



KYIV AND MOSCOW: FROM PARTNERSHIP TO COMPETITION

ASSESSING EU'S TRANSFORMATIVE POWER IN UKRAINE

E-VOTING IN UKRAINE: ADVANCEMENTS, CHALLENGES AND PERSPECTIVES

THE FERTILE SOIL OF UKRAINE: NURTURING INNOVATION

APRIL 2020

Brussels Ukraine Review

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EDITOR'S FOREWORD

Dear readers and experts! We have prepared the second issue of the Brussels Ukraïna Review for print before the coronavirus pandemic intervened in the lives of each of us. These tragic circumstances have forced us to decide whether to print the journal after the end of the quarantine or to launch the magazine online now.

Although the pandemic has somewhat changed the way we spend our days, the issues raised before it started have not disappeared. And the longer we wait, the more urgent they become. That is why we are offering a selection of our experts' articles right now.

We still have some articles and interviews, which we intended to include in this issue, remaining. We plan to print them in the third issue of the journal. We hope it will be soon.

In this issue, you will learn about change of the government in Ukraine, Ukraine's digital potential, the non-military struggle between Ukraine and Russia, the controversy over the handling of the investigation into the murder of journalist Pavlo Sheremet, and much more. Starting with this issue, we are also introducing "Cultural Pages", where we will write about European elements of Ukrainian culture and vice versa, as well as about Ukrainian traditions and interesting places to visit in Ukraine.

Enjoy reading!

Marta Barandiy

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UKRAINE ANTICIPATES NEW CHALLENGES

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The beginning of spring marked the commencement of serious political and economic turbulence for Ukraine. On the one hand, Ukraine faces the impact of worldwide processes related to the fight of all countries against the coronavirus (COVID-19) pandemic. On the other hand, in our country a global problem has exposed a number of important internal issues that the current government is trying to tackle.

Change of Government

Dissatisfied with the lack of fast results of the government, which was appointed on August 29, 2019, and hoping for better preparation of the new team for the new challenges facing Ukraine, the President of Ukraine decided to change the government.

There was relatively little critique of Oleksii Honcharuk's Cabinet of Ministers,

but the main ones concerned the government's failure to execute the budget, the dramatic decrease in industrial production, and the lack of effective decisions to reduce utility tariffs, among others.

In his speech during the special plenary session of the Verkhovna Rada on 4 March, President Volodymyr Zelensky noted that "[t]his is a government of new faces, but just faces are not enough. We need new brains and new hearts. This government knows what to do, but it is not enough – it really demands a lot of work, which has to be done."

The Parliament supported the President's initiative and dismissed Honcharuk's government, voting in favour of the new Cabinet headed by Denys Shmyhal. At the same time, a number of high-ranking officials retained their seats. In particular, Deputy Prime Minister for European and Euro-Atlantic Integration Dmytro Kuleba and Foreign Minister Vadym Prystaiko switched posts in the new Cabinet, testifying to Volodymyr Zelensky's confidence in these people and his satisfaction with their performance.

The change of the Ukrainian Cabinet of Ministers did not go unnoticed by the rest of the world, but it did not cause any resonance. Thus, the US Embassy has traditionally congratulated the new Prime Minister of Ukraine on his appointment and expressed the hope for "close cooperation". But the European Union reacted differently. Peter Stano, spokesperson for EU foreign policy, and Josep Borrell, the EU's security chief, said the EU expected the new Ukrainian government to strengthen its fight against corruption and its determination to implement reforms.

Ukraine is in quarantine

In current circumstances, one of the most problematic issues in Ukraine actually appeared to be the medical sector. The implemen-

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tation of medical reforms was started by the government of former prime minister Volodymyr Hroisman. The performance of Health Minister Zoriana Skaletska in Honcharuk's Cabinet raised many questions and complaints due to Skaletska's perceived lack of experience, decisive steps taken in the ministry, and following a number of scandals. Doctors were confused, and many of them demanded to stop the second phase of the medical reform.

Under these conditions, the outbreak of COVID-19 pandemic finally showed cause that the post of Minister of Health of Ukraine must be held by a serious and experienced person. The Verkhovna Rada voted to approve the appointment of a well-known surgeon, Illia Yemets, who had previously headed the Ministry of Health in 2010-2011. But after Yemets made some controversial comments about the impact of coronavirus on those aged 65+ during his TV interview, he was dismissed. On the 30th of March Maksym Stepanov was appointed a new Minister of Health of Ukraine.

In the meantime, Ukraine began to prepare for the spread of COVID-19. On 17 March, at an extraordinary session of Verkhovna Rada, Prime Minister Denys Shmyhal stated that "12,000 beds in infectious disease departments have been prepared," and the government had allocated additional finances to provide doctors with emergency protection.

Given the current state of medicine in the country and the serious lack of funds, advanced equipment, and facilities, everyone understands that it will be extremely difficult to cope with a dangerous disease. Again, the Ukrainian authorities decided to act early – the Cabinet of Ministers adopted a decision to declare a quarantine from 12 March to 24 April. With significant restrictions, people have fewer contacts and thus there is a lower chance of contracting the disease.

Currently, the authorities are able to work more or less effectively. Despite some criticisms, the authorities have, however, achieved some positive results: although borders have closed globally, the government successfully evacuated tens of thousands of Ukrainians from many countries. The authorities did this by arranging special flights, additional trains, and the Foreign Ministry promptly contacted the governments of countries where our compatriots were stuck at the borders. Almost all issues have been resolved positively.

On the other hand, the authorities took into account the key failure of the previous government – the lack of information provided to the population. The President has played an active role in the process and now frequently appears on the screens, addressing the nation. The Prime Minister, law enforcement officials, and local leaders also provide explanations to the media. All of them persuade Ukrainians to adhere to the recommendations of doctors, to act together, and to avoid panic. This will minimise the effects of the dangerous pandemic.

The Minsk "Virus"

In the meantime, for many Ukrainians the risk of catching COVID-19 is relegated to the background as there is another threat on the horizon – the possible betrayal of national interests.

On 11 March a meeting of the Trilateral Contact Group took place in Minsk, Belarus, attended by the Head of the Office of the President of Ukraine, Andrii Yermak, and Dmytro Kozak, the Russian official responsible for the Ukrainian matters in the Kremlin. After the meeting, the parties signed a document establishing an Advisory Council. It stipulates negotiations between the plenipotentiaries of Ukraine, on the one hand, and its separate districts in Donetsk and Luhansk regions, on the other hand. Instead, Russia

According to critics, the signing of the agreement on the creation of an Advisory Council in effect recognises the sovereignty of the illegal armed separatist groups, the Donetsk People's Republic (DNR) and the Luhansk People's Republic (LNR), which are supported and controlled by Russia.

becomes an observer, along with Germany, France and the Organization for Security and Co-operation in Europe (OSCE).

The signing of such a document caused a wave of criticism among politicians and protests in many Ukrainian cities. The largest protest took place in Kyiv, despite the quarantine measures. People demanded the resignation of Yermak and explanations from the authorities.

According to critics, the signing of the agreement on the creation of an Advisory Council in effect recognises the sovereignty of the illegal armed separatist groups, the Donetsk People's Republic (DNR) and the Luhansk People's Republic (LNR), which are supported and controlled by Russia. Critics are also concerned that such recognition also gives legitimacy to the Kremlin's narrative that hostilities in eastern Ukraine are an "internal conflict" – despite the illegal armed units in the occupied Donbas receiving weapons, ammunition, energy, and even funding from the Russian Federation (the Russian rouble is used in the so-called DNR and LNR!).

The signing of the dubious document has become so resonant that it has caused a wave of opposition not only from opponents of the present authorities, but also from some deputies from the presidential majority in Verkhovna Rada. About two dozen deputies of the “Servant of the People” faction shared a statement appealing to President Zelensky not to permit the representatives of the temporarily occupied territories of the Donetsk and Luhansk regions to the Advisory Council. The number of dissatisfied people is much higher, but some have not dared to voice their position publicly. Some opinion leaders, experts and politicians insist that an act of capitulation has been signed in Minsk.

Against the backdrop of this scandal, another one, directly related to the first, broke out. On 12 March, Serhii Syvokho, advisor to the Secretary of the National Security and Defence Council (NSDC) organised a presentation of the National Platform for Reconciliation and Unity in Donbas where he implied that the conflict in Ukraine is “internal”. However, the event was thwarted by anti-terrorist operation veterans who demanded that Syvokho clearly explain with whom exactly Ukraine should restore peace in Donbas and who exactly staged armed aggression against Ukraine. Not receiving an answer, the activists removed Syvokho from the hall. Syvokho later stated that he “shared the same direction” as Andriy Yermak.

However, these actions were not appreciated by pro-Ukrainian forces, so the officials on Bankova Street should have reacted. First of all, they tried to calm the Servant of the People deputies. Andriy Yermak met with dissatisfied lawmakers to explain his actions. According to insiders, this meeting was highly emotional, although

Yermak tried to convince those present that Ukraine would not cross the “red line” and that no one would negotiate with the militants. At the same time, critics asked a reasonable question: why, then, did the government sign the document at all?

This story continued – one of the disgruntled Servant of the People deputies, Heo Leros, gave an interview in which he criticized Yermak’s and Syvokho’s actions with regard to Donbas. After that, the President of Ukraine dismissed Leros from the position of his advisor. On the 30th of March Syvokho was dismissed from the position of the advisor to the NSDC.

Meanwhile, the authorities continue to insist that the document signed in Minsk does not contradict the interests of our country. Foreign Minister Dmytro Kuleba therefore gave assurances that members of the



One of the disgruntled Servant of the People deputies, Heo Leros, gave an interview in which he criticized Yermak’s and Syvokho’s actions with regard to Donbas. After that, the President of Ukraine dismissed Leros from the position of his advisor.

Advisory Council are “not representatives of the authorities, but representatives of the society of the part of Ukraine we belong to. They will be able to talk with the members of society, not with fighters, with those people who live in the occupied territories.”



Despite some criticisms, the authorities have, however, achieved some positive results: although borders have closed globally, the government successfully evacuated tens of thousands of Ukrainians from many countries. The authorities did this by arranging special flights, additional trains, and the Foreign Ministry promptly contacted the governments of countries where our compatriots were stuck at the borders.

Fights and new challenges

In the meantime, due to the problem of spread of the coronavirus in Ukraine and the introduction of quarantine measures, the issue of signing the Agreement of the Advisory Council in Minsk has been put on the wayside. But the reasons for the scandal are still there.

Nevertheless, Ukrainians should remain calm despite the COVID-19 pandemic, the onset of a new global financial crisis, governmental changes in our country, and difficult negotiations over Donbas. At the same time, civil society should influence the government and demonstrate its firmness in defending the national interests.

In the future, unity and harmony will be required even more, as our country has a few internal resources to escape from the economic recession, and we cannot count on external ones in the current conditions.

ASSESSING EU'S TRANSFORMATIVE POWER IN UKRAINE: SIX YEARS OF ANTI-CORRUPTION CONDITIONALITY

ANTI-CORRUPTION

CHRISTINA PARANDII IS THE CLARA MARINA O'DONNELL FELLOW AT THE CENTRE FOR EUROPEAN REFORM, BASED IN LONDON. HER AREAS OF EXPERTISE COVER EU FOREIGN POLICY (WITH AN EMPHASIS ON THE EASTERN PARTNERSHIP COUNTRIES), TRANSATLANTIC RELATIONS AND DEMOCRACY PROMOTION.



Turbulent developments following the Euromaidan Revolution have made the EU an influential reform actor in Ukraine. All the biggest breakthroughs happening over the past six years in a priority reform area, the fight against corruption, were subject to the EU's conditionality. This includes the establishment of the new anti-corruption institutional framework, the overhaul of the public procurement system, increased transparency of government databases, and the launch of the electronic system of asset declaration for public officials. But Ukraine's progress in implementation of these and other reforms stipulated by the EU's programmes has been uneven. **So why did some of the anti-corruption initiatives stall, yet others succeed? What lessons can be learnt from the EU's conditionality policy?**

To start with, the EU's role in promoting anti-corruption reforms is particularly interesting given that its agenda for Ukraine does not mirror the EU's internal policy templates, as the EU institutions do not have legal competence to regulate this domain in member states.



Oligarchic influences, ineffective functioning of the judicial system, a lack of corruption-related convictions, and excessively broad powers of law enforcement structures in investigating economic crimes are still worrisome, despite the renewal of political leadership in 2019.

Policy prescriptions, outlined in the State Building Contract, Visa Liberalisation Action Plan (VLAP), and Macro-financial assistance (MFA) programmes, were all tailored to Ukraine's specific situation, based on the recommendations of other international organisations (the Council of Europe, GRECO, OECD, SIGMA, UNCTAD) and initiatives of Ukrainian civil society. And although the EU is often criticised for excessive bureaucracy, its involvement in the reform promotion in Ukraine has been strategically flexible.

