033, Ukraine; admin@kmp.ua www.kmp.ua, www.wts.ua						
+38 044 490 7197	Alexander Minin, Maxim Oleksiyuk, Alexander Shemiattkin, Ivan Shynkarenko	Kyiv, Ukraine	1999	Tax; Customs; Transfer pricing; M&A/Restructurings; Contract law; Litigation; Agriculture; Real estate; Competition/Antitrust; Corporate law; Labour law; Currency control; IP; Criminal law	WND	English, Russian, Ukrainian
<b>Law company LeGran. TT</b>						
2 Primorskaya St., office 49, Odessa 65026, Ukraine; office@legran.tt.com.ua www.legran.tt.com.ua						
+38 048 710 0360 +38 063 027 7600	Tatyana Titarenko	Odessa	2015	Maritime law; Ports & terminals; Public-Private partnership; International trade; Government relations	State and private stevedoring companies; Vessel owners; Large industrial and agro-industrial holdings; Freight forwarders; Marine agents.	Russian, Ukrainian, English
<b>Law Firm Kravets and Partners</b>						
04053, Bekhterevsky provulok, 4-B, 5th floor, Kyiv, Ukraine; info@knpartners.com.ua www.knpartners.com.ua						
+380 44 229 69 50	Rostyslav Kravets, Yuriy Babenko, Anna Martynenko, Pavlo Chernenko	Kyiv, Ukraine	2002	Full-Service Law Firm; Litigation & Arbitration; Tax planning and consulting; Administrative proceedings; Corporate and M&A; Banking and Financial Law; Criminal law and process.	WND	Russian, Ukrainian, English, German
<b>LCF Law Group</b>						
47 Volodymyrska St., office 3, Kyiv 01001, Ukraine; info@lcf.ua www.lcf.ua						
+38 044 455 8887	Anna Ogrenchuk, Artem Stoyanov	Kyiv, Ukraine	2009	Dispute Resolution; Banking & Finance; Corporate & Business; Bankruptcy & Restructuring; Contentious Tax; Employment; Family Law; IP Law; Real Estate & Land Law; Regulatory & Compliance	Allianz Ukraine, AVK Confectionery Company, Alfa Bank, Bank of Cyprus, Bunge Ukraine, Carpathy petroleum, Kievguma, Oschadbank, OTP Bank, S.I. Group Consort, TAS Group, Ukrenenergy Coal Ltd, Ukrsofsbank, Universal Bank, Vikoil, YURIA-PHARM, Fozzy Group, Ovostar Union, Eridon	English, German, French, Russian, Ukrainian
<b>LEMAN International Law Group</b>						
7 Zankovetskoj St. office 21, Kyiv, 01001, Ukraine; office@lemangroup.com.ua www.lemangroup.com.ua						
+38 044 232 2904	Volodymyr Vorobiov, Artem Atepalykhin	Kyiv, Ukraine	2016	Banking, International Finance, Corporate and M&A, Intellectual property, International trade, Information technologies, Taxes, GR	POSH, DataRoot, PEOPLE IN, UMBUM, MOSST Payments, 1991 Open Data Incubator	Russian, Ukrainian, English
<b>Lexwell &amp; Partners</b>						
Sophia Business Center, 6 Rylsky Lane, 5th floor, Kyiv 01001, Ukraine; lexwell@lexwell.com.ua www.lexwell.com.ua						
+38 044 228 6080	Andriy Kolupaev	Kyiv, Ukraine	2005	M&A & Corporate; Antitrust & Competition; Litigation & Arbitration; Real Estate & Construction; Tax & Customs; Employment	AET, ArcelorMittal, Bridgestone, Chicago Mercantile Exchange, CRH, DuPont, East Metals, Evraz, Honda Trading, Gas of Ukraine, Interpipe, Intesa Sanpaolo, Lexus, Marubeni, Pfizer, Millhouse, Sojitz, Subaru, Sumitomo, Toyota, Ukrainian Ministry of Justice, VS Energy	English, Russian, Ukrainian

Phone number	Top executives	HQ	Est.	Main Specialization, services	Major clients	Languages
<b>L.I.GROUP</b> 36-D Eugene Konovalets St., office 4-G, Kyiv, 01133, Ukraine; lawyer@ligroup.com.ua www.ligroup.com.ua						
						
+38 044 227 0514	Artur Meheria, Mykola Kovalchuk	Kyiv, Ukraine	2008	Banking and Finance, Bankruptcy, Dispute Resolution, International arbitration, Criminal law, Antitrust & Competition, Corporate Disputes	OTP Bank, Alfa Bank, VTB Bank, Sberbank, Ukrspbank, UkrSibbank, VS Bank, Piraeus Bank, Credit Dnepr Bank, Motor Bank, DCH Investment Management	Russian, Ukrainian, English, German
<b>Marchenko Danevych</b> 4B Ivana Franka St., office 49, Kyiv 01054, Ukraine; office@marchenkodanevych.com www.marchenkodanevych.com						
						
