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Kyiv, 8-A, Velyka Zhitomirska St.
(044) 278-74-44
@garde_group

Editor's Note

The legal industry's penchant for rankings is perhaps second-to-none among professions. Sometimes these lists are merely beauty contests. The methodology is invariably challenged by those who don't score high. But rankings are important — for prestige and bragging rights, if nothing else, but also perhaps for attracting clients.

In this Legal Quarterly, we conduct our first-ever legal ranking to find the top 50 law firms. The methodology is explained on page 22. It is a work in progress and its results are debatable, but one thing that is not in question is that — unlike some other legal rankings in Ukraine — law firms can't buy their way onto the list. So any defects are our own honest mistakes, not because of any corruption. Expect us to have more rankings in different categories in the future. And, by the way, congratulations to top-ranked Vasil Kisel & Partners.

The focus of this edition, however, is the informational technology industry. It affects every part of Ukraine. In 2017, IT businesses were responsible for 3.3 percent of the nation's gross domestic product, or \$4.2 billion, and will only grow in importance in future years. IT thrives, in no small part, because the sector can distance itself from the state and corruption, IT fosters innovation and gives creative Ukrainians the chance to earn more money and work any place in the world where their skills are in demand.

But the industry is also laxly regulated because of lack of expertise by the state. The government, for instance, is still deciding how to fairly tax IT companies and entrepreneurs. Law enforcement in the cyberspace is not keeping pace with crime. Ukraine is still suffering damaging cyber-attacks by Russia and others.

The government has made halting progress in using IT for creating a more innovative and transparent e-governance system, political conditions ahead of this year's elections, even that has been stalled. We highlight the key trends and challenges in modernizing the nation at this stage of the 21st century.

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

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Publisher: Adnan Kivan

Chief Editor: Brian Bonner

Commercial Director: Alyona Nevmerzhytska

Editors: Euan MacDonald, Olga Rudenko, Ilya Timtchenko

Sales Managers: Yulia Kovalenko, Yulia Krus, Vita Shvets, Elena Symonenko

Designers: Vladyslav Zakharenko, Yura Borovik

Project Team: Natalia Datskevych, Denys Krasnikov, Matthew Kupfer, Jack Laurenson, Bermet Talant, Vyacheslav Hnatyuk

Photo Editor: Pavlo Podufalov

Photographers: Kostyantyn Chernichkin, Volodymyr Petrov, Oleg Petrasjuk

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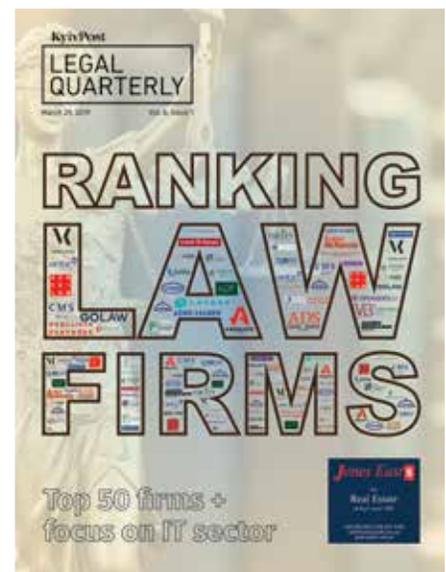
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тел.: +38 044 537 24 00

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COVER: Legal rankings give lawyers opportunities for bragging rights or to cry foul. For the potential customer of legal services, rankings provide a helpful guide.



Vladyslav Chechotkin, the chief executive at Ukraine's largest online shop Rozetka, poses for a picture in one of his company's brick-and-mortar stores in Kyiv on March 21, 2019. (Kostyantyn Chernichkin)

Rozetka's CEO runs 4,000-employee giant like family business

By Denys Krasnikov
krasnikov@kyivpost.com

The green smiley of e-commerce giant Rozetka is one of the most recognizable logos in Ukraine — every day millions of people visit its website, tens of thousands order through it every day.

And yet, notwithstanding the scale of its operations, Rozetka remains just a family business at its core.

There's still only one person in Rozetka generating Rozetka's news and countering criticism: its founder and chief executive — 40-year-old Vladyslav Chechotkin. And he doesn't usually have a plan in regards to public relations, talking with critics, clients, and journalists — he just goes with his gut.

"I don't have a strategy to create some kind of a picture for investors or for anyone else

really. It comes naturally," Chechotkin says in an interview with the Kyiv Post.

Apart from public relations, all major decisions in the firm are made by relying on his gut feeling. Critics say that this is a risky strategy, given that every step of this 4,000-employee giant has now a national impact.

Big size, big problems

"I'd rather pay more than waste my time and mental health (with Rozetka)," reads one of the hundreds of angry comments on otzvyua.net, the website that publishes people's reviews on shops in Ukraine. The site has 6,000 reviews of Rozetka, 40 percent of which are "awful."

Many commentators claim they leave

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A Rozetka employee consults customers in one of the retailer's stores in Kyiv. Founded as an online store in the first place, Rozetka now aims to have huge brick-and-mortar stores as well. (Kostyantyn Chernichkin)

feedback on various forums, because Rozetka filters feedback on its site, letting through only moderated ones. Chechotkin denies this, although he adds that that's something he needs to check.

Chechotkin also thinks that criticism is disproportionately loud. Satisfied people just don't say as much, he says: "One offended person speaks for 10, while one content person speaks for one."

Positive comments are rare because it's nothing special about fulfilling your promise as a retailer — to ship an item, he says. "There's no need to be thanked for that."

Another thing is the volume of sales. There is a certain proportion of "unmet promises," and because of the sheer number of transactions, these people are numerous, and so "their voice is heard," the executive says.

Chechotkin says Rozetka "makes efforts" to satisfy clients and "soothe the offended." One of these efforts is a call center of 600 people, which "sucks up money," he says. Even U.S. tech giant Amazon doesn't have a call center, the Ukrainian entrepreneur points out.

Besides, client-shop relations work the other way round, too. There are people who cheat Rozetka, "exploiting the business," Chechotkin claims.

Some order huge TV sets to watch just one football match with friends, and hand it back to Rozetka right after the game. Others "rent for free" expensive \$2,000 dresses to go to proms.

Rozetka asks people why they are returning things and adds dishonest clients to the company's internal blacklist, even though retailers are forbidden to have these in Ukraine. Globally, 30 percent of all purchases made online are returned, according to Invesp, a brands consulting firm. In Rozetka's case, "it's less."

"And what shall we do to a man who has bought a TV set, dropped it at home and now blames us and asks for a reimbursement," he said. "How do you solve such problems? Honestly, I have no idea."

Online store goes offline

Many long-established physical stores dream of going online by creating a website or a mobile application. Rozetka, however, is doing it the other way around: founded as an online store in the first place, the company now aims to have brick-and-mortar stores as well.

One of its offline stores now works in the heart of Ukraine, on Maidan

Nezalezhnosti. It costs the company a small fortune every month — \$1 million, or roughly \$40,000 — in rent. The money goes to national postal operator Ukrposhta, as the rented space is part of their main post office.

"The place is narrow, there are columns inside; there is not enough electricity. We couldn't do there what we wanted. But we didn't have a better deal," Chechotkin says, adding that it's impossible to estimate the shop's impact on overall company profits. "But even if unprofitable, it's valuable for the company's brand."

Apart from this central one, Rozetka has four more stores in Kyiv and three in Odesa. Chechotkin plans to open at least one physical store in every big city in Ukraine, including ones in Lviv, Kharkiv, and Dnipro. In 2018, Chechotkin invested \$10 million in opening brick-and-mortar stores.

No Apple products

Rozetka, the country's biggest electronics retailer, doesn't sell devices made by Apple, the famous U.S. gadget maker, directly. Why not? Chechotkin claims nearly 90 percent of Apple devices in Ukraine are "unofficial" and not taxed, and he doesn't want to deal with illegal tech.

So Rozetka removed Apple gadgets like iPhones and MacBooks from its shelves around spring 2018.

Before that, Chechotkin had written letters to Apple, but they "don't care whether iPhones are official or not in Ukraine, counterfeit or not," he said.

And according to him, Rozetka doesn't sell counterfeit goods. "That's why the product range offered by our competitors might differ from ours."

From autumn 2018, however, the retailer found a way to offer customers the chance to buy Apple products via the store by allowing certain "partners" to place their devices on the Rozetka website.

A partner, Chechotkin explains, must be a legal entity that takes on full responsibility for transactions with buyers; gadgets they sell must be original and not used before. The sellers bear responsibility for the electronics — Rozetka does not.

Restyling the old brand

Chechotkin and his wife Iryna, Rozetka's co-founder who prefers to be less public than her husband, have been developing the brand since 2005. They built everything from scratch, including the green smiley logo.

And it worked. They have built a profitable company and even sold a minor share in it to investment firm Horizon Capital for an estimated \$300–\$700 million in 2015. Chechotkin's fortune alone is estimated to be \$165 million, making him the 29th richest person in Ukraine, according to Ukraine weekly news magazine *Novoye Vremya*.

But Rozetka needed an update of its looks and internal operations, and a set of rules, instead of intuition. So in September 2018, they hired the well-known branding agency Fedoriv "as a critic from the side" to help them bring their corporate identity up to date.

The logo, fonts, colors have been already restyled, but "many nuances" of company internal processes are still being refined. Chechotkin wouldn't say exactly what has changed, but said, "these are thousands of tiny details" concerning work with clients.

"There are things we don't agree with (Fedoriv) on," he adds, after a pause.

Consolidating

Rozetka is the fifth most popular website in Ukraine, according to research firm Kantar TNS. Only Wikipedia, Facebook, Google, and YouTube are higher in the ranking.

There was another marketplace that could have challenged Rozetka's market share — Prom.ua, which currently holds seventh place in the ranking. But they have now ceased to be rivals, as Rozetka in late November bought a 56-percent stake in EVO Group, Prom.ua's parent company.

Chechotkin would not disclose the price he paid for the share, but according to online tech journal AIN.ua, the value of the deal is around \$12–15 million.

'Apple doesn't care whether iPhones are official or not in Ukraine, counterfeit or not.'

— Vladyslav Chechotkin

Both companies are hoping to complement each other, as Rozetka has a well-developed logistics chain stretching throughout Ukraine, while EVO has a number of smaller online stores, with Prom.ua being only the most prominent one.

Chechotkin said Rozetka needed EVO Group because it wanted to use its marketplace model — there are many products Rozetka doesn't know how to store and doesn't want to take "commercial risks on." The entrepreneurs who sell such goods via Prom.ua take on these risks, the executive said.

Politics and money

Chechotkin says he doesn't usually get involved in politics, but he couldn't ignore the upcoming presidential election planned for March 31.

At the beginning of 2019, Dmytro Gnap, who quit journalism to become a politician, was crowdfunding \$90,000 to pay a required registration fee to run for the presidential election in Ukraine. Chechotkin chipped in.

For him, that was the only convenient way to get involved: Gnap was crowdfunding money and "it was easy to pledge."

Besides, Chechotkin knew Gnap, as he watched his journalistic investigations, and even took a part in some. "He impressed me," Chechotkin said, adding that he knew Gnap would never win, but this election could mean his Nasha Ukraina party might have a better chance in the parliamentary elections in the fall.

After the crowdfunding, however, Gnap's colleagues revealed the journalist didn't donate almost 15,000 euros of newsroom money to the Ukrainian army as he had publicly promised to do. Chechotkin said Gnap had disappointed him.

"I've now understood that I was wrong, but it's impossible to get my money back," he said.

"Luckily, I didn't give much."

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UKRAINE SANCTIONS ON BUSINESS MUST PURSUE A LEGITIMATE AIM



Vladimir Vashchenko
attorney-at-law,
partner of
VB PARTNERS

On May 14, 2018, Decree No. 126/2018 appeared on the Ukrainian President's official website, without any accompanying lists of sanctioned entities. On May 25, the National Bank of Ukraine canceled the registration of the domestic payment system WebMoney.UA. However, the publication of the Ukrainian President's Decree, a National Security and Defense Council decision, and the associated lists only occurred in the President's Official Bulletin issued on June 5.

Lack of transparency is a common theme in the field of sanctions. While the OFAC publishes official press releases, the initiators and reasons for the application of sanctions in Ukraine often remain in the shadows. In addition, this primarily refers not to Russian persons, but to sanctions against European companies. The reasons for their sanctioning are sometimes extremely vague. This gives cause for reasonable doubt about the legitimacy of their objectives.