First, the EU started with generally framed requirements in the €355 million State Building Contract, its first stabilisation programme for Ukraine, and later elaborated those anti-corruption conditions in VLAP reviews and in its programmes of low-interest loans (MFA III and IV), jointly amounting to €2.8 billion.



This consistency of priorities across different programmes enabled the EU, in cooperation with other reform players, to maintain leverage on the process. As a result, the new anti-corruption bodies (the National Anti-Corruption Bureau, Specialised Anti-Corruption Prosecutor's Office, National Agency of Corruption Prevention, Asset Recovery and Management Agency, and the High Anti-Corruption Court) were not simply created on paper, but have also received adequate rules and tools for their effective functioning despite the resistance of domestic vested interests.

Second, the EU levered very successful coordination both within its own different structures (the External Action Service and the Commission's various Directorates-General) and with external partners (Ukrainian government and civil society, international financial institutions and donors, other states). As the establishment of the High Anti-Corruption Court demonstrates, the EU's conditionality has been most effective when aligned with other important international players, such as the International Monetary Fund and G7 countries. To achieve synergy in various EU policies towards Kyiv, a special division within the Commission – the Support Group for Ukraine – was established in April 2014 and remains the only country-specific EU task force for the Eastern region.

Third, apart from corruption investigations and prosecutions, the EU has also been supporting initiatives to reduce the space for corruption in broader governance areas: public administration, public finance management, the energy sector, banking system, healthcare, and the privatisation of state-owned enterprises – just to name a few. Moreover, specific anti-corruption priorities have been incorporated in the broader EU-Ukraine Association Agenda for annual Association Council meetings, which made it a notable point for discussion on the level of the EU and Ukraine's political leadership.

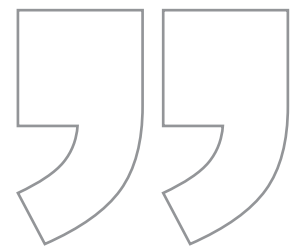
Fourth, the EU's political anti-corruption conditionalities have been backed by relevant technical assistance, such as the EU Anti-corruption Initiative (EUACI). This programme supports the operational and policy-making capacities of the new anti-graft institutions, the parliamentary Anti-corruption Committee, as well as the activities of local and regional civil society and media organisations covering this area.

Finally, the EU has been empowering Ukrainian domestic reform actors, in particular NGOs and activists, involved in designing reform roadmaps and monitoring the implementation of Western conditionalities. The EU has also provided political support to Ukraine's civil society when dubious legislation on discriminatory asset declaration for civic activists was introduced in 2017. Consequently, these anti-constitutional provisions were eventually abolished in June 2019.

But despite these tactical successes on the EU's end, it is still too early for complacency. Although Ukraine has made a lot of progress in fighting corruption since 2013, moving 18 positions up from 144th place on Transparency International's Corruption Perception Index, it is still very far from being a corruption-free state. Kyiv has been much more effective in adopting required legislation than in comprehensively implementing it. Even those reforms that have already been undertaken should be continuously monitored to avoid rollback. Oligarchic influences, ineffective functioning of the judicial sys-

tem, a lack of corruption-related convictions, and excessively broad powers of law enforcement structures in investigating economic crimes are still worrisome, despite the renewal of political leadership in 2019. The EU should keep those issues on its radar and find a way to incorporate some of these pressing problems into its broader political agenda.

This is particularly challenging, given that the EU lost its most powerful reform leverage in 2017, when the visa-free regime came into force, while its financial instrument of influence is about to expire soon, when the last MFA tranche, worth €500 million, will be disbursed. Moreover, the key obstacle to reforms – opposition from 'veto players' in political and economic circles – has not evaporated. The dispute over nationalising PrivatBank is just the tip



of the iceberg. Hence, the EU will need to update its reform promotion toolbox, drawing on its own lessons learned from the past engagements.



As the establishment of the High Anti-Corruption Court demonstrates, the EU's conditionality has been most effective when aligned with other important international players, such as the International Monetary Fund and G7 countries.

Although Ukraine's domestic resistance to corruption investigation and prosecution has been very strong over the past six years, reforms that enhance transparency through opening up governmental registries and digitalising public services made their way much easier. The EU should continue to support these initiatives with technical expertise and assist independent media and NGOs with capacity-building to investigate this data in order to hold the government to account. This would enhance good governance and incrementally narrow down the space where vested interests can have an upper hand.

In what concerns the 'political', harder-to-pursue, aspects of the anti-corruption reform, the EU should maintain Ukraine's track record in this domain as a necessary precondition for an ever-closer partnership. This requires the EU to invest its political capital into establishing strategic relations with Ukraine's new leadership and to embed anti-corruption goals in the long-term cooperation programs, whether they would concern initiatives on bilateral sectoral integration, new offers under the revised Eastern Partnership Policy or additional funding from the EU's beefed-up external action budget, which is currently being negotiated as part of 2021-2027 Multi-Annual Financial Framework.

In December 2019, the EU issued its regular Association Implementation Report on Ukraine, where references to corruption-related problems were missing for the first time. It may be seen as a welcoming signal from Brussels to the new authorities, but the EU should continue to rigidly monitor the situation on the ground. So far, due to its carefully calibrated approach, the EU managed to find the right balance between putting a firm pressure on the authorities to carry out structural reforms and supporting Ukraine's stability in the light of Russia's military aggression. But the EU needs to preserve its crucial reform role in the country even after all the existing conditionality programmes are fulfilled, and to do so, it should nurture its positive image in the eyes of Ukrainian public by showcasing the benefits of integration with the EU to people across the country.

E-VOTING IN UKRAINE: ADVANCEMENTS, CHALLENGES AND PERSPECTIVES

DIGITAL

Introduction

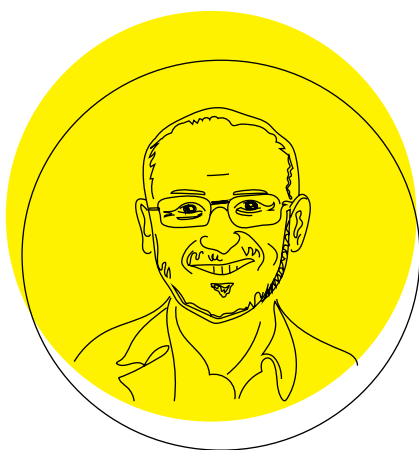
Did you know that popular e-voting has been practised in Ukraine at least since 2015?

It has been indeed – for various purposes and at different levels of governance. While electronic voting can be either offline via electronic voting devices or online via the Internet (i-voting), in Ukraine the former has been used by elected officials and the latter by the public.

In a broader sense, e-voting has been utilised for choosing policies. At the local level, it has been applied for selecting participatory budgeting community development projects – initiatives for improving a community put forward, deliberated, and decided upon by its residents, which local authorities are bound to implement. According to a recent 2019 study by independent researchers Dmytro

Khutkyy and Kristina Avramchenko, in the first cycle (from 2015) already as many as 123 communities (over 91 percent of all surveyed) have introduced either mixed electronic-paper or exclusively electronic voting for choosing development projects. At the national level, e-voting has been carried out for choosing priorities for open government reforms. As the Secretariat of the Cabinet of Ministers of Ukraine reported, from 2016 the general public has been voting online for Open Government Partnership initiative undertakings. Despite being non-binding, the results of these popular votes de facto shaped the list of commitments later adopted and implemented by the executive government.

In a narrower sense, e-voting was employed for electing representatives – that is, for e-elections. Similarly, Ukrainian citizens have engaged in e-elections of both community and country-wide scope. At the municipal level, since 2018 Kyiv City Council has ruled that Kyivians elect civil society organisations for the participatory budgeting commission electronically.



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At the state level, according to respective official announcements, since 2015 citizens of Ukraine have been e-electing representatives for public councils at the National Anti-Corruption Bureau of Ukraine and some other agencies. All these e-elections were binding.

However, in Ukraine e-voting has not yet been applied for electing either members of local councils or members of the national parliament.

Visions and designs

Nevertheless, the newly elected politicians anticipate the upcoming online elections in Ukraine. In particular, such ambitious plans were voiced by Mykhailo Fedorov – the Vice Prime Minister and Minister of Digital Transformation. In a 2019 interview with the Liga outlet, he announced that online voting would be piloted at the next local elections and full-scale online voting at the next presidential elections. This innovation is positioned as part of a larger “state in smartphone” concept.

Concerns and solutions

Despite the high-spirited visions by optimistic advocates of digitising the voting process, its sceptics have voiced a number of critical remarks. However, each major critique can be addressed by a respective rejoinder.

First, ensuring a widespread and trustworthy mechanism for verifying the identities of voters participating in online elections is a significant challenge. The precise number of certified digital signatures in Ukraine is unknown, but it should exceed 1 million, the number of public officials obliged to submit e-asset declarations. In addition to certified digital signatures, there

are qualified digital signatures on microchipped national ID-cards. Yet few Ukrainian citizens possess them. As the State Migrations Service of Ukraine has reported, by the end of January 2020 it had issued over 4.3 million of national ID-cards. This constitutes slightly over 12 percent of the 35.5 million eligible voters in Ukraine, according to data of the Central Election Committee of Ukraine. Besides, as the survey by Factum Group Ukraine demonstrated, in late 2019 as many as 71 percent of residents of Ukraine aged 15 years and older used the Internet. This constitutes the identification reliability versus inclusiveness dilemma. It can be resolved by allowing multiple alternative identification channels: via digital signature on a national ID-card, a digital signature issued by a state agency or a bank, or through offline identification at an administrative service centre and subsequent online voting there.

Apparently, critics contend that e-voting raises cybersecurity concerns. Ukraine’s government has been that target of multiple cyberattacks from Russia. For instance, as reported by Radio Sloboda, during the 2014 presidential elections the Central Election Committee web-site suffered from DDoS-attacks, was hacked, and its web-site displayed incorrect election outcomes. To counter this, Ukraine can adopt Estonia’s approach to preventing cyberthreats, such as a highly-secure ID-card. E-voting can also be tested on smaller scale, such as in by-elections to local councils or primaries for parliamentary and presidential elections, while digitalisation can start from a lower stakes, less controversial, and more approachable stage such as, for instance, during vote counting.

Furthermore, there is the dilemma of ensuring a direct and secret ballot and striving to conduct a remote i-voting. There are risks of buying votes and pressurising voters. While this also occurs

during analogue elections, the absence of supervision in remote voting amplifies these risks. While with remote e-voting the state cannot guarantee the right for a direct and secret ballot, it can mitigate the risks by granting a voter the possibility of unlimited changes of a ballot until the end of election day and by introducing the backup option of offline voting after the online one. This would require a profound legal, financial, and technical action.



While with remote e-voting the state cannot guarantee the right for a direct and secret ballot, it can mitigate the risks by granting a voter the possibility of unlimited changes of a ballot until the end of election day and by introducing the backup option of offline voting after the online one.

Moreover, according to a Razumkov Centre 2019 survey, there is a strong distrust towards many political institutions in Ukraine. To ensure the legitimacy of e-voting, persuading the public that the e-elections were performed properly is essential. Yet the call for enhanced transparency contradicts the legal requirement of securing the confidentiality of a secret ballot. One possible solution is to publish an open code of e-voting software. However, this does not prevent individual abuse. Another possible, though elaborate, solution is developing an e-voting system using blockchain technology. Its advantages include the cryptographic protection of information distributed among a network of peers. In Ukraine, there was an unfinished experiment of applying blockchain technology for e-voting within the E-Vox project. Furthermore, it is possible to apply the Prêt à Voter technology, which enables an automatic instant calculation of election results while allowing any voter to check an individual vote while also protecting the secrecy of his or her vote. In 2017, this high-tech solution was tested by the NGO “Electronic Democracy” for e-elections at a university. Both blockchain and the Prêt à Voter technologies ensure that no single party is able to control, delete, or modify all data and thereby distort voting results.

Advantages and perspectives

Even if it is technically possible to expand e-voting to e-elections for public offices, why embark on such an undertaking?

A wider application of e-voting, including e-elections, assumes several practical benefits. The commonly posited arguments are

saving constituents’ time (due to voting remotely instead of going to a ballot station in person) and saving public funds (due to reducing paper-related expenses). It is worth noting that while exclusively digital voting would result in lower public expenditure, operating a dual system of digital voting alongside analogue, in-person voting will actually increase public expenses and election committees’ workload.

Despite these concerns, given its convenience, e-voting is important as a potential inclusion enabler. Specifically, this might benefit Ukrainian citizens travelling and working abroad. Although, given the Estonian experience, as analysed by e-voting scholars Kristjan Vassil, Mihkel Solvak, Priit Vinkel, Alexander Trechsel, and Michael Alvarez, such inclusion effects will necessarily require time. The Estonian experience shows that this might require several election cycles.