+38 044 220 0711	Oleksandr Aleksyeyenko, Borys Danevych, Oleh Marchenko	Kyiv, Ukraine	2013	Antitrust & Competition; International Arbitration; Investor-State Disputes; IP; Life Sciences; Litigation	AAK, AbbVie, Baxalta (now Shire), Centravis, Deutsche Trustee Company, EBRD, Eli Lilly, H&M, Hilton, Home Group, Johnson & Johnson, LafargeHolcim, Lufthansa, Novo Nordisk, PPD, Sanofi, Verizon	English, Russian, Ukrainian
<b>Redcliffe Partners</b> 75 Zhlyyanska St., 13th floor, Kyiv 01032, Ukraine; office@redcliffe-partners.com www.redcliffe-partners.com						
						
+38 044 390 5885	Olexiy Soshenko, Dmytro Fedoruk, Rob Shantz, Sergiy Gryshko	Kyiv, Ukraine	2015	Antitrust; Banking and Finance; Capital Markets; Compliance; Corporate and M&A; Debt Restructuring and Insolvency; EU law; International Arbitration; Litigation; Real Estate	Abbott Laboratories, Amadeus IT Group, BNP Paribas, Citigroup, Credit Suisse, Deutsche Bank, EBRD, IFC, ING, JPMorgan, Monsanto, Morgan Stanley, Raiffeisen Bank, UniCredit, Vitrol, Yildirim	English, German, Russian, Ukrainian
<b>Skliarenko, Sydorenko and Partners, Attorneys At Law</b> 31 Tarasa Shavchenko Blvd., 3rd floor, office 8, Kyiv 01032, Ukraine; response@s-partners.org www.s-partners.org						
						
+38 044 235 8575	Oleksandr Skliarenko, Andrii Sydorenko, Yulia Stusenko	Kyiv, Ukraine	2011	Commercial Law; Corporate/M&A; Dispute Resolution; Criminal Law and Procedure; Restructuring and Bankruptcy; Banking and Finance; Tax and Customs; Private Clients; Medical Law; Agricultural Law; Labor Law; Mediation	GRAWE Ukraine, OTP Bank, IDS Group Ukraine, MONBAT Ukraine, Kvazar, Mamamusic, PaySpace Ukraine	English, Russian, Ukrainian
<b>Spenser &amp; Kauffmann</b> 7 Klovsky Uzviz, 14th floor, Kyiv 01021, Ukraine; office@sklaw.com.ua www.sklaw.com.ua						
						
+380 44 288 8383	Valentyn Zagariya	Kyiv, Ukraine	2006	Litigation & Dispute Resolution; International Arbitration; Real Estate and Land; Insurance and Tax; Corporate; M&A; Banking and Finance; Private Clients; Labor and Employment; IP, IT and Antitrust	UkrAVTO Corporation, FoodMarket (Velika Kishenya TM), Alfa-Bank, Slobozhanska Budivelna Keramik, MERX, Cardif, MetLife	English, Russian, Ukrainian, French, German, Polish, Czech
<b>Squire Patton Boggs-Salkom International Association</b> 12 Khreschatyk St., Kyiv 01001, Ukraine; www.squirepattonboggs.com, www.salkom.ua						
						
+38 044 591 3100 +38 044 591 3140	Peter Teluk, Head of Association Evgeniy Kubko, Senior Partner	Cleveland, Washing- ton, U.S. London, U.K.	1992	Anti-Corruption (FCPA/UK Bribery Act), Antitrust and Competition, Banking and Finance, Commercial Contracts, Corporate, Dispute Resolution, Intellectual Property, Labor and Employment, Litigation, M&A, PE, Real Estate, Tax and Customs	Acron, Carlsberg, ContourGlobal, GlobalLogic, Group DF, Intellectsoft, Kyivstar, Lufthansa Ukraine, Nadra Bank, Orithil, Sovereign Wealth Fund, Ukrainian Construction Company, Ukrlandfarming, UniCredit Bank, United Capital Partners, Velti, Winner Imports Ukraine	English, Russian, Ukrainian
<b>Law firm "Suprema Lex"</b> 8 Kosmonavta Komarova Avenue, office 61, Kyiv 03067, Ukraine; office@supremalex.lv www.supremalex.lv						
						
+38 044 384 0557	Victor Moroz	Kyiv, Ukraine	2015	Litigation&Arbitration, banking, transport, corporate, tax, M&A, insolvency, intellectual property, sport law, family law, labor&employment, medical&pharmaceutical, criminal	Khoriv-avia, Ukrainian Helicopters, Ukrainian International Airlines, Imperator-avtotrans, The great bear (BM-TRANS), Cordo International, Yunico Logistics Baku, Alba-Plus	Russian, Ukrainian, English, Arabic
<b>Vasil Kisil &amp; Partners</b> Leonardo Business Center, 17/52A Bohdana Khmelnytskoho St., Kyiv 01030, Ukraine; cs@vkp.ua www.vkp.ua						
						
+38 044 581 7777	Andriy Stelmashchuk	Kyiv, Ukraine	1992	Agricultural Business; Antitrust & Competition; Capital Markets; Corporate / M&A; Energy & Natural Resources; Finance & Securities; Intellectual Property; International Trade, Project and Trade Finance; Labour & Employment; Litigation & Arbitration; Private Clients; Public Private Partnership; Real Estate & Construction; Taxation; White-Collar Crime	WND	English, German, Swedish, Russian, Ukrainian

# Olesia Kholopik embarks on road safety campaign to get drivers to drive speed limit and buckle up

9 → says. “The idea is for the fines to work as a prevention.” In CEDEM, her job is to bring together every suggestion from every side - drivers, passengers, authorities - and boil it down into proposals of new regulations by autumn. Obviously, many drivers aren’t excited about bigger fines, so the discussion gets tense.