Ukraine's Law on Sanctions confirms the National Security and Defense Council's right to apply any sanctions at its own discretion. However, the most common sanctions for companies tend to involve the blocking of assets and the suspension of financial transactions.

The actions of Ukrainian state bodies often conceal the interests of particular "favorite friends" and financial groups that have nothing to do with issues of national security. Therefore, a portion of the decisions taken on the issue of sanctions may be either a means of applying pressure on business, or a means of redistributing the market (for example, the gambling business), or a means of indirect expropriation of assets.

According to updated procedural law, disputes regarding the legality of the Ukrainian president's decrees shall be subject to consideration in simplified litigation by a panel of judges of the Cassation Administrative Court. The Grand Chamber of the Supreme Court is the appellate court. Meanwhile, as the European Court of Human Rights (ECHR) has established, the right of ownership may be restricted only if the law provides for its restriction, if the restriction is in the public interest, or if the restriction would comply with the principle of proportionality of the interests of the state and the individual in question. The restriction of property rights should reflect a fair balance of public interests and fundamental rights, and may not impose an "excessive burden" on the owner.

Subject to the above requirements, the Ukrainian authorities should determine in each particular case whether the country's national interests require precisely such a level of interference with the rights and freedoms of any individual or company. Nevertheless, due to the current position of the Ukrainian Supreme Court, the use of sanctions by the state does not constitute a violation of rights and freedoms. In Supreme Court's opinion the possibility of imposing sanctions is provided for by the law and has a legitimate aim, namely the need to immediately and effectively respond to threats to the national security of Ukraine.

Taking into account this formal approach, achieving a positive outcome in any sanctions disputes with the state is unlikely. To date, business appellants have lost all disputes.

In addition, foreign investors may also apply for international arbitration with regard to the direct and indirect expropriation of assets. This is applicable because some decisions of the authorities on the procedure for applying sanctions deprive an investor of the ability to manage and control assets. As an example, the National Securities and Stock Market Commission's Decision No. 1707 dated Oct. 13, 2015 declared the shares of sanctioned shareholders as being non-voting ones.

There is a need for the Ukrainian authorities to explain the reasons for imposing sanctions on businesses. It is also important to establish the legitimacy of the aims behind sanctions measures. This could be subject to verification by the Supreme Court with respect to the compliance of any decision with the basic criteria of reasonableness, objectivity, good faith and proportionality.



Porch13, BC "Bashta5"
Rybalska Str., 22
Kyiv, Ukraine, 01011
Tel. +38 044 581 16 33
www.vbpartners.ua



A large share of Ukraine's entrepreneurs are IT specialists — out of 1.8 million entrepreneurs, nearly 130,000 are registered as programmers. This army of techies generates 3.3 percent of Ukraine's gross domestic product. (Courtesy)

New law might single out tech specialists, introduce separate tax

By Denys Krasnikov
krasnikov@kyivpost.com

Information technology specialists should be a breed apart in Ukraine — at least when it comes to taxation. Well, so thinks the IT Ukraine Association, the tech labor union, which on March 1 submitted a draft law on taxing techies to parliament. They propose to introduce a separate tax group for tech specialists to keep their taxes low and foster growth in the local IT industry.

The draft proposes to create a “fifth tax group” for individual entrepreneurs. It’s designed for those entrepreneurs registered as “programmers” or anything else related to IT, who will be taxed differently.

Entrepreneurs

Ukraine’s State Tax Service splits entrepreneurs into four groups depending on their revenues and line of work. The most simple and numerous one is the third group.

A large share of the entrepreneurs in this group in Ukraine are IT specialists — out of 1.8 million entrepreneurs, nearly 130,000 are registered as programmers, according to online data aggregator OpenDataBot. And the number is rapidly growing — rising by 45 percent in the last three years alone.

Individual entrepreneurs registered in this group pay a 5-percent revenue tax and a social tax of \$360 per year.

NEW RULES FOR PROTECTION OF COMPETITION



Alexey Kot,
Managing partner of Antika
Law Firm, Member of the Judicial Reform Council, Lawyer,
Doctor of Law

On Feb. 7 the Verkhovna Rada of Ukraine voted for Draft Law 6746 "On amendments to certain legislative acts of Ukraine to ensure the principles of procedural justice and improve the effectiveness of proceedings in the suits on legal violations of the protection of economic competition," according to which a number of key changes are proposed for the Law of Ukraine "On the Protection of Economic Competition."

One of the important innovations is setting boundary time limits for the carrying out of investigations by the Antimonopoly Committee of Ukraine.

In particular, the Law stipulates the following terms:

- For cases connected with failure to provide information, the submission of false information, the non-execution of the decisions of the Antimonopoly Committee of Ukraine, and obstructing inspections, etc. – six months from the date of the adoption of decision on beginning consideration of the case;

- For cases on concentration of assets without permission, on the violation of conditions of concentration during the creation of an economic entity for which a permit was granted, and on violations stipulated by the Law of Ukraine "On Protection against Unfair Competition" – one year;
- For cases on concerted anticompetitive actions (cartels) – five years;
- For all other types of violation – two years.

Another important innovation is the provision regarding the new "settlement" institution for Ukraine. Its essence is that the antimonopoly body and the defendant in the case agree on the voluntary recognition by the defendant of all or part of the charges, for which a reduced fine is imposed.

An entity can at any stage of the case, before the Committee draws up preliminary conclusions on the case, submit an application to the Antimonopoly Committee to settle the case. Following the request, consultations are held between the parties, and the terms of the settlement are agreed and, in the event of reaching an agreement, the parties signs the relevant agreement.

It should be mentioned that the agreement is subject to approval by an economic court in accordance with the jurisdiction rules, and should contain a condition for the unconditional recognition of the violations by the defendant in the case, and the amount of the fine, which should be 20 percent less than the amount of fine that would be calculated according to the general rules. This statutory provision is quite interesting, but although it is not completely clear how it will be consistent with procedural legislation. One more interesting innovation is the prohibition by the Law on appeals by the defendant against decisions of the Antimonopoly Committee of Ukraine taken in accordance with the terms of the settlement procedure.

The conditions of the reached settlement cannot be declared to be information with restricted access, and should be fully described in the relevant decision of the Antimonopoly Committee of Ukraine in the case.

The law also proposes the extension and improvement of the procedure for exempting from liability violations in the form of concerted actions, if persons have appealed to the Antimonopoly Committee of Ukraine to declare that they recognize the violation. Complete exemption from liability for the first person applying is currently provided.

The law, in accordance with modern European practice, also introduces a partial exemption for further persons, namely:

- A reduction of the fine by 50 percent for the second person who applied;
- A reduction of the fine by 30 percent for a third person;
- A reduction of the fine by 20 percent for all others.

A more detailed description of the rights of case participants and defendants are specified by the Law. In particular, there is a clearly defined right to ask the antimonopoly bodies and obtain justified answers, the right to familiarize themselves with the case file (including the right to copy these materials), etc.

The issue of the adoption of preliminary conclusions in the case, and lodge objections to them, are also regulated more clearly.

An important change is the fact that the Law now establishes a minimum period of one month from the date of receipt of preliminary conclusions, during which objections should be filed (currently this period is 10 days), as well as a maximum period for which the term for submission of objections on the person's application may be extended - up to three months.

Other crucial innovations are the norms concerning the possibility of discharging the officers of the Antimonopoly Committee of Ukraine or experts and interpreters if it is established that there are circumstances that cast doubt upon their impartiality or objectivity, in particular, in connection with the existence of a conflict of interests in accordance with the Law of Ukraine "On the Prevention of Corruption."

In general, the Law is very important for the further development of antitrust regulation in Ukraine, and therefore we hope for its early signing by the president and for it to be published.



Antika Law Firm
12, Khreshchatyk street
01001, Kyiv, Ukraine
+380 44 390 09 20/21
office@antikalaw.com.ua
www.antikalaw.com.ua

Apart from simplicity and low tax rate, "it turns out that this (third group)... matches the relationships between customers and creative suppliers in the 21st century in the best way possible," said Dmytro Ovcharenko, the acting head of the IT Ukraine Association.

"It gives mobility, flexibility, and the ability to work with several customers simultaneously."

The newly submitted draft suggests retaining the same conditions – 5 percent revenue tax plus the social tax – but starting from 2021 to gradually increase the revenue tax by 1 percent every year, reaching the maximum of 10 percent by 2026; and to double social tax to \$720.

Angry techies

However, these proposals aren't an initiative from the tech labor union to increase taxes on their members – rather the draft law represents a compromise to what was offered in February by the Ministry of Social Policy.

That ministry first introduced a bill aimed at overhauling the way individual entrepreneurs are taxed in Ukraine. But when they saw it, IT people were aghast.

The ministry suggested that some of the IT entrepreneurs should be reclassified as employees if they have a constant client from whom they have earned at least 75 percent of their income over the last six months.

But tech entrepreneurs who are declared employees would see their tax bills rocketing.

While today "individual entrepreneurs" pay a tax of five percent of their revenues, being reclassified as employees would see them having to pay a 19.5-percent income tax, while their employers would also have to pay an additional 22 percent tax on the gross salary they offer.

Overall, it looked like a five percent tax would be increased to 41.5 percent for those with constant employers.

"My first reaction to the bill was that I wanted to argue that it was the right decision, which was in the interests of the country," Ovcharenko from the IT Ukraine Association said. "So we sent an official letter to the Ministry of Social Policy with comments about the document and proposed to talk to them about it openly."

Misunderstanding

But according to Social Policy Minister Andriy Reva, the intention of the bill has been misunderstood.

"Who criticized the bill? IT people. Freelance journalists. I'd like to calm them down: it's not about them," Reva said during an interview on the ICTV television channel.

The issue is that large enterprises are trying to minimize their taxes using tools the government gives to small business, the minister said.

For example, the minister said, big supermarket chains or restaurants hire waiters or cashiers to work for them as contractors. However, they treat them as full-time employees: often giving them a workplace, insurance and vacation time.

By hiring contractors, both parties save on taxes, but an employer also can easily fire a person and reduce their vacation time.

The Ministry of Social Policy thus views this as a violation of labor rights. With such relations, nobody can guarantee that such an "employee" would not be fired or that they would get time off.

Reva said that by reducing their taxes through registering their staff as entrepreneurs, large businesses "rob" their employees and society as a whole.



Social Policy Minister Andriy Reva (R) speaks at a session of the Cabinet of Ministers on Feb. 27, 2019. Reva's ministry first introduced a bill aimed at overhauling the way individual entrepreneurs are taxed in Ukraine. But IT people were aghast when they read it. (Wladyslaw Musiienko)

“They put billions of hryvnias in their pockets by avoiding taxes,” he said.

Community compromise

The ministerial bill does not divide entrepreneurs into groups depending on their type of work, so it would concern all local entrepreneurs, not just those from the IT industry.

Reacting to the proposals from Reva and his ministry, within several weeks the tech community rolled out its own draft law. The main goal, according to Ovcharenko, was to convince the government that taxes should not increase abruptly, so as to retain investors and “brains.”

In general, software developers in Ukraine operate

on low margins — only 10–15 percent of net income after subtracting expenses, so any increase is “very sensitive for retaining customers and tech specialists” in Ukraine, Ovcharenko said. He said that the market would only be able to adjust and cope with a tax increase if it is gradual.

The IT Ukraine Association evaluates that if it’s done their way, by 2024 the tech industry will grow from 130,000 tech specialists to 400,000; and from an export volume of \$4.5 billion to \$10 billion.

Leaving the country?

Now that both laws have been presented, public discussion of them has started. Surveys show that most programmers would agree to an increase in the revenues tax up to 10 percent. If they had to become employees as the ministry proposes, some would consider moving abroad.

About 14 percent of programmers surveyed by online tech platform DOU.ua have already said they would leave the country immediately if the tax increased to 41.5 percent. Some 48 percent said they would stay, but would start looking for opportunities abroad.

According to the survey, 91 percent of the tech people — typically young professionals who speak multiple languages and have experience working on global markets — don’t like the idea of paying high taxes in Ukraine because of corruption and the lack of reforms in the country.

Besides, the IT Ukraine Association claims that the tech sphere is already paying three times more money to the budget in taxes than other sectors, because IT earnings are much greater than in industries where companies pay 41.5 percent in taxes. It’s impossible to check this claim, however.