E-voting may potentially have a positive influence on political processes. By providing instant and reliable results, and by publishing open code, e-voting may possibly increase electoral transparency. The publication of voting results by each ballot station online, combined with enhanced cyber-security, may reduce the risk of voter abuse. Considered together, this can strengthen electoral legitimacy and increase public trust towards elections.

Beyond using e-voting for electing public officials, the technology can be applied for routine policy making. Thus, (non-)binding e-voting for local and national policies, e-referenda, and liquid democracy designs (optional delegating or casting a vote) can increase the quality of good governance and make it more democratic.

In the eurointegration dimension, the introduction of e-elections of public officials should contribute to further EU-Ukraine integration. In particular, the EU-Ukraine Association Agenda contains the short-term priority of the improvement and harmonisation of all electoral legislation. Therefore, more transparent elections should enhance this strand.



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ANNOTATIONS

The views and opinions expressed are those of the author and do not necessarily represent the views and opinions of the European University Institute (EUI) or the School of Transnational Governance.



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COMPANY IN APRIL 2018 AND
SINCE THEN THE COMPANY'S
RES ASSETS HAVE INCREASED
5 TIMES, AND TODAY IT
OPERATES 4 WIND AND 3
SOLAR POWER PLANTS, WITH
A TOTAL CAPACITY OF 1GW.
PREVIOUSLY PHILIPP HAD
OVER 30 YEARS' EXPERIENCE
IN MULTIPLE SENIOR
MANAGEMENT POSITIONS
WITH ABB, ALSTOM POWER,
FERROSTAAL, AND MVV
ENERGIE'S GROUP. HE WAS
RESPONSIBLE FOR PROJECT
DEVELOPMENT, ENGINEERING,
AND THE OPERATION OF
MULTIPLE FOSSIL FUEL
PLANTS AND RENEWABLE
ENERGY PROJECTS.

GREEN ENERGY - INVESTMENT OPPORTUNITIES

**UKRAINE IS THE
FUTURE LEADER
OF DECARBONI-
SATION**
**UKRAINE IS THE
FUTURE LEADER**

**OF DECARBONI-
SATION**
IN EUROPE

I have been working in the energy industry for almost my entire professional career. I had the opportunity to work in almost all major regions of the world and, from the beginning, I was excited to get the opportunity to come over and work in Ukraine.

When I was approached for the first time to join the management team and to support them in the development of the renewable business, I obviously had analysed the country and the opportunities lying ahead for the company. It became clear very fast that this was a unique chance, because I could not only contribute to the company development, but also to the implementation of the country's new energy policy, which I totally support.

The Energy Strategy of Ukraine clearly puts the transition to renewables as one of the highest priorities, and it is a good sign that all major actors in this field support this strategy, whereas our company, as a major traditional player in the market, clearly assumed the position of role model. That convinced me to join the company.

Ukraine has formidable potential when it comes to renewable energy production – equivalent to roughly 70 million tons of oil per year – and it is already one of the fastest growing renewable energy markets in Europe. The country rose by 55 positions and placed 8th in the attractiveness rating of emerging markets in terms of investment in renewable energy, according to the Climatescope 2019 annual report, prepared by Bloomberg New Energy Finance research agency.

The Ukrainian government established the first law for the promotion of renewable energy sources back in 2009. The incentives that the government provided with the new law seemed to be rather high when you look at the level of tariffs. Nevertheless, it took 10 years following the passing of the law for Ukraine to achieve an installed capacity of 2.1 GW, which it did at the end of 2018.

So, in the first phase it's clear that there was a very cautious approach by the investment community inside and outside of the country to start to invest in the renewable energy sector. It took a lot of time until a large number of market actors developed the necessary confidence to start investing in the renewable energy in the country.

The confidence finally clearly rooted into the market by the end of 2017 and this very much contributed to the huge

boom of investments that happened last year, whereby the RES capacities were doubled. The addition was 4 GW and today we have more than 6 GW of intermittent renewable solar and wind capacity in the market.

Already in early 2018, the government realized that the renewable energy law had finally proven its effectiveness in attracting investments into the sector. The government also realised that they had to start transitioning to a competitive scheme like those which already have existed for several years in other European countries. The government has initiated a revision of the law and the auction scheme comes into force in 2020. The government has made the necessary provisions to establish a mature market system whereby a market-based mechanism will determine the price of energy. Now is the time when the government, together with the market and investment community, must reach an agreement as to how the transition from the guaranteed feed-in tariff driven system to the auction system will be managed.

The key task is to decide on a workable solution that suits all key stakeholders and provides a stable framework for the projects that have already finished their development or are even already under construction under the old framework. Investors require security for this transition period in order to complete projects started under the initially guaranteed framework.

We are proud about our achievement to build almost 800 megawatts of new RES capacities within just 18 months.

This would not have been possible without an extremely strong management and the execution team, which mainly drew its resources out from the existing DTEK organization. We had the big advantage to build on our internal expertise, which very quickly developed from project to project.

The Nikopolska Solar Power plant 200AC/240DC was built in 2018 under an EPC contract (Engineering, Procurement, Construction) where the contractor carries out the detailed engineering design of the project, procures all necessary equipment and materials, and delivers a functioning facility or asset to the clients.

The Pokrovska Solar Power plant 240AC/ 323DC was commissioned in 2019 and DTEK Renewables took over the role of EPC contractor itself, as no international EPC contractor was ready to deliver the project within the tight schedule requested. The project was executed well ahead of schedule and with substantial budget savings. This is proof of the high skillset of the people and their motivation to acquire new knowledge in a short period of time.

International commercial banks, together with export-credit agencies, financed a large part of our projects, and the other part was derived from the successful placement of the first Ukrainian green bonds. This placement is a remarkable achievement, the first of its kind for Ukraine, a B credit listed country, as well as for Eastern Europe and the rest of the world. It shows that the international investment community is ready to invest in renewable energy in Ukraine but also believe us to be a company which can realise such projects at the required quality standards and in the shortest time possible.

We have a long-term co-operation with our partners and together we have developed the expertise to execute such projects with our local well-educated workforce, as well as an experienced project management for such large and complex projects. We can rely today on very strong and very experienced local contractors.

We have also developed a network of highly reputable equipment suppliers like Vestas and GE for wind turbine equipment, ABB and Siemens for electric equipment, and Chinese suppliers for the main components of solar plants like Trina, Seraphim, Risen and K-Star.

Ukraine offers every opportunity for RES development – favourable wind and solar resources, the availability of large and easily accessible land plots, and comparatively low site development costs. The country strives to be a decarbonisation leader in Eastern Europe and one of the major players in the European Green Deal.

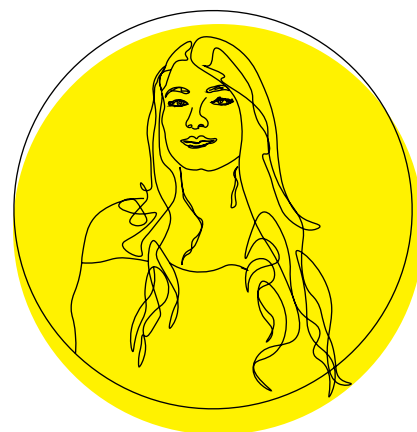


Greening the Planet

Global initiative

November 9-15, 2020, the international action
of tree-planting as a part of a **Greening of Planet**
global initiative in 100 countries

THE FERTILE SOIL OF UKRAINE: NURTURING INNOVATION



ANNA GUBANOVA
- **FINANCIAL**
MANAGEMENT,
VLERICK
BUSINESS
SCHOOL,
BRUSSELS.

INNOVATION FORMS AND REFLECTS

The flag of Ukraine is blue and yellow, representing the most common view of the countryside – yellow wheat and blue sky. That does not come as a surprise, since, according to a famous Ukrainian economist Lidia Hryniv, 56.6 percent of all land in Ukraine is used as arable land. In addition, Ukraine possesses a quarter of the world's chernozem, one of the soils with the highest natural fertility. However, it is not only wheat and grain that results from the fertile ground of the country. Innovation flourishes in the favourable environment of accelerating economic growth and the modernisation-friendly political climate in Ukraine. According to IT Association, the size of IT services export brought \$5 bil-

lion USD in the country in 2019 and the amount is expected to reach \$8.4 billion in 2025. Since 2013, Ukraine's IT sector has grown fiftyfold – from 0.06 percent of GDP to 3.3 percent. The contribution of the industry to the country's GDP will increase accordingly from 3.34 percent to 4.65 percent. **So how is Ukraine making waves in the tech entrepreneurship world?**

To grow the economy, the nature of government spending should accommodate the trends in free market supply and demand. **What products and services will be most in demand in the nearest future? What industry will drive economic growth, or, to be frank, which companies will inject the most money into the economy?**

The answer is simple. To choose where to allocate government resources, developing countries have the luxury of following the footsteps of developed economies. Looking at the rank of Western enterprises by market capitalisation, tech companies lead the rankings as the biggest companies globally. According to the Financial Times, Apple alone is the size of the 30 biggest German companies combined. No wonder that the economy of California, where the headquarters of FAANG tech giants (Facebook, Apple, Amazon, Netflix, Google) are located, is the 5th largest economy in the world, surpassing the UK, according to Tech Times. The obvious reason for this, as outlined by the UCLA Anderson Review, is “California’s tech sector, which bolsters GDP faster than other industries, has been growing faster than the state’s other major industries.”

Startus Magazine states that in 2018, nearly \$290 million was invested in Ukrainian start-ups. It is obvious that there is a demand for innovation, so there should be a supply. Government, in turn plays a crucial role by creating a comfortable economic, legal, and political environment to accelerate the supply of the services provided by the tech industry. Only in the first two and a half months of existence, the new parliament has adopted over 80 laws mostly aimed at improving the investment climate in the country. The government of Ukraine has been working on ensuring a fruitful environment for entrepreneurship by passing reforms in the areas of finance, judiciary, education, anti-corruption, and fiscal and currency laws, moving Ukraine to 71st ranking in WB 2019’s Ease of Doing Business ranking, an improvement of 81 places since 2012. As a part of the proactive fostering of foreign investment and exposure of the country, especially the Eastern regions, on the investors’ map, Ukraine held



Some of the most famous existing unicorn start-ups founded in Ukraine include: Grammarly, the grammar-checking app; Petcube, a well-known software for pets; Ring, tech security system; and Readdle, a famous file-converter applications chain.

a RE: Think Investment forum under the initiative President of Ukraine in Mariupol, Donetsk Region, in October 2019. In addition, in January 2020 the government launched the National Digital Literacy Program in order to combat digital inequality in Ukraine. The efforts of the government placed Ukraine in the top position on the EMEA list for potential investment by the Institutional Investment survey in 2019.

Overall, 2019 was marked by Ukraine making noise in the world tech ecosystem. One of the most resonating events of the past year happened in December, when the government set up the Ukrainian Start-up Fund (USF), with \$17 million pledged to support local entrepreneurs, defining the pattern of start-up culture development in Ukraine in 2020. On 25 January 2020 the USF held its first selection of start-ups that competed for grants that took place in Kyiv’s UNIT.City, the first Ukrainian innovation park. Out of 900 applications submitted, 12 start-ups were chosen as finalists. Some of the most famous existing unicorn start-ups founded in Ukraine include: Grammarly, the grammar-checking app; Petcube, a well-known software for pets; Ring, tech security system; and Readdle, a famous file-converter applications chain.

Apart from the Ukrainian born and raised tech companies, more and more foreign enterprises choose Ukraine as its fertile ground. According to Forbes, Ukraine's IT specialists took part in developing Ford's in-car infotainment systems, Reuters' award-winning photography app, Nokia's customer retail experience, and Deutsche Bank's Risk Management System. Ukraine's thriving tech industry attracts a variety of global companies to run their Research and Development centers in the country, reaching the count of over 110 centres. According to Outsourcing Journal, Ukraine is ranked the first outsourcing market in Eastern Europe. Some of the most famous companies to run their R&D in Ukraine are Apple, Samsung Electronics, Microsoft, Magento, NetCracker, IBM, Aricent, Siemens, Skype, Oracle, and War Gaming. In January 2020, the tech journal AIN.ua announced that Google, the U.S. tech giant, is launching its R&D center in Kyiv. According to UkraineInvest, Japanese Rakuten, an e-commerce and online retailing company that owns Viber, a messenger application, is planning to open an R&D centre in Kyiv and will expand its office in Odesa. The reason behind such Ukraine's popularity as a hub for innovation is its cheap and highly qualified labour. A report produced by Ukraine Digital News states that 402 Ukrainian higher educational institutions produce more than 35,000 tech specialists, over 80 percent of whom speak English. The range of hourly rate for Ukrainian software developers is \$25-\$50, which creates a perfect price-quality ratio of the IT services provided by the country.