That’s not even all of Kholopik’s work. In CEDEM, she juggles two projects. Beside the road safety, she oversees “Chesno. Filter the court,” a campaign to monitor the selection of new judges for courts of each level that is part of the ongoing judicial reform in Ukraine.

The first results of the monitoring have been disappointing. The Higher Qualification Committee for Judges that is vetting the acting judges has many times approved the judges who were vetoed by the Public Integrity Council, the body that analyzes the tax declarations, wealth, and past rulings of the judges, looking for the signs of corruption.

Kholopik hopes that the selection can improve if the society activates and starts watching it closely. So far, the process hasn’t gotten much of society’s attention. That is what Kholopik is trying to change. ■

Penalties for driving without seat belt in Ukraine compared to other countries

Country or state	Fine (in U.S. dollars)	Liters of petrol it can buy
Ukraine	\$2	2
Washington, DC	\$50	75
United Kingdom	\$127-637	84-420
Ireland	\$67	43
Spain	\$223	160
Ontario, Canada	\$181	218
Oregon, US	\$130	190
Poland	\$80-133	64-106

Source: CEDEM, Vision Zero. At least 1,000 lives could be saved every year if 90 percent Ukrainian drivers used seat belts, instead of today’s 14 percent. Lawyer Olesia Kholopik is fighting for higher penalties for drivers who don’t use seat belts as she leads an advocacy campaign for the Kyiv-based Center for Democracy and Rule of Law.

# Oleksiy Stolyarenko hitches wagon to fast-rising IT sector in Ukraine

14 → rights on the internet, and ran information campaigns on these topics.

“The civil service job gave me a good start,” he recalls. “I met interesting people and many of them remained my friends.”

But the government paid badly, and so he soon joined Baker McKenzie. He says won’t be going back to working for the government. “I thought about returning, but the level of remuneration is not just low — there’s simply no salary there,” he says. Apart from that, Stolyarenko said he was sure it would be very difficult to change the government in Ukraine from within.

“Those who have tried to change something have made a lot of enemies,” he says. “All the changes have to be coordinated. So far, the system has successfully repelled those who have tried to bring about change.”

### Steering away from controversy

For now, Stolyarenko has his work cut out for him working with the

copyright-based industries, which he says have a great influence on the economy of Ukraine.

The IT sphere (which is mostly based on copyrighted software) alone accounts for 3 percent of Ukraine’s annual economic output, according to a report called “Ukraine: The Rise of a Technology Nation” by Ukraine Digital News.

Still, Ukrainian IT law hasn’t managed to catch up, Stolyarenko said. “There are still some problems with the logic of Ukrainian IT law,” he said. “One document may say, ‘find further directions in a specific decree.’ All right, but there’s no such decree. It may not have been written yet.”

To deal with this, Stolyarenko simply tries to steer his clients away from controversies. “You really have to weigh your risks when you enter a new market. Ukraine isn’t a super important market and risks here are very difficult to measure.”

On the other hand, Stolyarenko says, such low regulation can benefit tech companies. A Ukrainian entrepreneur pays just 5 percent in taxes. “This is a real benefit.” ■



# Lawyer stays active in health care, champions eastern city of Kharkiv

By **Rahim Rahemtulla**  
r.rahemtulla1@gmail.com



**Tetyana Gavrysh**

**Position:** Managing Partner at ILF

**Key Point:** Be yourself

**Did you know?** It was never Gavrysh's dream to be a lawyer. She wanted to be a doctor, but her father, a lawyer, convinced her otherwise.

Growing up, Tetyana Gavrysh wanted to be a doctor. But when the crucial time before her university years came, she opted to follow in the footsteps of her father and train to become a lawyer.

She doesn't regret the decision. But her childhood interests remain and she does pro bono work for Ukraine's Ministry of Health. By improving the nation's health care, she is able to express her lifelong interest in medicine.

"My focus is medical reform, this is my challenge now," she told the Kyiv Post. "I believe my input in this process will be great and the position of doctors will be better, so it's good for me."

Gavrysh, a managing partner at law firm ILF since 2000, said the goal of working with the health ministry is to create a new environment where graft has no chance to flourish. "The roots of corruption — and in the medical sphere too — are when state money is in the hands of small groups of people," she said.

Gavrysh has faith in the progress under way in health care. But the same cannot be said for Ukraine's distrusted and discredited judicial system.

Although a new Supreme Court is being chosen, it is still often better to resolve disputes outside of Ukraine, because bribes can still buy favorable court decisions in Ukraine.

"I don't believe in its success now because of corruption," she said. "It's an unpredictable process for me as a lawyer."

## Looking east

Part of what sets ILF apart, says Gavrysh, is that it is the only one ranked inside the top 15 (by industry publication Yuridicheskaya Pravda) which has an office in the eastern city of Kharkiv. ILF's Kharkiv office is bigger than its office in Kyiv and is home to a larger share of the practice's 50 lawyers, although more of the firm's clients are in the Ukrainian capital. But Gavrysh and her fellow partners expect this to change.