The row over taxes has attracted the attention of top state officials, who moved to placate the IT industry, which accounts for 3.3 percent of Ukraine’s gross domestic product. Ukrainian President Petro Poroshenko and Prime Minister Volodymyr Groysman met with IT industry representatives to discuss the issue on Feb. 23.

Groysman said that the ministry had introduced the bill just to “discuss the idea.”

“Nobody wants to see companies fall — this goes against the national interests,” he said.

But the discussion goes on, and the two draft bills are still lying in parliament’s in-tray.

“It’s a long process,” says Ovcharenko.

“But the point is different,” he went on. “IT became the second biggest industry in terms of export volumes in 2018... And it could become the biggest in the next couple of years, bringing much needed cash into the country,” which, unlike international loans, won’t have to be returned.

“It is important for all participants, both the industry and the state, to unite and find a solution that will benefit the whole country.”

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Rada proposes yet another way to tax techies

While two bills on taxing tech sector workers — one by the Ministry of Social Policy and another by IT Ukraine Association — await their first readings, parliament came up with a third draft on March 14.

This draft proposes to tax tech employees differently, and at a different rate than was proposed by the bill of the Ministry of Social Policy.

That controversial ministry draft suggests simply turning individual IT entrepreneurs that have constant clients into employees. Thus, the taxes for “switchers” would go up from 5 percent to nearly 42 percent.

This was a problem for IT companies. They hire contractors to save money on taxes and they claim paying 42 percent in taxes, instead of 5 percent, would kill their business.

So parliament’s Committee on Taxation and Customs has offered a solution — tax tech employees, including the “switchers,” at a different rate from regular employees.

While workers of the other industries pay 42 percent in taxes on gross salaries, tech employees would pay a 9 percent tax on revenues and a 5 percent social tax on top of that — 14 percent.

Parliament argues that this is the ideal compromise, as it achieves two aims at once: gives social guarantees to workers, and offers tech companies a reduced tax burden.

However, the parliament would consider such a taxation set up to be a temporary “special tax treatment” only in effect until 2025.

| Name | Function & Mission | President / Chairperson | Postal address | Contacts |
|---|--|-------------------------|--|---|
| Ukrainian Bar Association | To unite Ukraine's legal community – lawyers, advocates, notaries, judges, scholars and other members of legal society. | Andriy Stelmashchuk | 6 Khreshchatyk St. Office 2 Kyiv 01001 | +38 (044) 492 8848 +38 (097) 840 3936 info@uba.ua uba.ua |
| Ukrainian National Bar Association | To integrate all Ukrainian barristers and to ensure self-governance of the bar in Ukraine; to strengthen the profession and improve the quality of legal aid provided by barristers. | Lidiya Izzovitova | 3 Borysohlibska St. 2 nd floor Kyiv 04070 | +38 (044) 392 7371 info@unba.org.ua unba.org.ua |
| Association of Barristers of Ukraine | To bring together barristers for developing the profession, improving the quality of legal services. | Zoya Yarosh | 16 Mechnikov St., Office 307 Kyiv 01021 | +38 (044) 339 9493 +38 (067) 343 3407 info@uaa.org.ua uaa.org.ua |
| Ukrainian Helsinki Human Rights Union | To promote "development of humane society based on respect to human life, dignity and harmonious relations between a person, state and nature." | Yevhen Zakharov | 3/34 Frolivska St., (3rd floor) Kyiv 04070 | +38 (044) 485 1792 +38 (044) 383 9519 +38 (094) 928 6519 office@helsinki.org.ua helsinki.org.ua |
| Association of Judges of Ukraine | To develop democratic legislation and justice in Ukraine, strengthen independence of courts, develop legal theory, improve qualification of judges by means of exchange with foreign colleagues. | Olena Yevtushenko | n/a | +38 (067) 755 1163 vnasa1@ukr.net uajudges.org.ua |
| Association of Legal Clinics of Ukraine | To develop legal education through giving students a chance to work in legal clinics; to build the network of high quality legal clinics. | Andrii Halai | n/a | +38 (066) 7442336 as.lc.ukraine@gmail.com andrii.halai@gmail.com legalclinics.in.ua |
| Notarial Chamber of Ukraine | To unite Ukrainian notaries, defend their rights and interests, improve professional standards. | Volodymyr Marchenko | 6 Khreshchatyk St., Office 5a Kyiv 01001 | +38 (044) 230 7275 office@npu.org.ua npu.org.ua |
| World Congress of Ukrainian Lawyers | To engage lawyers in democratic development and support the rule of law, provide resolutions for legal and humanitarian problems in Ukraine and abroad. | Valeriy Yevdokymov | 15 Velyka Zhytomyrska St. Kyiv 01001 | +38 (044) 278 5716 President.wja@gmail.com wculawyers.org |

Source: Kyiv Post

JUDICIAL "REVOLUTION" IN RECOVERY OF VAT REFUND



Andriy Reun
Partner and Head of Tax Practice
Evris Law Firm

VAT refund has always been a painful cashflow issue for Ukrainian businesses. Introduction of electronic VAT administration system ("EAS") improved the situation and businesses started receiving the VAT refund due to them on a regular basis. However, the State still owes circa UAH 4.7 billion of VAT refund to taxpayers for the periods preceding February 2016 that should have been recorded in the temporary VAT refund register.

Interestingly, after deployment of the EAS, the Supreme Court of Ukraine (the "SCU") changed its previous position in relation to recovery of VAT refund.

Specifically, SCU ruled that recovery of VAT refund from the State Budget cannot be claimed through a court of law. Instead, the SCU ruled that the taxpayers should require the tax authorities to submit a relevant conclusion to the State Treasury authorities. The High Administrative Court of Ukraine (the "HACU") endeavored to overrule this position of the SCU, but their efforts were unsuccessful. The SCU overruled the favourable judgment of HACU and concluded that VAT refund is vested in the powers of the tax and treasury authorities. In the SCU's opinion, the courts should not substitute tax and treasury authorities and thus, cannot rule on the recovery of the VAT refund from the State Budget. In this way, the new illogical and fiscally driven tax jurisprudence was established. This resulted in the cancellation of judgments of appeal courts and HACU supporting the taxpayers by the SCU. In certain cases, the taxpayers have already received their VAT refunds, but due to the cancellation of positive court rulings, they had to repeatedly protect their rights in courts. The newly formed Supreme Court followed the above-mentioned SCU's position.

Needless to say, that the tax authorities were reluctant to submit the relevant conclusions to the treasury authorities even if the taxpayers succeeded in courts. Thus, the SCU's position introduced additional barriers to the taxpayers in getting the VAT refunds due to them. The things became even more difficult when the VAT refund procedure has been changed and the local tax authorities have been deprived the right to submit VAT refund conclusions to the state treasury authorities. This resulted in the non-enforceability of court rulings requiring the local tax authorities to submit conclusions to the treasury. Certain taxpayers continued protecting their rights in courts by changing the order of execution of favourable court rulings to fit into the modified powers of the tax authorities or even continued trying to recover the VAT refund due from the State Budget irrespective of the established tax jurisprudence. There also were taxpayers that decided to wait for the VAT refund in general order based on the temporary VAT refund registry that never functioned as expected.

On 12 February 2019, the Grand Chamber of the Supreme Court overruled the position of the SCU and concluded that recovery of VAT refund from the State Budget is an efficient way to protect and restore the rights of the taxpayers. This is the historic date for the taxpayers that are still waiting for their VAT refunds, either included into the temporary VAT refund register or not. Now the taxpayers may claim the VAT refund due to them directly from the State Budget. Furthermore, the taxpayers are also entitled to claim a penalty for unreasonable delays in VAT refund due to them. This is especially relevant given that starting 1 January 2019 the maximum amount of the court fee for submission of claims to administrative courts is limited to 10 subsistence minimums (UAH 19,210).

However, the new issues are waiting for such taxpayers in the courts of law. Such issues may include the statements of the tax authorities on expiry of the statute of limitation, refusal of the courts in the renewal of missed procedural terms or upholding the motions changing the subject-matters of the taxpayers' claims. As always, each specific case should be considered based on actual circumstances but doing nothing is not usually the best position as far as overdue VAT refund is concerned.

E V R
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52 Bohdan Khmelnytsky,
Kyiv, Ukraine, 01030.
office@evris.law,
www.evris.law

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“Absolute” Law Agency

32/2 Moskovskaya Street, Business-Center «SENATOR» 4th floor, Kiev 01010, Ukraine; absolute@absolute.com.ua
www.absolute.com.ua



| | | | | | | |
|------------------|--|-----------------------|------|--|---|-----------------------------|
| +38 044 299 9971 | Oleksandr Bondarchuk, Oleksandr Hladii | Kyiv, Dnipro, Ukraine | 2008 | Debts&Bankruptcy; Business Restructuring; Tax consulting; Dispute Resolution; Corporate law and M&A; Real Estate&Construction; Intellectual Property | FUIB, OTP Bank, VTB Bank, Concord bank, TM Nemiroff, TM Olymp, Production Association Yuzhny Machine-Building Plant named after A.M. Makarov, Agrotek, Lunapack, Stekioplast, Alef Corporation, Ukrainian eSport Federation, Fregat, Agrotek, Dneprogress Heavy Hydraulic Presses Plant, Meat processing plant “Yuvleiniy”, Agroaliance, Kominmet, Odessa Oil and Fat Plant | Russian, Ukrainian, English |
|------------------|--|-----------------------|------|--|---|-----------------------------|

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7 Klovsy Uzviz, 14th floor, Kyiv 01021, Ukraine; office@aderhaber.com
www.aderhaber.com



| | | | | | | |
|------------------|----------------|---------------|------|---|---|-------------------------------------|
| +380 44 280 8887 | Yuriy Petrenko | Kyiv, Ukraine | 2006 | Litigation & Dispute Resolution; Business Defence; Bankruptcy & Financial Restructuring; Enforcement Proceedings; Corporate Law and M&A; Real Estate and Land; Banking & Finance; Antitrust & Competition; Tax; Consulting and Dispute Resolution; Accounting Services; Labour and Employment; Compliance and Financial Investigations; IP & IT; Retail & FMCG; Agribusiness; Public-Private Partnership; GR; Wealth Management; Energy and Natural Resources | British American Tobacco; Inditex Group; Coca-Cola; Metlife; Nestle; Vodafone; Yandex; Dragon Capital; Alfa Bank; Ukrsofsbank; Credit Agricole Bank; Piraeus Bank; VTB Bank; Raiffeisen Bank Aval; Cardiff BNP Paribas Group; Deposit Guarantee Fund; UKRAVTO Corporation; DTEK; WOG; Fudmerezha (TM “Velyka Kyshehnia”); Merx; Borjomi; AVK Company; I&U Group (Agrospetsstservis); Kovalska Industrial-Construction Group; Centavis; AXA Insurance; Epicenter K; Oil Industry | Ukrainian, Russian, English, German |
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ADS Legal Group

04071, Kyiv, Olegivska str., 43D; info@adslegal.com.ua
www.adslegal.com.ua



| | | | | | | |
|--------------------------------------|---|---------------|------|---|--|-----------------------------------|
| +38 044 536 3700 +38 068 536 3700 | Oleksandr Bondarchuk, Evgen Melnychenko | Kyiv, Ukraine | 2016 | Antitrust and Competition; M&A; State Aid | PJSC “First Ukrainian International Bank”, LLC “ZAVOD METALLURG”, LLC “Mega Link” (TM “Frigate”), LLC “Metallurgsbut”, LLC “Khersonpostachzbud”, PJSC “Zaporizhtransformator”, LLC “Factory Zdorovo”, LLC “Ukrspettrade”, LLC “VIVERE BENE 2”, LLC “LABR”, ME “Sports Complex” | English, Ukraine, Russian, Polish |
|--------------------------------------|---|---------------|------|---|--|-----------------------------------|

Aleksandr Peremezhko & Partners

36D Yevhena Konovaltsa St., 7th floor, office 54.2, Kyiv 01133, Ukraine; office@opp.com.ua
www.opp.com.ua



| | | | | | | |
|------------------|----------------------|---------------|------|---|--|---|
| +38 044 364 3777 | Aleksandr Peremezhko | Kyiv, Ukraine | 2010 | Litigation & Arbitration; Tax and Customs; Corporate and M&A; Competition and Anti-monopoly; Media and Communication; Intellectual Property; White Collar Defense | Bershka Ukraine, Sharp Electronics Ukraine, Lego Ukraine, B&H, UFD, LeDoyen Studio, Ciklum Ukraine, AstraZeneca, Panama Grand Prix, Metinvest, Oysho Ukraine | English, German, Polish, Russian, Ukrainian |
|------------------|----------------------|---------------|------|---|--|---|