According to UNCTAD, Ukraine is ranked among the top 20 investment-friendly countries for foreign countries, and, as the report by PwC states, Ukraine is among top 25 IT service exporters. As the tech industry has developed, Ukrainian firms have worked for multiple companies with a range of experiences. Ukraine is growing to become a leading IT industry player and main outsourcing destination globally because of its flourishing tech ecosystem, as well as cheap, highly-qualified and English-speaking labour. Ukrainian IT specialists are among the most in-demand globally due to their profound expertise, especially in up-and-coming specializations such as big data, artificial intelligence, blockchain, etc. Therefore, there is no surprise that a number of globally renowned tech giants are outsourcing to Ukrainian fertile ground in search of high-quality IT services. Maybe your company can be the next to benefit from Ukraine's nurturing innovation environment and outstanding talent.



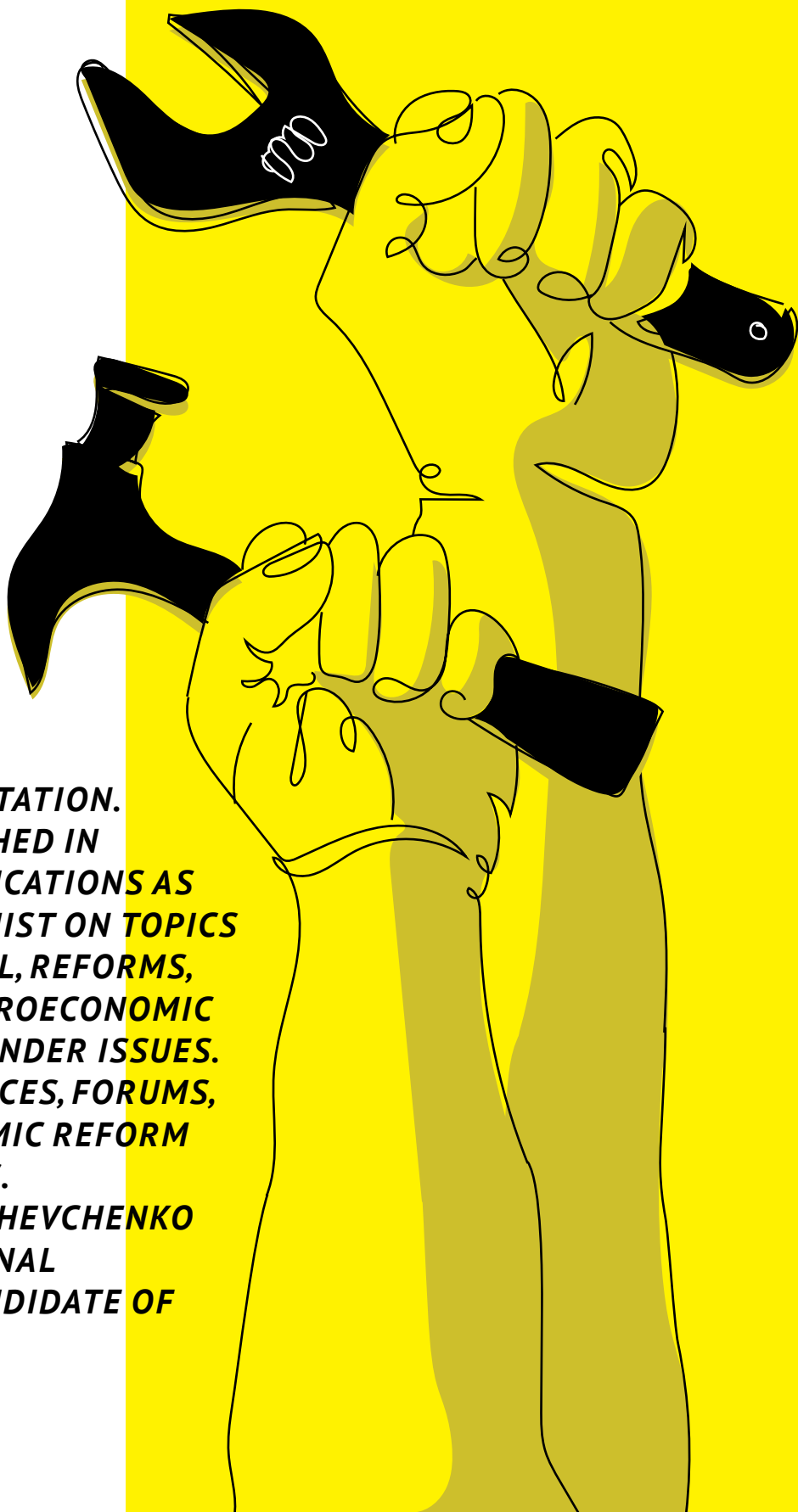
According to Forbes, Ukraine's IT specialists took part in developing Ford's in-car infotainment systems, Reuters' award-winning photography app, Nokia's customer retail experience, and Deutsche Bank's Risk Management System.



THE RULES ON THE LABOUR MARKET. WHAT ARE THE CHANCES FOR UPDATES?



INNA KRUPNIK IS A MARKETER AND ADVERTISING SPECIALIST. SHE HAS WORKED IN LARGE COMPANIES FOR MORE THAN 15 YEARS AND HAS A HIGH PROFESSIONAL REPUTATION. SHE IS REGULARLY PUBLISHED IN LEADING UKRAINIAN PUBLICATIONS AS A COLUMNIST AND COLUMNIST ON TOPICS SUCH AS NATIONAL REVIVAL, REFORMS, CULTURAL PROCESSES, MICROECONOMIC PROCESSES IN UKRAINE, GENDER ISSUES. PARTICIPANT IN CONFERENCES, FORUMS, AND SEMINARS ON ECONOMIC REFORM AND POLITICAL PROCESSES. GRADUATED FROM TARAS SHEVCHENKO INSTITUTE OF INTERNATIONAL RELATIONS (NOW KNU), CANDIDATE OF SCIENCES (ECONOMICS).



Despite the long history of Ukrainian parliamentarism and law-making (let us recall at least the Constitution of Pylyp Orlyk), one cannot call our legislative system an exemplary one. Yet it has not been a complete failure either. Since 1991, over the years of independence we have managed to modernise a lot, including in the areas of adoption of laws and specialized codes. Material (Civil, Criminal, Economic, Electoral) codes and procedural codes are the most concrete and effective, according to most lawyers and experts. The Code of Administrative Offences (1984) and the Code of Labour Laws (Labour Code, 1971) are full of strict Soviet archaism and do not represent existing rules and regulations, but they are a summary of not entirely systematic amendments. The latter no longer withstands its 95 previous editions, and therefore, a moment has come for a full systematic update of labour legislation with the consent of all political forces and in accordance with the conditions and rules of a market economy, rather than a planned economy.

At the end of the last year, the Honcharuk's Government introduced a draft Labour Law No. 2708, which was to replace not only the Labour Code, but also the Laws "on Leave", "on Remuneration" and other legislation. At the same time the parliamentarism would not be parliamentarism at all, and Ukrainian parliamentarism in particular, if no alternative proposals were submitted along with the government draft No. 2708: the draft Labour Code by Yulia Tymoshenko, the draft by Natalia Korolevska, and another formally alternative draft law by Korolevska.

Given the sensitivity of the changes, the varied assessments among political forces, and the fact that the Government did not involve any experts, including the

Ukrainian trade unions, while preparing the draft, we have another conflict draft law in Rada on a par with land reform. Of course, from the prospective of labour legislative changes, the degree of tension here is less than in the case of the land reform, but we still have several levels of conflict.

The first level relates to social and labour relations, namely between the state, employers, and employees. The unions actively oppose the government's version but at the same time only



A government document is not currently intended to be a regulator of employment relationships as a whole. Furthermore, it does not regulate the above-mentioned activity of trade unions, nor does not contain provisions on the functioning of the system of compulsory state social insurance, provisions on strikes and lockouts, on certain issues of the activity of trade unions.

give general remarks about the narrowing of the workers' rights in a new draft or violation of the rights of vulnerable groups (pregnant women, veterans, etc.). It is not surprising, since the draft Labour Law does not stipulate any regulations governing the activity of trade unions, the principles of which have not changed much since the Soviet era. Instead, the government, through the former Minister of Economic Development, Trade and Agriculture, Tymofii Mylovanov, proposed to regulate trade unions' activities with a new separate law and updated rules that would allow the unions to update themselves. According to Mylovanov, the real driver of the union protest is the desire to retain the property inherited from the USSR (such as health resorts and recreation facilities), the system of membership fees, and corrupt schemes in the distribution of vouchers, rather than a real desire to protect ordinary workers. To understand the volume of the trade unions' desire, let's recall the number of union members in Ukraine. There are about 9.7 million union members, who all up make pay \$10 million in annual contributions, excluding offices and resorts real estate. Quite a heavy baggage, isn't it?

The next level of conflict between the old and the new relates to the adequate replacement of the entire Labour Code. A government document is not currently intended to be a regulator of employment relationships as a whole. Furthermore, it does not regulate the above-mentioned activity of trade unions, nor does not contain provisions on the functioning of the system of compulsory state social insurance, provisions on strikes and lockouts, on certain issues of the activity of trade unions. This draft is only the first step towards reforming of the labour market, and other laws in respect to the labour market must be adopted as soon as possible.

According to Yulia Drozhzhina (a specialist of the analytics center hh.ua | grc) “the need to modernise labour legislation has been on the agenda for a long time. First, the current Labour Code of Ukraine, adopted in 1971, is outdated and does not meet current conditions. Second, in practice, job searchers are often encounter the lack of transparency and/or bureaucratisation of the mechanisms of protection or updating their social and economic rights and interests. Therefore, the development of effective mechanisms for monitoring compliance with the rules, revising penalties for non-adherence to the rules etc., are urgent. But the promulgated draft of Labour Law, which has been long overdue, unfortunately did not meet all the expectations of the job searchers.”

To better understand the reasons of rejection by society or possible points of confrontation, it's worth reviewing the key innovations of labour legislation represented by draft No. 2078. Most of the disputes regard such issues as employment con-

tracts, dismissals, employment record books, working hours, vacations, and labour disputes.

From now on a contract will be a binding document that will regulate 99 percent of the employer-employee relationship and working conditions. We will have to discontinue the use of the oral form of the employment contract (such as an application for admission and an order for employment); instead, we will conclude a paper or electronic genuine employment contract (with a digital signature). The employment contract can be amended the same way as any other contract. The government also promises to develop templates of the contract and supplementary agreements (Part 1, 4, Art. 25, Part 5, Art. 28 of Draft No. 2708). Seven new contracts will replace three existing ones (term contract, indefinite employ-

ment contract, and fixed-term contract for specific tasks). The new contracts are an indefinite employment contract (permanent position), a term contract (up to a maximum of five years), a short-term contract (up to two months), a seasonal contract (for seasonal work, but not longer than eight consecutive months), a zero hour contract (employee works only when required by their employer), an apprenticeship contract (to combine study and work for up to six months), a domestic worker contract (when hiring people to serve a family or a house: nannies, cleaners, tutors etc.). The maximum term of a fixed-term employment contract is five years. An entire army of recruiters will have to upgrade their skills, acquire new skills of contractual regulation and the ability to stipulate all the terms of an employment contract. An employer will not have the right to expect the employee to perform work not stipulated in the employment contract, nor to change working conditions and payment agreements. The state will regulate labour relations at a minimum. The legislature retains certain minimum statutory guarantees, for instance, the duration of annual leave, the amount of extra pay for overtime or night shifts, working hours and rest time, as well as the terms of notice of termination of an employment contract, the amount of redundancy pay in case of early termination of an employment contract initiated by an employer.

The most controversial provisions are related to dismissal of the employee, including the dismissal at the initiative of the employer (Article 35).



The employer should be able to dismiss the employee at his own initiative. However, 15 days' notice (the minimum notice period to be given by an employer) appears to be insufficient to find a new job.

According to Yulia Drozhzhina, “[the] expansion of the grounds for termination of an employment contract at the initiative of the employer” has been widely criticized. “In particular, the latter will obtain the right at their own initiative to terminate the employment contract with the employee, giving 15 to 90 days’ notice (depending on the total employment time of the employee for that employer) or by paying an indemnity in the amount specified by the employment contract, but not less than the average daily wage of the employee for each working day of



It turns out that the employee has to apply to court to claim the indemnity payment when resigning at his own initiative, and this possibility is perceived extremely negatively in our society.

the reduced notice period. On the one hand, the employer should be able to dismiss the employee at his own initiative. However, 15 days’ notice (the minimum notice period to be given by an employer) appears to be insufficient to find a new job. Furthermore, as per the last year’s study by hh.ua | grc, only 57 percent of respondents claim that all the payments they receive are official. Others receive a salary, either partially or fully, “in an envelope”. And that means

that the redundancy pay provided by the Labour Law will be paid on the basis of the official part of the payments and therefore will be reduced.”