"The main office is in Kharkiv, this was our

decision," she said. "Kharkiv is the second city in Ukraine and the main city in the east of Ukraine. It has a great number of possibilities. We believe that business will develop there."

Part of the trend in Kharkiv is helping businesses reorient themselves toward Europe and away from Russia, in the wake of Russia's annexation of Ukraine's Crimean peninsula in 2014 and the Kremlin's ongoing war in the Donbas, which has claimed 10,000 lives.

Gavrysh said the shift has been tougher on larger state enterprises than smaller private businesses.

**"Be yourself. It doesn't matter what you do. Be yourself and act on your values."**

"Business is trying to find new markets now," she said. "We're supporting small and medium-sized business in places like Europe and Asia. It's something new and it has changed the environment in the region completely. Kharkiv is very European now."

In general, ILF's client base is a mixture of Ukrainian and international businesses. But as a result of being located in Kharkiv, one of the most prominent practice areas has become cases of individuals and enterprises located in Russian-occupied eastern Donbas.

Plaintiffs in such cases are seeking compensation from Ukraine and Russia at the European Court of Human Rights over damages to their property and livelihood in the war. Gavrysh told the Kyiv Post ILF is working on 15 such cases and that no concrete decisions from the court are likely for at least another 18 months. But she is confident.

"It's not easy to say because this is only the first such experience at the European Court. We believe that both countries will pay."

### Standing out

Established in 1994, ILF is one of the older law firms on the Ukrainian market. But that does not mean it is complacent. The opposite is true, she said. Each year, the firm holds summer schools for employees.

"I like the start-up approach. I have an idea, a concept, we quickly turn it into a product and test it," Gavrysh said. "It's not easy but it's possible. A lot of old-style, traditional lawyers don't believe in this approach. Sometimes my colleagues look at me and say: 'she's strange.' But I like it."

Going against conventional wisdom could be called a hallmark of Gavrysh's style. As one of the few women to have reached the top of her profession, she already stands out. She is "very sensitive" to the gender issue, she said, although it has not been a professional disadvantage. Success ultimately comes down to one thing: "Be yourself. It doesn't matter what you do. Be yourself and act on your values." ■



**Sergey Oberkovich**  
attorney, senior partner of GOLAW

**Deficiencies in the legislative system and severe economic and market conditions leave businesses in acute need of protection. A company can expect risks associated with both external and internal factors.**

Today, there are two key problems encountered by companies most frequently, namely, unfair competition and arbitrariness in the actions of law enforcement bodies in relation to business.

As for competitors, due to the fact that the rule of law principle is not observed in the country, and that it is difficult for wronged parties to get proper protections in the judicial system, unprincipled market participants attempt to win clients by any means, including those that are not always honest.

How do you prevent possible attacks by competitors on your business? Of course, you should have a set of methods and techniques, through the use of which you will analyze the market and build your own control points. One of these points should be systematic anti-competitive intelligence, something that has already been introduced and is being offered by the country's leading law firms. This process should be carried out by experts, in close communication with qualified lawyers. In the course of anti-competitive intelligence, you should not forget about such an important points as internal investigations. Often, after revealing cases of violations or fraud on the part of employees, companies face the problem of how to quickly detect problems in internal security and to document unlawful actions by employees. With the right approach to collecting and recording information, you will be able to minimize risks and make the investigation as effective and "painless" as possible. It should be remembered, however, that during investigations it is necessary to act in strict compliance with law and not to use methods that could subsequently do harm to your business reputation. Also, a business owner needs to be conscious of the legitimacy of his or her actions in relation to competitors, and to ensure that the rules of anti-monopoly and competition law are observed. You have to turn to professionals for consultations, since the legislation periodically changes, and it is better to learn about changes to the law so that you do not run the risk of violating a newly introduced law.

In addition to unfair competitors and possible problems with frivolous employees, threats can even come from those who, seemingly, should protect the interests of business and do everything to ensure its development. We are speaking here about protecting a business from dishonest actions by law enforcement agencies. This is the second aggressive factor that a company can face, it is important to note that this problem not only affects the interests of business, it also causes material damage to the company.

The bodies vested with controlling functions have the right to conduct planned (*and in some cases unannounced*) inspections. Sometimes it happens that employees of the bodies make claims against a company, for example, simply to "fulfill the plan." Also, our practice shows that it frequently happens that criminal proceedings are initiated by state bodies whose activities are very remote from the subject matter of the investigation. Here, the human factor of those working in the bodies plays a big part, because, unfortunately, in our country, many public sector employees still pursue personal interests while doing their official jobs. Often, to solve the problem of the arbitrariness of state bodies, it is enough to subject the evidence of the prosecution to criticism and, without unnecessary concern, to propose arguments backed up by a professional legal defense.

Regardless of the kind of aggressive challenge against a business you are fighting, a clear action plan and support from experienced and competent experts will help you to objectively assess the situation and achieve a solution to your problem.

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# Specialist sees improvement in Ukraine's tax collection system

(Oleg Petراسиuk)



**Alexander Minin**

**Position:** Senior Partner at KM Partners  
**Key point:** Defending taxpayers' rights  
**Did you know?** Enjoys hunting

By **Bermet Talant**  
bermet.talant@gmail.com

Ukraine's tax system has been turbulent. It is afflicted with corruption exacerbated by convoluted laws and procedures. It is governed by extremes — large-scale evasion and small-scale enforcement overkill.