Alekseev, Boyarchukov and partners

11 Shota Rustaveli St., Kyiv 01001, Ukraine; office@abp.kiev.ua
www.abp.kiev.ua



| | | | | | | |
|-------------------|--------------------|---------------|------|--|---|-------------------------------------|
| +38 044 235 88 77 | Sergey Boyarchukov | Kyiv, Ukraine | 2005 | Dispute resolution, Bankruptcy and Debt restructuring, Criminal law, White-collar Crime, Tax | JSB “UKRGASBANK”, National Bank of Ukraine, DISCOVERY DRILLING EQUIPMENT, NOVUS, BEEF, Karavan Shopping Mall, PJSC “State Food and Grain Corporation of Ukraine”, ZINTECO | Ukrainian, English, Russian, French |
|-------------------|--------------------|---------------|------|--|---|-------------------------------------|

Andriy Kravets & Partners Law Offices

58/10 Simi Prakhovykh Str., 2nd floor, Kyiv 01033, Ukraine; info@akp-law.com
www.akp-law.com



| | | | | | | |
|--------------------------------------|---------------------------------------|---------------|------|---|---|--------------------|
| +380 44 493 9877 +380 44 277 3606 | Andriy Kravets, Vladyslav Lyaskovskiy | Kyiv, Ukraine | 1997 | Banking and Finance, Corporate and M&A, Litigation, Taxes, Competition & Antitrust, Foreign investment, IT, Privatization | Ukrainian and international clients in the following areas: banks and financial institutions, investment funds, agribusiness, heavy industry, real estate and construction business, infrastructure, private equity, IT | English, Ukrainian |
|--------------------------------------|---------------------------------------|---------------|------|---|---|--------------------|

Ante Law Firm

45A Nyzhnoyurkivska St., Kyiv 04080, Ukraine; office@antelaw.com.ua
www.antelaw.com.ua



| | | | | | | |
|------------------|---|---------------|--|--|--|-----------------------------|
| +38 044 277 2300 | Andriy Guck, Kateryna Ishchenko, Roman Storonskiy | Kyiv, Ukraine | | Litigation; Corporate; White collar; Transport & Infrastructure; Aviation; Energy & Natural resources; Employment; IP; Tax & Customs; Pharmaceuticals; Antitrust & Competition | Air France-KLM, Alitalia, Austrian, British Airways, Emirates, flydubai, Lufthansa, Qatar Airways; Agentskiy, Avialiga; DFU AGRO; Omega Pharma Ukraine, Sanofi-Aventis Ukraine, Zdravo; XPH Ukraine; Dogusan | English, Russian, Ukrainian |
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Antika Law Firm

12, Khreshchatyk St., floor 2, Kyiv 01001, Ukraine; office@antikalaw.com.ua
www.antikalaw.com.ua



| | | | | | | |
|------------------|--|------------------|------|--|---|--------------------------------|
| +38 044 390 0920 | Alexey Kot Andrey Kuznetsov Alexander Burtovoy | Kyiv, Ukraine | 2010 | Legal practice; Corporate; M&A; Banking and Finance; Arbitration; Energy; Antitrust; Litigation; Land law & Real Estate; Competition Law; Dispute Resolution; Legal expertise; Infrastructure and Logistics; PPP & Government relation | AWT Bavaria, ArcelorMittal Kryvyi Rih, ViDi Group, IBIS Company, MF Telecom, Nadra Ukrayny, Chernomorneftegaz, Ukrnafta, Henkel, Deposit Guarantee Fund, Cadogan Petroleum, Enesa, Ghelamco Group, Imperial Tobacco, NEFCO, TACIS, UNDP, EBRD, KfW, Association of International Automobile Carriers of Ukraine (AsMAP), Shell Retail Ukraine | Ukrainian, Russian, English |
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Leonardo Business Center, 19-21 Bohdana Khmelnytskoho St., Kyiv 01030, Ukraine; info@asterslaw.com
www.asterslaw.com



| | | | | | | |
|------------------|---|--|------|--|--|--------------------------------|
| +38 044 230 6000 | Oleksiy Didkovskiy, Serhii Sviriba, Armen Khachatryan | | 1995 | Full-service law firm with offices in Washington, D.C., London, and Brussels | L'Oreal, Nissan Motor Ukraine, S.C. Johnson, EBRD, IFC, Teva, Salini Impregilo | English, Russian, Ukrainian |
|------------------|---|--|------|--|--|--------------------------------|

Axon Partners

36E Yevhena Konovaltsia, Kyiv, 01133, Ukraine; poke_us@axon.partners
www.axon.partners



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|-----------------|--|-----------------------------------|------|---|---|-----------------------------------|
| 38 044 578 2337 | Dima Gadomskiy, Oksana Kobzar, Yuriy Kornaga | Kyiv, Lviv, Kharkiv Ukraine | 2016 | Software development, Gaming, E-commerce, Fintech, Agrotech, Legaltech, VC, IT integration, IT outsourcing, Medtech | BlaBlaCar, TripMyDream, 908.vc, DOU, rabota.ua, Hosting Ukraine, Myhelix, RadarTech, DAO.Casino, Poster, TaaS fund, Gravitec, Vitagramma, Grupa Pracuj, Datas, ForkLog, Invisible, LikarniCOM, POA.Networks, Infobip, Preply, SeedStars, VGS Inc, Cryptagio, Beetroot | English, Ukrainian, Russian |
|-----------------|--|-----------------------------------|------|---|---|-----------------------------------|

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Renaissance Business Center, 24 Bulvarno-Kudriavska St., Kyiv 01601, Ukraine; kyiv@bakermckenzie.com
www.bakermckenzie.com



| | | | | | | |
|--------------------------------------|--------------------------------------|--|------|---|--|--------------------------------|
| +380 44 590 0101 +380 44 590 0110 | Serhiy Chorny, Serhiy Piontkovsky | | 1992 | Antitrust & Competition; Banking & Finance; Corporate; M&A; Securities; Dispute Resolution; Employment; IP; International Trade; Real Estate and Construction; Tax and Customs; Energy & Infrastructure | Arcelor Mittal, EastOne Group, Horizon Capital, ING Bank Ukraine, Metinvest BV, RaiffeisenBank, MasterCard, UkrSibbank BNP Paribas Group | English, Russian, Ukrainian |
|--------------------------------------|--------------------------------------|--|------|---|--|--------------------------------|

CMS Cameron McKenna LLC

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 |
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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 |
|--------------------------------------|-------------|--------------------|------|---|--|--------------------------------|

ECOVIS Bondar & Bondar

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 |
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|--------------|----------------|----|------|-------------------------------|---------------|-----------|
|--------------|----------------|----|------|-------------------------------|---------------|-----------|

EQUITY Law Firm

4 Rylskiy Lane, 01001, Kyiv, Ukraine; info@equity.law
equity.law



| | | | | | | |
|------------------|---------------|---------------|------|--|--|-----------------------------|
| +38 044 277 2222 | Viktor Barsuk | Kyiv, Ukraine | 2002 | Litigation; White Collar Crimes; Restructuring & Bankruptcy; Banking and Finance; Real Estate; Corporate and M&A; Tax; Intellectual property | Azovmash corp., Ferrexpo AG, National Bank of Ukraine, Ukrainian Business Group, Vernum Bank, AIS Group, Concorde Capital, NEST Corp., Arterium Corp., Crystal Bank, Helen Marlen Group and others | English, Russian, Ukrainian |
|------------------|---------------|---------------|------|--|--|-----------------------------|

Eterna Law

Sophia Business Center, 6 Rylskiy Lane, 01001, Kyiv, Ukraine; pr@eterna.law
eterna.law



| | | | | | | |
|------------------|--|---------------|------|---|--|--|
| +38 044 490 7001 | Andrey Astapov, Oleh Malskyy, Oleh Beketov, Eugene Blinov, Oksana Kneychuk, Maksym Uslysty, Alexander Lugovskiy | Kyiv, Ukraine | 2002 | Dispute resolution, corporate, M&A, tax, international finance, compliance, regulatory enforcement, IP, insolvency, construction, real estate acquisitions, oil and gas, infrastructure, public procurement, Chinese Desk, Alternative Energy | Baxter, Bayer, Bioton, Bunge, CDMA, Huawei, China National Oil Corporation, Energoatom, FHI 360, EFKO, Mriya, United Grain Company, Nemiroff, MasterCard, Mechel, Metagenics, Nutricia, DTEK | English, Russian, Ukrainian, German, Polish, Latvian |
|------------------|--|---------------|------|---|--|--|

EUCON Legal Group

5A Peremohy avenue, office 500, Kyiv, 01135, Ukraine; info@euconlaw.com
www.euconlaw.com



| | | | | | | |
|---------------------------------------|---|---------------|------|---|--|-------------------------------------|
| +380 44 238 09 44 +48 22 658 10 25 | Yaroslav Romanchuk – Managing partner, attorney at law, head of Kyiv office; Andrii Romanchuk – Partner, 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 |
|---------------------------------------|---|---------------|------|---|--|-------------------------------------|

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4 Rylskiy Lane, Sofiyska Square, Kyiv 01001, Ukraine; hello@everlegal.ua
www.everlegal.ua



| | | | | | | |
|------------------|--|---------------|------|--|-----|---|
| +380 44 337 0016 | Yevheniy Deyneko – Managing Partner, Andriy Olenyuk – Partner, Andriy Porayko – Partner, Oleksandr Ruzhytskyi – Partner, Vsevolod Volkov – Partner | Kyiv, Ukraine | 2015 | Corporate and M&A, Dispute Resolution, International Arbitration, Energy and Natural Resources, Employment, Banking and Finance, Antitrust and Competition, Commercial Practice, IT, Agriculture | WND | Ukrainian, English, Russian, Polish, German, French |
|------------------|--|---------------|------|--|-----|---|

Evris

52 Bohdana Khmelnytskoho St., 01030, Kyiv, Ukraine; office@evris.law
www.evris.law



| | | | | | | |
|------------------|---------------|---------------|------|--|---|-----------------------------|
| +380 44 364 9191 | Ihor Kravtsov | Kyiv, Ukraine | 2015 | Litigation & Arbitration; Corporate and M&A; Intellectual Property; Bankruptcy and Restructuring; Banking & Finance; Taxation; International Trade; Private wealth; IT & Hi-Tech | FUIB, WOG, East One, Uklandfarming, Prominvestbank, Smart Holding, Credit Dnepr Bank, Corum Group, AgroSynergy Trading House LLC, Evyap Trading Ukraine, Alfa-Bank Ukraine, Volterra Energy Group, ORANTA | English, Ukrainian, Russian |
|------------------|---------------|---------------|------|--|---|-----------------------------|

EXPATPRO Law Firm

18 Vasylia Lypkivskoho St., 3rd floor, Kyiv, 03035, Ukraine; office@expatpro.co
www.expatpro.co



| | | | | | | |
|-------------------|---|---------------|------|--|-----|-----------------------------|
| +38 044 339 98 81 | Liubomyr Kuziutkin, Vasyl Cherednichenko | Kyiv, Ukraine | 2016 | Immigration law, Investment, Corporate and M&A, Commercial/Business law, Real Estate, Family law | WND | English, Russian, Ukrainian |
|-------------------|---|---------------|------|--|-----|-----------------------------|

First Legal

Kyiv, Ukraine; office@firstlegal.com.ua
firstlegal.com.ua



| | | | | | | |
|--|---------------------------------|---------------|------|---|--|-----------------------------|
| +38 044 337 5786 +38 067 306 8989 +38 093 306 8989 +38 099 367 8989 | Roman Melnykov, Olga Osinska | Kyiv, Ukraine | 2008 | Law assistance: corporate and M&A, business support, foreign trade, customs, international commercial arbitration, foreign investments, finance, taxation, mediation, litigation and dispute resolution, intellectual property, IT, real estate and construction, due diligence; accounting and staff accounting services | Hesburger, R.O.C.S., Credit Europe Bank, Kerry, TII, Akorn business services, DB Schenker Ukraine, Elanor Ukraine, Softronic | English, Ukrainian, Russian |
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|--------------|----------------|----|------|-------------------------------|---------------|-----------|
|--------------|----------------|----|------|-------------------------------|---------------|-----------|