In their own defence, the authors of the government draft Labour Law argue that an employer’s right to dismiss an employee whenever it wants is mirrored by the right of the employee to resign at any time. From citizens’ point of view, such a provision is not the same because an employee must give two weeks’ notice to the employer, while the employer has the right to dismiss an employee with a shorter notice or no notice at all. In such a case, an employee must get compensation. Its amount is specified in the employment contract, but it cannot be less than double the average daily wage for each working day of the reduced notice period. Besides, the employer has other grounds for dismissal, such as unsuitability for the job, due to absence including temporary disability, or due to the reinstatement of a former employee as well as breach of a contract more than twice in half a year. At the same time the draft does not specify the number of breaches allowable for the employer, and the period when such breaches can cause the termination of the contract at the employee’s initiative. In addition, it turns out that the employee has to apply to court to claim the indemnity payment when resigning at his own initiative, and this possibility is perceived extremely negatively in our society.

A survey of users of Work.ua, the number one jobseeker site in Ukraine, showed that a majority of Ukrainians are not satisfied with the draft Labour Code of Ukraine. This refers to both employers and job seekers: 79 percent of employers gave a negative response to the question “Are you satisfied with the new Labour Code?”. And more than 90 percent of respondent jobseekers were dissatisfied with it. To find out the details, Work.ua asked respondents the following question: “What exactly does not satisfy you in the new Labour Code?”. Thirty-five percent of surveyed jobseekers replied that they were not happy with the whole document. The main problem with the new Labour Code is the reduced overtime pay (25 percent). Eighteen percent are dissatisfied with the updated rules of dismissal and 14 percent of jobseekers are not happy with regulation of working day length. Among employers, the number of those who completely disagree with the innovations prevails – 39 percent of respondents. Twenty-two percent are dissatisfied with the reduced overtime pay and the dismissal process. Thus, these numbers are similar to the results of job seekers survey. However, only 8 percent of employers were dissatisfied with the regulation of working day length which is almost two times less than jobseekers.

In order to decide which law is less manipulative and leaves less room for fraud, the authors of the government draft document, namely former Minister Mylovanov, offer to compare the provisions of the draft law and the Labour Code.

Thus, the current Labour Code stipulates such a wide range of dismissal grounds at the employer's request – and any whim of the owner or employer can be easily adjusted to at least one of them (reorganisation was widely misused as a mechanism for massive redundancy without severance pay), with very limited redundancy pay. The new draft, according to Mylovanov, allows employers and employees to be more consistent in their relations and to consider as a reason for dismissal only those which are clearly stated in the employment contract without additional manipulations. Another well-known manipulative strategy of unscrupulous employees was to take long sick leave or vacations, as this legal loophole for protection did not allow (or otherwise made it very difficult for) the employer to get rid of a dishonest employee. Under the draft law, this practice would be changed. At the same time, the government points out that all dismissed or redundant employees will receive severance pay, and nothing will change in this regard. Although trade unions are circulating a different position, and it is entirely in the spirit of the socialist guidelines, that the government allegedly intends to allow employers to dismiss employees whenever they want, albeit with severance pay. In any case, the need to conclude employment contracts, to anticipate the development of events and the whole range of relations with the employer, and to treat this seriously will make our citizens more educated in legal matters, and the labour market will be more transparent and less socially engaged. Consequently, this will allow us to move towards real labour relations, rather than relations aimed at optimising the taxation of civil contracts.

Given the existing contradictions, we are still far from a new unified law, and there are real debates in the parliament ahead and a battle-vote for almost ev-



According to the Ministry of Social Policy, only 12.8 million of the 28.5 million employment-aged and abled Ukrainians work legally, meaning that only these workers' labour rights are guaranteed. The draft law will increase legal employment, create more than 1 million jobs by 2024, and reduce job search time from 3.6 to 2 months.

ery paragraph. However, most of the innovations are positive and up-to-date. Among them are the following. Basic working hours have not been changed – 40 hours per week (and 36 hours for young people aged between 16 and 18). It is convenient that from now on, an employer and an employee can agree on the duration of daily shifts, flexible schedules, and remote work. There may even be a six-day working week. The basic logic is that everyone is contracted with as much employment as they are able to manage, and the overarching goal is that everything be legal. According to the Ministry of Social Policy, only 12.8 million of the 28.5 million employment-aged and abled Ukrainians work legally, meaning that only these workers' labour rights are guaranteed. The draft law will increase legal employment, create more than 1 million jobs by 2024, and reduce job search time from 3.6 to 2 months. The weak point in the full regulation of the labour market may be the reluctance of Ukrainian freelancers themselves to sign legal contracts and pay additional taxes.

The minimum annual paid leave period remains unchanged – 24 calendar days; however, non-paid leave has increased from 15 to 30 calendar days per year. Overtime and work on public holidays, which is currently paid at double the ordinary rate, will only be paid at an increased rate, at least 20 percent above ordinary pay, according to the draft law. The same will be applied to night shifts and weekend work. Employment records will be registered in the State Register of Compulsory State Social Insurance, but not in the employment record books. Pre-litigation regulation of labour disputes will be conducted through a series of recommendations and consultations with the help of so-called mediators in negotiations between the employer and the employee.

A new category of protection and punishment will be introduced for psychological violence, for psychological or economic pressure, harassment, bullying, slander, isolation, humiliation, the creation of unbearable working conditions, deliberate, systematic and unjustified, uneven distribution of tasks between employees, etc. Employees will have the right to appeal to the court in the case of discrimination or violation of their rights.

There are lots of debates in respect of the protection of vulnerable groups' labour rights, including the rights of those with disabilities, pregnant women, mothers, and antiterrorist operation soldiers. Experts agree that rules will be implemented that would protect the special status of these categories without being a heavy financial burden for the employer. While analytics on vulnerable groups is being prepared by the Ministry of Social Policy, it should be recalled that in Ukraine the source of compensation is the employer. It is positive to retain a job, but is it the only possible compromise? Maybe after a long maternity leave, a woman should find a new job (using state employment service resources) so that not to overload a particular employer. A similar situation is with other vulnerable groups (people with disabilities and antiterrorist operation soldiers), for whom the employer retains their workplaces and continues paying a salary to their families, and these matters require compromises. Compromises to provide certain guarantees for employees with children; to consider transferring pregnant women and those with children under the age of three to easier jobs or restricting women's night shifts and overtime work; and to keep the right to a maternity leave (to

unify with the European legislation as for men's involvement in childcare). The current labour law requires employers to allocate at least 4 percent of jobs to people with disabilities. If they fail to do so, the employer must pay a fine to the Social Security Fund for People with Disabilities in the amount of the average annual salary at the enterprise. The new draft law does not cover this issue.

If the role of the state in labour relations is to be completely eliminated, a question remains – how to deal with state-guaranteed payments, such as sick leave? According to the current Labour Code, sickness payments are provided by the social protection system. The draft law, however, does not give clear guidance on the nature of such payments and source of funds.

Active discussions on strikes and lockouts are under way. The old Labour Code stipulates strikes, but in fact they were difficult to implement, and most often we witnessed mass protests under the banners of trade unions in front of the Cabinet of Ministers or the Verkhovna Rada, rather than claiming (and achieving the

goals of the strike) directly to the employer. This issue has not been regulated by law at all, so the Cabinet of Ministers' Expert Group on the drafting of the Law on Labour plans to seek an assistance from the International Labour Organization (ILO) in the near future. In turn, employers are asking to be allowed to use lockouts in response to strikes, as an opportunity to close an enterprise if the strikers' conditions cannot be met. Instruments of communication between the parties to the conflict should be provided, enabling them to settle disputes in a civil manner without causing significant damage to the economy and the enterprise.



A step towards finding compromises and a chance to review the draft Labour Law No. 2708 was its recall by the Cabinet of Ministers on 4 March 2020.

In general, the Honcharuk government had submitted this draft law taking into account all advantages the changes to the old labour legislation would bring to the economy. But its submission, without consulting experts and unions, caused a significant scandal with its regard to innovative provisions for the highly socialised state of Ukraine. Nevertheless, it should be taken into account that Ukraine is a country with a large number of employees working for large enterprises, rather than in small or medium-sized businesses, where the right labour relations were in place regardless of the contract. It is clear that there will be a need to reach compromises on major points such as: overtime work, which will become the norm and will be remunerated five times less than before; abolishing some social guarantees and reducing the status of mothers with young children to facilitate their dismissal; possible transfer of an employee to another workplace without their consent; and the abolition of trade unions. In any case this will facilitate further labour market reform processes.

A step towards finding compromises and a chance to review the draft Labour Law No. 2708 was its recall by the Cabinet of Ministers on 4 March 2020. This is evidenced by the information from the Verkhovna Rada's website: the section on the status of the document shows that the draft was recalled on this date. Despite the wave of disinformation in the media that the draft was recalled as being scandalous, harmful, or at the request of trade unions (the government's main opponent in this matter), the only reason for the draft legislation's withdrawal was compliance with the law. According to the current legislation, all the drafts proposed by the previous government that failed to pass are automatically recalled from the Verkhovna Rada. This is exactly what happened in Ukraine the day before: the government of

Denys Shmyhal replaced the government of Oleksii Honcharuk. The head of the parliamentary Committee on Social Policy and Protection of Veterans' Rights, Halyna Tretiakova, also pointed out on her Facebook page that such media statements were manipulative, having confirmed the law's requirement to recall drafts that were not adopted in the first reading and stated that amendments to labour law are inevitable.

Apart from the draft No. 2708 "On Labour", the draft No. 2571 "On Amendments to Certain Legislative Acts of Ukraine on Certain Issues of the Banking System Functioning" has been recalled (this bill relates to the ban on returning banks to former owners if they got bankrupt).

During its first month of work, the new government has to determine the relevance of the recalled drafts and, if they are still relevant, send them back to the parliament. Perhaps, the recall of a necessary – but not entirely prepared – draft may present the chance to revise it, to avoid inaccuracies and inconsistencies, while coordinating the efforts of all participants of

the process. Thus, the positive efforts of lawmakers to modernise Ukraine's labour legislation remain quite clear. We are convinced that the main changes, which are vital to attracting investments in the Ukrainian economy, are reflected in the draft, including the diversity of employment agreements, e-employment record books, remuneration issues, vacations and leave arrangements, and intentions to overcome shadow employment, among others, will in any case be represented in the new government's draft.

It should be mentioned that the Honcharuk government's draft was considered by trade unions as scandalous and unlawful, as well as restricting the rights of workers. The Federation of Trade Unions of Ukraine, supported by the statements of the International Trade Union Confederation, opposed the adoption of the draft law "On Labour". In January 2020, the Federation of Trade Unions filed a lawsuit with the District Administrative Court of Kyiv on the lawfulness of the provisions of the draft. The court has scheduled a preliminary hearing in the case on 8 April 2020.



*Verkhovna Rada
Committee on
Integration of Ukraine
with the European
Union, in its conclusion
on draft law
No. 2708, stated
that the document
“weakens the level
of labour protection,
narrows the scope
of labour rights and
social guarantees
of employees in
comparison with
the current national
legislation, which
contradicts the
obligation of Ukraine
according to the
Association Agreement,
and is not in conformity
with EU law.”*

At the same time, Verkhovna Rada Committee on Integration of Ukraine with the European Union, in its conclusion on draft law No. 2708, stated that the document “weakens the level of labour protection, narrows the scope of labour rights and social guarantees of employees in comparison with the current national legislation, which contradicts the obligation of Ukraine according to the Association Agreement, and is not in conformity with EU law.” It was the position of the union activists that caused the most noise around the draft. However, experts are convinced that changes to the labour law are inevitable. And they should meet the requirements of the time, rather than certain morally outdated views on “employer-employee” relations. Thus, we will keep you informed about the further developments on the Ukrainian labour market.

UKRAINE VS RUSSIA



KYIV AND MOSCOW: FROM PARTNERSHIP TO COMPETITION

ILYA TARASYUK IS A WELL-KNOWN UKRAINIAN JOURNALIST WHOSE ARTICLES HAVE BEEN PUBLISHED BY LEADING UKRAINIAN BUSINESS PUBLICATIONS FOR THE LAST 15 YEARS. SPECIALIZES IN ECONOMIC AND POLITICAL TOPICS. HE GRADUATED FROM THE KYIV-MOHYLA ACADEMY WITH A DEGREE IN PHILOLOGY.