Add it all up and, despite Ukraine's reasonable tax rates, the administration of government revenue collection presents a barrier to greater economic development. According to the Business Ombudsman Council, nearly half of all complaints they receive are tax-related. Specifically, companies had problems with value-added tax refunds and heavy-handed criminal proceedings initiated by the State Fiscal Service.

Having a good tax lawyer, consequently, is as important as having a good accountant. This is where Alexander Minin, a senior partner at Kyiv-based KM Partners law firm, comes into the picture.

Most of his clients are large companies with foreign capital that have been operating in Ukraine for a long time. He helps them assert their rights. On the bright side, he said that he's detected an improvement in tax administration in recent years in Ukraine.

## Overpaying taxes

Many of Minin's clients have been trying to get reimbursements on income tax payments they made in advance before 2014. Companies were charged based on profits of the previous financial year. But when Ukraine's economy went into recession in 2014, many companies found out they overpaid taxes.

"It's not that easy to make the government return money, but we manage to, even if it's not the full amount," Minin says. "Sometimes it's sufficient to file a lawsuit, and the fiscal service decides to return overpaid taxes without waiting for the judgment."

Myroslav Prodan, the interim head of the State Fiscal Service, told lawmakers on June 20 that the tax agency is working on refunding overpayments. Ukraine now has the money to do so, thanks to a rebounding economy





The statue of Lady Justice Themis on April 5 at the Supreme Court of Ukraine in Kyiv. (Volodymyr Petrov)

and the elimination of some tax-evasion schemes. Tax collections in the first quarter of 2017 exceeded last year's period by Hr 6.4 billion (\$246 million). (Ukraine, from all sources, raises and spends about \$40 billion annually in its state budget.)

### Tax inspections

Another issue is law enforcement agencies that abuse tax inspections. It is common in Ukraine for prosecutors to file requests to courts for permission to conduct inspections to investigate possible tax evasion.

Minin believes that is wrong.

“Once a court, with a single order, allowed tax inspections of over 1,000 companies. Can you imagine?” he exclaimed. As a rule, he said, they are fishing expeditions with little or no prior evidence of tax evasion.

The norm that allowed law enforcement to conduct fiscal inspections as part of a criminal proceeding and by court order was removed from the criminal procedure code several years ago, but it remained in the tax code.

“We pointed at this defect to the courts, and in many cases we managed to get fiscal inspections overruled,” Minin said. “Our most recent internal statistics show that in a third of cases when law enforcement and tax agencies turn to courts for permission for tax inspection, judges decline, saying there’s no grounds for it.”

### Helping courts

Minin is also involved in Ukraine's tardy but much needed judicial reform. He was an author of examination questions for the High Qualification Commission of Judges of Ukraine, which is helping to select a new Supreme Court, expected in July. He said that courts have, in the past, ruled to protect the state budget in disputes involving private companies. More judges today, he said, are willing to give both sides a fair hearing. ■

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# 'Ironman' Siutkin takes on raiders, mitigates legal risks for investors



(Kostyantyn Chernichkin)

**Mykola Siutkin**

**Position:** CEO, founder at S&P Investment Risks Management Agency

**Key point:** It's time for Ukrainian business to stand up for itself

**Did you know?** Siutkin has qualified for 2017 Half Ironman World Championship that will take place in September in the U.S.

By **Alyona Zhuk**  
zhuk@kyivpost.com

**Y**es, Ukrainian state bodies are involved in corporate raiding. Yes, Ukrainian legislation has shortcomings and loopholes that give law enforcement too many opportunities to harass businesses.

However, if businesses are ready to defend themselves, they can fight and win, says Mykola Siutkin, CEO and founder at S&P Investment Risks Management Agency.

"The system will spit out those who are hard to chew," he says. "If business starts defending itself within the current legal framework, and is ready to fight for as long as it takes, the system will change."

However, less than 1 percent of the big companies in Ukraine are ready to fight for their rights, Siutkin says. "Many of them are so scared that they can't even imagine that they can ask for a legal defense," he says.

Siutkin, 43, launched his law firm 10 years ago. In the early 2000s, "business started wanting fast solutions," he recalls.

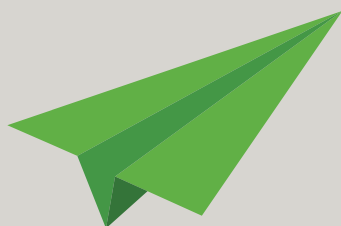
Instead of transparent legal procedures, many preferred to strike a back-room deal. People close to politicians, prosecutors, judges or other officials solved problems extrajudicially for special fees — or bribes, by another name.

"People wanted everything to happen tomorrow. Here, I pay money, give me everything tomorrow," Siutkin says. "They thought they were saving time. Many lawyers also followed these rules."

But such practices created long-term problems, exacerbating the lack of rule of law.