GOLAW

19B Instyutska St., office 29, Kyiv 01021, Ukraine; info@golaw.ua
www.golaw.ua

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| | | | | | | |
|------------------|--|------------------|------|---|--|---|
| +38 044 581 1220 | Valentyn Gvozdiy, Sergiy Oberkovych | Kyiv, Ukraine | 2003 | Tax; Antitrust and Competition; Banking and Finance; Governmental Relations; Litigation and Dispute Resolution; Business Protection; Intellectual Property; Compliance, Corporate Governance and Risk Management; Corporate and M&A; Criminal Law and White-Collar Defence; International Trade; Maritime Law; Real Estate; Private Clients; Renewable Energy; Environment Protection; Anti-Corruption and Anti-Bribery; Insolvency and Restructuring; Employment | ADM-Trading; Azelis; Česká exportní banka, a.s.; EGAP; Enkom a.s.; Expobank CZ a.s.; Galicia Distillery; GAP; Inditex Group; KBPP Management Ltd.; Lars Export; Marks&Spencer; Mercator Medical; Omya; Oriflame; Printec; ProCredit Bank; Reckitt Benckiser; Red Bull; Syngenta; Ubisoft | English, Ukrainian, Russian, German, Polish |
|------------------|--|------------------|------|---|--|---|

INPRAXI LAW

54 Volodymyrska Str., Kyiv 01030 Ukraine; info@inpraxi.com.ua
www.inpraxi.com.ua

inpraxi law.

| | | | | | | |
|------------------|--|------------------|------|--|--|---|
| +380 44 229 0900 | Vladyslav Volynets, Oleksandr Slipko, Semen Kravtsov | Kyiv, Ukraine | 2007 | Real Estate & Construction, Dispute Resolution, Energy, Intellectual Property, AntiTrust and Competition, Employment | Auchan, Billa, Cinema City, Clearwater, Interdean Relocation Services, KFC, Rengy Development, Ukavit, Watsons | Ukrainian, English, German, Russian |
|------------------|--|------------------|------|--|--|---|

Jeantet

4 Volodymyrska St., 3 floor, Kyiv, 01001, Ukraine; bbarrier@jeantet.org
www.jeantet.fr

JEANTET

| | | | | | | |
|------------------|--|------------------|------|--|---|--|
| +380 44 206 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 |
|------------------|--|------------------|------|--|---|--|

Jurline

Royal Gardens Business Centre, 66/1 Frantsuzky boulevard, Odesa 65009, Ukraine; office@jurline.ua
www.jurline.ua

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| | | | | | | |
|--------------------------------------|-----------------|-------------------|------|--|--|--|
| +380 48 738 0893 +380 48 235 6517 | Volodymyr Zubar | Odesa, Ukraine | 1994 | Corporate & M&A; Litigation; Real Estate & Construction; International Trade & Arbitration; Transport and Infrastructure, Agriculture and Land; Shipping and Maritime; Criminal Law & White-Collar Crime; Antitrust and compliance | TIS-Grain Ltd., TIS-Mindobryva LLC, Transinvestservice, Kadorr Group, Fontan Sky Center; PJSC "Vostok Bank", Illichivsk Grain Terminal, Chernomorsk Shiprepair Yard, ZARS, SHABO, Sarmont Group, Aldo Coppola, TIS-Ruda, VIRTUS, Odesa National Scientific Library | English, Ukrainian, Russian, German |
|--------------------------------------|-----------------|-------------------|------|--|--|--|

Law firm "Suprema Lex"

8 Kosmonavta Komarova Avenue, office 61, Kyiv 03067, Ukraine; office@supremalex.ua
www.supremalex.ua

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| | | | | | | |
|------------------|--------------|------------------|------|---|---|---|
| +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, 2D Group, 2Gesture, Farmlink | Russian, Ukrainian, English, Arabic |
|------------------|--------------|------------------|------|---|---|---|

LCF Law Group

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

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|--------------------------------------|---|------------------|------|---|---|--------------------------------|
| +380 44 455 8887 +380 44 502 5523 | Anna Ogrenchuk Ph.D., Managing Partner, Attorney at Law, Artem Stoyanov Ph.D., Senior Partner, Attorney at Law, Olena Volyanska Partner, Attorney at Law, insolvency practitioner | Kyiv, Ukraine | 2009 | Litigation, Banking & Finance, International Arbitration, Intellectual Property Litigation, Corporate Litigation, Family litigation, Case-law practice of the ECtHR, Business protection, White-Collar Crimes, Disputes with Public Authorities, Bankruptcy, Restructuring, Tax litigation, Asset Discovery, Enforcement of Court Judgments | Agro Holding Mriya, Alfa-Bank, Allianz Ukraine, AVK Confectionary Company, Bunge Ukraine, Fozzy Group, Ovostar Union, YURIA-PHARM, TAS Group, Ukrenergy Coal, Ukrsofsbank, Universal Bank, Ukravtodor, Prominvestbank, Easy Pay | Ukrainian, Russian, English |
|--------------------------------------|---|------------------|------|---|---|--------------------------------|

Lexwell & Partners

Sophia Business Center, 6 Rylsky Lane, 5th floor, Kyiv 01001, Ukraine; lexwell@lexwell.com.ua
www.lexwell.com.ua

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|------------------|-----------------|------------------|------|---|--|--------------------------------|
| +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 |
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| Phone number | Top executives | HQ | Est. | Main Specialization, services | Major clients | Languages |
|--------------|----------------|----|------|-------------------------------|---------------|-----------|
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Pakharenko & Partners, IP and Law firm

72 Velyka Vasylykivska St., 'Olimpiysky' Business Center, Kyiv 03150 Ukraine; pakharenko@pakharenko.com.ua
www.pakharenko.ua



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|-------------------|--|------------------|------|--|-----|---|
| +38 044 593 96 93 | Antonina Pakharenko-Anderson, Alexander Pakharenko, Elena Shamrina | Kyiv, Ukraine | 1994 | IPR Protection and Enforcement, Anti-Counterfeiting and Anti-Piracy, Corporate and Commercial Law, Advertising and Media Law, Pharmaceutical Law, Competition Law, Commercial Litigation | WND | Ukrainian, English, French, German, Polish, Portuguese, Slovak, Russian, Czech |
|-------------------|--|------------------|------|--|-----|---|

Redcliffe Partners

75 Zhylyanska St., 13th floor, Kyiv 01032, Ukraine; office@redcliffe-partners.com
www.redcliffe-partners.com



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|------------------|--|------------------|------|--|--|---|
| +38 044 390 5885 | Olexiy Soshenko, Dmytro Fedoruk, Sergiy Gryshko, Zoryana Sozanska-Matviychuk, Rob Shantz | Kyiv, Ukraine | 2015 | Antitrust; Banking and Finance; Capital Markets; Compliance; Corporate and M&A; Data Protection and Privacy; Debt Restructuring and Insolvency; Energy; EU law; Intellectual Property; International Arbitration; Litigation; Real Estate; Tax | BB Energy, BASF, Cadogan Petroleum, Ciklum, Citibank, Coca-Cola Beverages Ukraine, Deutsche Bank AG, EBRD, EIB, Export-Import Bank of the United States, Ferrexpo, FMO, Glencore International, IFC, ING Bank, INKAS Group, J.P. Morgan, LG Electronics, Louis Dreyfus Commodities, NEFCO, SALIC, Ukrnafta | English, German, French, Russian, Ukrainian |
|------------------|--|------------------|------|--|--|---|

Salkom Law Firm

12 Khreschatyk St., 01001, Kyiv, Ukraine, salkom@salkom.kiev.ua
www.salkom.ua



| | | | | | | |
|--|-----------------------------------|------------------|------|---|--|---|
| +380 44 591 31 00 +380 44 591 31 01 | Evgen Kubko, Valerii Lukomskiy | Kyiv, Ukraine | 1990 | Antitrust and Competition, Financial Services, Commercial Contracts, FCPA/UK Bribery Act and Anticorruption, Corporate, International Dispute Resolution, International Trade and Export Controls, Intellectual Property and Technology, Labor and Employment Law, Litigation, Mergers and Acquisitions, Private Equity and Venture Capital, Real Estate, Tax Strategy and Benefits | Accenture, Carlsberg Ukraine, ContourGlobal, Group DF, Lufthansa Ukraine, Vodafone Ukraine, Orithil, Ukrainian Construction Company, United Capital Partners, Velti, Winner Imports Ukraine, Boeing, Yuzhnoye State Design Office, State General Reserve Fund of the Sultanate of Oman (SGRF). | Ukrainian, Russian, English, German |
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Skliarenko, Sydorenko and Partners, Attorneys At Law

31 Tarasa Shavchenko Blvd., 3rd floor, office 8, Kyiv 01032, Ukraine; info@s-partners.org
www.s-partners.org



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|------------------|--|------------------|------|---|--|--------------------------------|
| +38 044 235 8575 | Oleksandr Skliarenko, Andrii Sydorenko, Yulia Stusenko, Andrii Trigub | Kyiv, Ukraine | 2011 | White Collar Crime; Dispute Resolution; Mediation; Commercial Law; Corporate/M&A; Restructuring&Bankruptcy; Banking&Finance; Tax&Customs; Medical Law; Agricultural Law; Labor Law; Private Clients | GRAWE Ukraine, OTP Bank, IDS Group Ukraine, MONBAT Ukraine, Kvazar, Mamamusic, PaySpace Ukraine, lifecell, UKRTOWER, KREISEL, IRM, WATSONS, SPAN | English, Russian, Ukrainian |
|------------------|--|------------------|------|---|--|--------------------------------|

SPENSERS ST

7 Leonida Pervomayskogo St., Kyiv, 01133, Ukraine; office@spensers-st.com
www.spensers-st.com



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|------------------|-------------------|------------------|------|---|-----|--|
| +38 044 288 8383 | Valentyn Zagariya | Kyiv, Ukraine | 2006 | Banking and Finance, Corporate and M&A, Private Client, Forensic and Asset Tracing, Structuring and Protection of corporate assets, Labour and Employment, Insurance, Tax Disputes, Antitrust and Competition, Intellectual Property, White-collar Crime, Real Estate and Land Law, Family Law, Litigation and Dispute Resolution | N/D | English, French, Russian, Ukrainian |
|------------------|-------------------|------------------|------|---|-----|--|

Vasil Kisil & Partners

Leonardo Business Center, 17/52A Bohdana Khmelnytskoho St., Kyiv 01030, Ukraine; vkp@vcp.ua
www.vcp.ua



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|------------------|---------------------|------------------|------|---|-----|---|
| +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 |
|------------------|---------------------|------------------|------|---|-----|---|

VB PARTNERS

Porch 13, Business Center Bashnya 5, 22 Rybalska St., Kyiv, Ukraine, 01011; office@vbpartners.ua
www.vbpartners.ua



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|-------------------|--------------------------------------|------------------|------|--|---|-----------------------------------|
| +38 044 581 16 33 | Denys Bugay, Volodymyr Vashchenko | Kyiv, Ukraine | 2005 | Dispute Resolution, White Collar Crime | Avellana Gold, British American Tobacco Ukraine, Whirlpool Ukraine, Metro Cash & Carry Ukraine, Mriya agroholding, Nikolaev Alumina Refinery, shareholders of Delta Bank, Bank Khreschatyk, Commercial Bank Premium | Russian, Ukrainian, English |
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A salesperson of Ukrainian electronics retailer Citrus watches the store in central Kyiv on March 18, 2019. Citrus has frequently faced accusations of selling “gray tech.” (Kostyantyn Chernichkin)

In Ukraine, even major retailers sell contraband gadgets

By **Denys Krasnikov** and **Matthew Kupfer**
krasnikov@kyivpost.com, kupfer@kyivpost.com

When Galya Rudyk bought a brand new laptop from a top Ukrainian retailer, she got an unexpected surprise.

The new device, purchased for her workplace, looked like someone had already used it. It had a big scratch on top, and, when she booted it up, she found proof it was far from new: gigabytes of someone else’s files.

Rudyk was in a better position than most. As a producer at Slidstvo.Info, a Ukrainian investigative journalism outfit, she had much more leverage when demanding that the store make amends.

“They understood that I won’t leave them alone, that I’m not a stupid user,” she said.