Meanwhile, even the most optimistic forecasts do not predict a boost to the Russian economy. Over the last eight years of Russian President Vladimir Putin's rule, the local economy has increased a little more than 6 percent. Russian metallurgy and mechanical engineering experience export problems due to sanctions, and Russian energy exporters suffer from great losses because of the abnormally warm winter, the novel coronavirus outbreak, and competition.

Since 2014, the Russian propaganda machine has been spreading misinformation throughout the world about how Ukraine's economy is about to collapse. However, time goes by and Ukraine is not falling apart. Indeed, despite the war, Ukraine is even developing, re-orienting its economy.

Nevertheless, some people believe that the resumption of close ties with Russia will be key to accelerating Ukraine's development – although, in reality, Russia's social model and stagnant economy means the country is increasingly declining in world rankings. In addition, many Ukrainians understand that the story of “brotherhood” and “one nation” is just a tale, and that Ukraine and Russia are competitors in the world market.

Despite the war in Donbas, the dynamics of Ukraine's key socio-economic indicators in recent years have not been worse, but indeed sometimes even better than Russia's.

Ukraine changes its partners

In 2019, Ukraine finally escaped from its economic dependence on Russia. Earlier, Russia accounted for more than a third of Ukraine's foreign commerce, but last year China took first place (according to the State Statistics Committee, in January-November 2019, China accounted for 7.2 percent of Ukrainian exports and 15.1 percent of imports). So far, Russia is ranked second, but Ukraine's economic gap with its northern neighbour is increasing. At the same time, the share of the European Union (EU), which accounted for 41.5 percent of total Ukrainian goods exports and 41.1 percent of imports, is greatly increasing.

Ukraine has much to offer in the world market, and 2019 witnessed a serious increase in agricultural sales (44.3 percent). In general, experts state that Ukrainian agricultural products have improved significantly, and most of them are exported to China, Turkey, Egypt, India, and the EU (35 percent of the total).

The title of world breadbasket is increasingly associated with Ukraine. In 2019, Ukrainian farmers harvested a record crop of 75.2 million tons.

At the same time, our officials address the issue of expanding bilateral cooperation with the EU. Ukraine could supply much more to this market, but EU quotas currently prevent this from happening.

Allocated volumes are sold by our manufacturers in just a month or two. For instance, in mid-February 2020 Ukraine has almost fully used 32 positions out of 42 quotas in the European Union.

According to Taras Kachka, Deputy Minister of Economic Development, Trade and Agriculture, in 2019 the volume of agricultural export to the EU increased by 22 percent, amounting to \$19.2 billion.

Meanwhile, even the most optimistic forecasts do not predict a boost to the Russian economy. Over the last eight years of Russian President Vladimir Putin's rule, the local economy has increased a little more than 6 percent. Russian metallurgy and mechanical engineering experience export problems due to sanctions, and Russian energy exporters suffer from great losses because of the abnormally warm winter, the novel coronavirus outbreak, and competition. Only Russia's agricultural sector managed to improve its position during the year. And in this sphere Ukraine is the main competitor.

The digital future is here

In the last year, Ukraine significantly improved its position in the IT sphere. According to Global Finance, Ukraine was ranked 44th in the list of the 67 most technologically advanced countries, outpacing Russia by two positions.

Meanwhile, Russia continues to exploit the technological accomplishments of the Soviet Union, with a focus on the defence sector. However, Russian-made weapons are not in demand on the global market. Turkey and Indonesia recently refused to buy Russian-made Su-57 and Su-35C fighter jets.

Jump off the energy needle

One of the main challenges of the Ukrainian authorities since 1991 is the implementation of a strategy of energy independence from Russia.

The European experience is encouraging, demonstrating that the economy can develop effectively with minimal gas and oil consumption. However, developing renewable energy is necessary.

The year 2019 has proven that the trend of renewable energy resource development has reached Ukraine. According to the State Agency for Energy Efficiency and Energy Saving, over the past year investors have put around €3.7 billion into the construction of solar, wind, and bioelectric power plants in Ukraine, tripling the capacity of alternative power plants.

To keep Europe on its gas-oil needle, Russia is trying to stem the global trend towards alternative energy resources. In anticipation of the financial losses, even Vladimir Putin has criticized renewable energy at the Second Global Manufacturing and Industrialisation Summit. According to the Russian

President, these directions have a negative impact on nature – “birds die from windmills and worms get out of the ground”. He compared a bet on alternative energy sources with a desire to dress in leather and settle in a cave. Europe laughed at these statements and continued to build capacity.

It must also be mentioned that in recent years Ukraine has started cooperation with the US company Westinghouse, which produces fuel elements for nuclear power plants. In 2018, the Ukrainian state-owned enterprise Energoatom fully loaded the Yuzhnoukrainsk Nuclear Power Station unit with fuel from the United States for the first time. Russia has made every effort to disrupt these agreements by consistently spreading “horror stories” about possible accidents at Ukrainian nuclear power plants, but everything is still working successfully without any accidents.

“Get away from Moscow!”

The Russian authorities are well aware that they depend on the energy market, whereas the economy of the country remains export-oriented to raw materials. Instead, Russia tries to keep Ukraine's economy in the orbit of its influence.

At the same time, Russian experts state that the economic crisis in the country will start this year, and one of the main reasons for the future difficulties is state policy, coronavirus pandemic, and recession of the world economics.

Thus, Ukraine has to further develop relations (including bilateral) with the EU, the US, and China, which are the largest markets in the world. In addition, this cooperation will stimulate economic development in Ukraine along a new direction, rather than reproducing archaic, “Soviet” economic models.

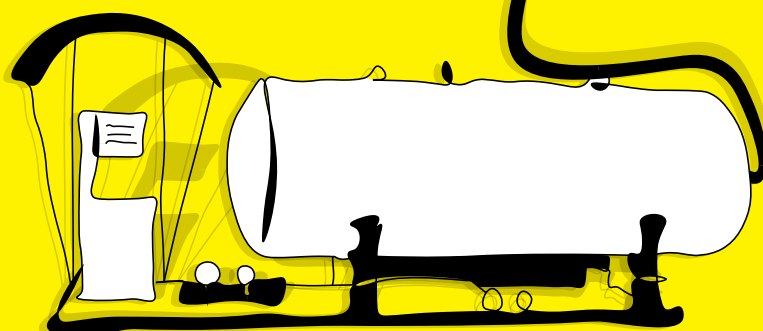
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NAFTOGAZ AGAINST GAZPROM

NAFTOGAZ
AGAINST
GAZPROM



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It is too early to talk about gas peace between Ukraine and Russia

Against the backdrop of specific relations between Moscow and Kyiv – which are far-from-perfect – the gas issue has remained one of Russia's main trumps since 1991. According to experts, Ukraine has already experienced three large-scale gas wars, and the confrontation is ongoing. The events of 2014, despite being a serious tragedy, have given Ukrainians a lesson on how to fight a very powerful enemy, on the economic front in particular. At that time, Russia tried to weaken Ukraine by raising the gas price, but Ukraine managed to promptly reorient to European hubs. Yes, it still was Russian gas, but it was bought in Europe. Our country had to overpay, but this enabled us not to make concessions to the aggressor. Having bounced back, Ukraine even managed to take the offensive and defend its position in the courts.

Ukraine's Stockholm euphoria

The 2014 litigation between Naftogaz and Gazprom involved mutual claims amounting to about \$125 billion, which threatened to bankrupt both companies. On 22 December 2017, Naftogaz declared that it had won arbitration against Gazprom in the gas supply case and had achieved a reduction of mandatory annual volumes in the future. In February 2018, the Arbitration Institute of the Stockholm Chamber of Commerce (Stockholm Arbitration Institute) obliged Gazprom to make an additional payment of more than \$4.6 billion for under-supplying transit gas following the Naftogaz claim.

However, the implementation of the international arbitrators' decisions appeared to be quite

problematic. Gazprom was playing for time in every possible way, while Russia was putting pressure on Ukraine, threatening to terminate the supply and transit contracts. At the same time, Naftogaz emphasised the possibility of forced recovery of the funds and significant reputational losses to Gazprom. And though in theory the failure to comply with the arbitration decision was subject to penalties, in practice, the Russians were in no hurry to pay. Afterwards, Naftogaz again filed a lawsuit to Stockholm Arbitration against Russian monopolists. The Ukrainian company demanded a review of gas transit tariffs and to obtain reimbursements from Russia in the amount of \$12.5 billion.

A bird in the hand of Naftogaz

In the second half of 2019, Russia's Gazprom started to put pressure on Ukraine, yet again promising to suspend gas supplies from 1 January 2020 unless a new transit agreement was put in place by then. The previous supply agreement was due to expire on 31 December 2019. Repeated attempts of bilateral contacts and trilateral meetings of Russia, Ukraine and the European Commission on gas transit yielded no results. After all, on 30 December 2019, after several days of intense negotiations and months of preparation, Ukraine's Naftogaz and Russia's Gazprom signed a new gas transit contract for a period of 5 years and the mutual claims settlement.

According to the contractual terms, the contract can be renewed on similar terms for another 10 years. Gazprom committed to pump 65 billion cubic meters of gas through the Ukrainian natural

gas transmission system in 2020, and a minimum of 40 billion cubic meters during 2021-2024, subject to a competitive tariff. In addition, the Russian side has agreed to pay Naftogaz more than \$2.9 billion according to the Stockholm Arbitration decisions (money was transferred on 27 December 2019). Gazprom also dropped its \$80 billion fine claim against the Ukrainian company, which they demanded under the terms of the 2009 contract which stipulated the principle "buy or pay".

In turn, Naftogaz agreed to withdraw its \$12.25 billion lawsuit against Gazprom and dropped its claims against the Russian company for the \$7.4 billion fine issued against Gazprom by the Antimonopoly Committee of Ukraine. After the agreement was signed, each party declared its victory in the case. Naftogaz explained that "the continuation of the Russian gas transit through the Ukrainian natural gas transmission system will guarantee the receipt of \$7.2 billion now, and not a hypothetical \$12 billion in a year or even in 3-7 years." According to the Minister of Energy and Environment Oleksii Orzhel, Ukraine could count on potentially winning in arbitration disputes against Gazprom only in three to five years, while during this time the domestic transmission system would stand idle.

Instead, Ukraine has received nearly \$3 billion and the prospect of getting the same amount each year for the transit of Russian gas. On the whole, a new agreement with Russia allows Ukraine to retain the status of a reliable transit partner. Meanwhile, in Russia the payment to Naftogaz by the decision of the Stockholm Arbitration Institute was called a drop in the bucket compared to the claims and potential risks. According to then Russian Vice-Prime Minister Dmitrii Kozak "the amounts could have been much higher."

The battle is won but new ones are ahead

Despite the first steps towards an understanding with the Russian gas monopolist, Naftogaz still has a lot of work ahead. First of all, it still has proceedings on foot in relation to the matter of the energy assets expropriation during annexation of the Crimea by Russia. The arbitration proceedings were initiated in October 2016 and were reviewed by the tribunal of the Hague Permanent Court of Arbitration. In February 2019, a decision was made in Naftogaz's favour. According to the judgement, the tribunal established its jurisdiction over the case and ruled that Russia had illegally expropriated the assets of the Ukrainian company in the Crimea.

The second stage of the arbitration proceedings will determine the amount of Naftogaz's damages. In February this year, the company specified the amount of its losses and claims to recover as being \$8 billion. This includes the value of the lost assets and the interest accrued on this amount since 2014.

Russia does not deny the illegal expropriation of Naftogaz's and its subsidiaries' assets in the Crimea, but claims that no compensation to be paid. The final decision on the amount of compensation is expected by mid-2021.

Meanwhile, Naftogaz chief executive Yurii Vitrenko said the company is considering submitting new claims to the EU anti-trust authorities and a number of international arbitrations.

First of all, it relates to a claim to the European antitrust authority on Gazprom's abuse of its monopoly position; an International Court of Arbitration claim in Zurich under a new transit contract and a claim to the Stockholm Arbitration Institute under the agreement between Naftogaz and Gazprom on the assignment of debt obligations of Rosukrenergo. As for the global gas market, it has undergone major changes in recent years. In particular, new powerful players, US companies, emerged in Europe which sell liquefied natural gas.

The Nord Stream-2 gas pipeline construction has stopped due to imposed sanctions, and the Russians have to pump gas through the Ukrainian gas transmission system. Recent experience has shown that life without direct contracts is not "the end of the world"; it is important not to panic and not to be intimidated. For this reason, Ukrainian companies that have finally realised that big business sharks and aggressive neighbours can and must be confronted should actively protect national interests. All problematic issues should, however, be resolved without litigation that last for years.