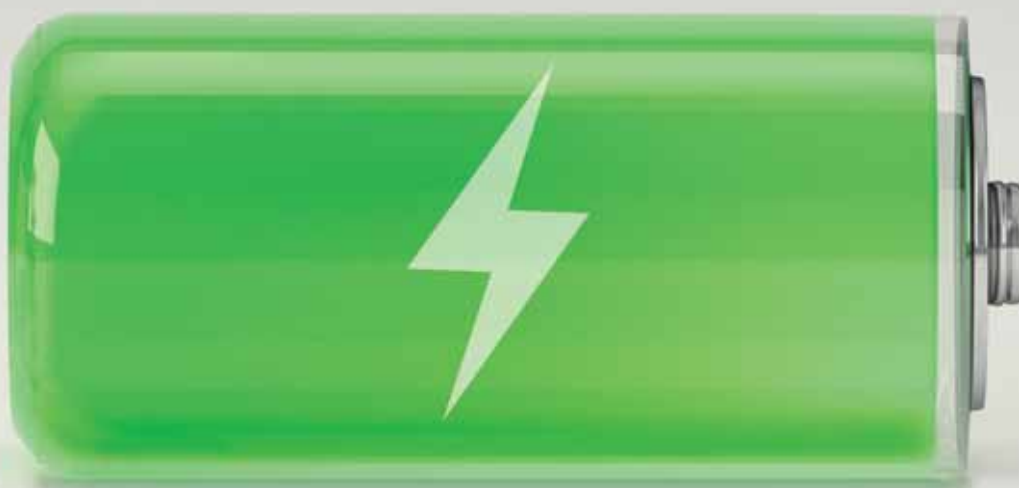
Sloppily executed legal processes paved the way for corporate raiding and other problems. "And now, starting couple years ago, big business realized that it has become a hostage of these" insider connections, he says.

When Siutkin launched his company, he wanted to "help businesses to do everything correctly." When they started, most clients wanted S&P to defend them from corporate



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**Risoil S.A, the Ukrainian branch of a Swiss company which specializes in agricultural commodities, won its year-long battle against illegal pressure from prosecutors with the help of S & P law firm and public exposure of what the harassment campaign of prosecutors. (Courtesy of Risoil S.A)**

raiding attempts.

“The (raiding) schemes were graceful and crafty, it was almost impossible to find a fault,” Siutkin says. “We used to win anyway though.”

“Shady lawyers” who represented raiders, in a way, became Siutkin’s teachers. He and his colleagues followed their steps and explored their methods, at the same time learning how to fight them in courts.

“It’s like a chess game,” he says.

As an example, Siutkin mentions the case of the Ukrainian branch of Swiss company Risoil.

Ukrainian prosecutors accused the company of paying bribes, illegally trading with Russian-occupied Crimea and the illegal seizure of land. Risoil then went public with a claim that Ukraine’s prosecutors were putting illegal pressure on it, which prosecutors denied.

It took S&P Investment Risks Management Agency’s team a year to settle the case in favor of the company. They filed more than 100 motions to prosecutors, and more than 60 appeals to the court.

“Everything depends on the business owner. If an owner allows the business to be raided, it will happen,” Siutkin says. “The legal fight takes a lot of time, money and effort.”

However, it’s possible to win, he says.

To prove it, Siutkin launched the Lawyers Daily website and a printed magazine with the same name. The idea is to publish interviews with CEOs of big companies who have positive stories to tell.

“The investment climate here is great,” Siutkin says. “You just have to evaluate the risks.”

According to Nataliya Osadcha, co-founder and investment risk adviser at S&P Investment Risks Management Agency, doing business in Ukraine can be compared to rafting on river rapids. “It can be a thrilling trip, if you are prepared for some bumps and bruises,” she said.

Siutkin says he feels prepared for anything. At some point, about five years ago, he said he realized that if he wanted to be professionally powerful he needed to be strong physically.

Since then, he has been working out at least two hours every day. He completed 10 half-marathons (a 21-kilometer run), two marathons (a 42-kilometer run), five half Ironman races (a 1.9-kilometer swim, a 90-kilometer bike ride, and a 21-kilometer run) and one Ironman, a triathlon race with each distance of the swim, bike, and run segments being twice longer of that segment in a half Ironman.

Siutkin is taking part in another Ironman race in Austria on July 2. He has also qualified for this year’s Half Ironman World Championship that will take place in Chattanooga, a city in the American state of Tennessee, in September.

“Sport gives me the understanding that human possibilities are not limited. You can squeeze any amount of tasks into your busy schedule,” he says. “It’s time now for people to leave marks in history... In all spheres.” ■

# Workaholic combines languages, law to give firm an edge in market

By **Rahim Rahemtulla**  
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**T**imur Bondaryev, one of the founding partners at Arzinger law firm, is a self-confessed workaholic. In the years since he opened the practice with partner Sergiy Shklyar — now a deputy minister at Ukraine’s Ministry of Justice — he admits that he hasn’t seen his family as much as he wants.

Now, at the age of 41, Bondaryev says he is looking to strike a greater balance, fencing off sport and family as “non-negotiable” when it comes to managing his time. It still doesn’t always go to plan, however, with the lawyer admitting that when it comes to work he, like others in his profession, is “a slave to his clients.”

But Bondaryev isn’t one to complain. The son of working-class parents from Luhansk, he arrived in Kyiv hungry for success.

“My parents couldn’t help me financially, so I had to start working from the first day when I came to Kyiv,” he told the Kyiv Post. “So I had to fight very hard because I wanted to become something. I didn’t have a choice. I didn’t have a property, I didn’t have financial support, so I had to make myself.”