Ultimately, the store replaced the laptop with a truly new one and promised not to resell the used laptop as new.

But as odd as Rudyk’s experience was, it

was far from unique in Ukraine. Every year, countless people fall victim to retailers who sell so-called “gray tech” — devices unlicensed for sale in Ukraine.

No one is entirely open about the practice. Some retailers make it more or less clear and largely sell to customers who understand “gray tech” as a chance to save money. But many simply violate their clients’ trust in a mad dash to earn more money.

It is unclear how many people accidentally purchase “gray” gadgets each year in Ukraine. However, the volume of shady imports is immense: 50–70 percent of all the devices sold in the country are brought here unofficially and go untaxed, according to European Business Association Ukraine.

This figure could be even bigger because “it’s difficult to evaluate precisely,” as such retailers “obviously don’t declare their activity”



The police intercepted parcels with untaxed electronics worth \$250 million in December 2018 in Kyiv. This is just one example of law enforcement confiscating goods that are brought into Ukraine illegally. (kyiv.sfs.gov.ua)

with the fiscal service, Viktoriia Kulykova, the association's consumer electronics committee manager, told the Kyiv Post.

And while dishonest retailers trick many individual customers, their biggest victim may be Ukraine's state budget.

No taxes — no guarantees

The best way to earn more money is to spend less. And, in Ukraine, the best way to spend less is often to avoid paying taxes. That is just what many retailers do when importing electronics — even though they often tell customers that these devices are completely legal.

Ukraine loses \$370 million a year due to retailers evading taxes, according to the EBA.

After a retailer illegally imports tech, it cannot print fiscal receipts for the products, offering instead a printed document with the good's price and the store's official stamp.

But without a true fiscal receipt it is almost impossible to claim the money back. According to field experiments by the EBA, there's a 50-percent chance that the customer will not be able to return the purchased gadget.

No receipt also means no warranty. That document is particularly important for sophisticated electronics — mobile phones, laptops, tablets, and computers — which often break.

But even if "gray" retailers provide customers with in-house warranties and fix devices using their own service centers — a common practice — companies like Apple will not accept gadgets that have been previously fixed by third parties for an official repair afterwards.

And there is one other important — albeit less common — risk from gray technology. Devices purchased abroad and brought to Ukraine unofficially often do not meet Ukrainian electrical or safety standards. They often have different power plugs and need adapters, which can be of poor quality.

Different countries' electrical outlets use different power currents. In America, for example, outlets have a 110-volt current, while Ukraine uses 220 volts. A device designed for the U.S. could overheat, catch fire, or even explode when plugged into a Ukrainian outlet.

While searching for gadgets using websites like Hotline, which aggregate offers from online stores and show them in one place, Kulykova

and her colleagues at the EBA counted that two devices out of three "have never been certified to work in Ukraine."

"They were never tested in Ukraine and it's unknown if it's safe to use them here," she said.

Not always a low price

Despite these risks, many Ukrainians are happy to buy "gray tech," ensuring its continued demand in the country. The reason is straightforward: it is sometimes 40 percent cheaper than legally imported electronics.

But that is not always the case. Big name stores like Citrus, where Galya Rudyk purchased the not-really-new laptop, have been known to sell untaxed gadgets for the same price as taxed ones.

Citrus, which has frequently faced accusations of selling "gray tech," declined to comment for this story. Several retailers like Macroom and Ringoo, who are more upfront about the origins of their goods and who tend to sell at a low price, also declined to comment.

Such sales are a simple way for stores to increase their margins. Meanwhile, the risks of the scheme — an un-warranted device not designed for the Ukrainian market — fall entirely on the unaware customer, who does not even get a discount.

Illegal schemes

Keeping "gray tech" out of the country has proven a challenge. Law enforcement is indeed fighting these illegal imports and making arrests, Kulykova said. But the problem is simply too big, she added.

Meanwhile, the phones, tablets, and laptops are small and easy to smuggle. Every day, thousands of people bring their own devices in and out of Ukraine for completely legitimate, non-commercial purposes. Some travelers coming from abroad bring devices as gifts for their friends and relatives.

How can law enforcement distinguish between legitimate transportation of these devices and illegal imports?

According to the Ukrainian law, a person travelling abroad can bring two phones and two laptops into Ukraine tax-free, provided that the devices are for personal use. But nobody checks whether these people sell the gadgets after passing through customs.

Kulykova thinks dishonest retailers bring untaxed items both individually and in large batches. However, the latter case may involve corruption, she admits.

According to Kulykova, each time an expensive device like a large television is shipped into Ukraine officially, the TV set's developer receives a notification about the shipment. But the EBA found such TVs for sale in Ukraine and checked with their developers, who confirmed that they are gray.

"It means somebody is slipping them past the border gate," she said.

However, Evgeniy Plinskiy, a journalist from the 1+1 television channel, claims he knows exactly how it happens: large expensive tech is being carried across the border by so-called "shuttles." Six people get in a bus and, when they cross the border, they claim they bought devices abroad and are taking them to Ukraine for personal use. Each receives \$10 per item.

But the most popular way to bring goods to Ukraine unofficially is by post, according to Plinskiy, who has carried out many independent investigations of the matter.

A fictitious company orders boxes full of gadgets to be shipped

to Poland. Then, people associated with the company ship them to Ukraine using delivery companies.

The delivery companies show Ukrainian and Polish border-guards different documents. Poles see documents presenting the parcels as they actually are, but they don't tax them because they are only transiting through the country. Ukrainians are shown documents stating that the parcels are deliveries to different people, valued at some \$30 each, Plinskiy said.

Another common scheme is when individuals claim Ukraine is a transit country and they are travelling farther, but ultimately the goods stay in the country.

Official distributors, meanwhile, must pay a 10-percent tax on the value of a good surpassing 1,000 euros if shipped by air (and 500 euros if by car) plus 20 percent of the total price of a device. So those who do business honestly and pay all their taxes and customs charges lose money in an unfair rivalry.

Plinskiy thinks the problem is not only the "border full of holes," but the absence of punishment for selling goods without receipts, which has been unlawful since May 2017. The penalty for violating that law is just 3 cents per sale.

"Nobody is afraid of that," Plinskiy said.

Bad image

Kulykova believes that retailers who sell "gray" goods harm everyone: the state, consumers, and other businesses. And that's not exclusively about electronics — it's also about clothes, alcohol, household chemicals, and so on.

"They all find some loopholes. We've got a big shadow economy in Ukraine," Kulykova said, adding that such activity tarnishes Ukraine's reputation, making it less attractive to investors. "Nobody would want to open official sales points here, let alone open factories here."

But the bigger issue may be that secretly selling "gray tech" doesn't hurt retailers' reputations enough and the country's economic realities continue to make such sales profitable.

Despite her experience with buying a laptop from Citrus, Rudyk says she is not ready to write off the store entirely. She knows another retailer where she prefers to buy tech and trusts the information she is provided. But if the price is lower at Citrus, she will consider making the purchase there. But she will be more cautious and be sure to check the gadget before leaving the store, she said.

"This experience taught me that you can't simply believe them when they tell you the tech is new."

The Kyiv Post's technology coverage is sponsored by Ciklum and NIX Solutions. The content is independent of the donors.

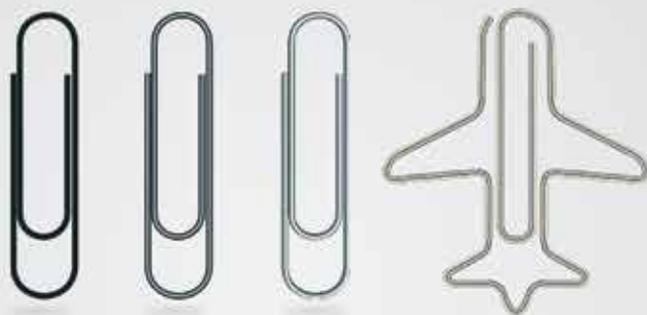
How to distinguish 'gray tech'

There are several key giveaways that a gadget is being sold unofficially.

In Ukraine, a customer must receive a fiscal receipt printed by a cash register. If there's no receipt, then it's not an official sale. Sometimes stores just print out an A4-sheet of paper with the name of the good, price and a stamp on it. Legally, this document means nothing.

Next, check the package: it must have a Ukrainian threefoil quality mark and a sticker with a text in Ukrainian.

Then, look inside the package: the charger must have an adapter for Ukrainian power outlets or must be entirely European-style.



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Net closes on dark web criminal networks

By Jack Launson
launson.jack@gmail.com

On March 14, a 26-year-old woman in Vinnytsia, a city in central Ukraine some 125 kilometres southwest of Kyiv, was arrested by cyber detectives for conducting an alleged criminal scheme on the so-called dark web. But unlike many online criminals, she wasn't selling counterfeit money, forged documents or hacking services. Her goods on offer to the highest foreign bidders were much darker indeed.

She had, according to police, been selling video clips at about \$100 each through a shady, dark web forum. In the videos, she is alleged to be raping her four-year-old son.

Police have charged the woman with rape and sexual corruption of minors as well as other offences related to distributing the videos. She faces 10 years in prison if convicted. The child victim was taken into care and the alleged parent's name was withheld to protect the child's identity.

Cases like this are not infrequent in Ukraine, and highlight how the darkest and most depraved areas of the Internet are used.

On Feb. 28, Ukrainian police busted another dark web child porn operation, this time in cooperation with the British National Crime Agency, or NCA. Two men accused

of abusing children and then selling the videos were arrested and charged. Just days earlier, police in Ukraine say they exposed yet another illicit, underage porn scheme, this time involving alleged criminals from Ukraine and Belarus.

Dark web criminals

"The dark web is rapidly becoming a haven, also for Ukrainian criminals," said Volydmyr Rudnychenko, lead counsel specializing in white collar crime at the Integrites law firm in Kyiv.

Rudnychenko says that some 300 cyber criminals have been successfully prosecuted in Ukraine throughout the last two years, with many of those guilty of fraud and scams.

Ukrainian police say they launched 11,000 cybercrime proceedings through 2018 alone — about 915 criminal cases per month.

"The dark web is giving law enforcement a hard time, when it comes to tracking down criminals," said Igor Kotsiuba, a legal partner with the CyberDesk security company in Kyiv, also head of the Cybersecurity Group at the American Chamber of Commerce.

"But the Ukrainian police seem to be taking strong steps



Criminals in Ukraine have sought refuge on the so-called dark web. But police are on their trail, and say they caught 800 Ukrainian cyber criminals in 2018, exposed eight transnational hacking groups and participated in 30 different international operations. (cyberpolice.gov.ua)

forward in the fight...and Ukraine is a trusted party of law enforcement ecosystems such as Interpol and Europol,” he added.

Dark web explained

If the Internet we think of is a public building that’s accessible to everyone via the front door, or an Internet browser, then the so-called deep web can be seen as an extensive, sprawling basement beneath the building that’s accessible only to people with certain keys and a specific desire to venture into its depths.

This basement contains 96 percent of the World Wide Web, where confidential data, records and reports are stored. In its most secluded corners is the dark web — a wild and uncontrolled place where information flows freely and shady business deals go down in anonymous chat rooms and encrypted messages.

As can be expected, the dark web is often not a place for the faint-hearted.

Users who venture into the dark web can easily find marketplaces where illegal goods and services can be purchased, usually with cryptocurrencies like Bitcoin. For those who want to find it, illegal pornography and images of child abuse can be found. While harder than it used to be, weapons and explosives can also be bought in chatrooms or forums.

According to research by academics at Kings College London, who scoured 2,723 sites throughout the dark web over a five-week period, 57 percent of the hosted content was illegal or illicit material.

Illegal markets flourish

“The internet, as well as the dark web, has no boundaries,” said Serhiy Demedyuk, Head of the Cyberpolice Department of the National Police of Ukraine. ”

“Since the technology behind the dark web complicates the identification of users, it is very popular among those who have something to hide... most dark web tools were developed in order to ensure the reliability and safety of legitimate communications. Unfortunately, it is also used by criminals and Ukraine is no exception here.

Law enforcement agencies are constantly busting sites throughout the deep and dark web if they deal in illicit goods and services. Weapons attract a whole new level of unwanted, inter-agency attention. Layers of complex anonymity makes tracking people and servers very complicated for the police, but they’re improving their techniques.

In order to research what kinds of goods and services are available on the dark web, the Kyiv Post connected to the Internet via a Virtual Proxy Network and dove deep into the shadiest recesses of the Web via a specialized TOR Browser.