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VERY- CENTRO-

SHEREMET'S CASE: A DEMAND FOR TRUTH AGAINST A POLITICAL ORDER



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Several months have passed since the resonance briefing held on 12 December 2019 at the Ministry of Interior of Ukraine, attended by the ministry's leadership, the heads of the National Police, the Prosecutor General's Office, and President Volodymyr Zelensky himself. In such an unusual manner, an announcement was made about a breakthrough in a high-profile case that seemed to have reached a deadlock. The announcement reported the arrest of the "alleged executors" of the attempted murder of Pavlo Sheremet, a journalist who died on 20 July 2016 in a car crash in downtown Kyiv.

Three and a half years have passed since Sheremet's death, and despite all the authorities' promises to "take personal control" of the case, there had been no result. The crime itself is quite exceptional. Unofficially, it was believed that the well-known Belarusian journalist, who worked in Moscow and later moved to Kyiv, was killed by the Russian special services in an act of revenge. Sheremet was killed in a car belonging to Aliona Prytula, the head of the Ukrainian Pravda website. In recent years, Sheremet and Prytula had been living in a civil marriage.

The December briefing at the Ministry of Interior became a real information explosion. Numerous pieces of evidence allegedly confirming the involvement of volunteers, servicemen and veterans in Sheremet's murder were shown to the public and the president.

Yulia Kuzmenko, a paediatric cardiac surgeon and volunteer, Yana Dugar, a military doctor from the 25th Airborne Brigade, and Andriy Antonenko, a musician and sergeant in the Armed Forces of Ukraine were arrested. Vladyslav and Inna Gryshchenko, who were earlier detained in another case related to an assassination attempt on an entrepreneur, were also believed to be involved. The Gryshchenkos also participated in military activities in the east, and Vladyslav is a military expert on explosive devices. Another suspect is veteran Ivan Vakulenko, who committed suicide after he was summonsed to testify in the Sheremet case.

The political circumstances of the Ministry of Interior's high-profile public relations campaign also called into question the success of the National Police investigators. Arsen Avakov has been in charge of the ministry since February 2014 and was included in Oleksiy Honcharuk's government subject to one condition: being the only representative of the old political elite in the new team, he had to prove his effectiveness, and his probation, given by the president, lasted until the new year. At the same time, Volodymyr Zelensky himself finished the year on a positive note, demonstrating better results than the previous government. The interests of the president and the head of the Ministry of Interior coincided, and this prompted Zelensky to take the dubious step to take the dubious step of participating in the police's presentation of developments in the Sheremet case. Thus, the president supported the accusation with his personal presence, which, of course, is absolutely unacceptable both legally and ethically.

Now two months later, the irrelevance of the president's actions is becoming even more apparent. At the briefing, the heads of the National Police and Ministry of Interior repeatedly stated that the evidence released was only a small part of the testimony suggesting



the existence of an organization aimed at “destabilizing the country by killing a well-known person”. They also asserted that there was much more evidence which could not be disclosed so as not to impede the investigation. Lately at court hearings the prosecution seemed extremely unconvincing.

Among the most obvious contradictions is a video recording the persons who planted the explosive device under Prytula-Sheremet's car. According to investigators, these were Yana Dugar and Andriy Antonenko. However, the difference in height between Antonenko and the man on the record is approximately ten centimetres. Furthermore, Dugar passed a polygraph test which indicated her non-involvement. A woman who took photos of cameras near Sheremet and Prytula's residence during the preparation for the assassination bears little resemblance to Yulia Kuzmenko. British expert Ivan Birch's involvement in the identification of suspects based on the specifics of their movements resulted in more questions than answers and violated procedural requirements.

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The creation of an Interim Investigation Commission could serve as a guarantee that the investigation into the murder of Pavlo Sheremet does not turn into an intentionally ordered process.

The resonant case is still confusing. It cannot be excluded that the real facts and perpetrators are mixed with those artificially implicated in the investigation because of mutual acquaintances and online data of their telephone conversations. These records do not contain direct evidence of the suspects' involvement in the crime. Although recordings refer to the idea of "encouraging" Kyiv, by launching Grad missiles at the capital, or imitating the beating of a well-known public figure as if it were by the police, it may well be that the desire of senior management to provide a fast and politically beneficial result played backfired on the investigation.

Asked directly by an Interfax-Ukraine correspondent whether the president regrets visiting the presentation of the first results on the Sheremet investigation, Volodymyr Zelensky replied that he had no regrets: "I was very glad that we moved such a serious case forward. If this is not true, if the court decides that the charge is not substantiated enough and there is insufficient evidence, then all the officers who dealt with the case will at least apologise. They could apologise if it was just a mistake, and if there are any other special issues, then an apology is not sufficient. By the way, if there was the same case for Gandziuk, I would also come. Because it's important for me. We promised to end all these cases, to learn who are the perpetrators and the murderers. So, we have to do it."

Of course, the president cannot fully admit his mistake, because if he did, immediate personnel changes would need to be made. Arsen Avakov's position heavily depends on the outcome of the Sheremet case, as it was the minister's promise to convincingly prosecute the case, and it was he who invited Zelensky to the briefing. If the case fails, an apology will not be enough, especially since each court session is accompanied by the active participation and attention of the press, which immediately airs in public all the contradictions and inconclusive theses of the accusation.

Recently, the Ministry of Interior has suggested that the Security Service of Ukraine (SSU) was somehow involved in the attempt on Sheremet. In the beginning of February, a former spokeswoman for the Dnipro-1 regiment and the Donbas battalion, Vasylysa Mazurchuk, published her correspondence with Ministry of Interior spokesman Artem Shevchenko, where Shevchenko calls Pavlo Sheremet a Russian agent and shares his opinion that the case participants became victims of SSU counter-intelligence operations: "the operative investigator screwed it up" and "dragged the guys into the wetwork." Deputy Minister of Interior Anton Gerashchenko expressly states the close connection of suspects with the SSU. It is probable that Avakov promised Zelensky such a scandalous conclusion of the investigation. In any case, this investigation is now impossible to forget.

The creation of an Interim Investigation Commission could serve as a guarantee that the investigation into the murder of Pavlo Sheremet does not turn into an intentionally ordered process. The corresponding draft resolution is registered in the Verkhovna Rada. Once already, an Interim Investigation Commission into the assassination of Kateryna Gandziuk succeeded in creating the necessary pressure on law enforcement and the authorities, which did not allow them to stop the investigation. The recent detentions of Igor Pavlovskiy and Oleksii Levin (Moskalenko) indicate significant progress. We want to believe that Sheremet's case, being under public and parliamentary control, will reveal the truth, rather than merely thrusting the power struggles of Ukrainian agencies into the public spotlight.



PROCESSES THE FUTURE OF SPITZENKANDIDATEN SYSTEM



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Appointment of the European Commission President – the end of the Spitzenkandidat process?

Ukraine's aspirations to become a member of the EU raise Ukrainian citizens' interest in studying and understanding the decision-making process in Brussels. The appointment of the European Commission (EC) President is one such process.

The most relevant debate over such appointment has been perhaps in relation to the "Spitzenkandidaten" (or "lead candidate") process. This system goes back at least 20 years, but it came into application in the 2014 European Parliament (EP) elections, only to be ignored during the 2019 EP elections. The process entails that the various European political parties put forward lead candidates in advance of the EP elections, so that the EU citizens could take them into account when voting in the EP elections, and the lead candidate of the winning party would be proposed as EC President by the European Council. As put by

Mr. Martin Schulz, former EP President in a 2014 speech, the EC President has to be a person that citizens of Europe already know. The aim of this "experiment", as proposed by the EC, was to solve the issue of democratic deficit and enable the citizens to be – at least indirectly – more involved in the selection of the crucial post of President of the EC, the executive institution of the EU.

In 2012, the EP adopted a Resolution, followed by a Recommendation and a Communication of the EC in 2013, that "urge[d] the European political [groups]" to choose a candidate among them that would be suitable for the position of Commission President. For the elections in 2014, five political groups at the EU level nominated their "lead candidates".

A month before the elections, campaigns were launched by the nominees across the EU in order to inform the European citizens about who they were as well as their agenda and priorities. The European People's Party (EPP) emerged as the biggest group in the EP and its nominee, Jean-Claud Juncker, was then proposed by the European Council and successfully appointed as Commission President, a position he held until 2019 elections which ultimately led to the appointment of Ursula von der Leyen as the first woman to head the EC.

It is important to note that this process, which took place in 2014, does not entirely reflect the requirements enshrined in the Treaties governing the EU. According to Article 17(7) Treaty on European Union (TEU) the heads of states and governments of the Member States sitting in the European Council have to decide (behind closed doors) acting by qualified majority on a can-

didate for president of the Commission. After this step, their proposal goes to the EP, where there is a vote and the appointee is either elected or rejected. Furthermore, according to the Declaration on Article 17(6) and 17(7) of the TEU, "the European Parliament and European Council are jointly responsible" for choosing an appropriate person for the position, but they have to do so "taking account of the elections to the European Parliament". However, that article did not specify the exact "method or procedure" through which the candidate should be selected; such a gap allowed the EU institutions to take a different route than the one set out in the Treaties – the Spitzenkandidat procedure described above.

The Spitzenkandidaten process has been rather controversial. It has both strong supporters and critics. The EP, in line with the EC under President Juncker's leadership, strongly promoted the Spitzenkandidaten procedure as the standard procedure to appoint the EC President after the 'success' of the 2014 EP election. In order to support the new system, the EP adopted a Decision by overall majority, which warned that the EP would be prepared to reject any candidate for the role of EC President not selected as 'Spitzenkandidat' by political groups of the EP prior to the EP elections.

According to the EP, the Spitzenkandidaten system is a logical consequence of the Lisbon Treaty, which stipulates the European Council's obligation, when appointing an EC President candidate, to take into consideration the results of the EP elections, thus including EU citizens' choice of their preferred lead candidates put forward by each European politi-

cal group. Justification for the procedure lies in the assumption that the Spitzenkandidaten system is based on the direct representation of citizens at the EP, as comparable to a 'parliamentary' system, rather than on their indirect representation at the European Council. This brings the Commission one step closer to the citizens and legitimises it.

The EP further emphasises that this process enhances political awareness among European citizens and deepens the democratic legitimacy of both the EP and the EC. As the EP claims, based on a 2014 survey, approximately 63 percent of EU citizens agreed that the direct reflection of the

result of the EP elections on the appointment of the EC President represents a democratic progress within the EU. The system, if successfully implemented, could indeed turn political awareness from the national level to the European level, by making the link between national political parties, which tend to focus on national issues and still remain dominant at the EP elections, and European political groups more visible. As a consequence, citizens would be more informed of how their votes for national political parties at the domestic elections could influence the direction of the EU for the next term. This would energise citizens to participate in the election process. In fact, a positive correlation between the citizens who recognised the lead candidates and likelihood to vote and certain influence of the electoral campaigns based on the Spitzenkandidaten in the turn-out of such citizens were recognised at the 2014 European elections.

The official turnout of the 2019 EP elections according to EP official press release was 50.66 percent (up 8.06 percentage points when compared to 2014), the highest turnout since the 1994 EP elections, with a large increase among young people.

On the other hand, criticisms and concerns have been raised against the Spitzenkandidaten system since its introduction. First, the system is far from accepted by the European Council itself and national leaders. Clearly, the European Council as the appointer of the Commission President does not intend to easily concede to the EP interpretation of the Treaties, as such rights cannot be simply 'grabbed' beyond the original intention of the Treaties.

Second, critics say that the system did not really improve democratic legitimacy. Some researchers, based on their analysis of the 2014 EP elections, maintain that the Spitzenkandidaten neither improved the turnout of the European elections nor, in reality, fostered pan-European politics as a mainstream issue of the European elections among citizens by connecting national parties and European political groups further. For example, most of national parties, dominating the EP elections, featured their Spitzenkandidat in a very low-key manner during their election campaigns with few exceptions of national parties with which the lead candidates were closely affiliated. The link between national parties and European political groups was not effectively presented to the citizens. A negative 'polarization' effect was also pointed out. Whilst those who correctly identified the lead candidates see the introduction of Spitzenkandidaten as a progress of democracy at the European level, those who viewed European integration negatively regarded it even more negatively when they learnt that such a system had been introduced. Therefore, contrary to the intention of the EP, the development of Spitzenkandidaten did not – at least not yet – effectively contribute to mainstreaming European politics at the elections.

Third, the EC was created as a 'guardian' of the EU treaties, along with the Court of Justice, and was

designed to be 'completely independent' to represent the general interest of the EU. The Commission's independence is a part of its legitimacy, with the Commission standing apart from the Council and the EP. Appointing a head of the Commission based on electoral politics could politicise the role of the President (and the Commission as a whole) which could be more prone to be influenced by certain political groups. Alberto Alemanno, a prominent EU law scholar, described the first Spitzenkandidat Commission as "the most political" Commission. Through politicisation, the Spitzenkandidaten procedure could jeopardise the legitimacy of the Commission as a neutral guardian of the Treaties, rather than increase its legitimacy.