Looking around today, nearly 20 years later, he says lawyers of his generation are shocked by the attitudes of new graduates, who demand a greater work-life balance and aren’t ready to do things like come into the office on weekends. According to him a career in law simply cannot deliver such a lifestyle.

“It’s unbelievable. The younger generation, they don’t want to work hard. It’s the biggest disaster for us,” he said. “On one hand it’s great because we don’t have competitors. But on the other hand we are getting tired and we want to know who our successors will be.”

The long hours Bondaryev has been putting appear to be paying off, with a long list of awards and accolades decorating his personal page on the Arzinger website. The firm placed fifth in the ranking of the top 50 law firms in



(Kostyantyn Chernichkin)

## Timur Bondaryev

- Position:** Arzinger founding and managing partner
- Key point:** Take every chance to resolve disputes outside of Ukraine
- Did you know?:** Growing up, Bondaryev’s parents encouraged him to learn languages so that he could become a diplomat and travel outside of the Soviet Union.





**A mass protest in Kyiv on Dec. 1, 2013 during the Euro-Maidan Revolution. Timur Bondaryev of law firm Arzinger says the revolution that ousted President Viktor Yanukovich on Feb. 22, 2014, helped reduce corruption somewhat. But he believes that if authorities had made greater efforts to create rule of law immediately following the revolution, Ukraine would now be “a very, very different country.” (Kostyantyn Chernichkin)**

Ukraine compiled by industry publication Yuridicheskaya Pravda in 2016.

### Multilingual approach

Bondaryev didn’t always plan on a career in law. Growing up in the Soviet Union, his first aim as a student was to learn foreign languages so that he could join the diplomatic service and travel beyond the Iron Curtain.

But law turned out to be a more enticing option. Law was where he could more effectively apply the German and English he had perfected during his first degree at the Horlivka Academy of Foreign Language in eastern Ukraine.

Bondaryev said his language skills have been integral to the success of the firm, whose name comes courtesy of his first German partner, Rainer Arzinger. When Arzinger died some eight years ago, Bondaryev and his partner bought out the name and used it to set up their own practice in Kyiv, making sure to open offices in Lviv and Odesa. Their knowledge of the German language and mentality has been a strong selling point.

“We when started to think of our own business, we saw that there were some English-speaking law firms,” said Bondaryev. “But since we knew well the mentality of German-speaking clients, we knew that they would rather talk in their own language. So we thought, why not open up a German-speaking shop?”

The strategy has led to Arzinger’s books filling up with clients from German-speaking countries, with Bondaryev telling the Kyiv Post that around 75 percent of his own work is conducted in German and that the firm has advised on the biggest Austrian investments in Ukraine.

Such large deals are exactly the type which Arzinger seeks to specialize in, taking on as it does only the most complex, high-profile cases it can. That places the firm in the premium sector of the market, with its lawyers able to command from €200 to €450 for an hour’s work.

But it wasn’t always so. Bondaryev recalls how when

Arzinger first came into the market it had to take on a much greater number of less well-paid cases to survive. Today it is able to pick and choose its clients.

“Now the trend is that we have far fewer projects but they are much more profitable,” said Bondaryev. “We issue fewer invoices but we work on the most complex transactions, investigations, arbitrations and litigations. There are upsides and downsides. It’s a huge risk, but I think we are very well diversified.”

### Creative thinking

Bondaryev has sought to turn Arzinger into a “one-stop shop” by cultivating complementary areas like tax litigation and white collar crime. This array of knowledge helped the practice get through the financial crisis of 2008.

From a start of just two persons, Arzinger now has more than 80 employees across its three locations. In Kyiv it recently moved into high-end, custom-built offices just a stone’s throw from the General Prosecutor’s Office. Such proximity to one of the country’s key institutions of justice provokes mixed feelings in Bondaryev, who says part of the firm’s reason for moving was to improve security.

“Our old premises didn’t meet our ambitions in terms of style, design, layout and security,” the managing partner told the Kyiv Post. “Security is a big, big topic because lawyers in Ukraine, unfortunately, are quite often raided by our neighbor, the General Prosecutor’s Office.”

Bondaryev acknowledges that since the EuroMaidan Revolution that drove President Viktor Yanukovich from power on Feb. 22, 2014, there have been improvements in Ukrainian justice.

But much remains to be done.

He says he still sees the ills that have long plagued the system: officials demanding bribes, law enforcement agencies being used to carry out political orders and unjustified court decisions.

As a lawyer, he says he has come to the realization that in the face of such odds, the best course of action is often to avoid Ukrainian institutions altogether.

“If you are chasing a major politician who is backing a major business, you have no chance of winning,” he said. “The only option is to be creative enough to somehow find a connection to the U.K. or some other jurisdiction. These guys don’t expect to find themselves standing before a U.K., or Austrian or Swiss court. We’ve had success that way.”

For Bondaryev, the fact that Ukrainian courts are not yet trustworthy is, on a personal level, a sad conclusion. But as a professional, it is simply a part of the landscape which, for the sake of his clients, he cannot afford to ignore.