Multiple online marketplaces are still active across the dark web. The most active online store, called Dream Market, currently boasts 120,000 listings for illicit goods or services, half of them narcotics.

Vendors are spread across the world, from Hong Kong to

Los Angeles, but often they lie about their location, and determining where they actually are requires an in-depth police investigation.

Many vendors claim to be in the European Union or United States and almost all offer worldwide shipment on their goods, often delivered to a secret drop-off point by a local intermediary.

These days, weapons and firearms are harder to find as even dark web moderators, faced with the threat of life-long prison sentences, have cracked down this area. In one Russian-language corner of the dark web, the Kyiv Post saw discussion of AK-47 assault rifles being sold from Ukraine’s eastern Donbas region to buyers in Russia, but could not confirm the veracity of any supposed auction.

Across various shady marketplaces and forums, the Kyiv Post found vendors selling forged documents, fake passports (Malta was a popular choice), counterfeit money, hacking services and, in abundance, stolen credit card details and hacked bank accounts.

One vendor located in Ukraine found by the Kyiv Post has a popular and successful racket in the worldwide shipping of highly authentic counterfeit U.S. dollars, although they can also produce British pounds, Canadian dollars and euros. Buyers can purchase \$5,000 in counterfeit money for an equivalent crypto payment of \$500. At least 13 happy customers had left the vendor anonymous, positive reviews, after successfully purchasing fake American money.

Covert criminals

Offences related to online payment tools, theft of credit card data, the sale of counterfeit goods and distribution of illegal pornography have become priority areas for Ukrainian cyber police, Rudnychenko said.

“Illegal activities have been moved there (the dark web) because cash transactions and the rest of the Internet didn’t provide a sufficient level of anonymity,” said Igor Kotsiuba.

Kotsiuba says that all kinds of criminals on the dark web pose a threat in Ukraine, but the days of selling weapons and hiring contract killers could be over.

“Strict rules are being applied by marketplaces in order to avoid law enforcement take-downs... by forbidding services, such as an assassination, marketplaces avoid becoming a big law enforcement target,” he said.

“The most usual usage of the dark web (in Ukraine) is for purchasing personal data, passwords for credit cards and bank accounts. That data is used in fraud or other offences,” said Rudnychenko.

In an annual report, police said they caught 800 Ukrainian cyber criminals in 2018, exposed eight transnational hacking groups and participated in 30 different international operations.

According to experts, cross-border cooperation between Ukraine and the authorities in other partner countries is yielding strong results. As it becomes increasingly frequent, the noose is tightening around the necks of alleged, dark web criminals. ■

Kyiv Post Legal Ranking

The Kyiv Post is pleased to publish its first independent ranking of the top 50 law firms in Ukraine. Our team has carried out extensive research to develop an objective, fair methodology to establish a reliable ranking — one that we hope the public and law firms will trust.

Part of our research included comparing our ranking to other major rankings in Ukraine and abroad, and finding out what readers feel is important with regard to the value of a law firm.

We also seek to measure the transparency and approachability of law firms based on the questions in this survey and additional research. Unlike some other legal rankings, law firms cannot “purchase” a position in our ranking.

We are primarily looking at the general quality of a law firm, be it a large or a boutique one.

We are looking at law firms from a Kyiv Post perspective — how transparent and beneficial to society the law firms are, and how good is the quality of the services they provide. We think our readers, especially those in business, will find these factors most useful when deciding which law firm to go with.

We have received a lot of helpful and generous feedback from a number of law firms. The Kyiv Post will continuously refine its ranking, and expand it to include various categories of law practices and even individual awards in the future.

Methodology

We currently have a general ranking that assesses firms according to five main categories: transparency and responsibility, approachability, internationality, social balance, and general strength. As the idea of the ranking is to keep it as objective as possible, the bulk of the ranking is based on mathematical formulas, to keep the results as objective as possible.

Some leading law firms did not make it into the top 20 of the ranking as they refused to provide certain information.

As we have not made a distinction between large and boutique firms, in some cases smaller firms rub shoulders in the ranking with big international firms — again, what is important to us and our readers is not size, but quality.

We have received very helpful feedback from a number of law firms. One of the main points was that our ranking does not review transactions and cases on an individual basis. We understand the concern, but we are looking at law firms from a newspaper perspective — what we consider to be important for the public and what gives them a general understanding of who are the most transparent and trustworthy players on the market. Also, as we are not lawyers, much of the evaluation could have been stained by subjectivity.

We also have a few niche law firms rank high. Our next ranking will give more weight to firms with universal practices. We will also give even more weight to companies that are transparent and that have a strong social presence such as corporate social responsibility and human rights in the work environment. ■

Top 50 law firms in Ukraine

| Ranking | Name | Strength | Balance | Internationality | Responsibility | Approachability | Total |
|---------|---------------------------------------|------------|--------------|------------------|----------------|-----------------|---------------|
| 1 | Vasil Kisil & Partners | 78 | 81.25 | 80.00 | 9.39 | 58.31 | 306.79 |
| 2 | Doubinsky & Osharova | 125 | 32.50 | 86.67 | 3.13 | 58.31 | 305.50 |
| 3 | BC Toms & Co | 76 | 28.75 | 100.00 | 31.16 | 58.31 | 293.73 |
| 4 | INTEGRITES | 80 | 68.75 | 76.00 | 8.33 | 58.31 | 291.68 |
| 5 | Jeantet Ukraine | 53 | 65.00 | 100.00 | 11.95 | 58.31 | 288.26 |
| 6 | Baker McKenzie | 94 | 32.50 | 96.00 | 3.86 | 58.31 | 285.07 |
| 7 | Interlegal | 70 | 61.25 | 91.11 | 0.31 | 49.98 | 272.39 |
| 8 | DLA Piper Ukraine LLC | 59 | 52.50 | 99.44 | 1.56 | 58.31 | 270.42 |
| 9 | Sergeyevs' Law Office | 62 | 61.25 | 84.00 | 0.31 | 58.31 | 265.44 |
| 10 | Kinstellar LLC | 61 | 53.75 | 85.45 | 3.07 | 58.31 | 261.87 |
| 11 | VB PARTNERS | 98 | 77.50 | 23.01 | 0.37 | 58.31 | 257.24 |
| 12 | Arzinger Law Firm | 79 | 88.75 | 52.93 | 0.31 | 33.32 | 253.96 |
| 13 | Sokolovskiy and Partners | 67 | 81.25 | 40.02 | 5.83 | 58.31 | 252.02 |
| 14 | Brightman FinTech | 44 | 41.25 | 100.00 | 4.67 | 58.31 | 247.76 |
| 15 | ENGARDE | 67 | 37.50 | 84.00 | 0.31 | 58.31 | 247.04 |
| 16 | Redcliffe Partners LLC | 42 | 25.00 | 99.44 | 21.49 | 58.31 | 246.68 |
| 17 | Ante law firm LLC | 74 | 48.75 | 80.00 | 0.66 | 41.65 | 245.34 |
| 18 | KPMG Law Ukraine | 67 | 41.25 | 76.06 | 0.31 | 58.31 | 243.17 |
| 19 | SDM Partners | 64 | 56.25 | 76.00 | 4.69 | 41.65 | 242.15 |
| 20 | AVELLUM | 42 | 48.75 | 88.55 | 4.21 | 58.31 | 242.11 |
| 21 | Eterna Law | 89 | 68.75 | 25.64 | 0.68 | 58.31 | 242.00 |
| 22 | ANK | 61 | 57.50 | 57.78 | 5.90 | 58.31 | 240.29 |
| 23 | Legal Group EUCON | 52 | 57.50 | 60.00 | 11.77 | 58.31 | 239.33 |
| 24 | EXPATPRO | 19 | 45.00 | 80.83 | 33.65 | 58.31 | 237.14 |
| 25 | Juscutum Law Firm | 65 | 57.50 | 50.34 | 1.56 | 58.31 | 232.84 |
| 26 | Jurline Law Firm | 72 | 41.25 | 52.00 | 5.15 | 58.31 | 228.72 |
| 27 | Crowe LF Ukraine | 60 | 72.50 | 29.73 | 7.93 | 58.31 | 228.44 |
| 28 | EVERLEGAL | 28 | 28.75 | 44.82 | 65.58 | 58.31 | 225.88 |
| 29 | ECOVIS Bondar & Bondar | 64 | 61.25 | 55.76 | 3.13 | 41.65 | 225.87 |
| 30 | Konnov & Sozanovsky | 72 | 21.25 | 64.21 | 5.09 | 58.31 | 220.92 |
| 31 | Dentons | 81 | 57.50 | 48.24 | 0.31 | 33.32 | 220.73 |
| 32 | Asters | 62 | 45.00 | 75.95 | 0.31 | 33.32 | 216.55 |
| 33 | OSTIN Law Firm | 21 | 45.00 | 44.35 | 46.23 | 58.31 | 214.79 |
| 34 | AXON Partners | 24 | 88.75 | 60.00 | 0.31 | 41.65 | 214.49 |
| 35 | SPENSERS ST Attorneys at law | 53 | 52.50 | 56.36 | 8.72 | 41.65 | 212.49 |
| 36 | PwC Legal Ukraine | 30 | 30.00 | 84.00 | 10.12 | 58.31 | 212.25 |
| 37 | EBS | 35 | 25.00 | 84.15 | 3.13 | 58.31 | 205.66 |
| 38 | LEGRANT Law Company | 40 | 37.50 | 68.33 | 0.31 | 58.31 | 204.43 |
| 39 | Sayenko Kharenko | 59 | 32.50 | 78.86 | 0.31 | 33.32 | 203.98 |
| 40 | Antika Law Firm LLC | 50 | 48.75 | 46.67 | 0.64 | 49.98 | 196.39 |
| 41 | Ilyashev & Partners | 70 | 10.00 | 65.00 | 0.92 | 49.98 | 195.95 |
| 42 | Nobles LLC | 44 | 28.75 | 88.57 | 0.31 | 33.32 | 194.97 |
| 43 | SHEVERDIN and PARTNERS | 45 | 65.00 | 24.81 | 0.31 | 58.31 | 193.13 |
| 44 | Shkrebits & Partners | 81 | 37.50 | 26.40 | 4.69 | 41.65 | 190.99 |
| 45 | CMS | 55 | 81.25 | 20.00 | 0.31 | 33.32 | 190.17 |
| 46 | S&P Investment Risk Management Agency | 39 | 33.75 | 33.33 | 31.56 | 49.98 | 187.93 |
| 47 | OMP LLC | 40 | 33.75 | 46.67 | 16.25 | 49.98 | 186.75 |
| 48 | Skliarenko, Sydorenko and Partners | 65 | 25.00 | 52.00 | 0.31 | 41.65 | 183.82 |
| 49 | Suprema Lex Law Firm | 22 | 45.00 | 54.84 | 11.03 | 49.98 | 183.11 |
| 50 | KODEX International Law Firm | 45 | 37.50 | 28.00 | 0.31 | 58.31 | 169.12 |

Numbers in bold indicate the 10 best firms in ranking category.



Lawyer Artem Afian, the head of law firm Juscutum, poses for a picture on Feb. 6, 2019. The Ukrainian Bar Association named Afian the best tech lawyer in 2018. (Volodymyr Petrov)

Hunting for bitcoins, law firm defends hackers, blockchain firms needing help

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

Artem Afian, a 34-year-old lawyer, has defended hackers and high-tech blockchain firms, sometimes for payment in virtual money like bitcoins. By converting them into dollars at exaggerated exchange rates, his royalties were impressive — up to 100,000 euros for one contract.

The past two years were especially lucrative for those who were paid in bitcoins, the price of which peaked at \$20,000 in December 2017, 10 times the cost of what it was just four months before.

“It was a gold rush, a mania,” Afian said and took out a rectangular purple box with “Cryptomania” written on it. It’s a board game that he created.

“All my experience that I lived through with this quick and easy money — it’s in here,” Afian said. He created this board game for two reasons: to remember how it was and explain how it works.

Today the price for a bitcoin has dropped to \$4,000 and the gold rush has subsided, but Afian believes cryptocurrencies and

blockchain — the technology that’s used to encrypt them — are here to stay. And those who use them will certainly need lawyers.

Hacker legacy

Afian first received bitcoins when he accepted a job from a hacker.