In conclusion, the Spitzenkandidaten system that was introduced in 2014 has a number of advantages and disadvantages. It is still too early to make a definitive judgment as to whether the system has succeeded and whether it will become an established procedure. The negotiations following the 2019 elections were a real challenge for the survival of the system, given the oppositions of national political leaders in the Council. While none of the lead candidates – Frans Timmermans, Margrethe Vestager and Manfred Weber – were able to win MPs' support, the Council rejected candidates shortlisted by the Parliamentary groups. This, technically speaking, does not violate the TEU, but it breaks the lead candidate system achieved through years of discussion. For now, von der Leyen's victory means the abandoning the Spitzenkandidat process.

By being neither a former head of state or government, nor a representative of the party winning the most seats in Parliament, she gets a weak mandate which will make it difficult to run Commission for the five-year term.

The next EP election is scheduled in 2024. After the elections, one of the first tasks of the EP is to elect a new EC. This event will give a substantial answer on the future of the Spitzenkandidaten process in the labyrinth of Euro-

pean politics. Meanwhile, the debate will no doubt continue as to whether the system improves democratic legitimacy or politicises the Commission and upset the institutional balance with negative consequences.



CULTURAL PAGES

LAKE SYNEVYR: THE EYE OF THE SEA IN THE CARPATHIAN MOUNTAINS

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Lake Synevyr, being the largest and the deepest mountain lake in Ukraine, is considered to be a true natural pearl and a distinguishing feature of the Zakarpattia region.

The area of its stream pool is about 5 hectares, and at its deepest it is 19.5 metres in depth. The lake water is very clear and its average temperature ranges between 10-19 degrees Celsius, is warm only to a depth of 1-2 metres. There are three types of trout in the lake (brown trout, rainbow trout and lake trout), however fishing and swimming is prohibited. Only drifting on a raft is permitted.

The water level in the lake changes throughout the year. Synevyr is at its largest and fullest in spring when the snow melts. Spruce trees of 140-160 years of age stand along the lake shores. Scientists believe there was an earthquake in this area 10,000 years ago, which caused a major landslide. The rocks blocked the valley stream. Over time, the resulting depression was filled by the water of several mountain streams, forming a magnificently beautiful lake.

Divers also confirm this theory as they have explored the bottom of the lake and found there the remains of fossilized trees still standing upright. However, national folklore tells a completely different story of the lake's origin.

According to the most common legend, there once lived a count who had a beautiful daughter named Syn'. One day, walking in the outskirts of the mansion, the girl met a shepherd named Vyr who was from a neighbouring village. They fell in love and began to date secretly. When the count learned about his daughter's relationship with the commoner, he ordered his servants to kill Vyr. They tracked him down and killed the shepherd with a huge rock. Syn' cried her heart out and her tears turned into a large lake, and

the death rock became a small island in the middle of the lake which was named after those lovers – Synevyr.

People also call the lake the “Eye of the Sea” because of its blue water and an island in the middle, which resembles a pupil. A 13-metre-long sculptural composition, titled “Syn' and Vyr” and made of mahogany, is based on the most famous legend and was erected on the lake shore. Locals tell the staggering number of other legends and stories about the origin of the lake and describe various events that occurred on its shores. This mysticism, together with the lake's picturesque nature, attracts thousands of tourists. Almost everyone who visits the shores of Synevyr speaks to feeling a wonderful emotional uplift, an experience of mental clarity and close contact with the environment. All this creates a wonderful atmosphere, inspiring and spreading positive vibes. And the legendary love story attracts newlyweds from all over Ukraine to hold their wedding ceremonies in this place.

Lake Synevyr is considered to be the main treasure of the Synevyr National Park. This charming wildlife spot incarnates all the beauty of the Carpathian Mountains: mineral springs, spruce and beech forests. Thirty-eight species of unique plants growing around the lake and 20 species of animals living in this area are listed in the Red Book.

The rehabilitation centre of brown bears has operated in the park since 2011. Animals that have experienced animal cruelty or were in captivity without appropriate conditions are brought here. Tourists can also visit the only forest museum in Europe, located not far from Synevyr.



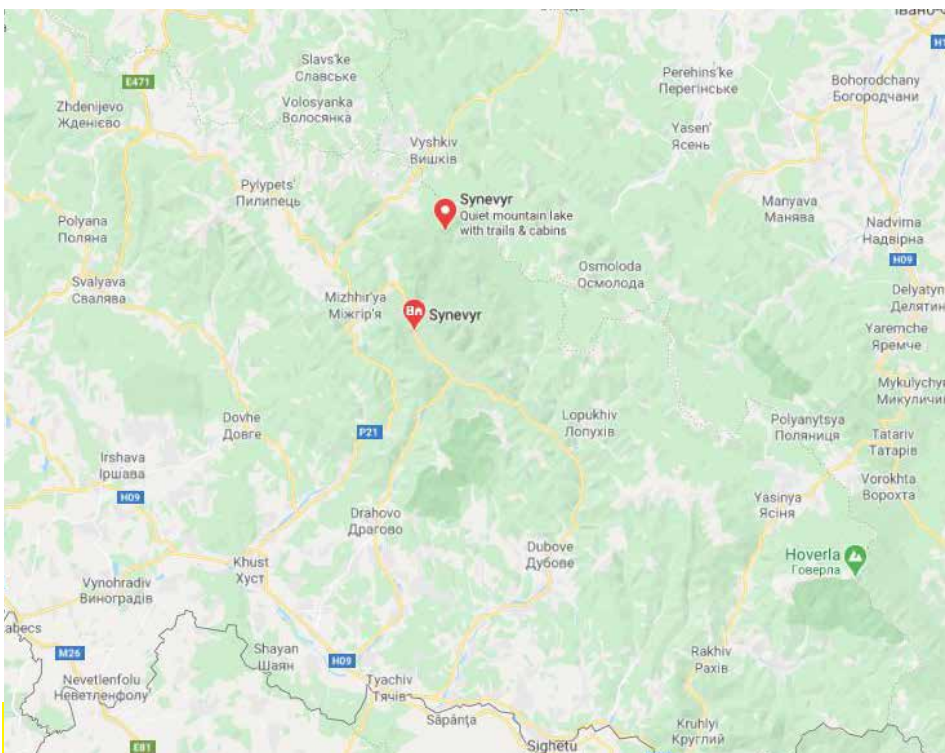
Almost everyone who visits the shores of Synevyr speaks to feeling a wonderful emotional uplift, an experience of mental clarity and close contact with the nature.

In this museum you can learn about ancient loggers' tools, models of knots, facilities and details of all technological process of preparation, sorting, storage and transportation of wood on rafts named "bokor". Nowadays, tourist infrastructure is being actively built around Synevyr, and the nationwide festival "Trembitas are calling to Synevyr" is held annually on the lake's shores ("trembita" is an alpine horn made of wood, common among Ukrainian highlanders).



Contact:

- the lake is located in the Inner Gorgany mountain range near the Synevyrska Poliana village of the Mizhhirskyi district of the Zakarpattia region at an altitude of 989 metres above sea level;
- the lake's coordinates are 48°37'01"N 23°41'01"E;
- the lake's website is www.npp-synevyr.net.ua



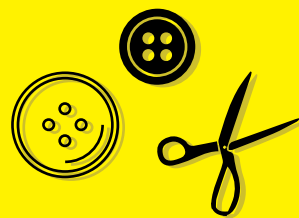
Interesting facts:

- *The Ramsar Convention defined lake Synevyr as wetlands of international importance.*
- *In 2011, the Ukrainian postal service Ukrposhta released a series of stamps "Seven Natural Wonders of Ukraine", one of which depicts Synevyr;*
- *Locals believe that everyone who falls in love by the lake will have a love that lasts forever.*



NATALIA TOLUB IS A JOURNALIST WITH TWENTY YEARS OF EXPERIENCE, SPECIALIZING IN TOPICS SUCH AS ECONOMICS, REAL ESTATE, INSURANCE, TOURISM, AND FASHION. SHE WORKED IN LEADING POSITIONS IN LEADING EDITIONS OF UKRAINE. NOMINEE FOR JOURNALIST AWARDS. IN THE PAST, HE HAS BEEN PR DIRECTOR OF INTERNATIONAL AND UKRAINIAN COMPANIES WITH A FOCUS ON FORMULATING COMMUNICATION STRATEGIES. AN IMPORTANT PART OF NATALIA'S LIFE IS HER VOLUNTEER WORK. IN 2104, SHE ORGANIZED A CHARITY AUCTION TO HELP OUR ARMY ON FACEBOOK, THE PROCEEDS OF WHICH WERE DONATED DIRECTLY TO VERIFIED VOLUNTEERS. THANKS TO THIS PROJECT, MORE THAN \$ 40,000 WAS TRANSFERRED TO THE UKRAINIAN ARMY. SHE GRADUATED FROM THE FACULTY OF JOURNALISM AT TARAS SHEVCHENKO NATIONAL UNIVERSITY OF KYIV.

UKRAINIAN IS À LA MODE!



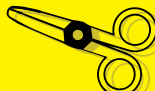
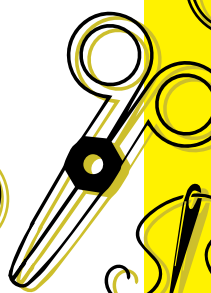
À LA MODE

UKRAINIAN IS
À LA MODE!

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À LA MODE



Exquisite embroidery, colourful drawn thread works, and original ethnic accessories are abundant on the catwalks and fashion week shows. This is not the first year Ukrainian designers have competed with well-known names in the fashion world and influenced European fashion. The national Ukrainian embroidered shirt, called the vyshyvanka, has become the distinguishing mark of Ukrainian fashion designers. Our national colouring inspires renowned fashion gurus. In particular, Jean-Paul Gaultier dedicated a whole collection to Ukrainian embroidery and the fashion house Valentino interpreted the Ukrainian pattern in its cruise collection "Resort 2017". World famous stars including Halle Berry, Nicole Kidman, Salma Hayek, and others also love our embroidered shirts.

Ukrainian designers confidently create fashion in various countries across the world using national ethnic elements. For instance, **Vita Kin** is the creator of famous embroidered dresses and the first Ukrainian designer whose clothes have worn by the most influential global celebrities. Dita von Teese, Florence Welch, Demi Moore, and fashion insiders buy Vita Kin's embroidered dresses. No wonder that last year the Wall Street Journal

named Vita Kin's embroidered dresses the most popular summer dresses of the year. The world's top glossy magazines hold photoshoots with these dresses and they have been sold by major global retailers. Moreover, the whole stock of embroidered dresses was sold out on fashion websites within half an hour.

Fashion designer **Anton Belinskyi** is another famous Ukrainian. His collections are well known at the London and Paris fashion weeks. Belinskyi studies Ukrainian cultural traditions and street fashion, and his works have been published in Vogue Italy, Vogue UK, Glamour UK, POP Magazine, Nowfashion.com, and Style.com.

Anton Belinskyi creates ready-to-wear avant-garde women's clothing with Ukrainian elements which highlight your individuality.

Ukrainian brand Sleeping Gypsy has showrooms in Kyiv and New York and clients in Tokyo and Dubai. The brand produces modern dresses and blouses with embroidery actively using traditional Ukrainian

techniques. All embroidered shirts are made using an ancient technique of sewing clothes and decorating them, named pukhlyk. Newlyweds are frequent customers of this brand.

Yulia Mahdich from Lviv creates fashion sold in 35 countries around the world and in particular in the United States, most European countries, and even in Japan. The designer herself says she is most proud of the wedding dress collection she designed for the Princess of Kuwait.

Her embroidered shirts are designed using the ornaments of Kievan Rus and the images of the Slavic gods. The embroidery technique dates from the 9th and 10th centuries.

The **Victoria Gres** brand combines fashion trends and different historical periods. Victoria Gres creates collections using antique lace, embroidery, and other elements of decor in combination with modern fabrics. Victoria Gres created the costumes for Janet Jackson's world tour.



Designer **Oksana Mukha** decorates clothes with Ukrainian elements. Fashion houses displaying her wedding and evening dresses can be found over the world: in France, Australia, Czechia, Canada, USA, Germany, Italy, Lithuania, Latvia, Poland, China, Russia, and Belarus. Charles de Gaulle's granddaughter chose one of Oksana Mukha's dresses for her wedding ceremony.

Nowadays Ukrainian designers are assertively promoting their culture not only in Europe but throughout the world. The modern Ukrainian embroidered shirt *vyshevanka* has become an integral part of the wardrobes of Hollywood celebrities and politicians alike. Ukrainian is à la mode!

Ukrainian is à la mode!

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