“I am a big patriot of Ukraine, but I don’t have a choice,” he told the Kyiv Post. “This is what I have been teaching my associates and my students. If there is an opportunity to take a dispute outside of Ukraine, this is your job. This is your main job. You’ll save a lot of money and a lot effort for your client.” ■



# Mergers and monopolies are part of regular menu for this lawyer

By **Josh Kovensky**  
kovensky@kyivpost.com

**U**kkraine's Antimonopoly Committee has an international reputation. And it's not a good one.

Mykola Stetsenko, a partner and founder of Avellum Partners law firm, described frustration among big European law firms that "Ukraine is one of the few jurisdictions that is so problematic even for mergers" in which the Ukrainian component is tiny.

"You still have to ask for the Ukrainian monopoly committee's approval," he said.

Stetsenko's story points to a central paradox of Ukrainian antitrust enforcement: how can the main regulator apparently be so obtrusive and active and yet operate in a country where monopoly seems to be a staple of doing business?

It's a question still unanswered.

## Reaping big bucks

Stetsenko founded his firm in July 2009, just as the wave caused by the financial crisis was cresting in Ukraine.

"The financial crisis was at full speed," Stetsenko said.

He saw an opportunity to work with the country's biggest companies and large foreign law firms.

Avellum began to accumulate clients. In the first year, Stetsenko advised on a deal that saw TNK-BP, a Rosneft subsidiary, buy out Ukrainian gas station chain Vik Oil.

Stetsenko also worked on the initial public offering in London of Oleg Bakhmatyuk's Avangard Group.

Bakhmatyuk has since fallen on rougher times as his businesses teeter on the verge of bankruptcy and endured fraud accusations from the National Bank of Ukraine over the failures of his VAB Bank and Finansova Initsiatyva.

Avellum also worked with billionaire Yuriy Kosyuk's agricultural giant Myronivsky Hliboprodukt.

"By our first anniversary, we already had a few sizeable transactions under our belt,"



**Mykola Stetsenko**

**Position:** Partner and Founder at Avellum  
**Key point:** Possibly more antitrust enforcement ahead  
**Did you know?** He serves on the public council of Ukraine's Antimonopoly Committee



A worker carries a step ladder to change light bulbs in the session hall of the Supreme Court of Ukraine in Kyiv on April 5. (Volodymyr Petrov)

Stetsenko said. “All of these transactions were multimillion-dollar transactions. Clients realized that we were a new young team that could deliver the highest-quality standards, both in terms of the expectations of our clients, international banks, and international law firms.”

### Ukraine: Monopolized or just concentrated?

But back to Ukraine's highly monopolized economy. Much of Stetsenko's work revolves around antitrust concerns: Ukraine's Antimonopoly Committee reviews many of the mergers that he works on to prevent competition-killing concentration.

In many ways, monopoly is the thinking man's version of corruption: instead of bribing a public official for some short-term advantage, savvy businesspeople can manipulate entire sectors of the economy in their favor, reaping billions of dollars in benefits by preventing real competition.

“It inevitably leads to a small choice of products and services or a higher price,” Stetsenko said.

Dmytro Yablonovsky, a researcher at the Center for Economic Strategy, argues that the most egregious examples of market abuse in Ukraine occur in state-dominated sectors like energy and rail, but that monopolistic practices in the private sector inflict damage to Ukrainian consumers as well.

“In some cases we really have private company monopolies, but they are few,” Yablonovsky said. “What we see in many cases is companies that can, to some extent, affect the market through lobbying on regulations. This has an adverse effect on competition and on the economy.”

Ukraine's Antimonopoly Committee gained a reputation for corruption that peaked during the administration of runaway former President Viktor Yanukovich.

One example, which began in 2011, was recently struck down by Ukraine's High Commercial Court. Market research firm ACNielsen had been accused by the Antimonopoly Committee of colluding in a price-fixing scheme with other retailers. Though the company eventually prevailed, it spent years fighting off a claim filed by an official, Mykola Barash, who was fired by the Rada less than a month after the 2014 EuroMaidan revolution took place.

As the committee spent years focusing on cases that were later found to have no basis, monopolies in the aviation, energy and fuel sectors developed, leaving Ukrainians with higher prices and less opportunity.

Stetsenko argued that the committee has taken steps since Yanukovich's ouster to improve the situation by introducing an amnesty for antitrust violations.

“Anyone who had violations of concentration approval in the past could come to the authority, pay a nominal fine, and get the approval,” he said

His firm alone had worked on 10 such approvals for its clients.

### Take it to the committee

To some, however, this is a free pass for anti-competitive practices.

But Stetsenko and Yablonovsky, the Center for Economic Strategy researcher, praised the Antimonopoly Committee's work since the EuroMaidan Revolution, contending that it had become more transparent.

Stetsenko said the committee has stepped out of the way of business in recent years, lowering concentration thresholds that trigger automatic requirements for committee approval.

Stetsenko predicted that more expansive antitrust investigations are in the offing.

“If you dig deep into their reports, you'll see that they have quite a few investigations,” Stetsenko said. “They actually force some monopolies to reconsider their pricing, but of course it takes time.”

Yablonovsky said that even though the committee has good intentions, it remains chronically underfunded. “They don't have enough people to perform this analysis in a deep enough way,” he said.

Stetsenko implied that the Antimonopoly Committee has spent most of its time as an opaque, political tool.

“We can criticize them, but you have to realize that the system was built over the past 25 years,” he said. “It takes time to replace people.” ■

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