Bitcoins seem to have appeared out of nowhere in 2008. And in 2013, Ukrainian law firms started receiving requests to accept them as payments. So did Afian’s law firm Juscutum. The persecuted hacker asked for legal help, but said that could only pay in bitcoins.

‘I need to convince clients to believe that it’s just an illusion that there are no laws.’

— Artem Afian

“What ‘bitcoin’ meant I didn’t know, but I knew well what meant not to be paid,” Afian said. He agreed first to receive the bitcoins and then quickly converted the virtual currency into hard currency.

“I try not to think about what I did,” he says, with regret that he converted money back then too quickly. In 2013, the lawyer sold one bitcoin for around \$300, today — it would have been \$4,000.

But even though Afian sold all of his bitcoins, he saw potential in cryptocurrencies. As a result, Juscutum started “cautiously” accepting bitcoins regularly.

“Because cryptocurrencies have a shady past of being a currency used to pay for prohibited goods like drugs” and weapons, to finance terrorism, and legalize criminal assets, Afian said. The black market has famously used cryptocurrencies for anonymous transactions.

Only later, in 2017, cryptocurrencies — and their core technology platform blockchain — became ubiquitous in the use of tech startups that “wanted to use them to revolutionize traditional industries” like banking. So hackers were replaced with tech entrepreneurs.

And with more cases, it became more challenging to work in the industry, for there was not a single country that has written any laws to regulate it.

Not anarchy

“Foremost, I need to convince clients to believe that it’s just an illusion that there are no laws,” Afian said. All human activities are regulated somehow even if there are no particular words in a legislature that signify these activities, the lawyer explained.

Many took the absence of special regulations as anarchy, according to him. “They were wrong.”

Afian explains why. “Cryptocurrency” or “blockchain” are not written in the official documents. But the same is with the word “smoothie” — a thick beverage made from pureed fruit, vegetables. “And yet, people sell smoothies. It’s just that they are defined and sold as non-alcoholic beverages,” he said.

So virtual money, cryptocurrencies, fall under other definitions described in laws, too. The role of a lawyer here, according to Afian, is to choose the “most suitable” definitions from the laws — to find a point of legal relations, and understand which rules one must follow so as not to violate the law.

In the United States, for example, it’s best to apply legislation of the stock exchange market, placing virtual money on the same footing as fiat money and securities.

Today countries try to catch up with the progress and to write laws for cryptocurrencies and blockchain. Afian’s Juscutum takes part in writing such laws in Ukraine and Kazakhstan. One such draft law has been submitted to the Ukrainian parliament and awaits the first reading for approval.

“We take it as a wonderful challenge,” he said. “It’s rare when lawyers can lay their hands on something that gives them the glory of pioneers.”

Selling ‘promises’

Most of the tech firms asked Juscutum to organize an initial coin offering for them.

Often abbreviated as ICO, initial coin offerings have been used as an alternative way compared to traditional initial public offerings (IPOs) to raise capital. Only instead of shares, companies put on sale “tokens,” which can be bought only with a cryptocurrency.

And a token can be anything — a share in a company, a future discount, or just a “promise” to sell you something before it’s mass-marketed.

Easy to access online, coin offerings thrived in late 2017 and early 2018, according to Coin Telegraph. In total, companies raised over \$11 billion in 2018 and \$10 billion in 2017.

Lawyer Artem Afian talks with the Kyiv Post on Feb. 6, 2019, in his company’s Kyiv office. (Volodymyr Petrov)





A row of fans cool down video cards, the hardware that does the computing to collect cryptocurrencies. But it's recently become nearly impossible to mine cryptocurrencies just with video cards, and people have started using special equipment that does the work better — called ASICs, these are microchips designed specifically for mining Bitcoins. (Mining.Net.Ua)

In Ukraine, there were 19 of them resulting in companies raising \$160 million. The three most successful at it were artificial intelligence developer Neuromation (\$71 million), e-commerce companies DMarket (\$19 million) and Propy (\$15.5 million).

Working with such startups, a law firm's task was always the same — not to let their clients violate the law. Advice includes defining what a token means and performing compliance, choosing a jurisdiction and setting up a legal entity.

Although 75 percent of all the coin offerings worldwide have turned out to be scams, according to CoinDesk digital coins news site, Afian claims that his clients aren't scammers. "None of them had any problems with the law," he insisted.

Juscutum chooses clients carefully, he said, and has worked with just 10 companies on coin offerings.

Whether it's a scam business or not, Afian thinks the ICO "gold rush" boom showed great demand in the post-Soviet countries because of the easily accessible investment tools.

"People do have money here. One just has to use technology to be closer to people so that they can invest in companies sitting at home or via phones," he said.

Bigger fish

Defending those selling promises wasn't the only service provided by the law firm. In fact, Juscutum is known in Ukraine as a pioneer in legal technology.

Spearheaded by Afian, Juscutum advised Bitfury. This U.S. tech company puts Ukraine's governmental data

on the blockchain, and Bitfury's CEO Valery Vavilov called it the "biggest government blockchain agreement ever so far," according to Reuters.

Another win: Juscutum with U.S. law firm Velton Zegelman organized the first ever cryptocurrency purchase of an apartment when an American paid \$60,000 for a flat in Kyiv in 2017.

The historic deal was struck without the use of banks or real estate brokers. It was arranged through a smartphone application called Propy that runs on blockchain.

"Coin offerings are interesting but the role of lawyers is diminished there," Afian said. "In these two cases we can wave a flag and say that all is thanks to us, the lawyers."

The lawyer is glad that the hype around coin offerings is gradually settling in. They aren't that numerous anymore: only 15 successfully held in February 2019, while just a year ago, during the same month, there were 100 of them, according to ICORating, an analytical agency.

"Crazy money isn't there anymore," Afian said. He said he knew the hype wouldn't last. Now Juscutum continues to work with more "traditional" tech firms while keeping an eye on new trends like renewables, tech medicine and electronic government.

"The cryptomania has ended. It left some rich, others poor. As for me, it left me with experience, some extra money, and with a board game."

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Major law schools in Ukraine

| Name | Year of establishment | Ownership | Degrees offered | Study mode and teaching language | Contacts | Name | Year of establishment | Ownership | Degrees offered | Study mode and teaching language | Contacts |
|--|------------------------|-----------|-----------------------------|--|---|---|------------------------|-----------|-----------------------------|--|---|
| Faculty of Law at Chernivtsi National University | 1991 | State | Bachelor's, Master's, Ph.D. | Full-time, extramural Ukrainian | 19 Universytetska St. Chernivtsi 58000 +38 (0372) 58 48 05 lawfaculty@chnu.edu.ua lawfaculty.chnu.edu.ua | Institute of Law at Kyiv International University | not publicly available | Private | Bachelor's, Master's, Ph.D. | Full-time Ukrainian | 49 Lvivska St. Kyiv 03179 +38 (044) 507 07 30 decanat_law@kymu.edu.ua kymu.edu.ua |
| Law Department at Oles Honchar Dnipro National University | 1994 | State | Bachelor's, Master's, Ph.D. | Full-time Ukrainian | 13 Naukova St., Building No. 9 Dnipro +38 (056) 776-82-05 dnu_pravo@ukr.net dnu.dp.ua/en/ | Kyiv University of Law | 1995 | State | Diploma | Full-time, distance, post degree Ukrainian | 7A Dobrohotova St. Kyiv 03142 +38 (044) 424-33-35 kul@kul.kiev.ua kul.kiev.ua |
| Faculty of Law at Vasyl Stus Donetsk National University in Vinnytsia | 1983 | State | Bachelor's, Master's | Full-time, extramural, parallel to another degree, post degree | 2 Hrushevs'koho St. Vinnytsia 21050 +38 (0432) 50-89-47 +38 (096) 192-13-68 +38 (063) 503-34-19 elf.fcl@donnu.edu.ua law.donnu.edu.ua/en-us | Department of Law and Sociology at Kyiv Polytechnics | not publicly available | State | Bachelor's, Master's | Full-time, extramural Ukrainian | 37 Peremohy Ave. Academic Building 1 Kyiv 02000 +38 (044) 204 90 20/22 fsp.kpi.ua@gmail.com https://fsp.kpi.ua/en/ |
| Yaroslav Mudryi National Law University in Kharkiv | 1930 | State | Bachelor's, Master's, Ph.D. | Full-time, extramural, evening courses, post degree Ukrainian and English | 77 Pushkinska St. Kharkiv 61024 +38 (057) 704-92-49 pr.kom@nulau.edu.ua nlu.edu.ua/en/ | Institute of Law at Kyiv National Economics University | 1999 | State | Bachelor's, Master's, Ph.D. | Full-time Ukrainian | 54/1 Peremohy Ave., Kyiv 03057 +38 (044) 456-31-62 documents@kneu.edu.ua https://kneu.edu.ua/en/ |
| School of Law of Kharkiv National University | 2004 | State | Bachelor's, Master's, Ph.D. | Full-time, extramural Ukrainian | 6 Maydan Svobody Kharkiv 61077 +380 (66) 076-87-34 +380 (96) 329-91-57 law@karazin.ua jurfak.univer.kharkov.ua | King Danylo University of Law in Ivano-Frankivsk | 1997 | Private | Bachelor's, Master's, Ph.D. | Full-time, extramural Ukrainian3 | 35 Konovaltsia St. Ivano-Frankivsk 76018 +38 (0342) 77-18-45 university@iful.edu.ua iful.edu.ua |
| Faculty of Law at Taras Shevchenko National University of Kyiv | 1834 | State | Bachelor's, Master's, Ph.D. | Full-time, extramural Ukrainian | 60 Volodymyrska St. Kyiv 01601 +38 (044) 239-31-86 femida_knu@ukr.net law.univ.kiev.ua | Faculty of Law at Ivan Franko National University of Lviv | 1784 | State | Bachelor's, Master's, Ph.D. | Full-time, extramural, post degree Ukrainian | 14 Sichovykh Striltsiv St. Lviv 79000 +38 (032) 239-41-85 law.faculty@lnu.edu.ua http://law.lnu.edu.ua |
| Institute of International Relations at Taras Shevchenko National University of Kyiv | 1988 | State | Bachelor's, Master's, Ph.D. | Full-time, post degree Ukrainian and English | 36/1 Y. Illienka St. Kyiv 04119 +38 (044) 481-45-19 office@iir.kiev.ua www.iir.edu.ua | Odesa Academy of Law | 1997 | State | Bachelor's, Master's, Ph.D. | Full-time, extramural, post degree Ukrainian | 23 Fontanska Doroha St. Odesa 65009 +38 (048) 719-88-00 vstup@onua.edu.ua onua.edu.ua |
| Institute of Continuing Education at Taras Shevchenko National University of Kyiv | 1949 | State | Bachelor's, Master's | Post degree Ukrainian | 36 Vasylykivska St. Kyiv 03022 +38 (044) 521-33-05 +38 (044) 521-35-60 admin-ipe@univ.net.ua www.ipe.knu.ua/ | Faculty of Economics and Law at Odesa I.I Mechnikov National University | 1865 | State | Bachelor's, Master's, Ph.D. | Full-time, extramural Ukrainian | 2 Dvoryanska St. Odesa 65082 +38 (048) 723-52-54 onuepf@ukr.net onu.edu.ua |
| School of Law at the National University of Kyiv-Mohyla Academy | not publicly available | State | Bachelor's, Master's, Ph.D. | Full-time Ukrainian | 2 Skovorody St., Kyiv 04070 +38 (044) 425 60 73 vpkucher@ukma.kiev.ua www.ukma.edu.ua/eng | Institute of Law at the National University of Ostroh Academy | not publicly available | State | Bachelor's, Master's, Ph.D. | Full-time, extramural | 2 Seminarska St. Ostroh 35800 +38 (03654) 2-39-30 dekanat.ipm@oa.edu.ua oa.edu.ua |
| | | | | | | Law Department of Sumy State University | 1997 | State | Bachelor's, Master's, Ph.D. | Full-time, extramural, evening courses, post degree Ukrainian | 59 Petropavlivska St. Sumy 40000 Building 3 +38 (0542) 66-51-07 inform@yur.sumdu.edu.ua law.sumdu.edu.ua |
| | | | | | | Faculty of Law of Uzhhorod National University | 1993 | State | Bachelor's, Master's, Ph.D. | Full-time, post degree Ukrainian | 26 Kapitulna St. Uzhhorod 88000 +38 (0312) 61-34-78, f-jur@uzhnu.edu.ua |

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